

## ISRAEL

### CERD A/35/18 (1980)

330. Before starting the consideration of the initial report of Israel (CERD/C/61/Add.1), a preliminary procedural discussion took place in the Committee on the basis of the intervention of one of its members who, speaking on a point of order, requested a Committee ruling on whether those parts of the occupied Arab territories, namely the West Bank, Gaza, Sinai, Golan and East Jerusalem, were parts of territories comprising the State of Israel as implied by the report. The member added that the consideration of the Israeli report by the Committee should not imply recognition of the illegal occupation of Arab lands and that it would be necessary for the representative of Israel to accept such consensus of the Committee.

331. During the discussion several members expressed the opinion that the Committee should proceed with its task of considering the report, and should hear the representative of the reporting State, and that the Committee's views on the matter would become apparent during the ensuing debate. Some members, however, felt that Israel's denial of the rights of the Palestinian people constituted a breach of the principles laid down in the Convention and that the Committee should therefore reject the report, and state its reasons for doing so in the form of a decision addressed to the General Assembly. One member suggested that the representative of Israel should indicate to the Committee what geographical area the report purported to cover. Other members agreed that it was not for the Committee to consider the question of Israel's occupation of certain Arab lands and that the Committee's consideration of the report should be based on the understanding that the territory of the State of Israel was limited to its 1967 borders, as they were internationally recognized.

332. The Committee agreed by consensus that its consideration of the report of Israel should not be interpreted as implying the recognition of any title by Israel to the occupied territories.

333. The representative of Israel, who was invited by the Chairman on this basis to participate in the examination of his Government's report in accordance with rule 64-A of the provisional rules of procedure of the Committee, stated that he regretted that some members of the Committee had made highly political remarks and that he could not therefore introduce the report or participate further in the Committee's proceedings.

334. After a brief suspension of the meeting, requested by a member in accordance with the provisional rules of procedure, the Chairman announced that the Committee had decided by consensus to postpone consideration of the initial report of Israel until its twenty-third session.

## **CERD A/36/18 (1981)**

85. Before entering into the discussion of the initial report of Israel (CERD/C/61/Add.1/Rev.1), the Chairman recalled that at its twenty-second session, the Committee had agreed to postpone consideration of the Israeli report until the current session and had decided by consensus that its consideration of the report should not be interpreted as implying the recognition of any title by Israel to the occupied territories.<sup>15/</sup> The document before the Committee was a revised version of the report submitted at the twenty-second session.

86. In his introductory statement, the representative of the reporting State said that his country's initial report was intended as the commencement of a dialogue with the Committee, whose observations would be taken fully into account in the preparation of future reports. He pointed out, in particular, that the report outlined the legal system of Israel, describing the pivotal role of the judiciary and its contribution to the elimination of inequality, arbitrariness and discrimination. He finally drew the attention of the Committee to the adoption in 1980 of a new law on associations, which was not yet in force, and added that, within the framework of activities called for under article 7 of the Convention, an international congress of teachers against racism had been held in Tel Aviv in December 1980.

87. The Committee took note of the fact that the main changes in the revised version of the Israeli report appeared to be that all mention of the occupied territories had been deleted, a change which corresponded to the wish expressed by some members of the Committee at the twenty-second session. However, the question of whether the situation in the occupied territories should or should not be accounted for in the report of Israel was again raised by members during the examination of the report and the issues were debated, separately from the consideration of the report, at later meetings of the Committee. <sup>16/</sup>

88. Members of the Committee considered the comprehensive information provided in the report as an evidence of Israel's willingness to engage in a dialogue with the Committee. It was pointed out that Israel ought to set an example in waging a struggle against the very evil that had been the cause of its establishment. Some members found that the report did not take sufficient account of the nature of the Committee, which was not concerned with human rights as such, but more particularly with the situation of minorities and ethnic groups. The Committee noted that the report was not entirely in keeping with the general guidelines concerning the form and contents of reports (CERD/C/70) and suggested that it would be desirable for the Government to take those guidelines into account in the preparation of future reports.

89. Some members stressed that the Committee could not disregard the fact that there was an occupation of Arab territories, which conflicted with both the letter and the spirit of the Convention.

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<sup>15/</sup> Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 18 (A/35/18), paras. 330-334.

<sup>16/</sup> See paras. 107 to 110 below.

Referring to the information given on the composition of the population, a member of the Committee wondered why it was divided into Jews and non-Jews, since that constituted racial discrimination, as defined in article 1, paragraph 1, of the Convention.

90. Referring to the legal system in Israel, a member of the Committee said that, in his view, the elimination of racial discrimination did not rest upon the firm legal foundation required by the Convention. It was also pointed out that the information on various laws given in the appendices to the report, though valuable, revealed that not all the provisions of the Convention were satisfactorily reflected in the national legislation and that much needed to be done. It was indispensable for Israel's national legislation to be brought into line with articles of the Convention and for the principles enunciated therein to be given practical application. Noting the statement in paragraph 1 on page 3 of the report, that the principle of non-discrimination was subject only to restrictions as to maintenance of public order and morals, members of the Committee wondered how the principle of non-discrimination could jeopardize public order and morals and what constituted "public order" in the Israeli legal system; besides, it was noted such restriction was not imposed under a specific Israeli law but was left to the discretion of the administration or the Ministry of the Interior, something which was contrary to the provisions of the Convention. The Committee requested information as to the progress made in respect of the bill for repealing the Defence (Emergency) Regulations of the British Mandatory Government and replacing them with new and more moderate legislation on emergency powers.

91. Referring to the Supreme Court, members of the Committee welcomed the inclusion in the report of extracts from the judgements of that Court and noted the central role of the Supreme Court in protecting human rights, especially in the absence of a written constitution and a Bill of Rights. With regard to the powers of that High Court and the conditions of applicability of rules of international law, it was pointed out that the Court's discretion was very wide and the condition of compliance of an international rule with domestic law was highly restrictive. It amounted more or less to a limitation on generally recognized law that formed part of jus cogens, under which the struggle against racial discrimination and apartheid was being waged. Every State was therefore bound to abide by the principle of racial non-discrimination as a principle of jus cogens, especially if it had ratified the Convention.

92. In connection with article 2 of the Convention, the Committee made comments and asked questions regarding Israel's Proclamation of Independence in 1948 and the draft Bill of Rights. It was suggested that the proposed Bill of Rights, though not an instrument of positive law, was largely based on the jurisdiction of Israeli courts and was accordingly positive in nature. A question was asked as to the steps taken to bring the draft Bill into effect. It was stated that in the Proclamation of Independence reference was made only to discrimination based on race, and not on "race, colour, descent, or national or ethnic origin", as provided for by the Convention, which, in extreme circumstances, might permit discrimination against the Palestinian Arab population which belonged to the same race as the Jews. It would therefore be better if, in its forthcoming bill of rights and in other legislative texts it might adopt, Israel conformed to the definition of racial discrimination set forth in article 1 of the Convention. A member of the Committee expressed concern as to the statement in the report that the Proclamation of Independence might take precedence over certain laws. In this connection, serious reservations were expressed as to whether equality before the law was ensured to all: it was essential that rights should be established by law on which court decisions

could be based and not on a mere proclamation.

93. In connection with article 3 of the Convention, the hope was expressed that efforts would be made by the Government of Israel to abandon its close relations with South Africa, since such efforts were essential if the situation in that country was to be changed.

94. As regards article 4 of the Convention, it was pointed out that the Penal Code made no specific provision for the implementation of paragraph (a) of that article and more information was requested on this point. With regard to paragraph (b) of article 4, a member considered that the absence of any discussion of racist associations was a defect of the report; it was not clear whether Israel interpreted seditious intention in associations as extending to propaganda for racism, as was the case with other States which followed British legal traditions.

