

ISRAEL

CESCR E/1999/22

227. The Committee considered the initial report of Israel on the rights covered by articles 1 to 15 of the Covenant (E/1990/5/Add.39), together with the written replies to the list of issues, at its 31st to 33rd meetings, held on 17 and 18 November 1998 and, at its 53rd meeting on 2 December 1998, adopted the following concluding observations.

A. Introduction

228. The Committee welcomes the submission of the initial report, which generally conforms to its guidelines on the preparation of reports. The Committee regrets, however, the delay in the submission of the report.

229. The Committee expresses appreciation for the presentation of the State's representatives and the additional information they provided during the dialogue. The Committee also takes note of the extensive information submitted to it by a large number of non-governmental organizations which was available to the Committee for its dialogue with the State party.

B. Positive factors

230. The Committee welcomes the enactment in 1995 of the National Health Insurance Law which provides for primary health care and ensures equal and adequate health services for each citizen and permanent resident of Israel. The Committee also welcomes the amendment in 1996 of the same law to enable housewives to receive the minimum old-age pension while remaining exempt from contributions.

231. The Committee welcomes the recent establishment of the Authority for the Advancement of the Status of Women which is vested with advisory powers with respect to policies to promote gender equality, eliminate discrimination against women and prevent domestic violence against women.

232. The Committee takes note of the statement by State party's representatives that with respect to the Covenant's applicability in the occupied territories, Israel accepts direct responsibility in some areas covered by the Covenant, indirect responsibility in other areas and overall significant legal responsibility across the board. This conforms to the Committee's view that the Covenant applies to all areas where Israel maintains geographical, functional or personal jurisdiction.

C. Factors and difficulties affecting the implementation of the Covenant

233. The Committee notes that Israel's emphasis on its security concerns, including its policies on closures, has hampered the realization of economic, social and cultural rights within Israel and the occupied territories.

D. Principal subjects of concern

Land and people

234. The Committee notes with concern that the Government's written and oral reports included statistics indicating the enjoyment of the rights enshrined in the Covenant by Israeli settlers in the occupied territories but that the Palestinian population within the same jurisdictional areas were excluded from both the report and the protection of the Covenant. The Committee is of the view that the State's obligations under the Covenant apply to all territories and populations under its effective control. The Committee therefore regrets that the State party was not prepared to provide adequate information in relation to the occupied territories.

Status of the Covenant

235. The Committee notes that economic, social and cultural rights have not been granted constitutional recognition in Israel's legal system. The Committee is of the view that the current Draft Basic Law: Social Rights does not meet the requirements of Israel's obligations under the Covenant.

Discrimination

236. The Committee expresses concern that excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, *inter alia*, of lack of access to housing, water, electricity and health care and their lower level of education. The Committee also notes with concern that despite the fact that the Arabic language has official status in law, it is not given equal importance in practice.

237. The Committee notes with grave concern that the Status Law of 1952 authorizes the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively. Despite the fact that the institutions are chartered under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties to non-Jews. Thus, these practices constitute a breach of Israel's obligations under the Covenant.

238. The Committee notes with deep concern the situation of the Jahalin Bedouin families who were forcibly evicted from their ancestral lands to make way for the expansion of the Ma'aleh Adumim and Keidar settlements. The Committee deplores the manner in which the Government of Israel has housed these families - in steel container vans in a garbage dump in Abu Dis in

subhuman living conditions. The Committee regrets that instead of providing assurances that this matter will be resolved, the State party has insisted that it can only be solved through litigation.

239. The Committee notes with concern that the Law of Return, which allows any Jew from anywhere in the world to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements which make it almost impossible to return to their land of birth.

Employment

240. The Committee notes with concern the rapid growth of unemployment in Israel as a result of which more and more workers are employed in low-paying part-time work where they have little or no legal protection.

241. The Committee notes with regret that more than 72 per cent of persons with disabilities are unemployed. The new Law of Equality for People with Disabilities 1998 has not set any quota for the employment of such persons.

242. The Committee is alarmed that only half of the workers entitled to the minimum wage actually get it, and that foreign workers, Palestinians and "manpower contractor" workers are particularly vulnerable in this regard.

