



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Forty-seventh session

#### Summary record of the 36th meeting

Held at the Palais Wilson, Geneva, on Thursday, 17 November 2011, at 10 a.m.

*Chairperson:* Mr. Pillay

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### Consideration of reports

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

*Third periodic report of Israel (continued)*

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*The meeting was called to order at 10 a.m.*

**Consideration of reports**

**(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)**

*Third periodic report of Israel (continued) (E/C.12/ISR/3; E/C.12/ISR/Q/3 and Add.1)*

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

*Article 6 to 9 of the Covenant (continued)*

2. **Mr. Gottlieb** (Israel), responding to questions on the method used to calculate the unemployment rate and on why it was higher among the Arab population and women, said that Israel followed the criteria of the International Labour Organization (ILO) in that area: unemployed persons should be wholly unemployed, be registered at their labour exchange, have been actively looking for work for at least four weeks and be available for work almost immediately. Persons unable to work due to sickness or reserve service would still be considered as unemployed. Comparative figures on unemployment for the period 2001–2009 showed that the unemployment rate for Jewish men had peaked during the 2003 recession at 9.9 per cent, had fallen to 5.4 per cent by 2008, but had risen again in 2009 to 7.4 per cent due to the global financial crisis. The unemployment rate for Jewish women had been slightly higher than that for Jewish men during the period but had been progressively converging towards the figure for Jewish male unemployment, reaching a similar level by 2009. The unemployment rate for Arab men had been 14.1 per cent in 2002, due mainly to the unrest at that time, but had fallen to 7.5 per cent in 2008 before rising to 7.9 per cent in 2009 due to the financial crisis. Thus, the rate for Arab men was also converging towards that for Jewish male and female unemployment. The situation with respect to Arab women was more complex: an unemployment rate of 11 per cent had been recorded in 2001, falling to around 10 per cent by 2006, before increasing sharply to 16.9 per cent shortly thereafter. It was currently around 10 per cent and recent research indicated that the proportion of the labour force accounted for by Arab women had increased considerably.

3. Turning to the concern raised on wage disparities between men and women and between the Jewish and Arab populations, figures showed that Arab men earned 56 per cent of Jewish men's wages, which was a slight increase on the 2001 figure, while Jewish women earned 60.2 per cent of Jewish men's wages, representing an increase of almost 4 per cent on 2001. Arab women earned 67 per cent of Arab men's wages, up from 63 per cent in 2001. Comparing Arab women's wages to those of Jewish women, the situation had improved slightly from 61.2 per cent of Jewish women's wages in 2001 to 62.6 per cent in 2009. Thus, the strongest ratio increase had been among Israeli Arab women. Reasons for wage differences included: the population age structure, with a younger population and higher birth rate among the Arab community; higher unemployment among the Arab population, weakening their bargaining power; lower Arab female educational attainment; higher rates of part-time work among women; lower wages in rural areas, where many Arabs lived, compared to urban areas; and poor minimum wage compliance by employers, although improvements had been made in that area following government intervention.

4. Child allowance had not been cut as suggested; rather, it had been redistributed in 2009 to help families more by increasing the allowance by 5 per cent for the second, third and fourth child, while leaving the amount unchanged for the first child and the fifth child onwards.

5. It was true that social services expenditure had been reduced in recent years, from 18.7 per cent of gross domestic product in 2002 to 15.6 per cent in 2010, mainly in areas affecting the working-age population, but no cuts had been made in services for older persons. It was a major policy shift that had been introduced across the board for all sectors of the population, not just Jews or Arabs, to enable more funds to be directed towards the labour market.