95. With reference to articles 2 and 5 of the Convention, clarification was requested regarding the legal status of the Arab population; whether they were treated as an ethnic or national group or as a religious group. Information was requested as to the measures taken to promote the advancement of minority groups; whether any special legislative measures had been taken to ensure that these communities understood the law and to assist them to redress grievances. Referring to the Emergency Powers Law, members of the Committee regretted the fact that restrictive action could be taken against national minorities, namely, against Arabs, under the pretext of protecting the interests of the State and the public; an example was the forced expropriation of land, which might be detrimental to the primarily agricultural Arab population. With regard to equal treatment before the Courts, the Government was requested to present in its next periodic report a comparative study of the situation of the Palestinian Arab community and the rest of the population. Further information was in particular requested on the four regional sharia courts; whether there were enough of them, what regions they covered and whether their powers also extended to the occupied territories. It was also asked what the age of legal responsibility was in Israel; whether penalties could be imposed on parents for offences committed by their children; and whether the Arabic language was used officially in the judicial system and the administration. More information was also requested on prison conditions for Arabs. Further details were requested on the cases of ill-treatment referred to on pages 7 and 8 of the report, the number of such cases, the powers of the police and particulars of the identity and number of victims. Noting that the Arab population represented 16 per cent of the country's population, members of the Committee pointed out that that population was underrepresented in the Knesset, since only 3 per cent of the Knesset's members were Arabs. Information was requested as to the number of members of Arab minorities taking part in the Government and the number of oriental Jews, as opposed to Jews of European origin, occupying high government posts; and what kind of representation the Arab population had in the Bureau of the Adviser on Arab Affairs.

96. Turning to the implementation of paragraph (d) of article 5 of the Convention, the Committee requested more information regarding the freedom of movement. It was asked in particular, whether the provision of the draft Bill of Rights concerning the right to return to Israel applied to citizens who had been deported by the Israeli authorities; what were the criteria for issuing a laissez-passer rather than a passport; and whether the requirement that persons of military age had to obtain a military permit before leaving the country also applied to Arabs. With regard to the right to nationality, explanation was requested of the way in which nationality was acquired "by grant", and

whether the Law of Return applied to the non-Jewish community. It was pointed out that the concept of absence applied by Israel might be prejudicial to Arabs who had been compelled to leave the country and wished to return. Another member said that the provisions governing nationality were discriminatory and did not conform to article 1, paragraph 3 of the Convention; they should therefore be modified, as prescribed by article 2, paragraph 1 (c) of the Convention. With regard to the information given on marriage, a member asked how Israel gave effect to article 5 (d) (iv) of the Convention and, in particular, whether there were any obstacles to marriage between persons of Jewish origin and persons of Arab origin. As to the right of property, more information was requested about the system of compensation for confiscated real property whose owners had disappeared or were unknown. In this connection, it was asked whether there existed any legislation dealing with the property of evacuees and, if that was the case, how it safeguarded such property; why the Muslim "Wagf" property had been removed from its owners and why adjustments were to be made in the institution of the Wagf property which had existed for such a long time in the region. Regarding freedom of religion, it was pointed out that the Muslim community had not been included among the religious communities which had been recognized, according to the report. In this connection, more information was requested as to the possibility for Arabs, when in prison, to practice their religion in a suitable manner. Noting that reference to certain newspapers in Arabic and to Arabic publications did not appear in the revised version of the report, a member of the Committee asked whether such publications no longer existed and, if so, why. Referring to the prohibition of organizations within Israel whose aim was to undermine the State's existence, a member of the Committee requested further details of the relevant provisions and of the remedies which existed against their abuse.

97. With reference to paragraph (e) of article 5 of the Convention, the Committee asked several questions as to the implementation of its provisions with regard to the Arab population. In connection with the right to work, the legal provisions that existed in Israel were considered inadequate by the Committee. More information was requested on changes in the position which the Arabs occupied in the labour force; whether they were still nearly all employed in unskilled or semi-skilled occupations; whether secure employment was available to them where they lived or they formed a migratory labour force; what were the rates of unemployment among Arab workers and among Jewish workers; and what was the role of the Histadrut in safeguarding the employment interests of the Arabs. As regards the right to form trade unions, the Committee asked whether Arabs were able to form their own and, if so, whether such unions were recognized by the Government. It was also asked whether Arabs were subjected to special conditions in matters of housing and social services; and whether it was correct that only 1,600 of the approximate total of 50,000 housing "solutions" concerned non-Jewish persons. Moreover, it seemed to the Committee that the Arab population was less favourably treated in terms of education as a result of a certain policy. Members wondered whether the figure of non-Jewish pupils, given in paragraph 6 of page 37 of the report, covered students in the territory of Israel or in the territory of Israel together with the occupied territories; and whether the same amount was spent on a Jewish student as on a non-Jewish student. A member asked, whether higher education was available to the Arab population in their own language. Finally, the Committee requested that Israel's next report contain comparative figures for the national and ethnic groups with regard to education, in particular literacy statistics, average wages, working conditions, social services, housing, etc.

98. As far as article 6 of the Convention is concerned, information was requested on normal

recourse procedures - besides the ombudsman system referred to in the report - available to persons claiming to be victims of racial discrimination. It was also asked, whether there had been any actual instances of such discrimination in the experience of the ombudsman. Noting the provisions of the Penal Law concerning compensation, a member pointed out that full compensation was the rule in most civilized countries and asked why compensation was so limited in Israel.

99. As regards article 7 of the Convention, the Committee requested more information concerning its implementation.

100. The representative of Israel replied to a number of questions raised by members and assured the Committee that the questions which remained unanswered would be transmitted to the Israeli Government and the answers would be included in Israel's next report. In reply to questions regarding the reciprocal effects of the Proclamation of Independence and the proposed Bill of Rights, he said that the Bill of Rights, when adopted, would constitute an instrument of positive law. The absence of constitutional law, according to the common law system that Israel had inherited, in no way prevented the fundamental rights and freedoms of the individual from being recognized and guaranteed. As in the British system, the courts played a very important role and, since Israel was a small State, every citizen regardless of ethnic origin had access to the Supreme Court, sitting as the High Court of Justice. The Israeli authorities intended to form a comprehensive constitution by combining the various basic laws adopted so far in connection with the Knesset, the Government and the economic rights with the laws that were in preparation.

101. As to the Emergency Powers Law of 1979, the representative stated that abolition of those powers could be contemplated only when peace existed between Israel and its neighbours. This Law strengthened the supervisory powers of the judicial system, since even district courts could enforce its application; and it was applied to Jews, just as to all communities, as recent examples had demonstrated. With regard to the supervision exercised by the Supreme Court over the Minister of the Interior, the representative explained that every minister and every official of the State of Israel was subject to such supervision. Turning to questions regarding the application of rules of international law in Israel, he stated that the principle whereby a rule of international law became domestic law only if its principles were accepted by the majority of countries and if it was not incompatible with domestic law, had nothing to do with racial discrimination.

102. Replying to questions concerning articles 4 and 6 of the Convention, the representative said that all forms of incitement to racial discrimination were deemed offences punishable by law, as were acts by organizations that could be considered as seditious acts. Israeli penal law, and the decisions taken by the courts in accordance with that law, specifically guaranteed the possibility of redress in the event of acts of racial discrimination of the type referred to in article 4 of the Convention. With regard to the Sharia courts, he pointed out that there were only four such courts because Israel was a small country; the entire judicial system comprised only seven districts. Besides, the Moslem population lived in clearly demarcated areas and four Sharia courts were considered sufficient.