Closure

243. The Committee regrets that the Government of Israel has maintained "general closures" continuously since 1993, thereby restricting and controlling the movement of people and goods between Israel and the West Bank and the Gaza Strip, between Jerusalem and the West Bank and between the West Bank and the Gaza Strip. The Committee notes with concern that these restrictions apply only to Palestinians and not to Jewish Israeli citizens. The Committee is of the view that closures have cut off Palestinians from their own land and resources, resulting in widespread violations of their economic, social and cultural rights, including in particular those contained in article 1, paragraph 2, of the Covenant.

244. The Committee notes with grave concern the severe consequences of closure on the Palestinian population. Closures have prevented access to health care, first and foremost during medical emergencies, which at times have tragically ended in death at checkpoints and elsewhere. Workers from the occupied territories are prevented from reaching their workplaces, depriving them of income and livelihood and the enjoyment of their rights under the Covenant. Poverty and lack of food aggravated by closures particularly affect children, pregnant women and the elderly who are most vulnerable to malnutrition.

245. The Committee is concerned at the forcible separation of Palestinian families because of closures and the refusal of Israeli authorities to allow students in Gaza to return to their universities in the West Bank.

Permanent residency law

246. The Committee expresses its concern at the effect of the directive of the Ministry of the Interior, according to which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years. The Committee also regrets a serious lack of transparency in the application of the directive, as indicated by numerous reports. The Committee notes with concern that this policy is being applied retroactively both to Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. This system has resulted in, inter alia, the separation of Arab families and the denial of their right to social services and health care, including maternity care for Arab women, which are privileges linked to residency status in Jerusalem. The Committee is deeply concerned that the implementation of a quota system for the reunification of Palestinian families affected by this residency law involves long delays and does not meet the needs of all divided families. Similarly, the granting of residency status is often a long process and, as a result, many children are separated from at least one of their parents and spouses are not able to live together.

Land use and housing

247. The Committee is deeply concerned about the adverse impact of the growing exclusion faced by Palestinians in East Jerusalem from the enjoyment of their economic, social and cultural rights. The Committee is also concerned over the continued Israeli policies of building settlements to expand the boundaries of East Jerusalem and of transferring Jewish residents into East Jerusalem with the result that they now outnumber the Palestinian residents.

248. The Committee deplores the continuing practices of the Government of Israel of home demolitions, land confiscations and restrictions on family reunification and residency rights, and its adoption of policies which result in substandard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old city.

249. The Committee notes with concern the situation of Arab neighbourhoods in mixed cities such as Jaffa and Lod which have deteriorated into virtual slums because of Israel's excessively restrictive system of granting government permits without which it is illegal to undertake any kind of structural repair or renovation.

250. The Committee notes that despite State party's obligation under article 11 of the Covenant, the Government of Israel continues to expropriate Palestinian lands and resources for the expansion of Israeli settlements. Thousands of dunams (1 dunam equals 1,000 square metres) of land in the West Bank have recently been confiscated to build 20 new bypass roads which cut West Bank towns off from outlying villages and farmlands. The consequence - if not the motivation - is the fragmentation and isolation of the Palestinian communities and facilitation of the expansion of illegal settlements. The Committee also notes with concern that while the Government annually diverts millions of cubic metres of water from the West Bank's Eastern Aquifer Basin, the annual per capita consumption allocation for Palestinians is only 125 cubic metres while settlers are allocated 1,000 cubic metres per capita.

251. The Committee expresses its concern over the plight of an estimated 200,000 uprooted "present absentees", Palestinian Arab citizens of Israel most of whom were forced to leave their villages during the 1948 war on the understanding that they would be allowed by the Government of Israel to return after the war. Although a few have been given back their property, the vast majority continue to be displaced and dispossessed within the State because their lands were confiscated and not returned to them.

Unrecognized villages

252. The Committee notes with deep concern that a significant proportion of Palestinian Arab citizens of Israel continue to live in unrecognized villages without access to water, electricity, sanitation and roads. Such an existence has caused extreme difficulties for the villagers in regard to their access to health care, education and employment opportunities. In addition, these villagers are continuously threatened with demolition of their home and confiscation of their land. The Committee regrets the inordinate delay in the provision of essential services to even the few villages that have been recognized. In this connection, the Committee takes note that while Jewish settlements are constructed on a regular basis, no new Arab villages have been built in the Galilee.

253. The Committee regrets that the Regional Master Plan for the Northern District of Israel and the Plan for the Negev have projected a future where there is little place for Arab citizens of Israel whose needs arising from natural demographic growth are largely ignored.

