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Held at the Palais Wilson, Geneva, on Wednesday, 14 July 2010, at 3 p.m.

Chairperson: Mr. Iwasawa

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Israel (CCPR/C/ISR/3, CCPR/C/ISR/Q/3 and Add.1) (continued)

1. *At the invitation of the Chairperson, the delegation of Israel took places at the Committee table.*

2. **The Chairperson** invited the delegation of Israel to reply to questions raised by Committee members at the previous meeting.

3. **Mr. Blass** (Israel) said that, with regard to respect for the right to equality and the difficulties of implementing some Supreme Court rulings, in the past the Supreme Court had in fact issued certain judgements after a delay of several years, and those judgements had also taken several years to implement. The cases involved had been particularly complex and had been expected to have serious repercussions involving large sums of money, and the Court had been aware that many people were likely to be affected by its decision. In one of those cases, where the Government had in fact asked to delay the implementation of the court ruling, the Supreme Court had understood the difficulties facing the political authorities and had subsequently rejected a contempt of court motion.

4. With regard to the construction of housing in the West Bank and the fact that Palestinians in nearly 70 per cent of “area C” were affected by a ban on construction, his delegation was able neither to confirm nor to deny the accuracy of that figure. However, the West Bank comprised two parts: about 40 per cent of the territory made up areas A and B, where the Palestinian Authority was in charge and was solely responsible for town planning, and where Palestinians could build in accordance with their own legislation. The remaining 60 per cent of the territory constituted area C, which contained Israeli settlements and some Palestinian villages. The West Bank also included nature reserves and areas used by the Armed Forces for training, as well as many open spaces, which it was essential to maintain as such as they were intended for the future development of the territory. Thus, the difficulties related to construction in the West Bank were not due to a lack of space, even in areas A and B; as for area C, its future was currently being decided through negotiations between the Israeli Government and the Palestinian Authority. It should also be borne in mind that area C was a very complex region where many different interests were at stake.

5. Regarding Israel Security Agency orders and the fact that they were not made public, most orders were kept secret, especially those relating to interrogations, because of a legitimate concern not to assist terrorist organizations to prepare themselves for interrogations, which would hinder the interrogators’ work. Furthermore, most if not all countries did not make public their orders relating to the interrogation of people suspected of terrorism.

6. The 2009 decision to remove the Arabic names of towns and villages from road signs and to replace them with Hebrew names had not yet been implemented because it was still under review. For several years, most road signs had been in Hebrew, Arabic and English, which satisfied everyone; in any event the issue of maintaining Arabic road signs was very important.

7. Regarding justification for using the necessity defence and the limits of the principle of necessity, he recalled that in 1999 the Supreme Court had determined that the necessity exception was likely to arise in instances of “ticking time bombs” and that the immediate need (the preservation of human life) referred to the imminent nature of the act rather than that of danger. The Court had thus concluded that the imminence criterion was satisfied

even if the bomb was set to explode in a few days' time, or perhaps even after a few weeks, provided the danger was certain to materialize and there was no alternative means of preventing it from happening. The Supreme Court order was therefore very clear regarding the limits of the principle of necessity; there must exist a concrete level of imminent danger of the explosion's occurrence. When the authorities invoked the necessity defence, while they obviously had to consider the rights of the interrogated suspects, they were also obliged to ensure that the innocent population's right to life was safeguarded, so that a balance had to be struck between those two considerations. The 1999 Supreme Court order had in fact made it possible to arrive at a much better balance than before, and the Israel Security Agency interrogators strictly followed the guidelines defined in that order. The example the Committee had given of settlers attacking Palestinian homes while the army stood idly by raised completely different considerations. In that type of situation, where civilians were attacking other civilians, it was the duty of the Armed Forces in the West Bank, and of the police, to intervene to stop the aggression and protect the victims, which was completely unrelated to the principle of necessity.

8. **Mr. Leshno Yaar** (Israel) said he would reply to the question on recognition of the Palestinian right to self-determination. Israel had expressly stated many times that it supported the Palestinian right to self-determination. The Israeli leadership had affirmed and reaffirmed that position on many occasions, and the reason the Middle East was currently at a political impasse was not because the Palestinians were being refused that right. By adopting the road map, the Israeli authorities had shown that, like the international community, they were committed to the idea of a Palestinian State to be built alongside Israel. Israel and the international community had stated very clearly that the Palestinians must fulfil their national responsibilities, which entailed meeting three fundamental obligations: recognizing Israel, renouncing terror and accepting the agreements previously signed with Israel. Those were all necessary conditions for Palestinians to be able to exercise their right to self-determination. Unfortunately, through terrorist attacks and the merciless firing of rockets against Israel, the Palestinian Authority led by Hamas was compromising its own people's exercise of their national right.

9. **Ms. Rubenstein** (Israel), replying to the question on the independent commission of inquiry responsible for ascertaining the facts surrounding the flotilla incident, said that Israel recognized that every State had the responsibility to investigate such incidents, primarily using its domestic legal mechanisms. That was why the authorities had already established an independent commission of inquiry led by retired Supreme Court judge Yaakov Turkel. The two other members of the commission were Amos Horev, a retired general and former president of Technion (Israel Institute of Technology), and the renowned international jurist Shabtai Rosen. Two international observers, Nobel Peace Prize laureate Lord William David Trimble and General Kenneth Watkin, former Judge Advocate General for the Canadian Armed Forces, had in addition been appointed to participate in the commission's hearings and debates.

