

בשבתו כבית משפט גבוה לצדק

1. ועדת המעקב העליונה לענייני הערבים בישראל
2. הרשימה המשותפת בכנסת
3. ועד ראשי הרשויות המקומיות הערביות
4. עדאלה – המרכז המשפטי לזכויות המיעוט הערבי בישראל

על ידי עוה"ד חסן ג'בארין ו/או סוהאד בשארה ו/או מאיסאנה מוראני
ו/או פאדי ח'ורי ו/או סאוסן זהר ו/או נארימאן שחאדה זועבי ו/או
רביע אגבאריה ו/או איה חאג'י עודה

מעדאלה – המרכז המשפטי לזכויות המיעוט הערבי בישראל
רח' יפו 94, חיפה, ת.ד. 31090 8921
טלפון: 04-9501610; פקס: 04-9503140; נייד: 050-7456580
דוא"ל: Suhad@adalah.org Myssana@adalah.org

העותרים

נגד

1. הכנסת
על ידי הלשכה המשפטית של הכנסת
משכן הכנסת, קריית בן גוריון, ירושלים
טלפון: 02-6408638; פקס: 02-6753495
2. היועץ המשפטי לממשלה
ע"י פרקליטות המדינה
רח' סלאח אל-דין 29, ירושלים

המשיבים

הודעת עדכון מטעם העותרים

בהתאם להחלטת בית המשפט הנכבד מהיום, 17.12.2020, מתכבדים בזאת העותרים להגיש הודעת עדכון בנוגע להתפתחויות שהיו במישור החלטות גופי האומות המאוחדות השונים, בהקשר של חוק-יסוד: ישראל מדינת הלאום של העם היהודי (להלן: "חוק-יסוד: הלאום"), והכל כפי שיפורט להלן:

1. ביקורת חשובה במיוחד בהקשר ענייננו, הינה הפנייה מיום 2.11.2018 של דווחים מיוחדים של נציבות האו"ם (United Nations Special Rapporteur) לממשלת ישראל בדרישה שתשיב תוך 60 יום לשאלות הנוגעות להפרה של חוק-יסוד: הלאום את זכויות האדם ואת החוק הבינלאומי. על פנייה זו חתומים 4 דווחים האחראים על הנושאים החשובים בנושאי זכויות אדם: החוקר המיוחד לזכויות תרבותיות; החוקר המיוחד למצב זכויות האדם בשטחים הפלסטינים הכבושים מאז 1967; החוקר המיוחד לענייני מיעוטים; החוקר המיוחד לצורות עכשוויות של גזענות, אפליה גזעית, שנאת זרים וחוסר סובלנות.

== מצ"ב העתק מהפנייה של הדווחים המיוחדים של נציבות האו"ם לממשלת ישראל והמסומן כנספח ע/1.

2. בפנייתם מביעים הדווחים המיוחדים את דאגתם העמוקה מאימוץ "חוק הלאום, שעל פניו נראה כמפלה - הן מבחינת המהות והן ביישום - כנגד האזרחים הלא יהודים ומיעוטים אחרים וכי אינו מחיל את עקרון השוויון בין האזרחים שהוא אחד מעקרונות היסוד של משטר דמוקרטי. אימוץ החוק מציע ביסוס משפטי מסוג pre-eminence ליהודים על פני קבוצות מיעוט אתני-דתי ושפתי אחרות, ויוצר סדר ואווירה משפטיים שיש בהם את הפוטנציאל להביא לחקיקה ו/או מדיניות מפלה נוספת, בצורה שיש בה כדי להפר את החובות של ישראל לפי המשפט הבינלאומי".