6. **Mr. Mirkin** (Israel) said that the 1998 Equal Rights for People with Disabilities Law guaranteed the right of persons with disabilities to participate in public life, prohibited negative discrimination and focused on addressing the special needs of disabled persons. Recent research revealed that the unemployment rate among persons with disabilities was significantly higher than among the able-bodied population. Furthermore, 65.2 per cent of disabled persons who were employed earned less than the minimum wage compared with 27 per cent of persons without disabilities, and 13 per cent of persons with disabilities earned more than the average wage compared to 37 per cent of the able-bodied workforce. In order to address the inequalities, the Government had adopted various legal and other measures. They included an initiative to allow persons with disabilities to work for less than the minimum wage which, although it might appear to be discriminatory, actually had the opposite effect by encouraging employers to hire persons with disabilities, especially as the perception was that they were less productive in general than persons without disabilities. Another initiative had been a legislative amendment making it compulsory for all new buildings to be accessible to persons with disabilities. In addition, in 2003, the Civil Service Commissioner had ordered that job candidates with severe disabilities should be given priority in the recruitment process in the civil service and had provided the relevant support to employers and potential employees with disabilities in order to help in the process and afterwards, once the persons hired were in the workplace.

7. The Government had set up a scheme to help persons with disabilities move from sheltered into supported employment and advise employers on appropriate salaries and adapting the work environment to accommodate persons with disabilities, such as installing wheelchair ramps, adjusting furniture and purchasing special equipment. The scheme was targeted at young persons with disabilities in particular, and included work experience programmes in the public and private sectors and the military, interview skills training, career planning, preparation for independent life, and setting up youth clubs where young disabled people who were in mainstream schools could interact with other persons with disabilities.

8. **Mr. Feldman** (Israel) said that the Israeli economy would only reach its full growth potential with significant participation by minorities, namely the Arab, Druze, Circassian and Bedouin communities. The target was to increase employment of minority women from 22 to 42 per cent and of minority men from 70 to 78 per cent, by 2020. He described several resolutions adopted by the Government since 2010, as detailed in the reply to question 10 of the list of issues (E/C.12/ISR/Q/3/Add.1). A Regional Development Centre had been established to coordinate all the relevant agencies and continue expanding economic development and employment programmes. Employment centres were being set up in minority localities to promote active measures and provide employment services to the unemployed or underemployed, with a budget of 200 million new sheqalim (NIS) over five years. The centres were staffed with locals who were familiar with the specific needs and difficulties of a given area; offered career counselling, vocational training and skills assessment, interviewing technique and placement services; and delivered services tailored to specific groups such as women, youths and persons with disabilities. One centre had been opened in an Arab locality, with three more scheduled to open between late 2011 and early 2012; two had been opened in the Negev in 2010 with plans for six more; and one was scheduled to be opened for the north in 2012.

9. The Ministry of Industry, Trade and Labour had focused on developing industrial zones in minority localities, investing NIS 17 million since 2010 and budgeting an additional NIS 260 million over the next five years. Integrating localities with regional industrial zones was also being encouraged in order to facilitate employment. Over the same period, 94 companies had received subsidies for 1,500 new recruitments, at a total cost of NIS 85 million, while 10 firms had received capital expenditure grants for expanding factories to meet the needs of 200 additional workers, at a cost of NIS 35 million. A private investment fund had been set up, endowed with NIS 175 million, to support Arab-owned technological start-ups. Various programmes had been implemented to foster employment of ethnic minorities, as detailed in the reply to question 10 of the list of issues (E/C.12/ISR/Q/3/Add.1). Additional schemes included engineering courses, which cost NIS 60,000 per student for two years, and retraining in high-tech sectors, with a budget of NIS 3 million for 2011–2012. Only 2.5 per cent of academics from minorities were unemployed, compared with 4.1 per cent of Jewish academics. There were two units dedicated to the economic development and employment of minorities – one in the Ministry of Industry, Trade and Labour and one in the Office of the Prime Minister.

10. **Mr. Lenk** (Israel) said that, while the delegation might not have the solution to every employment issue, it trusted that it was demonstrating what a committed effort Israel had made over the past year and that the State party was asking what it felt were the right questions.

11. **Ms. Tene-Gilad** (Israel), referring to paragraphs 65 to 76 of the periodic report (E/C.12/ISR/3), said that Arabs accounted for 7.52 per cent of civil servants, and there had been a steady if slow rise in their numbers. Various measures had been taken to increase their participation, including adjustments to the entry examination, data collection and recruitment of minorities at senior levels as a driving force for further integration. There were 32,000 Palestinians licensed to work in Israel, 25,000 licensed to work in Israeli settlements in the West Bank, and approximately 20,000 unlicensed workers. Under the Electricity Economy Law, pensioners were entitled to a 50 per cent discount on the first 400 KWH of monthly domestic consumption.