254. The Committee expresses its grave concern about the situation of the Bedouin Palestinians settled in Israel. The number of Bedouins living below the poverty line, their living and housing conditions, their levels of malnutrition, unemployment and infant mortality are all significantly higher than the national averages. They have no access to water, electricity and sanitation and are subjected on a regular basis to land confiscations, house demolitions, fines for building "illegally", destruction of agricultural fields and trees, and systematic harassment and persecution by the Green Patrol. The Committee notes in particular that the Government's policy of settling Bedouins in seven "townships" has caused high levels of unemployment and loss of livelihood.

Other concerns

255. The Committee notes with regret the large gaps within the Israeli educational system. Drop-out rates are higher and eligibility for matriculation certificates is lower within certain segments of society: Arabs and Jews in poor neighbourhoods and in development towns, where many of the residents are Jews of Asian and African origin, including Ethiopian Jews. The Committee is particularly concerned about the gap in educational expenditure per capita for the Arab sector which is substantially less than for the Jewish sector.

256. The Committee notes with concern that the recently adopted Arrangements Law has the effect of eroding the principles of universality and equality set out in the National Health Insurance Law. The Arrangements Law imposes payments for medical services in addition to the health tax; a periodic health tax links the amount of tax required to the amount of health services needed, thereby increasing inequality in health care. In spite of assurances that the Knesset sets a cap on such taxes, the Committee is concerned that this provision does not conform to the Government's avowed

commitment to an equitable health-care system.

257. The Committee notes with grave concern the high incidence of domestic violence against women which is estimated at 200,000 cases per year. The Committee is concerned about the situation of non-Jewish women who are reportedly worse off in terms of living conditions, health and education. The Committee is concerned at persistent reports that the Dimona nuclear plant could pose a serious threat to the right to health and to the environment unless urgent preventive measures are undertaken.

E. Suggestions and recommendations

258. The Committee requests the State party to provide additional information on the realization of economic, social and cultural rights in the occupied territories, in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations. Detailed information, including the latest statistical data, is also requested on the progressive realization of economic, social and cultural rights in East Jerusalem, keeping in mind the concerns raised by the Committee in the relevant paragraphs of these concluding observations. In addition, the Committee also requests updated information on the target dates for recognizing unrecognized villages and a plan for the delivery of basic services, including water, electricity, access roads, health care and primary education, to which the villagers are entitled as citizens of Israel. The Committee requests that the additional information also include an update of the Outline Plan of Ein Hod and on progress in the recognition of Arab El-Na'im, as well as an update on the Jahalin Bedouins who are presently camped in Abu Dis awaiting a court decision on their resettlement. The Committee requests the submission of the detailed additional information in this respect in time for the twenty-third session of the Committee in November-December 2000.

259. The Committee calls upon the State party to undertake the necessary steps to ensure the full legal application of the Covenant within the domestic legal order.

260. The Committee calls upon the State party to ensure equality of treatment of all Israeli citizens in relation to all Covenant rights.

261. The Committee urges the State party to review the status of its relationship with the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, with a view to remedying the problems identified in paragraph 237 above.

262. In order to ensure respect of article 1, paragraph 2, of the Covenant and to ensure equality of treatment and non-discrimination, the Committee strongly recommends a review of re-entry policies for Palestinians who wish to re-establish their domicile in their homeland, with a view to bringing such policies level with the Law of Return as applied to Jews.

263. The Committee calls upon the State party to take all necessary steps to reduce unemployment and to ensure proper enforcement of Israel's protective labour legislation, including assigning additional personnel to enforce such legislation. Special attention should be accorded to enforcing the Minimum Wage Law, the Equal Pay for Men and Women Law, and the Equal Opportunities in Employment Law.

264. The Committee calls upon the State party to complete the process of implementing the Law of Equality for People with Disabilities and to address the problem of accessibility to public buildings, including schools, and public transportation by persons with disabilities.

265. The Committee urges the State party to respect the right to self-determination as recognized in article 1, paragraph 2, of the Covenant, which provides that "in no case may a people be deprived of its own means of subsistence". Closure restricts the movement of people and goods, cutting off access to external markets and to income derived from employment and livelihood. The Committee also calls upon the Government to give full effect to its obligations under the Covenant and, as a matter of the highest priority, to undertake to ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuffs and supplies, the safe conduct of students and teachers to and from schools, and the reunification of families separated by closures.

