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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Third periodic report of States parties due in 2007

ISRAEL*

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

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Introduction

1. This is the Third Periodic Report of the Government of the State of Israel, submitted to the United Nations Human Rights Committee (HRC) in accordance with the requirements of article 40 of the International Covenant on Civil and Political Rights (hereinafter referred to as the "Covenant" or the "ICCPR"). This report has been compiled by the Human Rights and Foreign Relations Department at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Israeli Government bodies. Israeli Non-Governmental Organizations ("NGOs") were also invited to submit comments prior to the compilation of the present report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice Web site. Their contributions were given substantial consideration.

2. Since the submission of the Second Periodic Report (UN document - CCPR/C/ISR/2001/2), many legislative, administrative and judicial developments relevant to the implementation of the Covenant occurred. A short summary of the main changes is included below. This report provides a comprehensive account of these developments. It also addresses the comments made in the concluding observations by the HRC (CCPR/CO/78/ISR) dated August 21, 2003.

3. In terms of legislation, since the submission of Israel's previous periodic report, noteworthy steps have been taken to promote human rights issues. Some of the more prominent new laws include the Terminally Ill Patient Law 5766-2005 (the "Terminally Ill Patient Law") which provides an answer to the medical-ethical dilemma present in the treatment of terminally-ill patients. Later that year the Knesset enacted the Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability) 5765-2005 (the "Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability)") concerning investigations of persons with intellectual and mental disabilities. In 2006, the Anti Trafficking Law (Legislative Amendments) 5766 - 2006, (the "Anti Trafficking Law") entered into force, promulgating a broad trafficking crime for a number of illegal purposes. This has paved the way for Israel's ratification of both the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. In 2007, the Knesset enacted the Criminal Procedure Law (Amendment 51) 5767-2007, accepting the legal doctrine regarding "Abuse of Process" into Israeli criminal law. Later that year, the Knesset enacted the Gender Implications of Legislation Law (Legislative Amendments) 5768-2007 (the "Gender Implications of Legislation Law (Legislative Amendments)") which imposes a duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset.

4. While Israel has not enacted any further basic laws (Israel's constitutional law) on human rights since the submission of its previous Periodic Reports, the fundamental rights protected by the Covenant which are still not included in legislation, are effectively protected through judicial decisions and otherwise.

5. With respect to judicial decisions, the Supreme Court has continued to play a major role in the implementation of civil and political rights. Some of the more prominent cases include HCJ 4634/04 *Physicians for human rights et. al. v. The Minister of Public Security, et. al*. in

which the Supreme Court held that the State must provide a bed to every prisoner held in an Israeli prisons. On May 2006, the Supreme Court delivered a landmark decision, laying down a court-made doctrine on the exclusion of unlawfully obtained evidence (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al*.). On June, 2007, the Supreme Court rejected two petitions challenging the annual Pride Parade in Jerusalem (HCJ 5277/07 *Baruch Marzel v. The Chief of Jerusalem Police, Ilan Franko*, and HCJ 5380/07 *"Kochav Ehad" Association v. The Chief of Jerusalem Police, Ilan Franko*).

6. Lower Court instances also contributed to the protection of human right, as the National Labor Court concluded that a decision of the Minister of Transports to allow transport operatives other than those on strike to provide transportation in the midst of a cessation of services in the city of Beer-Sheva, caused severe, direct, and intentional damage to the workers' right of association and their right to strike (L.C 57/05 *The New Histadrut v. the Minister of Transport*). The Tel-Aviv District Court determined that a prisoner held in the custody of the Israel Prisons Service (IPS), is entitled to the same medical treatment provided to all other citizens of the State by the public health services (Administrative Petition 002808/05 *Ahmed Yossef Mahmud Altamimi v. Head of IPS's Medicine Department et al*.). The Haifa District Court annulled a decision of the Haifa Traffic Court due to its failure to appoint a defender for the appellant (Cr. A. 002646/07 *Zrayek Nimer v. the State of Israel*).

7. Some additional developments can be found in an opinion published by the Ombudsman's Office of the Israeli Judiciary, determining that as a general rule, a detainee is not to be handcuffed during court hearings apart from exceptional cases. On January, 2008, the Jerusalem Planning and Construction Committee delivered for depositing the Jerusalem Mayor's plan to establish a cemetery for civil burial in the area of the new planned cemetery in Givat Shaul in Jerusalem.

8. The following report addresses the main issues raised by the Covenant in the period between the submission of the Israel's previous Periodic Report and April 2008, as well as concerns raised by the Human Rights Committee.

Article 1. Self-determination

9. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 2. Implementation of the rights in the Covenant

10. **General**. As discussed in the previous report, international agreements are not, as such, directly applicable as part of Israeli law. Israeli legislation, however, in particular its Basic Laws and case law, have continued to offer wide ranging, effective protection and remedies for the basic rights protected by the Covenant.

11. **Basic law: human dignity and liberty**. This law continues to serve as a fundamental part of Israeli human rights legislation. This law has had a sustained and heavy influence on the enactment and amendment of new laws, as well as on judicial interpretation of those laws. It continues to influence a wide range of legal and social practices. The Anti Trafficking Law was,

for example, enacted in accordance with the Basic Law, and broadly proscribes against trafficking for a number of purposes including prostitution, slavery or forced labor. The Courts have also ruled in accordance with the Basic Law on many occasions. Some notable such instances include the decision in HCJ 4634/04 *Physicians for Human Rights et al. v. the Minister of Public Security et al.*, determining that the State must provide a bed for every prisoner; the landmark decision in C.A 5121/98 *Prv. Yisascharov v. the Head Military Prosecutor et al.* concerning the exclusion of unlawfully obtained evidence; and the decision reached in HCJ 3045/05 *Ben-Ari v. the Ministry of the Interior* recognizing the right of same-sex couples holding wedding certificates from abroad to be registered as married by the Ministry of the Interior.

12. **Case law**. In addition, Israeli case law has referred to different provisions of the Covenant in a significant number of decisions. For example, the Supreme Court has referred to the Covenant in relation to article 14(1) concerning the right to a fair trial (Cr.A) 5121/98 Private (res.) *Raphael Yisascharov v. The General Military Prosecutor*). Other articles similarly referred to include article 14(5) concerning the right to appeal (C.R.A Imri Haim registered association v. Aharon Vizel), article 17 concerning the right to privacy (HCJ 6650/04 *Anonymous v. The Netanya District Rabbinate Court*), article 23 concerning the right to marry and form a family (HCJ 7052/03 *Adalah v. The Ministry of the Interior*) and also article 27 in relation to the right to freedom of culture and language (HCJ 4112/99 *Adalah v. The Municipality of Tel-Aviv*). District Courts have also referred to the rights granted by the ICCPR. The Jerusalem District Court, for example, referred to the Convention in relation to the prohibition of slave-trade and trafficking in persons (D.C.C 5049/02 *The State of Israel v. Ofer Hasson*).

13. **Publicity and dissemination**. The second report concerning the implementation of the ICCPR, and the HRC’s comments, were widely distributed, thus fuelling public discourse and debate on human rights issues.

14. The newly-established Equal Employment Opportunities Commission in the Ministry of Industry, Trade and Labor (ITL), is headed by a National Commissioner, and divided into three district bureaus headed by district commissioners.

15. The Commission derives from a recent amendment to the Equal Employment Opportunities Law 5748-1988 (the “Equal Employment Opportunities Law”). Under that amendment, a 21-member advisory committee to the Commission shall be appointed, including representatives of the Authority for the Promotion of the Status of Women, the Commission for Equal Rights of People with Disabilities, relevant Government Ministries, organizations engaged in the promotion of equal employment rights, trade unions and employers organizations, as well as experts in areas associated with the work of the Commission.

16. Under the recent amendment, the Commission is charged, inter alia, with fostering public awareness through education, training and information; encouraging programs and activities; cooperation with relevant persons and bodies; conducting research and gathering information; intervention, with the courts approval, in ongoing legal proceedings; handling complaints regarding the violation of equal employment legislation; submission of requests for general

orders; and instructing employers to take general measures regarding all or part of their workforce or employment applicants, designed to ensure compliance with duties imposed by employment equality legislation or to prevent violations of such duties.

17. On November 11, 2007 the Government accepted Resolution Number 2578, concerning the appointment of an Equal Employment Opportunities Commissioner. This position is the first of its kind to be established in Israel. The Commissioner will be responsible for collecting information and hearing complaints from workers concerning instances of sexual harassment, and/or discrimination based on gender, sexual orientation, parenthood, religion and race. Where necessary, the Commissioner will also be responsible for initiating legal action on behalf of any adversely affected workers. The commissioner will also have the authority to request that Courts issue special orders prohibiting sexual harassment in places of work. Violation of these orders will be considered a criminal offence. In addition, the commissioner will be responsible for encouraging special programs relating to equality in employment as well as other educational and promotional activities in working places.

18. **Human rights education**. In 2008, the Ministry of Education had begun the implementation and assimilation of a fundamental change in teaching civic studies, including Human Rights issues. The goal is to increase the teaching hours given to the subject so far. In the extended program, there is an even greater emphasis on civil and political rights. The Ministry conducts visits to the Knesset and to Israeli Courts, where the pupils meet with members of governmental authorities - judges, police officers, etc. and learn about their performance.

19. **Equality**. The State of Israel has implemented the obligation to maintain equality in the enjoyment of the Covenant rights in a myriad of ways. Each is discussed in detail with reference to the relevant articles in this report, and in particular articles 3, 26 and 27.

20. **Nationality**. This issue has been discussed in our previous reports. No change has occurred in this area since the submission of our second periodic report.

Israel’s Security Agency Law

21. As detailed in previous reports, Israel took it upon itself to legislate a specific law with regards to the Israel Security Agency (ISA). The enactment of the Israel Security Agency Law 5762-2000 (the “Israel Security Agency Law”) is a very significant development in the implementation of the Covenant since the submission of our previous periodic report to this committee. This law addresses several major issues concerning the mandate, operation, and scope of power of the ISA, and will be further discussed below [A translation of the law is attached to this periodic report and is marked “A”].

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

23. The law specifically provides that the Prime Minister shall be in charge of the ISA on the Government's behalf, and that no mission shall be imposed on the ISA for the promotion of party-political interests.

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

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

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

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

"(1) Foiling and preventing illegal activities aimed at harming State security, or the order or institutions of the democratic regime;

(2) Protecting persons, information and places as determined by the Government;

(3) Determining directives on security classification for positions and offices in the public service and in other bodies, as determined by the Government, except for public appointees and judges; and determining the security suitability of a person for a position or office that holds a security classification, including by the use of polygraph tests, all as shall be prescribed by rules. In this paragraph, "judges" means any person holding judicial authority under the Basic Law: the Judiciary, except candidates for the judiciary and except a military judge under the Military Justice Law, 5715-1955;

(4) Establishing protection practices for bodies as determined by the Government;

(5) Conducting intelligence research and providing advice and position appraisals for the Government, and other bodies, as determined by the Government;

(6) Conducting activities in any other area determined by the Government, with the approval of the Knesset Service Affairs Committee, which is designed to safeguard and promote State interests vital to the national security of the State;

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

27. Section 8 to this law also grants the ISA the following general powers for the purpose of fulfilling its functions in the receipt and collection of information: to pass on information to other bodies in accordance with rules to be prescribed and subject to the provisions of any law; to

investigate suspects and suspicions in connection with the commission of offences or to conduct investigations for the purpose of preventing offences in certain prescribed areas; to enlist the assistance of any person who is not an ISA employee for the carrying out of tasks in accordance with rules to be prescribed; ISA officials shall have the powers of police officers to fulfill certain functions, following authorization from the head of the ISA to enter certain premises not being a closed private structure, in order to conduct inspections and to carry out protective and preventative actions for a limited period.

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

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

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

Article 3. Equal rights of men and women

31. Since the submission of Israel’s previous periodic report, there has been significant progress enhancing the status of women in Israel. This progress is clearly apparent in the adoption of several new and notable acts of legislation; in precedent setting decisions handed down by the courts; and in actions and initiatives taken by the different government bodies. At the same time, however, in certain areas of Israeli society, women are still comparatively underprivileged, and more efforts need to be invested.

32. Complete equality between men and women before the law is entrenched in Israel, except in some of the matters governed by religious law. The Equal Rights for Women Law 5711-1951 (the “Equal Rights for Women Law”) states in section 1, that the same laws shall apply to men and women regarding “any legal action”, and that any law discriminating against women shall be null and void. The Law also equates the legal status of women to that of men.

33. On November 20, 2007, the Knesset enacted the Gender Implications of Legislation Law (Legislative Amendments) which imposes a duty to systematically examine the gender implications of any primary and secondary legislation before it is enacted by the Knesset. The Law is aimed to expose any hidden inequalities between men and women that might be present in different bills, in order to advance the status of equality between both genders. According to the Law, the Authority for the Advancement of the Status of Women will submit to the relevant

Knesset committee an opinion concerning the gender implications of any bill or secondary legislation, when brought for its consideration or approval. This will allow Knesset members participating in committee hearings to become acquainted with any gender implications inherent in legislation, if such implications in fact exist. In addition, the submission of these opinions will be anchored in the Authority for the Advancement of the Status of Women Law 5758-1998 (the "Authority for the Advancement of the Status of Women Law") as one of the official functions of the Authority for the Advancement of the Status of Women.

34. The Authority for the Advancement of the Status of Women (the "AASW") has provided a detailed survey of its actions and programs, entitled "Beijing +10" which was published in March 2005.

35. The Equal Rights for Women Law was amended by the Knesset in 2000, and amended again in 2005. The 4th Amendment to the Law (July 20, 2005), determined that any task force appointed by the Government for the creation of foreign and/or interior national policies (including negotiation teams working towards a peace agreement) must include an appropriate number of women. In order to effectively implement and enforce the provision, the appointing body must report on its composition to the Authority for the Advancement of the Status of Women, which will in turn examine the details, going towards the construction of an annual report to be submitted to the Committee on the Status of Women concerning the adequate representation of women in national policy task forces.

36. **Women's representation in political parties and the Knesset**. Women are still underrepresented in political positions, both in the national and municipal levels. However, there have been significant positive changes in the past few years. In national elections, several of the large parties included women's representation as a dominant factor in the establishment of party lists (through appointments, quotas, affirmative action etc.). Of the 120 members of the Knesset, 17 are women, and from among those women, one is of Arabic descent. The Speaker of the Knesset, MK Dalia Itzik, is a woman and three other women are chairpersons of different Knesset committees: MK Nadia Hilou, Chairperson of the Committee on the Rights of the Child, MK Sofa Landver, Chairperson of the Public Petitions Committee and MK Zahava Gal-on, Chairperson of the Subcommittee on Trafficking in Women.

Women in government, local authorities and the civil service

37. **Women in local authorities**. As of January 2007, out of 253 possible appointments, there were only 6 women actively employed as mayors, or heads of local councils/authorities. Local authorities employ 2,934 public-elected persons in total, of which only 13.2% are women.

38. In 2003-2004, the Authority for the Advancement of the Status of Women sponsored two central conferences, in order to augment the number of women preparing to run for local council. The first conference was attended by more than 200 persons, including advisors to mayors, heads of local councils, and women responsible for the status of women in Government Ministries. The event was notably sponsored in conjunction with the Center for Local Government. The second conference, attended by more than 100 representatives from women's organizations, was sponsored in conjunction with the Council of Women's Organizations. In

addition, in order to prepare these women for the upcoming council elections, the Authority is actively and deliberately encouraging the women involved to run for other elected positions; such as committee chairpersons, neighborhood council chairpersons, positions with parents' committees, etc.

39. In order to further enhance the status of women, the Authority has also engaged in activities aimed at deepening the knowledge and commitment of council women with regards to the status of women in their localities. These plans have long term benefits in addition to the short-term ones. They will assist in gradually preparing a cadre of women willing to run for local office in future elections (the next currently being scheduled for 2008), and in providing them with knowledge and skills, both personal and institutional empowerment, and the opportunity for widespread networking that they will need to run effective campaigns.

40. The Authority also sponsors ongoing courses and workshops for persons advising mayors and heads of local councils. In these courses, the Authority emphasizes personal skills, inculcates values relating to gender equality and provides the participants with further academic and practical skills. As part of this course, for example, the participants are required to analyze the municipal budgets from a gender point of view and they are provided with expert guidance and mentoring to enable them to do so. In cooperation with the Advisor on the Status of Women in the Civil Service, the Authority has actively promoted the interests of supervisors for the status of women in Governmental Ministries. This support has included workshops, conferences, preparation and distribution of informational materials and more.

41. **Local councils**. Legislation passed in the year 2000, detailed in the previous report, mandates that every local council must actively promote the status of women. To that end, each council must appoint an Advisor on the Status of Women who is to report directly to the mayor and/or head of the local council on pertinent matters. As a direct subordinate to the head of the local council, the Advisor is dedicated to ensuring ongoing communication between the head of council and the local women's council (where such a women's council exits) and to initiating policies for the advancement of the status of women within the local authority. As an additional safeguard, the Law further empowers the Minister of the Interior to order that local councils follow the law's directives, and in the event that local councils should fail to comply, to personally appoint an Advisor on the Status of Women on the councils' behalf. As of 2008, 219 of the 253 local authorities had appointed such an advisor.

42. The Authority disseminated personal communications to all 253 of the mayors and heads of municipalities in Israel, concerning appropriate representation of women in municipal corporations and companies. The Authority supervises appointments made to counsels, commissions, and state committees, and decisively warns the appointing bodies of the consequences, if provisions of the Law on appropriate representation of women are not implemented. In addition to this activity, and at the initiative of the Authority, the Attorney General and the Secretary of Government informed all government bodies of the unequivocal duty to include women within their ranks.

43. **Arab women in local authorities**. Whilst the representation of elected Jewish women in local authority councils equals 14.2%, Arab women comprise only 0.5% of those elected. This

gap is usually explained as being the result of various sociocultural factors, such as the impact of religion and local tradition on certain minority communities which can restrict women from considering running for elections to these positions.

44. To assist in remedying this situation, 203 female Advisors on the Status of Women in local municipalities are currently employed, 40 of whom work in the Arab sector. These advisors ensure the advancement of policy for enhancing the status of women within the purview of the local authority, in addition to ensuring that the necessary resources are provided to this end.

45. The Department for the Advancement of Women within the Civil Service, continues to play a vital role in various areas including the implementation within the Civil Service of legislation oriented towards the improvement of women's status, the promotion of information and counseling for women within the civil service, as well as the formation and professional orientation of professionals working to promote the advancement of women in the Civil Service. The Department has also served as a vestibule for the receipt of complaints by female workers, and has worked at maintaining ongoing contact with organizations dealing with women's status in furtherance of common objectives. The Department also plays a significant role in engaging with the various Knesset committees to advance women's rights legislation.

46. **The prevention of sexual harassment within the Civil Service**. The Department has been involved on several levels with regards to the implementation of the Prevention of Sexual Harassment Law 5758-1998, and reinforcement of awareness on that subject. In illustration, dissemination of information, and explanations of the Law were made available to more than 50,000 workers in 2005, and Supervisors on the Status of Women were provided with tools so that they might better receive the workers' complaints. Indeed, since the passage of the Law in 1998, the number of complaints regarding sexual harassment received by the Department has dramatically increased, with 82 complaints received in 2005, and 64 complaints received in 2006. These Complaints are handled in cooperation with the Unit for Discipline and the Investigations Department within the Civil Service Administration. All women who submit complaints of sexual harassment to the Department are provided with legal advice, and are accompanied and supported throughout the investigative process up until completion of any ensuing trial. In certain cases administrative measures are also taken to separate the alleged assailant from the victim. In 2006, 11 disciplinary administrative measures resulted in court proceedings. Of those instances, 5 workers were fired, and 5 others retired from the civil service following the initiation of procedures against them.

47. The Department for the Advancement of Women in the Civil Service supervises the affirmative action policy asserted in section 15A of the Civil Service (Appointments) Law 5719-1959 (the "Civil Service (Appointments) Law (Appointments)"). According to data received from the Department in 2006, the representation of women has improved among the higher ranks of the civil service.

48. **Ranks of women in the Civil Service**. The civil service has four main classifications which comprise the main sources in which administration managers may be ranked. The number of women featured among the top three ranking senior staff positions is slowly improving. In 1997, women comprised 61% of all civil servants, yet high ranking female civil servants numbered less than 15%. In October 1999, women still comprised 61% of all civil servants,

only the number of high ranking women had increased to 16.4%. As of December 31, 2006, 45% of the top four ranking positions, and 43% of the top three ranking positions were held by women. It should be noted that these figures do not include women in the security forces, but does include all other ranks such as nurses and advocates, in which the representation of women is very high.

49. **Tenders in the Civil Service**. The method of appointment to the civil service is through both internal and external tenders. While the increase of female participation in internal job-tenders within the civil service (both as candidates and as appointees) is quite constant, the situation in public tenders is less positive. In 2004, 45% of the candidates for public tenders were women. Of these tenders women constituted 58% of the appointees.

50. On September 23, 2007, the Tel-Aviv District Labor Court annulled a tender for employment with the Investigations Department of the Tel-Aviv Customs Division, as the Examiners Committee had not paid sufficient attention to the requirement for proper representation by women, and had not taken affirmative action, as required by law, in giving preference to women possessing the same qualifications as men: (L.C 3888/03 *Ruth Zuaretz v. the State of Israel - the Civil Service Commissioner et al.*). There were 26 candidates vying for only a few positions, and the claimant was the only woman.

51. The Court held that the duty to take action for proper representation of women in public entities is anchored in legislation; such as The Equal Rights for Women Law: (section 6(c)), the Civil Service Law (Appointments): (section 15(a)); and also in Case-Law, especially that handed down in the case of HCJ 2671/98 *Israel Women's Network v. the Minister of Labor and Welfare* and in HCJ 453/454/94 *Israel Women's Network v. the Government of Israel et al*. The Court indicated there that in 2003, the Attorney General had issued special guidelines obligating the implementation of the proper representation principle when making appointments in the civil service.

52. The Court held that the Examiners Committee failed to consider, or did not give proper weight to, the issue of affirmative action when choosing between the claimant (the only female candidate) and the successful male candidate whose qualifications were evidentially inferior to those of the claimant. The Court held that the extreme lack of reasonableness displayed in making the decision justified the Court's intervention in the Examiners Committee's decision, which had been approved by the Civil Service Commissioner. Of the 27 applicants, the claimant was the only woman. As that fact had not been properly considered by the Committee, the Court decided to annul the decision to appoint a different candidate.

53. **The judiciary and lawyers in the public sector**. Since the submission of our previous periodic report, the percentage of women in the Judiciary has substantially increased. There has been a growth of 72% in the National Labor Court, 42 % in the District Courts, and 28% in the Supreme Court. In all of the different civil courts combined, there are 317 female judges, and 304 male judges, so that 51 per cent of the civil judiciary in Israel is now composed of women (compared to a total of 40 per cent in 1998). In 2007 alone, 49 new judges were appointed, 27 of whom were females.

Table 1

Judges, by courts and gender*

	Female	Male	Total	% Women
Judges				
Supreme court	5	7	12	42
District courts	59	69	128	46
Magistrates courts	140	149	289	48
Traffic courts	14	20	34	41
National labor court	3	4	7	43
Regional labor courts	32	13	45	71
Family courts	26	19	32	56
Youth	9	4	13	69
Courts administration	-	3	3	-
Total	288	285	576	50

Source: The Courts Administration, 2008.

* The Government's Resolution and the provision of the Civil Service Regulations appear on the Website of the Ministry of Justice.

Table 2

Employees in the Ministry of Justice, 2007

% of Total	Total	No religious affiliation	Druze	Christians (Non Arabs)	Arab Christians	Non Arab Muslims	Arab Muslims	Jews	Religious affiliation
30.2%	832	3	14	3	10	1	38	763	Men
69.8%	1 922	3	0	6	11	0	43	1 859	Women
100%	2 754	6	14	9	21	1	81	2 622	Total

Source: The Ministry of Justice, 2007.

54. **Internship directory**. In 2008, the Ministry of Justice announced, for the second year, the creation of a directory of candidates for internship positions that are intended for the Arab population, new immigrants from Ethiopia and people with severe disabilities, in order to achieve suitable representation. The announcement:

"Civil Service Commission - Ministry of Justice

Looking for an Internship in a Challenging and Interesting Place? The Ministry of Justice announces the creation of a directory of candidates for internship positions for September 2008 and March 2009. These positions are intended for certain population groups to achieve suitable representation, as described below.

The Ministry of Justice invites candidates who meet the requirements for internship as specified in the Israeli Bar Association Law, 5731 - 1971, and the criteria set forth in the Government's Resolution of March 12, 2006 with respect to suitable representation among interns in the Ministry of Justice, as described below, to submit their candidacy for inclusion in the directory.

The list of the divisions in the Ministry of Justice in which the internship may be done is specified on the Website of the Ministry of Justice, the address of which appears at the end of this notice.

On March 12, 2006, the Government of Israel made a resolution, at the request of the Ministry of Justice, in the matter of suitable representation among interns in the Ministry of Justice. The Government decided, inter alia, as follows:

> "A. In accordance with the provisions of section 15A(b)(2) of the Civil Service (Appointments) Law to designate, insofar as possible, some ten percent of the annual class of interns in the Ministry of Justice solely for the employment of candidates who qualify for an internship in the Ministry of Justice and fulfill one of these:
>
> (1) The candidate is a member of the Arab population, including Druze and Circassian;
>
> (2) The candidate or one of his/her parents was born in Ethiopia;
>
> (3) The candidate is a "person with a severe disability" within its meaning in section 35.252 of the Civil Service Regulations …"

In accordance with the aforesaid resolution, it was decided to compile a directory of candidates that will effectuate the aforesaid Government Resolution with respect to "suitable representation" and will include candidates who meet the criteria set forth in the Government's Resolution and whose particulars and qualifications make them extremely suitable for internship. Selection will take place in two stages. The first stage is a selection process for inclusion in the directory. After that the various divisions in the Ministry will interview candidates for internship from among the candidates accepted for inclusion in the directory.

A directory of "suitable representation" candidates will be maintained alongside the general directory of candidates for internship positions in the Ministry of Justice, for which a separate selection process is held, open to all. A person who meets the criteria of the aforesaid Government Resolution may submit his/her candidacy for the general directory, like everyone else.

Procedure for Submitting Candidacy

1. The candidate must complete the "candidacy for tender form" (Form 2115 - which may be downloaded from the Website of the Civil Service Commission, whose address appears below).

2. If the candidate has a preference for specific divisions, the candidate should mention the order of priority on his/her application.

3. The candidate must attach to the candidacy form his/her resume (which shall include explanations and reference to fulfillment of the criteria specified in the Government's Resolution), a photocopy of his/her identity card, documents testifying to the candidate's education, record of grades for the first two years of college or university, confirmation of present and previous employment and recommendations.

Selection Procedure

- Candidates who meet the candidacy acceptance requirements will be invited, at the discretion of the Ministry of Justice, to appear before committees of examiners. These committees will examine the suitability of the candidates for internship based on their impression of the candidate, the candidate's contribution to society and community, test results and academic achievements. Candidates whom the committees find suitable for internship will be listed in the directory of "suitable representation" candidates for internship.

- Listing in the directory will enable the candidate in the tender to be a potential candidate for internship. Inclusion does not entail any obligation to accept the candidate for internship.

- The division heads may refer to lists in the directory according to their needs and according to the preferences of the candidates that were recorded at the time of registration, and invite them to appear before the ministerial selection committee, which will examine their suitability for internship.

- A candidate who is selected will be assigned to internship based on the Ministry's needs and, to the extent possible, taking into account his/her place of residence.

- A candidate who is selected and commits to do his/hers internship in a certain division of the Ministry is not allowed to switch the commitment to another division.

Website of the Civil Service Commission: www.civil-service.gov.il

Website of the Ministry of Justice: www.justice.gov.il

55. **Government corporations**. As mentioned in our previous Periodic Report, the 1993 amendment to the Government Corporations Law, 5735-1975 (section 18a) set a requirement for appropriate representation of both genders on the board of directors of every government corporation. According to recent data, 182 of a total of 550 directors (33.09% per cent) are women, a decline of 3.91% in comparison to the last report.

56. On March 11, 2007, the Government resolved to obligate Ministers to appoint women to directorates of Government Corporations until they achieve a 50% representation of women within two years from the date of the Government Resolution. The Governmental Corporations

Authority supervises closely and effectively any appointments made to directorates of Government Corporations. If the appointments do not adhere to the obligating standards, the Authority holds them until the appointing Minister proposes an alternative female nominee or can justify why he/she can not propose any alternative nominee under these circumstances.

Women in the military and police

57. As mentioned in our previous reports, military professions in Israel, including combat positions are open to both men and women. The military headship is committed to placing women in higher ranks and positions. The following details indicate the integration of women in compulsory service in combat positions: 2.5 % of all the women serving in the military are in combat units (updated October 2006); women account for 4% of all combat soldiers (updated July 2006); the percentage of women in comparison to men in joint units is 19%. Note that in 2007, the percent of women in compulsory service out of all soldiers is 33%. Most combat female soldiers serve in field units: the percent of women in the light infantry is 68%; Border Police 9%; artillery 12%; atomic, biological and chemical units of the engineering corps 33%; anti-aircraft 30%. In addition, there are 16 women serving today as air crew personnel.

58. The Chief of Staff's Advisor on Women's Issues has recently promoted three major projects:

> 58.1. The establishment of the Women Military Service Committee aimed to outline the vision and make recommendations concerning structural aspects of military service of women. The Committee is headed by a former General and consists of several senior officers and academic specialists.
>
> 58.2. Consolidation of a military behavioral code on gender issues which will constitute obligating norms and standards for soldiers and officers and influence the cultural environment and army daily life concerning gender issues.
>
> 58.3. Setting goals for a progressive improvement of women representation in the army and promotion of a plan for increasing the representation of women in senior leadership positions which includes specific targets for each of the corps and based on the percent of women entitled for promotion within each rank.

59. The IDF is obligated to advance women who serve in the army beyond their compulsory military service. In 2007, women consisted 19% of the standing army (officers and non-commissioned officers): First Lieutenant - the percent of women is 26.3%; Captain - 22.8%; Major - 21.8%; Lieutenant Colonel - 11.8%; Colonel - 4.6%; Brigadier General - 3.8%.

60. According to section 16A(c) to Defence Service Law (Consolidated Version) 5746-1986, the same law shall apply to men and women who completed their compulsory service and volunteer to serve in one of the IDF positions determined by the Minister of Defense, despite the difference in duration in women compulsory service in comparison to men's. The Defence Service Regulations (Determination of Positions for Voluntary Service of Women) 5761-2001, following amendments in 2002 and 2005, lists 26 military professions in which women are entitled to the same rights as men.

61. Since the submission of our previous report, the Supreme Court held a hearing concerning a petition of a female soldier that demanded to allow women to hold positions in a Vulcan launcher unit which is one of the IDF anti-aircraft units (HCJ 6757/03 *Ya'ara Stulberg v. the Minister of Defence et al*). The State argued that statistically only one percent of all women can meet the physiologically pre-conditions required for serving in the unit operating the Vulcan launcher. The petition is still pending before the Supreme Court due to the fundamental aspects of the issue, even though the petitioner completed her military service.

Equality in employment

62. In 2006 and 2007, a number of significant amendments were made to the Women's Employment Law, 5714-1954. Inter alia, these changes prohibit the employment of women during their maternity leave; prolong the period of leave permitted after hospitalization; prolong the period during which an employer is prohibited from dismissing an employee returning from maternity leave to 60 days; prolong the period during which dismissal of a female employee staying in a battered women's shelter is not permitted, to 90 days (also requiring the consent of the Minister of Social Affairs and Social Services); extends maternity leave from 12 to 14 weeks; and notably alters the pre-existing conditions so that after 6 weeks maternity leave should a new mother decide to return to work, or otherwise waive her remaining leave, the father will be permitted permanent, (previously temporary), leave in her stead, for the duration of the maternity leave.

63. On July 26, 2007, the National Labor Court rejected an appeal from a former female employee in the Knesset, who claimed that she was discriminated against in salary and retirement benefits in comparison to her male counterparts (La. A. 000222/06 *Shoshana Kerem v. the State of Israel*). The Court found that the appellant failed to prove that she experienced discrimination in comparison to her male colleagues, neither on the basis of the Equal Salary to Male and Female Workers Law 5714-1954 nor on the basis of Equal Employment Opportunities Law.

64. In its decision, the Court held that "the principle of equality is one of the basic principles of every democratic state. The principle of equality is a cornerstone in our legal regime. The principle of equality derives from the basic rights of every person and the natural desire of human beings to live side by side in harmony, fraternity and peace". The Court concluded that the prohibition of discrimination derives from the principle of equality and is anchored in the Equal Pay (Male and Female Employees) Law 5756-1996 (the "Equal Pay (Male and Female Employees) Law") and the Equal Employment Opportunities Law. In this case, however, the Court held that the Knesset former employee did not prove any connection between the claimed discrimination and her being a woman.

65. On August 24, 2006, the Jerusalem District Labor Court ordered compensation to be paid by the ISS Ashmoret Company Ltd. to their employee, who was illegally dismissed from her job when 7 months pregnant, without the approval of the Women Labor Supervisor, in the Ministry of Industry, Trade and Employment: (LC. 001452/04 *Ayenalem Ababito v. the ISS Ashmoret Company Ltd*). The Court accepted all the plaintiff's claims, and determined that the respondents had illegally dismissed her from her job when they discovered she was pregnant. In accordance with the Equal Employment Opportunities Law, the Court imposed personal responsibility on

both the branch director, and the regional director of the employee. The Court also ordered that the ISS Company pay the employee approximately 300,000 NIS, in compensation for dismissal, mental anguish, loss of earnings and loss of maternity allowance.

66. On November 20, 2007, the State Labor Court ruled that "freedom of contract" does not justify discrimination such as that evidenced by paying different salaries to men and women performing the same tasks. The court stated that in these circumstances, the principle of equality prevails over freedom of contract: (L.A 1156/04 *Orit Goren v. Home Center (Do It Yourself) Ltd.*). The plaintiff resigned after 4 months of work, after her employer denied her claim that she was being discriminated against in salary. She had compared her salary to that of another male worker who received 1,500 NIS more than she did, even though they both performed the same duties. In response, the respondent claimed that the difference in salary was the end result of negotiations held with all workers before they were hired to work, and during which the plaintiff had demanded less money than the other worker. The Lower Court ruled that there was no justification for the difference in salaries paid to the plaintiff and her colleague, and stated that the plaintiff was being discriminated against based solely on her gender.

67. The State Labor Court rejected the position that "freedom of contract" justified discrimination between salaries, and unanimously approved the Lower Court's decision, granting 7,000 NIS compensation to the plaintiff for her 4 months of work, based on the Equal Pay (Male and Female Employees) Law. However, the majority opinion ruled that as the difference in salary was the result of negotiations made prior to employment, the plaintiff had not been discriminated against based on the Equal Employment Opportunities Law, and therefore had no right to compensation for non-pecuniary damage in contrast to the Lower Court's ruling. Nevertheless, the dissenting opinion of the State Labor Court's President, argued that there was no difference in the level of proof required for granting compensation for violations of both laws, and accepted the Lower Court's ruling, granting additional compensation to the plaintiff based on the Equal Employment Opportunities Law.

68. In La. A. 8704/06 *Nadav Fitusi v. N&B Bogin Sports Center Ltd* - the plaintiff was employed by the respondent as a gym instructor and was dismissed from work following the respondent's desire to replace him with a female instructor. There was no disagreement among parties that the dismissal was due solely to the plaintiff's gender.

69. In its decision, the Tel-Aviv Labor Court held that "any discrimination based on gender is a negative social phenomenon that is to be uprooted completely. The prohibition on discrimination derives not only from the provisions of the Equal Employment Opportunities Law 5758-1988, but also from the general principle of equality which is part of our legal system and anchored in Basic Law: Human Liberty and Dignity".

70. The Court held that in order to prove discrimination, the worker needs only to convince the court that such prohibited consideration was actually a factor for the employer's decision, even if it was not the main reason. Based on section 10 of the Equal Employment Opportunities Law, the Court ordered the respondent to pay 30,000 NIS compensation to the plaintiff, considering the specific circumstances of the case.

71. Opportunities in the workforce have increased for women since the submission of our previous periodic report. In response to that growth, women's participation in the workforce

has also increased from 37.5% in 1980, to 50.0% in 2005. The employment rate for women aged 15-64 is similar to that for women in equivalent age groups in other developed countries, and stands at 58.1%, in comparison to 58.3% in the European countries of the OECD, and 60.4% in all of the OECD states.

72. As of 2005, approximately 54% of working Israeli women were still concentrated in a small number of widespread, female-dominated, labor-intensive and low-paying occupations, such as teachers, clerks, secretaries, nurses and nannies. In each of these sectors the percentage of female employees is at least 75%. In comparison, the percentage of women working in high-tech positions was only 2.4% of the total working women in 2005, constituting 34% of hired workers in the high-tech industry. In addition, women are the first to be hit by unemployment. In 2003, the annual national unemployment rate was 10.7%. Women's unemployment reached nearly 11.3% in that year, whilst men's unemployment hovered around 10.2%. According to data provided by the Bank of Israel, in 2006, when the annual national unemployment rate was 8.4%, women's unemployment reached nearly 9%, whilst the male unemployment rate remained at 7.9%. Several legislative changes seeking to narrow the gender gap (which is still apparent in some areas) are detailed below.