12. **Mr. Karin** (Israel) said that the security fence was a temporary measure and was not intended for annexing territory. Its planning and erection had been carried out bearing in mind the need to balance security requirements with the desire to minimize the impact on Palestinian residents, particularly in the seam zone. Only 7,000 Palestinians lived in the seam zone, but the State party sought to apply the principle of proportionality in providing solutions to movement restrictions, such as permits and permanent or seasonal gates and passageways. The Supreme Court conducted regular judicial reviews of various matters connected to the administration of the West Bank. Most roads in the West Bank were not subject to permits for Palestinians except in a few isolated cases where there was a clear security concern. However, freedom of movement was not absolute and must be weighed against other rights and interests. In many situations, movement restrictions for security reasons were imposed only on Israeli citizens and not on Palestinians. The previous year had brought major improvements relating to mobility: Route 433, linking several West Bank villages to Ramallah, had been opened to Palestinians following a Supreme Court decision that the ban on their using the road was unauthorized and disproportionate. Five other roads had also been opened and 60 roadblocks and checkpoints removed. The 16 remaining roadblocks were operational 24 hours a day and carried out random checks. He was not aware of any adverse effects of existing movement restrictions on the employment of Palestinian women. Palestinian men and women were free to work in the West Bank, and they could work in Israel or Israeli settlements following a preliminary security screening, although the State party was under no legal obligation to accommodate them. With a view to supporting the Palestinian economy, Israel by and large allowed residents of the West Bank to enter for work purposes, subject to security considerations and labour quotas.

13. **Mr. Sadi** asked if foreign workers enjoyed the same working conditions as the average Israeli worker.

14. **Ms. Shin** welcomed the manifold measures taken to reduce the wage gap and extend employment and benefits to persons with disabilities and members of minorities; however, much remained to be done. She wondered if all Government efforts in that area were made in consultation with the various communities and population groups. She also commented on the apparent lack of options for youths who chose to join the national civil service instead of doing their military service.

15. **Mr. Lenk** (Israel) replied that in fact there was a wide range of options available to youths, either in their own communities or elsewhere in the country, and it was possible to suggest other civil service placements. The Government conducted wide-ranging consultations with minority communities before implementing programmes.

16. **Ms. Tene-Gilad** (Israel) said that, in addition to the Foreign Workers Law, all domestic labour laws applied to foreign workers. A team had been created to examine ways to reduce the high recruitment fees foreign workers paid in their country of origin. An agreement between Israel and Thailand on foreign workers in agriculture was due to be ratified on 20 November 2011. Since 2007, there had been a dedicated department for the national civil service. Some 15,000 youths had volunteered for the service: 61 per cent in education, 24.2 per cent in health care, 6 per cent in welfare services, 5 per cent in public security, and 1.3 per cent in the legal field.

17. **Mr. Tirado Mejía** expressed concern over the status of migrant workers, particularly domestic workers living at their place of employment. According to a Supreme Court decision, regulations on working and rest hours did not apply to those workers. Had the situation changed since the decision?

*Articles 10 to 12 of the Covenant*

18. **Mr. Riedel** asked what steps the State party had taken, or intended to take, to change the unfair treatment of men in divorce proceedings and settlements, which contributed to a high suicide rate among divorced men.

19. He stressed the fact that the Committee disagreed with the State party's interpretation of its obligations towards the occupied territories and said that the collective punishment inflicted on Gaza was a violation of Israel's obligations under the Covenant, customary international law, human rights law, international humanitarian law and the law of belligerent occupation, and a totally disproportionate response to the security threat. The principle of proportionality ought to apply to all areas and Israel remained responsible for those territories as long as it exercised ultimate, if not effective, control over them. He asked if, given that a delivery of construction materials had recently been permitted, there were plans for an overall relaxation of border restrictions. There were numerous limitations on the movement of health-care personnel, patients and medical supplies, even in emergency situations where the lack of timely treatment had on occasion resulted in death. In Jerusalem, in 2010–2011 alone, there had been 1,089 instances in which emergency ambulance services of the Palestine Red Crescent Society had been denied entry despite prior coordination with Israeli authorities and hospitals, so that severely ill patients had had to be moved from ambulances to other means of transportation. Were there plans to change those practices?