103. Touching upon questions concerning article 5 of the Convention, the representative said that there was a sufficient number of Arab lawyers to represent their clients in the courts, while persons whose income was less than a stipulated amount were entitled to State assistance under a system of

legal aid that was administered by a department of the Ministry of Justice which had offices in the main towns of Israel. The age of criminal responsibility was 13 years and no distinction was made between the communities; and he knew of no case in the Israeli system in which a person had been punished for the acts of others. Regarding religious practices in prisons, there were no restrictions to Moslem practices.

104. With respect to questions regarding the representation of the Arab population in the Knesset, he pointed out that the electoral system applied was that of proportional representation and national lists. The percentage of Druzes elected to the Knesset was higher than that of the Arabs simply as a result of the internal elections held by one of the parties in order to establish its national list of candidates; however, two of the main lists were headed by prominent Arabs. Furthermore, the proportion of Arabs elected to the Knesset changed from one legislature to the other and thus, at one time, 10 per cent of the members of the Knesset had been Arabs. The Arabs sometimes had their own list, but could also be included in other lists, in which case they represented not the Arab population, but the population as a whole.

105. In reply to questions concerning the implementation of paragraph (d) of article 5 of the Convention, the representative said that there was no discrimination based on race, religion or ethnic origin in the acquisition of Israeli nationality and that all Arabs resident in Israel were citizens in all respects. Israeli nationality could be acquired by birth if a person was born of Israeli citizens. All Israeli citizens (Jews, Arabs or others) were entitled to an Israeli passport, while laissez-passer were issued to persons who had been resident to the country for only a short time, usually new immigrants, and wished to leave immediately, before being able to obtain a passport. The Law of Return was based on the premise that, because of the very special circumstances of their history, all Jews, wherever they lived, should be accorded the right to return to their country of origin, if they so wished. The Law of Return did not discriminate against any nationality and did not impair the rights of any group. With regard to marriage and divorce, the representative said that they were still governed by religious laws. Bigamy and unilateral divorce had been prohibited and it could not be claimed that the latter interfered with religious observance. Referring to expropriations of land, he said that they involved more land belonging to Jews than to Arabs. He further informed the Committee that Hebrew and Arabic were the two official languages in Israel. As a result, interpretation services were available in the Knesset, laws and regulations were translated and published in the two languages and, in areas where the population consisted largely of Arabs, court proceedings were often conducted in Arabic. In this connection, he also pointed out that the proportion of Arab judges was quite high, and a large number of civil proceedings were instituted by the Arab population. As to television, there was only one channel, owned by the State, which broadcasted for five hours daily; two hours were in Arabic and many programmes were subtitled in both languages. One of the radio channels broadcast exclusively in Arabic. Concerning a reference to newspapers which had not been included in the revised report, he stated that none of those newspapers had been suppressed.

106. Finally, replying to questions regarding paragraph (e) of article 5 of the Convention, the representative explained that the average income of an Arab urban wage-earning family had been 29,300 Israeli pounds in 1975, which was the same for a Jewish wage-earning family. As regards education, illiteracy was virtually non-existent in Israel; students in the administered territories were not included in the figures for non-Jewish pupils given in the report; and the number of Arab

students was relatively high - 2,000 had completed their studies and 3,000 were attending higher education establishments.

107. At its 519<sup>th</sup>, 520<sup>th</sup> and 526<sup>th</sup> meetings, held on 6 and 9 April 1981, the Committee considered the question of whether or not Israel should be requested to report on the implementation of the Convention in the occupied territories.

108. Some members of the Committee welcomed the fact that Israel had deleted the references to the occupied territories included in the original version of its report. They noted that in the occupied territories Israel had no jurisdiction under international law, but in all vital and important spheres of life it exercised military power. The Committee, therefore, should not ask Israel for information concerning these territories, as these territories do not constitute an integral part of the State of Israel. However, given the universal and humanitarian significance of the Convention, the Committee could not remain indifferent to the situation of the population in the occupied territories. Those members pointed out that the situation itself was a violation of the right to self-determination and was thus clear evidence of the existence of a form of discrimination which might be classified as racial. However, asking the occupying Power to make a report on the occupied territories amounted ipso facto to recognizing its rights over such territories, and that was not the Committee's intention. On the other hand, the Committee could not ask for information from Egypt, Jordan and the Syrian Arab Republic, since those countries were being prevented from implementing the provisions of the Convention in the occupied territories.

109. Some other members, however, regretted the fact that all mention of the occupied territories had been deleted from the revised version of Israel's report. It was pointed out that the Convention was universal in scope and thus applied to every person who might be affected by the exercise of the jurisdiction by a State party, whether that jurisdiction was legitimate or not. In that connection, it was noted, for instance, that article 3 of the Convention did not necessarily imply that the jurisdiction had to be recognized by the international community; the provision simply referred to de facto jurisdiction. It was stressed that the issue as to how information would be obtained concerning the occupied territories has changed since Israel had become a State party to the Convention. Thus Israel was at present responsible for the implementation of the Convention regarding the people in those territories and should be requested by the Committee to report on them. Moreover, if the Committee requested another United Nations body to provide it with information on the situation in the occupied territories, it would not be acting within its competence. In any case, the Committee should indicate clearly that, in requesting Israel to report on the occupied territories, it was adopting no position whatsoever on the legitimacy of their administration since, as a body of experts, the Committee could not pronounce itself on such an issue. Those members suggested that a separate report should be submitted by Israel concerning the implementation of the Convention in the occupied territories.

110. In view of the fact that there was no clear consensus among the members regarding the procedure to be adopted, the Committee agreed that further discussion of the matter should be postponed until the Committee's next session and that, in the absence of any new developments at that session, a summary of views expressed on the question should be reflected in the Committee's report to the General Assembly.



## **CERD A/37/18 (1982)**

329. The second periodic report of Israel (CERD/C/86/Add.2) was introduced by the representative of the reporting State, who elaborated on certain points. He informed the Committee that, within the framework of progressive enactment of basic laws, most of which were declaratory of existing rights, the bill for the Basic Law on Human Rights was still under consideration in the Israeli parliament and its adoption would provide a statutory basis for rights already enforced by judicial decisions and administrative practice.

330. Most members of the Committee observed that, in the light of current world events, it was pointless to discuss with the Government of Israel the implementation of the substantive provisions of the Convention, since the policy of the State of Israel defied even the basic principles and objectives of the Convention as contained in its preamble. Nevertheless, some members of the Committee referred in general to questions which they had asked during the consideration of the previous report.

331. It was pointed out that the Government of Israel had neither implemented nor respected the principles of international law, including the principle of non-use of force, or any of the United Nations resolutions and decisions. It was felt therefore, that, before asking the Government what measures it had taken to implement the various articles of the Convention, it should be asked whether it really adhered to the basic principles of the Convention, and that any formal discussion of legal provisions which could disguise the real situation would be inappropriate. In that connection, attention was drawn to the statement adopted by the Human Rights Committee on 30 July 1982, regarding the present situation in Lebanon.

332. The Committee pointed out that most of the questions asked in relation to the initial report of Israel had not been answered in the second periodic report, although the Israeli representative had tried to reply to some of those questions during the discussion of that report. In order to pursue its dialogue with Israel, the Committee needed more information about the real situation in that State. Attention was drawn to the practice of the Committee to request that the answers given orally by representatives of States during the consideration of reports be explained in greater detail in the next periodic report. A member suggested that a statement be adopted by the Committee to the effect that, in view of the incomplete and unsatisfactory nature of the report and of the policy conducted by Israel in Lebanon in violation of the Convention, the Committee refused to discuss the second periodic report of Israel.

333. A member of the Committee raised again the question of Defence (Emergency) Regulations.

334. Most of the discussion evolved around the situation of the Arab population in Israel and members requested replies to questions that had already been asked, but not answered, during the consideration of Israel's previous report. It was pointed out by some members that the right of self-determination of the Arab people had been denied and that a virtually colonial régime had been imposed by Israel on the occupied territories and people. Noting that although some progress had been made in integrating the Arab population in certain fields, that population still remained unable to participate in the decision-making process in all areas of public life, and it was asked whether

specific legislation had been adopted, according to article 2 of the Convention, to ensure the Arab population equal enjoyment or exercise of human rights and fundamental freedoms.