Table 3

Employed persons by industry and gender, 2006

Women		Men		
% of employees	% of employed persons	% of employees	% of employed persons	Economic branch
0.4	0.6	1.9	2.8	Agriculture
9.5	9.3	23.5	21.3	Manufacturing
0.3	0.3	1.3	1.1	Electricity and water supply
0.8	0.7	8.7	9.2	Construction (building & civil engineering projects)
11.7	12.0	12.8	14.2	Wholesale and retail trade and repair
4.2	4.2	5.5	5.3	Accommodation services & restaurants
4.4	4.2	8.2	8.9	Transport, storage & communication
4.7	4.4	2.6	2.6	Banking, insurance & finance
11.6	12.4	14.5	15.2	Business activities
4.8	4.4	5.6	4.7	Public administration
22.5	21.3	6.1	5.4	Education
17.4	17.2	4.4	4.4	Health, welfare & social services
4.3	5.5	4.2	4.6	Community, social and personal services
3.5	3.5	0.4	0.3	Services for households by domestic personnel
100	100	100	100	Total

Source: Central Bureau of Statistics, 2007.

Table 4

Employed persons, by last occupation and gender, 2006

% of all employed women	% of all employed men	
14.8	13.5	Academic professionals
20.1	12.1	Associate professionals and technicians
3.8	8.2	Managers
25.9	7.5	Clerical workers
24.0	16.9	Agents, sales workers and service workers
0.3	2.2	Skilled agricultural workers
4.1	30.7	Industry, construction & other skilled workers
7.1	8.9	Unskilled workers
100	100	Total

Source: Central Bureau of Statistics, 2007.

Education

73. The Ministry of Education has established a special department dedicated to the promotion of gender equality within the School System. The Ministry maintains an active, useful, and user-friendly website which not only provides information about the Ministry’s programs and projects, but additionally provides visitors with perspectives on the meaning of gender equality and women’s empowerment. The language of the website, and of directives issued by the Ministry of Education, reveal a clear commitment to gender equality and provide definitive guidelines for teachers and all school officials.

74. The current Minister of Education and her Director General are both women, and feminists themselves. The Minister of Education has repeatedly and explicitly declared that gender equality is not merely a “program” or a “project”; but a life-style. To that end, all schools are instructed the creation and maintenance of an educational climate conducive to equality and mutual respect.

75. In 2003, the Director General of the Ministry of Education issued a circular dealing with various aspects of gender equality, such as the development of new educational materials conducive to gender equality, the advancement of equal opportunities, the abandonment of dated stereotypes, the empowerment of educational leadership among teachers and principles, and more.

76. The Ministry of Education offers numerous In-Service Training Programs for teachers in order to increase their awareness of, and skills in promotion of, gender equality. Nation-wide programs such as “Girls Leading a Change” empower high school pupils, while the school curriculum formally addresses issues such as gender, government, and politics. Most recently, the Ministry has instituted a matriculation program in gender studies.

77. In 2005, the Ministry of Education instituted several educational programs designed to further enhance equal opportunity between the genders within the education system. The abovementioned program “Girls Leading a Change” was initiated by the Women’s’ Association in Israel to encourage empowerment and leadership amongst young women in high schools. The program was later broadened to include young men, and is now called “Girls and Boys Leading a Change”. In 2007, the program was found to be operating in more then 60 high schools in Israel, including schools in the Arab sector, and involved more than 2,500 young women and men. Also in 2005, the Ministry of Education together with the Authority for the Advancement of the Status of Women held 10 one-day seminars (in which more than 1,500 school principals participated) on the subject of encouraging girls in the fields of mathematics and exact sciences. The seminars dealt with the following issues: raising awareness of professional and management teams for this matter, illustrating the perceived barriers to female participation in this field, illustrating the actual ability of female students and methods of deconstructing these barriers, development of an intervention program encouraging female participation in these fields from an early age, and other relevant issues.

78. Furthermore, the Minister of Education appointed a special committee to examine the extent to which gender stereotypes were to be found in educational textbooks. After receiving the findings, the Minister decided not to incorporate books imbued with gender stereotypes into the education system, and those books already in use in the school system which promoted gender stereotypes would be gradually replaced.

79. The Ministry has made a particular commitment to promoting the talents of young girls and women who display exceptional aptitudes in math and science. These programs are based on the concept of enhancing gender equality, and allow each child to pursue his or her innate talents and inclinations without deference to social pressures and inflexible gender expectations.

80. Additional activities targeting gender issues include:

80.1. Promotion of a pluralistic view, enabling pupils to learn to deal with and criticize gender based dilemmas, emerging in society as a whole and in school life in particular.

80.2. Facilitating the equal acknowledgement of the role of both genders in all the cultural aspects - literature, science, history, arts, etc, whilst emphasizing the equal role of female figures.

80.3. The teaching material includes gender stereotypes, implied or apparent, emanating from the time and context in which the text was written. The objective is raising awareness to the stereotypes and challenging them.

81. “Bnot Mitzvah”- the Jewish ritual when a girl reaches 12 years, is used as a school event for the 6th graders and as a tool to highlight the female strength, and different substances regarding women leaders, influential women that changed society, women combatants, pioneers and others. This includes outer activities as well as in-school ones. The pupils examine the status of women in Israel and in other countries, and search for disciplines promoting women and allowing them to progress.

82. Empowering female pupils in the general school system aimed at promoting leadership and empowerment of pupils in the 7th-9th grades, which include themes promoting awareness to gender equality and its influence on all aspects of life. The program includes raising awareness to the possibilities facing the pupils in fulfillment of their personal potential, skills advancement, and social and personal awareness to changes needed in the social and personal aspects of the family, the society, and the education system. It also includes raising appreciation to the ability and potential of women to integrate in the economic, political, technological and military sectors and the importance of such integration. The program also includes activities with the male pupils aimed at changing their gender perceptions.

83. Empowering female pupils in the Arab sector program aimed at promoting and changing personal and social perspectives while emphasizing the role of women in the family, the society and in the workplace. The program targets 7th-9th graders and includes themes promoting awareness for stereotypes regarding both genders in the Arab society, their perception of their abilities and dreams etc. The program includes corresponding activities with the male pupils aimed at changing their gender-based perceptions.

84. Empowering female pupils in the religious schools while considering the changes in society in general and the religious society in particular. Coping with these developments requires from the religious women a re-evaluation of the fulfillment of the roles that fashion the home, family and society. This program includes 10 meetings and is targeted at pupils in the 7th-9th grade.

85. Promotion of equality in human dignity. The basis of the program is that gender equality also means equality in human dignity between the genders. Among the goals of the program is raising the personal capability of teenagers to deal with changing social circumstances with the peer group (peer pressure, social struggles, friendship relations etc.), and with the relationship with the adult world (authority, requesting help etc). During the program the pupils study social perceptions and equality on the basis of human dignity of men and women. The program is introduced to pupils in the 7th-10th grades.

86. Another important track for promoting human rights issues is the Civic Studies Programs:

86.1. The program for the 7th-9th grades includes diverse aspects of human rights, theoretical teaching as well as application on every-day events in the society and state. The main focus is on different rights implemented in the covenant such as the right to life, the right for equal treatment, the right to due process, the right for liberty, etc.

86.2. The program for the 10th-12th grades includes specific reference to the rights implemented in the covenant and the matriculation exam includes theoretical and practical questions aimed at enabling the pupils to express the knowledge they acquired on human rights.

86.3. In 2008, the Ministry of Education had begun the implementation and assimilation of a fundamental change in teaching civic studies. During the following three years, the goal is to increase the teaching hours given to the subject so far. In the extended program, there is an even greater emphasis on civil and political rights. In the framework of the

program, the pupils will commence a practical research assignment in which they will be required to research and propose solutions to a social or political problem existing in the State. Some of the issues addressed will be human rights issues.

86.4. Furthermore, in recent years the civic studies subject can be also taken in an extended version, thus these areas are explored even further.

87. **Women in higher education**. In 2004, 13.7% of women over the age of 18 were graduates of a B.A degree, in comparison to 11.5% of men over the age of 18. Additionally 7.4% of women had M.A degrees in comparison to 7.1% of men, and 0.7% of women had PhD degrees whilst the percentile for the male population was 1.4%.

88. 90,500 male students and 113,600 female students attended university or academic colleges in Israel. The amount of women studying towards B.A. degrees in all the universities and academic colleges (out of the total number of students) was 55% in 2005, compared to 54% in 1990. The rate of women studying for an M.A. degree in all universities and academic colleges (out of the total number of students) stood at 57% in 2005, compared to 50% in 1990, and the amount of women studying towards PhD's equaled 52% in 2005 in comparison to 41% in 1990.

89. **Women in science and technology**. The National Council for the Promotion of Women in Science and Technology was established in the year 2000. The council's goals are to serve as a network facilitator linking adult and adolescent women in the field of science and technology, to serve as a contact point for voicing problems related to women's roles in science, to collect information regarding programs promoting women's role in science, to propose and implement programs which will promote women in science, to raise public awareness regarding the state of women in science and to coordinate between public and private initiatives for the advancement of women's involvement in science.

90. **Women in sports**. In Israel, sports come under the province of the Ministry of Science, Culture and Sports. The Authority for the Advancement of the Status of Women, together with the Minister, has designed a unique training course for women, educating them on ways to become active and committed members of local and national Councils for the Advancement and Administration of Sports in Israel. In the years 2003-2004, several women's sports NGOs, encouraged by the Ministry of Education and the Authority for the Advancement of the Status of Women in Israel, initiated legislative changes that have profoundly impacted women's and girls' sports. In response to an appeal, Israel's High Court of Justice ruled that in order to redress long-standing inequality issues, local councils should allocate funds for women's sports at 150% of that allocated to men's sports: (HCJ 5325/01 L.C.N *Association for the Advancement of Women Basketball v. Ramat-Hasharon Local Council*). Similarly, the public committee that determines criteria for the allocation of public funding for sports has recommended the application of affirmative action plans to boost allocation towards women's sports, and has instituted programs to implement them.

91. **Women in the media**. Freedom of the press is both legislatively guaranteed and protected. In recent years, a corps of motivated, committed, female journalists has developed. Avowedly feminist, they present women's issues on the news, discuss non-traditional topics such as national security and the military, and bring a gender perspective to their analysis of events and

issues. Several women host prime time programs, both on radio and television. Similarly, in the print media, several feminist columnists and reporters from all political and religious affiliations have attained prominence. These women bring women's issues to the fore and engage in feminist campaigns; for example, a group of prominent female journalists in print and electronic media have taken it upon themselves to campaign and fundraise for the Rape Crisis Centers. In order to increase the visibility of women in the media, and to promote their authoritative position, the Authority for the Advancement of the Status of Women, together with the Council for the Advancement of Women in Science and Technology have produced an extensive and comprehensive list of female experts who can be called upon by the media. This list includes not only women who can speak about women's issues, but all women who are experts in their particular fields, and, especially features women working in non-traditional areas, such as nuclear science, defense and security, economics etc. Several female orientated NGOs have established media watchdog groups to react to offensive advertising. The women receive training in media monitoring and analysis, and are then encouraged to respond to offensive material.

92. **Equal rights in the domestic sphere**. With regards to equality between spouses and between spouses and their children, Israeli law and its effects in practice are discussed under articles 23 and 24 below

93. **Non-governmental organizations**. Women are deeply involved in myriad NGOs which aim to influence the governmental decision-making process, both on issues relating especially to women and to the full gamut of social concerns. Some groups, such as the Israel Women's Network, Itach - Women Lawyers for Social Justice and the Association for Civil Rights in Israel, have played a highly significant role in the legislative process and in legal advocacy on issues related to women. Other influential organizations include Naamat - Working and Volunteering Women, WIZO - Women's International Zionist Organization for an Improved Israeli Society, Emunah-National Religious Women's Organization and Kol Ha-Isha (The Women's Voice). Aid organizations such as the Association of Rape Crisis Centers in Israel and L.O. - Combat Violence against Women, support women who were sexually abused. Other women's groups, such as Women for Women, the Women's Organization for Political Prisoners and the Coalition of Women for Peace, have focused their activities on promoting Israeli-Palestinian dialogue and influencing public opinion on Palestinian-Israeli issues. There are also several NGOs that are very active in the issue of combating trafficking in persons, among the most prominent women's NGOs in this field are "Isha Leisha" (Women for Women), the "Organization for Assistance to Sexually Assaulted Persons", "Machon Todaa" (part of the International Abolitionist Federation) and "We are Equal".

Violence against women - domestic violence

94. **Shelters**. Protection from violence is provided by 14 shelters for battered women, established in different locations throughout the country. Due to their distinct cultural and religious needs, two shelters have been specially designated for Arab women, and one for ultra-Orthodox Jewish women. Furthermore, two shelters are accessible to the physically disabled, one of those also serving the Arabic population. Together, these shelters provide emergency intervention for nearly 1,600 women and children annually.

95. The shelters provide professional counseling and legal advice and assistance, as well as childcare and rehabilitation. Several shelters also have multi-lingual staff and volunteers in order

to better assist immigrant women. Children continue in community-based day care or elementary school frameworks, whilst residing in the shelter. In addition, thirty transitional housing apartments have been established, which provide women with additional support and options when they are deemed ready to leave the shelters.

96. **Regional centers for the treatment and prevention of violence against women**. There are 53 centers dispersed throughout the country for the treatment of violence against women and domestic violence. The centers operate within the framework of the local authorities' social services departments. Collected data indicates that there has been an increased number of inquiries about the centers from women, men and their families. The number of inquiries steadily increased from 12,467 in 2002, to 12,922 in 2003.

97. Half Way Housing Apartments are also utilized as another means of assisting battered women and their children. The housing is considered an integral part of the rehabilitation process, providing an important transition stage from the protection, support and treatment of the shelter to effective, independent life in the community. The transition is accompanied by continued assistance from social workers and includes occupational training. Forty-eight half way housing apartments were offered in 1998, with a declining trend in productivity from that point up until 2003 when only 18 housing apartments were obtainable. Despite the drop in the number of available apartments, a comparison between 2001 and 2003 indicates a rise in the number of individuals utilizing this service.

98. In 2005, 64 centers and units for the prevention of domestic violence and treatment of domestic violence victims were operating in Israel. 16 of those centers were designated for the Arab population, 1 for the Bedouin population and 2 for the Jewish ultra-orthodox population. The centers treat victims of domestic violence with both group therapy, and personal empowerment within the community.

Table 5

Domestic violence distribution, 2006

Number of new immigrants receiving treatment	Number of elderly persons receiving treatment	Total treatments per year	Number of children receiving treatment	Number of men receiving treatment	Number of women receiving treatment	Number of households receiving treatment	Total district population	District
363	124	2 497	361	592	1 544	1 915	1 919 100	Northern district (29 centers)
527	208	3 760	186	983	2 591	3 367	2 722 000	Tel-Aviv district (22 centers)
112	87	1 371	104	348	919	1 160	1 492 970	Jerusalem district (7 centers)
112	79	797	50	191	556	664	735 430	Southern district (6 centers)
1 114	498	8 425	701	2 114	5 610	7 106	6 869 500	Total

Source: The Knesset Information and Research Center (May 24, 2006).

99. **Police treatment of domestic violence**. Domestic violence is a social phenomenon which requires special treatment by the Police Victims of Crime Section, from both a societal and criminal point of view. Police recognition that attention to the status of victims of crime was required in police procedures, especially with regards to victims of domestic violence, led to a new Victims of Crime Section being established in 1996 within the Investigations Division of the Israel Police. New procedures were subsequently issued for the treatment of domestic violence offences, violations of protection and prevention orders and stalking and sex offences. These procedures are occasionally updated. In addition, special training has been introduced focusing specifically on the issue of domestic violence. Collaboration between police, welfare and community bodies is also being developed in accordance with legislative amendments and other developments. In fact, the Victims of Crime Section is intimately involved in manifesting societal change in this area, and takes part in all the relevant social processes, including that of creating legislation, steering committees, and inter-ministries committees, etc.

100. Owing to their special characteristics, domestic violence offences require special treatment. For example, an effective response to offences of this kind may require an immediate reaction to prevent possible abuse, risk assessments throughout the treatment, full utilization of police procedures including prevention of access to weapons, collaboration between all treatment bodies, and awareness of the difficulty in collecting evidence. Due to these unique characteristics, a special task force of 200 investigators specializing in the treatment of domestic violence and sex offences was implemented, and has been operating since the beginning of 1999. Additionally, nine female Arab investigators were appointed for treatment of the Arab sector. In every police station at least two investigators are trained especially for treatment of domestic violence offences and in police stations where the extent of such complaints is insignificant, investigators are trained for this function in addition to their ordinary functions.

101. Police investigators must be specially trained in order to treat cases of domestic violence. The training introduces police guidelines on the issue and includes focused studies on the specific aspects of domestic violence, providing theoretical and practical information as to the social, legislative and judicial aspects of the phenomenon. For example, the participants are to take part in lectures and discussions regarding risk assessment, prevention of access to weapons, certain aspects of legislation, treatment of battering men, special characteristics of children who witness domestic violence, models for collaboration with different welfare bodies, protection orders and their violations. In addition, the participants take part in a workshop aimed at encouraging victims of violence to come forward, during which they visit a shelter for battered women and watch a special film/theatre play on this issue. All persons who currently work as domestic violence investigators took part in this training, and were subsequently approved to treat cases of domestic violence.

102. During 2002, six Offence Victims’ District officers were appointed to treat cases of domestic violence and victims of other offences. Their functions include: providing professional supervision and support to domestic violence teams in police units, supervising police policy implementation, providing training to other police sectors, strengthening relations and creating models of collaboration with other treatment bodies not related to the police force.

103. According to statistical data provided by the Israeli police, there has been a slight drop in reported cases of domestic violence since the year 2000. In 2004 there was an increase of 1.76 percent, but in 2006 there was a further decrease of 1.9 percent.

Table 6

Domestic violence, 2007

Number of prisoners serving time for domestic violence	Number of women murdered by their spouses	Number of offences between spouses	Year
(no data)	13	22 167	2001
1 414	14	21 003	2002
1 575	19	20 403	2003
2 041	10	20 763	2004
2 061	12	20 185	2005
2 066	16	19 793	2006

Sources: Yearly criminal statistical report, Israeli Police (April 11, 2007), Israeli Prisons Service (April, 2007).

104. In recent years the Israeli Police have been operating a computerized assessment system which assists in evaluating and assessing the danger posed by suspects in domestic violence cases. The system receives information from various sources, and by combining these sources and evaluating certain parameters, the system performs a risk assessment and assembles a profile of each suspect. The Israeli Police has also created specialized risk assessment squads in several police stations. These teams include a social worker, a clinical criminologist, and a police officer. The squads help to assess the threat posed by suspects, and initiate enforcement and treatment procedures. Additionally, in several police stations social workers are employed so as to provide instant assistance when a domestic violence complaint is being filed. The social workers make an initial assessment of the problem at hand, and also ascertain the willingness of the victim and/or the suspect, to receive treatment in help centers. The project is in operation at 11 police stations around the country.

105. Distress buttons are issued to women at high risk, once they have received a court order for their protection.

106. In addition to all of the above, the Ministerial Committee to Combat Domestic Violence operates an internet portal for women, children, and male victims of domestic violence. The portal provides information about domestic violence, projects for the prevention of domestic violence, help centers and other useful assistance sites.

Sexual harassment

107. The Supreme Court has issued several decisions in accordance with the 2002 Sexual Harassment Law. In a decision concerning sexual harassment in the work place, the Supreme Court rejected an appeal from the nursing deputy director in the Mental Health Center in Beer-Sheva, who had been convicted of harassing nurses during a training course: (Civil Service

Appeal 11976/05 *Ruchi Halil v. Civil Service Commission*). The Court found that the appellant had repeatedly spoken to his subordinates in a manner that contained sexual content, which is considered to constitute sexual harassment under the Law. The Disciplinary Court sentenced the appellant to severe reprimand, a rank reduction of one level for a period of two years, removal to a different governmental hospital and disqualification from service in the training of nurses for a period of three years.

108. In another decision, the Supreme Court rejected an appeal from an employee of the Ministry of Finance. He was found to have sexually harassed (verbally) an 18.5 year old worker, was convicted and sentenced to dismissal and disqualification from working in the civil service for a period of 5 years (Civil Service Appeal 292/06 *Moshe Rahmani v. Civil Service Commission*). The Court held that the appellant's repeated offers to the complainant, which were of a sexual character, and which she repeatedly and clearly rejected, could be considered sexual harassment under the terms of the Law.

109. The Supreme Court rejected another appeal from an inspector of the Ministry of Education who was convicted of sexually harassing teachers, and was sentenced to termination of his employment in the civil service (Civil Service Appeal 2868/04 *Uri Shamian v. Civil Service Commission*). In yet another case, the Supreme Court accepted the State's appeal requesting a more severe punishment for the director of the communications division in the Ministry of Defense, who was convicted of the sexual harassment of 3 workers from his division (Civil Service Appeal 7233/02 *The State of Israel v. Shahar Levi*). The Supreme Court President considered the circumstances of the case, in which the senior director had repeatedly harassed his subordinate, and had furthermore attempted to prevent her from complaining against him by abusing his authority and position of power over her and other subordinated workers, and held that he should not be employed in the civil service. The director was therefore sentenced to severe reprimand, immediate dismissal and disqualification from employment in the civil service until the age of 65.

The IDF

110. As mentioned in our previous reports, the IDF has committed itself to addressing issues related to sexual violence and harassment in the military. The following are examples of military court judgments relating to cases of sexual violence and harassment in the military:

110.1. A senior Colonel was convicted of offences of rape, indecent acts using force, attempted indecent act and two offences of inappropriate behavior. The Colonel was sentenced to 6 years imprisonment, 2 years of suspended imprisonment, rank reduction to Private and compensation to the victim. The Court held that sex offences committed by an officer taking advantage of his authority are even more severe as the rank of the officer is higher and the age gap between the officer and his subordinate is greater.

110.2. A soldier was convicted for taking photos of female soldiers, including officers, while showering, using a cellular phone and showing the photos to his friends (Military Appeal 55/06 *the Military Prosecutor v. Corporal Gabay*). The Military Court of Appeals held that the soldier broken the comradeship and the trust among the soldiers of the unit

and that the female soldiers became at once sexual objects and subjects for peeping and sexual stimulus. The soldier was sentenced to 4 months imprisonment, 5 months of suspended imprisonment and his rank was reduced to a Private.

110.3. A soldier was convicted for watching female soldiers in the women showers' building on two different occasions, and spraying them using a fire extinguisher (Military Appeal 38/06 *the Military Prosecutor v. Ladislav Agronov*). The soldier was sentenced to 3 months of imprisonment, a fine and suspended imprisonment, following an indictment of harm to privacy.

Treatment of victims of sexual violence

111. There are 11 rape crisis centers throughout the country working to provide emotional support, practical advice, and other support for victims including the maintenance of hotlines, and the provision of educational services. All centers are staffed by volunteers, and were contacted by 7,174 individuals in 2003. Israel has also developed a unique model of multi-disciplinary centers which provides interrelated services to women who have suffered abuse and violence. These centers combine psycho-social and psychological treatment with medical and legal services. Two such centers exist in Israel today.

112. **Police treatment of rape victims**. As detailed above, the Police special task force for treatment of domestic violence offences is specifically trained to better treat sex offences. Task force training educates those involved with an overview of the following: legal and judicial aspects, rape trauma, theoretical aspects of the rape offence, sexual harassment, events analysis, collaboration techniques with treatment bodies within the community, and a special seminar discussing techniques for encouraging victims to come forward and for making preliminary inquiries of suspects.

113. In addition, so that an appropriate number of investigators will be available to provide a suitable response to sex offences from all police units, special seminars for sex offence investigators (12 per annum) are to take place, and have taken place every year since 2004 in all six police Districts. These seminars are guided by the rape crisis centers in Israel, and are conducted with the participation of professionals from different fields, such as the legislative, post-trauma, incest, re-victimization, male victims of sexual assault, exceptional sectors etc. The seminars are designed to train investigators specializing in the treatment of sex offences, and also to provide them with emotional support and different ways of coping with this sensitive issue.

114. The following principles constitute the basis of police procedure in the treatment of sex offences:

- Only a trained investigator is authorized to investigate sex offences.
- Every complaint concerning a sex offence is investigated to the full extent possible, by an investigator of the same sex of the victim. Furthermore, as far as possible, the victim will be in contact with only one investigator during the entire course of the investigation.

- Only relevant and essential questions are to be introduced in consideration of the victim and his or her privacy.

- Excluding persons directly related to the investigation, the collection of proclamation is done, as far as possible, in a separate room without the presence of other investigators or investigatees.

- As the collection of the proclamation ends, the investigator shall deliver to the victim his/her name, details as to the registration of the complaint and the ways in which the victim can receive information concerning the progress of the case, or alternatively, can himself deliver any further information.

- Notifying the complainant as to the possibility of receiving support from a volunteer working with one of the sexual support assault centers, and providing assistance in contacting these centers.

- If the victim specifically requests to be accompanied by a relative or friend, it shall be permitted, having consideration of the needs of the investigation.

- Also, a representative from one of the sexual support assault centers is to be made available at the explicit request of the victim.

- At the victim's request, and where reasonable to do so having considered the needs of the specific investigation, the investigation is to be delayed until the arrival of the above-mentioned persons.

- Minors under the age of 14 will be questioned by a children's investigator authorized to treat sex offences. Similarly, minors over the age of 14 are to be questioned by a youth investigator authorized to treat sex offences.

- The Procedure provides advice on conducting victim/suspect confrontations, where they are deemed necessary and the victim's explicit consent is attained.

- The Procedure also provides information and details as to the referral of victims to medical care, including the collection of related evidence.

115. **The Social Affairs and Social Services Ministry's treatment of victims of sexual violence**. On January 1, 2007, the Israeli Prime Minister informed the Knesset's Committee on the Status of Women that a program submitted by the Ministry of Social Affairs and Social Services as to appropriate treatment of young women and teen victims of sexual assault had been approved. The special program included the implementation of: 25 social workers for identifying and treating young women, teenagers, and victims of sexual assault; 6 regional multidisciplinary centers for treatment of sexual assault victims, 6 places of residence for sexual assault victims, a special hostel for treatment of sexual assault victims (as an alternative to hospitalization), and seminars and training for identification and treatment of sexual assault victims.

116. An inter-ministerial committee, headed by the director of the Authority for the Advancement of the Status of Women was established to examine the implementation of the program. The committee appointed a special task force which prepared a list of high priority initiatives to be implemented during 2008, in accordance with the approved budget. Implementation of other, less urgent initiatives has begun gradually in 2008 and will continue in 2009.

117. The Government's program for treatment of sexual assault victims includes the following features:

117.1. Training and Seminars for Identification and Treatment of Sexual Assault Victims: As public servants work in many different environments, such as clinics, hospitals, social services departments and the education system, they are often in a position to encounter sexual assault victims. Nevertheless, many have difficulty in identifying such victims. In order to better enable them to do so, special training for social workers and psychologists within the health and welfare systems, physicians, nurses, educational advisors and psychologists within the education system began in 2008. The trainings will vary, highlighting relevant issues in accordance with the profession of the participants, in order to achieve maximum expertise. In addition, social workers and psychologists within the health and welfare systems, as well as professional workers of the regional centers, commenced taking part in special training for treatment of sexual assault victims during 2008.

117.2. Regional Multidisciplinary Centers for Treatment of Sexual Assault Victims: Following up on the focused treatment given in acute centers in hospitals, regional multidisciplinary treatment centers provide the physical necessities of life, in conjunction with psychological treatment for sexual assault victims. In addition, the centers identify and rehabilitate women and girls who have been sexually abused at different stages of their lives, and have not yet received any treatment. The centers conduct professional schooling in the treatment of sexual assault victims, and serve as teaching and training centers for different professions in the community who deal directly with sexual assault victims.

117.3. Currently, there are two regional multidisciplinary treatment centers operated by the Ministry of Social Affairs and Social Services based in Rishon-Lezion and Haifa respectively. There is also one other center, operated by the Ministry of Health in the Tel-Aviv Soraski Medical Center, which provides psycho-therapeutic and psychiatric treatments for victims of incest. Government programs for treatment of sexual assault victims include upgrading the capacity of these centers for simultaneous treatment of 100 victims. In addition, the establishment of another three centers in Nazareth, Jerusalem, and Beer-Sheva that will also be equipped to effectively treat the Arab, Bedouin and Jewish Ultra-Orthodox populations, is in advanced stages. Communities of a unique culture will receive treatment by members of the same community, who speak the same language.

117.4. Hostel for Treatment of Sexual Assault Victims (Alternative to Hospitalization): Currently, no 24 hour service for sexual assault victims is in operation, and the routine treatment of victims in existing hospitals might worsen their situation or even revive their trauma. The Government program includes the establishment of a hostel geared towards

meeting their special needs. The hostel is designed for 12 women, for a stay period of 3 months. The victims are to be referred to the hostel by therapists in the community, and are to return to these therapists at the end of their stay in the hostel. The hostel's staff will include a psychiatrist and a nurse, in addition to therapists specializing in treatment of sexual assault victims. A tender for this hostel was issued and the offers will be reviewed in June 2008.

117.5. Treatment of Children and Victims of Sexual Assault, in the Education System: In 2008, a budget was allocated for treatment of child victims of sexual assault that was initiated in the education system.

117.6. Establishment of Places of Residence for Sexual Assault Victims: A vast amount of the sexual assault victims treated in the regional multidisciplinary treatment centers suffer from severe economic distress. Many are attempting to find places of residence, and suitable employment, whilst lacking basic life skills. Another different group of victims, return to their homes following treatment in the centers, and continue to suffer from physical and mental abuse. Since both groups need a secure home, the Government program includes the establishment of 6 apartments of residence for sexual assault victims to be constructed next to each of the present, and future, regional multidisciplinary treatment centers. The residence apartments will serve as a secure home for the victims for a period of 6 months to one year, and will assist them in acquiring the life skills needed before returning to independent life.

117.7. Additional Social Workers Specializing in Treatment of Sexual Assault Victims: The Government program includes the addition of a further 25 social workers into welfare services provided by local municipalities. These social workers will specialize in the identification and treatment of sexual assault victims.

Trafficking in women

118. Since the submission of our previous periodic report, the State of Israel has taken several dramatic steps in combating trafficking in persons for all purposes, as will be detailed below. This issue has been given great attention, and was promoted in all levels - legislative, judiciary and administrative. This resulted in a sharp decline in the number of victims of trafficking for prostitution.

119. **Legislation**. The Anti Trafficking Law entered into force on October 29, 2006. The law promulgates a broad trafficking crime for a number of illegal purposes: prostitution, sexual crimes, slavery or forced labor, removal of organs, pornography, and using the body of a person to give birth to a baby who is then taken from her. The crime is attended with a punishment of 16 years of imprisonment and 20 years of imprisonment if the offence is committed against a minor. The law includes a full panoply of crimes to address gradations of exploitation: Slavery - 16 years of incarceration, trafficking for the purpose of slavery or forced labor - 16 years of incarceration, forced labor - 7 years of incarceration, exploitation of vulnerable populations - 3 years of incarceration. For the first time, Israel has a slavery offense, a broad forced labor offence with heightened sentencing and heightened punishment for exploitation of vulnerable populations.

120. The Limiting Use of Premises in order to Prevent the Commission of Crime Law 5765-2005, authorizes the Police and the Courts to limit the use of premises, or to close them completely, if those premises have served in the commission of prostitution offences or trafficking for the purpose of prostitution offences, in circumstances where the authorities involved are convinced that the premises will continue to be so used. Courts have the authority to issue such orders for a period of 90 days, with the possibility of extension. Police may issue such orders for a period of 30 days during which time they may request a further pronouncement from the court.

121. Criminal and Administrative Proceedings. Law enforcement agencies such as the Police, the Immigration Administration and the Enforcement Department in the Ministry of ITL, have greatly intensified their efforts to combat trafficking. Prosecution initiatives are undertaken on three planes. Firstly, police prosecutions are instated against traffickers and their accomplices in trafficking and trafficking related offences. Secondly, prosecutions and revocation of licenses may be initiated according to the provisions of various regulations and supplementary laws. Thirdly, prosecutions according to criminal laws other than trafficking such as pandering, causing a person to engage in prostitution, soliciting prostitution, kidnapping etc., may be instated, as well as prosecutions for fraudulent activity, forgery, or exploitation of vulnerable populations.

122. **Shelter**. The “Maagan” shelter for victims of trafficking for prostitution began operating on February 15, 2004. The shelter’s capacity is up to 50 victims and it has succeeded in creating a supportive climate for victims and provides access to psychological, social, medical and legal assistance. In addition, procedures have been developed in the framework of the shelter to allow for the return of victims of trafficking to their countries of origin in safety aimed towards promoting their rehabilitation. It should be noted that the shelter also finds jobs for women who are deemed ready to work while they await testimony.

123. **Visas**. All victims in the “Maagan” shelter receive temporary visas plus work visas if requested, whether they choose to testify or not. Women who choose to testify receive a visa for the duration of the court procedures (on average this takes a year). After they finish the procedures they are entitled to request a temporary visa for another year like all the other victims who chose not to testify. The set period for these visas is for a year, though in rare cases it may be longer or shorter. In addition, victims who do not stay in the shelter receive temporary visas.

124. **Director Generals Committee**. A Government Resolution of May 21, 2006 established a Directors Generals Committee that convened on July 10, 2006 and decided on the creation of two subcommittees, to recommend operative steps to combat trafficking for the purpose of prostitution and labor.

125. **National plans for combating trafficking**. National Plans have been approved to combat slavery and trafficking for slavery, forced labor and trafficking for the purpose of prostitution. These National plans were approved by the Directors Generals Committee on January 10, 2007 and July 11, 2007 and by Government Resolution No. 2670 dated December 2, 2007.

126. The appointment of a National Coordinator who assists policy making in this area and in particular with regard to protection of victims, tries to identify trouble spots and bring about solutions before they burgeon, maintains communication with international actors and learns from comparative materials, promotes education and training, encourages research, develops established channels of communications between government and NGO actors in an effort to strengthen cooperation.

127. **Integrated Intelligence Center**. An “Integrated Intelligence Center” was established on March, 5, 2007, in order to combat severe crime and organized crime and their outcomes, in accordance with Government Resolution on: “The Battle against Severe Crime and Organized Crime and their Outcomes” dated January 2006. The Intelligence Center integrates different intelligence bodies, including the Police, the Tax Authority and the Money Laundering Prohibition Authority. The establishment of the Intelligence Center is a unique and innovative step in which members of the different intelligence bodies will sit together and collaborate in order to produce integrated quality intelligence products at a real time.

128. **Legal assistance**. Victims of trafficking for prostitution have the right by law to receive free legal aid in order to institute civil suits arising from the trafficking offences committed against them or administrative procedures relating to the Entry to Israel Law, 5712-1952 (the “Entry to Israel Law”). The new Anti-Trafficking Law mandates legal aid for all victims of trafficking and slavery for a pilot period ending in 15 September, 2008, regarding civil suits arising from the crimes committed against them or suits arising from the Entry to Israel Law.

129. **Information and education campaigns**. The Authority for the Advancement of the Status of Women in the Prime Minister’s Office has been increasingly active in the area of promoting awareness to the issue of combating trafficking in women. The Authority’s activities are aimed at the following target audiences - the Civil Service, the Local Authorities, the Education System, the Kibbutzim Movement and the IDF. Annual activities conducted towards achievement of those goals include the following:

129.1. Establishing a public awareness project, in collaboration with government bodies and NGOs, to highlight the phenomenon of trafficking in persons.

129.2. Conducting promotional activities within the education system in co-operation with the Department for Gender Equality in the Ministry of Education, These activities take the form of conferences with senior education workers, inspectors and school headmasters, and also special lectures and presentations for teachers.

129.3. Conferences are held and information published, concerning the International Day for the Abolishment of Slavery. Taking place on December 2, the events of that day will be run with the Tel-Aviv Municipality and its special advisor for the status of women, Government Ministries in cooperation with the Civil Service Commission, Local Municipalities in collaboration with the Union of Local Authorities in Israel, the IDF in cooperation with the Chief of Staff’s Advisor on Women’s Issues, and the education system in collaboration with the Department for Gender Equality in the Ministry of Education.

129.4. In the course of Government Resolution (No. 2670) dated December 2, 2007, the Government approved a yearly national award for individuals and bodies who have made outstanding contributions to the battle against human trafficking. This kind of award is calculated to provide support to those who do this thankless work and arouse others to increase efforts to wage the battle.