3. בנוסף, הם מציינים את דאגתם גם מהעובדה כי חוק הלאום אינו מעגן בצורה מפורשת את עקרון השוויון ואי האפלייה כדי להבטיח יחס שוויוני לכל האנשים הנמצאים בשטח ישראל ותחת שלטונה בהתאם לסטנדרטים של המשפט הבינלאומי:

"We express further concern that this Law does not explicitly incorporate the principle of equality and non-discrimination, ensuring equal treatment for all persons within Israel's territory and who are subject to its jurisdiction, as per international human rights standards. The absence of specific provisions regarding equality and non-discrimination may have grave and harmful consequences for equality and the enjoyment of human rights without discrimination by all groups in the country."

4. הדווחים מזכירים בהקשר זה את התחייבויות מדינת ישראל על פי:

א. **האמנה הבינלאומית בדבר זכויות אזרחיות ומדיניות** תוך הדגשת הזכות להגדרה עצמית; עקרונות איסור האפלייה; חופש התנועה והחופש לבחור מקום מגורים; הזכות לשימוע הוגן וציבורי; הזכות לרכוש אזרחות; זכותם של אנשים השייכים למיעוטים אתניים, דתיים או לשוניים ליהנות מתרבותם ולקיים את דתם, ולהשתמש בשפתם.

ב. **האמנה הבינלאומית לזכויות כלכליות, חברתיות ותרבותיות** ובין היתר, הזכות להגדרה עצמית, עקרון איסור האפלייה, הזכות לתנאי מחייה נאותים.

ג. **האמנה בדבר ביעור כל צורות האפליה הגזעית** ובייחוד סעיף 2 לאמנה המורה למדינות לנקוט בצעדים אפקטיביים למניעת ולביעור אפלייה גזעית קיימת וכן סעיף 3 לאמנה הקורא למדינות למנוע, לאסור ולסלק את ההפרדה הגזעית ואת מנהגי האפרטהייד בשטחים שלהם.

ד. **ההכרזה על זכויותיהם של מיעוטים לאומיים או אתניים, דתיים ולשוניים** המבקשת ממדינות להגן על הקיום ועל הזהות הלאומית או האתנית, התרבותית או הדתית של המיעוטים בתוך שטחם ולעודד תנאים לקידום אותה זהות; מדגישה את זכותם של אנשים השייכים למיעוטים ליהנות מתרבותם, להביע ולהשתמש בדתם, ולהשתמש בשפה שלהם, באופן פרטי וציבורי, בחופשיות וללא כל התערבות או כל צורה של אפליה; מדגישה את זכותם של אנשים השייכים למיעוטים להשתתף באופן יעיל בחיים התרבותיים, הדתיים, החברתיים, הכלכליים והציבוריים. כן מזכירים הדווחים בהקשר הזה את חובת המדינות להבטיח כי אנשים השייכים למיעוטים יוכלו לממש את זכויות האדם שלהם ללא אפליה ובשוויון מלא בפני החוק, וכן החובה ליצור

תנאים נוחים שיאפשרו לאנשים המשתייכים למיעוטים לבטא את מאפייניהם ולפתח את תרבותם, שפתם, דתם, מנהגייהם ומנהגייהם.

ה. **המשפט הבינלאומי ההומניטרי** החל על השטחים הפלסטינים הכבושים משנת 1967 – שטחי הגדה המערבית, כולל מזרח ירושלים ועזה.

5. לביקורת זו הצטרפה גם **ועדת האו"ם לזכויות כלכליות, חברתיות ותרבותיות** במסגרת מסקנותיה מהסקירה התקופתית של ישראל בדו"ח אשר פרסמה ביום 18.10.2019. הדו"ח בוחן את המידה בה ישראל מיישמת את האמנה בדבר זכויות כלכליות, חברתיות ותרבותיות (נחתמה על ידי ישראל ביום 19.12.1966 ואושררה ביום 3.10.1999) וכולל קביעות והמלצות לעתיד.

== מצ"ב דו"ח מסקנות הסקירה התקופתית בוועדה לזכויות כלכליות, חברתיות ותרבותיות והמסומן כנספח ע/2.