335. With respect to article 3 of the Convention, information was requested regarding the relations of Israel with South Africa.

336. With reference to article 4 of the Convention, the Committee noted the statement in the report to the effect that any special legislation enacted to implement that article would only be declaratory because relevant provisions already existed in the Penal Law, and it was pointed out in that connection that the texts quoted in the report did not fully cover article 4 and the Government was invited to analyse the article in depth so as to implement it in every contingency by adopting the relevant legislation.

337. With respect to article 5, paragraph (c), of the Convention, detailed information was requested on the representation of the Arabs in the Knesset. It was asked, for example, why the Druze population, being less numerous, was better represented than the Arabs. As to article 5, paragraph (d), of the Convention, members inquired about the Law of Return and the Nationality Law of 1952, as amended in 1980. In that connection, it was asked which States were referred to in section 2A of the Prevention of Infiltration Law of 1954; and whether the Law of Return might not be applied to Palestinians and to their descendants who had lived in Palestine but who could now be said to be living in the Diaspora. A member also inquired about the possibility of marriage between people of different religions and wondered whether the law prohibiting adoption, unless the adopter was of the same religion as the adopted person, was not discriminatory and had thus to be abolished. Information was requested concerning the confiscation of Arab lands and land redistribution. With reference to article 5, paragraph (e), of the Convention, information was requested regarding comparisons in connection with the right to work and the percentage of Arabs unemployed as compared to Jews, regarding the differences in the housing allotted, for example, to Arabs and to oriental Jews, and on the percentage of the budget earmarked for the education of the Arab population as compared to that for the Jewish population.

338. As regards article 6 of the Convention, information was requested concerning the remedies available to victims of racial discrimination.

339. The representative of Israel replied to a number of questions raised by the Committee. He was of the opinion that some of the comments made did not come within the framework of the Convention and expressed the conviction that the Israeli legal system was protecting human rights within the context not only of the preamble but also of the specific articles of the Convention. Regarding the situation in Lebanon, he wished to point out that that situation had not been caused by Israeli involvement, but had been brought about by the involvement of other entities during the last seven or eight years. He stated that, since his Government has submitted a very extensive initial report, the second periodic report contained information only on those questions which had either not been dealt with in the initial report or not answered during the very lengthy discussion of that report.

340. In reply to questions regarding representation at the Knesset, the representative said that the reason why only five members, or 5 per cent, of the Knesset had been elected from the Arab community, could be partly explained by the fact that a large proportion of the Arab population was

under the voting age of eighteen. Although 5 per cent was a reasonable figure in view of the circumstances, it was hoped that Arab representation in the Knesset would increase. In reply to other questions, he stated that marriage was regulated by the same legal system as under the British Mandate. Each religious community had its own legal system for marriage and divorce and there were a number of Sharia courts presided over by Muslim judges in order to serve the Islamic population. Any marriage which had been legally contracted was recognized in Israel. With respect to nationality, he pointed out that dual nationality was possible under Israeli law. The Nationality Law of 1952, which had been amended in 1980, did not extend the right to nationality to a national of one of the States mentioned in the Prevention of Infiltration Law of 1954. Since those States, with the exception of Egypt, were still in a state of war with Israel, it would not be logical to grant their nationals Israeli citizenship. Lastly, he said that his Government would include and update the relevant information from the initial report in its third periodic report.

## CERD A/40/18 (1985)

201. The third periodic report of Israel (CERD/C/113/Add.2) was considered by the Committee at its 710<sup>th</sup> and 711<sup>th</sup> meetings, on 12 March 1985 (CERD/C/SR.710 and SR.711).

202. The report was introduced by the representative of Israel who referred to relevant parts of the report and informed the Committee about two new laws submitted by the Government to the Knesset for adoption. The first was entitled "Penal Law Revision: Incitement to Racism". Whereas under the current law, the intent to incite to racism had to be proved, under the new law any racist statement in itself warranted prosecution. The second proposed law concerned eligibility to run for public office, and decreed that a slate of candidates was not eligible to run for election and could indeed be disqualified if it negated the establishment of the State of Israel and its democratic character or if it supported incitement to racism. He added that, as the State whose people had suffered the most from racism, Israel categorically condemned apartheid in all its forms.

203. The Committee expressed satisfaction at the presence of the representative of Israel, which proved that the Government was interested in co-operating with the Committee. It stressed, however, that it was difficult for the Committee to discuss how a State party was implementing the Convention when that very State continued to ignore the principles of international law and to defy the objectives contained in the preamble to the Convention. Israel's foreign policies, which were based on aggression and the occupation of Arab territories, disqualified the country from a proper dialogue with the Committee. It was suggested that the view, expressed by some members when the Committee considered Israel's previous report, that even a bad dialogue was preferable to rejection of the report, seemed not to be justified, since nothing had been done by Israel to fulfil its obligations under the Convention. Members pointed out that the Emergency Powers Law seemed to be used only against the Arab population and expressed the hope that the laws of Israel would be applied so that both in Israel and in the territories under its de facto jurisdiction the people could enjoy a racially tolerable society. The Committee expressed the hope that the next report would answer questions which had been raised during the consideration of Israel's second periodic report, that it would reflect constructive changes in Israel and provide information on measures to implement the provisions of each article of the Convention. It was asked whether any progress had been made on the bill of rights mentioned during the discussion of the second periodic report. It was also emphasized that the next report should follow the Committee's general guidelines (CERD/C/70/Rev.1).

204. With respect to article 3 of the Convention, members of the Committee observed that the representative of Israel had made a strong statement against apartheid and claimed that his Government condemned such policies. They pointed out, however, that it was one thing to make such statements and quite another to put them into practice. Israel was known to be an ally of South Africa and was co-operating with it in many fields, including the nuclear field. Members considered that it was time for the Israeli Government to reconsider its policy of multifaceted co-operation with South Africa, and that was also the wish of the people of South Africa. The Committee hoped that the next report would indicate a change in that respect.

205. In relation to article 4 of the Convention, the Committee considered that the proposed

legislation pending before the Knesset, mentioned by the Israeli representative, was a positive step and hoped that the two proposed laws would be approved soon. It was observed that one of the laws, if passed, would deal with cases such as that of Rabbi Meir Kahane, a member of the Knesset, who advocated racist ideas throughout the country. The Committee wished to know how it had been possible for a member of the Knesset to base his election on propaganda characterized by racial defamation. Members asked whether he had also enjoyed immunity during the election campaign and, if not, why Israeli law enforcement authorities had not taken action. The Committee hoped that the next report would indicate that progress had been achieved in connection with the draft legislative texts.

206. Regarding article 5 of the Convention, members of the Committee pointed out that Israeli policy deprived the Arabs, and the Palestinians in particular, of their elementary rights. They asked whether the Law of Return was being applied solely to Jews and, if so, whether that did not constitute discrimination against native-born Arabs who had fled in 1948 because of terror. Observing that Israel had reported on a previous occasion that only 5 per cent of the members of the Knesset were Arabs, because a large percentage of the Arab population was under the age of 18, members of the Committee said that it would be interested to know what the current situation was. With regard to economic rights, the Committee expressed concern about Israel's unchanged settlement policy. Members noted that the Government could decide not to hire people on grounds of State security and wished to know whether notices inviting applications for government jobs were also published in Arabic; they asked for a breakdown by ethnic origin of the total figure for government employees. Turning to social and cultural rights, members of the Committee asked how many European Jews and how many Arabs had been given access to new housing that had been constructed, what percentage of Arab children were attending school, what percentage of schools were exclusively for Arabs, what percentage of total government expenditure on education was set aside for Arab schools, how many Arabs were in the universities and what opportunities were available to Arabs for higher education in Israel. Doubts were expressed as to whether all legislative instruments were published in Arabic. Members furthermore wished to receive information about how the rights of Jewish immigrants speaking Yiddish were protected, particularly when they had to deal with the administration and the courts, and whether their children could study Yiddish at school.