130. Mutual cooperation between Israel and other countries was fostered during the past year by two visits of delegations from Moldova and the Ukraine. These delegations met with their Israeli counterparts, both in government bodies and NGOs and exchanged perspectives while discussing common problems. In addition, representatives of the International Organization of Migration (IOM) visited Israel and conducted conferences and round table meetings with government representatives and NGOs.

131. **Courts**. The courts also remained faithful to their policy of interpreting the relevant legislation in a broad manner, thus facilitating the conviction of a maximal number of traffickers, resulting in dozens of verdicts annually. In two of the most noteworthy cases, the Court sentenced one of the defendants to 18 years of imprisonment and another to 10 years of imprisonment, following their indictment on charges of TIP for the purpose of prostitution, false imprisonment, pandering, rape and abduction in order to cause harm or for sexual abuse.[1] In another case, the Court sentenced one of the defendants to 14 years of imprisonment and another to a 10.5 years of imprisonment, following their indictment on charges of organized crime, money laundering, causing a person to leave his country for the purpose of engaging in prostitution; 10 TIP for the purpose of prostitution charges inducement to prostitution under aggravated circumstances - through a plea bargain.[2]

132. **Risk assessments**. The police also aid in the protection of victims by performing risk assessments in cases where the victim claims she or her family will be endangered if she is returned to her country of origin. Police Intelligence, with the assistance of Interpol and the Israeli Police delegate abroad, prepare a risk assessment which relates to the victim's risk status in Israel and in her country of origin. In three cases in 2005, the police reached the conclusion that women would be endangered if returned to their countries of origin and the women were consequently not returned to their countries of origin. In 2007 the Police held 7 risk assessments and reached the conclusion that 2 of the women can not be returned to their countries of origin at this time.

Status of Arab women

133. **Local authorities**. Whilst the representation of elected Jewish women in local authority councils equals 14.2%, Arab women comprise only 0.5% of those elected. This gap is usually explained as being the result of various sociocultural factors, such as the impact of religion and local tradition on certain minority communities which can restrict women from considering running into or being elected to these positions.

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[1] G.Cr.C. 966/02 *The State of Israel v. sager Hanny and Others* (1.5.05).

[2] G.Cr.C. 774/04 *The State of Israel v. Genadi Boslovitz and Others* (20.3.05).

134. To assist in remedying this situation, 219 female Advisors on the Status of Women in local municipalities are currently employed, 40 of whom work in the Arab sector. These advisors ensure the advancement of policy for enhancing the status of women within the purview of the local authority, in addition to ensuring that the necessary resources are provided to this end.

135. Additionally, the Knesset Committee for the Advancement of the Status of Women discusses this issue frequently in the course of its sessions. The Authority for the Advancement of the Status of Women has also taken upon itself to seek new ways of improving the current situation and allocates funds in order to assist in this task. The Authority further encourages groups of local volunteers to assist the advisors for the advancement of the status of women by offering leadership courses for women.

136. A Government Resolution was passed initiating actions aimed towards the advancement of Druze, Circassian and Bedouin women. In accordance with the resolution, the Authority for the Advancement of the Status of Women will distribute scholarships to women from minority sectors meeting the specified criteria. Furthermore, surveys were conducted in order to determine the specific needs of women from these sectors. The information gleaned will be used for the purpose of enhancing the advancement of their status and in establishing culturally sensitive professional courses, and assistance in work integration.

137. **The Authority for the Advancement of Women**. This Authority, working under the auspices of the Prime Minister's Office, operates with the goal of actively integrating Arab women into the country's social life, whilst simultaneously addressing the problems and dilemmas facing this population. Since its establishment, the Authority has been active in promoting the status of Arab women in all aspects of life.

138. One of the major steps taken towards meeting this goal was the assignment of a special project manager for the Arab sector. That person's main role is to head and coordinate unique projects for the Arab sector, as well as to initiate and promote additional activities in this sphere. Examples of such activities are as follows:

> 138.1. Imbuing tools for the operation of community projects: in 2006 the Authority initiated advanced courses for the empowerment of women. Such courses were carried out in 3 Arab villages and provided training for the organization of community projects for the advancement of women. The Authority is currently preparing for an additional 20 courses to be opened in the north, 10 of which will be in the Arab sector.
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> 138.2. Activities concerning the Bedouin sector in the Negev: in accordance with Government Resolution No. 881 dated September 2003, the Authority, along with the Ministry of Social Affairs and Social Services, is operating unique programs for the advancement of the status of Bedouin women in the Negev. The steering committee of these programs is composed of representatives of the Authority, as well as representatives of the academy, the health system, and the employment system etc. The budget for the programs started at 400,000 NIS in 2006, increased to 600,000 NIS in 2007, and will reach a sum of 1 million NIS in 2008.

138.3. Activities concerning the Bedouin, the Druze and the Circassian sectors in the North: according to a Government Resolution, dated August 15, 2006, the Prime Minister's Office will allocate to the Authority, between the years 2006-2009, 2 million NIS for the advancement of the status of women in the Druze and the Circassian sectors, and another 2 million NIS for the advancement of the status of Bedouin women in the North. The Authority is in the process of examining the needs of women from these sectors covering a wide range of fields such as health, education, and employment, in order to consolidate a working program to be implemented over several years. The Authority will further act to encourage education and vocational training through scholarships and other funds.

139. The Authority, which deems it highly important to familiarize itself closely with the special needs of women from different sectors, established a steering committee composed of representatives from the relevant governmental and non-governmental organizations, in order to identify the existing services and programs in the various ministries, and to formulate consolidated assistance programs. To that end, the Authority initiates visits to Arab villages and meetings with representatives of the Arab municipalities etc., to discuss the needs of the women, proposals for future plans and the estimated costs of such plans.

140. Additionally, due to the great significance of the subject, the Authority advocated the appointment of Advisors on the Status of Women to each of the municipal authorities which did not yet have one. In 2006, 50 such advisors were appointed, culminating in 219 total advisors for municipal authorities in Israel, approximately 40 of whom are located in Arab municipal authorities.

141. In 2006 the Authority launched a campaign with the slogan "violence is not only black and blue marks on your body", which include radio and television spots in Hebrew, Arabic, Russian, and Amharic. The campaign followed a survey conducted by the Authority, which revealed that the majority of the public in Israel believes that violence against women is carried out only physically, and was meant to raise public awareness regarding non-physical violence. In that regard, the Authority also produced explanatory material in Arabic, and sponsored shows and lectures in Arab municipalities on the issue of violence against women.

142. Additionally, according to the Authority for the Advancement of the Status of Women Law, the Prime Minister is required to appoint, in consultation with the head of the Authority, an Advisory Committee of 35 members, whose function is to advise the Authority with regards to political and policy matters. So far 2 Arab women have been appointed to the Advisory Committee, and the Authority is currently recommending to the Prime Minister's Office that that number be increased.

143. **Employment**. According to 2005 figures of the Central Bureau of Statistics, the number of Arab women between the ages of 25 and 54 (considered to be the ages during which women constitute part of the labor force), amounts to 228,400.

144. Among these women, 18,200 are part of the civil labor force, whilst 26,800 serve in part-time positions. The number of Arab women employed constitutes 24.9% of the total number of Arab women in the relevant age group.

145. According to data provided by the Central Bureau of Statistics, 11.5% of the 45,000 working Arab women are employed in academia and academic-related fields, 29.4% work as associate professionals and technicians, 19.4% as clerical workers, 20.6% as agents, sales workers and service workers, 6.5% work in manufacturing, construction and other skilled jobs, and 11.3% are unskilled workers.

146. In addition to the current centers, the Authority for Small Business is currently working to establish a designated Center for Nurturing Entrepreneurship in the Arab and Bedouin sector, which is expected to be better equipped to serve this sector's needs.

147. Following Government Resolution No. 1832, (April 29, 2004), where it was determined that mechanisms will be put in place in order to encourage employment, another Government Resolution (No. 3716) that established criteria to partially subsidize employers was adopted, thus establishing major centers of employment aimed at granting new opportunities for employment in peripheral areas.

148. According to this Resolution, and over a span of five years, Government support will be granted in order to create new job opportunities by establishing, expanding, or relocating existing companies. The support will be granted in accordance with a competitive procedure. The minority sector will compete only amongst itself.

149. Over the course of the past few years, there has been an increase in the rate of employment among Arab women, yet these rates remain relatively low. Academic education and vocational training are the key components for the integration of Arab women into the work force, yet various barriers remain inhibiting their integration in these educational and training systems, among those are educational and social/cultural barriers.

150. Many Arab women thus attend "traditional" courses because they are available locally, and are likely to enable them to meet the requirements of local job opportunities, whether they be full or part time. This is not the case with regards to education and work undertaken in the fields of computers, graphics or technical assistant/engineering. Work opportunities in these fields, in some of the residential towns, are very limited.

151. In that regard, during 2006, an education program was held for coordinators of the Project for the Advancement of the Bedouin population in northern Israel, dealing with the issues of social/cultural barriers, motivation, recruitment of candidates, and persistence in vocational training.

152. Additionally, in order to rectify the current situation, joint efforts are being made by the Ministry of Industry, Trade and Labor, local authorities, social services, vocational training institutes and employers, in order to provide vocational training, and to create more feasible job opportunities for women.

153. The Department for Professional Training in the Ministry of Industry, Trade and Labor, conducts courses for women and men referred to them by the National Employment Services, through training institutions nation-wide, including in Arab towns. In addition to the general training system, there are special programs for Arab women, aimed at bridging gaps and increasing women's participation in training courses.

154. In addition to the current centers, the Authority for Small Business is currently working to establish a designated Center for Nurturing Entrepreneurship in the Arab and Bedouin sector, which is expected to be better equipped to serve this sector's special needs.

155. In 2005, 1,406 out of 2,506 (or 56%), of the Arab participants in the vocational training courses were women, and in 2006, 1,697 out of 3,164 (or 53.6%), were women. The average cost for professional training per student is 7,000 NIS.

156. Furthermore, during 2006, 94 workshops for growth and working skills' development were conducted in 31 towns and villages, all designated for the advancement of unemployed women from amongst the Arab and Bedouin population, as well as from amongst other sectors, such as Ethiopian women, and Ultra-Orthodox women. Another 300 similar workshops were similarly conducted assisting women with skills for seeking employment.

Article 4. State of emergency

157. Under Basic Law: the Government, the Knesset may declare a state of emergency for a period of up to one year. The State of Israel was officially proclaimed to be in a state of public emergency on May 19, 1948, four days after it's founding, a state which has been annually renewed since 1997, until the present day. Consequently, Israel made a declaration regarding the existence of a state of emergency upon ratifying the Covenant.

158. In recent years, Israel has been considering refraining from extending the state of emergency any further. However, the actual termination of the state of emergency could not be executed immediately, as certain fundamental laws, orders and regulations legally depend upon the existence of a state of emergency. These acts of legislation must be revised, so as not to leave crucial matters of the state unregulated when the state of emergency expires.

159. Following the present extension of the state of emergency, the Israeli Government and the Knesset have embarked on a joint program to complete the needed legislative procedures required in order to end the state of emergency. As a result, measures toward removing the linkage to the state of emergency have been taken. Over the past few years, several laws were amended, and they are no longer linked to the state of emergency, and a number of other bills are now before the Knesset.

160. In addition, as detailed in the previous report, a petition was filed by the Association of Civil Rights in Israel to the Supreme Court demanding that the state of emergency declared by the Knesset on February 2, 1999 be annulled. (HCJ 3091/99 *the Association of Civil Rights in Israel v. the Knesset*). The Ministry of Justice continued to concentrate efforts towards promotion of the legislative alterations necessary for its annulment. Following several court hearings, the Supreme Court decided to postpone its decision with regards to the petition and allowed the State more extensions for the purpose of completing all the necessary legislative amendments. The Knesset extended the state of emergency on December 12, 2000; July 10, 2001; and June 26, 2002.

161. Since September 2000, Israel has been subjected to an unprecedented wave of terrorist activity. Its citizens have been the victims of countless attacks which have been perpetrated with the goal of causing mass havoc, destruction, and loss of life and limb. Due to the current state of

affairs, and the actual state of emergency that Israel is experiencing, the Supreme Court determined on March 25, 2003, that the petitioner should submit a revised petition to the Court. Meanwhile, the Knesset extended the state of emergency for another year on June 11, 2003.

162. Following submission of a revised petition, the Supreme Court held several hearings and ordered the respondent to report on the progression of any legislative amendments being made with regards to the annulment of State of Emergency status. The Court decided to postpone its decision in that petition and allow the State more extensions in order to conclude all the legislative amendments necessary for annulment. Accordingly, the Knesset extended the State of Emergency on May 24, 2004; November 29, 2004; June 14, 2005; May 31, 2006; and May 30, 2007.

Article 5. Non-derogable nature of fundamental rights

163. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of its Initial Periodic Report.

Article 6. Right to life

Reduction of infant mortality, epidemics and malnutrition

164. Recent statistics indicate that Israel's infant mortality rate continues to decrease from 6.1 between 1996-1999 to 4.5 in 2005. Among Jewish and Christian newborns, the infant mortality rate fell even furthermore to 3.2 and 3.4 deaths for every 1,000 live births, respectively. Among the Muslim population, despite the continuing decrease, the child mortality rate is still relatively high to these populations and stands at a rate of 8.4 deaths per every 1,000 live births. The gap between the sectors stems from a number of factors, among them the high rate of consanguineous marriage - approx. 35% in the Arab sector and approx. 60% in the Bedouin sector (these kinds of marriages lead to a high rate of birth defects), religious prohibition against abortion even in medically recommended cases, as well as socio economic differences. The further decrease in infant mortality over the last half decade, and the causes for such deaths, are shown in the following tables.

Table 7

Infant mortality per 1,000 live births

Muslims	Druze	Christians	Jews	Total	
9.6	8.7	4.9	4.8	6.1	1996-1999
8.8	5.9	2.8	3.8	5.1	2000-2004
8.4	6.3	3.4	3.2	4.5	2005

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

165. On December 2005 the Population Registry Law 5725-1965, was amended for the regulation of births occurring outside a medical institution. The purpose of the amendment was to ensure that illegal adoptions, exploitation of women and babies' trafficking would be reduced as far as possible.

166. Women who give birth at home or on the way to the hospital are entitled to comprehensive post-natal care in the hospital for themselves and their infants. All infants in Israel are entitled to well-baby care in government-run Maternal and Child Health Clinics, whether or not they are registered in the Population Registry. Furthermore, most women who give birth at home arrive anyway, shortly after birth, to a hospital in order to enjoy their right for a birth grant, therefore enabling the registration of their children in the population registry.

Table 8

Infant mortality (rate per 1,000 live births) by religion and age of neonate at death, 1998-2003

28-364 days	0-27 days	Total	Cause of death
1.9	3.5	5.5	Total
(0)	..	(0)	Intestinal infectious diseases
0.1	(0)	0.1	All other infectious and parasitic diseases
(0)	..	0.0	Pneumonia
0.4	0.9	1.3	Congenital anomalies
0.3	2.2	2.5	Causes of prenatal mortality
0.1	(0)	0.1	External causes
1.0	0.4	1.4	All other and unspecified causes
1.2	3.0	4.2	Total
..	..	(0)	Intestinal infectious diseases
0.1	..	0.1	All other infectious and parasitic diseases
(0)	..	(0)	Pneumonia
0.3	0.6	0.9	Congenital anomalies
0.3	2.1	2.4	Causes of prenatal mortality
0.1	..	0.1	External causes
0.5	0.2	0.8	All other and unspecified causes
3.7	4.8	8.5	Total
(0)	..	(0)	Intestinal infectious diseases
0.2	..	0.2	All other infectious and parasitic diseases
(0)	..	(0)	Pneumonia
0.7	1.6	2.3	Congenital anomalies
0.5	2.4	2.9	Causes of prenatal mortality
0.1	..	0.2	External causes
2.1	0.8	2.8	All other and unspecified causes

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

Incidence of murder, attempted murder, manslaughter and negligent homicide

167. The following table is a compilation of the incidence of reported cases of the four types of offenses involving deprivation of life, as of end of 2005.

Table 9

Reported cases of offences involving deprivation of life, 2005

Negligent homicide, excluding vehicle accidents	Manslaughter	Attempted murder	Murder	Offense
56	18	322	223	2001 - Reported cases
%57.1	%83.3	%26.4	%66.4	% apprehended
39	11	215	227	2002 - Reported cases
%46.2	%72.7	%59.1	%72.2	% apprehended
37	10	199	206	2003 - Reported cases
%70.3	%100.0	%56.3	%72.3	% apprehended
53	10	423	174	2004 - Reported cases
%81.1	%90.0	%82.5	%65.5	% apprehended
47	14	285	163	2005 - Reported cases
70.2%	64.3%	75.1%	65.6%	% apprehended

Source: Israel Police, Annual Reports - 2001-2005.

Environmental policy

168. **Air quality**. In order to provide a current picture of air quality throughout Israel, the Ministry of Environmental Protection collects information processed from over one hundred air quality monitoring stations, including a-25 station national monitoring network as well as stations operated by the Association of Towns for the Environment and the Israel Electric Corporation. The information is transferred to a national control center which provides real-time information on air quality throughout the country. In addition, a new and comprehensive air resources management system, based on a European model, is currently being established. The system will provide a variety of tools to forecast the country’s state of air quality, analyze pollution events and facilitate policy making and planning.

169. Since the submission of Israel’s previous reports, numerous measures have been initiated in order to solve the serious problem of vehicular pollution. A Government resolution is currently being promoted calling for the preparation of a national action plan on the reduction of pollution from vehicles. In addition, as of January 2004, only diesel and gasoline containing 50 ppm sulfur is available at gas stations, following a legislative order prohibiting the import or the production of fuel with a higher sulfur content.

170. Since March 2006, all gasoline powered vehicles in Israel (beginning with 1995 models) are required to undergo stringent air pollution checks within the framework of the annual car registration test. New regulations on smoke emissions from diesel vehicles entered into force that year. According to the regulations, diesel vehicles beginning with 2001 models must comply with lower emission standards. Today, all new imported vehicles must comply with Euro 4 standards, which require a combination of advanced engine technologies and effective systems for the treatment of exhaust gas.

171. One of the major changes in recent years in the area of energy and air pollution is the market shift from heavy fuel oil to the use of natural gas. It is expected that almost 50% of total electricity generation will be based on natural gas within a decade, which will result in much lower emissions to the air.

172. Israel is a party to the United Nations Framework Convention on Climate Change (1771 UNTS 107; S. Treaty Doc No. 102-38; U.N. Doc. A/AC.237/18 (Part II)/Add.1; 31 ILM 849 (1992)) since 1996 and to the Kyoto Protocol (UN Doc FCCC/CP/1997/7/Add.1, Dec. 10, 1997; 37 ILM 22 (1998)) since 2004, and is committed to fulfill its obligations in accordance with these instruments. Following ratification of the Kyoto Protocol, a Designated National Authority (DNA) was established for the Clean Development Mechanism (CDM) under the responsibility of the Ministry of Environmental Protection. So far 35 emissions reduction projects have been submitted to Israel's DNA for approval, twelve of which have been registered in the UN. The projects have the potential to deliver reductions of about 2 million tons to carbon dioxide equivalent (CERs) per year.

Article 7. Freedom from torture or cruel, inhuman or degrading treatment or punishment

173. According to the Israeli legislation, acts of torture or cruel, inhuman or degrading treatment or punishment are designated as criminal offences and perpetrators of such offences are tried and severely punished by the courts.

Legislation

174. In 2000, Israel enacted the Israel Security Agency Law which addresses the major relevant issues concerning the mandate, operation, and scope of functioning of the ISA.

175. Section 16 of the Penal Law 5377 - 1977 (the "Penal Law"), was enacted in order to enable the prosecution of offenders accused of crimes against the law of the nations, to which Israel is committed by international treaties to prosecute, regardless of whether the offender is an Israeli citizen or resident, and regardless of the place where the offence has been committed. Under this provision, and subject to a decision of the Attorney General Israel would have the jurisdiction to prosecute torture cases, in any case where it did not extradite the accused person.

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

177. Section 77 of the Penal Law, enabling the courts to order compensatory damages to a victim of a crime for damages or suffering, was amended in 2004 in order to raise the amount awarded to the victim. Presently, the maximum amount payable to a particular victim is fixed at 228,000 NIS (app. 67,000 US$).

Court judgments

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

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

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

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

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

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

184. On August 5th, 2004, the Military Court of Appeals accepted an appeal by the Military Prosecution against the ruling of the Special Court which convicted lieutenant colonel Geva Sagi, upon his confession, of "inappropriate behavior" under section 130 of the Military Justice Law, 5715-1955 (the "Military Justice Law") (A. 153/03 *Geva Sagi v. Chief Military Prosecutor*).Lieutenant colonel Geva had been sentenced to 60 days imprisonment, and his rank was demoted from Lieutenant Colonel to a Major. In the appeal, the prosecution requested the

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

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

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

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

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

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

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

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

from the Government of Russia: (1) It was assured that Mr. Yegudayev will not be subject to any kind of torture or inhuman treatment; (2) he would be entitled to visits by an Israeli representative; and (3) he would be entitled to due process of law and all the rights provided to him in the European Extradition Treaty.

192. Section 2B(a)(8) of Israel's Extradition Law 5714-1954 states that a person shall not be extradited to the requesting state where the extradition is likely to harm public order. The term "public order" has been interpreted by the Israeli Supreme Court to mean "the basic values of the State and the society, those values which express the moral and justice sense of the public in Israel". Specifically, in Cr.A. 7569/00 *Yegudayev v. the State of Israel*, Deputy President M. Cheshin declared that "a substantial concern as to physical injury or abuse of someone extradited to another country would clearly contradict the public order of Israel, and where the Court is convinced that such is the danger to a person, the Court shall deny the request of the [requesting] state and shall not declare the person extraditable".

Control measures and conduct of law enforcement agencies

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

Israel Police

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

195. The Department for Investigation of Police Officers (DIPO) conducts investigations concerning police misconduct on a routine basis. The following are some of the more noteworthy cases in the period since the submission of Israel's previous report:

196. In October 2006, during a border police raid, policemen detained three Palestinians suspected of illegal stay in Israel. While examining their documentation, one of the policemen in charge of watching the detainees fired a shot that resulted in the death of Iyad Abu Aya and the injury of another. Following a DIPO investigation, the Department filed an indictment against two of the police officers involved in the incident. On January 16, 2008, one of the defendants was convicted of manslaughter and assault under aggravating circumstances that causes actual bodily harm. The charges against the other policeman involved were altered and the case is still pending. (Cr. R 40182/07 *The State of Israel v. Tomer Abraham, et. al*. (16.1.08)).

197. In September 2004, five border policemen apprehended two Palestinians suspected of illegal stay in Israel in the Jerusalem neighborhood of Abu-Dis. The two were taken to a border police station for questioning, during which, they were subjected to different forms of abuse. The DIPO filed indictments and the five policemen were convicted and given different sentences. The first defendant received 14.5 months of imprisonment and suspended prison sentence following a plea bargain. The second defendant received 7.5 months of imprisonment and suspended prison sentence according to a plea bargain. The third defendant was convicted but his verdict is still pending. The fourth defendant pled guilty to the charges of assault under aggravating circumstances that causes actual bodily harm and to abusing a helpless person and was sentenced to 8 months of imprisonment as well as 12 months of suspended prison sentence, conditioned on refrainment from committing assault three years after his release, and one year probation according to the conditions of the probation service.

198. The fifth defendant pled guilty to the offences of aiding assault under aggravating circumstances that causes actual bodily harm and to aiding in the abuse of a helpless person, and was subject to 4 months of imprisonment to be served as community work, 8 months of suspended prison sentence conditioned on refrainment from committing assault for three years after his release, and one year probation according to the conditions of the probation service. (Cr. R. 436/04 *The State of Israel v. Nir Levy et. al* (19.5.05)).

199. In another case, border police officers robbing stores in the city of Hebron threatening to use force while enforcing a curfew in the city. The case involved multiple offences and led to an indictment filed by DIPO against 10 policemen. They were charged with robbery while abuse of office, obstruction of justice, assault under aggravating circumstances, assault, and malicious damage to vehicles. (Cr. C. (Jerusalem) 183/03 *The State of Israel v. Sisaiy Noga, et. al.* (02.07.07)).

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

Table 10

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

2004	2003	2002	2001	
1 273	1 531	1 552	1 257	Total complaints of unlawful use of force by police officers investigated
49	58	53	70	Criminal proceedings
121	119	93	116	Disciplinary measures
354	306	322	331	Lack of guilt
65	87	70	97	Lack of public interest
47	49	39	53	Unknown felon
637	800	605	735	Lack of evidence

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

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

Table 11

Cases handled by the Disciplinary Department (2001-2004)

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

Source: Israel Police, 2005.

Israel Security Agency (ISA)

202. Complaints against ISA personnel alleging the use of unlawful investigation techniques are dealt with by the Inspector for the Complaints within ISA (hereinafter: "the Inspector").

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

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

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

206. Statistics indicate that the Inspector has initiated 35 examinations in 2000, 65 examinations in the year 2001, 81 examinations in the year 2002, 129 examinations in 2003, 115 examinations in 2004, 61 examinations in 2005, 67 examinations in 2006 and 30 examinations in 2007 (up to October 2007). These examinations were the result of external complaints, as well as incidents alleged in internal ISA reports. Four cases resulted in disciplinary measures and several cases resulted in general remarks to ISA interrogators.

Israel Defence Forces (IDF)

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

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

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

Commitment to psychiatric hospitals

210. The following table refers to both psychiatric hospitals, and to psychiatric wards within general hospitals.

Table 12

Involuntary psychiatric commitments, 2001-2006

District Psychiatrist's order		Court orders		Year
%	Totals numbers	%	Totals numbers	
20.6	3 689	5.2	921	2001
22.6	4 128	5.1	929	2002
21.2	4 037	5.6	1 058	2003
20.1	3 992	5.2	1 042	2004
18.3	4 063	5.7	1 271	2005

Source: Ministry of Health, Information and Assessment Department, 2006.

211. Since the submission of Israel's previous periodic report, there has been an increase in the number of involuntary commitments to psychiatric hospitals. Involuntary commitments currently constitute 24% of all commitments, as opposed to 17.6% in 1996. This rise can be attributed to the enactment of the Patient Rights Law 5756-1996. The law notably increased awareness of the

necessity to obtain a patient's rational consent to hospitalization, or an adequate legal substitute. Thus, statistics relating instances where the patient was hospitalized involuntarily are now more accurate.

212. The number of beds assigned for psychiatric hospitalization has decreased from 6,713 beds in 1996 to 5,352 in 2005. This may be attributed to the fact that a growing number of patients are referred to geriatric hospitals, hostels, and other alternatives provided by the community.

213. On July 26, 2007, the Haifa District Court accepted an appeal to the decision of the District Psychiatric Committee in the "Tirat Hakarmel" Mental Health Center which issued a hospitalization order based on the Mentally Ill Patients Treatment Law 5751-1991, (the "Mentally Ill Patients Treatment Law") without granting the Petitioner the right to a legal hearing (Haifa D.C. Appeal 001036/07 *Anonymous v. the District Psychiatric Committee in the "Tirat Hakarmel" Mental Health Center*).

214. The Court held that the petitioner has the right to a legal hearing before any decision is made regarding his case. It concluded that the right of the petitioner was violated and that the District Psychiatric Committee operated contrary to the law. The Court held that the hospitalization order remain valid for another seven days to allow the District Psychiatrist to operate according to the powers provided to him by the Mentally Ill Patients Treatment Law. Because the petitioner did not request his immediate release, and in order to avoid causing further damage, the Court held that the immediate release of the petitioner would not be beneficial.

Experimentation on human beings

215. In January 2006, the Pharmaceutical Administration of the Ministry of Health published procedure No. 14, titled "Guidelines for Clinical Trials in Human Subjects". These guidelines govern the method of submission, approval and inspection of clinical trials and clinical research in human subjects and define the procedure for handling application for clinical trials and the requirements for the conduct and the supervision thereof. Compliance with the requirements of the guidelines is designed to protect the trial participants and ensure that their rights, safety and wellbeing are maintained, and that the information obtained from the study is reliable.

216. According to the guidelines, any clinical trial, including the planning, approval, conduct, recording, and reporting thereof shall be carried out in due compliance with the principles of the Helsinki Declaration, the Public Health Regulations (Clinical Trials in Human Subjects) 5741-1980 - including all subsequent additions and amendments thereto, the Genetic Information Law 5761-2000, the provisions of these guidelines, the provisions of the current Harmonized Tripartite Guideline for Good Clinical Practice (ICH-GCP E6) (CPMP/ICH/135/95) and the provisions of the current ISO 14155-1, 14155-2 (2003): Clinical Investigation of Medical Devices for Human Subjects (http://www.iso.ch.), as well as regulations and guidelines published periodically by the Ministry of Health. In the event of an inconsistency between the aforesaid guidelines, the guidelines of the Ministry of Health shall prevail. In matters not covered by binding provisions in the guidelines of the Ministry of Health, the international guidelines are to be followed.

Prohibition of human cloning

217. The Prohibition of Genetic Intervention (Human Cloning and Genetic Manipulation of Reproductive Cells) Law, 5759-1999, which prohibits the performance of any act or intervention regarding human cells intended to clone a human being or create a human being by use of genetically altered cells, was enacted in 1999 for a period of five years, the Law was extended and revised in 2004 for a period of another five years, until March 2009.

218. The amended law now includes the following changes:

218.1. The examination of the moral, legal, social and scientific aspects of genetic intervention will be performed through "consideration of freedom of scientific research for the advancement of medicine".

218.2. The definition of "Human Cloning" was amended in order to make it clear that the prohibition stated in the Law applies commencing at the beginning of the procedure of human cloning for the purpose of reproduction, that is to say - from the moment of inserting the fetus into the uterus.

218.3. In order to clarify the distinction between reproductive cloning and therapeutic cloning, it was determined that the prohibited actions will include both human reproductive cloning and Germ Line Gene Therapy for the purpose of creating a human being.

218.4. The functions and powers of the Advisory Committee were redefined:

218.4.1. Pursue developments in medicine, science, biotechnology, bioethics and law in the area of genetic experiments on human beings in Israel and abroad.

218.4.2. Submit a yearly report to the Minister of Health and the Science and Technology Committee of the Knesset concerning the fulfillment of its functions and the exercise of its powers and report on the recent developments in the area of human cloning.

218.4.3. Advise the Minister of Health on the matters set out in the Law and make recommendations to the Minister regarding the extent of the prohibitions set out in the Law.

218.5. The Minister of Health is to determine by regulations provisions concerning the exercise of powers of the Advisory Committee, including supervision and monitoring powers. Such regulations entered into force in January 2006 (The Prohibition of Genetic Intervention Regulations (Human Cloning and Genetic Manipulation of Reproductive Cells) (Advisory Committee Powers) 5766-2006).

218.6. The Criminal penalties were amended in order to increase deterrence: a more severe penalty of four-year imprisonment or a one million NIS fine have been set for violation of the provisions of this law.

219. The five-year period of the Law is to be used to examine the consequences of the provisions of the law in order to reconsider its prohibitions in the light of the developments in the scientific community. At present, there are no experiments taking place in Israel aimed at cloning human beings.

Article 8. Prohibition of slavery

Legislation amendments

220. On October 29, 2006 the Anti Trafficking Law, 5766 - 2006 came into force. The new legislation reflects an attitude whereby combating trafficking in persons requires the integration of a series of tools and actors. It also places emphasis on the prohibition of all forms of slavery, as well as forced labor.

221. As regards trafficking for the purpose of slavery or forced labor, the following series of crimes had been established: trafficking in human beings for the purpose of slavery or forced labor (section 377A(a) of the Penal Law), holding a person under conditions of slavery (section 375A of the Penal Law), forced labor (section 376 of the Penal Law), and exploitation of vulnerable populations (section 431 of the Penal Law). In addition, the abduction offence has been broadened to include two new offences: abduction for the purpose of slavery or forced labor and conveying a person beyond the boundaries of a state (sections 374A and 370 of the Penal Law) and a new offence created of causing a person to leave a state for the purposes of prostitution or slavery (section 376A of the Penal Law).

222. These criminal offences exist alongside various regulatory offences intended to protect foreign workers, for example, the Foreign Workers Law, 5751 - 1991 (the "Foreign Workers Law") and the Employment Service Law, 5719 - 1959 (the "Employment Service Law"). However, their inclusion in the Penal Law accords them a higher level of criminality and better expresses society's moral condemnation.

223. Before the new law, Israel did not have a slavery offence. Now, it is a crime with a maximal punishment of 16 years of imprisonment and 20 years if committed against a minor. The elements of the offence require that a person be held under conditions of slavery for the purposes of work or services, including sex services. Slavery is defined as follows.

224. "Slavery" means a situation under which powers generally exercised towards property are exercised over a person; in this matter, substantive control over the life of a person or denial of his liberty shall be deemed use of powers as stated. This definition attempts to focus upon the hard kernel of slavery, which is acting towards a person as if towards property, thus destroying his separate legal personality and his basic autonomy.

225. The Law also created two new abduction offences which serve to cover behavior which is close to trafficking and slavery, but may not fall squarely into the elements of those crimes:

> 225.1. Aggravated abduction offence - (section 374A) which requires that the abduction be perpetrated in order to achieve the aims enumerated in the trafficking crime (including slavery and forced labor). The maximal sentence is 20 years imprisonment. This section was added in order to tailor abduction to a world rife with trafficking.

225.2. In addition, the law creates a new offence of "Conveying a Person Beyond the Boundaries of a State" (section 370) - which prohibits conveying a person beyond the boundaries of the state in which he resides. This provision reflects a reality by which people are abducted beyond national boundaries in order to "feed" the international "trafficking industry". The maximal sentence is 10 years imprisonment.

226. The Law also adds the offense of Causing a Person to Leave a State for Purposes of Prostitution or Slavery (section 376B of the Penal Law). Like the new abduction offence, this new offence fills the gaps left by the trafficking offence. It penalizes "Anyone who causes another person to leave the State in which he lives for purposes of engaging the person in prostitution or holding that person under conditions of slavery". The maximal sentence is 10 years imprisonment.

227. Forced Labor (section 376 of the Penal Law) - this offense is now punishable by a 7 years imprisonment. The section penalizes "Anyone who unlawfully forces a person to work, by using force or other means of pressure or by threat of one of these, or by consent elicited by fraud, whether or not for consideration …". This section deals with less severe situations which can still be considered as labor, rather than slavery.

228. This recent legislation has paved the way for Israel to ratify both the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Hence, Israel is currently in the final stages of these proceedings.

Hard labor in the penal system

229. **General**. As described in detail in our Initial Report, Israeli law does not allow hard labor to be imposed as the punishment for a crime. Incarcerated convicts are required to work at tasks or jobs which do not involve hard labor (Section 48 of the Penal Law) unless the Exemptions Committee of the Prisons Service releases them from the obligation for reasons of rehabilitation, health or other reasonable grounds.

230. Between 1997 and 2007, there was a 264% increase in the number of employed prisoners. This increase derives, mostly, from the increase in the employment of prisoners in private entrepreneurs' factories.

231. The Israel Prisons Service (IPS) work scheme operates in two major areas: On the one hand it focuses on imparting the prisoners with professional skills. For that purpose, professional training courses are held within the prisons by the Ministry of ITL, granting the graduating prisoners professional diplomas from the Ministry. On the other hand, it deals with the employment of prisoners within the prisons. Due to a lack of suitable employment, the prisoners' workforce is not being utilized to the fullest capacity.

232. About 5,300 prisoners are employed in 53 branches of private entrepreneurs' factories. The terms of the employment of prisoners are similar, and are set by agreement between the IPS and the private entrepreneur or determined by the worker's productivity.

233. When approaching the date of release, the working prisoner joins an individual or a collective rehabilitative program. The prisoners in these programs are employed in factories outside the prison. At this time, about 300 prisoners are employed in such rehabilitative programs.

234. The prisoners employed in the private entrepreneurs' factories receive a fixed salary, slightly lower than the minimum wage. The Prisons Service pays prisoners on a set date every month, even when the private entrepreneur has not yet provided the actual pay.

Foreign workers

235. **General**. Israel is a country of destination for migrant workers from Asia, Eastern Europe and Africa. The main countries of origin of foreign workers in Israel are: China, the Philippines, Turkey, Thailand and Bulgaria. In 2006, the Ministry of Industry, Trade and Labor (ITL) issued 87,692 permits for employment of foreign workers in various permitted fields.[3]

236. Migrant workers coming to Israel in search of employment, are motivated mostly by harsh economic conditions and low wages in their countries of origin. Some enter Israel by illegally crossing the southern border of Israel or illegally at its airports, using either a forged tourist visa, or a false Jewish identity. The vulnerability of these persons exposes them to the risk of being exploited for easy financial gain. This vulnerability may be heightened by requirements to pay high middleman fees in their countries of origin.

237. **Foreign Workers Law**. Employers may be prosecuted for violations of the labor laws in Israel, including the Foreign Workers Law. Criminal offences under this law include the following:

237.1. Employment of a foreign worker without providing him with a detailed contract.

237.2. Employment of a foreign worker without provision of medical insurance.

237.3. Employment of a foreign worker without providing proper lodging.

237.4. Employment of a foreign worker without providing a detailed pay-slip, or unlawfully deducting sums from his wages.