6. הוועדה הביעה דאגה עמוקה מההשפעה האפשרית של חוק-יסוד: הלאום המפלה את המיעוט הערבי במימוש זכויותיהם לפי האמנה. הוועדה מגיעה לכלל מסקנה כי חוק-יסוד: הלאום **עומד בסתירה להוראות האמנה** וכי יש לבטלו או למצער לתקנו כדי שיעלה בקנה אחד עם הוראות האמנה (פס' 17 לדו"ח, ההדגשות אינן במקור):

“16. The Committee is deeply concerned about the possible discriminatory effect of the Basic Law: Israel – The Nation State of the Jewish People on non-Jewish people in the State party regarding the enjoyment of their Covenant rights. It is also concerned that this Basic Law, by recognizing the development of Jewish settlement as a national value, may further deteriorate the economic, social cultural rights situations in the occupied territories, which have already significantly been hampered by the settlement policy (arts. 1(1), 2(2) and 15).

17. The Committee urges the State party to review the Basic Law with a view to bringing it in line with the Covenant or repealing it and to step up its efforts to eliminate discrimination faced by non-Jews in enjoying the Covenant rights, particularly rights of self-determination, non-discrimination and cultural rights.”

7. כאמור, הוועדה קוראת לישראל להגביר את מאמציה לבער את האפליה כנגד הערבים במימוש זכויותיהם לפי האמנה, ובמיוחד הזכות להגדרה עצמית, לאי אפליה וכן זכויות תרבותיות.

8. קביעה זו באה גם על רקע אי שביעת הרצון של הוועדה מהעדרה של חקיקת איסור האפליה במצב הקיים כיום. שכן, הוועדה מציינת את היעדרה של חקיקה מקיפה האוסרת על אפליה ומביעה דאגה מכך שחקיקת איסור האפליה הקיימת כיום אינה מתיישבת עם הוראות סעיף 12(1) לאמנה, בהיותה כוללת אך ורק איסורים צרים ונקודתיים על אפליה. כמו כן, הוועדה מציינת שישראל לא עשתה דבר לבחינת החקיקה הקיימת ותיקונה. על כן, הוועדה ממליצה בפס' 19 לדו"ח כי (ההדגשות אינן במקור):

”The Committee recommends that the State party revise the existing anti-discrimination legislation or adopt comprehensive anti-discrimination legislation with a view to ensuring that legislation prohibits all direct, indirect and multiple forms of discrimination on all grounds, including language, colour, social origin, property, sexual orientation, birth or other status, and providing for effective remedies for victims of discrimination. The Committee draws the attention of the State party to its general comment No. 20 (2009)”

9. כמו כן, הוועדה מדגישה גם את הבעייתיות בחוק היסוד בהקשר של הזכויות התרבותיות. בפרט, הוועדה מותחת ביקורת על חוק-יסוד: הלאום בהיותו שולל את מעמדה של השפה הערבית כשפה רשמית במדינת ישראל – דבר הפוגע בזכויות התרבותיות של הערבים בישראל. על כן, הוועדה המליצה להחזיר את מעמדה של השפה הערבית כשפה רשמית תוך קידום השימוש בה (ההדגשות אינן במקור):

“68. While noting that the State party is a pluralist country of people from diverse cultural backgrounds, the Committee is concerned at the lack of measures taken to promote cultural diversity of the State party. It is particularly concerned that, despite the explanation given by the Delegation, about the downgrading the status of the Arab language from an official language to a language with special status through the adoption of the Basic Law – Israel: the State Nation of the Jewish People. It is also concerned by the very low level of funding allocated to the High Institute for the Arabic Language, which amounts at NIS 1,450,000 in 2019, in light of the Arab population comprising 20 per cent of the State party’s population (art. 15).