207. As far as article 6 was concerned, members of the Committee noted that the Israeli ombudsman could play an important role, since, in addition to his task of investigating complaints, he was also the State Comptroller. They pointed out, however, that none of the complaints lodged in 1983 on grounds of racial discrimination had been regarded as justified by the ombudsman, despite the fact that a number of cases invoking racial problems had been submitted to the courts. The Committee would appreciate receiving information about the kind of complaints of racial discrimination which had been made to the ombudsman as well as more detailed information regarding the means of recourse available under article 6 of the Convention.

208. Replying to questions raised and observations made by members of the Committee, the representative of Israel expressed regret that some of the questions previously raised had not been fully answered in his country's report. He would recommend a careful study of the Committee's guidelines by his authorities. He pointed out, however, that some questions raised by members were irrelevant to the work of the Committee.

209. Israel did not agree with South Africa's policy, though it maintained diplomatic, trade and other relations with that country. Less than 0.5 per cent of South Africa's total trade was with Israel.

210. In connection with article 4 of the Convention and the phenomenon of Kahanism, he said that the Attorney-General had issued a statement to the effect that Kahanism had become a synonym for racism and represented a shameful phenomenon in sharp contradiction of the principles of Israel and the provisions of the Convention.

211. In connection with article 5 of the Convention, he pointed out that the issue of Palestinian refugees would be discussed during peace talks, when Israel would itself raise the issue of 800,000 Jewish refugees from Arab countries who had been fully integrated into the life of Israel. On the Law of Return, Israeli practice was in general similar to that of other countries with one exception: Israel had an obligation to accept any Jew who wished to immigrate. Regarding the Arab students in Israel, he informed the Committee that, while the Arab population in Israel had increased fourfold, the number of Arab students had increased 17-fold. Arabs constituted less than 20 per cent of the population, but nevertheless occupied positions in all fields, including the judiciary and the army. It was easy for young Arabs to enter universities at 18 because they were not required to do military service. There were six Arab members of the Knesset, but not all Arabs voted for Arab candidates. Yiddish was not an official language in Israel; in court cases where an individual did not speak one of the official languages, it was obligatory for the court to provide an interpreter. All principal and secondary legislation was published in Arabic. Notices regarding government jobs were widely distributed, but he would have to ascertain which languages were used in such notices.

212. With regard to questions relating to article 6 of the Convention, and the report of the Comptroller, the representative of Israel said that many complaints had been found justified, but none of those had been based upon racial discrimination. An effort would be made to provide more reference material in the next report.

## **CERD A/42/18 (1987)**

586. The fourth periodic report of Israel (CERD/C/144/Add.2) was considered by the Committee at its 789<sup>th</sup> meeting on 10 March 1987 (CERD/C/SR.789).

587. The report was introduced by the representative of Israel, who referred to the multiracial and pluralistic nature of Judaism and Israeli society. Any person could adopt Judaism as a religion and, having been converted, regardless of racial or ethnic origin, was considered as having joined the Jewish people. He said that the emergence of the Kahane party was an aberration in Israel's political system and informed the Committee that the bill on incitement to racism, tabled before the Knesset, had become law. He further explained the scope of that new law, as well as of the Amendment to the Basic law, the Knesset, which had itself become law on 31 July 1985, and which banned any list which incited to racism from elections to the Knesset. He also highlighted other parts of the report and reiterated his country's stand against the South African apartheid system.

588. Members of the Committee raised questions concerning the territorial area covered by the report and the territories occupied by Israel. They wished to know whether the frontiers followed the United Nations partition plan, whether they included the area occupied by Israel following the 1967 war, including the Golan Heights, and whether people had been settled there on a racial basis. They asked for explanations about Israel's settlement policy. It was pointed out that the situation in the occupied territories was in sharp contrast to the small, if positive, efforts of the Government to combat racism. Reference was made to the need to obtain some reporting from those territories in order to monitor the implementation of the Convention. In that context, it was pointed out that the Committee itself, at an earlier date, had decided that it was not competent to receive any information on the occupied territories as that might imply recognition of the legitimacy of the occupation. Several members expressed the view that the Committee should revise that decision. Other members were of the opinion that that decision had not been taken lightly and that the Committee must guard against the risk of giving legitimacy to the Israeli occupation. The reporting State could report on the situation in the occupied territories provided that Israel referred to them as "occupied territories" or it was explicitly stated in the report that those territories were not within the internationally-recognized borders of Israel.

589. Members indicated that the report bore witness to a more serious attempt by Israel to cooperate with the Committee, although it still failed to meet its reporting obligations under the Convention. The reporting State should follow the Committee's guidelines (CERD/C/70/Rev.1). They asked for clarification concerning the composition of the population and pointed out that the demographic statistics in the report gave a breakdown by religion but not by ethnic group. Many of the Jews who had gone to Israel had different ethnic backgrounds. They asked whether the Muslims could be equated with the Arabs, whether there were any Arab Christians and what the category "Druze and others" was, and indicated that the composition of the population should be given by ethnic group.

590. Explanations were requested about the statement that anyone having been converted, regardless of racial or ethnic origin, was considered as having joined the Jewish people, which implied a religious definition; and it was asked whether the persons who had left the United States

to live in the Negev were entitled to Israeli nationality. An explanation was requested regarding the statement that Israel was a multiracial society; that contradicted paragraph 26 (2) of the report, which stated that the State of Israel was a multicultural society.

591. In relation to article 3, members of the Committee regretted the attitude of Israel towards the apartheid régime of South Africa, pointed out that mere condemnation was not sufficient and requested information on Israel's collaboration with South Africa in every field, including the economic, cultural, arms and, in particular, the nuclear. Although the report did not contain any information on the subject, such collaboration appeared to be on the increase, and in the nuclear field, it had reached the level of full partnership, notwithstanding Israeli denials. In fact, Israel was South Africa's closest ally.

592. In relation to articles 4 and 6 of the Convention, members of the Committee expressed their concern over the problem of racial discrimination and the increasing trend towards racist extremism in Israel. It was asked whether there was a threat to the spirit of tolerance that Israel had shown in the past. Reference was made to the need for legislation to implement article 4 of the Convention. It was noted that Mr. Kahane, an extreme racist who had been in the forefront of the campaign to defend the rights of Jews in the Soviet Union, had been elected to the Knesset by some 26,000 people or 1.2 per cent of the vote. Members of the Committee wished to know what percentage of the population supported Mr. Kahane and also Mr. Kirat, a football player, whether Mr. Kahane represented the whole racist movement or whether there were others operating independently from him, whether the Penal Law Amendment was now in effect and whether Mr. Kahane and Mr. Kirat would be prosecuted under it, and what punishments had been meted out to demonstrators. Clarification was requested regarding the Attorney-General's directive on racial discrimination, which forbade public officials to discriminate, but not individuals. Information was requested on the recourse procedures available under article 6.