266. The Committee calls upon the State party to reassess its Permanent Residency Law with a view to ensuring that its implementation does not result in impeding the enjoyment of economic, social and cultural rights by Palestinians in East Jerusalem. In particular, the Committee urges the State party to remove the quota system currently in place so that families separated by residency rules can be reunited without delay.

267. The Committee calls upon the State party to cease the practices of facilitating the building of illegal settlements and constructing bypass roads, expropriating land, water and resources, demolishing houses and arbitrary evictions. The Committee urges the State party immediately to take steps to respect and implement the right to an adequate standard of living, including housing, of the Palestinian residents of East Jerusalem and the Palestinian Arabs in the mixed cities. The Committee strongly recommends equal access to housing and settlement on State land for the "present absentees" who are citizens of Israel. The Committee recalls in this connection its General Comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant). [E/1992/23, annex III.]

268. The Committee urges the State party to recognize the existing Arab Bedouin villages, the land rights of the inhabitants and their right to basic services, including water.

269. The Committee calls upon the State party to undertake measures addressing the inequalities in the educational system at the secondary and university levels, particularly in terms of budget allocations. The Committee recommends that a study be made of the viability of establishing an Arab university within Israel for the purpose of ensuring equal opportunities and access to higher education in the respective official languages.

270. The Committee urges the State party to adopt effective measures to combat domestic violence against women and to promote equal treatment of women in the field of employment, including in the Government and in education and health.

271. The Committee requests the State party to ensure the wide dissemination in Israel of these concluding observations.

272. The Committee reiterates that the additional information requested in these concluding observations should be submitted in time for the twenty-third session of the Committee in November-December 2000.

CESCR E/2002/22 (2001)

692. At its 39th meeting, held on 17 August 2001, the Committee considered the additional information submitted by the State party (E/1989/5/Add.14) in response to the request made by the Committee in its concluding observations adopted after consideration of the initial report of Israel on the implementation of the Covenant.^{18/} The Committee adopted, at its 47th meeting, held on 23 August 2001, the following concluding observations.

693. In its concluding observations on the initial report of Israel (para. 258), the Committee requested the State party “to provide additional information on the realization of economic, social and cultural rights in the occupied territories, in order to complete the State party’s initial report and thereby ensure full compliance with its reporting obligations”. The Committee requested that the additional information be submitted in time for its twenty-fourth session in November-December 2000.

694. In a note verbale dated 3 November 2000, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that the additional information would be included in the State party’s second periodic report, which the State party planned to submit no later than March 2001.

695. In a letter dated 1 December 2000 to the Permanent Representative of Israel,^{19/} the Chairperson of the Committee reminded the State party that the Committee had called for the additional information to be submitted in time for the twenty-fourth session and emphasized that some of the additional information concerning the occupied territories had been requested “in order to complete the State party’s initial report and thereby ensure full compliance with its reporting obligations”. Since the additional information formed part of the State party’s initial report, it should be submitted, and would be considered, separately from the State party’s second periodic report.

696. The Chairperson urged the State party to submit by 1 March 2001 up-to-date information on the realization of economic, social and cultural rights in the occupied territories, giving particular attention to the issues that were identified in the concluding observations of the Committee, as well as those mentioned in the letter of the Chairperson. The Committee scheduled its consideration of the additional information for the afternoon of 4 May 2001 and invited the State party to participate in the discussion.

697. The additional information was received on 20 April 2001, too late for it to be translated into the working languages of the Committee, as required by rule 24 of its rules of procedure, for the

^{18/} See Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV, paras. 227-272.

^{19/} Ibid., 2000, Supplement No. 2 (E/2001/22-E/C.12/2000/21), annex X.

twenty-fifth session. Consequently, consideration of the additional information had to be postponed again to the Committee's twenty-sixth session in August 2001. The State party was informed of the deferral in a letter dated 11 May 2001 (annex IV below).

698. At its twenty-fifth session, the Committee invoked rule 64 of its rules of procedure, which provides that the Committee may make suggestions and recommendations of a general nature on the basis of its consideration of reports submitted by States parties and reports submitted by specialized agencies, in order to assist the Economic and Social Council to take action in pursuance of articles 21 and 22 of the Covenant. Accordingly, the Chairperson addressed a letter dated 11 May 2001 (annex V below) to the President of the Council, enclosing a copy of a letter of the same date addressed to the State party citing alleged violations of the Covenant which had been brought to the Committee's attention.