20. Lastly, he said that a majority of West Bank communities were less than 80 per cent connected to the wastewater network, most of the domestic wastewater from Jewish settlements was discharged in the West Bank untreated, and attempts by Palestinians to build waste management facilities had been thwarted. He asked what measures were being

taken to stop such violations of the right to water and sanitation, prosecute offenders and provide redress.

21. **Mr. Sadi** asked whether the Israeli perspective on family matters such as marriage, divorce and custody of children was sectarian or secular. If it was sectarian, he asked how the State party complied with the relevant international norms. If it was secular, he failed to understand why family policy was not in line with those norms. The Committee would appreciate clarification of reports that divorced fathers could not leave the country unless they had first paid child support for many years, and that some 30,000 children were unable to leave the State party as a result of court rulings. It was also difficult to see how the automatic preference for mothers to have custody of children in divorce cases respected gender equality.

22. The Committee took the view that the Covenant was applicable in the Gaza Strip and the West Bank. He asked how the standard of living could be improved in the Gaza Strip, given that residents were prohibited from importing construction materials, had no access to natural water, had only one waste treatment plant and were constantly having their fishing rights reduced. The situation was apparently similar in the West Bank. He urged the State party to rethink its policy on those territories.

23. **Ms. Cong** asked why the fundamental principles of the planning scheme for the Arab population included developing joint employment areas in order to enhance the incomes of the local authorities (E/C.12/ISR/3, para. 452). She requested information on the outcome of the planning schemes for the Arab localities that had been initiated in the 1980s. It would be useful to know why there was such a disparity in the number of building applications from residents of the eastern and western neighbourhoods of Jerusalem, and why so many more such applications were granted in the western part of the city. She would appreciate an indication of the compensation and resettlement package available to people whose illegal constructions were demolished, especially in east Jerusalem. She drew attention to the State party's obligation to provide a decent standard of living for the population. The statement in paragraph 467 of the periodic report that the Government had decided to build nine new towns for Bedouins in order to please the Bedouin population was somewhat inappropriate. She urged the State party to reopen the existing crossing points into and out of the Gaza Strip with immediate effect. That would be the most effective short-term measure the Government could take in order to facilitate the free movement of persons and goods.

24. **Mr. Atangana** requested additional details on the criteria according to which food baskets were distributed to certain vulnerable groups. He would also appreciate information on the recommendations formulated by the Inter-Ministerial Committee on food security. It would be interesting to learn what measures had been taken to give effect to the provisions of the 2005 legislation concerning a daily meal for school pupils.

25. **Mr. Martynov** said it was clear from the written replies that the level of poverty in the State party was alarming, with over 34 per cent of children living in poverty in 2007. He asked whether the Government had a sustainable strategy to fight poverty, or if it merely accepted the results of the play of market forces, including for the most vulnerable and marginalized sectors of society.

26. **Mr. Schrijver** (Country Rapporteur) noted that, according to the 2011 concluding observations of the United Nations Committee on the Elimination of Discrimination against Women, the State party continued to be a country of destination for trafficking in persons (CEDAW/C/ISR/CO/5, para. 30). He wished to know what steps the Government had taken, apart from enacting the Anti-Trafficking Law and adopting two national plans to combat trafficking, to implement the recommendations that Committee had made in

paragraph 31 of its concluding observations. He also asked what steps the State party was taking to prevent early marriage.

27. The State party had indicated in paragraph 373 of the third periodic report that in 2007, 24.8 per cent of families with children had been living below the poverty line. That was a high proportion for a country with a developed economy that had recently joined the Organization for Economic Cooperation and Development. That figure was confirmed by other data, such as a 2007 report by the United Nations Office for the Coordination of Humanitarian Affairs showing almost 57 per cent of Palestinians to be living in poverty and a 2008 ILO report stating that approximately half of all Palestinian households were dependent on food assistance provided by the international community. He requested additional details on the measures the Government was implementing to combat poverty in Israel and the Occupied Palestinian Territory.