593. With regard to article 5 of the Convention, members of the Committee wished to know why Israel did not permit the Palestinian Arabs who had been driven from their lands to come back and obtain the same treatment as Jewish people in respect of the recovery of their land, and whether it was Government policy to ensure equal rights for Palestinians in respect of the rights referred to in article 5. It was pointed out that the next report should include a section on the rights of the Palestinians. Members asked whether education was given in various languages, what level of integration minority groups achieved in Government and other public services, particularly the percentage of Arabs, how allocations to Arab municipalities compared with those to Jewish ones, whether Arabs received the same wages as Jews and whether they could join trade unions, what status and opportunities were given to non-whites in Israel, including Arabs and immigrants from Asia and Africa, and whether specific legislation existed to protect the rights of migrants and emigrants. It was pointed out that it was difficult to reconcile the aims of the Israeli educational system and the actual practice with regard to the Palestinians. It was asked whether it was true that the Israeli Government was appealing to the United States authorities not to admit Jewish emigrants from the Soviet Union. An explanation was requested regarding the adoption law under which both adoptive parents and the child had to belong to the same religion.

594. Replying to questions raised and observations made by the members of the Committee, the representative of the reporting State said that Israel consisted of the areas in which Israeli law



applied, and that the Government had therefore not reported on those areas which it administered but which were not under its sovereignty.

595. Israel maintained population statistics covering only place of birth and religion. According to figures available for 1983-1984, 59 per cent of the population had been born in Israel, 18 per cent were immigrants from Asian and African countries, and 22 per cent came from Europe and the Americas. Jews had settled in Israel from all parts of the world and it was encouraging to note that the rate of intermarriage between Jews of different descent was increasing. Since statistics were kept only for place of birth and religion, he was unable to provide any exact figures for the Arab population as such, or for non-whites.

596. The question of who was a Jew posed a theological problem that was widely debated in Israel. Under the usual definition, a Jew was someone who was born to a Jewish mother or who had converted to Judaism; in other words, a person could be a Jew simply by having a Jewish mother and without professing a religion. Indeed, some Jews were atheists. The black Hebrew sect claiming to be Jews could not be so considered in that context. Nevertheless, some Jews were black.

597. Israel maintained diplomatic and trade relations with South Africa; however, trade was minimal, representing only 1.7 per cent of exports and 2 per cent of imports. Israel complied strictly with Security Council sanctions and did not sell arms or nuclear material to South Africa.

598. With regard to the cases of Mr. Kahane and Mr. Kirat, the legislation in question was not retroactive but should serve to deter them from future activities of a similar nature. If it did not, the authorities would have to decide whether it was possible to prosecute. Mr. Kahane's immunity had not been lifted and he was still a member of the Knesset. If the circumstances warranted, the Knesset might have to consider further action to deprive him of his privileges.

599. The reason why the Attorney-General had issued a directive only to government offices on the subject of the prevention of racial discrimination was that he had jurisdiction solely in the area of public administration. He could not bind private individuals by his instructions. As far as was known, no public official had been charged with or accused of racism.

600. He was not sure whether the question of the right of Palestinians to return came within the scope of the Convention. However, there were some 800,000 Jews in Israel who had fled Arab countries, leaving all their goods behind. There had been an exchange of populations, as had happened in other parts of the world. It was to be hoped that when Israel entered into peace negotiations with its neighbours, those issues could then be raised. Israel wished to secure peace with all its neighbours in the same ways as it had done, after very difficult negotiations, with Egypt.

601. Concerning the question of adoption, it was his understanding that the religion of the child or of the child's parents, if unknown, was not relevant for the purposes of adoption. If the religion was known, the child would be found adoptive parents of the same religion.

602. On educational opportunities for Arabs, he could only provide statistics for 1983-1984. The total number of children in the Arab education system was 204,498, of whom 18,700 were in kindergarten, 136,611 in primary education, 19,207 in intermediate schools, 29,462 in secondary

schools and 518 in post-secondary education. Those figures did not include the large number of Arabs who had chosen to attend State-run schools and universities. The language of instruction in State schools was either Hebrew or Arabic. However, there were some private schools that provided instruction in Yiddish and certain Christian denominations ran schools that taught in French. There was also an international school where instruction was in English.

603. Arabs could and did join trade unions, and they received the same wages and salaries as Jews. Vacancy announcements were not usually issued in Arabic except when they were aimed at a specific population. For instance, a teaching post in an Arabic school would be advertised in Arabic, but for general vacancies, where knowledge of Hebrew was required, that would not be the case.

604. Regarding Israel's dialogue with the United States on Jewish emigrants from the Soviet Union, the issue was whether a person entitled to Israeli nationality should be considered a stateless person. Israel firmly believed that any person should be free to travel wherever he wished and any individual could leave Israel at will and emigrate to the United States.

## **CERD A/46/18 (1991)**

364. The fifth and sixth periodic reports of Israel, submitted in one document (CERD/C/192/Add.2), were considered by the Committee at its 929<sup>th</sup> to 932<sup>nd</sup>, 935<sup>th</sup> and 936<sup>th</sup> meetings, held on 15, 16, 20 and 22 August 1991 (see CERD/C/SR.929-932, 935 and 936).

365. The reports were introduced by the representative of the State party, who said that pluralism was one of the strengths of Israeli society, as was demonstrated in the events surrounding the Gulf War. Arab Israelis, who comprise 16 per cent of the population, did not respond to Iraqi calls for Israel's destruction. The recent arrival of an additional 14,500 Ethiopian Jews and the influx of 90,000 Jews from the Soviet Union in the first six months of 1991 were further evidence of the absence of xenophobia or racism in Israel.

366. A wide range of affirmative action measures had been undertaken by the Government to reduce the social and economic differences between Jews and non-Jews in the State of Israel. Over the last two years, \$US 75 million had been allocated specifically for programmes benefiting Israeli Arabs. Another programme foresaw the investment of \$US 100 million over five years to improve educational facilities for the Arab population. Significant progress for the non-Jewish population of Israel had been made in the area of health care, as indicated by the fact that 85 to 90 per cent of all pregnant Israeli-Arab women were giving birth in clinics operating in 107 Arab towns and villages.

367. The representative of Israel pointed out that there were six members of the Israeli parliament who were Arabs and that their questions raised in parliament were more likely to be answered than those of their Jewish colleagues. Of 14 staff working in the Prime Minister's Office dealing with Arab affairs, four were members of the Arab community. David Ben-Gurion, the former Prime Minister of Israel, had declared that "in the long run, nations will be judged by the way in which they treat their minorities". Using this criterion, the record of Israel was a favourable one.

368. Members of the Committee thanked the delegation of Israel for the supplementary information furnished in its oral introduction and welcomed the occasion to renew its dialogue with Israel. The self-congratulatory tone of parts of the report was, however, unsatisfactory. The Committee underlined that, in accordance with article 3 of the Convention, Israel's report needed to encompass the entire population under the jurisdiction of the Government of Israel. The report under consideration, which described the situation only within the State of Israel itself, was, in that respect, incomplete. Members also wished to have specific information on the economic, social and educational conditions prevailing in the occupied territories, as well as to know whether the Geneva Convention relative to the Protection of Civilian Persons in Times of War was in force in the occupied territories.

369. With reference to article 2, members of the Committee drew attention to paragraph 22 of the report, in which it was stated that government-sponsored educational benefits are linked to completion of military service. Members inquired as to the equity of such an arrangement, since Israeli Arabs, for reasons of security, were disadvantaged in this respect. Further information was also requested concerning the requirements for immigration and for access to immigration benefits,

especially for non-Jews. In this connection, concern was expressed over Israeli policy that, on the one hand, accorded citizenship automatically to Jewish immigrants arriving in Israel and, on the other hand, barred the return to their former homes of Arabs displaced by war.

370. In regard to article 3, members of the Committee expressed concern that Israel maintained relations with South Africa. Further information was requested on cooperation, particularly on military matters, between the two countries.

371. Concerning article 4, members observed that it was unclear how the law, referred to in paragraph 11 of the report, criminalizing incitement to racism was applied in practice and wished to know how many complaints had been made under the statute. Further information was also requested on the change in the Basic Law, referred to in paragraph 44 of the report, designed to block a person espousing racist ideas from running for elective office. Members also wished to know if Israeli legislation permitted political parties that were ethnically or racially based.