699. In a note verbale dated 14 August 2001, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that owing to complications concerning preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance scheduled to take place in Durban, South Africa, the delegation of the State party would be unable to travel to Geneva to attend the Committee's twenty-sixth session. The State party also informed the Committee that it had submitted its second periodic report and requested that the additional information previously submitted to the Committee be considered together with the second periodic report at a future session of the Committee.

700. At its 39th meeting, on 17 August 2001, a representative of the Government of Israel read a statement before the Committee (annex VI below), but declined to participate in the consideration of the additional information that was scheduled for that meeting. The Committee therefore decided to proceed with the consideration of the additional information in accordance with the decision taken at its twenty-fifth session.

701. The Committee noted that the additional information submitted by the State party did not include information on the realization of economic, social and cultural rights in the occupied territories, except in relation to East Jerusalem. In the absence of such information in relation to the other occupied territories, and in accordance with its procedure concerning reports that had not been submitted or were overdue, which the Committee had begun to apply at its ninth session, the Committee proceeded to discuss the situation in the occupied territories. This would complete the consideration of the State party's initial report.

702. The Committee deplores the State party's refusal to report on the occupied territories and the State party's position that the Covenant does not apply to "areas that are not subject to its sovereign territory and jurisdiction". The Committee's views on this issue have already been firmly expressed in its concluding observations on the initial report of Israel. The Committee notes the statement of the State party in the additional information it submitted to the Committee (para. 5), that powers and responsibilities "continue to be exercised by Israel in the West Bank and the Gaza Strip" according to agreements reached with the Palestinians.

703. The Committee rejects the State party's assertion regarding the distinction under international law between human rights and humanitarian law to support its argument that the Committee's

mandate “cannot relate to events in the Gaza Strip and West Bank”. The Committee reminds the State party that even during armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights as part of the minimum standards of human rights are guaranteed under customary international law and are also prescribed by international humanitarian law.

704. The Committee expresses its deep concern about the State party’s continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted by the State party to restrict the movement of civilians between points within and outside the occupied territories, severing their access to food, water, health care, education and work. The Committee is particularly concerned that on frequent occasions, the State party’s closure policy has prevented civilians from reaching medical services and that emergency situations have ended at times in death at checkpoints. The Committee is alarmed over reports that the Israeli security forces have turned back supply missions of the International Committee of the Red Cross and the United Nations Relief and Works Agency for Palestine Refugees in the Near East attempting to deliver food, water and medical relief to affected areas.

705. The Committee continues to be concerned that the State party’s Law of Return denies indigenous Palestinian refugees the right to return to their homes and properties.

706. The Committee urges the State party to exercise its powers and responsibilities to put an end to the violence, the loss of human lives and the restrictions imposed on the movement of civilians between points within and outside the occupied territories. In this regard, the Committee urges the State party to implement without delay its obligations under the Covenant and to desist from decisions and measures resulting in violations of the economic, social and cultural rights of the population living in the occupied territories. The Committee expresses its firm conviction that the implementation of the International Covenant on Economic, Social and Cultural Rights can play a vital role in procuring a lasting peace in Israel and Palestine.

707. The Committee reiterates its request that the State party provide information on the realization of economic, social and cultural rights in all occupied territories. This information should be submitted in time for it to be considered together with the State party’s second periodic report, which is tentatively scheduled for the thirtieth session of the Committee in April-May 2003. The rest of the information already submitted will be considered together with the second periodic report.

CESCR E/2004/22

244. The Committee considered the second periodic report of Israel on the implementation of the Covenant (E/1990/6/Add.32) at its 17th to 19th meetings, held on 15 and 16 May 2003, and made public, at its 29th meeting, held on 23 May, the following concluding observations.

A. Introduction

245. The Committee welcomes the submission of the second periodic report of the State party, which was prepared in general conformity with the Committee's guidelines. The Committee appreciates the extensive written replies to the list of issues (E/C.12/Q/ISR/2), as well as the readiness of, and efforts made by, the high-level delegation to respond to the oral questions. The members of the delegation were knowledgeable with respect to most of the Covenant rights, but the Committee regrets that a number of the questions it posed during the dialogue remained unanswered.

246. The Committee notes with appreciation the large amount of information received from non-governmental organizations concerning the implementation of the Covenant in the State party.