237.5. Employment of a foreign worker without holding the documentation pertaining to the above obligations, as well as a listing of hours of work, at the workplace or the offices of the employer.

237.6. Illegal employment of a foreign worker, i.e. - employment of a foreign worker by an employer who does not have a permit to do so, or employment of a foreign worker in violation of the conditions of his visa.

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[3] Nursing care - 44,178; Agriculture - 25,942; Construction - 14,522; Industry - 1,487; Restaurants - 1,087; Hotels - 476.

Under the provisions of this law, the administrative fine for its violation is now 5,000 NIS for each original offence, and 10,000 NIS for each repeated offence. A maximum criminal penalty of 52,200 NIS per employee, per offence, can be imposed upon the employer by a court of law, and when the violation occurs in a business framework, the maximum criminal penalty for each offence will be 104,400 NIS, or six months imprisonment. An additional penalty of 5,200 NIS for each day the violation continues can also be imposed.

238. **Additional relevant laws**. The Employment Service Law (Amendment No. 14) - criminalizes the collection of illegal excessive recruitment fees from foreign workers, and makes this crime punishable by up to 6 months imprisonment, and/or attended by a fine of up to 200,000 NIS (59,500$). According to the Prohibition on Money Laundering Law the amendment also makes the collection of exorbitant fees an origin offence.

239. **The Employment Service (Recruitment Fees) Regulations 5766-2006** - cap the possible recruitment fees to be demanded by an Israel recruitment agency at 3,050 NIS, (approximately 907$, or 88% of the monthly minimum wage), minus any sum already paid by the worker to a foreign recruitment agency. The agency may, however, be legitimately reimbursed from the foreign worker for the cost of airfare from the source country to Israel. The Regulations also state the terms under which it is permitted to collect the fee, for example, a detailed contract must have effect between the agency and the worker. Additionally, the Regulations outline the circumstances under which a recruitment agency shall reimburse payments collected from a foreign worker.

240. **The Employment Service (Provision of Information) Regulations, 5766-2006** - These regulations require a recruitment agency to provide foreign workers with all relevant information relating to their rights and obligations as foreign workers in Israel, for example, information as to the permitted recruitment fees, etc.

241. **Bilateral agreements**. An agreement was recently signed between the International Organization of Migration (IOM) and Thailand, a key country of origin to Israel. The agreement pledges to supervise the recruitment of Thai workers coming to Israel, so as to prevent the collection of high middleman fees in the country of origin. This is calculated to prevent a breeding ground for exploitation in general, and trafficking in particular, as workers who have incurred high debts will tend to accept any conditions of employment in an effort to eliminate those debts.

242. The agreement intends to decrease exploitative incentives for agencies to bring workers to Israel. Its implementation will begin in a few months. The agreement stipulates that a Thai citizen wishing to work in Israel will pay a maximum of US$1,800: that is US$ 1,200 for flights and US$ 600 for expenses- including permits, medical examinations and vaccinations. Whilst Israel has not signed the document, the Government decided more than two years ago to endorse it. High-ranking government officials have followed the process closely from the outset, including the Prime Minister's Office Director. According to the agreement, the Thai labor ministry will be responsible for recruiting and funding the migrant workers, and IOM will oversee the process.

243. **Dissemination of information regarding rights among foreign workers** - A special workers' rights brochure ("Zchuton") regarding the rights of foreign workers in the construction

field, was issued by the Ministry of Industry, Trade and Labor in English, Russian, Romanian, Turkish, Thai and Chinese. The “Zchuton” is also distributed by the Ministry of the Interior to each foreign worker who arrives at the Ben Gurion airport. The “Zchuton” instructs workers to contact the Ombudswoman (detailed below) in any case of breach of the rights discussed therein.

244. In addition, a brochure discussing the general labor rights of foreign workers in Israel is published on the website of the Ministry of ITL in English, Hebrew, Chinese, Thai, Russian, Romanian and Turkish.

245. An additional method of disseminating information has been implemented by the Israeli Embassy in Thailand. In cooperation with the Ministry of ITL, and the Thai Labor Ministry, a brochure has been launched discussing the rights of foreign workers in Israel. The booklet, in Thai, provides information about the labor and social security rights of workers and includes other information, such as relevant phone numbers, places that accord medical treatment and basic Hebrew. The booklet is to be attached to the passport of each worker that receives a visa.

246. **Medical insurance**. The Foreign Workers Law requires employers to arrange broad medical insurance for employees who are foreign workers. Employers who violate this obligation may face criminal prosecution.

247. An Ombudswoman for the Complaints of Foreign Workers was appointed in the Ministry of ITL. Her mandate is to safeguard the rights of foreign workers employed in the construction industry, agriculture and nursing care fields in Israel, and to handle complaints from foreign workers, employers, citizens, NGOs, associations and newspapers. The Ombudswoman has the authority to recommend that a criminal investigation be carried out by the Enforcement Division, as well as to initiate administrative proceedings. In addition, she may allow foreign workers in the construction industry to change employers after less than the three requisite months. The Ombudswoman follows-up on complaints she has handled to ensure that workers are indeed paid the sums found due. The Ombudswoman works in cooperation with the Enforcement Department in the Foreign Workers Department, the Ministry of the Interior and the Payments Department in the Ministry of ITL, to review the complaints and oversee adherence to her decisions.

248. **Government assistance in detention facilities**. - At the detention facility, detainees are interviewed by detention facility officers to ensure that they have valid travel documents, as well as by inspectors of the Ministry of ITL to ensure that they are not owed monies by their employers, and to aid in the collection of any such back wages for the worker before removal. In 2006, Inspectors of the Enforcement Division collected wages owed to foreign workers from employers amounting 2,290,067 NIS (681,000 $).

249. **Trafficking in women**. See above, under paragraphs 118-132 above.

Article 9. Liberty and security of person

250. **Meeting with legal counsel**. A recent amendment to the Prisons Ordinance, 1971 (amendment No. 30, dated July 2005), stipulates the conditions under which a prisoner may meet with an attorney. According to section 45, such meetings shall be held in private and in

conditions suitable for maintaining both the confidentiality of the matters and/or documents to be exchanged, and adequate supervision of the prisoner's movements. Following a prisoner's request to meet with an attorney for professional service, or the request of an attorney to meet with a prisoner, the director of the prison shall, without delay, facilitate a meeting to take place, during regular working hours, within the prison confines.

251. Section 45A of the Prisons Ordinance operates with regard to all prisoners, except detainees who are yet to be indicted. The section authorizes the IPS Commissioner and the director of the prison, to postpone or refuse any meeting between a particular lawyer and detainee, for a limited period of time, where there are substantial reasons to suspect that the meeting will facilitate either the commission of an offence risking the security of a person, the public, the State or the prison; or a substantial breach of prison regulations in implementation of prison discipline, procedures, and administration. The prison director is authorized to delay such meetings for 24 hours, whilst the IPS Commissioner may order an additional postponement of 5 days, with the agreement of a District Attorney. Notification of the order shall be given to the prisoner in writing, unless the IPS Commissioner specifically orders that it should be given orally. The reasons for the order may be withheld under certain limited provisions. Review of decisions rendered under section 45A may be done by the relevant District Court.

252. Following application by a representative of the Attorney General, and based on the grounds specified above, a District Court may further postpone such a meeting for up to 21 days. The maximum delay shall not exceed 3 months. Decisions of the District Court may be appealed to the Supreme Court, where a Supreme Court judge may further postpone a meeting, again based on one of the grounds specified above.

253. In Cr.C. 10879/05, *Al Abid v. State of Israel* (18.12.05), the Supreme Court recently addressed the issue of a detainee's right to meet with an attorney whilst in custody. During Al Abid's detention, a court order had been issued postponing his meeting with an attorney. When that period concluded, he was not informed of his right to meet with an attorney. The Court stipulated that "the postponement of a meeting between a detainee and his lawyer on the basis of security reasons compels the authorities to inform the detainee of the postponement. Moreover, when the security impediment no longer exists, it is the duty of the authorities to inform the detainee that he is entitled to meet a lawyer. This is a fundamental right; the parties concerned must, through appropriate instructions, ensure the fulfillment of this right frequently". The court added that even during a regular police interrogation, where the detainee relinquishes the right to meet with an attorney and in cases where the interrogation is prolonged, "it is appropriate to remind the detainee of his right to meet an attorney". By interpreting the Criminal Procedure Law, (Enforcement Powers - Arrests) 1996- 5756 (the "Criminal Procedure Law, (Enforcement Powers - Arrests)"), the Court explained that impediments (prescribed by the Law) to meetings between a detainee and an attorney exist, however whenever such an impediment is removed, the detainee must be immediately informed of the removal, and must be allowed to meet with an attorney.

254. **Postponing/preventing a meeting with legal counsel**. The legal tests for determining what constitutes a "substantial risk" are anchored in section 45a(b) of the 2005 amendment to the Prisons Ordinance 5732-1971. One of these tests is, for example, evidence of a "substantial risk"

that “a prison offence which damages substantially the discipline in prison and might cause a severe disruption to prison order and its administration” will occur. It should also be noted that recourse to an additional extension of this kind has not yet been used in order to prevent access to legal counsel.

255. If such an extension were to be granted, the detainee or his representative is able to submit a petition to the District Court, in accordance with section 45a(f) of the Prisons Ordinance.

256. In a recent decision by the High Court of Justice of 2005, (HCJ 3168/02, *The Israeli Bar Association v. the Minister of Public Security*), the court annulled section 29(b) of the Prisons Regulations 5739 - 1978, which also authorized the IPS Commissioner or a prison director to postpone/prevent access to counsel if there was a substantial risk that meeting with a particular lawyer would enable the commission of an offence.

Arrest and detention

257. **First judicial hearing**. Section 17 of the Criminal Procedure (Enforcement Powers - Arrests) Law, was amended in 2006, so that for the period between June 29, 2006 - December 29, 2010, the following provisions would apply: if the officer-in-charge is convinced that breaking off an interrogation of a detainee arrested for security offences in order to bring that person before a judge will seriously harm the investigation, he may prolong the period of arrest to 48 hours. Additionally, if the officer-in-charge is convinced that breaking off interrogation of a detainee arrested for security offences, for the purpose of bringing that person before a judge would seriously harm the investigation in a manner that might thwart the prevention of harm to human life, he may, with consent of the authorizing authority, and by a written decision, prolong the period until arraignment before a judge for additional 24 hour periods, provided the overall period does not exceed 96 hours. Any decision to prolong the arraignment date for over 72 hours requires the authorization of a Head of the Investigation Department in the Israeli Security Agency, or his deputy.

The use of video conference

258. In 2002, the Criminal Procedure (Investigation of Suspects) Law 5762-2002, was issued. Section 2 of the Law states that a suspect must be investigated in his own language or a language he understands, including sign-language. In addition, section 3 asserts that the investigation must take place in a police station unless a police officer presumes it cannot be held in the station, or there is a reasonable ground to conduct it promptly outside the station, or if the officer in charge found that there is a reasonable ground to investigate the suspect outside the station. Furthermore, a decision to investigate a suspect outside the premises of the station must be documented in writing shortly after reaching the decision.

259. In addition, according to section 4, the entire investigation must be documented via visual or auditory media, including verbal exchanges between the suspect and the investigator or those made in the presence of the suspect. A visual documentation shall also include all bodily movements and responses. A written documentation shall include the major verbal exchanges as well as bodily movements or responses that replace verbal exchanges, which took place between

the suspect and the investigator or while the suspect was present, in a way that will reflect what occurred during the investigation. The documentation shall be written simultaneously during the investigation or closely afterwards.

260. According to section 8, if the investigation is documented in writing, it shall be documented in the language of the investigation. However, if the language of the investigation cannot be used to write the documentation, the investigation shall be documented visually or through audio techniques. If sign language was used during the investigation, the documentation shall be via audio or visual techniques. If the investigator has ground to believe that the suspect cannot read or write or that he is a person with physical, mental or cognitive disability which prevents him from affirming the correctness of the written documentation of the investigation, the investigation shall be documented visually or through audio techniques.

261. The Law is to be implemented gradually and the implementation shall be completed until the beginning of 2010.

262. Section 65A of the Criminal Procedure (Enforcement Powers - Arrests), Law was amended on 2007 to allow the use of Video Conferences for the purpose of keeping a suspect in detention, or releasing him on bail. Video conference may be used only in cases when the defendant in an adult, has not been indicted yet, is represented by an attorney and has agreed to the use of video conference after he was allowed to meet his attorney in person. Video conferencing must be conducted so that the defendant can see the procedures taking place in the court, and so that the judge, the opposing counsel and the arresting officer will be able to see the defendant and his surroundings. Confidentiality between the defendant and his attorney must also be maintained.

263. **Period of arrest before indictment**. In the event that the court does not release the suspect at the initial hearing, it may order continued detention for a period of up to 15 consecutive days. If at the end of this period, the police still wish to keep the suspect in detention for the purpose of criminal investigation, another hearing will be held, and the court's decision will be based on the standards noted above. The longer the detention however, the more substantial the evidence against the suspect must be, in order to justify extending the remand. The total period of detention based on police requests may not exceed 30 days. Detention may be extended beyond the 30-day period only by a decision of the court, and upon a special motion signed by the Attorney General.

264. **Detention pending court hearing**. On February 7, 2006, The Supreme Court accepted an appeal of a detainee kept in detention by the Jerusalem Police pending court hearings, despite the Magistrate Court's early decision not to stay his release (C.A 1145/06 *Mizrahi v. The State of Israel*). The Supreme Court stated that the police had to respect the Court's decision and pointed out that a request for his re-arrest could be brought before the Court even after his release. The court thus decided to release the detainee until an indictment against him or a request for his re-arrest was brought before the court.

265. According to the Supreme Court's decision - suspects, defendants, detainees and prisoners are all eligible to constitutional and procedural protections, stemming from the principles of human dignity and the rule of law in the Israeli justice system. Basic Law: Human Liberty and

Dignity and the Criminal Procedure (Enforcement Powers - Arrests) Law, both provide protection and ensure the rights of detainees. In this case, the Court stated that the continuing detention was contrary to earlier judicial decisions and ordered the detainee's immediate release under restricting conditions.

266. **Detention following serving of sentence**. On June 10, 2007, the Supreme Court rejected the State's request for the continued detention of a man who had already been convicted of assaulting his wife and served his sentence, while appeal proceedings for a more severe punishment were carried out to completion (Cr. R. 5024/07 *The State of Israel v. Salah Diab*). The Court stated that the risk from a person who has already been convicted and subsequently served his sentence, shall not be examined using the same criteria and standards applied to a person who has not yet served his sentenced. Thus, infringing upon the liberty of such a person, even if he or she are still considered a risk and face an appeal, shall be avoided in general.

267. The Court held that it has the authority to order the detention of the defendant until the completion of the appeal's procedures according to section 22 (B) of the Criminal Procedure (Enforcement Powers - Arrests) Law but it stated that such authority is to be exercised only in rare and exceptional cases, when the danger to public security from the defendant if he/she is released or the fear that they will escape from legal procedures is decisively stronger than their right to personal liberty. Despite the severe offences, the Court concluded that this case was not exceptional - it was the first offence of the defendant who had no criminal record. The Court decided that in this case the alternative of house arrest was acceptable, whilst strengthening the conditions for the release of the defendant.

Arrest and detention of armed forces personnel

268. **The right to legal counsel**. In a recent decision by the Supreme Court, the Court held that "[t]here is no dispute as to the high standing and central position of the right to legal counsel in our legal system." (C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al*. (4.5.06)). Here, the Court adopted a relative exclusion doctrine, according to which the court may rule on the inadmissibility of a confession due to the interrogator's failure to notify the soldier of his right to legal counsel. For further details see above, under Article 7.

269. In 2005, the High Court of Justice determined that military courts must give reasons in writing for their verdicts and punishments. Deviation from doing so will lead to an annulment of the judgment. Judges Levy and Rubinstein ruled in one particular case that among the procedural flaws was the fact that "the complaint sheet was completely blank" (HCJ 266/05 *Pilant v. the Deputy Military Advocate General*).

Article 10. Treatment of persons deprived of their liberty

270. **Incarceration of Unlawful Combatants Law**, 5762-2002. The Incarceration of Unlawful Combatants Law, 5762-2002 (the "the Incarceration of Unlawful Combatants Law"), was adopted in order to regulate in domestic legislation, the arrest of persons not entitled to a prison of war status, who nevertheless take an active part in combat and hostilities. Such persons are not entitled to prisoner of war status as accorded in the Third Geneva Convention relative to the

Treatment of Prisoners of War (1949), as they do not adhere to the provisions of section 4 of the Convention. This authority has long been recognized by many authors in the field of international law, and has become a vital tool in combating terrorism, where terrorists operate in grave breach of the most basic principles of the law of armed conflict, most notably of the duty to distinguish themselves from the civilian population.

271. Accordingly, section 2 of the Law defines an "unlawful combatant" as a person who had participated either directly or indirectly in hostile acts against the State of Israel, or is a member of a force perpetrating hostile acts against the State of Israel, where the conditions prescribed for lawful combatants in section 4 of the Third Geneva Convention (1949) with respect to prisoners-of-war, and granting prisoner-of-war status in international humanitarian law, do not apply.

272. Section 3(c) of the Law states that an incarceration order shall be brought to the attention of the prisoner at the earliest possible date, and that he shall be given the opportunity to put his submissions before the Chief of General Staff. Where the Chief of General Staff finds that the prisoner is not an unlawful combatant and that his release shall not adversely affect State security, the order shall be revoked.

273. With regards to "unlawful combatants", the Chief of General Staff may issue an incarceration order in accordance with the Law. According to section 5, a person arrested under the provisions of this Law shall be brought before a District Court judge within 14 days of the date the order was issued. Unless another ground for detention exists under the provisions of an existing law, such a prisoner shall be summarily released if he is brought before the District Court, and a hearing has not been commenced within 14 days of the date of granting the order.

274. After the initial hearing, and in accordance with section 3(c) of the Law, an incarceration order will be subject to periodic (6 monthly) judicial review before a judge of the District Court. Where the Court finds that a detainee's release will not harm State security, or that there are special grounds otherwise justifying his release, the order shall be revoked. The District Court's decision can, within 30 days, be appealed before the Supreme Court.

275. According to section 6 of the Law, a prisoner is entitled to meet with a lawyer at the earliest possible date on which such a meeting may be conducted without harming State security requirements, but no later than 7 days prior to him being brought before a judge.

276. Section 10 of the Law stipulates that the prisoner shall be held under proper conditions which shall not impair his health or dignity. Maintaining adequate conditions of detention was an issue addressed by Chief Justice Barak in HCJ 769/02, *The Public Committee against Torture in Israel et. al. v. The Government of Israel, et.al.*: "Needless to say, unlawful combatants are not beyond the law. They are not 'outlaws'. God created them as well in his image; their human dignity as well is to be honored; they as well enjoy and are entitled to protection, even if most minimal, by customary international law … That is certainly the case when they are in detention or brought to justice …"

277. The Law's constitutionality was recently reviewed and upheld by the Supreme Court sitting as the Court of Criminal Appeals in Cr. A. 6659/06, *Anonymous v. The State of Israel* (11.6.08).

278. **A bed to every prisoner**. On February 12, 2007, the Supreme Court declared that the State must provide a bed to every prisoner held in an Israeli prison with full implementation of this obligation to begin on July 1 of that year (HCJ 4634/04 *Physicians for human rights et.al. v. The Minister of Public Security, et.al*.). In its decision, the Court stated that the right to sleep on a bed is a basic condition for living in dignity, based on the right to dignity anchored in Basic Law: Human Dignity and Liberty (1992).

279. The State claimed that the deterioration of the security situation in Israel since October 2000, caused an increased number of detainees and prisoners held in Israeli prisons, thus Israel Prisons Service (IPS) failed to provide a bed to every prisoner. Instead only a mattress on the floor was provided due to a serious lack of incarceration facilities. Nevertheless, the State did not object to the petitioners' claim that a prisoner's right to sleep on a bed is an integral part of his basic right to dignity, but requested that the Court recognize possible limitations which might prevent full implementation of the principle of "bed to every prisoner", especially in unforeseen times of emergency. The Court stated that "when on the one side of the balance equation rests the right of a person to minimal life standards when held in prison, a contradictory value with a special significance is necessary in order to justify damage to this basic right".

280. In its decision, the Court also related to Article 7 of the ICCPR, stating that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" and to Article 10(1) stating that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". The Court pointed out that the UN Human Rights Committee determined, considering Article 10(1) of the ICCPR, that the dignity of persons deprived of their liberty should be ensured "subject to the restrictions that are unavoidable in a closed environment".

281. **Handcuffing detainees**. On March 13, 2007, The Ombudsman's Office of the Israeli Judiciary published an opinion concerning handcuffing of detainees in court hearings, following a complaint made by a journalist, accused of prohibited publication, who was handcuffed during his court hearing. The Ombudsman determined that as a general rule, a detainee is not to be handcuffed during court hearings apart from exceptional cases in which the police officer who accompanies the detainee requests the court's permission to keep him handcuffed. The Ombudsman also held that the judge has the authority to order to release detainees from handcuffs, even in exceptional cases, where the detainee is suspected of committing a severe crime or when there is a fear that he will escape or act violently. A judge's order to release the handcuffs will be adhered to immediately, using cautious measures as required in such cases.

282. In its opinion, the Ombudsman stated that the issue of handcuffing of detainees during court hearings is of great importance, since the handcuffing of a person damages his dignity severely. Therefore, the Court has to balance between the detainees' right to dignity on one hand, and ensuring security and public order on the other hand.

283. Following the Ombudsman's decision in the above journalist's case, the police published a new procedure (Patrol Department Procedure No. 02.220.044) on February 2, 2007, containing provisions concerning the handcuffing of detainees during court hearing. Section 5d(1)e of the new procedure states that as a general rule, a detainee is not to be handcuffed during court

hearing, save for in exceptional cases, the police officer who accompanies the detainee can request the court's permission to keep the detainee handcuffed and only the judge has the authority to approve it.

284. **Right to family and parenthood**. On June 13, 2006, the Supreme Court rejected a petition against the IPS which allowed the late Prime Minister Yitzhak Rabin's assassin, to take out from prison a sperm sample in order to allow artificial insemination in his spouse (HCJ 2245/06 *MP Netta Dovrin v. Israel Prisons Service*). In its decision, the Court stated that the right to family and parenthood is one of the main elements of human existence and is derived from the rights to dignity, privacy and autonomy of the individual's will. The Court asserted that prisoner's human rights are ensured during their imprisonment period, including their right to parenthood and procreation.

285. The Court based its decision on the principle of human dignity as in Basic Law: Human Dignity and Liberty (1992) and also on international law and several articles of the ICCPR: the right to marry and found a family (Article 23), the right to privacy and protection from arbitrary interference with family life (Article 17(1)), the right not to be subjected to cruel, inhuman or degrading treatment (Article 7) and the right of persons derived of their liberty to be treated with respect to the inherent dignity of the human person (Article 10(1)). The Court also mentioned that the UN Human Rights Committee determined in General Comment No. 16 (1988), that in relation to Article 17(1), interference with family life can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant. In relation to Article 10(1), the Court cited General Comment No. 16, stating that persons deprived of their liberty are not to be subjected to any hardship or constraint other than that resulting from the deprivation of liberty.

286. **Medical treatment**. On October 28, 2007, the Tel-Aviv District Court determined that a prisoner held in the custody of the Israel Prisons Service (IPS), is entitled to the same medical treatment provided to all other citizens of the State by the public health services (Administrative Petition 002808/05 *Ahmed Yossef Mahmud Altamimi v. Head of IPS's Medicine Department et. al*.). The petitioner, a Palestinian security prisoner, was handed down a life sentence, and has been held in an Israeli prison since 1993. In the last 5 years he has received hemodialysis treatments due to a terminal renal failure disease. Whilst the prisoner was permitted to undergo a kidney transplant operation, the IPS refused to finance such a high cost operation.

287. In its decision, the Court held that since the petitioner was in the custody of the State, the State was obligated to grant him the same medical treatment granted to all other citizens of the State by the public health service. The petitioner was entitled to the best medical treatment that the IPS could provide him, even if the cost of this treatment was exorbitant. The Court added that according to every existing medical assessment, any delay in the performance of the transplant might shorten the petitioner's life expectancy. The Court additionally rejected an argument that the transplant be financed by the Palestinian Authority.

Article 11. Freedom from imprisonment for breach of a contractual obligation

288. This issue has been discussed in our previous reports. No change has occurred in this area since the submission of our second periodic report.

Article 12. Freedom of movement

289. On August 1, 2007, the Tel-Aviv Magistrate Court determined that the general public has the right to enter and cross "Andromeda Hill", a residential area in Jaffa bordered by a fence, where the access to public areas inside the neighborhood was denied (Opening Motion 200681/04 *Jaffa Association for Human Rights v. Andromeda Hill Administration Ltd*). The Court held that according to the approved construction plan of the project, there is a public easement binding the land owners of the project to grant the general public the right to pass through the neighborhood along its walkways, and have access to public land designed for view points.

290. According to the Court's decision, the right of the general public to enter Andromeda Hill and cross it through the western gate and the main entrance is not in doubt. This right is anchored in the approved construction plan of the project and based on an easement which was registered in the Land Registration Office. Moreover, the plan's approval was stipulated by granting this right, and otherwise would not have been approved by the authorized committees. Under these circumstances, and since the respondents deny a free passage from the general public to the project despite its explicit right according to the law, the Court ordered that the entry to the neighborhood through the gates will be permitted freely between 8:00-22:00, subjected to security check as required, providing that it is done equally to all persons.

Exit from Israel

291. Restrictions due to Exemption from Military Service. On June 12, 2007, the Supreme Court rejected a petition against the Regulations which limit the exit from Israel of yeshiva students under the age of 29 (HCJ 5803/06 *Dubi Gutman v. The Minister of Defense*). Regulation 7 of the Service Postponement to Yeshiva Students whose Torah - their Craft, Regulations, 5762-2002 dealing with yeshiva students who decide to continue their studies and not attend military service, requires approval of the military authorities to exit Israel and determines maximum periods for exit. The Court held that regulation 7 is not to be tarnished legally or morally, but expressed its view that limiting the exit from Israel for those yeshiva students over the age of 22 shall be reevaluated by the legislator since it creates discrimination against them.

292. Restrictions due to Refusal to Pay a Fee. On February 12, 2006, the Tel Aviv Magistrate Court accepted a claim for damages of a citizen, who was prevented from crossing the border into Egypt at the Taba border crossing because of his refusal to pay the required fee (C.A 058252/04 *Hidud v. Israel Airports Authority*). The Court determined that the freedom of movement can not be deprived solely due to the arbitrary judgment of the manager of the terminal and ordered 10,000 NIS compensation to the claimant.

293. According to the Court's Judgment, section 6 of Basic Law: Human Dignity and Liberty states that every person has the liberty to leave Israel and that every Israeli citizen has the right to enter the country. According to the Basic Law, restrictions on the freedom of movement must be provided by a law fitting the values of the State of Israel and, designed for a proper purpose, and to an extent no greater than required. Provided that there is no such law which restricts the

freedom of movement, the manager of the terminal is not authorized to prevent crossing into Taba. Considering this lack of regulations and clear criteria, entry or exist of people from Israel can not be prevented because of refusal to pay a fee.

Article 13. Expulsion of aliens

294. **The Detention Review Tribunal**. On March 3, 2004, the Attorney General decided that the Administrative Tribunal for Detention Review would be administered by the Ministry of Justice. He also instructed the Immigration Administration that any person detained should be brought before the tribunal within four days, unless exceptional circumstances justify a delay. This is based on the language of the Entry to Israel Law, which requires that a person detained be brought before a tribunal "as soon as possible". In order to allow due process, the Attorney General instructed that the number of cases heard by each judge should be limited to a reasonable amount, and no more than 30 cases a day; that appropriate secretarial services should be provided; and an appropriate location within the detention facility should be allocated for the hearings. He also instructed that detainees receive a copy of the decisions pertaining to them.

295. On July 13, 2007, the Tel-Aviv District Court rejected the State appeal against the decision of the Detention Review Tribunal to release 38 African detainees from custody (A.A 000162/06 *The Ministry of the Interior v. Tigian and 37 others*). The Detention Review Tribunal decided in May to release the detainees because they were held for two months without "…any legal basis or based on invalid basis or of dubious validity (by force of the security legislation)". During this period, the detainees were held in "Ktziot" facility, without any judicial review, access to legal proceedings, contact with human right organizations or with the United Nations High Commissioner for Refugees.

296. Despite an appeal submitted by The Ministry of the Interior, the District Court issued a decision calling for the immediate release of the detainees. The Court rejected the State's position that the Detention Review Tribunal can not order release based on illegal custody. In addition, the Court criticized the State and pointed out that the detainees should not have been held according to the Prevention of Infiltration Law, 5714-1954, which does not contain a permanent mechanism of judicial review and evaluation of the custody.

297. **Legal representation**. On January 24, 2007 (A.A 000379/06 *Anonymous v. The Ministry of the Interior*), the Haifa District Court accepted the appeal of a 15 year old foreign minor who had been a victim of trafficking in persons. The Court decided to release the minor after 8.5 months in custody, constituting the first decision of an Israeli court recognizing a person to be a TIP victim for purposes other than prostitution.

298. The District Court held that in cases where an illegal resident is a minor and can not speak Hebrew, the Detention Review Tribunal must appoint a Public Defender to provide him with legal assistance. As the minor in question had not been provided with legal representation, the Court held that he had been deprived of his procedural and fundamental rights, to such a degree as to amount to a distortion of justice in this case.

299. The Court stated that "custody" as it is referred to in the Entry into Israel Law can be defined as "custody until the completion of the proceedings". Subsequently, if proceedings

can not be completed, then custody based only on this law is illegal. In this particular case, the proceedings could not be completed because they required the minor's removal from the country. That much was prevented by a lack of diplomatic relations between Israel and his country of origin, and constituted a situation which was not to be presently resolved. Indefinite detention of the minor under these circumstances, and based only on the Entry into Israel Law, was thus considered to be illegal.

300. On December 5, 2007, the Haifa District Court annulled a decision of the Haifa Traffic Court due to its failure to appoint a defender for the appellant despite the explicit provision of section 15a(c) of the Criminal Procedure Law 5742-1982 (the "Criminal Procedure Law") (Cr. A. 002646/07 *Zrayek Nimer v. the State of Israel*). The Haifa Traffic Court convicted the appellant according to his admission of guilt in several traffic offences and sentenced him to suspended imprisonment, a fine, disqualification from driving, suspended disqualification and an obligation to avoid similar offences. The appellant claimed that the Traffic Court did not appoint a defender for him despite the prosecutor's late announcement that he would demand actual imprisonment.

301. The Haifa District Court held that it was the Traffic Court's duty to appoint a defender for the appellant according to section 15a(c) of the Criminal Procedure Law, even though it did not intend to sentence him to actual imprisonment. Secondly, the Court stressed that the defender's role is not limited to arguing against actual imprisonment, but is also one of advising and influencing the entire sentence of the defendant. Thirdly, the Court stated that the right for legal representation is a fundamental right. Consequently, the District Court decided to annul the Traffic Court's ruling and return the case to the lower instance for reconsideration.

302. **Extraditions**. On August 5, 2004, the Supreme Court rejected a petition filed against the Minister of Foreign Affairs, the Attorney General and the State Attorney, by an Israeli citizen accused of the murder of his ex-wife in Thailand. The petition demanded his extradition from Thailand to Israel because of the foreseeable sentence of capital punishment if convicted in Thailand (HCJ 3992/04 *Eli Mimon-Cohen v. The Minister of Foreign Affairs, et. al*.). The Court stated that the specific objectives of the extradition institution, and the general objectives of the enforcement of the criminal law, (which are under the authority of the Attorney General), did not require Israel to request that the petitioner be extradited. Nevertheless, the court acknowledged that bringing the petitioner to trial in Israel might ensure two important purposes: that he would not be handed a death sentence and that he would be granted a fair trial. The court however, finally concluded that the prospect of imposing capital punishment on the petitioner was not to be considered a violation of human rights in accordance with Article 6 of the ICCPR, since the murder offence attributed to him was one of the "most serious [of] crimes". In addition, the Court stated that the right to a fair trial is recognized in Article 14 of the ICCPR, a Convention to which Thailand is committed as a State Party. Considering all the different interests and concerns, the Court declared that the State was not obligated to request the extradition of the petitioner to Israel.

Article 14. Right to fair trial, judicial independence

303. **"Abuse of process"**. On May 15, 2007, the Knesset enacted the Criminal Procedure Law Amendment 51), accepting the legal doctrine regarding "Abuse of Process" into Israeli criminal

law. According to the doctrine which had been previously recognized by the Supreme Court in a number of cases, the court is permitted to strike off an indictment, or halt criminal procedures against a defendant where there is a deficiency in those procedures caused by some fault of the executive authority, and the use of the deficient procedure would damage the right to fair trial of the defendant. According to the Supreme Court's decision in Cr. Appeal 4855/02 *The State of Israel v. Itamar Borovich et. al*., the Court is to examine the severity of the deficiency, to determine whether the deficiency can be restored in other way, and to balance the damage caused to the defendant by the deficiency against the damage caused to the public by the defendants crime. The Amendment to the Criminal Procedure Law anchored the doctrine of "Abuse of Process" in the context of preliminary claims. Section 149 of the amended law states that "10. Following the beginning of the trial, the defendant is allowed to claim abuse of process in preliminary claims, including the possibility to argue that…the submission of an indictment, or [conduction] of a criminal procedure, fundamentally contradicts the principles of justice and legal equity".

304. **Video conference**. On January 15, 2007, the Knesset enacted the Criminal Procedure Law (Enforcement Powers - Arrests) (Video Conference - Temporary Order) 5767-2007, which allows the Court to hold hearings concerning a suspect's arrest, subject to his consent, using video conference. Previously, this procedure required the physical presence of the suspect in the courts' hall, which caused excessive discomfort, due to the need to transfer him from one detention facility to another, and from the court and back when compared to the short duration of the procedure. According to the Temporary Order, the suspect will take part in the hearing from a special room connected to the court's hall using video conference technology, which will allow communication and viewing by all parties involved in the procedure, including the public.

305. **Electronic handcuffing**. Since 2006, a new measure of electronic handcuffing has been exercised as an alternative to physical detention. The option of electronic handcuffing is available up until the completion of procedures for indictment of a detainee.

306. **Investigation and Testimony Procedures (Adaptation to Persons with Mental or Psychological Disability) Law**. In 2005, the Knesset enacted a new law, similar in certain aspects to the law related to investigations of children, concerning investigations of persons with intellectual disabilities (retardation, autism, etc.) and persons who suffer from mental disabilities which damages their ability to testify or be investigated. According to the Law, the Minister of Social Affaires and Social Services is to appoint special investigators qualified in the therapeutic field for investigating persons with intellectual or mental disabilities whether they are complainants, witnesses or suspects of committing the offences indicated in the Law. In addition, the Law states that persons with intellectual or mental disabilities are eligible to have a person of their choice, who is not their lawyer, as their accompanier during the investigation.

307. According to the Law, when a person with an intellectual disability testifies in court, the court is allowed to order that the witness will not be cross examined by the defendant himself. A person with a mental disability will not be investigated by the defendant. In such cases, the court will appoint a public defender. In addition, the court is allowed to exempt a person with an intellectual or mental disability from testifying if it is concerned that the testimony might damage the person or if the person is not capable to testify due to his disability. The court is

allowed to determine different ways for protection of witnesses who are intellectually or mentally disabled, including: the defendant will not be present in the hearing, but only his lawyer; the witness will deliver his testimony behind a curtain; the judge and lawyers will not wear judicial uniforms; the testimony will take place in the judge's chamber or in another place outside the court hall; the testimony will be delivered using means of alternative or supportive communication, including the assistance of persons, electronic devices, etc.

308. **The Crime Victims' Rights Law** 5761-2001 (the "Crime Victims' Rights Law"). On March 6, 2001, the Knesset enacted the Crime Victims' Rights Law which was designed to prescribe the rights of victims of crime and to protect their personal dignity, without prejudicing the rights of suspected, accused or sentenced persons under the provisions of any law. According to the Law, the fulfillment of rights owed to a victim of crime shall be performed with consideration for the victim and his/her needs, respect for his/her dignity, protection of his/her privacy and within a reasonable time. Under this Law, the courts and authorities, each within their own spheres, are to take all necessary measures to safeguard the rights of the crime victim.

309. According to the Crime Victims' Rights Law, a crime victim is entitled to the following rights:

309.1. Protection - protection from the suspected, accused or sentenced person, or his/her agents and associates, including protection in court from any contact or unnecessary communication between him/her and the victim.

309.2. Restriction on furnishing particulars - The authorities shall not submit to any person and shall not include within the documents forming part of the investigation material or the indictment, the home address, work address or telephone numbers of the crime victim.