372. In regard to article 5, members of the Committee wished to have further information on multiracial, multi-ethnic or multilingual schools, in particular their number, location and how they operated. More detailed demographic information was requested concerning the ethnic composition of Israeli society and that of the occupied territories, including the Golan Heights and East Jerusalem. Precise comparative figures were requested to substantiate the claim in paragraph 21 of the report that the education system in the Arab sector in Israel had expanded dramatically. Further information was also requested on the percentage of Jewish and non-Jewish students and teachers in the educational system, including the university level, and on the average life expectancy for persons living in the occupied territories as compared to that of the population of Israel.

373. Members of the Committee inquired about the employment situation for Arabs working in Israel, and particularly if the number of work permits issued by the Israeli authorities had dropped in the wake of the Gulf War. Further information was requested concerning workers from the occupied territories, including their average wage level compared to Israelis and their right to join a union.

374. The representative of the reporting State had informed the Committee that there were six Arab members of parliament. Members of the Committee wished to know if that number was proportionate to the Arab population and how, in general, the members of parliament of the various ethnic groups compared with their percentage of the total population.

375. With reference to article 5 (d) (i) of the Convention, members of the Committee requested additional information on the application of the right to freedom of movement and residence in Israel and in the areas under its control.

376. Concerning article 6, members of the Committee wished to know how Israel ensured legal recourse for victims of discrimination. Information was also requested on what legal guarantees were in force in the occupied territories concerning the administration of justice. Concern was expressed, in this regard, over the Israeli practice of demolishing houses in the occupied territories. Members of the Committee also wished to know the extent to which Arab lands were seized for the purpose of constructing settlements in the occupied territories for immigrants arriving in Israel.

377. With reference to article 7, members of the Committee wished to be informed as to what measures were being undertaken to promote contacts and exchanges between Israeli Jews and Israeli Arabs and if the number of contacts between the two communities was, in fact, decreasing.

378. Responding to the questions and comments by members of the Committee, the representative of the State party clarified that the report applied to all persons in Israel, including those working in Israel. In the areas under military administration, where Israeli law did not apply, the military administration complied strictly with the rules of international humanitarian law, as applicable to armed conflicts. Israel accepted the fourth Geneva Convention, but claimed the right to do so de facto, not de jure.

379. Concerning education, the Ministry of Education had a special department, headed by an Arab, on education for Arabs. There were no multiracial elementary or high schools in Israel, a fact that resulted from the right of students to attend schools of their own choice. The number of Arab students had risen from 11,000 in 1948 to more than 250,000 at present. There were now about 10,000 Arab teachers in the education system, some 100 of whom taught Jewish students. Class sizes in the Arab schools averaged about 31 students per teacher as compared to 27 students per teacher in the Jewish sector.

380. In regard to the employment situation for Israeli Arabs, the representative noted that, until recently, the unemployment rate among Arabs had been higher than among Jews. Presently, the rate remained between 8 and 9 per cent, whereas the rate for Jews was about 11 per cent.

381. On the subject of parliamentary representation, the representative said that, if Arabs were represented in parliament in numbers proportionate to the number of Arab voters, there would be 10 or 11 Arab members of parliament instead of the present six. Israeli citizens vote for parties, however, rather than individuals, and parties are free to choose whom to include on their lists. There was no specific provision for proportional political representation for Arabs.

382. Private racial organizations were permitted if they were not racist, since the propagation of racism was illegal in Israel. The representative was not aware of any organization based on national or racial membership, except for those established on a purely religious basis. All organizations were multiracial.

383. Regarding Israel's relations with South Africa, the representative stated that Israel had often made its abhorrence of apartheid quite clear and that it had joined in international action against apartheid. The contacts it maintained with South Africa had been for the sake of keeping up cultural ties with organizations combatting racial discrimination.

384. On matters concerning immigration policy, prospective nationals had to demonstrate a knowledge of Hebrew and decide to reside permanently in Israel, having given up a foreign nationality. Additionally, all Jews had the right to enter the country, even if they constituted a potential burden because of disablement or unfitness for work. This was due to the historical situation of Jews, many of whom had been persecuted or not permitted to become nationals of other countries.

385. The representative explained that no statistics were provided in the report on the racial composition of the population because none existed. The Government of Israel viewed categorization by racial description as potentially offensive. Statistics based on the country of birth did, however, exist.

#### Concluding observations

386. The Committee recorded that the Government of Israel had undertaken to continue a dialogue with the Committee. It took note of the declaration made by the representative of the reporting State that Israel had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (although at the time of writing no instrument of ratification had been deposited with the Secretary-General of the United Nations). The Committee regretted that the report did not follow the guidelines on the form and content of reports of States parties and that the demographic data provided was insufficient.

387. The Committee reiterated that the Government of Israel had implemented in the occupied territories neither the Geneva Convention Relative to the Protection of Civilian Persons in Time of War nor the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee expressed great concern about the situation in the occupied territories.

388. The Committee urged the Government of Israel to answer, in its seventh periodic report, all the questions asked and concerns raised during the consideration of its sixth and earlier reports.

## **CERD A/49/18 (1994)**

73. The Committee considered the situation in Israel, on the basis of the urgent report requested from the Government of Israel under article 9, paragraph 1, of the Convention (CERD/C/45/Misc.1), at its 1057<sup>th</sup> and 1058<sup>th</sup> meetings, on 10 and 11 August 1994 (see CERD/C/SR.1057 and SR.1058).

74. Members of the Committee regretted the absence of a delegation to participate in the discussion. They took note of the exchanges of correspondence with the State party, but said that the documents received did not supply the information requested by the Committee. They emphasized that there was no doubt as to the competence of the Committee to request information on the implementation of the Convention in the occupied territories inasmuch as, by becoming a party to the Convention, Israel had undertaken to respect and ensure respect for the Convention in all territories under its jurisdiction and in regard to all persons living therein (art. 3). The Committee was also competent to consider criminal acts, whether or not isolated, committed by individuals, if they were racial in character (art. 2, para. 1 (d)).

75. Members of the Committee emphasized that the massacre of Palestinians praying at the Tomb of the Patriarchs in Hebron could not be described as an "isolated incident" by the authorities, for too many "isolated incidents" had occurred to use such a description. That act appeared to be an isolated act, but it had taken place in an overall context of violence by the Jewish settlers towards the Palestinians. In that regard, the Committee noted that the establishment of Jewish settlements in the occupied territories was illegal under international law (particularly art. 49 of the Fourth Geneva Convention 10/) and constituted a threat to peace and security in the region.

76. Members of the Committee wished to know what measures had been taken to follow up the recommendations of the commission of inquiry appointed by the Israeli Government as a result of the Hebron massacre.

77. With reference to article 4 of the Convention, members welcomed the Government's decision to ban certain extremist groups and called upon it to ban all other such groups. They also requested the Government to supply full information on what Israel was doing, in both juridical and practical terms, to comply with article 4 of the Convention.

78. Members of the Committee emphasized that the problem of the security of all citizens should be viewed in the context of article 5 (b) of the Convention, whereby States parties undertook to protect individuals, groups or institutions against any racial discrimination. Members wished to know what measures the Government had taken to implement article 5 of the Convention.

79. Members expressed the wish that the Government of Israel provide a report indicating what measures it had taken to combat discrimination against the Palestinians and ensure protection of the Palestinians in the occupied territories. The report should also indicate any changes in the settlement

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policy for the occupied territories (in particular whether new settlements were being established and

whether settlers could still freely bear arms, even inside Muslim or "mixed" places of worship) and address the existence of two different legal systems in the occupied territories, which meant different treatment of Jewish settlers and Palestinians under criminal law, and also in regard to enforcement of the law.