10. Regarding the content of Military Orders No. 1,649 and No. 1,650, Order No. 1,649 established a new oversight committee in implementation of a recommendation by the High Court of Justice. All persons detained while awaiting deportation must be brought before that committee within not more than eight days of the date of the deportation order (four days if the person was under 18 years of age). The committee enjoyed broad powers, including the power to nullify a deportation order and to release detainees. It also determined the rights of the individuals who appeared before it, including the right to choose their own representation and the right to submit written observations. If the committee decided not to release a detainee, the order stated that the detainee must be brought before the committee once again for re-examination within 60 days (30 days if under 18 years of age). The establishment of the new committee in no way restricted the right of individuals to appeal to the High Court of Justice for a review of any decision

concerning them; it offered a supplementary and different level of control, as recommended by the High Court of Justice. Military Order No. 1,650 amended the provisions of the original order dating from 1969. It clarified the definition of illegal infiltration, stating that a person who was in the region in possession of a valid permit or certificate could not be considered as an illegal resident. The order also eliminated the restriction set by the original order, which interpreted illegal infiltration as covering only infiltration from a limited number of countries. The order significantly relaxed the sanctions against illegal residents by reducing the maximum penalty from 15 to 7 years' imprisonment. It also stipulated that, before a deportation order was issued, the person concerned must be given the opportunity to present his or her arguments, which must be brought to the attention of the military commander. The order further stated that the person against whom a deportation order had been issued must be informed of his or her rights, if possible in a language that he or she understood, including the right to inform a friend or lawyer. Under the order, infiltrators who were not in detention and against whom an order for immediate deportation would have been issued under the old legislation would be granted a 72-hour postponement of their deportation, except in cases where they were discovered immediately after infiltration, in which case they could be returned without delay to their countries of origin. The 72-hour postponement, which could be extended at the person's request, had been instated to allow the person the opportunity to appeal to the Supreme Court, so that even for those who did not appear before the oversight committee, the decision concerning them could still be examined by the court. The order stipulated that illegal residents could be required to pay deportation costs, but only up to a maximum of 7,500 new sheqalim. It should also be noted that the committee established under Military Order No. 1,649 could waive those costs.

11. Military Orders No. 1,649 and No. 1,650 applied to illegal residents, defined as all persons who entered the region illegally or resided there without a valid permit. A valid permit was a permit issued by the military commander or a person authorized by him in accordance with Israeli military law, or by the Israeli authorities in accordance with the Entry into Israel Law. Registry office documents issued by the Palestinian Authority in application of the 1995 Israeli-Palestinian Interim Agreement were also considered as valid permits. Therefore, contrary to some false information that had been circulated, all persons registered with the West Bank registry office would retain their status as legal residents in the region. Military Orders No. 1,649 and No. 1,650 did not change the status of people from Gaza living in the West Bank. As in the past, the people of Gaza needed a special permit to enter the West Bank. That condition remained and would continue to be applied, though humanitarian cases would be taken into consideration. Complaints were currently before the Supreme Court regarding several aspects of the regulations thus applied. In practice, few residents without permits had been ordered to leave the West Bank and to return to the Gaza Strip in recent years (48 in 2008 and 32 in 2009), and in no way had the military orders changed the legal situation or the policy followed. Generally speaking, there were few illegal residents in the West Bank, especially because of the measures taken by the Israeli Government, at the request of the Palestinian Authority, to regularize the situation of Palestinians and foreigners in the West Bank. In recent years, and between 2006 and 2008 in particular, some 32,000 Palestinians and foreigners residing illegally in the West Bank had been registered with the registry office as part of that process.

12. The military orders left unchanged the legal situation in force since 1969, while establishing additional guarantees for illegal residents. They did not affect the right of Israelis, including Arab Israelis, to enter the West Bank under the general permit currently in use, or the right of tourists to enter the region in accordance with the relevant provisions on tourism visas, which still applied.

13. In reply to the question about the four Hamas representatives from Jerusalem whose residence permits had been revoked, she said that after the election of those four persons to the Palestinian Legislative Council (one of whom had been appointed Minister of Jerusalem

Affairs in the Hamas Government), in consideration of the fact that Hamas was a terrorist organization that aimed to destroy the State of Israel, the Minister of the Interior had decided to allow the persons to keep their residency permits in Israel on condition that they resigned from the Legislative Council as Hamas representatives and from the Hamas Government. The individuals had chosen to stay on as representatives of the Hamas organization. On 29 May 2006, the then Minister of the Interior, Mr. Ronnie Bar-On, had announced that he was considering cancelling their residency permits under his authority established by law in article 11 (a) of the Law of Entry into Israel on the grounds of their being senior activists in Hamas institutions. A month after that, on 30 June 2006, and after the persons had been given an opportunity to present their arguments and after they had refused to resign from membership and holding office in the Hamas organization, the Minister of the Interior had announced his decision to cancel the persons’ residency permits. The persons had appealed the decision to the High Court of Justice. On 24 November 2008, they had turned to the Minister of the Interior, through their representatives, with a “request for restoration of residency”. In their letter, the petitioners once again had not committed themselves in any real way to refraining from Hamas activities. On 25 January 2009, the Minister of the Interior, Mr. Meir Sheetrit, had told the petitioners’ representatives that, after reviewing their petition, he had not seen fit to allow their request for restoration of Israeli residency since they had chosen to continue their Hamas activities. At the end of May and the beginning of June 2010, the police had confiscated the petitioners’ identity cards. They had been ordered to leave the State of Israel within 30 days, on the ground that they did not possess residency permits. The petitioners had again appealed to the High Court of Justice asking for an injunction to prevent the removal of their residency. In its response to the High Court of Justice, the State held that the request for interim measures to prevent the removal of the persons’ Jerusalem residency should be rejected, pending the final decision on the petition, in which they had asked for their residency permits in Israel not to be cancelled. The case was pending before the Supreme Court. Consequently, since the persons had not left the country, Mr. Abu Teir had been arrested on 30 June 2010 and had been charged on 1 July 2010 with staying illegally in Israel. The public prosecutor’s office had asked that Mr. Abu Teir be detained until the proceedings were completed. On 12 July 2010, the Jerusalem Magistrates Court had convened to examine the public prosecutor’s request. The court would issue its ruling that very day.