B. Positive aspects

247. The Committee welcomes the steps undertaken by the State party to implement the Multi-Year Plan for the Development of Arab Sector Communities (2000), aimed at closing the gap between Jews and Arabs by promoting equality in the enjoyment of economic, social and cultural rights.

248. The Committee notes with appreciation the various affirmative-action measures taken, as mentioned in the State party's replies to the list of issues, with respect to various disadvantaged sectors such as the Arab, Druze, Circassian and Bedouin communities, despite the decline in economic growth in the State party in recent years.

249. The Committee further notes with appreciation that the Supreme Court's rules of standing have been relaxed, allowing any person, regardless of citizenship, residency or other status, who contends that his or her rights have been unlawfully denied or infringed, formal access to the Court, and allowing even for an *actio popularis*. In particular, the Committee particularly appreciates that in the State party, plaintiffs seeking remedy for alleged violations of economic, social and cultural rights have access to and can make use of the judiciary system, which provides opportunities for the justiciability of the rights enshrined in the Covenant. In this regard, the Committee welcomes the information given on cases before the courts, in which reference has been made to Covenant provisions.

250. The Committee further notes the amendment to the Equal Rights for Women Law in April 2000.

251. The Committee welcomes the improvements in the conditions for foreign workers, allowing them to change employers for the legal duration of their stay, prohibiting employers from

withholding workers' passports, as well as the regulations regarding the system of compulsory health insurance for these foreign workers.

252. The Committee notes that, while gaps still remain, the State party has achieved some positive results towards expanding basic education and special education for non-Jewish sectors.

253. The Committee notes with appreciation the efforts undertaken by the State party to address the problem of trafficking and exploitation of persons, such as the criminalization of trafficking, increased penalties for trafficking of minors, and the enhanced cooperation between government agencies to combat trafficking with a victim-sensitive approach.

C. Factors and difficulties impeding the implementation of the Covenant

254. The Committee reiterates its statement made in its concluding observations on the initial report of Israel,¹¹ that the State party's continuing emphasis on its security concerns, which have even increased in recent years, has impeded the realization of economic, social and cultural rights within Israel and the occupied territories.

D. Principal subjects of concern

255. The Committee notes with regret that a number of the issues raised in its concluding observations in 1998 and 2001 remain outstanding issues of concern. In this regard, the Committee reiterates its concerns raised in 1998¹² and in 2001.¹³

256. Despite the above-mentioned positive measures (para. 249), the Committee reiterates its concern that the Covenant has not been incorporated in the domestic legal order, and therefore cannot be directly invoked before the courts.

257. The Committee regrets that the judgement of the *Ka'adan* case has still not been implemented.

258. The Committee also reiterates its concern about the State party's position that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction, and that the Covenant is not applicable to populations other than the Israelis in the occupied territories. The Committee further reiterates its regret at the State party's refusal to report on the occupied territories.¹⁴ In addition, the Committee is deeply concerned at the insistence of the State party that, given the circumstances in the occupied territories, the law of armed conflict and humanitarian law are considered as the only mode whereby protection may be ensured for all involved, and that this matter is considered to fall outside the sphere of the Committee's responsibility.

259. The Committee is deeply concerned about the continuing difference in treatment between Jews and non-Jews, in particular Arab and Bedouin communities, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. The Committee reiterates its concern that the excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens.¹⁵ This discriminatory attitude is apparent in the continuing lower standard of living of Israeli Arabs as a result, inter alia, of higher

unemployment rates, restricted access to and participation in trade unions, lack of access to housing, water, electricity and health care and a lower level of education, despite the State party's efforts to close the gap. In this regard, the Committee expresses its concern that the State party's domestic legal order does not enshrine the general principles of equality and non-discrimination.

260. The Committee is concerned that in spite of the enactment of the Equal Rights for People with Disabilities Law in 2000, the majority of its provisions have not been implemented. The situation is aggravated for persons with disabilities from the Arab sector.

261. The Committee is particularly concerned about the status of "Jewish nationality", which is a ground for exclusive preferential treatment for persons of Jewish nationality under the Israeli Law of Return, granting them automatic citizenship and financial government benefits, thus resulting in practice in discriminatory treatment against non-Jews, in particular Palestinian refugees. The Committee is also concerned about the practice of restrictive family reunification with regard to Palestinians, which has been adopted for reasons of national security. The Committee reiterates its concern in this regard contained in its previous concluding observations.¹⁶

262. The Committee deeply regrets the refusal of the State party to provide in its second periodic report additional information on the living conditions of population groups other than Israeli settlers in the occupied territories as requested in its 2001 concluding observations. The Committee continues to be gravely concerned about the deplorable living conditions of the Palestinians in the occupied territories, who - as a result of the continuing occupation and subsequent measures of closures, extended curfews, roadblocks and security checkpoints - suffer from impingement of their enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to work, land, water, health care, education and food.

