



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/ISR/Q/3
17 November 2009

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Ninety-seventh session
Geneva, 12-30 October 2009

**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION
OF THE THIRD PERIODIC REPORT OF ISRAEL
(CCPR/C/ISR/3)**

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. In light of the repeated observations of the Committee on the responsibility of the State party under international law to apply the Covenant in the Occupied Palestinian Territory (OPT), regardless of any state of armed conflict (CCPR/CO/78/ISR, para. 11, and CCPR/C/79/Add.93, para. 10), and the view expressed in this regard by the International Court of Justice in its Advisory Opinion of 9 July 2004, with reference to the Supreme Court decision of 30 June 2004 (HCJ, 2056/04), what measures has the State party taken to ensure full application of the Covenant to its activities in the OPT?

2. Please indicate why the State party has not yet included the right to equality and the prohibition of discrimination in the “Basic Law: Human Dignity and Liberty (1992)” and whether it envisages to do so. Please provide information on any measures envisaged to protect further the right to equality, in accordance with articles 2 and 26 of the Covenant, and to ensure that no discriminatory laws are enacted. In addition, please provide information on the measures taken by the State party to establish a national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134, annex), which vested with the competence to promote and protect human rights and consider complaints, including about discrimination.

**Right to self-determination, right to privacy, right to equality and non-discrimination and
rights of persons belonging to minorities (arts. 1, 17, 26 and 27)**

3. Please indicate which measures the State party has taken to guarantee to the Palestinian people the right enshrined in article 1 of the Covenant read in light of the Committee’s general comment No. 12. In this connection, please specify how the settlement policy of the State party can be deemed compatible with its obligations under article 1 of the Covenant (see in this regard

GE.09-46792

the 9 July 2004 Advisory Opinion of the International Court of Justice) and with judgment HCJ 2056/04 of 30 June 2004 of the Supreme Court sitting as the High Court of Justice.

4. Please provide data on the number of house demolitions carried out since 2003, in particular with regard to non-Arab citizens of Israel in the West Bank, including East Jerusalem. Please explain the grounds for such demolitions, the definition of illegal dwellings and illegal construction, and indicate who bears the responsibility for the decision to carry out a demolition. Please also provide information on: (a) the policies of the State party regarding punitive home demolitions pursuant to the Israeli Supreme Court judgment HCJ 9353/08 of 5 January 2009 (*Abu-Dahim v. Commander of the Rear Forces*); (b) the current housing situation of the owners and residents of demolished houses and victims of forced evictions; and (c) whether the State party envisages establishing an independent commission to provide equitable restitution and compensation for victims of the policy of home demolitions, and victims of forced eviction. In addition, please provide comparative disaggregated data on the number of building permits issued to Palestinians in the West Bank and East Jerusalem and the number of building permits issued to citizens of Israel, including those belonging to the Palestinian and Arab community in Israel.

5. Please provide detailed information on training programmes provided to civil servants, members of the police and military forces to raise their awareness of forms of discrimination based on the grounds of religion or ethnic origin, and about their duty to promote and respect the rights protected by the Covenant, in particular freedom of religion.

6. What measures is the State party taking to ensure that Arab citizens of Israel are able to use their own language and enjoy their own culture, in accordance with article 27 of the Covenant? Please comment on the July 2009 decision of the Transport Minister to remove the Arabic names of towns and villages from all road signs in the State party and to replace them with Hebrew names.

7. Please elaborate on the measures taken by the State party to respect and protect the rights of Arab Bedouins to their land and traditional way of life; to stop demolitions of their homes, and to provide them with adequate basic infrastructure and services, including electricity, water, education and health facilities.

States of emergency (art. 4) and derogations from international standards

8. Please provided detailed and updated information on the measures taken by the State party to ensure that definitions of terrorism and security suspects are precise and limited to the countering of terrorism and the maintenance of national security respectively, in full conformity with international human rights standards and in particular with the Covenant. Please provide disaggregated data by sex, age, nationality and ethnic origin on persons detained as “unlawful combatants” since 2003, elaborate further on the legal status of these persons (see State party report, paras. 270 to 277) and indicate whether and when the State party envisages repealing the Incarceration of Unlawful Combatants Law 5762-2002, as recommended by various human rights international experts.