14. With regard to the legal basis for revoking the persons’ residence permits, the Minister of the Interior had decided to exercise the authority given to him by law and to cancel the petitioners’ residency permits after reaching the conclusion that it was not possible to reconcile the petitioners’ positions and activities as senior Hamas officials with their continued residence in Israel. The petitioners had severely violated their minimal obligation of loyalty to the State of Israel and, no less importantly, to the citizens and residents of the State of Israel. The Palestinian Elections Law itself, on the basis of which the petitioners had been elected as representatives of Hamas, established that it was unacceptable that a Palestinian elected official should have “double loyalty” towards the Palestinian Authority as well as towards the State of Israel. A residency permit bestowed full freedom of movement in Israel as well as full social welfare rights as a resident of Israel. Therefore, the residency permits granted to the petitioners had the potential to harm the security of the State and to deal a serious blow to the public trust in government institutions. If an interim injunction on the removal of the residency permits was granted, the security interests of the State, the well-being of its residents and citizens and the trust of the public in the State authorities would all be harmed. The damage caused to the petitioners did not compare to the harm that would be done to the citizens of Israel. The petitioners were still entitled to appeal to the authorized authorities in order to receive entry permits to Israel or temporary stays in Israel, so that they might visit family members there.

The State of Israel had announced that it would not oppose requests by the petitioners to be added to the Palestinian population registry.

15. **Ms. Gorni** (Israel), replying to a question about the translation and interpretation services provided in military courts in the West Bank, said that in the past the indictments issued by those courts had usually been translated into Arabic, despite the fact that there was little demand for such translations, and that simultaneous interpretation services were provided throughout the entire trial so that the accused could follow the entire proceedings.

16. **Ms. Tene-Gilad** (Israel), replying to a question about the Bedouin population in Israel, said that State action concerning that population was carried out in consultation with Bedouin representatives, who gave the authorities their views regarding the best design and characteristics of towns according to whether they were intended for urban or agrarian populations. In addition to the city of Rahat, there were seven existing Bedouin towns in the Negev. Although the existing towns could provide an effective solution to the Bedouin population's needs, subject to their expansion, the Government had decided to establish 11 new towns for Bedouins. The Government did so in an attempt to satisfy the Bedouin population and their special needs, including their desire to settle according to a tribal format. Following consultations, it had been decided to grant plots of agricultural land to each resident of the aforementioned towns. Israel had no intention of changing the nature of the Bedouin population in any way, but the planning authorities did take into account the sort of changes that were bound to occur over the years, particularly in the local population's attitudes. It should also be noted that the housing facilities available in Israel were also determined by the growth of the Israeli population, which was currently well over 7 million, and by the limited land available. Those were all limiting factors requiring multi-storey construction, which applied to all categories of the population.

17. Regarding the quality of the water in the West Bank and the Gaza Strip, thus far the World Health Organization had not raised the issue with the Israeli authorities. Israel and the West Bank shared the same water sources, and the same regulations therefore applied to both. Any deterioration in the water quality within the West Bank could only be attributed to the Palestinian Authority, which had been solely responsible for water facilities in the West Bank for nearly 15 years. The water transferred from Israel to the West Bank was in fact of the same quality as the water in Israel, which was transported by means of common aqueducts.

18. **The Chairperson** thanked the delegation of Israel for its replies and invited it to respond to the second part of the list of issues (questions 18 to 30), (CCPR/C/ISR/Q/3).

19. **Mr. Blass** (Israel), replying to questions about holy Muslim sites located in Israel, said that several statutes aimed to protect holy sites against material damage by requiring prior consent and guidance from the relevant ministries for certain actions in or around holy places. The Planning and Building Law of 1965 stipulated that every project promoted by the town planning authorities must be made public and an opportunity must be provided for objections and the right to a hearing. That included the possibility of opposing real estate projects involving religious structures and sites. The Protection of Holy Places Law of 1967 and the Planning and Construction Law did not draw any distinction between Jewish holy places and those of other religions, or between buildings used for the needs of the Jewish religion and those used by other religions.

20. Town planning measures took account of the need to set aside land for community purposes, including those of religious institutions. Following a petition filed by Adalah (The Legal Center for Arab Minority Rights in Israel) on the issue of regulations for the protection of Muslim holy sites in Israel, a committee had been established to evaluate the condition of Arab holy sites and to consolidate a programme for their management. A programme had been duly prepared for the appropriate management, in terms of budget and

planning, of the holy sites concerned and a special budget had been allocated for their restoration. Accordingly, a list of tasks had been drawn up for the year 2007 and fully implemented. Towards the beginning of 2008, the State had approached the petitioners requesting their assistance in compiling a new list, but the petitioners had steadfastly refused to cooperate. Therefore, the new list, which included 12 sites needing attention in 2008, had been based on the list originally annexed to their petition. Subsequently, the Supreme Court had decided to dismiss the petition. It should also be noted that an annual budget of 2 million new sheqalim (more than US$ 500,000) had been allocated for the protection of Muslim holy sites. In practice, access to holy places and freedom of worship for members of all faiths were scrupulously safeguarded, and exceptions were allowed only on grounds of public order or morals. With regard to the activities by certain religious groups in connection with the holy sites in the Old City of Jerusalem (question 22), access to the Temple Mount was allowed but on a limited basis. Jews and other visitors who were not Muslim were permitted to access the Mount and to enter the area that was reserved most days of the year, during morning and noon hours only, when prayers were not being performed in the mosques. The Israeli policy regarding the Temple Mount and other places holy to Islam had not changed in recent years. It did not allow non-Muslim persons (such as Jews or Christians) to hold any kind of ritual ceremonies on the Temple Mount. Should there be any indication that a group intended to hold such a ceremony, law enforcement authorities would prevent them from approaching the Mount, and especially from ascending the Mount to hold a religious ceremony. That policy enjoyed the support of the judicial and legal authorities in Israel. The Israeli Supreme Court, sitting as the High Court of Justice, had accepted the State’s position, and had recently rejected a petition to hold a Jewish religious ceremony on the Temple Mount, thereby preserving the status quo in relation to the Mount. Israel fully respected the right to freedom of religion and belief of all people in the holy sites in the Old City of Jerusalem.