69. The Committee recommends that the State party take the measures to promote diverse cultures, including through raising awareness of various cultures of the Arab population, the Bedouin people, migrant workers and asylum seekers. It also recommends that the State party reinstate the Arab language as an official language and promote the use of the Arab language, including through strengthening the High Institute for the Arabic Language, inter alia by increasing financial resources allocated to it”

10. בנוסף, וועדת האו"ם לביעור כל צורות האפליה הגזעית אף היא מתחה ביקורת חריפה על החוק בדו"ח מטעמה מיום 19.12.2019 ובין היתר קבעה כי:

“13. The Committee is concerned about the discriminatory effect of the Basic Law: Israel – the Nation State of the Jewish People (2018) on non-Jewish people in the State party, as it stipulates that the right to exercise self-determination in Israel is “unique to the Jewish people” and establishes Hebrew as Israel’s official language, downgrading Arabic to a “special status”. Furthermore, while Israeli settlements in the

Occupied Palestinian Territory are not only illegal under international law but also an obstacle to the enjoyment of human rights by the whole population, the Basic Law constitutionally elevates them “as a national value” (arts. 1, 2 and 5).

14. The Committee urges the State party to review the Basic Law: Israel – the Nation State of the Jewish People with a view to bring it in line with the Convention. According to general recommendation No. 21 (1996) on the right to self-determination, “all peoples have the right to determine freely their political status”. The Committee recommends that the State party ensure that the change in the status of Arabic language does not weaken the linguistic rights of the Arabic-speaking population. As regards the expansion of Jewish settlements, the Committee urges the State party to comply with its international legal obligations, including under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War”

11. הוועדה הביעה דאגה מיוחדת ממדיניות הסרגציה :

“Paragraphs of particular importance

55. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 14 (Basic Law: Israel – the Nation State of the Jewish People), 16 (discriminatory laws), 23 (segregation between Jewish and non-Jewish communities, including in the Occupied Palestinian Territory) and 27 (a) (racist hate speech and hate crimes) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.”

== מצ״ב העתק מדו״ח מסקנות הסקירה התקופתית בוועדה לביעור כל צורות האפלייה הגזעית והמסומן כנספח ע/3.


מאיסאנה מוראני, עו״ד


/ב/ סוהאד בשארה, עו״ד


/ב/ חסן גיבארין, עו״ד


/ב/ סאוסן זהר, עו״ד


/ב/ פאדי חורי, עו״ד

חיפה, 17.12.2020

נספחים

תוכן עניינים

מס'	שם נספח	עמ'
1/ע	הפנייה של הדווחים המיוחדים של נציבות האו"ם לממשלת ישראל	1
2/ע	דו"ח מסקנות הסקירה התקופתית של ועדת האו"ם בדבר זכויות כלכליות, חברתיות ופוליטיות	7
3/ע	דו"ח מסקנות הסקירה התקופתית של ועדת האו"ם לביעור האפליה הגזעית	19

נספח ע/1

הפנייה של הדווחים
המיוחדים של נציבות
האו"ם לממשלת ישראל

Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; the Special Rapporteur on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
OL ISR 12/2018

2 November 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; Special Rapporteur on minority issues; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 37/12, 1993/2A, 34/6 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the adoption of the new *Basic Law: Israel as the Nation-State of the Jewish People* by the Israeli Knesset, on 19 July 2018. A previous version of this law, when it was still in the form of a Draft Bill, was also the subject of a communication to your Excellency's Government sent on 21 June 2017 (OL ISR 7/2017) to which we have yet to receive a reply.

According to the information received:

The new *Basic Law: Israel as the Nation State of the Jewish People* (hereafter "the Nation State Law") was adopted by vote in the Israeli Knesset, on 19 July 2018, with 62 members in favour and 55 against.

As a Basic Law, once adopted, the Nation State Law has been added to the central body of legislation that is equivalent to Israel's constitution and thus takes precedence over ordinary laws. Moreover, as the Nation State Law purports to define the constitutional identity of the State of Israel, it may be used to take precedence over other Basic Laws such as the 1992 Basic Law on Human Dignity and Liberty.

Furthermore, while the Nation State Law affirms the exclusively Jewish character of the State of Israel and Jewish historical, religious and cultural traditions, it is silent with regard to key areas of protection and promotion of minority rights and leaves certain of these aspects contingent upon future legislative measures.