28. The Committee saw no reason to deviate from the position it had taken during the consideration of the State party's two previous reports concerning the applicability of the Covenant. Paragraph 15 of the 2003 concluding observations (E/C.12/1/Add.90) clearly indicated that the Committee did not accept the State party's position that the Covenant was not applicable to populations other than the Israelis in the occupied territories. It also noted the Committee's deep concern at the State party's insistence that, given the circumstances in the occupied territories, the law of armed conflict and humanitarian law were considered to be the only mode whereby protection might be ensured for all involved, and that that matter was considered to fall outside the Committee's sphere of responsibility. The Committee had been encouraged that the International Court of Justice, in its 2004 advisory opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, had quoted the Committee's view that the State party's obligations under the Covenant applied to all territories and populations under its effective control. While it was necessary to put the situation in the West Bank in perspective, the plight of those living there should not be minimized. It was a fact that the construction of the wall by Israel on the Palestinian territory had resulted in the confiscation of a significant amount of land and the destruction of large areas of farmland and olive groves; in addition, villages had been split in two. The wall infringed on the economic and social rights enshrined in the Covenant. Likewise, in the Gaza Strip, the fishing zone extended to only three nautical miles, in contravention of well-established rights under the United Nations Convention on the Law of the Sea which provided that coastal regions were entitled to a 12 nautical-mile territorial sea and a 200 nautical-mile exclusive economic zone. That impeded the exercise of the economic rights of thousands of inhabitants who tried to make a living from fishing, as well as their social right to work and their right to food, not to mention the effects on their families. While the Committee took note of the State party's position, it would nonetheless be useful to have a detailed explanation of the situation in the occupied territories from the delegation.

29. **Mr. Dasgupta** noted that the Citizenship and Entry into Israel Law (Temporary Provision) placed severe restrictions on the possibility of family reunification where one spouse was resident in the West Bank, thus affecting the right to family life under article 10 of the Covenant. The Committee noted the State party's justification that it had the right to control entry into the territory of the State with a view to curbing violent activities, particularly terrorist acts. However, while that principle was not in question, it was doubtful whether it warranted the draconian measures set out in that Law, which in essence imposed a ban on family reunification for the residents of the West Bank. It provided strictly limited discretionary powers to the Minister of the Interior to grant permission for family reunification in certain narrowly defined circumstances. The Supreme Court had upheld the constitutionality of the law by a majority of one, out of a total of 11 judges. He therefore asked whether the Government was considering replacing the Law by an approach that would allow the Minister of the Interior to impose suitable restrictions on family

reunification in cases where it had reasonable grounds to suspect that applicants for entry might take part in violent activity, while allowing the majority of applicants to enter without let or hindrance. It was astonishing that, currently, 5-year-old children were not automatically granted entry and could only obtain permission if the Minister used discretionary powers.

30. **Mr. Kedzia** asked whether the Absentee's Property Law was applicable to displaced persons, who could be expropriated during their displacement. He wished to know whether displaced persons were free to return to their place of settlement and move back in to their property, and what steps had been taken to make that possible. Could the Israel Development Authority subsequently sell or hand over that property to private individuals or enterprises and, if so, what were the relevant criteria? Did displaced persons have the right to due process during the displacement?

31. He asked to what extent the Bedouin population had been involved in the design and implementation of the recommendations of the Advisory Committee on the policy regarding Bedouin towns (the Goldberg Committee). He wished to know how the two Bedouin representatives on the Advisory Committee had been chosen and whether they had played a full part in the decision-making mechanisms concerning their interests. Were the Bedouin recognized as an indigenous people? To what extent did that population perceive itself to be victimized, as indicated in many reports? It would be useful to know whether the plan approved by the Government would effectively remedy the situation of the Bedouin.