21. Regarding question 23 of the list of issues on measures taken following the announcement by the State party that it would adopt a provision on an alternative service of a civilian nature for conscientious objectors, he explained that, in accordance with section 36 of the Israeli Defense Service Law of 1986, the Minister of Defense had the authority to exempt any man or woman from national army service for the reasons listed in the law or to defer conscription. Further exemptions were referred to in section 39 of that law. The High Court of Justice had ruled that where conscientious objection was proven, exemption from army service had to be granted to men and women alike, and the Israel Defense Forces fully adhered to that ruling. Israel considered freedom of conscience to be a fundamental human right. The Israel Defense Forces respected the convictions of conscientious objectors, provided that they were satisfied that they were genuine. A special military committee was in charge of reviewing applications for exemption on grounds of conscientious objection. In 2004, the High Court of Justice had issued a ruling in which it had drawn attention to the need to draw a distinction between cases of conscientious objection and civil disobedience. Unlike civil disobedience, conscientious objection responded to specific personal motives; it was not intended to change State policy. The conscientious objector had no interest in influencing others to join him. Israel had long ago instituted the possibility of a national civil service, managed through the Civil Service Administration and aimed at ensuring that all Israeli citizens and residents not subject to military service, such as most ultra-Orthodox Jews (men and women), Orthodox Jewish women and most of the Arab population (men and women), performed civil service instead. That option was also available to conscientious objectors. National civil service was aimed at those exempted from military service, those who postponed their service and those who had not been summoned for military duty for other reasons. The government resolution concerning national civil service stressed the voluntary nature of the service, which helped reduce inequality between those people who performed military service or any other voluntary service and those who did not, and improved the chances for all those who completed their service of becoming

integrated in civil life. The total annual public budget of the national civil service was approximately US$ 60 million (230 million new sheqalim).

22. As for the funding of non-governmental organizations (NGOs) by foreign sources, Israel had an open, vibrant and pluralistic civil society, that expressed its views and challenged the Government's conduct. The Government was engaged in an ongoing dialogue with numerous NGOs, which sometimes led to joint action on issues of common concern, such as combating trafficking in persons, improving the status of persons with disabilities, or protecting human rights in general. Such cooperation was appreciated and encouraged, but Israel considered that if organizations received funding from foreign sponsors that supported or promoted a political or quasi-political activity, there should be proper public disclosure of their relationship with the foreign sponsors, as well as any related activities, receipts and disbursements.

23. Regarding the "loyalty bill" referred to in question 25, by virtue of the principle of freedom of expression adhered to in Israel, any opinion could be expressed in the form of a bill tabled before the Knesset. The loyalty bill had been initiated by a single member of the Knesset and, as it had met with strong criticism, had been rejected on 31 May 2009 by the Ministerial Committee for Legislative Affairs.

24. Regarding the public pronouncements made by prominent Israeli personalities in relation to Arabs (question 26), it should be borne in mind that incitement to racism raised the issue of the need to maintain a balance between the preservation of public well-being and freedom of speech. That balance required strict scrutiny of each case, and in that respect the State Attorney's Office followed the guidelines set by the law and the Supreme Court. The matter became even more complex when Knesset members were involved. The Supreme Court had held that due to their parliamentary immunity, Knesset members should be granted even wider protection with regard to their freedom of speech; they were thus less likely to be indicted for what they said. Nevertheless, investigations were conducted, charges were filed and could lead to convictions.

25. Regarding the measures taken to revoke the Citizenship and Entry into Israel Law and the possibility of allowing family visits for Palestinian prisoners from Gaza (question 27), that law stemmed from the growing involvement in the activities of terrorist organizations of Palestinians from the West Bank and the Gaza Strip. Such individuals carried Israeli identity cards issued on grounds of family reunification, which allowed them free movement between the West Bank, the Gaza Strip and Israel. In order to avert the potential danger represented by former residents of those areas during the current armed conflict, the Government had decided in May 2002 to temporarily suspend granting them legal status in Israel for reasons of family reunification. It was in fact really difficult to obtain information concerning residents of the West Bank or the Gaza Strip. Israel, like any other State, had the right to control entry into its territory, all the more so during times of armed conflict, when persons seeking admission might potentially engage in acts of violence against Israeli citizens. On 31 July 2003, the Knesset had enacted the Citizenship and Entry into Israel Law, which limited the possibility of granting Israeli citizenship to residents of the West Bank and the Gaza Strip, even for family reunification purposes, or granting them residence permits in Israel. The law had been amended in 2005 and 2007 for humanitarian reasons and its applicability had been extended to citizens of enemy States (the Islamic Republic of Iran, Syrian Arab Republic, Lebanon and Iraq). An amended version had been applied until 31 July 2008 and re-extended twice more until 31 July 2010. The law permitted entry to Israel for the purposes of medical treatment or employment, or on other temporary grounds, for a total period of up to six months. The law allowed for various humanitarian circumstances, and established a committee specialized in humanitarian affairs, as explained in Israel's written replies to the list of issues. The law's

constitutionality had been examined and upheld by the Supreme Court, which was currently considering further petitions against the constitutionality of the law.

26. Since August 2005, the Ministry of the Interior had issued residence permits in Israel to 4,118 Palestinians (more than 1,000 individuals per year) based on requests for family reunification, subject to the exceptions recognized by the law. The humanitarian affairs committee had also received over 600 requests, 282 of which had been dealt with and 33 of which had been returned to the Minister of the Interior, with favourable recommendations. On the issue of family visits from the Gaza Strip, the State of Israel acknowledged the importance of maintaining family visits and had always acted accordingly.

27. On 19 September 2007, the Ministerial Committee on National Security Issues had resolved to restrict the entry of goods and fuel to the Gaza Strip, as well as the movement of persons in and out of the Strip. On December 2009, the High Court of Justice had noted that the authorities had allowed residents of the Gaza Strip to enter Israel for the purpose of visiting imprisoned relatives, on a case-by-case basis and subject to security clearance. As of 4 June 2007, however, following Hamas's violent takeover in the Gaza Strip, the area had been deemed a "hostile zone" and the State had begun to implement a new policy, according to which the entrance of Gaza Strip residents and visitors to Israel had been banned. The Court had held that no foreign resident was automatically entitled to enter Israel and that the State, according to the principle of sovereignty, was free to decide who should be allowed entry. That discretion was not absolute, however, and the authorities had to ensure that a proper balance was maintained between the various factors to be considered. According to the Court, the entry of Gaza Strip residents into Israel did not constitute a basic humanitarian need. The Court had rejected the argument that the refusal to allow family visits was in breach of international law, and had held that international law could not deny a sovereign state its right to prevent foreign residents from a hostile entity from entering its territory. Such restrictions, however, must be implemented in the light of humanitarian considerations.