In particular, several provisions of the Law appear to discriminate against the racial, ethnic, religious and linguistic minorities of Israel, thus threatening the status of the members of these minorities as equal citizens of Israel.

Article 1(a) provides that “The land of Israel is the historical homeland of the Jewish people, in which the State of Israel was established”. Article 1(b) affirms that Israel is “the nation-state of the Jewish people, in which [the Jewish people] realizes its natural, cultural, religious and historical right to self-determination.” This article sets the spirit and purpose of the Law, by affirming the clear pre-eminence of citizens of Jewish descent over all other citizens belonging to other groups. This Article only provides formal recognition to the Jewish people of the State of Israel, a pre-eminence that establishes a hierarchy between the majority and minority population, and may therefore be considered discriminatory against non-Jewish citizens.

Furthermore, Article 1(c) provides that “the exercise of the right to national self-determination in the State of Israel is unique to the Jewish People”, which contravenes the general principle of self-determination set out in both the International Covenant on Civil and Political Rights and the International Covenant on Economic and Social Rights, thus denying a fundamental right of non-Jewish citizens.

Article 3 states that Jerusalem, complete and united, is the capital of Israel. This is in violation of numerous United Nations Security Council and General Assembly resolutions, which consider that all legislative and administrative measures and actions taken by Israel, which tend to change the legal status of Jerusalem are invalid and cannot change that status, and constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

Moreover, Article 4 of the Law stipulates that Hebrew is the State language of Israel. The Arabic language is granted “special status”, but loses its official status, which was established by Article 82 of the 1922 King’s Order in Council on the Land of Israel. The Law therefore provides for the pre-eminence of the Hebrew language over all other languages in the country, and in particular diminishes the status and therefore usage of the Arabic language, whose status is not clarified in this law but is to be determined by a separate law. Furthermore, the law does not provide guarantees with regard to the use of minority languages, in particular the Arabic language, in education or the provision of services administrated by the State.

Article 5 stipulates that Israel will be “open for Jewish immigration and for the ingathering of the exiles”. The wording of this article may further encourage the development and application of discriminatory immigration policies by the Israeli authorities, in particular with regard to the immigration of non-Jews.

Article 7 of the Law stipulates that “Jewish settlement” is a “national value” which needs to be encouraged and promoted. This can be seen to implicitly encourage segregation on the basis of ethnicity, language or religion, which may serve to support the development of residential areas and settlements reserved

only for Jewish people that would restrict the freedom of movement and access to housing to members of other minority communities. Moreover, this provision due to its vague wording could be viewed as an endorsement to develop Jewish settlements, including in the Occupied Palestinian Territories, in direct violation of international law. This concern is further compounded by the reference in Article 1(a) to the Land of Israel, where the State of Israel is established, without any definition of its boundaries.

Finally, Articles 9 and 10 of the Law provide for the national holidays and the days of rest. Specifically, Article 10 stipulates that “The Sabbath and the Jewish holidays are the established days of rest in the State; non-Jews have the right to observe the days of rest on their days of Sabbath and holidays; details regarding this matter shall be determined by law.” However, those articles do not make specific reference to the right of minorities regarding any holiday or Memorial Day celebrated by them.

We wish to express our deep concern over the recent adoption by the Israeli Knesset of the *Basic Law: Israel as the Nation-State of the Jewish People*, which appear to be discriminatory in nature and in practice against non-Jewish citizens and other minorities and does not apply the principle of equality between citizens, which is one of the key principles for democratic political systems. The law as adopted offers a legal basis for the pre-eminence of Jewish people over non-Jewish citizens who are members of other ethno-religious and linguistic minority groups, and creates a legal order and an environment that could potentially lead to further discriminatory legislative and/or policy actions, which contravene the international human rights obligations of Israel.