9. In light of general comment No. 29 of the Committee on States of Emergency (art. 4) and of the serious concerns and recommendations expressed by the Committee in its previous

concluding observations (CCPR/C/79/Add.93, para. 11, and CCPR/C0/78/ISR, para. 13) regarding the continued state of emergency in Israel since independence, please provide detailed and updated information on progress in the implementation of the “joint program to complete the needed legislative procedures required in order to end the state of emergency” mentioned in paragraph 159 of the State party’s report and indicate the timeline for completion.

Right to life (art. 6)

10. Please provide information on the measures taken by the State party to ensure that the military comply with the fundamental requirement of distinguishing between civilians and military objectives when resorting to the use of force and that utmost consideration be given to the principle of proportionality in all the State party’s responses to terrorist threats and activities. Please also indicate whether the State party envisages establishing an independent body to monitor the strict compliance of military forces with international human rights law. According to information received by the Committee, “targeted killings” have continued to be used by the State party in response to terrorist activities. Please indicate (a) the number of “targeted killings” carried out since 2003; (b) whether any complaints were lodged in light of the Supreme Court decision of December 2006 imposing certain limitations and restrictions on such acts; and (c) the outcome of these complaints. In addition, please provide specific information on the status of investigations and prosecutions initiated by the State party on alleged violations of international law resulting from the conduct of Defense Forces during: (a) the Second Lebanon War, including the investigations following the Commission of Inquiry into the Events of Military Engagement in Lebanon 2006 (Winograd Commission); and (b) Operation Cast Lead.

11. Please provide detailed information on Operation Cast Lead, which took place in Gaza in December 2008 and January 2009, in particular on measures taken to ensure the distinction between civilian and military objects and persons during the Operation. Please comment on allegations regarding: (a) direct targeting of civilians and civilian objects with lethal outcome despite the absence of any justifiable military objective; (b) the use of Palestinian civilians by the Israeli military forces as human shields, despite the 6 October 2005 ruling of the High Court of Israel on this practice; (c) the refusal of Israeli forces to allow the evacuation of the wounded and permit access to ambulances; and (d) a sharp increase in the use of force by security forces, including different “open fire regulations” to deal with disturbances where only Palestinians are present.

12. Please provide information on the provision of supplies, in particular food and medical supplies, to people in the Gaza Strip since Operation Cast Lead. In addition, please provide information about the access of Palestinians in the OPT to adequate water supplies.

Prohibition of torture (art. 7)

13. Please provide further information on the legislation referred to in paragraph 173 of the State party’s report, designating torture and ill-treatment as a criminal offence, and on any additional legislative measures the State party envisages taking to fully incorporate the prohibition of all forms of torture and other cruel, inhuman or degrading treatment or punishment into domestic law, as set out in article 7 of the Covenant. According to information before the Committee, Amendment No. 4 made in 2008 to the Criminal Procedure (Interrogation of

Suspects) Law – 2002, has extended for an additional four years the existing exemption of the Israel Security Agency (ISA) and the police from making audio and video recordings of interrogations of security suspects. What measures does the State party have in place to guard against torture and ill-treatment during such interrogations, as well as against the extraction of false confessions? Given the further extension of the exemption for a period of four years, does the State party intend to make it permanent?

14. Notwithstanding the State party's assurances that the prohibition on the use of "brutal or inhuman means" is absolute, and its affirmation that "necessity defense" is not a source of authority for an interrogator's use of physical means, please explain whether the "necessity defense" exception may still arise where physical pressure is used during the interrogation of terrorist suspects or persons otherwise holding information about potential terrorists ("ticking bombs"). Have complaints of torture or cruel, inhuman or degrading treatment been referred to the Attorney-General's office for filing of criminal charges against interrogators during the questioning of security detainees considered to be "ticking bombs"? If so, please provide the Committee with detailed information about the number of complaints, their outcome and reasons for which an investigation or prosecution was not pursued in certain cases, if any. Please also provide information on the total number of persons classified as "ticking bombs" who have been interrogated since 2003 as well as the outcome of these interrogations.