28. On the issue of the construction of schools and new classrooms in the eastern neighbourhoods of Jerusalem (question 29), in the 2009/10 school year 41,364 pupils had attended schools in that area, which represented an increase of 40 per cent over the last 10 years. The Municipality of Jerusalem, which was aware of the shortage of classrooms, imposed no restrictions on the development of schools in the eastern neighbourhoods of Jerusalem. It had rented three new buildings intended to function as schools, in addition to the buildings it rented for long periods that catered for more than 1,500 pupils. Twelve new schools were in the advanced stages of planning, which would add a further 205 classrooms in the eastern neighbourhoods of Jerusalem.

29. Finally, as to the issue of Arab citizens of Israel in the public service (question 30), the Government had adopted several resolutions on that issue and had asked the ministries to prepare a five-year working plan. Until the end of 2012, priority would be given to Israeli-Arab appointments and promotions. An inter-ministerial team followed up on the implementation of those provisions by the ministries and examined ways in which obstacles to the recruitment of Israeli Arabs to the civil service could be overcome. The Civil Service Commission was very active with regard to the promotion and representation of the Arab, Druze and Circassian populations in the civil service. As in previous years, in 2009 it had taken several important steps to that end, including publishing a report on the integration of Arab employees in the civil service, hosting explanatory conferences intended for Israeli Arabs on integration into the civil service, holding explanatory meetings and seminars for civil service employees on the importance of recruiting Arab employees to the civil service, allocating designated jobs and positions for Israeli Arabs, employing private employment agencies to find suitable Arab candidates and applicants, modifying the tests intended for

Arab nominees and applicants, and training a group of Arab examiners for membership of the civil service examination committees. The proportion of Arab, Druze and Circassian employees in the civil service was steadily increasing. In 2009 it had risen to 6.97 per cent, compared with 6.17 per cent in 2007 and 6.67 per cent in 2008. Furthermore, 11.66 per cent of all new employees recruited into the civil service in 2008 had been Arabs, Druze and Circassians. In the past 10 years there had been a significant increase in the number of Arab citizens working in the Israeli judicial system. One of the 12 justices serving in the Supreme Court was a Christian Arab. Out of the 128 judges serving in district courts, 5 were Muslim, 2 were Christian and 1 was of Druze origin. Out of the 381 judges serving in magistrate's courts, 14 were Christian, 10 Muslim and 5 Druze. There was one Christian judge and one Druze judge serving in labour tribunals. Altogether 40 judges from minority groups were employed in the judicial system.

30. The Civil Service Commission had also taken steps to meet the needs of minority employees. Muslim employees were entitled to a day off during Ramadan, and Christians could choose Sunday as their weekly day off work. Members of the Arab population employed in the civil service received either a State rental subsidy if they lived close to their workplace or partial funding of their weekly commuting expenses.

31. **The Chairperson** thanked the delegation of Israel and invited the Committee members to ask additional questions.

32. **Mr. Fathalla** said that the question he had asked the previous day on Palestinians' access to water had been about the quantity rather than the quality of water. He had mentioned the figure of 23 litres per resident per day, which was quite insufficient given that the World Health Organization deemed 100 litres necessary for a healthy life.

33. Regarding question 18, he asked how many Palestinians lived in the "Seam Zone" and how the situation affected the right to freedom of movement in the West Bank and Jerusalem. He asked the delegation to explain how it justified the confiscation of Palestinian land in that zone in the eyes of the Covenant. How had the Israeli legal system dealt with the issue of the "Seam Zone"?

34. With regard to freedom of movement between Gaza, the West Bank and East Jerusalem (question 19), he asked how Military Orders No. 1,649 and 1,650 on "infiltrators" could be considered to be in conformity with the Covenant and how the State ensured that Palestinians were not forcibly transferred from the Occupied Territory. He wished to know what safety nets the judiciary had put in place to ensure that military orders were not misinterpreted.

35. **Mr. Thelin** said, with regard to question 20, that the Committee had learned that in cases involving national security or defence the factual account prepared by the State was submitted only to the court. The defendant was not informed, nor told about the relevant case law. That situation, if confirmed, required comment. Sources also indicated that the authorities clearly treated children in conflict with the law differently depending on whether they were Israeli or Palestinian. For example, the age of criminal responsibility differed (16 years and 18 years). Also, in the case of Israeli children, the parents could be present, and audio and video recordings were made of the investigation; such was not the case for Palestinian children, who also suffered discrimination with regard to representation by counsel. Clarification of that issue would be welcome.

36. Regarding question 23, he wished to know how many individuals had filed requests for exemption as conscientious objectors, how many had been accepted, and what criteria the authorities used when deciding whether to accept or reject objections. The word "proof" had been mentioned in that regard; it would be interesting to know what exactly was meant by that term. He also requested further information on the national civil service and asked whether that service really functioned as an alternative service. According to information

before the Committee, those who were not recognized as conscientious objectors were repeatedly brought to court and sentenced to penalties, including imprisonment, which contravened the principle of *non bis in idem* and constituted psychological pressure with the intention of forcing others to change their views.

37. It seemed that the administrative conditions and requirements set out in the bill entitled "Associations (Amutot) Law (Amendment – Exceptions to the Registration and Activity of an Association)" might if adopted lead to real harassment and make life very difficult for those organizations. Comments on that point would be welcome.

38. Regarding question 24, he requested clarification on the differences in the treatment of NGOs depending on whether they were Palestinian or Israeli. According to information before the Committee, there might be a link between certain NGO activities and a legal provision concerning participation in boycotts, which constituted an offence.