263. The Committee expresses its concern about the general increase in unemployment in the State party, which rose from 6.7 per cent in 1996 to 10.5 per cent in 2002, as well as about the significant increase in unemployment of the non-Jewish sectors: 13.5 per cent for the Arab sector and more than 15 per cent for the Bedouin sector. The Committee also expresses concern about the rate of unemployment in the occupied territories, which is over 50 per cent as a result of the closures that have prevented Palestinians from working in Israel.

264. The Committee is concerned about the persisting inequality in wages of Jews and Arabs in Israel, as well as the severe underrepresentation of the Arab sector in the civil service and universities.

265. The Committee is concerned about the fact that it is extremely difficult for Palestinians living in the occupied territories and working in Israel to join Israeli trade unions or to establish their own trade unions in Israel.

266. The Committee expresses concern about the fact that the Jewish religious courts' interpretation of personal status law with respect to divorce is discriminatory as regards women, especially the regulation that allows the husband to remarry even when the wife is opposed to the divorce, whilst the same rules do not apply to the wife.

267. The Committee is particularly concerned about information received concerning the

construction of a “security fence” around the occupied territories, which allegedly would infringe upon the surface area of the occupied territories and which would limit or even impede access by Palestinian individuals and communities to land and water resources. The Committee regrets the fact that the delegation did not respond to questions by the Committee concerning the security fence or wall during the dialogue.

268. The Committee is particularly concerned about limited access to and distribution and availability of water for Palestinians in the occupied territories, as a result of inequitable management, extraction and distribution of shared water resources, which are predominantly under Israeli control.

269. The Committee reiterates its grave concern about the continuing practices by the State party of home demolitions, land confiscations and restrictions on residency rights, and its adoption of policies resulting in sub-standard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old city.¹⁷ Furthermore, the Committee is gravely concerned about the continuing practice of expropriation of Palestinian properties and resources for the expansion of Israeli settlements in the occupied territories.¹⁸

270. The Committee continues to be concerned about the situation of Bedouins residing in Israel, and in particular those living in villages that are still unrecognized.¹⁹ Despite measures by the State party to close the gap between the living conditions of Jews and Bedouins in the Negev, the quality of living and housing conditions of the Bedouins continues to be significantly lower, with limited or no access to water, electricity and sanitation. Moreover, Bedouins continue to be subjected on a regular basis to land confiscations, house demolitions, fines for building “illegally”, destruction of agricultural crops, fields and trees, and systematic harassment and persecution by the Green Patrol, in order to force them to resettle in “townships”. The Committee is also concerned that the present compensation scheme for Bedouins who agree to resettle in “townships” is inadequate.

E. Suggestions and recommendations

271. The Committee urges the State party to take into consideration the subjects of concern and to give effect to the recommendations contained in its 1998 and 2001 concluding observations.

272. The Committee urges the State party to undertake steps towards the incorporation of the Covenant and its provisions in the domestic legal order. It refers the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

273. The Committee urges the State party to undertake steps to facilitate the implementation of the judgement in the *Ka'adan* case.

274. The Committee recognizes that the State party has serious security concerns, which must be balanced with its efforts to comply with its obligations under international human rights law. However, the Committee reaffirms its view that the State party’s obligations under the Covenant apply to all territories and populations under its effective control. The Committee repeats its position that, even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights,

are guaranteed under customary international law and are also prescribed by international humanitarian law. Moreover, the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2, paragraph 1, for the actions of its authorities. The Committee therefore requests that the State party provide more extensive information on the enjoyment of economic, social and cultural rights enshrined in the Covenant by those living in the occupied territories in its next periodic report.

275. The Committee reiterates its recommendation that the State party take steps to ensure equality of treatment of all Israeli citizens in relation to all Covenant rights.²⁰

276. The Committee urges the State party to undertake effective measures to combat discrimination against persons with disabilities, especially by providing access to public facilities and promoting access to basic services and employment, with particular attention to persons with disabilities from the Arab sector.