32. **Ms. Barahona Riera** requested clarification of the application of the legislation on domestic violence and that on stalking with regard to requests for protection orders, as it appeared there might be some contradiction between the two. It would be useful to know whether domestic violence had been criminalized. She also asked what measures the State party was implementing to prevent trafficking in persons and whether such trafficking had been criminalized. If so, it would be interesting to learn what sentences had been handed down to perpetrators of that crime.

33. The Committee would welcome information on the steps the State party was taking to ensure that non-resident children had health insurance coverage. She also wished to know what measures the Government envisaged under its new food security legislation to promote food security and nutrition among the most vulnerable groups in society, including children. Given that the Government effectively controlled the occupied territories, she asked how that legislation would be enforced in those territories in order to ensure that residents were not denied the right to food.

34. Additional information would also be useful on sexual and reproductive health services and education, particularly concerning maternity and young people, within Israel and the occupied territories.

35. **Mr. Tirado Mejía** asked what steps the State party was taking to raise awareness of the need to prevent sexual harassment and domestic violence. In the light of reports of an increase in complaints of gender-based violence in the State party, he urged the Government to strengthen its efforts to combat that phenomenon. He also wished to know what measures were implemented to prevent sex tourism, especially when it involved minors, and whether the Government planned to criminalize sex tourism abroad on the part of Israeli citizens.

36. Given that religious laws tended to take precedence in family matters, he requested additional information on existing legislation concerning polygamy and early marriage, and the State's attitude to those issues.

37. **Mr. Abdel-Moneim** asked whether the 2006 case in which the Supreme Court had recognized a civil marriage (E/C.12/ISR/3, para. 367) had resulted in the recognition of



civil marriages as a general rule in the State party and whether it was applicable to marriages between Jewish couples only. Likewise, he wished to know whether case 335/04 *Vered Pinhasi v. The State of Israel* which had been brought before the Be'er Sheva Administrative Court (ibid., para. 460) had led to a change in the relevant regulations nationwide.

38. Having examined the data on poverty in the periodic report, he requested additional information on the cause of the reduction in the level of poverty in 2007, which was all the more surprising given that the decrease in social security benefits payments had continued until that year. That was particularly relevant given reports that, in 2010, some 800,000 children had been living in families that were on the poverty line in the State party.

39. Turning to the issue of the right to adequate housing, he noted that, according to his information, government-funded buildings represented only 16 per cent of construction in Israeli settlements; the rest was privately financed. He wondered how settlers obtained licences to build in the Occupied Palestinian Territories and how they financed those settlements. He would also like information on the comparative costs of housing units in Israel proper and the Occupied Palestinian Territories.

40. Noting the decision of the Standard Contracts Tribunal mentioned in paragraph 437 of the report concerning the need to amend several unfair conditions in the standard contract between the national housing company, Amidar, and its tenants, he wondered why it had taken so long to challenge and amend those conditions. He expressed concern that, according to the report (para. 442), some 1,000 street dwellers did not make use of treatment facilities because they were distrustful of the establishment and suggested that some mechanism should be put in place to ensure those individuals received appropriate treatment.

41. Recalling the recent massive demonstrations in Israel over the cost of housing, which had led to the commissioning of the Trajtenberg report, he welcomed the Israeli Government's adoption of the recommendations of that report relating to economic and social development but wondered, given the estimated US\$ 8.3 billion cost of those recommendations, whether they would actually be implemented. He also asked whether, given Israel's high rate of taxation, some of that revenue should be used to redistribute national income. In a case where economic policy hindered respect for economic, social and cultural rights, he suggested that what was needed was a change in policy and real structural change.

42. **Mr. Ribeiro Leão**, referring to family reunification (paragraphs 392 to 409 of the report), an internationally recognized right of special relevance to the Covenant as well as international law relating to armed conflict and refugees, and to paragraph 397 of the report in particular, requested further clarification on the State party's criteria for determining if a person requesting entry into Israel could potentially be involved in acts of violence and terrorism against its citizens and should therefore be denied entry.