39. With regard to question 25, while he could not help but agree with the argument that the right to submit bills was an indication of dynamic democracy at work, he wondered what would have happened if the bill had passed. Would it have been reviewed by the Supreme Court? He wondered whether parliamentary action could be opposed to rulings of the Supreme Court. Comments on that issue would be welcome.

40. He thanked the State party for providing information on cases of hate speech by public personalities in 2008, in reply to question 26, but he would appreciate additional information on the period since then.

41. **Mr. Salvioli** noted that in a decision of 17 March 2007, the Israeli Supreme Court had rejected a petition filed by Adalah (The Legal Center for Arab Minority Rights in Israel) requesting the adoption of regulations for the protection of Muslim holy sites in Israel. Over the years many Muslim holy sites had been desecrated, and none of the 135 sites recently recognized as holy sites by the State party were Muslim. It would be interesting to know how the State party planned to ensure that its policy to protect holy sites was not implemented in a discriminatory manner. By virtue of the Covenant, the right to freedom of religion was non-derogable. How did the State party ensure that Palestinians in the West Bank could access Muslim holy sites located in Jerusalem? He also wished to know whether anyone had been prosecuted and convicted for desecrating sites considered holy by Muslims.

42. **Ms. Keller** asked whether the State party planned to allow persons detained in Israel who could not be visited by their families living in the Gaza Strip to have access to means of communication, such as a telephone, Skype or web cam, so that they could stay in contact with their loved ones. Several bills known as the "Shalit law" were currently being considered by the Knesset. According to some sources, the law would toughen prison conditions for Palestinians detained for State security-related offences and would deprive them of certain fundamental rights as a way to pressure Hamas. Could the delegation clarify those bills, their purpose and their aim? It would also be interesting to know whether the State party planned to resume the visit programme run by the International Committee of the Red Cross for families in the Gaza Strip, which had been suspended in 2007.

43. She asked why the provisions calling for protection measures for minors alleged to have committed an offence, such as the law on methods to be used in the judgement, conviction and treatment of minors, applied only to the police and not to the Israel Security Agency or to the cases of minors arrested by military order in the West Bank. She also wished to know whether the State party planned to review the method currently used to interrogate minors suspected of security-related offences, so that they could be interrogated in the presence of a relative or other adult, such as a security-cleared special advocate.

44. **Mr. O'Flaherty** noted that the State party had not replied to the Committee's question about attacks against schools in the Occupied Palestinian Territory. He asked whether the delegation could at least provide further information on two attacks carried out during Operation Cast Lead: one against the Balqis al-Yaman school in Gaza, and the other against the Al-Fakhoura primary school in Jabalia. In both cases, United Nations investigators had concluded that the attacks had not been justified by any nearby military activity. The delegation might wish to comment on those conclusions.

45. According to information before the Committee, 94 per cent of the requests for building permits in Palestinian communities in area C submitted between January 2000 and September 2007 had been rejected. During the same period, 5,000 demolition orders had been issued and more than 1,600 buildings belonging to Palestinians had been demolished. Those figures led one to wonder whether the State party's policy on urban planning and construction might spark a very serious humanitarian crisis; it would be interesting to know how the State party planned to follow that policy while at the same time avoiding such a crisis.

46. The 2010 bill on financing for NGOs seemed to set very worrying restrictions on NGOs' and human rights defenders' freedom to act. For example, it defined political activity as any action aiming to change public opinion, which was in fact the essence of the work carried out by most civil society organizations involved in defending human rights. Would those organizations be considered as political organizations from now on, and would they have to be registered as such? It was difficult to conceive of such a situation in a liberal democracy. It was also difficult to understand why an NGO should be required to report the ID card numbers and addresses of its members, thereby exposing them to a risk of harassment, although that was precisely what the bill called for. Further information on those provisions would be very useful. He also wished to know the current stage of the legislative procedure for the Ban on Universal Jurisdiction Bill and the Bill on the Prohibition of Imposing a Boycott.

47. It was rather surprising that it should be up to a military committee to consider requests for exemption from military service on the basis of conscientious objection, given that the expertise required to distinguish civil disobedience from true objection based on legitimate ethical considerations belonged more to the civil domain. According to certain sources, persons wishing to be recognized as conscientious objectors did not have the opportunity to be heard by the examining committee, and very few requests actually made it to that committee. Was that the case?

48. **Mr. Amor** said that he had taken note of the State party's position that the Covenant applied only within Israeli territory and that only armed conflict law and humanitarian law were applicable in the Occupied Palestinian Territory. In that case, he wondered whether the Covenant applied in the settlements within the Occupied Palestinian Territory and, if so, whether it should be concluded that the application of the Covenant was subject not to a territorial criterion, but rather to a personal one.

49. **Ms. Majodina** requested further information on the situation of Palestinians who lived in the "Seam Zone" and were therefore cut off from their families and had no access to health and education services. According to the United Nations Office for the Coordination of Humanitarian Affairs, the "Seam Zone" had recently been extended, which meant that the number of isolated persons was going to increase. Perhaps the delegation could explain why the State party refused to allow the families of persons living in the "Seam Zone" to visit them and whether the same restrictions applied to visitors to Israel.

50. Information before the Committee showed that violence committed by settlers against Palestinians had increased; 114 incidents had been reported in 2010, which was double the number in 2004. Palestinians were subjected to violence on a regular basis; they

were even more vulnerable on account of being isolated and they were reluctant to file complaints because they did not trust the police. What measures did the State party plan to take to ensure that such violence resulted in serious investigations and that the perpetrators were prosecuted?

51. **The Chairperson** suggested suspending the meeting for a few minutes to allow the delegation of Israel to prepare its replies to the additional questions asked by Committee members.

The meeting was suspended at 4.40 p.m. and resumed at 4.55 p.m.

52. **Mr. Blass** (Israel) said that the bill on financing for NGOs currently being considered in the Knesset reflected concerns that foreign States or international organizations might exploit civil society organizations for political ends. It was true that the proposed restrictions were very broad, but at the current stage it was only a bill and was unlikely to be adopted as it stood. While it was impossible to foresee the Knesset's reactions, there was reason to believe that the restrictions eventually adopted would be intended mainly to ensure greater transparency in the financing of NGOs, not to limit their ability to act.