309.3. Right to receive information on criminal proceedings - a crime victim is entitled to receive information on his/her rights as a crime victim, and on the manner in which the criminal proceedings are to be conducted, and to be updated on the stage which any criminal proceedings in connection with the crime from which he was injured, have reached.

309.4. Right to inspect indictment - Except in certain cases, a crime victim is entitled, at his/her request, or at the request of his/her legal counsel, to inspect and receive a copy of the indictment against the accused.

309.5. Right to receive information on imprisonment or other custody - a victim of a sexual or violent crime, is entitled upon request, to be informed of the state of imprisonment of a sentenced person, or the state of any detention of an accused or sentenced person remanded in other lawful custody as a consequence of their crime.

309.6. Right to receive information on support services - a crime victim is entitled to receive information on support services available to crime victims, whether those services are provided by the State or by non-governmental bodies.

309.7. Conduct of proceedings within reasonable time - proceedings in connection with sexual or violent crimes shall be held within a reasonable time to prevent any perversion of justice.

309.8. Examination of investigating body into sexual history - during the investigation of a complaint by an investigative body into sexual or violent crimes, the crime victim shall not be investigated as to his/her sexual history, except as far as those queries may relate to the investigation at hand.

309.9. Right of accompanying person at examination - a victim of a sexual or violent crime is entitled to be accompanied by a person of his/her choice, who shall be present at the time of his/her examination at the investigating body, unless the responsible officer is of the view that this is likely to impede the examination.

309.10. Right to presence at in camera hearing - a crime victim is entitled to be present at a court hearing in the matter of the crime in which he/she was injured and to view the proceedings being conducted in camera, as well as being entitled to accompaniment by a person of his/her choice at the aforesaid hearing.

309.11. Right to express opinion on stay of proceedings - a victim of a sexual or violent crime who receives notice of an intent to stay criminal proceedings against the accused, is entitled to be given an opportunity to express his/her opinion on the matter, in writing, before the Attorney-General.

309.12. Right to express opinion on plea bargain - a victim of a sexual or violent crime who receives notice as to the possibility of the prosecution having reached a plea bargain with the accused, is entitled to be given an opportunity to express his/her opinion on this matter before the prosecutor prior to their reaching a decision in the matter.

309.13. Declaration of victim - a crime victim is entitled to submit a written declaration to the investigating body as to any injury or damage incurred by him/her on account of the crime, including bodily or mental harm, or damage to property. Where the victim has submitted such a declaration, he/she is entitled to have the prosecutor bring the declaration before the court during the hearing in respect of the sentence of the accused.

309.14. Right to state position before parole board - a victim of a sexual or violent crime who has received notice as to the date a sentenced person is to be brought before the parole board, is entitled to state his/her position in writing, and have the position presented to the parole board illustrating the expected risk they foresee from release of the sentenced person.

309.15. Right to state position in respect of pardon - a victim of a sexual or violent crime who has received notice as to the application of the sentenced person for a pardon or mitigation of punishment from the President of the State, is entitled to be given an opportunity to state his/her position in writing prior to a decision being reached by the President.

309.16. Protection from a criminal or civil action - infringement of any of the rights prescribed in this Law is not sufficient in itself to nullify criminal proceedings, or to constitute a cause of action for criminal proceedings, or to justify a civil action against a public authority or public employee; however, the provisions of this section shall not prevent the initiation of disciplinary proceedings under the provisions of any law.

309.17. Entitlement of family members - where a crime caused the death of a person, the rights of the victim under this Law shall be granted instead to his family members.

310. In order to ensure the proper exercise of rights made available to victims of crime under the provisions of the Crime Victims' Rights Law, the State and District Attorneys' offices have established support departments whose functions include: ensuring the transfer of information from the State and District Attorneys' offices to crime victims and from crime victims to the State and District Attorneys' Offices; directing and assisting the employees of the State and District Attorneys' Offices in implementing the provisions under the Law; and collecting and distributing updated information on support services for crime victims to employees of the State and District Attorneys' Offices. In addition, the Israel Police have appointed responsible police officers whose function is to safeguard the exercise of the rights of the crime victim under the provisions of the Law.

311. In a recent case, the Supreme Court had to determine whether to accept a plea bargain where the accused pleaded guilty to a criminal charge or to cancel the bargain, given that that it was concluded without the consent of the victim, in contradiction of the Crime Victims' Rights. The Court held that in balancing between the right of the victim to participate in the criminal process and the right of the accused to a fair trial, consideration should be given to the progress of the legal proceedings. That is, as the legal proceedings progresses, such as in this case where a plea bargain was already reached, the rights of the accused exceed the rights of the victim. (H.C.J 2477/07 *Anonymous v. the State Attorney at al*. (27.5.07)).

The Public Defender's Office

312. In 2006, the Public Defender's Office (PDO) marked the first decade since its establishment. From 2003 up until 2006, the percentage of representation by public defenders in magistrate court cases (including in youth magistrate courts) increased from approximately 35% to 54%. This increase is, on the one hand, the result of a gradual decrease in the number of indictments submitted to magistrate courts, and a gradual increase in criminal cases represented by the PDO on the other. In 2006, 1,329 defendants pleading financial difficulties applied independently to the PDO requesting representation. Of that number only 319 were found financially or otherwise eligible and 1,010 were rejected.

313. During 2006, the Knesset enacted the Criminal Procedure Law (Amendment 49), prohibiting the imposition of imprisonment on unrepresented defendants. Until the enactment of the Law hundreds of defendants were sentenced to imprisonment every year without having had legal representation. From the time the Law came into force and up until July 11, 2007, the PDO has represented 1,260 cases based on this issue.

314. During 2006, the Knesset enacted the Criminal Procedure Law (Amendment 48), stating that preliminary hearings may only take place subject to legal representation of the defendant. Despite of the Law, there are still magistrate courts which hold preliminary hearings without the participation of the PDO and in which many defendants are not represented by a defender ensuring their rights. In 2006, the PDO represented 6,000 criminal cases in this framework, using 40 public defenders.

315. According to the Criminal Procedure Law (Enforcement Powers - Arrests), every detainee is entitled to meet and consult with a lawyer. The supervising officer arresting the detainee must immediately notify him/her of their right to request legal representation by a public defender. The detainee is also eligible to have his/her request transferred without delay to the PDO. In order to fulfill the provisions of the Law the PDO has lawyers on duty and/or on call all over the country, from 7:30 am until late at night including weekends. Their function is to arrive at the relevant police stations or detention facilities in order to meet the suspects as soon as possible.

316. On January 1, 2005, section 60a of the Criminal Procedure Law entered into force. It concerns the conduction of hearings for suspects of criminal offences prior to the submission of an indictment. Only a represented suspect can request and view the investigation material and give directions on that material when meeting with the attorney treating the case.

317. Representing minor defendants and suspects constitutes a significant part of the work of the PDO, which represents 75% of detained or tried teenagers. About 12,000 procedures, which constitute 15.6% of all procedures represented by the PDO during 2006, were held in Youth Magistrate Courts.

318. In 2004, the Mentally Ill Treatment Law was amended to include a provision concerning the right of coercively hospitalized patients to be legally represented in psychiatric committee hearings, when re-evaluating their hospitalization period. The PDO is now responsible for the legal representation of patients hospitalized according to a court order following a criminal procedure opened against them. During 2006, the PDO completed the extension of its legal representation to cover all mental health hospitals and clinics throughout the country, offering representation to 550 patients, of whom 450 were registered during 2006 alone.

319. After serving two thirds of their imprisonment, every prisoner faces a release committee authorized to grant early release. During 2002, the Knesset enacted the Release under Conditions of Imprisonment Law 5761-2001, which states that release committees are authorized to consider the appointment of a defender for prisoners who face their decision. In the last five years following the entry into force of the Law, the extent of public representation during release committee hearings is still limited, but is gradually increasing. In 2006, the PDO represented 242 cases in comparison to 117 in 2005.

320. The PDO has a special department which conducts proceedings in the Supreme Court, including: criminal appeals, applications of requests to appeal, petitions for additional hearing, and petitions to the Supreme Court concerning High Court of Justice decisions. In 2006, more than 1,000 applications were registered in the department, and 418 Supreme Court procedures were opened. During 2006, the PDO had some major successes with regards to Supreme Court decisions, including in some fundamental cases with significant implications.

321. In October 2006, the first phase of the Protection of the Public from Sex Offenders Law 5766-2006 entered into force. The Law allows the imposition of significant restrictions, including supervision, on those who have been convicted of sex offences, after they have completed serving their sentence. This is done in order to prevent them from returning to the commission of sex offences. The PDO takes action in order to ensure substantial judicial review of requests for supervision orders when submitted by the authorities. In the framework of preparing for legal representation of clients, a new supervision system was established for specializing in representation according to the Law. In addition, the PDO uses a list of experts qualified to perform risk assessment of sex offenders.

322. **Legal representation before military procedures**. On October 21, 2007, the Military Court of Appeals held that the military judicial system should adopt the provision of the Criminal Procedure ((Enforcement Powers - Arrests)) Law, so that a military court would not be able to detain a defendant until the completion of proceedings if he did not have adequate legal representation. The provision, which is not addressed in the Military Jurisdiction Law, is thus applied to military courts. The Court held that a defendant not adequately represented, could only be detained for such short period of time as it took to appoint him with a defense attorney, (Military Appeal 58/07 *Private Kasania Segrashvili v. The Military Prosecutor*).

323. In this instance, the appellant was accused of unauthorized absence from military service according to section 94 of the Military Jurisdiction Law. The Military District Court's President ordered detention of the appellant until the completion of her proceedings, even though she was not represented by a defense attorney at the hearing.

324. The Military Court of Appeals held that sections 243(b), and 243B(b) of the Military Jurisdiction Law recognize the right of the defendants attorney to be present during court hearings concerning the defendants detention, despite the fact that cases concerning section 94 of the Law may be heard in the detainee's absence (section 243B(b)). The Court held that, excluding truly exceptional circumstances, the military courts were to strictly uphold the right of a defendant's attorney to be present in court. Where the defendant has not appointed a defense attorney, or the attorney is not present in Court, the court must postpone the hearing until one or the other failing may be achieved. In similar fashion to the provision contained in the Criminal Procedure (Enforcement Powers - Arrests) Law, in the exceptional circumstances where a court hearing is to be held without the participation of a defense attorney, the Court will only be able to order the detention of the defendant for such a short period of time as it takes to appoint a defense attorney.

Alternative dispute resolution

325. The National Center for Mediation and Conflict Resolution, reported in our previous periodic report, continues to work towards advancing the use of alternative dispute resolution strategies in Israel.

326. Mediation techniques advanced by the National Center have been particularly successful in the resolution of family disputes and disputes between local communities. Some criminal matters are also now amenable to non-adversarial resolution. By establishing effective alternative resolution procedures in such areas as these, the National Center both eases the burden on the adversarial system and empowers the community.

Article 15. Prohibition of ex-post facto laws

327. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 16. Recognition as a person before the law

328. This issue has been discussed in Israel's previous reports. No change has occurred in this area since the submission of the second periodic report.

Article 17. Freedom from arbitrary interference with privacy, family, home

329. The Protection of Privacy Law, 5741-1981 ("The Protection of Privacy Law ") stipulates that in order to consider an act as offensive to the privacy of a person, it is to be established that the person did not consent to the act. Amendment No. 9 of the Law (dated June 19, 2007) further stipulated that the consent required must be an informed consent.

330. Furthermore, according to the amendment (Section 29a(a)), upon conviction in a felony according to section 5 to the Law - which requires the intent to harm the privacy of a person, the court is authorized to award the victim with damages of up to 50,000 NIS, without the need to prove actual damage. Section 29a(b) states that in a civil wrong action according to section 4 to the Law, the court is also authorized to award damages of up to 50,000 NIS, without the requirement to prove actual damage. If in such an action it is proven that the perpetrator had intent to harm, the court is authorized to award the plaintiff with up to 100,000 NIS, without the requirement to prove actual damage.

331. On May 10, 2004 the Supreme Court held that a permanent link between the computers of the Ministry of the Interior and the computers of the Income Tax Commission, the National Insurance Institute, the Israel Broadcasting Authority, the Bank of Israel and commercial banks is unlawful as it violates the privacy of the public. (H.C.J 8070/98 *The Association for Civil Rights in Israel v. the Ministry of the Interior at al.* (10.5.04)).

332. According to section 23b(a) of the Protection of Privacy Law, 5741-1981, a public institution is prohibited from providing information regarding an individual, unless the publication was made in accordance with the law, or after receiving the individual's consent. Section 23c to the Law states that the exchange of information between public institutions is permitted if it is within the authorities or duties of the informant body, and is required in order to execute legislation or to perform a duty either by the informant or the receiver, unless such transfer is forbidden according to legislation or according to the principles of professional ethics. Furthermore, such transfer of information between public institutions is permitted if the receiver of the information is entitled to demand it according to law, from any other source.

333. The Court accepted the arguments presented by the Association for Civil Rights in Israel, claiming that such a permanent link violates the right to privacy as it allows access to personal records to more governmental officials than necessary, thus does not fall within the scope of duties of the informant or the receivers. Therefore, the Court issued a permanent injunction annulling the relevant arrangement until the limitations on the transfer of information are set in appropriate regulations or administrative guidelines, The Court added that the issue of

transferring information to commercial banks should be anchored in legislation. The Court stated that due to the adjustments required, the injunction will come into force six months after its issuance.

334. On April 11, 2007, the Supreme Court rejected an appeal of “Clalit Medical Services” and determined that it is not a public authority as defined in the Protection of Privacy Law. Therefore, The Ministry of Defense is not authorized to provide “Clalit” with personal information regarding IDF disabled veterans which was requested for insurance purposes (C.A 8825/03 *Clalit Medical Services v. The Ministry of Defense*).

335. In its decision, the Court stated that the right to privacy is among the most important human rights and that it was recognized as a constitutional right in Basic Law: Human dignity and Liberty. The Court also mentioned that the right to privacy had been protected prior to the enactment of the Basic Law, through the Protection of Privacy Law. As such, this law reflects the legislator’s will to balance between the right to privacy with other interests.

336. The Court held that the constitutional status of the right to privacy influences the interpretation of the Protection of Privacy Law. Therefore, the term “public authority” and the provisions of section 23c of the Protection of Privacy Law, which allows exchanging information between public authorities, shall be narrowly interpreted and “Clalit Medical Services” shall not be recognized as a public authority.

337. **The Prevention of Stalking Law, 5762-2001** (the “Prevention of Stalking Law”). On October 16, 2001, the Knesset enacted the Prevention of Stalking Law designed to protect people from having their lives, privacy, or personal choices disrupted; or from suffering physical injury at the hands of another person who has stalked or has caused them physical harm. The Law defines stalking as “harassment of an individual by any other individual, or by making threats against an individual under circumstances that provide a reasonable basis for assuming that the stalker or person posing a threat might continue to harm and disrupt the victim’s life, privacy or choice, or could potentially cause physical harm”. Stalking may include the following acts: spying, ambush, or any other activity tracking the actions of an individual or infringing upon an individual’s privacy; inflicting actual harm or even the threat of it; establishing verbal, written or any other form of contact with the individual; damaging an individual’s property, tarnishing an individual’s reputation, or limiting an individual’s freedom of movement.

338. According to the Law, if the Court finds an individual guilty of stalking it is entitled to impose a restraining order prohibiting that individual from committing any of the following acts: harassing the victim in any form or in any location; threatening the victim; spying, ambushing, tracking the movements or actions of the victim or infringing upon the victim’s privacy in any other manner and establishing any verbal, written or other form of communication with the victim. If the circumstances of the stalking provide a reasonable basis to fear continued disruption or actual harm to another individual’s life, the court is entitled to include in the restraining order a ban on committing the following acts: being present within a delimited distance of the victim’s residence, car, workplace, school or any other location the victim regularly attends; bearing or possessing firearms, including weapons issued by a security authority or any other government authorities, all against the victim or a relative of the victim, either explicitly or implicitly, directly or indirectly.

339. **The right to disseminate public information**. - On March 26, 2006, the Tel-Aviv District Court dismissed the appeal of a former prisoner whose picture dining with a famous prisoner while serving his sentence in the Maasiyahu Prison was published on the cover of the “Yedioth Ahronoth” daily newspaper without his consent (R.A 001376/02 *Yefet v. Yedioth Ahronoth*). The Magistrate Court decided that the prisoner’s name and personal details can be published, as well as his photograph.

340. In its decision the District Court held that when the right to privacy conflicts with the principle of publicity, the latter should prevail. Criminal conviction of a person can not be considered his private issue and the information published is in the public’s interest to know. The Court held that the right to privacy is a relative right and not a definite one. Therefore, in balancing between these rights, the protection granted to the prisoner’s right to privacy should be lesser in comparison to that of a reasonable man. The prisoner’s photograph was taken on public property and therefore, there is no cause for a claim according to the Protection of Privacy Law.

Search and seizure in criminal proceedings

341. On September 19, 2005 the Criminal Procedure (Enforcement Powers - Physical Search of a Suspect) Law, 5756-1996 was amended and replaced by the Criminal Procedure (Enforcement Powers - Bodily Search and the Taking of Identification Measures) Law 5756-1996. The law regulates the following subjects: the principles of conducting a physical examination of a suspect, the persons allowed to perform an examination of a suspect, internal physical examination of suspect, external physical examination of suspect, internal and external physical examination of a person who is not a suspect, internal examination for a blood sample and proper reporting on the physical examination of a suspect and the possession of items found.

342. In addition, the Law sets the conditions and terms for the taking of identification measures for the police database. The Law also determines that a police officer or a lawyer authorized by a police officer may, if he finds that there was no reason to interrogate that person, delete those biological identification measures from the database.

343. The amended law also sets the rules for the use of identification measures and data, and stipulates that identification measures are only to be used for the identification of a person, and that the data will only be used for its inclusion in the database, for comparison with other data that is already in the database, and for authentication or updating of the database.

344. The Law also regulates that management of the database will be done by the Israeli Police and by police officers of the Criminal Forensic Department. The database will be confidential and no information will be extracted from it unless it is done so according to the law.

345. The Law also determines the level of comprehension and consent needed from minors and people with mental and intellectual disabilities in order to conduct a physical search. An officer will not conduct a physical search or examination of minors and people with mental and intellectual disabilities, unless in addition to the written consent of that person, he receives a further consent from that person’s guardian. If the person does not have a guardian, he may request the courts to appoint him one.

Search of a person's home

346. This issue has been discussed in the previous reports. No change has occurred in this area since the submission of Israel's second periodic report.

347. **Electronic surveillance: wiretapping and eavesdropping**. The Israel Police Force investigated the following offenses relating to the Secret Monitoring Law 5739-1979 (the Wiretapping Law):

In 2005 - 40 files were opened.
In 2006 - 63 files were opened.
In 2007 - 58 files were opened.

Protection of personal information in databases

348. In January of 2006, the Israeli Government decided to establish a new authority within the Ministry of Justice - the Legal Authority for Information Technologies and Data Protection, hereon referred to as- ILITA. ILITA gathers together several law and technology regulatory functions, such as the Database Registrar, the Credit Information Registrar and the Certification Authorities Registrar.

349. The Database Registrar is the regulator supervising data protection under the relevant chapters of the Israeli Protection of Privacy law. Similarly, the Credit Information Registrar is the regulator supervising credit information services approved under the Israeli Credit Information law, 5762-2002, and the Certification Authority Registrar is the regulator supervising Certification Authorities for electronic signatures approved under the Israeli Electronic Signature law, 5761-2001.

350. ILITA is to be further involved in all of the future IT-related legislative initiatives in Israel, such as the Digital copyright issues (DRM etc.), the Electronic ID and Biometrics initiatives, electronic archiving, and Cybercrime initiatives, ILITA's role is also to consult to other Government Ministries engaging in major government IT projects.

351. By the end of 2006, the head of ILITA was appointed as both the database registrar and the credit reporting services registrar.

352. According to the Protection of Privacy Law, the right to privacy in Israel includes the right of a person to control personal information concerning themselves as a data subject. According to section 9 of the Law, the application to register a database must include the purpose of the database and the purposes for which the information is intended. According to section 2(9) of the Law, use of the data for a purpose other than that stated shall be considered an infringement on privacy.

353. Section 11 of the Law ensures that certain information will be provided to a data subject where data is collected personally from them. Information as to the purpose of the data processing, the recipients of the data and the purposes of its transfer must be provided to the

subject whether the subject is required by law to provide the data or whether the data has been collected with the subjects free consent. Section 13 of the Law grants data subjects the right of access to all processed data concerning themselves, and section 14 allows them to rectify that data where incorrectly processed.

354. The Privacy Protection Regulations (Transfer of Information to Databases Outside the Borders of the State) 5761-2001 (henceforth: “the Regulations”), regulate the transfer of information from databases in Israel to abroad, and outline strict conditions under which such transfers may be effected. According to the Regulations, information may only be transferred to another country if that country also provides an adequate level of protection for the data. Thus, the Israeli law guarantees that the provisions in that Law cannot be circumvented by transferring the data to third parties/countries.

Prohibition of money laundering

355. The Prohibition of Money Laundering Law 5760-2000 was enacted in order to combat the phenomenon of money laundering within the framework of the international struggle against severe and organized crime. Given that offenders make use of financial institutions in order to perform money laundering activity, the legislators decided to impose duties on these institutions to identify and report on irregular or suspicious financial activity as defined in the orders. In accordance with section 29(a) of the Law, such reports are to be transmitted to a special database managed, processed, and secured by the Israel Money Laundering Prohibition Authority (IMPA).

356. According to section 29(d) of the Law, access to the database shall be had only by persons holding positions at IMPA, as determined by the head of IMPA, and with the consent of the Commissioner of the Israel Police. Section 30(a) states that notwithstanding the provisions of the Protection of Privacy Law, IMPA shall not transmit information from the database, except in accordance with the provisions of the Law, and to the relevant authorities as specified. IMPA may transmit information from the database to the Israeli Police, the Israel Security Agency (ISA) or to authorities of the same category in other States as provided for under the provisions of the International Legal Assistance Law, 5758-1998.

357. According to section 30(g) of the Law, information transmitted to the Israeli Police, or to the ISA shall only be used for the implementation of this Law, or in order to investigate and prevent further offences not included under this Law. For example the information may be used in order to detect fugitive persons in order to bring them to trial, or to prevent and investigate the activities of terrorist organizations, or in other circumstances threatening to the security of the State. According to the Prohibition on Money Laundering Regulations (Rules on Use of Information Transmitted to Israel Police and Israel Security Agency for Investigation of Further Offences and Its Transmission to Another Authority) 5766-2006, transmission of information received from IMPA for investigation of further offences must be performed by persons authorized for that purpose within the Police and the ISA. The Regulations also impose a duty to document and register transmissions of information and to report to the Knesset’s Constitution, Law and Justice Committee on the number of decisions, and the kinds of offences for which such information was used.

358. According to Section 31(a), a person who received information during the performance of his duty or in the course of his employment, shall maintain its confidentiality and shall not disclose it to any other person, nor make any other use thereof, except in accordance with the provisions of the Law, or pursuant to a court order. Under section 61(a)(3) of the Penal Law, a person who infringes the provisions of this subsection shall be liable to imprisonment for three years, or the imposition of a fine.

359. An additional protection for sources of information is to be found in Section 25(b), which states that a report received by the police, or at the database, shall not be regarded as investigation material under section 74 of the Criminal Procedure Law (Consolidated Version), and as such, shall not be admissible as evidence in any legal proceedings, excepting: (1) legal proceedings for breach of the obligation to report, or false or deceptive reporting, and (2) intelligence material presented for inspection by the judge only, during the course of an application for a judicial order.

Information regarding criminal records

360. Amendment No. 8 to the Criminal Registry and the Rehabilitation Law 5741-1981 (the "Criminal Registry and the Rehabilitation Law"), was enacted on March 25, 2008, stating that the Head of the Investigation Department in the Police, or a police officer whose rank is deputy-commissioner or a higher rank, can obliterate from the police records, a record of a decision not to investigate or a decision not to press charges, in accordance with standards set by the Minister of Public Security, and approved by the Constitution, Law and Justice Committee of the Knesset. Furthermore, investigation records regarding a decision not to press charges in criminal offences considered a minor infraction, or a misdemeanor will be removed automatically 7 years following the date of the incident, unless determined otherwise by an authorized personal. The decision to prevent removal should be in writing and in accordance with the above mentioned standards. The above provisions regarding a decision not to investigate or not to press charges that was reached before the publication of this amendment, the amendment will come into effect on March 2010.

361. The amendment also clarifies and intensifies the criminal prohibition on obtaining information from the criminal record. The amendment sets a penalty of one year imprisonment for obtaining or trying to obtain information from a criminal record, by a person not entitled to receive it. In addition, the amendment sets two years of imprisonment for obtaining or trying to obtain information from the record, for the purpose of decision making regarding employment, of the person to whom the information is concerned, or reaching further decisions regarding matters concerning him/her. Moreover, the amendment states that consent of the person concerned, does not create a right to obtain the information from the record regarding that person, whether towards deciding on his employment or other decision on his regard.

362. According to section 20(a) of the Criminal Registry and the Rehabilitation Law, a person whose criminal record is removed will be considered as a person who was not convicted for all purposes of the Law, and all disqualification resulting from the conviction, will be removed upon the erasure. However, measures taken upon the conviction, such as dismissal from work, will not be affected by the removal. Section 20(b) provides that evidence revealing a conviction that was obliterated will be considered as inadmissible evidence in legal proceedings, unless the convicted person gave it knowingly.

363. In a recent preliminary decision, the District Court of Tel-Aviv ruled that the court can not disqualify evidence on the sole ground that it raises the obliterated criminal record, for the purpose of a libel suit according to section 20(a). The Court held that evidence according to which the libellant knowingly gave interviews to the media, revealing his expunged criminal record, may be sufficient enough to be considered as corresponding to section 20(b). (C.A 1402/07 (Tel-Aviv) *People Newspaper at al. v. Eliezer (Babo) Kobo at al*. (16 December 2007).

364. A printout of one's criminal record issued by the police to a citizen includes information designated only for the citizen's own review, according to the Criminal Registry and the Rehabilitation Law. The printout allows each person to know what his criminal record includes and take action in order to correct any mistakes. Any body, including governmental bodies, governmental corporations and private employers, is forbidden from requesting one's criminal records for any purpose, including employment. According to the Law, certain governmental bodies are eligible to receive information of a person's criminal record directly from the Israel Police, in special circumstances under specified restrictions. The Law states that information concerning one's criminal record is confidential and accessing such information from the Criminal Registry directly or indirectly through non-eligible bodies or persons is considered a criminal offence. It shall be stressed that obtaining a person's consent to access information concerning his criminal record does not exempt criminal liability.

365. Recently, the Ministry of Justice and the Israeli Police examined the whole subject of publishing criminal records via printout and decided to change the structure of the printout to prevent the transmission of criminal information by non-authorized bodies through the person to whom the information is related. The new structure of the printout allows a person who has a criminal record to distribute employers or any other body the first page of the printout in which record of criminal activity is not written. The body or person receiving the printout will be unable to determine whether the person has no criminal record at all or whether having a criminal record, decided to deliver only the opening page.

366. On December 17, 2007, the Knesset enacted the Criminal Procedure Law (Powers of Enforcement - Communication Data), 5768-2007, which enables the Police or any other investigating authority to access necessary communication data and files from databases of authorized communication bodies under restricted conditions and special circumstances. This data includes receiving, following a court order, of dialing and location data, and information on the identity of the subscribers and location of antennas, without a court order. The Law balances between the Police's need to receive data in order to fulfill its function and the need to avoid infringing one's privacy.

367. According to the Law, following the request of an authorized police officer, the Court will be allowed to issue an order permitting the Police or any other investigating authority to access and transfer data from databases of communication bodies if convinced that the data is necessary for one of the following purposes: saving or protecting human life; exposure of offenses, investigation or prevention of offenses; exposure and prosecution of offenders; confiscation of property. The order will be issued on the condition that the transfer of data will not severely damage one's privacy. In urgent cases, an authorized police officer will be allowed to transfer data without a court order for 24 hours only. The Law states that the transfer of data will remain

confidential and that all data will be protected by the Police in a special, confidential database. Note that this certain provisions of this Law encountered strong opposition, including a petition filed on 28.4.08, currently pending before the High Court of Justice.

Unlawful attacks on honor or reputation

368. On April 22, 2007, the Haifa District Court decided to disallow disclosure of the identity of internet users in order to ensure the advantages of anonymity and its contribution to the freedom of speech on the internet (R.D.A 850/06 *Rami Mor v. Yedioth Internet Systems (YNET site)* and R.D.A 1632/06 *Rami Mor v. BARACK A.T.C*). In its decision, the Court rejected the plaintiff's request to appeal a previous decision of the Court concerning publications posted in an internet forum regarding his professional achievements as an alternative therapist. The plaintiff considered these publications to be defamatory and demanded the identity of the web-users responsible from the internet sites operators. The site operators refused this demand, but agreed to remove the insulting publications from the forum.

369. In its decision the court held that "the power of anonymity can not give 'immunity' from the act of defamation or any publication which is considered a tort according to the law". Nevertheless, the Court considered that disclosure of an internet user's identity where publications are considered defamatory might damage the advantages of anonymity. Therefore, "something additional" is required before exposure of an internet user's identity will be allowed. In this instance the Court decided to follow the existing precedent, stating that a user's identity will only be exposed in cases where a criminal offence has been committed in addition to the tort. The Court has also suggested that in future cases disclosure of a user's identity will only be allowed, where the user has received a prior warning.

Reproductive privacy - abortion

Table 13

Applications for abortions, approvals and actual terminations (in absolute numbers)

2005	2004	2003	2002	2000-2004	1995-1999	
20 987	21 685	21 226	21 025	105 713	100 208	Applications
20 533	21 286	20 841	20 684	103 883	94 648	Approvals
19 928	20 378	20 075	19 796	99 980	90 010	Terminations

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

Table 14

Rate of actual termination of pregnancy

2005	2004	2003	2002	2000-2004	1995-1999	
11.8	12.3	12.2	12.2	12.4	12.6	Per 1,000 women aged 15-49
13.8	14.0	13.9	14.5	14.2	14.3	Per 100 live births

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

Table 15

Terminations of pregnancy in hospitals, by cause, 2004

45+	40-44	35-39	30-34	25-29	20-24	19-	Total	
116	1 018	127				799	2 068	Woman’s age
8	135	1 065	1 730	2 399	3 188	1 921	10 474	Out of wedlock pregnancy
15	160	744	995	847	331	52	3 151	Malformed fetus
11	200	1 004	1 146	874	392	78	3 714	Danger to woman’s life
151	1 513	2 957	3 890	4 136	3 922	2 851	19 473	Total

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2006.

370. **The right to a dignified death**. On December 6, 2005, the Knesset enacted the Terminally Ill Patient Law, which provides an answer to the medical-ethical dilemma present in the treatment of terminally-ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000. The Committee consisted of 59 members representing different related areas relevant to the issue, such as: medicine, nursing, social work, religion, philosophy, law and ethics. The Law is based on the values of the State of Israel as a Jewish and democratic state, and attempts to create a balance between the values of sanctity of life, quality of life and respect for a person’s autonomous will.

371. The Law presumes that every person has the will to carry on living, unless it is proven otherwise. Furthermore, in case of any doubt, the will to live shall be preferred (section 4a). One shall not avoid granting medical treatment to a terminally ill patient unless it is clear, according to specific conditions, that the patient has no will to continue living (section 4b). If the terminally ill patient has “capacity”, meaning that he is more than 17 years old, can express his will, was not declared incapacitated, or excluded from this status due to a documented and justified medical decision, then any decision concerning his medical treatment shall be subject to his implicit will. If the terminally ill patient does not have “capacity”, any decision concerning his medical treatment shall follow his preliminary instructions, the instructions of an empowered person or a decision of an “institutional committee” as defined below. If there are no such instructions or decisions, a decision whether to avoid granting medical treatment to the terminally ill patient will be made by the responsible physician, having had consideration of an implicit testimony from the patient’s relative, and in the absence of such relative, considering the position of the patient’s guardian (section 4b(1) and (2)).

372. The Law states that a terminally ill patient’s will to not have his life extended shall be respected, and that providing him with medical treatment is to be avoided (section 8). Nevertheless, it shall be clarified that the Law does not allow committing an act, including a medical act, which is intentionally directed to cause the terminally ill patient’s death, or which will certainly result in death, even if committed from means of grace and compassion (section 12). In addition, assisting the patient to commit suicide or stopping a consecutive medical treatment are both prohibited (sections 13 and 14a accordingly). However, it is permitted to avoid the innovation of a consecutive medical treatment which has been terminated only due to medical reasons, or the innovation of a cyclic medical treatment (section 14b).

373. The Terminally Ill Patient Law contains different provisions constituting the manner and procedure in which a person can express, in advance, his will concerning his medical treatment in the event that he becomes terminally ill. In addition, the Law states that every medical institution will appoint, in consultation with a state committee, institutional committees which are to determine in cases of conflict or if there is any doubt as to how to treat the terminally ill patient. These committees will consist of four physicians, a nurse, a social worker or a clinical psychologist, an academic specializing in philosophy or ethics, a jurist qualified to be appointed as a district judge and a public representative or religious personality.

Community housing for people with disabilities

374. **Community housing for people with intellectual disabilities**. To date, an estimated 33,000 people with intellectual disabilities live in Israel, from which 25,000 are treated by the social services. Some reside at home while others reside in different residential services.

375. Currently, 63 Residential Facilities provide housing for people with Intellectual Disabilities: 9 Governmental Facilities accommodating 1,816 residents, 40 Private Facilities accommodating 3,740 residents and 14 Public Facilities run by non-profit organizations, accommodating 1,175 residents.

376. In addition there are several Community Housing options: 140 foster families, 48 hostels (up to 24 residents in each), 21 communal houses (up to 15 residents in each) and 166 apartments in the community (up to 6 residents per apartment).

377. As mentioned in our previous periodic report, the Welfare (Treatment of Persons with Mental Disabilities) Law, 5729-1969, provides that when determining the type of housing framework, priority should be given to Community Housing. The Department for the Treatment of the Intellectual Disabled in the Ministry of Social Affairs and Social Services is operating to ensure that such a priority is given and implemented. Furthermore, there is a tendency to remove people from the Residential Facilities and place them in Community Housing in the form of hostels.

378. **Community housing for people with physical disabilities**. The Department for Rehabilitation in the Ministry of Industry, Trade and Labor, that is responsible for the treatment of people with physical or sensory disabilities, allocates 85% of the budget towards Community Housing (mainly hostels and apartments). The remaining budget is used to maintain existing Residential Facilities. Since 2001 new residential facilities were not established as most of the budget is invested in Community Housing. Recently, the Department published tenders for the establishment of new hostels for people with severe disabilities. Moreover, the existing facilities will be obligated to reassign appropriate persons from Residential Facilities to Community Housing.

379. When enacted, the Equal Rights for People with Disability Law, 5758- 1998 (“Equal Rights for People with Disability Law”) did not include a chapter referring to the issue of accommodation. Recently, several non-governmental organizations joined efforts, together with the Commission for Equal Rights of People with Disabilities, in order to inquire into ways to advance legislation of a chapter regulating the right to accommodation in the community within the Law.

Demolition of illegal dwellings in Jerusalem

380. In 2007, 283 applications, which make 12% of the total number of applications, were received from residents of the eastern neighborhoods of Jerusalem. Of the 283 applications, 135 (47%) were granted. Residents in the western parts of Jerusalem submitted 2,095 applications, of which 1,505 (71%) were granted.

381. **Illegal construction**. In the western parts of Jerusalem, building violations almost invariably consist of additions to a legal building, such as the addition of a room in courtyard or an attic within a roof space. In the eastern part of Jerusalem, violations typically take the form of entire buildings constructed without a permit. Thus, demolitions in the eastern neighborhoods of Jerusalem are far more dramatic than in the western part of the city.

Table 16

Requests submitted for building permits

Total	2007	2006	2005	2004	2003	2002	Year of request	
1 030	171	207	199	179	135	139	New building	Western neighborhoods of Jerusalem
11 312	1 955	1 964	2 085	2 002	1 650	1 656	Additional building	
12 342	2 126	2 171	2 284	2 181	1 785	1 795	Total building	
715	155	150	147	112	57	94	New building	Eastern neighborhoods of Jerusalem
606	128	116	11	112	78	61	Additional building	
1 321	283	266	258	224	135	155	Total building	

Source: Jerusalem Municipality, 2008.

Table 17

Building permits granted

Total	2007	2006	2005	2004	2003	2002	Year of request	
843	151	175	141	112	140	124	New building	Western neighborhoods of Jerusalem
8 353	1 508	1 552	1 552	1 357	1 167	1 217	Additional building	
9 196	1 659	1 727	1 693	1 469	1 307	1 341	Total building	
459	82	88	78	51	62	98	New building	Eastern neighborhoods of Jerusalem
370	68	56	61	65	56	64	Additional building	
829	150	144	139	116	118	162	Total building	

Source: Jerusalem Municipality, 2008.