80. Members also expressed the wish that the Government of Israel indicate in its report to the Committee what reparation had been granted to the victims of the Hebron massacre and their families, as required under article 6 of the Convention, and in general what procedures existed to redress harm suffered by all of the victims of human rights violations.

81. The Government should also provide the Committee with all available information on the measures taken, particularly in the occupied territories and the Jewish settlements, in the field of the education and training of professionals concerned with racial discrimination, culture and information to combat racial discrimination and promote understanding and tolerance between Jews and Palestinians, in conformity with article 7 of the Convention.

### Concluding observations

82. At its 1067<sup>th</sup> meeting, on 18 August 1994, the Committee adopted the following concluding observations.

83. The Committee reaffirms its position of principle that, since Israel is a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee is competent to examine the manner in which Israel is fulfilling its obligations under the Convention with respect to everyone falling under the jurisdiction of Israel including all persons living in the territories occupied by Israel.

84. The Committee also affirms its competence to request in appropriate cases, in particular in matters of urgent concern and in the context of its preventive approach, special information in accordance with article 9, paragraph 1 (b), of the Convention.

85. While the Committee acknowledges the information it has received from Israel through the Secretary-General, the Committee regrets that Israel has not submitted the urgent report the Committee requested in its decision 1 (44) of 7 March 1994.

86. The Committee reaffirms that all persons, without distinction as to race, or ethnic or national origin, are entitled to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution. Consequently, Israel is obliged to protect fully the life and security of the Palestinian civilians in the occupied territories.

87. The Committee regards the Israeli settlements in the occupied territories as not only illegal under international law but also as obstacles to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin, in accordance with the Convention.



88. The Committee welcomes the outlawing by Israel, after the massacre in Hebron, of the extremist Jewish groups "Kach" and "Kahana Chai" as terrorist organizations and indications that Israel will take similar action against other terrorist groups and movements.

89. The Committee requests that just and adequate reparation be granted to the families of the fallen and injured victims of the Hebron massacre and of other similar violent actions.

90. The Committee fully endorses the peace process currently under way between Israel and the Palestine Liberation Organization and considers respect for the principles and obligations of the International Convention on the Elimination of All Forms of Racial Discrimination to be an essential ingredient of the peace process.

91. In the light of paragraph 85 above, the Committee requests the Government of Israel to expedite its seventh and eighth periodic reports, due on 2 February 1992 and 1994 respectively, and to include in them a response to these observations.

## **CERD A/53/18 (1998)**

68. The Committee considered the combined seventh, eighth and ninth periodic reports of Israel (CERD/C/294/Add.1) at its 1250<sup>th</sup> and 1251<sup>st</sup> meetings, on 4 and 5 March 1998, and, at its 1272<sup>nd</sup> meeting, on 19 March 1998, adopted the following concluding observations.

### **A. Introduction**

69. The Committee welcomes the submission of the report but regrets that it does not follow the Committee's reporting guidelines.

70. The Committee regrets that the dialogue between its members and representatives of the State party was not always of a constructive nature. It nevertheless welcomes the replies of the delegation to some of the Committee's questions and their expression of willingness to contribute to a dialogue.

71. The Committee concludes that the Convention is far from fully implemented in Israel and the occupied Palestinian territory, and that the shortfall contributes very significantly to the dangerous escalation of tension in the region.

72. The Committee notes with regret the stalemate in the peace process in the region.

73. It takes note of the establishment of the Palestinian Authority which has certain responsibilities in parts of the occupied Palestinian territory.

### **B. Positive aspects**

74. The measures taken by the State party to prohibit the activities of racist political parties such as Kahana (Kach) are welcomed.

75. The amendment of the Equal Opportunity in Employment Law, prohibiting discrimination in the labour sphere on the grounds of national ethnic origin, country of origin, beliefs, political views, political party, affiliation or age, is welcomed, as is the revision of the National Insurance Law.

76. The Government's efforts to reduce and eventually eradicate the economic and educational gap between the Jewish majority and the Arab minority are commended.

### **C. The Occupied Palestinian Territory**

77. The Committee reiterates its view that the Israeli settlements in the occupied Palestinian territory are not only illegal under contemporary international law but are an obstacle to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin. Actions that change the demographic composition of the occupied Palestinian territory evoke concern as violations of contemporary international humanitarian law.

78. Accordingly, the Committee calls for a halt to the demolition of Arab properties in East Jerusalem and for respect for property rights irrespective of the ethnic origin of the owner.

79. The Committee reiterates its opinion of 1991 that the report of Israel should "encompass the entire population under the jurisdiction of the Government of Israel" (A/46/18, para. 368). Israel is accountable for the implementation of the Convention, including the reporting obligation, in all areas over which it exercises effective control.

#### D. Concerns and recommendations

80. With respect to articles 1 and 6 of the Convention, the Committee requests the State party to supply it with details of court decisions or other authoritative sources which make a distinction between inequality of treatment on the grounds of race, colour, descent or national or ethnic origin and inequality of treatment on other grounds such as those related to public security.

81. The Committee recommends that the State party extend its legislation against the promotion of racial hatred by completing its implementation of the requirements of article 4 of the Convention. The Committee has earlier held that when anyone makes threats in public against the security of persons of another ethnic origin, criminal proceedings must be initiated with due diligence and expedition. The State party should give this priority attention.

82. The Committee concludes that comprehensive legislation and accompanying measures of implementation will need to be introduced for the State party to meet all the requirements of article 5 of the Convention.

83. The Committee expresses its profound concern that detained persons of Arab ethnic origin are disproportionately subjected to inhuman and degrading interrogation under the Landau Commission rules and that the Supreme Court has failed to declare this illegal.

84. The Committee recommends that the State party reinforce its efforts to reduce the persisting gap between the living standards and the involvement in national affairs of the Jewish majority and the Arab minority, and that it does this in a manner consistent with the measures adopted for assisting the integration of Ethiopian Jews. The Committee encourages the State party to adopt new labour legislation in order to secure the protection against ethnic discrimination of the rights of Palestinians working in Israel on a daily basis; the rights of migrant workers, including undocumented workers, are also a matter of concern.

85. The right of many Palestinians to return and possess their homes in Israel is currently denied. The State party should give high priority to remedying this situation. Those who cannot repossess their homes should be entitled to compensation.

86. While noting the special budget for public housing in the Arab sector, the Committee remains concerned about ethnic inequalities, particularly those centring upon what are known as "unrecognized" Arab villages.

87. While recognizing the great diversity of opinion within the Israeli public, and the Government's

actions to implement article 7 of the Convention, the Committee expresses concern about the findings of social surveys which report that very many Jewish young people believe that Arab citizens should not be accorded equal rights.

88. The Committee hopes to find in the next periodic report a comprehensive statement of the Government's vision of the future of its Arab, Bedouin and Druse citizens, together with an indication of how its objectives are to be attained and a review of the effectiveness of its measures to combat discrimination. Any statistics should show whether governmental expenditure and service provision are proportionate to the size of the different ethnic groups.

89. In order to be able to evaluate the implementation of article 6 of the Convention, the Committee requests the State party to present information on the number of complaints, judgements and compensation awards arising from racist acts, regardless of their nature. At the same time, the Committee would like to have any other information, from whatever reliable source, about any inequalities suggestive of discrimination in the administration of criminal justice.

90. Since time did not permit a full exchange of views on many of the issues raised by members at the fifty-second session, the Committee requests the State party to reflect further on the remaining issues and to furnish additional information on these matters in the next report.

91. The tenth periodic report of Israel was due on 2 February 1998. In accordance with article 9 of the Convention, the Committee will expect the submission of a combined tenth and eleventh periodic report by 2 February 2000. The report should be a comprehensive one, follow the reporting guidelines and take account of the Committee's general recommendations.

92. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

93. It is also noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making the declaration be considered.