53. There was certainly pressure to limit the powers of the Supreme Court, but that phenomenon was not new. The Supreme Court had always faced hostility from the Government, the Armed Forces and the Parliament, but it carried out its work with courage and steadfastness. Some people questioned the Supreme Court's power to repeal laws, on the ground that there was no law expressly establishing its competence in that regard, but discussions were under way to draft a law covering that issue.

54. Regarding the bills known at the "Shalit law", one should understand how disturbing it was for Israelis to know that a fellow-countryman had been detained in an unknown location in unknown conditions for more than four years, while persons detained in Israeli prisons enjoyed conditions that respected their rights and the law. It was important to point out that the restrictions called for in those bills did not affect detainees' rights, but only certain privileges. The legislative procedure was under way and it was not known what the outcome would be. The Committee could nevertheless be assured that the norms of international law would be respected.

55. The Bill on the Prohibition of Imposing a Boycott had just been considered by the relevant committee. It was a private bill aiming to punish Israelis who called for a boycott against the State of Israel. Several issues were being considered, such as whether the Government could legislate such behaviour and how to reconcile respect for freedom of expression with protection of the State. In any event, if passed it would be a very limited piece of legislation.

56. **Ms. Gorni** (Israel) said that in all criminal proceedings, defendants had access to the complete case file. The restriction that involved submitting elements of the file only to the judge applied only in cases involving administrative detention and was due to the need for confidentiality and to protect the sources of the information. It should be understood that in such proceedings, disclosing evidence to the defendant could put the persons who had provided that information at serious risk and could even endanger their lives. It should nevertheless be pointed out that defendants could bring their case before the military court, before the military court of appeal to challenge the decision issued in the first instance, and before the Supreme Court.

57. The delegation did not know exactly how many people were currently exempted from military service, but those data could be communicated to the Committee in due course. As for the committee that considered requests for exemption from military service

on the ground of conscientious objection, its members included one civilian who was a member of Academia and one lawyer of the Military Advocate General's Corps.

58. It was difficult to know exactly what the burden of proof covered in cases of conscientious objection, because what needed to be determined, in addition to the legitimacy of the motives, was the sincerity of the person claiming those motives. Nonetheless, military service was an obligation, and consequently it was up to the person requesting exemption to show that his or her reasons for refusing to serve fell within the motives for exemption recognized by law. Once a person was recognized as a conscientious objector, he or she was exempt from military service and could instead complete a civil service. Those whose request for exemption had been rejected were still obliged to serve and would incur penalties if they defected. Any person who claimed conscientious objection could be heard by the examining committee. If the request for exemption was rejected, the person could ask for the decision to be reviewed by a high-ranking recruiting officer. He or she could also lodge a complaint with the Supreme Court; that had been done several times before, as indicated by the examples mentioned in the written replies.

59. Persons who were detained in the Gaza Strip for security-related offences were not allowed to make phone calls or to communicate by videoconference or other similar means, in order to avoid the risk that they might convey information with a view to committing acts of terrorism, as had happened in the past. Those restrictions were in place for reasons of security and were enforced without exception, apart from individual humanitarian circumstances.

60. **Ms. Tene-Gilad** (Israel) recalled that the decision to build the security fence demarcating the "Seam Zone" had been made in response to the increased number of attacks against Israel since September 2000. The "Seam Zone" had been declared a closed military area. Apart from permanent residents who held permits, any other person who wished to enter the "Seam Zone" needed a permit. Planning and construction were carried out in such a way that efforts to meet security objectives affected the rights and living conditions of local populations as little as possible. The route of the fence had been drawn in a way that would cause the least possible disturbance to local inhabitants' land and freedom of movement. "Fabric of life" roads had been built to allow Palestinians to move about freely despite the obstacles created by the security fence. The Supreme Court had several times reviewed the works carried out in conjunction with the security fence and the "Seam Zone" and had each time supported the measures taken by the Government. Requests had been made to alter the route of the fence in certain places, and the necessary changes were gradually being implemented.

61. Gates and passageways had been built to allow Palestinian farmers to access their lands and continue to cultivate them in cases where the lands were located on the Israeli side of the fence. Currently, 7,000 Palestinians lived in the "Seam Zone". That number would increase to 8,000 once the fence reached Jerusalem. Ever since Hamas had taken control of the Gaza Strip, that territory had become a hostile entity comparable to an enemy State at war with Israel and its citizens. It was in that context that the Israeli Government had decided on 19 September 2007 to restrict the movement of goods and persons entering and leaving Gaza. It should be noted, however, that those restrictions were subject to legal monitoring and that they took into consideration the humanitarian needs of the Gazan population.

62. The military justice system was completely independent and its judges were not subject to any authority other than the law. All decisions of the military courts were made public on the Internet. The decisions of the military court of appeal could be appealed before the Supreme Court.

63. Israeli civil society was very active, and many NGOs worked in the field of human rights. International NGOs were also present, and hundreds of their members worked throughout the country. Currently, 71 NGOs were represented in the West Bank alone. The vast majority of NGO members were permitted to enter Israel and to move about within the country. There were occasions, however, when some of them were refused entry if it was established that they would pose a threat to State security. The Supreme Court had issued several decisions regarding such cases.

64. Originally, the list of holy sites registered as belonging to the archaeological heritage of Israel had included only Jewish sites. Following a request by Adalah (The Legal Center for Arab Minority Rights in Israel), another list including Muslim sites had been drawn up in 2007, and restoration work had been carried out on all the sites included in that list. In 2008, the Government had asked Adalah to help draft a new list, but the organization had refused and the list had therefore been drawn up without its input. A department of the Ministry of Interior was currently responsible for the matter, and an annual budget of 2 million new sheqalim (about US$ 500,000) was allocated for that activity. The Israeli authorities intended to continue adding Muslim sites to the list.

65. Allegations of violent acts committed by Israeli settlers were investigated just like any other complaints of violence. In 2008, the police had conducted 525 investigations on public disturbances in the West Bank, which had resulted in charges being brought against 140 persons. In 2008, it had investigated 524 similar complaints, 256 of which had been lodged by Palestinians and 217 by the Israel Defense Forces, the border police or the civil police; 131 persons had been prosecuted.