Table 18

Demolition orders carried out

Western neighborhoods of Jerusalem	Eastern neighborhoods of Jerusalem	
35	69	2007
37	71	2006
26	76	2005
13	115	2004
11	331	Total

Source: Jerusalem Municipality, 2008.

Table 19

Building offences - cases opened

Western neighborhoods of Jerusalem	Eastern neighborhoods of Jerusalem	
992	1 081	2007
1 241	901	2006
1 272	857	2005
980	710	2004

Source: Jerusalem Municipality, 2008.

Article 18. Freedom of religion and conscience

Religious institutions

382. In December 2007, following the submission of a petition to the Supreme Court by the Israel Movement for Progressive Judaism (HCJ 10651/06 *Israel Movement for Progressive Judaism et. al. v. The Authority of Religious Services*), it was decided to amend the "Criteria for Building of 'Transportable Synagogues' in Regional Councils for 2006". According to section 3.2 of the amended Criteria, the existence of neighboring orthodox synagogues will not prevent the allocation of buildings for non-orthodox synagogues. In addition, section 3.4 states that non-Orthodox communities should receive priority in funding for the establishment of new synagogues in ratio of 1:1.25, if they include at least 30 families.

Burial

383. **Alternative civil burial**. On January 29, 2008, the Jerusalem Planning and Construction Committee deposited the Jerusalem Mayor's plan to establish a cemetery for civil burial in the area of the new planned cemetery in Givat Shaul in Jerusalem. The new cemetery is to cover an area of 350 dunam, in which a special section will be allocated for civil burial of persons that

Jewish Law (Halacha) does not allow to bury in religious cemeteries, or those who do not desire religious burial. According to the Municipality of Jerusalem, the plan is designated to allow every person to choose his way of life and the way of his burial without any kind of coercion.

384. **Dignity of the deceased**. On August 5, 2007, the Supreme Court rejected a petition demanding a permanent injunction against the construction of a central gas pipeline in the vicinity of a Muslim cemetery, subject to the construction placing the pipeline deep enough underneath the graves so that they would not be damaged in any way (HCJ 4638/07 *Al-Aktza Almobarak Company Ltd et. al. v. Israel Electricity Company et al.*). In its decision, the Court held that this petition raises a conflict between the public interest to carry out infrastructure and development works, and the protection of the dignity of the deceased, given that the works might foreseeably cause damage to the cemetery.

385. The Court stated that the interest of preserving the dignity of the deceased enjoys a constitutional protection based on interpretations of the Basic Law: Human Dignity and Liberty. However, it is not an absolute or definite interest but a qualified or relative one, and therefore shall be balanced with the public interest inherent in carrying out construction works. The Court additionally considered that protection of religious feelings was a public interest, but again, that it is not absolute and must be balanced with competing public interests.

386. The Court concluded that an alternative solution of placing the pipeline deep enough under the graves so as not to cause damage to the cemetery, both minimized the risk of any damage caused to the dignity of the deceased or the sentiments of the Muslim population, and fulfilled the principle of proportionality, having had consideration of the public interest inherent in carrying out construction works. The court therefore approved the alternative method of construction.

Article 19. Freedom of opinion and expression

Broadcast media

387. The Israel Broadcast Authority is publicly funded by license fees payable by all television owners, a tax on vehicle owners and the sale of commercial broadcast-time. The second television channel (Channel 2), on the other hand, as well as Channel 10 and local radio stations established under the Second Television and Radio Broadcast Authority Law, 5750-1990 (the "Second Television and Radio Broadcast Authority Law"), is operated by private franchisees, and are subsequently funded through the sale of commercial broadcast-time alone.

388. Today there are 14 local radio stations operating under the Second Television and Radio Broadcast Authority Law. Two of those radio stations are designated for distinct sectors of the Israeli society, such as A-Shams Radio which broadcasts to the Arabic speaking sector, and Kol-Hai Radio which broadcasts to the Haredi (Ultra-Orthodox) sector. In addition, a new tender for the operation of a radio station designated towards the Sephardic-religious sector is to be published soon. It should be pointed out that in 2001, the Lev-Hamedina radio station received authorization by the Second Television and Radio Broadcast Authority to split its broadcasts and broadcast in Russian for several hours of the day for the benefit of the Russian Speaking population in the franchise area of the station.

389. The Second Television and Radio Broadcast Authority Rules (Ethics in Television and Radio Broadcasts) 5754-1994, determine several provisions for the purpose of protecting the freedom of expression. Section 2 states: “A franchisee will serve in all its broadcasts, in loyalty and responsibility, the principles of the freedom of speech and the right of the public to know, including the right to express exceptional and uncherished opinions.” Section 3 determines: “A franchisee will not avoid broadcasting information of which there is a public interest to broadcast.” In addition, section 7 of the rules holds that “In an issue of public significance, the franchisee will give a proper and balanced expression to the different opinions widespread throughout the public and will not prefer one opinion over another.”

390. In 2005, the Second Authority for Television and Radio published a tender for broadcasting on Channel 2. According to the tender’s conditions, and in the framework of the Second Authority for Television and Radio (Television and Radio Broadcasting by a Franchisee) Rules, the franchisees are obligated to a number of provisions designated towards promoting specific sectors in Israeli society that have not been sufficiently expressed on screen. These include:

> 390.1. An obligation, according to section 7, to broadcast a specific number of hours of “preferred programmes” of the following categories: Jewish heritage and culture programmes, science and culture programmes, periphery programmes and public discourse programmes.
>
> 390.2. According to section 10(d), 10% of local productions which are to be purchased from external production sources must be produced in the periphery.
>
> 390.3. According to section 8, the franchisees are obligated to broadcast programmes in Arabic and Russian, or programmes translated to these languages, amounting to at least 5% of the broadcasts.

391. On January 1 2006, the Television Broadcast Law (Subtitles and Sign Language) 5765-2005 (the “Subtitles Law”), which applies to all broadcasting bodies in Israel, entered into force. The Law imposes different quotas on programmes in Hebrew and Arabic concerning subtitles and translation to sign language which are set to gradually increase until 2015.

392. **Freedom of information**. Since the enactment of the Freedom of Information Law 5758-1998 (the “Freedom of Information Law”), which is the legislative basis to the public’s right of access to information (that what previously acknowledge by Israeli courts) there have been two important amendments of the Law. The 2005 Amendment imposes a duty on any public authority to make information it holds concerning environmental issues available to the public through the authority’s internet website and via alternative methods to be determined by the Minister of Environmental Protection. The Environmental information includes: information on substances which have been emitted, spilled, removed or thrown, and results of noise, smell and radiation measurements, not on private property. The 2007 Amendment imposes the provisions of the Freedom of Information Law on all Governmental Corporations, excluding corporations determined by the Minister of Justice, and approved by the Knesset’s Constitution, Law and Justice Committee. Previously, the Freedom of Information Law applied only to Governmental Corporations as determined by the Minister of Justice, and approved by the Minister of Finance and the relevant Minister.

393. Israeli case law has referred to different provisions of the Freedom of Information Law in a significant number of decisions. For example:

393.1. Ad. A. 7024/03 *Arye Geva, Adv. v. Yael German, Mayor of Herzliya et. al*. - The appellant requested information held by an Examination Committee appointed by the Mayor of Herzliya, in addition to the protocols of its hearings concerning the differences between municipal rates for different city residents. The respondents refused to grant the appellant's request, and his initial administrative petition was rejected by the Tel-Aviv Court for Administrative Issues. The Supreme Court held that the right of access to information is based on several main rationales: first, it is essential for realization of the basic right for freedom of speech. Another rational is the authority's conception as a public trustee which should be committed first and foremost to the public interest, and not to the authority's interest. In addition, the right of access to information is an important and fundamental way for the public to foster transparency, and to impose supervision and control on public authorities. Nevertheless, the Court clarified that the right of access to information is not unlimited. Section 9 of the Law lists several categories of information which must not, or which does not, have to be delivered. Subsection 9(b)(2) allows public authorities not to deliver information on a certain policy while it is still under process of planning. In addition, subsection 9(b)(4) allows that information of an internal character need not be delivered. The Court held that generally, the provision of subsection 9(b)(2) should not apply to information collected by the authority for the purpose of planning a policy. As soon as the planning process is completed, the authorities must expose the information to the public. The Court determined that in this case, the Examination Committee had not accepted any recommendations, and that since six years have passed already, any new appointed committee would have had to use different information. The Court therefore ordered the Herzliya Municipality to deliver the information requested by the appellant.

393.2. Ad. A. 6013/04 the State of Israel - *The Ministry of Transport and Road Safety v. Israel News Company Ltd*. - The respondent requested the appellant to provide him with two internal control reports on the Department for Investigation of Air Accidents in the Ministry of Transport, and the International Relations Division in the Civil Aviation Administration, for the purpose of making a T.V. program on aviation accidents in Israel. The appellant refused to deliver these reports and the respondent petitioned to the Jerusalem District Court which ordered the delivery of the reports. The Supreme Court rejected an appeal from the District court and held that the Freedom of Information Law is based on the assumption that any information held by the authority must be exposed to the public. Exposure of control reports on governmental authorities realizes the public's right to know, and the freedom of speech; it realizes the interests of exposing the truth and the self-realization of the individual; it implements the principle of transparency of acts of government and advances the culture of government; it improves the public's confidence in public authorities; and it supports the principle that all the information held by public authorities belongs to the public. The Court added that the exposure of internal control reports does not damage the proper function of public authorities or the process of internal control. However, the Court did not impose a general obligation of non-controlled exposure. The State must always consider disclosing fully or partly the information that it

holds, and has the burden of proof in every single case, that prevention of such disclosure can be justified. As the public interest in the information is more prominent, the State must introduce a more convincing justification.

393.3. Ad. A. 9135/03 *Council for Higher Education and Yael Atiya v. Ha'aretz Publishing et. al*. and Ad. A. 9738/04 *Council for Higher Education v. Shahar* - Association for Advancement of Education in Israel: On January 19, 2006, the Supreme Court rejected two appeals concerning the Council for Higher Education's refusal to expose internal documents and protocols of its hearings. The Council for Higher Education based its refusal on section 9(b)(4) of the Freedom of Information Law, which states that a public authority does not have to deliver information concerning internal discussions. In its decision, the Supreme Court held that "the right to receive information concerning the activity of a public authority is one of the cornerstones of a free society. It is related to the existence of a democratic regime; it feeds the freedom of expression and is fed by it; it reflects the legal concept that a public authority is a trustee obligated to care for the public and not for itself while fulfilling its duty". The Court held that a public authority is allowed to refuse to deliver information concerning internal discussions based on section 9(b)(4) of the Law, but it must examine all the relevant considerations and find, according to the circumstances of each case, the balance point between the public interest not to expose information, and the private and public interest, where it exists, to deliver information. In addition, the court held that a public authority must justify its refusal to deliver information according to administrative provisions - a laconic refusal is not sufficient, and the authority must detail the reasons for it. The Court approved the District Court's decision, and ordered the authority to reveal the relevant documents in accordance with certain conditions.

Article 20. Prohibition of hate propaganda

394. **Incitement to violence and terrorism**. The 2002 Amendment to the Penal Law prohibits incitement to an act of violence or terrorism. Section 144D.2 states that "publication of a call for the execution of, as well as the publication of praise, sympathy with, or encouragement to acts of violence or terrorism, or support or empathy with such act (in this section - seditious publication), and according to the content of the seditious publication and the circumstances of its publication, if there's an actual possibility that the publication will result in an act of violence or terrorism, is punishable by a maximum prison sentence of five years". In addition, Section 144D.3 prohibits possession of publications inciting to violence or terror.

395. Protecting ethnic minority communities from hate speech is the foundation of debate and dialogue in intercultural societies. Hate crimes can not be excused on the basis of freedom of expression. The issue of incitement involves a constant delicate balance between the preservation of public wellbeing and the fundamental right to freedom of expression. Freedom of expression however, does not extend to incitement to racial hatred or discrimination.

396. The State Attorney Guideline No. 14.12 requires approval by the Deputy State Attorney (Special Functions), to initiate investigations into matters of great public sensitivity; i.e. offences of incitement to racism, incitement to violence, hate offences and other incitement related offences that clash with freedom of expression offences. The Law also requires the

Attorney General's approval to file an indictment for these offences. The Attorney General's Office operates in pursuit of the elimination of racial incitement in accordance with the guidelines set by the law and the Supreme Court.

397. The State Attorney's Office regards racial remarks made against the Arab population as incitement to racism and may initiate criminal proceedings on their behalf. In fact, criminal investigations have been conducted into a number of cases of incitement to racism against the Arab population, and indictments have been filed. Some of the cases were concluded with the defendants being convicted as a consequence. The following recent cases concerning incitement to racism are examples of the State Attorney's Office's determination to eliminate racially motivated remarks made against the Arab population:

> 397.1. In the case of Cr.C. 5120/05 (Jerusalem Magistrates Court), *The State of Israel v. Abadi*, *Cohen and Ben Yaacov*, the defendants were charged with both supporting a terrorist organization and incitement to racism after wearing a shirt displaying the symbol of the "Kach" movement, defendant 3 prepared and disseminated brochures calling for a referendum to disengage from the Arab-Israelis refusing to pledge allegiance to the State of Israel. They were also charged with publishing posters which incite to racism. Defendant 3, Ben Yaacov, was convicted of publication of racist incitement and 6 months of suspended prison sentence. Defendant 1, Cohen, was convicted in the framework of a plea bargain. Defendant 2 fled justice. An appeal is currently pending before the District Court.
>
> 397.2. In the case of Cr.C. 1232/06 (Haifa Magistrate Court) *The State of Israel v. Fauchi*, *Hershkovitz and Ben Naftalie*, the defendants were charged with incitement after publishing posters praising Eden Natan Zada, who committed the massacre in Shfaram. The court case is still pending.
>
> 397.3. In the case of Cr.C 3907/06 (Jerusalem Magistrate Court) *The State of Israel v. Raffi Chova et al.*: on July 20, 2006, an indictment was filed against the defendants for yelling derogatory, racially motivated comments against Arabs during a soccer match. The court case is still pending. A delay of proceedings was recently granted by the Attorney General to one of the defendants.

398. **Hate crimes**. Racist crime is more seriously expressed in the infliction of hate motivated mainstream criminal offences such as assault, murder or damage to property. Racial motivation is recognized as an aggravating circumstance in the Israeli Penal Law. Section 144F contains legal provisions according to which racist and xenophobic motivation, as well as hostility based on sexual orientation or a disability, is to be taken into account as an aggravating factor by the courts. Paragraph a) of this section states that "any person committing an offence motivated by racism as defined in section 144A, or who poses hostility towards a public owing to their religion, religious group, ethnic origin, sexual orientation or their status as a foreign worker, is liable to a sentence of double the punishment set for the same offence, or 10 years imprisonment, according to the lighter punishment". Paragraph (b) lists the types of offences included under the section.

399. In numerous instances of criminal offences motivated by hatred, investigations have been opened and indictments filed. An example of such a case is Cr. A. 9040/05, *Yitzhak Orion and*

Yehuda Ovadia v. The State of Israel, in which the Supreme Court, on December 7, 2006, rejected an appeal filed against a judgment given by the Jerusalem District Court, which had convicted the two appellants of various charges of violence and assault of Arabs, and sentenced each of them to 3 years imprisonment, 6 months suspended imprisonment, and compensatory payments to their victim, in the amount of 7,500 NIS.

400. Here, the District Court attributed great weight to the fact that the offences were racially motivated and the Court asserted that this kind of racial element to offences must be reflected in the punishment as well. The Supreme Court reaffirmed this approach, and emphasized that in a society which espouses values of equality and the protection of human rights, there is no room for racially motivated crime, and any such behavior is to be thoroughly condemned and denunciated.

401. In light of the above, the Supreme Court asserted that no intervention in the judgment of the District Court was required, and the appeal was rejected.

402. The Safety in Public Places Law 5722-1962 was amended (Amendment No. 3) on July 2005, to specifically prohibit racially motivated expression at sporting events. Consequently, indictments were filed against defendants who shouted “Death to the Arabs” during soccer matches.

403. **Education against hate propaganda**. The education system approaches the concept of preventing hate crime and propaganda from a wider point of view, which emphasizes the concepts of tolerance, pluralism, prevention of racism, and one’s attitude toward foreigners and “others”. These concepts are part of special educational programs designated for school students of all ages and aimed at exposing them to different groups within Israeli society. In addition, the students learn about the principles of democracy, the rule of law, human rights, rights of minorities and pluralism in the framework of civic lessons.

404. The education system has also taken action implementing the 1996 Shenhar-Kremnitzer Report, and has initiated other varied activities aimed at advancing the concepts of tolerance, acceptance of the “other” and prevention of racism and prejudice within the education system. The activities include: training for teachers on democratic values and principles, a special program on anti-semitism and racism for the 2004 International Day against Fascism and anti-semitism and different activities on tolerance and democracy on the Memorial Day for the late Prime Minister, Yitzhak Rabin.

405. **Police’s combat against hate propaganda**. The Israeli Police also perform educational activities for police officers in order to raise awareness of the social complicity in Israel and its effects on police work. The activities accord knowledge and understanding of the characteristics of minority groups in Israel, including Arabs, immigrants, the homosexual community and persons with disabilities, and provide tools for the provision of professional, sensitive police work among these groups. The concept of “equal and suitable service in a multi-cultural society” was set as the annual education target for 2007.

406. As an example, police activities include special training days and educational seminars in each police station, an academic course on the Arabic language and the Arab culture in collaboration with Haifa University, a special seminar on the homosexual community delivered

together with gay representatives, and distribution of information cards concerning police service to persons with disabilities. In addition, the Police performs educational activities on the legacy of the holocaust and the importance of combating racism and securing democratic values. As a result of these activities, the commitment of Police officers to protecting minority groups from discrimination and hate propaganda and crime has increased significantly.

Article 21. Freedom of assembly

The Pride Parade

407. On June 20, 2007, the Supreme Court rejected two petitions challenging the annual Pride Parade in Jerusalem (HCJ 5277/07 *Baruch Marzel v. The Chief of Jerusalem Police, Ilan Franko*, and HCJ 5380/07 "*Kochav Ehad" Association v. The Chief of Jerusalem Police, Ilan Franko*).

408. The Court concluded that the decision of the Jerusalem Chief of Police to approve the event was reasonable, and maintained an appropriate balance between all the rights and interests concerned, according to the standards already determined by the High Court of Justice (HCJ 8988/06) concerning the Pride Parade in Jerusalem in November 2006. The Supreme Court's president held that "harm of emotions does not justify damaging the freedom of speech and protest in a democracy which is based on social pluralism, so that the freedom of speech will not lose its content. The freedom of speech is not only the freedom to express consensual pleasant things, but also to give a stage to opinions which cause disagreements, and allow an opportunity for minority groups to raise their issues on the public agenda even if the majority opposes their views. The protection of the freedom of speech protects first and foremost the minority from the majority". Referring to the balance between the freedom of speech and the protection of religiously inspired emotions, the Court held that even if the Pride Parade in Jerusalem offends religious emotions, it was not a sufficient reason for denial of the right to protest.

409. The Court considered that the 2007 Pride Parade in Jerusalem was to take place over a shortened route of only 500 meters, and in streets which were not part of a clear residential area and were far removed from the ultra-orthodox neighborhoods of the city. The Court further noted the commitment of the parade organizers to creating an appropriate character for the event, and concluded that under the circumstances, the harm inflicted on religious sensibilities did not surpass the high tolerance threshold required to allow infringement on the right to freedom of speech and protest. The Court therefore decided not to intervene, and rejected the two petitions.

Demonstrations

410. On May 16, 2005, during the period of Israel's Disengagement from Gaza, a prohibited assembly took place in Jerusalem in which Mr. Moshe Batat took part. He was subsequently indicted for several offences; riot, enticement to riot, interference with a policeman in the performance of his duty, and obstructing a public servant (Cr.C. 002717/05 *The State of Israel v. Moshe Batat*). The Magistrate Court in Jerusalem determined that the defendant was officially present at the place of the demonstration as a press photographer for the purpose of taking photos of the event. He could not, therefore, be considered as one of the demonstrators. According to the Court, there was no further evidence that the defendant was warned to leave the place of the

demonstration, and he was subsequently acquitted of the charges filed against him. The Court admonished the State for bringing journalists to trial when they are engaging in legitimate documentation of an event or demonstration. The public has a right to be informed and this meant freedom of the press needed to be preserved.

411. On August 30, 2007, the Tel-Aviv District Court partially accepted a claim from the Tel-Aviv-Jaffa Academic College heads' and issued a permanent injunction banning protests and demonstrations against the establishment of a laboratory for experiments on animals, from taking place in front of the college heads' private homes (TA.Civil. C. 1558/06 *The Tel-Aviv-Jaffa Academic College v. Mackiton*). The Court rejected the plaintiffs' claims that the protests constituted defamation or incitement to violence, and held that demonstrations in front of private houses were not to be prohibited. The Court nevertheless determined that in the specific circumstances of the case, the protest demonstrations constituted violation of privacy and harassment.

412. In its decision, the Court held that there was no "public justification" for continued protest activity in front of the plaintiff's homes, and that the demand to stop it was justified. The Court held that "… the freedom of speech should not be lessened, but the test for the realization of the freedom of speech is not the 'personal feeling' of the person who seeks to realize this freedom, but an objective examination of the options that society provides to the individual in order to realize the freedom of speech". The Court added that the respondents "did not seek for the freedom of speech itself. They sought for freedom of harassment, the right to cause the plaintiffs non-pleasure and distress" … "The freedom to harass is not part of the freedom of speech" … "It is to be condemned in a situation where the freedom of speech can be realized without it."

Article 22. Freedom of association

413. **Forming trade unions and joining them**. Since the submission of our previous periodic reports, the legal protection of the right to organize trade unions has been boosted by some important judicial decisions. One of the more prominent such decision was handed down on March 3, 2005. Here, the National Labor Court accepted an appeal of "the New Histadrut" (the General Federation of Labor) against the Minister of Transport, stating that the decision of the Minister of Transport to allow other concessionaires to provide transportation services on closed transportation lines in the city of Beer-Sheva, instead of the concessionaires on strike, constituted a severe, direct and intentional damage to the workers' right of association and their right to strike (L.C 57/05 *The New Histadrut v. The Minister of Transport*). The Court stated that the right to freedom of association is recognized as a universal human right, and that it is cited in several conventions including the ICCPR in Article 22. The Court revoked the decision of the Minister of Transport and stressed that the strike may cause suffering to the residents of the city, but noted that this suffering is relatively "sufferable", and that it is not comparable to the direct or indirect damage inflicted on the workers' right of association and their right to strike by allowing other concessionaires to provide the inactive services.

414. **The right to form a trade union**. On January 1, 2001, the Knesset enacted the Collective Agreement Law (Amendment 6) 5761-2001, explicitly stating that every worker has the right to form trade unions, to be a member of a trade union and to operate within their framework (section 33h). The Law prohibits preventing the entry of a trade union's representative to a working place to promote stated rights (section 33i). In addition, the Law states that an employer

will not dismiss a worker, damage the employment conditions of a worker, or avoid hiring a person to work owing to their membership, or activities within a trade union, activities for the purpose of forming a trade union, or avoiding membership or ending membership in a trade union (section 33j). According to the Law, Labor Courts will have sole jurisdiction over civil proceedings concerning violations of the said provisions and will be authorized to grant injunctions, mandatory injunctions and compensation (section 33 k). The amended Law imposes a fine (based on section 61(a)(2) of the Penal Law), on an employer who avoids hiring a person to work, harms the employment conditions of a worker, or dismisses a worker due to one of the following reasons: membership in a trade union, avoiding membership in a trade union, or ending membership in a trade union (section 33n).

415. Since the submission of Israel's previous periodic report, the right to form a trade union has been further strengthened in a number of important judicial decisions.

416. **Collective agreement appeal 1003/01**. *The New General Federation of Labor et. al. v. E.C.I Telecom Ltd* - E.C.I Telecom, a company employing 4,900 workers, was determined to dismiss 142 workers, all members in a trade union, because of economic difficulties. In his decision, the National Labor Court's President, held that "the rule is that the employer holds the burden of proving that selecting which of the workers will be dismissed is based on justifiable reasons, and is not due to membership in a trade union". The Court decided to grant a temporary injunction preventing the immediate dismissal of the workers, in order to allow both parties to settle their dispute via negotiations based on the original collective agreement between them.

417. In the case of Civil Request 6726/07 *Alon Lee Green v. Excellence Coffee Ltd*, the petitioner requested an annulment of his dismissal which was, according to his claim, made in response to his activities in formation of a workers union. The Tel-Aviv District Labor Court held that it must protect the right of workers to form unions, and ordered the petitioner's return to work. According to the Court's decision, "a private employer shall not be forced to employ a worker against his will, and the solution then is usually to grant compensation to the worker. But this is an exceptional case since the respondent's behavior damaged the basic rights of the petitioner, and financial compensation can not heal the deficiency of its behavior. Damage to a constitutional right which is a 'privilege' and goes beyond the worker's economical rights brings about an exceptional result".

418. **Number and structure of trade unions in Israel**. No notable change in the structure of labor movements in Israel has occurred since the submission of Israel's previous report. "The Histadrut" remains the largest and most representative workers' organization in Israel.

419. For further information with regards to the status of trade unions in Israel, please see the report regarding the Covenant on Economic, Social and Cultural Rights.

420. **The right to strike**. Since the submission of our previous periodic report, a significant decision has been handed down as mentioned below, as the Court concluded that a decision of the Minister of Transports' to allow transport operatives other than those on strike to provide transportation in the midst of a cessation of services in the city of Beer-Sheva, caused severe, direct, and intentional damage to the workers' right of association and their right to strike (L.C 57/05 *The New Histadrut v. The Minister of Transport*).

Table 20

Statistics on strikes and lock-outs, strikers and locked-out, work days lost and slow-downs in Israel

Participants in slow-downs	Slow-downs	Work days lost**	Strikers and persons locked-out**	Strikes and lock-outs**	Year
73 621	56	2 011 263	297 882	54	2000
287 401	58	2 039 974	426 560	62	2001
158 590	34	1 488 120	1 647 810	47	2002
562 877	64	2 725 159	1 258 904	60	2003
199 673	55	1 224 423	722 875	49	2004
125 270	44	244 236	103 666	57	2005
187 465	40	136 189	125 730	35	2006

Source: Central Bureau of Statistics (CBS), Statistical Abstract of Israel, 2007.

** Excluding slow-downs.

Article 23. Protection of the family

Measures of protection

421. **Social insurance and entitlements**. As reported in our periodic report, all families residing legally in Israel, regardless of income, are entitled to a "child allowance", a monthly grant which increases with the number of children in the family. The Government policy of drastic cuts in child allowances - the first stage of which was carried out in 2002-2004 - will continue in subsequent years up to 2009. The policy is being partially implemented by means of temporary orders and partially as permanent legislation. By the end of the legislative process in 2009, the allowance will be a set amount for every child in all families, regardless of the child's place in the family. Starting from January 2006, a family with one child receives 148 NIS a month (approximately 44$); a family with two children receives 296 NIS; with three children - 474 NIS; four children - 803 NIS; and five children -1,132 NIS per month. The amount per every child born after June 1, 2003, is 148 NIS constantly. In 2005, 956,294 families received child allowances, amounting to 19% of the total benefits paid by the National Insurance Institution (NII). In 2006, 968,282 families received child allowances, amounting to 17.6% of the total benefits paid by the NII.

422. The NII is also responsible for the payment of income support benefits. In 2006, the NII paid income support benefits to approximately 130,341 families which did not earn the minimum level of income as determined by the Income Support Law, 5740-1980, and which were not covered by other income maintenance programs.

Maternity and paternity assistance

423. From January 1, 2006, women who are unable to work owing to their high-risk pregnancy are to receive a "maternity allowance" for a period of at least 30 days. The amount per day is the

lower of the following two amounts: the basic amount divided by 30 - 232 NIS, (slightly under 70$); or the woman's salary divided by 90. Following the Emergency Economic Plan and the Recovery Plan for the years 2002-2006, the sum of maternity allowance was reduced by 4%.

424. As of January 1, 2005, the National Insurance Institute of Israel pays a maternity grant, which is provided to post-natal new mothers in order to help cover the cost of a layette for the newborn child, directly into the mother's bank account and delivered approximately one month after the date on which she gave birth. The maternity grant was previously paid by means of a check given to the mothers in the hospital in which the birth took place.

425. As of January 1, 2006, a "maternity grant" given to a new mother upon the birth of her first baby, or to the adoptive parents upon adoption, will equal 1,390 NIS, (slightly more than 410$). The maternity grant for a second child will be equivalent to 626 NIS, (slightly over 186$), and for every third and additional child to the family it will be the equivalent of 417 NIS, (slightly over 120$).

426. The National Insurance Institute pays a benefit to a mother who has given birth to three or more children in one birth, and again at the end of a 30-day period after the date of birth, if at least three of these children have survived, the childbirth allowance is paid, in addition to the maternity grant, for the period from the first day of the month following the birth, up until 20 months from this date.

New reproductive technologies

427. In 2006, the birth rate in Israel was 2.9%, (2.8 among the Jewish population, 4.0 among Muslims population, 2.2 among Christians, 2.6 among the Druze and 1.6 among population with no religious classification). During the last decade, the general birth rate remained stable due to a slight increase in the birth rate among Jewish women, and a significant decrease in the birth rate of Muslim, Christian and Druze women.

428. During the last decade, the amount of births by single women continued to increase. In 2005, 3.3 births from 100 were by never-married women, in comparison to an average of 2.3 between the years 1995-1999. It is also notable that the increase was mainly among women above the age of 30.

429. **Fertility Treatments**. There are 24 fertility departments In Israel, 9 in governmental hospitals, 11 in public hospitals and 4 in private hospitals. In 2005, 24,995 cycles of IVF treatment were performed (in comparison to 16,396 cycles in 1998). The ratio of live births in Israel is relatively steady since 1996 (15.8 %), in 2005 it stood at 15.6 %.

430. The accumulative number of applications for surrogate motherhood, as of December 2007, is 450, resulting with 194 children in 160 successful child births (due to 32 labors of twins and one triplet). Out of the 450 applications some were made by couples for the second time after a success or a failure to conceive on the first application. Some of the applications never reached the stage of signing an agreement. At least two of the prospective parents gave birth to children unaided by a surrogate after approval of their surrogacy agreement.

Marriage

431. **Family Matters Court Law**, 5755-1995 (the "Family Matters Court Law"). Until 2001, section 51 of the Palestine Order in Council 1922 provided the Muslim courts with exclusive jurisdiction in matters of personal status including marriage, divorce, alimony, maintenance, guardianship and legitimating of minors. In addition, section 54 of this order endowed the Courts of several Christian communities with exclusive jurisdiction over matters of personal status (i.e., marriage, divorce, alimony, and any other matter of personal status) provided all parties consented to such jurisdiction. In November 2001, the Family Matters Court Law was amended in order to vest jurisdiction over issues of personal status amongst Muslims and Christians in the Family Matters Court. Marriage and divorce however, remain exclusively in the jurisdiction of Muslim and Christian courts and thus constitute the only exception to the amendment.

432. **Minimum marriageable age for men and women**. The phenomenon of underage marriage still takes place in certain sectors of Israeli society, including those of the ultra-orthodox Jews, Jews originating from Georgia and Arabs. According to the Central Bureau of Statistics, in 2004, 1,360 Arab-Israeli girls, younger than 17, were married. Additionally, 44% of Arab women were married before the age of 19. In 2005, the rate of marriage for Muslim girls was more than 2.5 times higher than that of Jewish girls. Also in 2005, 30 requests to allow the marriage of minors were submitted to family matters courts - 17 were approved. During the years 1997-2005, more than a half of the 251 requests for marriage of minors were approved. During the years 2000-2006, 41 complaints were submitted to the Police due to violations of the Marriage Age Law, 5710-1950. In half of these cases criminal files were opened. In all other cases it was decided not to prosecute.

433. **Dissolving of Marriage Jurisdiction Law** (Special Cases and International Jurisdiction), 5729-1969 - This Law, amended in July 2005, concerns the dissolution of marriages where the spouses have different religious affiliations or no religious affiliation at all. Prior to the amendment, spouses with different religious backgrounds wishing to dissolve their marriage had to first apply to the president of the Supreme Court for a determination of jurisdiction. The amendment allows for spouses with different religious backgrounds to apply directly to a Family Matters Court. In appropriate cases, the amendment mandates that the Family Matters Court seek the consul of the relevant religious court to determine whether it is necessary to dissolve the marriage according to the religious laws of either spouse for the purpose of remarriage. The amended Law also defines the international jurisdiction of Family Matters Courts in this matter.

434. **Civil marriages**. On November 21, 2006, the Supreme Court took a significant step of recognizing civil marriages which had taken place between Jewish Israeli residents and citizens outside of Israel (HCJ 2232/03 *Anonymous v. The Rabbinical Court of Appeals*). A Jewish man, who wanted to divorce his wife after having been civilly married outside of the State, turned to the Rabbinical Court which stated that the marriage should not be recognized. The wife, who did not want to divorce her husband, petitioned the decision to the Supreme Court based on her fear of loosing her right to alimony. The Supreme Court determined that the Rabbinical Court could not dissolve the marriage based on the fact that the marriage was not performed according to

Jewish Law. It further noted that civil marriages are indeed valid in Israel and created a status which could not only be considered as for the purpose of registration. This recognition of civil marriages conforms with Israel's obligations according to Article 23 of the Convention.

435. The Supreme Court decided that the Rabbinical Court may dissolve such a marriage and grant a divorce verdict, if it is convinced that it is unfeasible to accomplish domestic peace between the spouses, but it can not do so based on the religious causes for divorce. This sort of divorce can be defined as "divorce with no blame" (not owing to religious causes of blame), and is considered to be rather like a civil divorce. The Supreme Court raised the concern that "divorce with no blame" may damage the right of women to receive alimony, but emphasized that the solution can not be found through retaining the institution of formal marriage. Instead the economic aspects of the relationship should be resolved in a Family Matters Court, rather than as part of a divorce procedure in the Rabbinical Court.

436. **Spouses**. On April 15, 2007, the Nazareth Family Matters Court rejected a lawsuit brought by the two children of a deceased man against his second wife. In the claim, the children requested the rights to a property of their father's which the 2nd widow had inherited (Nazareth F.C 001180/04 *A.Z and P.Z v. V.Z and the Land Registry*). The plaintiffs claimed that their father's widow had a new spouse, and that according to a condition in their father's testament, she lost the right to the property under those circumstances and the children were subsequently to inherit it.

437. The Court held that the meaning of the word "spouse" as it appeared in the testament should be interpreted as 'a relationship characterized by economic management of a family unit, stemming from a joint family life'. This meaning complied with the testimony's objective that the children would inherit the property only if the wife developed a serious and permanent relationship with her new partner, similar to the one she had with the deceased.

438. The Court decided that in this case, the relationship between the respondent and her partner was based on friendship and intimacy, but could not be characterized as incorporating the economic management of a joint family unit. Therefore, the new couple could not be considered as "spouses" according to the terms of the testament, and the lawsuit was rejected.

Article 24. Protection of children

439. By the end of 2006, 2,365,800 children made up 33.2% of the total population of the State of Israel, in comparison to 33.8% in 2000. Despite the growing number of children in Israel, their percentage of the total population has continued to decrease since the 1970's (39.2% in 1970). This decrease is among all religious groups, including Muslims where the percentage of children decreased from 58.7% in 1970 to 48.7% in 2006. In 2006, 8.5% of all children in Israel lived in a single parent family, in comparison to 6.8% in 1995. The number of children who immigrated to Israel since 1990 and presently reside in Israel is 90,000.

440. Indication of information concerning the implications of legislation can be found in the Rights of the Child Law, 5762-2002. This Law requires the systematic inclusion of explanatory notes in every bill regarding its expected implications on the rights of children.

Welfare services maintain

441. In January 2007, there were 418,527 children known to the social services departments, this consists of nearly 20% of all children in Israel. From January 2001 to January 2007, there was an increase of 44% in the number of children in the social services system. 326,588 children were defined by the social services departments as “children at direct risk or family risk” - indicating that the child’s development and his reasonable manner of life are at risk and he may require assistance.

442. Welfare Services in the Criminal Process. In 2006, the Police opened 35,397 files against minors: 21,433 were criminal files (59.6%) of which 14,504 were closed without prosecution (40.4%). During the years 2004-2006, there was a significant decrease of 11% in the number of cases in which minors were involved. Between 2003 and 2006, the percentage of criminal and non-prosecution files opened against minors due to violent offences increased from 42.6% to 50.2%, while the percentage of files opened against minors involving property offences diminished from 34.7% to 28.7%.

443. In 2006, minors were represented by the Public Defender’s Office in 11,956 proceedings in comparison to 6,708 in 2001. Between 2001 and 2006, the number of these proceedings nearly doubled - with the most significant increase in the Haifa District (+185%).

444. It shall be clarified, that the Rights of Children at Risk to Services Law, detailed in our previous periodic report, was approved in first reading, but eventually was not enacted by the Knesset in contrast to the information indicated in our previous periodic report.