43. **The Chairperson**, speaking in his capacity as an expert, while noting the delegation's position regarding the applicability of the Covenant in the Occupied Palestinian Territories as set out in its reply to question 2 of the list of issues, requested further clarification. Forced evictions in East Jerusalem likewise would appear to be not in conformity with international law. He referred the delegation to the Committee's general comment No. 7 in that regard.

44. **Mr. Lenk** (Israel) welcomed the Committee's concerns and its interest in Israeli law and the possible lessons learned as a result of the Arab spring. With regard to the first point raised by the Chairperson, however, he said that his Government's position was well known and the Committee and his delegation would have to agree to disagree on that issue. He also noted that, from a factual point of view, his delegation might not be able to respond to all

questions since Israel no longer had administrative control of the territories. Interaction between Israelis and Palestinians in those territories was currently limited to the military and security context.

45. **Ms. Shmueli** (Israel), returning to an earlier question on the situation of foreign domestic workers, said that the National Labour Court had found that the situation of live-in caregivers was not a traditional employer-employee relationship and therefore could not be dealt with in the same way as a typical labour dispute. Each complaint must be resolved on a case-by-case basis taking into account that there was a high level of personal contact and trust between the employer and the caregiver, who was often resident in the home and potentially on duty 24 hours a day. That made it difficult for example to impose standard wage rates applicable to a normal work day, or deal with what constituted overtime hours and rates of pay.

46. Furthermore, unlike normal employment situations, where the employer might be considered to be in a position of strength relative to the employee, there was a more balanced relationship between a caregiver and the employer. The Supreme Court had decided that the situation of foreign domestic workers was unique and it could not hear complaints in that regard; it had recommended that the Government should draft specific legislation regulating the foreign domestic worker sector.

47. The Ombudswoman for the complaints of foreign workers received complaints, provided information, advised complainants on the procedure to follow, referred complaints to the proper authorities for prosecution and followed up on action taken by the authorities with regard to such proceedings. The Ombudswoman could not, however, launch prosecution proceedings before the courts. The preferred solution in cases involving foreign domestic workers, given their unique situation, was mediation to reach a solution mutually agreeable to the caregiver and the employer.

48. **Mr. Karin** (Israel) drew attention to the current reality in the West Bank, where there was a division of powers and responsibilities between Israel and the Palestinian Authority pursuant to the Israeli-Palestinian Interim Agreement of September 1995. With regard to nutritional security and the right to food, he said that while Israel made every effort to facilitate the passage of essential provisions and international assistance for the Palestinian people into and out of the West Bank and Gaza Strip it bore no direct responsibility for fulfilment of that right. Likewise, pursuant to the Interim Agreement Israel had no power or authority relating to the right to health; it could not build new health infrastructure, undertake vaccination campaigns, etc.

49. Israel did have a responsibility to facilitate the movement of persons through checkpoints for the purpose of seeking health care. To the best of his knowledge the last incident where an individual had been prevented from passing through a checkpoint to receive medical attention had occurred in 2007. Following that incident the competent authorities had implemented procedures aimed at preventing any recurrence. Checkpoint commanders could use their discretion and allow a Palestinian through in order to seek medical attention, even if the individual's status had some restriction attached to it.

50. He noted that providing notice and coordinating with the security authorities in advance would help avoid problems. Every month between January and August 2011, on average, more than 8,000 Palestinians had travelled from the West Bank, and 800 from the Gaza Strip, into Israel, to seek health care. The greatest obstacle to Palestinians travelling from the Gaza Strip into Israel for medical reasons seemed to be the Hamas authorities, who did not welcome Palestinians going to Israel for medical care they could not provide to their own population.

51. Turning to the issue of water supply and sewage treatment, he said that under the Interim Agreement full responsibility for those services in the Gaza Strip had been

transferred to the Palestinian Authority. Following Israel's disengagement from the Gaza Strip those services had again come under full Palestinian control. The main source of water in the Gaza Strip was an aquifer to which Israel did not have access and over which it had no control. In the West Bank, where there were shared water resources, pursuant to the Interim Agreement, Israel was required to continue supplying the Palestinian Authority with 118 million cubic metres of water, the amount being supplied at the time of signature of the Interim Agreement. Israel had gradually increased that amount and currently supplied the Palestinian Authority with 196 million cubic metres. Water resources were managed by the Joint Water Committee. He underscored that Israel had fully implemented and in fact exceeded its international obligations relating to water and had never transferred to Israel any water resources from Palestinian areas falling within the 1949 armistice line.