277. The Committee reiterates its recommendation that in order to ensure equality of treatment and non-discrimination, the State party undertake a review of its re-entry and family reunification policies for Palestinians.²¹

278. The Committee reiterates its request that the State party provide detailed information on the enjoyment of economic, social and cultural rights of all population groups living in the occupied territories in its next periodic report.²² The Committee also calls upon the State party to give full effect to its Covenant obligations and, as a matter of the highest priority, to undertake to ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuffs and supplies, free movement to places of employment, and the safe conduct of students and teachers to and from schools.²³

279. The Committee recommends that the State party take effective measures to reduce the rate of unemployment, and pay particular attention to reducing the inequalities between the Jewish and non-Jewish sectors with respect to employment. The Committee further recommends that the State party ensure that workers living in the occupied territories are permitted to continue to work in Israel.

280. The Committee strongly recommends that the State party take measures to reduce the inequalities in wages between Jews and Arabs, in conformity with the principle of equal pay for work of equal value, as enshrined in article 7 of the Covenant.

281. The Committee recommends that the State party take steps to ensure that all workers working in Israel can exercise their trade union rights, in accordance with article 8 of the Covenant.

282. The Committee recommends that the State party take steps to modify the Jewish religious courts' interpretation of the law concerning divorce to ensure equality between men and women, as provided for in article 3 of the Covenant.

283. The Committee urges the State party to ensure that any security measure it adopts does not disproportionately limit or impede the enjoyment of economic, social and cultural rights enshrined

in the Covenant, in particular access to land and water resources by Palestinians, and that adequate restitution and compensation are provided to those who have incurred damage to and loss of property and lands as a result of these security measures.

284. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution. In that connection, the Committee refers the State party to its general comment No. 15 (2002) on the right to water.

285. Reiterating its earlier recommendation,²⁴ the Committee urges the State party to cease the practices of facilitating the building of Israeli settlements, expropriating land, water and resources, demolishing houses and carrying out arbitrary evictions. The Committee also urges the State party to take immediate steps to respect and implement the right to an adequate standard of living, including housing, of the Palestinian residents of East Jerusalem and the Palestinian Arabs in cities with mixed populations. The Committee recalls in this connection its general comments No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant) and No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions). The Committee requests the State party to provide detailed information on this issue in its next periodic report.

286. The Committee further urges the State party to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, and to desist from the destruction and damaging of agricultural crops and fields, including in unrecognized villages. The Committee further encourages the State party to adopt an adequate compensation scheme for Bedouins who have agreed to resettle in “townships”.

287. The Committee encourages the State party to continue to provide human rights education in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

288. The Committee also encourages the State party to develop the system of mixed schools for Jewish and Arab pupils, in order to promote understanding, tolerance and friendship among the citizens of the country.

289. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee of all steps taken to implement them in its next periodic report. It also encourages the State party to continue to consult with non-governmental organizations and other members of civil society when preparing its third periodic report.

290. The Committee requests the State party to submit its third periodic report by 30 June 2008.

Notes

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¹¹ *Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26)*, chap. IV, para. 233.

¹² *Ibid.*, paras. 237, 251, 252 and 254.

¹³ *Ibid.*, 2002, *Supplement No. 2 (E/2002/22-E/C.12/2001/17)*, chap. IV, para. 705.

¹⁴ *Ibid.*, 1999, *Supplement No. 2 (E/1999/22-E/C.12/1998/26)*, chap. IV, para. 237.

¹⁵ *Ibid.*, para. 236.

¹⁶ *Ibid.*, para. 239, and *ibid.*, 2002, *Supplement No. 2 (E/2002/22-E/C.12/2001/17)*, chap. IV, para. 705.

¹⁷ *Ibid.*, 1999, *Supplement No. 2 (E/1999/22-E/C.12/1998/26)*, chap. IV, para. 248.

¹⁸ *Ibid.*, para. 250.

¹⁹ *Ibid.*, para. 254.

²⁰ *Ibid.*, para. 260.

²¹ *Ibid.*, para. 262.

²² *Ibid.*, para. 272 and *ibid.*, 2002, *Supplement No. 2 (E/2002/22-E/C.12/2001/17)*, chap. IV, para. 707.

²³ *Ibid.*, 1999, *Supplement No. 2 (E/1999/22-E/C.12/1998/26)*, chap. IV, para. 265.

²⁴ *Ibid.*, para. 267.