445. Since the submission of our previous periodic report, there have been some legislative changes concerning investigations of minors under 14 years of age by children’s investigators of the Ministry of Social Affaires and Social Services. Currently, investigations of children are held in violence offences; sex, prostitution and indecency offences; offences related to violations of parental duties and offences of abuse.

Child abuse

446. In 2006, 8,222 children that had been victims of sexual and violent offences under the age of 14 were investigated by a children’s investigator, in comparison 8,328 victimized children underwent investigation in 2005 and 5,704 children in 2000. Despite the gradual increase in the number of children interrogated by a children’s investigator, the percentage of girls interrogated has declined from more than two thirds of the investigatees in 1990 to less than half in 2005. Out of all children interrogated, 55% were victims of abuse within the family, 30.3% were victims of sex offences, 9.4% were witnesses of sex offences, and 5% were suspects of committing sex offences.

447. A 2001 Amendment expanded the Evidence Procedure Revision (Protection of Children) Law 5715- 1955 (section 1a), and determined that a child could be investigated by a children’s investigator concerning related offences. The expansion was designed to prevent a situation in which a child might be investigated by a children’s investigator concerning an offence included in the Law (sex and severe violence offences), but could not be investigated concerning a related offence - a situation which invariably led to a splitting-up of the investigation.

448. A 2004 Amendment made several other changes, including:

448.1. The implementation of special procedures allowing children to testify in court, in relation to offences to which the law applies (section 2d). In this regard, the child's testimony will be permitted by the children's investigator subject to certain conditions being met. The investigator may require for example, that the child testifies via closed circuit television, on one specified date, not on the witness stand, in the judge's chamber, and so on.

448.2. Decisions of the children's investigator and the Court concerning testimony and testimonial measures, will be concluded only after hearing the opinion of the child, if he/she can express his/her own opinion. The child's opinion will be weighed according to his age and his maturity (section 2f).

448.3. Once the children's investigator reaches a decision as to the child's testimony, he must, without delay, re-evaluate his decision in respect of; admission of the child's testimony if he has allowed the child to testify, or the trial, if he has prohibited the child's testimony (section 2g).

448.4. A decision of a childrens's' investigator may be re-examined by a senior children's investigator (section 2h).

448.5. A children's investigator must provide substantial reasons for his decisions.

449. A 2004 Amendment constituted the rule that investigation of a child must be conducted with his/her parent's knowledge, except in certain circumstances. For example: if there is concern as to any damage to the child's physical and mental wellbeing, if the suspect is a family relative and there is a concern of possible damage to the child, and if there is substantial difficulty in informing the parent by reasonable effort and the delay might foil the investigation or any crime prevention (section 4a). In addition, the amended Law states that if an investigation without the parent's knowledge is required, the child may, under specific conditions, be taken out from the place where he is staying (school, kindergarten, etc.). The conditions include such requirements as having had consultation with education workers who know the child, supplied explanations to the child, provided identification details of the children's investigator to the administrator of the place, etc.

450. A 2005 amendment stated that a child with a mental disability is to be investigated by a special children's investigator in accordance with the Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability).

451. Section 361 of the Penal Law was amended in 2001 (Amendment 59), and now determines that leaving a child under the age of six years old without appropriate supervision is a criminal offence.

452. **Sexual abuse**. Since 2002, there have been several Amendments to section 354 of the Penal Law concerning restrictions on limitation in sex offenses against minors. Currently, the Law states that in the case of offenses committed against a minor by a person responsible for the

minor, the limitation period shall begin when he reaches the age of twenty eight. If the offenses were committed by a person above the age of fifteen who is not a relative, or responsible for the minor, the limitation period shall begin when the minor reaches the age of eighteen. In addition, a 2001 Amendment (Amendment 61), to the Penal Law removed the element of 'use of force' from sex offenses, which has effectively moved the focus of the investigation to absence of consent. A 2003 Amendment (Amendment 77), also added an offence concerning the sexual exploitation of a patient by a mental therapist (Section 347a).

453. **Child prostitution**. Section 214 of the Penal Law was amended in 2007 (Amendment 93) and the short two-year limitation period for submission of indictments concerning pornographic advertisements of minors was annulled. It was additionally made illegal to use minors in pornographic advertisements (sections 214b-214b(3)).

454. The Penal Law was amended in 2006 so that section 15 now applies the principal of extraterritoriality to pornography and prostitution offences committed against minors. It is currently possible to try offenders in Israel for such offences, even though the act might not constitute a criminal offence in the country in which it was performed.

455. **The Committee for Examination of the Conditions of Children at Risk**. According to a Government Resolution from January 2004, Israel former Prime Minister and former Minister of Social Affairs, appointed a public committee for the examination of conditions of children and youth at risk or in distress. On September 12, 2006, following a report submitted by the committee in March 2006, the Government accepted Resolution Number 477 for the gradual implementation of a plan recommended by the committee. In 2007, the implementation of the plan began in several towns in Israel with a special annual budget of 200 million NIS.

Protection of children in legal proceedings

456. **The Committee to Examine Fundamental Principles Concerning Children and the Law, and Their Implementation in Legislation**. In June 1997, the former Minister of Justice appointed a "committee to examine fundamental principles concerning children and the law, and their implementation in legislation". The minister appointed this committee to thoroughly examine Israeli law as it pertains to the rights of the child and the child's legal and welfare status in light of the principles set down in the UN Convention on the Rights of the Child. The committee comprised of senior public and other officials from a variety of fields and was headed by Justice Saviona Rotlevi, Deputy President of the Tel-Aviv District Court. In 2003, six reports prepared by sub-committees were submitted to the Minister of Justice: representation of children in civil proceedings, out-of-home placement, the child and his family, education, the child in criminal proceedings and a general report. Since the submission of the reports, their implementation began gradually.

457. On June 1, 2007 a pilot program for the implementation of the recommendations regarding the participation of children in Family Court's proceedings commenced operation in the Haifa and Jerusalem Family Courts. The pilot program operates in cooperation with the Courts Administration within the Ministry of Justice, the Assistance Units to the Family Courts within the Ministry of Social Affairs and Social Services, and Ashalim (a non-profit organization).

458. The participation of children in decision-making regarding their future, is done according to the Committee's recommendations, with the assistance of the Department for Child Participation, which is composed of social workers and psychologists, and operates in the framework of the Assistance Units to the Family Courts.

459. In assembling the pilot, the unique characteristics of the participation of children were taken into consideration, and it was built in a way that allows follow-up and revision on each component of the program, while comparing the different alternatives, in order to reach conclusions regarding the optimal ways to exercise the participation rights of the child and to observe the child's other rights and best interest in the framework of the Family Court's proceedings.

460. On December 3, 2007, the Minister of Justice signed the Civil Procedure Regulations (Temporary Order) 5767-2007, which adds chapter K2 to the Civil Procedure Regulations 5744-1984 and regulates the procedures for children's participation in the chosen Family Courts for the duration of the pilot.

461. On June 5, 2006, the Supreme Court overturned a decision made by the Shari'a Court, which gave the custody of three young children to their father, without any factual basis concerning the children's condition (HCJ 1129/06 *Anonymous v. The Shari'a Court of Appeals*). The Court held that the "child's best interest" constitutes a basic principle of the Legal Capacity and Guardianship Law, 5722-1962 (the "Legal Capacity and Guardianship Law"), in cases of child custody, and the Supreme Court thus considered that any decision concerning children must be based upon a proper factual basis.

462. In this instance, the Shari'a Court gave a Muslim father who divorced his wife, custody of their three children, in accordance with a Muslim presumption that the best interests of a boy over 7 years of age and a girl over 9 years of age, are served by remaining with their father. The Supreme Court decided that this presumption contradicts the Legal Capacity and Guardianship Law, which states that the issue of child custody must be decided in accordance with their best interests as defined by that Law, and their best interests only. This decision is in alignment with the obligation to protect children in the case of dissolution of marriage, and as a result of their status as minors, as accorded by Articles 23 and 24 of the Convention.

Education

463. **Removal of pupils**. In 2004, the Minister of Education published Regulations regarding the removal of pupils from the educational system (Compulsory Education Regulations (Rules for the Permanent Removal of a Pupil Due to School Achievement)) 5765-2004.

464. These Regulations include a prohibition on removing a pupil in the 1st-6th grades from school due to lack of achievement in studies. Regarding pupils in the 7th-12th grades, removal from school shall not be made on the basis of lack of achievement unless the pupil fails at least 70% of the mandatory subjects for that school year, and if the failure did not occur due to illness, death of a family member, separation or divorce of the pupils parents or other exceptional event which, according to the educational personnel, led to the failure.

465. The principal of the school from which the pupil is removed, and the Head of the Local Council's Education Department, will make an effort to find an alternative educational system best fitted for the pupil upon removal. This shall be done in accordance with the Pupils Rights Regulation (Publishing Orders and Pupil Removal), 5762-2002.

466. The Pupils Rights Regulation (Publishing Orders and Pupil Removal), 5762-2002, establishes rules regarding the removal of pupils from school. Among them is the necessity of performing a hearing before finalizing the removal decision. The pupil or his parents can file an appeal with the Head of the Ministry of Education's District, according to section 6(a), and a hearing should be held within 14 days according to the provisions of section 6(b) before a hearings panel. The pupil and his parents may state their claims in person or by an appointed person.

467. **Special education**. In 2002, the Knesset approved an amendment to the Special Education Law, 5748-1988 (the "Special Education Law"), according to which a pupil with special needs integrated in the regular school system, is entitled to a supplement in tutoring and studies, as well as special services such as psychology services, aid services, medical services or any other service which the Minister of Education, after consulting with the Minister of Health and the Minister of Social Affairs and Social Services, sets in a directive (The Special Education Law (Amendment No. 7), 5763-2002).

Table 21

Population with 0-4 years of education, 2006

Arab sector				Jewish sector			
Years of schooling (percentages)			Gender and age	Years of schooling (percentages)			Gender and age
1 to 4	0	Thousands	Women	1 to 4	0	Thousands	Women
4.4	9.6	415.6	Total	1.1	2.8	2 118.5	Total
-	-	41.5	15-17	-	-	123.7	15-17
-	2.0	82.0	18-24	-	0.3	300.8	18-24
1.1	2.8	106.8	25-34	0.3	0.6	407.3	25-34
2.4	5.3	78.8	35-44	-	0.9	326.4	35-44
10.1	10.9	50.6	45-54	-	1.5	330.1	45-54
20.8	31.0	30.8	55-64	1.1	2.1	260.3	55-64
13.5	61.7	25.1	65+	4.6	11.5	370.0	65+
1 to 4	0	Thousands	Men	1 to 4	0	Thousands	Men
3.4	2.7	425.6	Total	0.9	1.4	1 985.5	Total
-	-	43.7	15-17	-	-	130.8	15-17
-	-	85.4	18-24	-	-	312.3	18-24
1.8	1.5	110.2	25-34	-	0.4	414.9	25-34
1.4	1.5	82.5	35-44	-	1.1	314.3	35-44
4.5	2.3	51.4	45-54	0.4	1.0	304.5	45-54
11.2	8.2	29.1	55-64	1.0	1.8	236.4	55-64
22.4	18.3	23.3	65+	4.1	5.7	272.3	65+

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

Table 22

Age group 17 - percentage of matriculation candidates and those entitled to a matriculation certificate, 2006

Entitled to a matriculation certificate	Matriculation candidates	
53.8%	83.4%	Total
55.1%	82.2%	Jewish education
47.2%	89.9%	Arab education (total)
50.3%	92.6%	Druze
63.9%	95.5%	Arab Christians
44.9%	89.5%	Muslims

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

468. **The Free Education for Sick Children Law** 5761-2001. This Law is aimed to advance equal opportunity in education for sick children and provide a suitable educational framework for children in hospitals or at home due to long term illness. According to the Law, the Minister of Education will introduce a special educational program for sick children to be implemented in their own homes or in hospitals with the consent of the parents.

Family violence

469. A 2002 Amendment to the Penal Law imposes a more severe punishment for violation of a judicial order when the order was made for the protection of a person's life or wellbeing. The punishment for violating a judicial order is currently set at two years imprisonment, and - the punishment for violation of an order made in protection of a persons' life or well being, is now four years imprisonment. The relevant orders are mostly protection orders based on the Prevention of Family Violence Law 5751-1991 (the "Prevention of Family Violence Law").

470. A 2000 Amendment to the Prevention of Family Violence Law, (Amendment 5), states that a restraining order will include a prohibition against carrying a weapon. Before the above amendment was enacted, the prohibition against carrying weapons was subject to judicial consideration (sections 2b to 2f of the Law).

471. A 2001 Amendment to the Prevention of Family Violence Law, (Amendment 7), states that a doctor, nurse, educator, social worker, police officer, psychologist, clinical criminologist, paramedic, lawyer, religious cleric or rabbinical pleader, who, pursuant to any treatment or advice provided to an individual within their professional capacity, has reason to believe that the individual has been the victim of a crime perpetrated by his or her spouse, or by a former spouse - the said professional will inform the patient that they may turn to the Police, department of social services, or family abuse prevention centers within the department of social services, and will provide him with the telephone numbers of the said parties that are located near his place of residence.

472. The Prevention of Stalking Law implements another civil procedure, in addition to that anchored in the Prevention of Family Violence Law that enables the Court to issue restraining

orders against stalking. The Prevention of Stalking Law is not directed towards familial relationships only. According to the Law, if the Court finds an individual guilty of stalking, it is entitled to place a restraining order on that individual prohibiting them from committing any of the stalking acts specified by the Law.

Children with disabilities

473. **General**. In 2007, 293,000 disabled or chronically ill children resided in Israel, composing 12.8% of the total child population of the country. Approximately 176,000 children (out of the 293,000), were disabled or suffered from a chronic illness that affected their daily function that had persisted for more than one year. These children made up 7.7% of the total child population.

474. The percentage of children with special needs who have at least one disability, stand at 9.1% among Bedouin children (in the southern Negev area), 8.3% among the total population of Arab children and 7.6% among Jewish children.

475. Between the years 2001-2005 there was a drop in the rate of children with special needs who were sexually assaulted or were the victim of family violence (from 11.2% to 9%).

476. In comparison to western countries, in Israel there are relatively high rates of children born at a very low weight. The rate of children born with low birth weights grew from 15.8% (on average) in 1995-1998 to 18% in 2005.

477. About 25% of children with special needs live with two unemployed parents, in many cases the parents depend on income support pension.

478. **Education**. In Israel there are approximately 46,000 pupils in the special education system: special kindergartens, special schools and special classrooms in regular schools. Between the years 2002-2005 the rate of school pupils in special schools and special classrooms in regular schools grew by about 16%. The number of kindergarten aged children in special kindergartens in those years also grew by about 26%.

479. Among the special education children, the number of children with learning deficiencies makes up 38% of the total number of children with special needs. Most of the children in this group study in special classrooms in regular schools. Another significant group in the special education system is children with mental retardation who consist of roughly 20% of the system.

480. As mentioned, the Special Education Law was amended in 2002 and a chapter dealing with integration of children with special needs was added. The purpose of the amendment was to equalize the services given to children that are integrated in regular schools to those given to children in the special education facilities. Moreover, the amendment obligates the Placement Committee to prefer the placement of a child with disability in a regular educational facility. Among the purposes of the amendment is the integration of children with disabilities within the regular education system while enlarging the budget set for the purpose from year to year. So far, The amendment applies thus far to school age children and children from the age of 5 years.

481. The Dorner Committee, a public committee established to examine the special school system in Israel, which operates these days, was established in order to examine the Ministry of

Education's policy towards the issue of children with special needs, examine the allocation of the Ministry's budget in treating these children, draw a plan for action, set a list of priorities to action in this regard, all while considering the restriction of the current budget of the Ministry.

482. Recently, the Rights of Pupils with Learning Disabilities in Secondary Education Facilities Law, 5768-2008 was enacted. This Law asserts the rights of pupils with learning disabilities to adjustments in the criteria for admission to secondary education facilities (academic, technological, rabbinical, or professional), in the exams and other assignments throughout the school years.

483. **Special education in the minorities sectors**. According to information from the Ministry of Education, a structural discrimination towards children from the Arab and Bedouin Sectors does not exist. All the relevant procedures within the framework of the circular of the Ministry of Education's General Manager, apply equally to all sectors of the populations.

484. Over the last several years, the achievements of school pupils with special needs (at the 5th and 8th grade levels) that were integrated in to regular schools were significantly lower than the achievements of children without special needs (10 to 20 points less in their tests results in mathematics, science and Hebrew/Arabic).

485. Children with special needs are absent from school for longer periods of time during the school year. About 25% of special needs children lost 4-7 days of schooling in the first three months, 19% lost 7 days of school and another 14% lost in between 14 days and 3 months of schooling.

486. **Health care**. About 18% of children admitted to general hospitals with a stay of 21 days or more, were hospitalized in psychiatric and rehabilitations wards. In 2004, 756 children were hospitalized for psychiatric reasons.

487. **Sexual and family violence**. The percentage of children with special needs who were sexually molested, assaulted or were the victim of family violence and were interrogated by a special children investigator (9%), is higher than their rate in the total children population in Israel (7.5%).

Foreign workers' children

488. In 2004, more than 2,000 children of foreign workers lived in Israel, 80% of them under 5 years old. In July 2007, 975 children of foreign workers under 5 years old were treated in family health care centers in the city of Tel-Aviv. In 2005, 1,300 children of foreign workers received health insurance from "Meuhedet" Health Maintenance Organization.

489. Since the submission of Israel's previous periodic report, there has been some progress in the legal status of foreign workers' children. Government Resolution 3807, dated June 26, 2005, was amended by Government Resolution 156, dated June 18, and states the following:

> Upon request, the Minister of the Interior is entitled to grant permanent residency status to children of illegal immigrants who have been part of Israeli society and culture, if they fulfill the following conditions:

(a) The child has lived in Israel for at least 6 years (as of the date of the Resolution), and have entered Israel prior to the age of 14. A short visit abroad will not be viewed as an interruption of this time period;

(b) Prior to the child's entry or birth, the parents must have entered Israel legally, and with an entry permit in accordance with the Entry into Israel Law;

(c) The child speaks the Hebrew language;

(d) The child is in first grade or above, or has completed his studies;

(e) Those filing the request will be required to submit documentation or participate in hearings, in order to prove that they fit the abovementioned criterion.

The Minister of the Interior can grant temporary residency status in Israel to the parents and the siblings of the child, as long as they have lived in the same household from the child's day of entry or birth in Israel, and are in Israel as of the date of this Resolution. If there is no reason for objection, the temporary residency status will be renewed until the child reaches the age of 21. At that point, the parents and the siblings will be entitled to file a request for permanent residency status.

490. As of August 9, 2007, approximately 826 requests have been filed of which 402 were accepted, 402 were rejected and 22 remain pending due to lack of adequate documentation. In the case of 324 rejected requests, appeals were filed to the committee of appeals which has to date reviewed 307 of the cases. On review 110 applications were accepted by the Ministry of the Interior, and 113 rejected. A further 24 appeals were referred to the committee which reviews humanitarian issues, and 60 appeals are currently under review.

Article 25. Access to the political system

491. On February 28, 2006, the Central Elections Committee rejected a petition against the participation of the "United Arab List-Arab Democratic Party" in the March 2007 elections. The petition was submitted by members of the right wing parties following a statement made by the chairman of the Arab party, Sheikh Ibrahim Sarsur, in which he expressed his support for Islam and an Islamic regime in Israel and called for respect of the Palestinian terrorist Hamas Government. The Chairperson of the Central Elections Committee, Justice Dorith Beinisch, held that Sheikh Sarsur spoke very severely and expressed a damaging view. Nevertheless, the standard for dismissal of the right to elect and be elected is very high, and so must be the degree of evidence required to dismiss that right. Therefore, the Committee approved the participation of the "United Arab List-Arab Democratic Party" in the elections.

492. In the framework of the television campaign for the 2006 general elections of the 17th Knesset, the Chairman of the Central Elections Committee, Justice Dorit Beinisch, decided to disqualify a broadcast of the "Shinui-the Center Party" in accordance with section 15(d) of the Elections Law (Propaganda) 5719-1959. The decision was approved by the Supreme Court on March 12, 2007, following a petition of the "Shinui - Liberal Party" against the disqualification of their television broadcast (HCJ 2194/06 *The Shinui Party-the Centre Party v. the Chairman of the Central Elections Committee, Justice Dorit Beinisch*). The

contested broadcast showed ultra-orthodox Jews attached to the legs of, and crawling down the street behind, a secular Jew as he walked down the street on his way to vote. At the end of the segment, the ultra-orthodox Jews were seen evaporating as the secular Jew drops a ballot of Shinui into the ballot box.

493. On June 28, 2006, the Supreme Court delivered its reasons for rejecting the petition. It held that a broadcast in the framework of an election campaign is entitled to special protection since it is a political expression in a time of very important and significant exchanges of ideas and opinions. However, the Court went on to hold that this specific broadcast was an exceptional example, which caused damage to public emotions, humiliation, and degradation amounting to a severe infringement on the right to human dignity, and should therefore not be protected. The Court expressed its outrage at the broadcast which was reminiscent, in its view, of anti-semitic propaganda in which the ultra-orthodox Jew becomes a faceless person, a "non-human" who crawls on the floor and sticks to the secular person as if he was a leech.

Article 26. Equality before the law

494. **Elimination of discrimination in the private sphere**. Since the submission of Israel's previous report, reference to the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law, 5761-2000 (the "Prohibition of Discrimination in Products, Services and in Entry to Public Places Law") has grown. Some of the most noteworthy examples are as follows.

495. In the case of C.C 47045/05 *Tokov Ariel v. Oltim Asakim Ltd. et. al*. the petitioner and his friend had not been allowed to enter the "Partizan" night club on two separate occasions owing to subjective selection criteria for guests at the point of entry. The Court ruled that the "Partizan" night club should be considered as a public place, and that when balancing between the club owners' liberty and right to property, and the value of equality, the latter should prevail despite private ownership of the business. The Court held that the respondents' refusal to let the petitioner enter the club while others were allowed entry, effectively discriminated against him. The Court ruled that the respondent should pay 15,000 NIS in compensation to the petitioner based on the Prohibition of Discrimination in Products, Services and Entry to Public Places Law.

496. In the case of C.C 12482/04 *Mizrahi Yitzhak v. Kibbutz Ramot Menashe et. al*. - the petitioner requested to enter the "Terminal" night club located in Kibbutz Ramot Menashe, but was denied entry even though concurrently others were allowed entry. The petitioner claimed that his entry was denied owing to the dark color of his skin, his race, and his ethnic origin. The Court held that the respondents' behavior inflicted grave damage on the basic right of equality, and further damaged the moral standards that every enlightened society desires to institutionalize as part of its basic principles and the way of life of its citizens". The Court held that the personal suffering of the petitioner and the damage to his dignity should not be overlooked and ruled that the respondent will pay 50,000 NIS in compensation in accordance with the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law. An appeal against the Magistrate Court's ruling was completely denied by the Haifa District Court on January 7, 2008 (C. Appeal 003742/06 *Kibbutz Ramot Menashe et al. v. Mizrahi Yitzhak*).

497. In the case of Opening Motion 110/06 *The Israel Watchtower Association Ltd. v. The International Convention Center-Haifa et al*. it was noted that between the years 2000-2005, the respondent allowed the Jehovah's Witness's community in Israel to use the conference hall of

the Haifa International Convention Centre for its conferences. As a result of opposition from certain religious Jewish groups in Haifa, and following an application of the city's Mayor, the respondent decided not to continue to allow the applicant to hold its conferences in the convention centre. The applicant requested the Court to grant an order prohibiting the respondent from discriminating against it based solely on religious considerations. In response, the respondent claimed that it was allowed to refuse the applicant's requests for use of its facilities since it was a "private body" and eligible to freedom of contract, based on business considerations.

498. In its decision, the Court held that the respondent was not a private body but a public one, and that its discrimination against the applicant was completely invalid and in contradiction of the principles of equality and equity. In addition, it contradicted the provisions of the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law. Therefore, the Court accepted the motion and granted an order prohibiting discrimination against the applicant.

499. In the case of C.C 5244/02 *Bugle Natan et al. v. the Ministry of Education et al*. it was found that on the relevant submission date of the petition, the education system applied an integration policy for pupils of Ethiopian origin, setting a maximal quota of 25 percent per school. The petitioners, a married couple whose son was born in Israel, wanted to register him at a specific school, but were denied and had to register him in a different school, as a consequence of the integration policy of that time. The petitioners claimed that the integration policy applied to pupils of Ethiopian origin only, regardless of the date of their arrival in Israel, lacked any relevant criterions and was based entirely on the Ethiopian origin of the pupil. Therefore, this discrimination harmed their right to equality and dignity, and contradicted the provisions of Basic Law: Human Dignity and Liberty, section 5 of the Pupil's Rights Law, and section 3 of the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law, 5761-2000.

500. In its decision, the Court held that the refusal to register the petitioners' son in school because of his ethnic origin when the registration was open to other ethnic groups living in the school's area did equal discrimination in the provision of a public service. The respondents violated the provisions of the Prohibition of Discrimination in Products, Services and in Entry to Public Places Law, and the petitioners were entitled to be remedied according to the Law. However, the Court held that in this case the petitioners' son had not suffered any personal damage, since his parents preferred not to share with him their pain and feelings concerning his discrimination. Therefore, no compensation was awarded.

Rights of people with disabilities

501. **The Commission for Equal Rights of People with Disabilities**. Since Israel's previous periodic report, the Commission for Equal Rights of People with Disabilities (hereinafter: "the Commission") was established, its powers were broadened and the number of its employees increased. The Commission, headed by a commissioner, includes three main units: Accessibility, Integration in Society and the Legal department. The Commission's work is aimed at promoting public policies regarding the rights of people with disabilities as well as providing assistance to individuals who encounter difficulties. Alongside the Commission operates a steering committee, composed mainly of people with different disabilities who represent the main organizations operating in the field.

502. **Legislation**. On February 23, 1998, the Equal Rights for People with Disabilities Law was enacted by the Knesset, establishing, for the first time, the statutory right to equality and human dignity of people with disabilities and creating a new system of obligations for the State of Israel vis-à-vis its disabled citizens. The Law was amended in 2004 so that the temporary provision of adequate representation of people with disabilities in the work force will apply for 12 years from the day that the Law entered in to force (7 years before the amendment).

503. In 2005 the Law was amended again, this time a new section was added - section E1 - Public Places and Public Services. This section incorporated many new and important elements into the main law, including: prohibition of discrimination in public services, in public places and products, accessibility of public places, accessibility to public services, restrictions on the statutory duty of accessibility and accessibility to education and higher education institutions and education services. This came in addition to the regulations regarding insurance contracts, road accessibility, accessibility to emergency services, accessibility to public transportation, state participation in financing adjustments, accessibility coordinators and authorized personal, authorities of the Commissioner, penalties, legal prosecution and other issues. The Law was amended again in 2007.

504. In 2005, the Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability) was issued. This is a precedential law which regulates methods adjusted to investigate people with mental or intellectual disabilities and also adjusted methods for their testimonies. The Law applies to all suspects, victims and witnesses, to specific offences enumerated in the Law (violence offences, sexual assaults and prostitution). The implementation of the Law on victims and witnesses will proceed gradually until the year 2010.

505. In December 2007, the Prohibition of Slander Law 5726 - 1965, was amended by the Israeli Knesset. According to the revised law, making a mockery of, or humiliating persons with disabilities because of said disability - whether it is a psychological, mental (including cognitive) or physical, permanent or temporary, shall be considered unlawful and prohibited slander.

506. In this context it should also be noted that as a signatory to the UN Convention on the Rights of Persons with Disabilities, Israel is currently reviewing its legislation in this field, in order to assess which adjustment need to be made in its domestic law as part of the process of considering ratification.

Employment of people with disabilities

507. According to the Commission for Equal Rights of Persons with Disabilities, most adults with disabilities are of employment age, yet make up roughly one fifth of the total work force in the state of Israel. The rate of employment among persons with disabilities is lower than that of the rest of the population, especially among those with severe disabilities, contributing to increased levels of poverty and social exclusion. Furthermore, the rate of unemployment among the disabled population is very high, especially for persons with severe disabilities.

508. Recent data shows a moderate improvement in the rate of employment among persons with disabilities, especially among those with severe disabilities (36% in 2002, compared to 42% in 2005).

Table 23

Employed persons, unemployed persons and persons not in the workforce by severity of disability, ages 20-64 (percentage) 2005

Persons not in the workforce	Unemployed persons	Employed persons	
25.0	5.7	69.3	Without disability
25.8	6.2	69.9	With a problem, but without disability
41.1	6.7	52.1	Moderate disability
58.1	8.4	33.4	Severe disability

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

Table 24

Unemployed persons out of the workforce, ages 20-64 (percentage) 2005

Unemployed persons	
20.0	Severe disability
11.4	Moderate disability
8.4	With a problem, but without disability
7.6	Without disability

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

509. **Employment of persons with disabilities by gender**. Examination of the relative employment status of men and women with disabilities shows no significant difference between them. However, when comparing persons with disabilities to persons without disabilities there are differences among the genders. The rate of employment of women between the ages of 20-64 stands at about 80% of the rate of men.

510. The National Insurance Institute (NII) is in charge of payment of pensions to certain populations, as defined by law and regulation. The general disability pension is designed to act as minimum income to provide for daily existence for persons with disabilities.

Table 25

Persons with disabilities in Israel by severity of disability, employment and type of pension, ages 20-64 (percentage)

Unemployed persons			Employed persons			Severity of the disability	Type of pension
Receiving pension	Not receiving pension	Total	Receiving pension	Not receiving pension	Total		
25.2	41.3	66.5	3.4	30.0	33.5	Severe	General disability pension
9.0	38.5	47.5	1.5	51.0	52.5	Moderate	
15.1	39.6	54.7	2.2	43.0	45.3	Total	
41.3	25.2	66.5	6.2	27.3	33.5	Severe	Other pension from the National Insurance Institute
23.3	24.2	47.5	4.9	47.6	52.5	Moderate	
30.1	24.6	54.7	5.4	39.9	45.3	Total	

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

511. The rate of unemployed persons with disabilities that do not receive any pension from the NII is substantial at 171,000 people. The majority of the people in this group do not live independently, instead they are residing with their family and not on their own, two-thirds are under the age of 50, and two-thirds are women. 40% of the people in this group are Arab and 60% are Jewish.

512. Assessments of income per capita show that the average income per capita in households where severely disabled persons live stands at 60% of that of households that do not contain disabled persons, and 70% of that of households in which moderately disabled persons live.

Table 26

Average income per capita (net) of households of persons with severe disabilities, as percent of income of persons with no chronic health problem or disability, 2002-2005

2005	2004	2003	2002	Disability
100	96	99	98	With a problem but not a disability
84	85	83	84	Moderate disability
57	59	62	65	Severe disability

Source: State of Israel, Ministry of Justice, the Commission for Equal Rights of Persons with Disabilities. Persons with Disabilities in Israel, 2007.

513. In two precedents given in 2006, the Tel Aviv and the Haifa Labor District Courts ruled that people with intellectual and/or mental disabilities, who work for private employers, are not to be regarded as “volunteers” but as “workers” entitled to employer-employee relationship and the applicability of all relevant labor laws. In both decisions, the employers were obligated to retroactively compensate the disabled and provide their inherent rights as employees. (L.C (Tel-Aviv) 10973/04 *Goldstein v. Na’amat*: L.C (Haifa) 3327/01 *Roth v. Ram Buildings Ltd*).

514. On July 10, 2005, the Nazareth District Labor Court ruled that the phrase “adjustment” as intended by section 8 to Equal Rights for People with Disabilities Law, is not limited to the physical adjustment of structures, equipment or accessories but could also mean “economical adjustment”, which the Court interpreted as adjusting the salary to the disability of the employee, according to the extent of his work. Thus, the employer is obligated to continue employing an employee who became disabled, while continuing to pay him the same salary, even if there is a decrease in the extent of this work due to the disability, unless the employer can prove that it imposes an unreasonable burden on his business (L.C (Nazareth) 1732/04 *De Castro Dekel v. M.B.A Hazore’a*).

515. In L.C 2968/01 *Balilti v. Jerusalem Post Publications Ltd*, the Jerusalem District Labor Court held that within the duty to ensure proper representation of people with disabilities according to section 9 of the Equal Rights for People with Disabilities Law, the employer should give priority to persons with disabilities when performing cutbacks (L.C 2968/01 *Balilti v. Jerusalem Post Publications Ltd*).

516. As discussed in Israel's previous periodic report, the Electricity Supply Law (Temporary Order) 5756-1996, was enacted to solve the problem of providing electricity to Arab and Druze citizens whose houses had been built without building permits, and were consequently not connected to the central electricity grid. This law was amended in 2001, extending the temporary supply for a period of 7 years. In 2004 the Law was amended again, so that the extension would cease as of May 31, 2007.

Land allocation

517. The Supreme Court ruling in H.C.J. 6698/95 *Ka'adan v. The Israel Lands Administration (ILA)* was discussed in Israel's previous periodic report. In response to that judgment, the ILA, in cooperation with the Jewish Agency for Israel, issued new admission criteria to be uniformly applied to all applicants seeking to move into small, communal settlements established on State-owned land. These criteria stipulate that the applicants must be over the age of 20, have applied as an individual or a couple (including families), maintain sufficient economic resources and maintain suitability for a small communal regime.

518. If the Committee rejects an application for admission, the reasons for rejection are to be based upon an objective, professional, and independent opinion. Any criterion for admission is to be assessed in advance by the Administration and publicized.

519. The decisions of the committee are subject to review by a Public Appeals Committee, which is to be chaired by a retired judge. Application forms, and rules of procedure of the Appeals Committee, are to be made available to the public.

520. Four years after the abovementioned ruling, ACRI submitted an additional petition on behalf of the Ka'adan family, claiming that state agencies had been preventing the family from purchasing land in contradiction to a previous Supreme Court ruling specifically prohibiting discrimination between Jews and Arabs in the distribution of land. As a result, the Director of the ILA informed the petitioners that the Ka'adan family could purchase a plot of land, and build their home in the Katzir communal settlement at the April 1995 market rate, being the date the family first requested to purchase land.

521. On April 26, 2006, the Supreme Court additionally made the ILA pay the petitioner's court expenses which amounted to 30,000 NIS (H.C.J 8060/03 *Ka'adan v. The Israel Lands Administration, the Jewish Agency, Katzir Cooperative Society and Katzir Community*).

Appropriate representation

522. **The Civil Service**. As mentioned in Israel's previous periodic report, minorities and underrepresented populations such as women, the disabled, and the Arab, Druze and Circassian population shall be represented according to their proportion in the eligible work force population under the Civil Service (Appointments) (Amendment No. 11) (Proper Representation) Law, 5760-2000. The civil service must maintain appropriate representation regarding appointments of minority groups, as well as in the distribution of professional ranks with regard to specific circumstances.

523. As of December 2007, 6.1% of employees in the civil service were Arabs, Druze and Circassians.

524. On August 1, 2005, section 15a of the Civil Service (Appointments) Law was amended and persons of Ethiopian origin were added to the list of groups entitled to appropriate representation in the eligible work force population. Following this amendment, the Government accepted Resolution 1665 concerning allocation of positions for persons of Ethiopian origin in the Civil Service and giving them priority in appointments and promotion.

525. On March 12, 2006, the Government decided, based on section 15a of the Civil Service (Appointments) Law, to designate 337 employment positions promoting the integration of the Arab population, including Druze and Circassian minorities, in the Civil Service between the years 2006-2008. In addition, the Government decided to establish an Inter-Ministry Team for Examination of other Ways for Advancing Appropriate Representation of Arabs in the Civil Service. On July 16, 2006, the Inter-Ministry Team submitted its recommendations.

526. On August 31, 2006, the Government adopted Resolution 414 adopting most of the Inter-Ministry Team's recommendations, including: determination of new objectives for advancing appropriate representation of Arabs in the Civil Service: Arabs shall constitute 8% of all Civil Service workers by the end of 2008, and 10% by the end of 2010. In addition, 20% of all new positions shall be allocated for Arabs until the end of 2008; consolidation of annual work plans on this issue shall take place in each ministry; more positions for the Arab population shall be designated; the duty to give priority to Arabs in appointments and promotion shall be extended by another 4 years; a supervisor on the advancement of Arab representation in each Government Ministry shall be appointed and an Inter-Ministry Team to follow-up on the implementation of the Resolution shall be established.

527. On November 11, 2007, the Government adopted Resolution 2579 amending the previous Resolution 414 concerning the proper representation of persons from the Arab sector within the Civil Service. According to the new Resolution, Arabs, including Druze and Circassians, are to consist of 12% of all Civil Service workers by the end of the year 2012. In addition, all Government Ministries must consolidate a five-year working plan for advancement of the object of the resolution, for example; until the end of 2012, 30% of all new positions shall be allocated for Arabs; there shall be a duty to prioritize to Arabs for appointments and promotions until the end of 2012; more positions in Government ministries shall be designated for Arabs subject to the implementation of the five-year work plans and an Inter-Ministry Team headed by the Director General of the Ministry of Justice shall be established to follow-up on the implementation of the provisions mentioned above by every Government ministry.