52. The Palestinian Authority was responsible for its own sewage treatment plants, which were in fact contaminating the aquifer in Gaza. The Joint Water Committee had authorized the drilling of 57 new wells and 21 substitute wells and the upgrading of 42 wells in Samaria as well as 13 in the Jordan Valley. There were, however, more than 300 unauthorized wells in the West Bank, putting at risk the viability of the aquifer shared by Israel and the West Bank. In the Gaza Strip the situation was even worse; thousands of unauthorized wells were seriously affecting water levels and quality in the local aquifer. In addition, there were numerous illegal connections to the Israeli water distribution system.

53. Despite their responsibility for sewage treatment the Palestinian authorities had not addressed problems or increased the capacity of their sewage treatment facilities, posing an environmental hazard for the Palestinians and Israel. Despite receiving international funding for and authorization from the Joint Water Committee for a new facility in the West Bank the Palestinian Authority had taken no action in that regard. Israel in fact treated much wastewater from the West Bank, and more than 85 per cent of wastewater from Israeli communities in the West Bank was treated in Israel.

54. There were two wastewater treatment plants in the south of the Gaza Strip and one in the north. A new plant had been approved and he pointed out that Israel allowed passage of construction materials for internationally approved and supported projects, which would include a new plant. During the 2008–2009 conflict in the Gaza Strip, however, he recalled that Hamas had not hesitated to sabotage its own treatment plant in an effort to impede the advance of the Israeli forces.

55. As for the appropriation of land for the building of the security fence or other security-related purposes, he stressed that Israel observed the terms of the 1907 Hague Convention respecting the Laws and Customs of War on Land, including article 52 relating to payment for requisitions and services. Such measures were implemented in the West Bank in accordance with Israel's responsibility to enforce the law, including pre-existing Jordanian law, and maintain order in areas under its control. As for forced evictions, he said that in the case of illegal building notice being given, the situation was reviewed by a zoning committee, the committee's decision could be appealed and judicial review was likewise possible. If there was a long delay before the eviction order was enforced the individual concerned could file a new appeal on the grounds of changed circumstances.

56. He was unfamiliar with the term "ultimate control". Under the Interim Agreement the Palestinian Authority was responsible for the welfare of the population of the Gaza Strip. Israel had reacquired responsibility for the Gaza Strip during its occupation in response to repeated mortar and rocket attacks but had allowed free passage for persons and goods. It had given up responsibility for the Gaza Strip when it had disengaged from that area. Gaza was not an enclave, nor was it landlocked; it also shared a border with Egypt. When Hamas, a terrorist organization dedicated to the destruction of Israel, had taken power in the Gaza Strip in 2007, a decision had been made to restrict the passage of persons and goods into and from the Gaza Strip except for humanitarian reasons.

57. He stressed that under international law no State was required to open its sovereign territory to the passage of persons or goods that might pose a threat to it or its population. Israel complied fully with article 23 of the 1949 Hague Convention relative to the Protection of Civilian Persons in Time of War and article 70 of the first Protocol Additional to that Convention and had in fact gradually loosened restrictions between 2007 and 2010. Lastly, with regard to fishing rights, he said it was his understanding that under international law the recognized norm was a three nautical-mile fishing zone.

58. **Mr. Schrijver** pointed out that under the 1982 United Nations Convention on the Law of the Sea, every State had the right to establish its territorial sea up to 12 nautical miles (art. 3) and its exclusive economic zone up to 200 nautical miles (art. 57).

59. **Mr. Abdel-Moneim** took note of the delegation's responses but said that the term "disengagement" was not the legal equivalent of "withdrawal". He also suggested that all Committee members should review the Israeli-Palestinian Interim Agreement of 1995, copies of which were available through the secretariat.

*The meeting rose at 1 p.m.*