66. A question had been asked about prosecutions for incitement of hatred or racial violence since 2008. Several important cases could be cited in that regard. In April 2008, for example, several persons had been charged with writing an article containing hate speech that had appeared in a newspaper published by one of those persons. In another case, State officials had been prosecuted for discrimination and ill-treatment on grounds of ethnic origin.

67. With regard to the treatment of juvenile delinquents in the West Bank, in accordance with international law, the commander of the Israel Defense Forces in the West Bank applied the regulations previously in force in the territory, namely the law of Jordan. In such cases, Jordanian law set the age of criminal responsibility at 9 years, but stated that children under 12 years of age could not be considered as criminally responsible unless it was shown that they had understood the seriousness of their acts at the time they had committed them. The military law in force in the West Bank therefore reinforced the protection of children, because it established the age of criminal responsibility at 12 years, as in Israeli law. In addition, on 29 July 2009 the commander of the Armed Forces had signed a temporary order establishing a military court for minors in the West Bank. Amendments that had entered into force in September 2009 had considerably improved protection of the rights of minors by establishing specific guarantees and strengthening legal assistance for minors. The Israeli authorities were currently studying the possibility of extending temporary provisions calling for the detention of minors in completely separate facilities.

68. **Mr. Caspi** (Israel) summarized the outcome of the investigation conducted by the Israel Defense Forces into the incident in which a school used by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) had been hit by fire aimed at a nearby target in the area of Jabalia on 6 January 2009. He explained that the Israel Defense Forces had fired four 120 mm mortar shells in response to a Hamas mortar attack on their position, which had lasted for about one hour. They had returned fire only once they had duly confirmed the location of the gunmen, who were just 80 metres from the school, and had defined a safety zone. No shells had hit the school, but some had fallen in

the street nearby and fragments had been projected into the school grounds, resulting in several injuries. The military objective had been achieved; the hostile fire had been stopped and five Hamas combatants had been killed. In that operation, the Israel Defense Forces had acted in self-defence against a concrete, direct and immediate threat, while taking all the necessary precautions to avoid hitting the school.

69. **Ms. Rubenstein** (Israel) said that Military Orders No. 1,649 and 1,650 applied to illegal residents, in other words, to persons who entered the West Bank illegally or were there without a permit, otherwise known as “infiltrators”. Only a very limited number of persons were affected, thanks to the efforts by the Israeli authorities to regularize the status of Palestinians and foreigners in the West Bank, which between 2006 and 2008 had resulted in 32,000 persons being registered in the West Bank population registry. In 2009, only one foreigner had come under an expulsion order under the aforementioned provisions. There were currently eight persons in detention who had been arrested under an expulsion order, all of whom were suspected of taking part in terrorist activities.

70. **The Chairperson** thanked the delegation for its replies and invited the Committee members to ask a final series of additional questions if they wished.

71. **Mr. O’Flaherty** said that the delegation had not answered his question about the current status of the 2010 bill entitled “Associations (Amutot) Law (Amendment – Exceptions to the Registration and Activity of an Association)”. He also wished to know what the Government’s position was on the conclusions of the United Nations Commission of Inquiry concerning the attack on the UNRWA school.

72. **Mr. Salvioli** said that he had not heard any reply to the question on the conditions under which Palestinians from the West Bank could have access to the holy sites of Jerusalem, and he had also asked whether any individuals had yet been prosecuted and convicted for desecrating Muslim sites.

73. **Ms. Majodina** said that she still wanted to know why the authorities did not allow the members of persons’ families living in the “Seam Zone” to visit members of their extended family in other areas, and she asked whether those restrictions also applied to persons who wished to visit Israeli settlers in the “Seam Zone”. She also wished to know why Palestinians could not bring products such as eggs into the “Seam Zone” without the prior consent of the State party. Furthermore, she wondered what housing services existed in the “Seam Zone” and to what extent Palestinians had access to those services.

74. **Mr. Leshno Yaar** (Israel) said that the Israeli Government had cooperated with the commission established by the Secretary-General to investigate the incidents that had affected the United Nations staff, buildings and operations in Gaza, and that he recognized and appreciated that commission’s independence and integrity. That did not necessarily mean that he agreed with its conclusions, but at any event he had accepted that body, although in his view it was out of the question to cooperate with the investigations requested by the Security Council or the General Assembly, the political and inevitably partial nature of which was evident.

75. **Mr. Blass** (Israel) said that the Israeli authorities had ensured that the “Seam Zone” followed the Green Line as closely as possible. In certain places, however, it had been impossible to make the two coincide. Passage could be authorized for certain family celebrations and events, but restrictions were necessary, and the number of gates had to be limited. Without those conditions, the fence would lose much of its usefulness and its meaning. The “Seam Zone” could not be eliminated. On the other hand, all petitions concerning the route of the fence were taken into consideration and examined by the Supreme Court.

76. **Ms. Tene-Gilad** (Israel) said that the bill on associations, which was a private bill tabled by a group of Knesset members, had been submitted very recently and that consideration of the bill was still in a preliminary stage. As for freedom of religion, she emphasized that her Government did everything within its power to allow everyone to freely practise their religion. The only possible restrictions were related solely to security requirements; they concerned either localized threats or particularly sensitive periods. Any desecration of a holy site of any religion whatever was prohibited and severely punished by law.

77. **Mr. Leshno Yaar** (Israel) thanked the Committee members for all their questions and observations, which would be duly conveyed to the various ministries and bodies concerned. Israel attached great importance to its dialogue with the Committee and was certain that it would continue, for the benefit of all.

78. **The Chairperson** thanked the delegation of Israel for having agreed to an additional session and for attempting to reply to all the Committee’s many questions. He welcomed the dialogue that had taken place, even though some differences of views still remained, particularly on the applicability of the Covenant in the Occupied Palestinian Territory.

79. *The delegation of Israel withdrew.*

The meeting rose at 5.55 p.m.