15. Please indicate whether complaints against Israeli military forces and the police are recorded immediately and provide information on the remedies available to victims of unlawful use of force and their families. Paragraph 200 of the State party's report states that 49 complaints out of 1,273 investigations for unlawful use of force by police officers resulted in criminal proceedings in 2004. What is the reason for relatively few criminal proceedings? Please indicate the number of proceedings that have led to the conviction of the accused and the sanctions imposed on those convicted. In addition, please elaborate on the measures taken by the State party to ensure that no acts of torture or ill-treatment are committed by police, ISA interrogators, Israeli prison authorities, the Israel Defense Forces as well as the private security agents posted at checkpoints between Israel and the OPT, in the "Seam Zone" in the OPT between Israel and the Wall and within the West Bank.

**Right to liberty and security of person and treatment of persons deprived of their liberty
(arts. 9 and 10)**

16. Please elaborate on the frequent use of administrative detention, in particular of Palestinians in the OPT, which entails restrictions on access to lawyers and the disclosure of full reasons for detention, and provide disaggregated data by sex, age and ethnic origin on administrative detainees. Please also provide detailed information on the rules and modalities governing administrative detention, both in Israel and in the OPT, including information on the use of secret evidence as a basis for administrative detention. Please comment on information according to which Palestinians were arrested and sent to detention facilities in Israel during Operation Cast Lead, and elaborate on information about the detention of Palestinian men, women and children in sand pits in degrading conditions as regards their treatment, food, water, exposure to the elements and access to sanitary facilities.

17. According to Section 3 of the Criminal Procedure (Detainee Suspected of Security

Offence) (Temporary Order) Law-2006, access to a lawyer can be denied for up to 21 days. Please explain the reference to a maximum delay of up to three months mentioned in paragraph 252 of the State party's report. Furthermore, a detainee suspected of a security offence can be held for up to 96 hours before being brought before a judge (paras. 256-257 of the State party's report). Please indicate what measures the State party envisages to take to bring the law in conformity with the Covenant and the previous recommendations of the Committee (CCPR/CO/78/ISR, para.13) regarding both access to a lawyer and to a judge. Please also provide: (a) disaggregated data on prisoners classified as security prisoners; (b) detailed and updated information on the conditions of solitary confinement; and (c) disaggregated data on the persons held in solitary confinement, including their age at time of detention, length of total detention and solitary confinement, and grounds for detention and solitary confinement. Bearing in mind the possibility provided under various laws and regulations to hold security suspects, including minors, in incommunicado detention for prolonged periods of time, please indicate what safeguards are in place to ensure that the persons concerned are not subjected to torture or ill-treatment during such detention and explain the reasons for holding detainees in prolonged incommunicado detention.

Freedom of movement (art. 12)

18. In its previous concluding observations, the Committee urged the State party to respect the freedom of movement guaranteed under article 12 of the Covenant and stop the construction of a "Seam Zone" including a wall, within the Occupied Territory. This recommendation of the Committee was reiterated by the International Court of Justice in its 2004 Advisory Opinion. Please provide information about any measures taken by the State party to comply with the 2004 Advisory Opinion of the International Court of Justice. Please provide information with regard to all restrictions of movement in the OPT, including those arising from checkpoints, the imposition of travel permits for movement in, out and within the "Seam Zone" and the whole of the OPT, and the lack of access to roads for exclusive use by Israelis.

19. Please provide information about regulations that determine the ability of persons with a Gaza identity card to move to the West Bank and East Jerusalem and vice versa. Please provide information on the movement of persons in and out of Gaza, and in particular about the issuance of permits to patients from Gaza to seek treatment abroad. Please comment on information before the Committee according to which patients are denied exit, including those with serious medical conditions, due to "security reasons". Furthermore, according to information before the Committee, in at least 35 cases since July 2007, the ISA has interrogated patients with permits at the Erez Crossing, in the course of which they were asked to provide information about relatives and acquaintances as a precondition for being allowed to exit Gaza. According to patients' testimonies, they were denied permission to exit Gaza for the purpose of receiving medical treatment if they refused or could not provide the information requested by the ISA. Please indicate whether investigations into these allegations have taken place and with what results.

Right to a fair trial (art. 14)

20. Please elaborate on the measures taken to ensure the independence and impartiality of Israeli courts, in particular military courts. Please also indicate whether: (a) all Palestinians accused of offences before military courts are adequately informed in Arabic of charges against them; (b) they are able to meet with their lawyers well before the trial; and (c) all relevant

prosecutorial and court documents are promptly provided in Arabic to the defense. Please also comment on reports according to which some of them are made to sign papers in Hebrew, which they do not understand.