528. **Government corporations**. As mentioned in our previous periodic report, under an amendment to the Government Corporations (Amendment 11) Law 5735-1975 made on June 11, 2000, the Arab population (namely, Israeli citizens of Arab, Druze and Circassian origin), must be appropriately represented on the board of directors of every Government Corporation. According to data gathered in December 2007, 51 out of 528 directors, (9.66%), were of Arab origin, including Druze and Circassian. A new legislative process is currently

taking place aimed at strengthening appropriate representation of workers from different sectors among the different Government Corporations', i.e.: women, persons with disabilities, Arabs, Druze, Circassian and Ethiopian origin.

529. On June 27, 2007, the Jerusalem District Court determined that an Arab citizen could not be disqualified from being appointed to the board of directors of Keren Kayemeth Le'Israel (KKL) - the Jewish National Fund, which is a dual entity committed to the principal of equality (OP 5299/06 *Uri Bank v. Keren Kayemeth Le'Israel KKL*). The petitioners requested the Court to annul the election of new directors to KKL which had taken place on July 13, 2006, due to fundamental deficiencies in the process, and the election of Mr. Radi Sfori, an Israeli Arab elected as a representative of the Meretz Party.

530. The Court discussed whether the procedure of appointing new directors to KKL was in line with the Companies Law 5759-1999, and whether an Israeli Arab could be appointed as director of a corporation defined as being "trustee of the Jewish people in the land of Israel". The Court stated that the appointment procedure was not deficient, and refused to annul the elections. It held that former court decisions acknowledged the duty of every authority in Israel to treat equally all different individuals in the State. Although KKL is a private company - it shall apply the principle of equality since it is a dual entity. Therefore, an Arab director shall not be disqualified, nor will be a party with an Arab candidate.

Equal treatment of Arab cooperative societies

531. All Israeli NGOs are treated equally without preference to NGOs in specific sectors. In 2007, The Registrar of Cooperative Societies published on its internet web site a document in Arabic entitled the "The Proper Administration of Cooperative Societies" which is a translation of a document in Hebrew first issued in October 2002. In addition, the Registrar of Cooperative Societies employs a lawyer from the Arab sector who treats applications in Arabic, a contractor lawyer who is fluent in Arabic and is involved particularly in registration, and another two accountants from the Arab sector who examine NGOs' files. The Registrar and its representatives took part in a number of conferences organized by representatives of the Arab sector in which the participants attended lectures concerning the different requirements of the Registrar of Cooperative Societies.

Sexual orientation

532. On November 21, 2006, the Supreme Court handed down a landmark decision concerning the rights of same sex couples. It held that a wedding certificate from a foreign country in which same-sex marriages are recognized, could allow the couple to be registered as married by the Ministry of the Interior. Five gay couples who held wedding ceremonies abroad petitioned to the Supreme Court following the Ministry of the Interior's refusal to register them as married: (HCJ 3045/05 *Ben-Ari v. The Ministry of the Interior*, HCJ 3046/05 *Bar-Lev v. The Ministry of the Interior*, HCJ 10218/05 *Herland v. The Ministry of the Interior*, HCJ 10468/05 *Lord v. The Ministry of the Interior* and HCJ 10597/05 *Remez v. The Ministry of the Interior*).

533. The Supreme Court based its decision on a previous Supreme Court ruling (HCJ 143/62 *Fonk Shlezinger v. The Minister of the Interior*) in which a distinction was made between the duty to register marriages, and the question of recognition of their status. The Supreme Court determined that the Ministry of the Interior must not discriminate against same-sex couples who hold a wedding certificate from a foreign country that permits same-sex marriages. Nevertheless, the Supreme Court notes that by doing so, it does not grant a new status to same-sex marriages, and reiterated that it is the role of the Knesset to endow as much.

534. On April 19, 2007, The Haifa Labor District Court accepted a claim against the "Mivtachim" pension fund, and determined that a surviving partner of a lesbian relationship was eligible to the legal rights of an "insured widow", and not of an "insured widower" (D.L.C 1758/06 *Moyal-Lefler v. Mivtachim*). Following this decision, the plaintiff is to be paid a survivors' pension of 40% as opposed to only 20%.

535. The Court concluded that in this instance, the plaintiff was the deceased's spouse, and was publicly recognized as her cohabitator. Therefore, she was eligible to a survivors' pension, according to the rules of the pension fund. The Court stated that "the distinction between men and women in the rules of the respondent and the Social Security Law derives from a similar rationale - a reflection of the economic situation in which we live, where women's incomes are lower than men's, and their promotion in the labor market is more difficult. Therefore there is a justification for the preference of female widows as it narrows the existing gap between men and women".

536. The Court held that the plaintiff should be classified as a female widow, and not as a male widower. She was therefore eligible for the rights of an "insured widow", and the pension as stated in the rules of the pension fund.

537. In a significant decision dated January 2005, the Supreme Court accepted the appeal of two women, a same-sex couple, to adopt each other's children. The Court ruled that under the Children Adoption Law, 5741-1981, each case should be examined on its own merits and all the relevant circumstances need to be taken into consideration. The Court emphasized that the decision solely concerns this couple and is not a principled one, thus leaving the question of same-sex relationships for a later date. The Court recommended that the Knesset amend the law to provide a solution to a real problem, and attempt to bypass ideological controversial problems that the issue presents. (C.A. 10280/01 *Yaros-Hakak v. The Attorney General* (10.01.05)).

538. In a recent decision, dated January 23, 2005, the Attorney General established a new precedent in which the State is willing to grant legal status to same-sex adoptions of the birth-child or adopted child of the other spouse. Furthermore, it states that the State is willing to allow the adoption of a non-biological child by same-sex couples, while considering the best interest of the child. This position regards the legal aspects of same-sex adoptions, however the decision regarding a specific case shall remain in the hands of the relevant social service.

Equality in employment

Table 27

Population aged 15 and over by civilian labour force characteristics 2003-2006 (thousands)

2006	2005	2004	2003	Year		
5 053.1	4 963.4	4 876.0	4 791.7	Total		
2 243.4	2 223.3	2 197.5	2 181.7	Not in the civilian labor force		
2 809.7	2 740.1	2 678.5	2 610.0	Civilian labor force - Grand total		
2 573.6	2 493.6	2 400.8	2 330.2	Total	Employed persons	Civilian labor force
1 641.0	1 595.1	1 541.3	1 536.1	Worked full-time		
749.6	733.9	703.5	644.3	Worked part-time		
26.7	26.8	26.3	24.7	Percentage of part-time workers of civilian labor force		
182.9	164.6	156.1	149.8	Percentage taking temporary absence from work		
236.1	246.4	277.7	279.8	Total	Unemployed	
100.3	106.9	114.3	125.3	Percentage who worked in Israel during the last 12 months		
135.9	139.6	163.5	154.5	Percentage who did not work in Israel during the last 12 months		
8.4	9.0	10.4	10.7	Percentage of unemployed in civilian labor force		
55.6	55.2	54.9	54.5	Percentage of civilian labor force of the total population aged 15 and over		

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

Table 28

2006 population aged 15 and over by civilian labour force characteristics, and population group (thousands)

Arabs	Jews	Year - 2006		
841.2	4 104.0	Total		
507.8	1 701.8	Not in the civilian labor force		
333.4	2 402.2	Civilian labor force - Grand total		
295.1	2 209.8	Total	Employed persons	Civilian labor force
217.6	1 374.4	Worked full-time		
62.1	669.9	Worked part-time		
18.6	27.9	Percentage of part-time workers in civilian labor force		
15.5	165.5	Percentage taking a temporary absence from work		
38.3	192.4	Total	Unemployed	
7.4	89.5	Percentage who worked in Israel during the last 12 months		
30.9	102.9	Percentage who did not work in Israel during the last 12 months		
11.5	8.0	Percentage of unemployed of civilian labor force		
39.6	58.5	Percentage of civilian labor force of the total population aged 15 and over		

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007

Table 29

Employed persons and employees, by occupation, 2003-2006 (percentage distribution)

2006	2005	2004	2003	Occupation
2 235.2	2 166.5	2 084.5	2 008.5	Total (thousands)
14.0	13.9	13.7	13.6	Academic professions
16.0	15.4	15.4	15.9	Associate professionals & technicians
6.0	5.6	5.9	6.8	Managers
18.0	18.1	18.3	18.1	Clerical workers
18.8	19.4	18.7	17.9	Agents, sales & service workers
0.8	0.9	0.8	0.7	Skilled agricultural workers
17.5	17.4	18.2	18.2	Manufacturing, construction & other skilled workers
9.0	9.3	9.1	8.8	Unskilled workers

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

Table 30

Employed persons and employees, by occupation, gender and population group - Jews, 2006 (percentage distribution)

Jews						Occupation
Women		Men		Total		
Employees	Employed persons	Employees	Employed persons	Employees	Employed persons	
993.1	1 088.7	921.9	1 121.0	1 915.0	2 209.8	Total (thousands)
15.2	15.3	15.0	15.0	15.1	15.1	Academic professions
19.1	19.5	14.1	13.7	16.7	16.6	Associate professionals & technicians
4.2	4.1	9.7	9.5	6.8	6.8	Managers
28.6	26.8	10.0	8.5	19.7	17.5	Clerical workers
22.8	23.9	16.1	17.6	19.6	20.7	Agents, sales & service workers
0.1	0.3	1.2	2.2	0.7	1.2	Skilled agricultural workers
3.5	3.7	25.0	25.9	13.8	15.0	Manufacturing, construction & other skilled workers
6.7	6.4	9.0	7.6	7.8	7.0	Unskilled workers

Source: Central Bureau of Statistics, Statistical abstract of Israel, 2007.

Table 31

Employed persons and employees, by occupation, gender and population group - Arabs, 2006 (percentage distribution)

Arabs						Occupation
Women		Men		Total		
Employees	Employed persons	Employees	Employed persons	Employees	Employed persons	
61.1	65.9	193.2	229.3	254.4	295.1	Total (thousands)
11.8	11.6	6.3	7.1	7.7	8.1	Academic professions
35.4	33.6	5.5	5.3	12.7	11.6	Associate professionals & technicians
-	-	2.0	2.9	1.6	2.3	Managers
18.5	17.3	4.0	3.5	7.5	6.6	Clerical workers
18.9	22.5	11.5	14.6	13.3	16.3	Agents, sales & service workers
-	-	2.5	2.6	1.9	2.0	Skilled agricultural workers
4.1	4.3	51.8	50.0	40.3	39.8	Manufacturing, construction & other skilled workers
10.8	10.3	16.3	14.1	14.9	13.3	Unskilled workers

Source: Central Bureau of Statistics, Statistical Abstract of Israel, 2007.

539. **Equality in social security**. Since the submission of our previous periodic report, the National Insurance Institute (NII) has implemented a number of positive changes in pursuit of greater equality of social security services for residents in need of them.

540. Over the years, amendments are also continually being made to correct distortions as they become evident in the system. A gradual erosion of traditional, historical perceptions distinguishing “housewives” from other women, has seen the former becoming increasingly eligible for old-age benefits, survivors’ benefits and disability insurance. In 2004, also in the area of disability insurance, the determining date for disabled housewives was equalized with that of a regular disabled person, and in the maternity branch, maternity allowances for fathers were equalized with that of mothers. Further 2005 amendments also saw kibbutz members included in the categories of persons eligible for survivors’ pensions when widowed.

541. In 2006, changes to legislation widened the definition of “new immigrant”, which has effectively further expanded on the list of persons eligible for benefits. Prior to these alterations persons were only eligible for some benefits if they had immigrated to Israel under the Law of Return. Now, other categories of persons, with visas for temporary or permanent residence, are also eligible to apply for benefits such as long term care insurance and disability insurance.

542. Amendments to the Integration of welfare Recipients to the Work Force (Temporary Provisions) Law, 5764-2004 have also relaxed the conditions entitling persons with special needs to income support benefits. The occupation center now has the discretion to pay benefits to

persons they believe cannot participate fully in the program, even though they do not fall within a specified category of persons entitled to the benefit. Furthermore, more leniency with regards to the amount of hours one must work a week to retain the benefit has been given to persons approaching the age of retirement and disabled persons. In some areas, however, eligibility requirements were made more stringent. Persons suffering a temporary disability, for example, must now have a disability degree of 9% or over (previously 5%), to qualify for the benefit - however such individuals may still qualify at the discretion of the occupation centre.

543. In illustration of other attempts to make NII services more equally available, the NII may now initiate claims on behalf of certain persons who are entitled to benefits. Eligible widows, for example, will automatically begin to receive survivor's pensions without the need for application to the centre. Similarly, persons bereaved as a result of hostile actions, and self-employed women entitled to a maternity allowance, will be sent the appropriate claims forms without requiring them to initiate a dialogue with the NII themselves.

544. In addition, the NII website has been made available in English, as well as in Hebrew, to make information on rates of benefits and rules of entitlement etc. more widely available.

The Bedouin population

545. **General**. There are more than 170,000 Bedouins living in the Negev desert area. Most of those live in urban and suburban centers which have been legally planned and constructed. All existing towns have approved plans and include infrastructure such as schools, clinics, running water, electricity, etc.

546. There are 6 existing suburban Bedouin towns in the Negev: Laqiya, Hura, Kseife, Arara in the Negev, Tel-Sheva and Segev Shalom, in addition to the city of Rahat. Although the seven existing towns can effectively provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided that from 1999 another 9 new towns for Bedouins should be established. The Government did so in an attempt to please the Bedouin population and in consideration of their special needs, including their desire to settle according to a tribal format.

547. As such there are nine planned new towns. Of those Tarabin is now being populated and 100 new houses have been built, Abu Krinat and Bir Hadaj are under construction, and Kasar A-Sir, Marit (Makhol), Darjat, Um Batin, Mulada and El Seid are all undergoing planning procedures. A further three towns are undergoing statutory approval procedures: Ovdat, Abu Tlul, and El-Foraa. A regional council was founded for five of the new towns. It is called "Abu Basma", and was officially declared on February 3, 2004.

548. Moreover, in two different resolutions decided in 2003 (April and September), the Government created a comprehensive plan for the Bedouin sector, including investments of 1.1 billion NIS in the improvement of infrastructure, and founding public institutions over the next 6 years.

549. Following lessons learned from past planning committees, the planning authorities performed this task in constant consultation with Bedouin representatives who provided input as to their vision of every towns' desired character depending on such characteristics as whether the town is built for an agrarian population with a special needs for designated flock areas; whether the town is planned for a group who require that strict separation is maintained between the various tribes or whether the town is designed for a population that has a more urban character.

550. On July 15, 2007, the Government adopted the following resolution concerning the establishment of a new Authority in the Ministry of Construction and Housing dealing entirely with development in the Bedouin Sector, including the expansion of towns, and provision of housing solutions for all Bedouins. Its text is as follows:

> "D. The Government decided to establish, in the Ministry of Construction and Housing, the Authority for the Regulation of the Bedouin Residence in the Negev, whose purpose, functions and organizational structure are as follows:
>
> - The care of Bedouin residence in the Negev, including:
>   - Ascertaining claims of ownership over the land
>   - Arranging permanent residences, including infrastructure and public services, both in existing towns and new towns
>   - Aid in incorporation in employment
>   - Coordination of education, welfare and community services
> - The functions of the authority and its main powers:
>   1. Accumulating information concerning the existing situation of the population, whether scattered or located in existing towns, including claims of ownership;
>   2. Initiation and execution of land arrangements;
>   3. Initiation of statutory planning, in coordination with the Planning Administration in the Ministry of the Interior, of suitable residence solutions, including solutions that address the characteristics of the group, social reciprocation, possible locations, etc.;
>   4. Promoting the planning and development of local and regional infrastructures for permanent solutions;
>   5. Accompanying the population through all the stages of residence;
>   6. Giving recommendations on the issue of enforcement priorities;

7. Coordination and synchronization between the various authorities, while accompanying, tracking and supervising the execution of decisions made by authorities.

8. The aforementioned functions of the Authority will not detract from the powers of the various Government Ministries, or the powers of the local authorities according to the law.

- The proposed organizational structure of the Authority is designed to enable the efficient execution of all its goals and functions, as follows:

1. The Authority will act within the framework of the Ministry of Construction and Housing.

2. Alongside the Authority, an Inter-Ministerial steering committee will be established; whose function will be to discuss the obstructions in the way of arranging the residence and implementing the goals of the Authority. At the head of the steering committee will be the General Director of the Ministry of Construction and Housing.

3. A council will be appointed to the Authority, whose functions will be to lay out the Authority's line of action and advise the General Manager of the Authority in all that regards the execution of the Authority's policy. The council will be composed of 21 members, among them: 14 relevant Government representatives, (Construction and Housing - chairman, Finance, Justice, Education, the Interior, Industry, Trade and Labor, Health, Social Affairs and Social Services, Tourism, the Negev, the Galilee, Public Security, Agriculture and Rural Development, Environmental Protection and Transportation and Road Safety), and 7 public representatives who will be appointed by the Minister of Construction and Housing. Of the 7 public representatives, 4 will be from the Negev Bedouin and will have no ownership claims to the land.

4. The operational responsibility of the Authority will be in the hands of the Authority's General Manager. Underneath him will operate various sections, whose areas of occupation will be, inter alia, land transactions; programs and residence; planning, development and construction; community; legal counseling; finances and logistics and research, propaganda and documentation. The land transaction section will be subject, statutorily, to the authority of the Israel Land Administration.

5. A concessions and proceeds committee will act, alongside the General Manager of the Authority. The Committee will be headed by a retired judge, and its function will be to make recommendations concerning agreements brought before it, on the basis of the standards set out in the law. The recommendations of the committee will be submitted for approval by the Authority's general manager."

551. The Government has further decided:

(1) To request the General Director of the Ministry of Construction and Housing to make recommendations to the Government, within 30 days, and in coordination with the General Director of the Prime Minister's Office and the Supervisor of Budgets in the Ministry of Finance and the Civil Service Commissioner, on the kind of budgetary resources and personnel that are required to finance and otherwise execute this decision.

(2) To entrust the Minister of Construction and Housing with the appointment of a public committee headed by a retired Supreme Court Justice, and of whose members at least half will be representatives of the relevant Government Ministries, including representatives of the Ministries of Construction and Housing, Finance, the Prime Minister, Agriculture and Rural Development, the Negev and the Galilee, the Interior, Justice, the Transportation and Road Safety, and the Israel Land Administration. In addition to this the Minister will appoint public representatives, among them representatives of the Bedouin sector that have no ownership claims to land. The committee will submit its recommendations to the Minister in order to draft a bill concerning the regulation of the Bedouin sector in the Negev, including the sum of the reparations required, arrangements for allocating alternative land, civil enforcement and a schedule of the execution of arrangements. The committee will submit its recommendations within three months. The committee will act under the framework of a budget and land inventory which it will determine in coordination with the General Director of the Prime Minister's Office, the General Director of the Ministry of Construction and Housing and the Supervisor of Budgets in the Ministry of Finance, within 30 days.

552. Within the framework of Government policy regarding Bedouin residence and land in the Negev, and as an important step integrating other Government plans for the development of the Negev and the Galilee, the Government has promoted various resolutions enhancing the treatment of the Bedouin population in the Negev. Nonetheless, owing to the complexity of designing solutions for various issues, and the prolongation of the treatment in the availability of the land in the area of permanent towns, which are designed to receive the diaspora populations, there is a need to coordinate the totality of the plans within the organized framework of an authority, which will deal with the issues in a coordinated and expansive manner.

553. In spite of the establishment of a number of permanent towns for the Bedouins, about 70,000 Bedouins still choose to live in illegal clusters of buildings throughout the Negev, ignoring the planning procedure of the planning authorities in Israel. This illegal building is carried out without any preparation of plans as required by the Planning and Building Law, 5725-1965, and with no pre-approval by the planning authorities. In addition, it causes many difficulties in terms of providing services to the residents of these illegal villages.

554. Note that a solution to the housing problem of the greater part of the Bedouins living in the illegal villages will be solved subsequent to the completion of these new towns.

555. The Government is encouraging movement to permanent towns by providing unique financial benefits to all the residents of the Bedouin diaspora who seek to move to permanent towns, regardless of their economic condition or any entitlement test. These benefits include, inter alia, provision of land plots for free or for very low cost, and compensation for demolition of illegal structures.

556. The Advisory Committee on the Policy regarding Bedouin settlements has been established, in its present form, on October 24th, 2007 by force of Israeli Government Resolution No. 2491.

557. The Committee's task, as set forth by the Government in its aforementioned Resolution, is to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which will establish the norms for regulating Bedouin settlement in the Negev, including rules for compensation, mechanisms for allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislation's amendments, where needed.

558. The Committee comprises seven members and one Chairperson, former Supreme Court Justice Mr. E. Goldberg. Note that two of the Committee members are representatives of the Bedouin sector.

559. The Committee began its sessions on January 2008, after having received over a hundred letters from the public, together with numerous other written material and documentation. The Committee's hearings are public and take place in Beer Sheva.

560. From the commencement of its activity, the Committee has held tens of sessions and has heard many depositions from various sources, including Bedouin representatives, various stakeholders, experts in the relevant fields (inter alia town planners, geographers, anthropologists, historians, sociologists and lawyers), and the general public. The Committee has also heard representatives of public bodies and institutions, including Municipal Authorities, public figures, Knesset members, and NGOs.

561. The Committee has, to date, held four field study trips in the Negev region in order to further deepen its knowledge on the subjects within its mandate.

562. The Committee is expected to give in its final recommendations to the Government within the next few months.

563. **Infrastructure**. All Bedouin towns have connections to running water. Five of the nine future Bedouin towns were connected to the water grid through the national water company (MEKOROT). The establishment of a sewage system is performed under the authority of the local government and the minority localities, who receive loans for this purpose.

564. Communities living in illegal villages can connect themselves to the water supply through the Water Connections Allocation Committee, which has been operating under the Administration for the Promotion of Bedouins since 1997.

565. **Medical care and infrastructure**. Clinics in illegal Bedouin villages located throughout the Negev are all computerized, air conditioned, and are all equipped according to the standards upheld by all the Health Funds in the country. Mother and Child stations are equipped in the same manner as any other Mother and Child station in the country.

566. The General Health Services Department operates a special health service for the Bedouin population which includes an ambulance service for Bedouin that is run by a Bedouin employee. The purpose of the ambulance is to ensure constant access between the hospital and community.

This enables a hospice with a talented professional staff to evaluate the living conditions of patients due prior to their release from hospitalization. Additionally, the ambulance transports patients' to the hospital and back when they are in need of emergency care. The cost of a visit to the clinic is identical throughout the country. That is, a visit will generally be cost free.

567. In addition to the existing station, the eighteen Mother and Child Health Clinics located in Bedouin towns, and a mobile family care unit, six new Mother and Child Health Clinics (Tipat Halav), have recently been constructed in the illegal villages. These Mother and Child Clinics are equipped like every other Mother and Child Clinic in the country.

568. Furthermore, in addition to the thirty-two Health Fund medical clinics already existing in the Bedouin towns, 9 Health Fund medical clinics (Kupat Holim), have been built to provide for the medical needs of Bedouin living in illegal villages. These clinics are all computerized, and air conditioned, and they are all equipped according to the standards that exist in all other Health Funds in the country.

569. There have been other major improvements in the past decade. Improved immunization coverage of Bedouin infants in the Negev, for example, resulted in a significant decrease in vaccine-preventable infectious diseases, recent 2006 figures indicate that 90%-95% of the Bedouin children have completed all necessary vaccinations by age three - a sizeable improvement compared to a rate of 27% in 1981. Two mobile immunization teams managed by the Ministry of Health also provide home immunizations to infants in Bedouin families living outside of permanent towns, whose families do not bring them to one of the Mother and Child Health Clinics for treatment. A computerized tracking system allows the Ministry of Health to identify infants who are behind on their immunization schedule and to send one of the mobile immunization teams to immunize them.

570. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin fetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of first-cousin marriages, as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

571. The infant mortality rate of Bedouin infants in 2005 was 15:1000, representing a decline from the rate in 2004. It should be noted that the infant mortality rate among Bedouin infants living in illegal villages was actually lower than that among Bedouin infants living in established towns. The Government is continuing to open Maternal and Child Health clinics in illegal villages and new MCH centers are being built to serve the population.

572. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouin living in illegal villages. One of these programs is a special long-term intervention program to decrease infant mortality among the Bedouin. The program is community-based and boasts a wide-consortium of participants, including representatives from the Bedouin community leadership and the educational system,

along with providers of curative and preventative health care services, the Department of Health in the Community and the Department of Epidemiology of the Faculty of Health Sciences of Ben-Gurion University of the Negev.

573. Free genetic testing is also funded by the Government, along with genetic counseling, for any member of a tribe in which the prevalence of a serious inherited disease for which an available genetic test is above 1:1000.

574. The Government also participates in an intervention program to decrease the rate of home accidents among Bedouin children, and has funded the building of additional MCH clinics for Bedouin currently living in illegal villages (additional clinics are being built by the main HMO serving the Bedouin - Kupat Holim Clalit).

575. There has been a decline in the incidence of infectious disease among Bedouin infants over the past decades. There is, however, generally a higher rate of infectious disease among Bedouin infants than among Jewish infants of the same age. Bedouin infants and children have lower rates of pertussis, tuberculosis and HIV infection. Furthermore, due to high immunization coverage among Bedouin infants, indicating good access and utilization of preventive health care services, there have been no cases of measles since 1994 and no cases of polimyelitis, diphtheria, congenital rubella, neonatal tetanus or tetanus in Bedouin children of the Negev since 1990. During the period of 2000-2003, no cases of mumps were reported. Additionally only one or two cases of Homophiles influenza invasive disease in 2000-2002, and none in 2003.

576. Specialty physician services are being provided to the Bedouin community in the Negev, including: Pediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Gynecology and Obstetrics, Ear, Nose and Throat, Ophthalmology, Orthopedics, Gastroenterology, Cardiology, Surgery and Trauma, Pediatric Surgery and Pediatric Pulmonary Medicine. In addition, every resident has equal access to all the specialty clinics at the Soroka University Medical Center, with no discrimination between Bedouin or Jewish patients.

577. The Government, as well as the main HMO serving the Bedouin population, undertakes major efforts to train and recruit Bedouin physicians and nurses. The Government provided all the funding required for three classes of Bedouin students to complete their training as registered nurses, including funding their transportation to the nursing school, a meal allowance during their studies, and special remedial lessons to assist those who needed it. The Government has similarly provided special funding to hire Arab physicians and nurses.

578. A course for qualified Bedouin nurses opened in 1994. Since then, 34 students have graduated from the nursing course, whilst 32 are currently undertaking studies. It should be noted that students participating in the third course are committed to serving their first three years of practice after graduation wherever the Ministry of Health decides their services are needed. This will guarantee that the trained nurses serve the target population, the Bedouins. In addition, the first female Bedouin physician in Israel, Rania al-Oqbi, has recently completed her degree. She was part of the special “Cultivating Medicine in the Desert” program aimed at incorporating more Bedouin into the health sector. Currently, six Bedouin women are studying medicine; 35 Bedouin women have completed degrees in various health professions; and 45 additional women are studying health sciences.

579. **Education**. In recent years increased participation of Arab and Bedouin women in the work force has created a need for daycare centers and nurseries. The Government has moved to meet those needs. As a matter of Policy, the Ministry of Construction and Housing works on the construction of daycare centers throughout the country on the basis of one daycare for every 1,600 house units. Two centers have been recently built by the Government in the Bedouin town of Rahat.

580. **Public transportation**. On July 19, 2007, the Ministry of Transport and Road Safety published a tender (14/2007) for the operation of 10 lines of public bus transportation to serve more than 60,000 residents in the region of the Bedouin town Rahat. The tender was published in the framework of the Ministry's plan to expand public transportation services in non-Jewish towns to equalize them with those in Jewish towns. Bedouin towns currently lack an organized system of public transportation.

581. According to the tender, 4 city lines will operate in Rahat, and another 4 inter-city lines will connect Rahat with the City of Beer-Sheva and the new train station recently opened in Lehavim. Another 2 lines will connect the towns of Hura and Laqiya with the Bedouin market in Rahat. The plans for the new lines were carried out following surveys conducted which determined the needs of local residents. Local residents also participated in special workshops on the issue.

582. The winning company will be obliged to sell reduced tickets to youths, the elderly and other eligible persons such as students, in a similar arrangement to that made in the Jewish sector. The company will also be obliged to issue a monthly ticket allowing unlimited travel on all bus lines in the Beer-Sheva Metropolis. In addition, the winning company will be obliged to use new buses, and keep high standards of service. The new bus lines are expected to begin operating in 2008.

583. **Social services**. In May 2004, the Center for the Welfare of the Bedouin Family was established in Beer Sheva by the Ministry of Social Affairs and Social Services. The Center has two main goals:

583.1. To provide assistance to the Bedouin community in matters related to conflict and tension resolution in the family, as well as to provide therapeutic interventions.

583.2. **A center for the prevention of, and education on, domestic violence**. The center is financed and supervised by the Ministry of Social Affairs and Social Services and is operated by the Bedouin association of "Elwaha" which is manned by specialized social workers. The center provides many services unique to the needs of the population. For example assistance is given in locating Bedouin families willing to take in female Bedouin victims of violence, allowing those women to remain within the Bedouin community whilst protecting them from further violence. These women stay in the foster family is financed by the Ministry of Social Affairs and Social Services. Following its establishment, the center has become an integral part of the community, and an essential tool at the disposal of the courts which may refer battering men to be treated in the center.

584. Social Services operate in the Bedouin towns, as well as in illegal Bedouin villages. There are around 30 monthly appeals to social services from Bedouin women. Each receives individual care. There are also several Bedouin couples undergoing couple therapy. Note that the operation of the abovementioned center has improved the treatment of domestic violence in the Bedouin sector, enabling matter-of-fact, focused and efficient care to be provided, free from community and family pressures.

585. The Service for Girls and Young Women handles about 250 Bedouin young women annually, providing both individual and group treatment.

585.1. Rahat - Approximately 40 young Bedouin women treated individually. The service runs an “Open House”, attended by approximately 80 young Bedouin women, five days a week. The Service offers courses on home-economics, handicrafts, nutrition etc. Female students from the Bedouin “Al-jik” association run an intergenerational workshop on mother-daughter relations, as well as conducting tours and summer activities.

585.2. Segev Shalom - Approximately 75 young women treated individually. The service runs a young women’s group, (currently consisting of 12 members), who discuss issues such as adolescence, empowerment, polygamy, women’s rights, changes in the Bedouin society, and the resultant ramifications on women’s status.

585.3. Kseife, Tel Sheva and Lakia - Approximately 50 young women treated individually.

586. **Employment**. In order to complement the revised Encouragement of Capital Investments Law) 5719-1959 the Government decided to establish an additional program to increase employment in the remote areas of Israel and other areas of high unemployment. Eligibility requires that the participating companies employ a minimum number of workers at a minimum wage. Among the areas affected are the “Furthest Periphery”, and designated towns of minority populations, (such as Arab, Druze, Circassians), as well as the Ultra-Orthodox Jewish population.

587. The Ministry of Industry, Trade and Labour is aware of the inherent difficulties faced by entrepreneurs from the Bedouin sector, such as limited financial capability, and is therefore taking affirmative action to bridge the gaps. In addition to the current centers, the Authority for Small Business is currently working to establish a designated Center for Nurturing Entrepreneurship in the Arab and Bedouin sectors, which will be better equipped to serve this sector’s needs.

588. Furthermore, the Encouragement of Capital Investments Order (Development Areas) 2002, was amended in order to strengthen the Bedouins position by including several Bedouin towns in the updated list of industrial areas.

589. There are currently seventeen planned industrial areas in the Southern district, three (17%), of which are in the Bedouin towns - Rahat, Segev Shalom and Hura. Additionally, two new industrial areas currently in advanced stages of planning also service the Bedouin population -

Shoket (for Hura, Lakia, Meitar and Bney Shimon), and Lehavim, (for Rahat, Lehavim and Bney Shimon). Development of all these areas is uniform and subject to the same general criteria.

The Druze and Circassian sectors

590. On August 30, 2006, the Government of Israel adopted Resolution Number 412 for the development of the Druze and Circassian sectors in the amount of 447 million NIS for the years 2006-2009. Preparation of the plan took several months and involved participation from the relevant Government Ministries and the heads of the Druze and Circassian municipalities. This plan continues on from the two previous multi-year plans adopted by the Government, as detailed in the following table.

Table 32

Government plans for development of the Druze and Circassian sectors

% implemented	Essence	Amount (NIS millions)	Date	Resolution No.
95%	Five years development plan of infrastructures in the Druze-Circassian sector in the years 1995-1999	1 070	16.7.1995	5 880
95%	Completions to the Five-Year Plan	50	1.6.1998	3 836
88%	Multi-year plan for development of the Druze Sector in the years 2000-2003	560 (after cutback)	2.10.2000	2 425
		1 680		Total

Source: The Prime Minister's Office, the Department of Policy Implementation, 2007.

591. The new development plan for the years 2006-2009 focuses on three main issues: Investment in human resources including a special focus on the empowerment of women (188 millions NIS), economic development (190 million NIS), and employment - including tourism development as a source of income (70 million NIS). The budget sources of the plan come from the relevant Government Ministries (237 million NIS) and a special budget of the Prime-Minister's Office directed to the non-Jewish sector (210.6 million NIS).

592. It should be pointed out that Government Resolution 412 is supplement to the development budgets that the Ministry of the Interior allocates to the local municipalities, nor the subsidies given to retired soldiers in order to purchase land plots. In addition, The Druze Sector enjoys segments of the budget set aside for the rehabilitation of northern Israel, adopted after the second Lebanon war.

593. The plan for development of the Druze-Circassian sector is intended to engage with specific topics considered capable of bringing a real and positive change to the quality of life of Druze and Circassian citizens. The desired change is eventually supposed to beneficially influence the atmosphere in the villages, and ease the burden imposed on municipalities. For example: promoting and developing tourism will create new jobs, and will increase the municipalities' income from taxes imposed on trade areas and businesses. In addition, the massive investment in education will result, according to the shared vision of the Prime Minister's Office and the heads of the municipalities, in a growing number of educated persons who will attend universities and acquire academic education, and will eventually become "the engine that will carry the others".

Article 27. Rights of minorities to culture, religion and language

594. **Minority populations**. As of 2007 the total population of Israel is numbered approximately 7,150,000, of which over 5.4 million are Jews (76% of the total population), and 1.4 million are Arabs (mostly Muslims, with some Christians and Druze, who comprise about 20% of the total population). There are 310,000 non-Jewish immigrants who comprise 4% of the total population. The following table shows the growth of the major population groups, (Jewish, Muslim, Christian and Druze) between the years 2003-2006.

Table 33

Population according to religion (thousands), by year's end

Grand total	Jews	Arab and others					
		Total	Unclassified	Muslims	Christians	Druze	
6 772.4	5 165.4	1 607.0	281.3	1 072.5	142.4	110.8	2003
6 894.0	5 237.6	1 656.4	291.7	1 107.4	144.3	113.0	2004
7 015.9	5 313.8	1 702.1	299.9	1 140.6	146.4	115.2	2005
7 142.4	5 393.4	1 749.6	309.9	1 173.1	149.1	117.5	2006

Source: Central Bureau of Statistics, 2007.

Table 34

The average population, by religion (thousands)

Grand total	Jews	Arab and others					
		Total	Unclassified	Moslems	Christians	Druze	
6 713.4	5 129.8	1 583.6	277.2	1 055.4	141.4	109.6	2003
6 833.3	5 201.5	1 631.8	286.5	1 090.0	143.4	111.9	2004
6 954.9	5 275.7	1 679.2	295.8	1 124.0	145.4	114.1	2005
7 079.0	5 353.6	1 726	304.9	1 156.9	147.8	116.4	2006

Source: Central Bureau of Statistics, 2007.

Status of the Arabic language

595. In HCJ 4112/99, Adalah - *The Legal Center for Rights of the Arab Minority v. The City of Tel-Aviv*, *Jaffa* (25.7.02), retired chief Justice Barak stated that: “Indeed language plays a major role in human existence for both the individual, and for society. Using language we express ourselves, our individuality and our social identity. Take away a person’s language and you have taken away his essence. […] it is therefore my conclusion for the matter at hand, that the proper balance between the two competing purposes leads to the conclusion that on intercity road signs in the respondent cities, there should also be added, alongside the Hebrew writing, directions in Arabic.”

596. In 2006, a tender for the establishment of an academy of the Arabic language was issued to the Knesset. In the first meeting held by the Knesset Education, Culture and Sports Committee on the matter, Dr. Mohammed Ganaim from the Tel-avid University acknowledged that in order to give proper expression to the Arabic language as a formal language of the State of Israel, an academy of the Arabic language was necessary. He added that academic institutions in Israel would benefit from the establishment of this academy, and that the new institution would improve Arabic education and the teaching of the Arabic language in Israel.