Freedom of religion (art. 18)

21. In light of article 18, please comment on the recent decision of the Supreme Court that denies legal protection, under the Protection of Holy Sites Law (1967), to holy Muslim sites located in Israel. What measures does the State party envisage to take to ensure equal protection for all holy sites and to ensure peaceful access to Muslim holy sites?

22. Please provide information on measures taken by the State party with regard to a recent increase in activities by certain religious groups in connection with the holy sites in the Old City of Jerusalem, with a view to protecting these sites belonging to different religions and faiths in order to guarantee the right to freedom of religion and belief.

Freedom of conscience, expression and peaceful assembly (art. 19)

23. Please provide updated information on the measures taken, if any, following the announcement made by the State party regarding the adoption of a provision on an alternative service of a civilian nature for conscientious objectors. Please provide information about measures taken by the State party to advocate the cessation of the provision of funds from sources abroad to non-governmental organizations in Israel, including those whose members formerly served in the Israel Defense Forces, such as "Breaking the Silence".

24. Please comment on the compatibility with the Covenant of restrictions imposed by the State party on travel of human rights defenders to or from Israel and the OPT. Please also comment on the information before the Committee according to which Israeli security forces use excessive and lethal force against Palestinian civilian demonstrators, in particular in the context of demonstrations against the construction of the Wall.

25. Please provide information with regard to the "loyalty bill" stating that persons wishing to retain Israeli citizenship would have to declare their loyalty to Israel as a Jewish State, which was rejected in May 2009 by the ministerial legislative committee.

Prohibition of incitement to discrimination, hostility or violence (art. 20)

26. In 2003, the Committee expressed concern at public pronouncements made by several prominent Israeli personalities in relation to Arabs and recommended that the State party take the necessary action to investigate, prosecute and punish such acts. Please provide updated information on prosecutions by the Attorney-General against politicians, government officials and other public figures for hate speech against the Arab minority.

Protection of the family (art. 23)

27. Please provide information on: (a) the measures taken to revoke the Citizenship and Entry into Israel Law (2003) (temporary order) as recommended by the Committee in 2003; and (b)

measures and practices with regard to family reunification concerning Israel and the OPT. What measures are taken by the State party to reinstate the possibility of family visits for Palestinian prisoners from Gaza?

Rights of the child and equality before the law (arts. 24 and 26)

28. Please comment on: (a) the compatibility with articles 24 and 26 of the Covenant of Israeli Military Order 132, which allows military courts to prosecute children as young as 12 years old, as well as of the differing definitions of a child in Israel and in the OPT (e.g. legal age is 18 in Israel and 16 in the OPT); and (b) on information according to which most cases involving children in the military courts are decided solely on the basis of confessions. Please also provide detailed and updated information, including disaggregated data, on children arrested by Israeli soldiers and brought before the military courts, and indicate whether all interrogations of children in Israel and the OPT are conducted in the presence of a lawyer and a parent of the child, and are audio-visually recorded. Please comment on the information according to which Palestinian minors, including children under 14, are subjected to interrogation techniques contrary to article 7 of the Covenant, including beating and kicking, verbal abuse, humiliation and sleep deprivation. Please provide information regarding children arrested and detained during Operation Cast Lead, including disaggregated data on the age and gender of children concerned, the length, place and conditions of their detention, as well as sentences issued.

29. In light of article 24 of the Covenant, please provide information on the measures taken to redress the negative impact of forced displacements on the enjoyment of rights of displaced children. Please also comment on reports of: (a) attacks against educational facilities and schools in the OPT by the Israeli military and settlers; (b) restrictions on school development; (c) a shortage of classrooms in East Jerusalem; and (d) restricted access to schools in many locations due to the Wall and other movement restrictions.

Right to take part in the conduct of public affairs (art. 25)

30. Please provide disaggregated data by sex, age and ethnic origin on employees in the public service. Please also provide updated information on the progress achieved to meet the targets set out in Government Resolution 2579, as well as on the five-year work plans (para. 527 of the State party's report) to improve the representation of Arab citizens of Israel in the public service. Please comment on information regarding the detention of members of the Palestinian Legislative Council based on their political affiliation.