We express further concern that this Law does not explicitly incorporate the principle of equality and non-discrimination, ensuring equal treatment for all persons within Israel’s territory and who are subject to its jurisdiction, as per international human rights standards. The absence of specific provisions regarding equality and non-discrimination may have grave and harmful consequences for equality and the enjoyment of human rights without discrimination by all groups in the country.

In this context, we wish to recall Your Excellency’s Government’s commitments under articles 1, 2, 12, 14, 24, 26, and 27 of the ICCPR, to which Israel has been a State Party since 3 October 1991, which provide for the right of all peoples to self-determination, the principles of non-discrimination, the liberty of movement and freedom to choose residence, the right to a fair and public hearing, the right to acquire a nationality, and the right of persons belonging to ethnic, religious or linguistic minorities to enjoy, in community with the other members of their group, their own culture, to profess and practice their own religion, or to use their own language. Furthermore, we refer to Israel’s commitments under articles 1, 2, 11 and 15 of the ICESCR, to which Israel has been a State Party since 3 October 1991, which stipulate the right of all peoples to self-determination, the principle of non-discrimination, the right of everyone to an adequate standard of living, including access to adequate housing, as well as the right of everyone to take part in cultural life without discrimination.

In light of the above-mentioned provisions of the Law, we would like to recall Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination to which Israel has been a State Party since 3 January 1979, which calls on States to “take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations, which have the effect of creating or perpetuating racial discrimination whenever it exists”. Furthermore, Article 3 calls on States Parties to prevent, prohibit and eradicate racial segregation and apartheid-like practices in their own territories.

Furthermore, we would like to draw the attention of your Excellency’s Government to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic minorities. In its article 1.1, the Declaration requires that States protect the existence and the national or ethnic, cultural or religious identity of minorities within their respective territories and encourage conditions for the promotion of that identity. Article 2.1 stipulates that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination, and in article 2.2, persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life. Moreover, States are required to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (article 4.1) and create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs (article 4.2).

We would also wish to reiterate that International humanitarian law applies to the entirety of the Occupied Palestinian Territory, in other words to Gaza and the West Bank, including East Jerusalem. In its resolution 2334 (2016), the Security Council reaffirmed that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law. The same determination has been made by the General Assembly, most recently in Resolution 72/86, and the International Court of Justice, as regards settlement activities in the Occupied Palestinian Territory. Settlements amount to the transfer of the population of Israel into the territory it occupies, which is prohibited under article 49 of the Fourth Geneva Convention. The transfer of an occupying power’s population to a territory it occupies amounts to a war crime that may engage the individual criminal responsibility of those involved (Rome Statute Article 8(2)(b)(viii)).

Lastly, the Law contradicts Israel’s own founding text, the Declaration of the Establishment of the State of Israel, which provides that “it will ensure complete equality of social and political right to all its inhabitants irrespective of religion, race or sex [and] guarantee freedom of religion, conscience, language, education and culture”.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have with regard to the *Basic Law: Israel as the Nation State of the Jewish People* and its adoption by the Israeli Knesset;
2. Please indicate the measures that the Government of Israel is intending to undertake in order to ensure a future revision of the Law with the view to repealing its discriminatory provisions and aligning it with Israel's international human rights obligations, in particular with regard to the protection and promotion of the rights of persons belonging to racial, ethnic, religious or linguistic minorities;
3. Please indicate the impact of Article 5 of the Law on the current immigration procedures in Israel, on how Jewish and non-Jewish immigrants are dealt with under current procedures, and how such provision may affect the immigration status determination of non-Jews;
4. Please provide updated and detailed information on any legislative and policy measure undertaken by the Government of Israel to promote and protect the civil, political, economic, social and cultural rights of persons belonging to racial, ethnic, religious and linguistic minorities;
5. Please provide further information on Article 7, and particularly whether it will or not contribute to potential segregation on the basis of ethnicity or religion, and whether it is an endorsement to develop Jewish settlements, including in the Occupied Palestinian Territory, in direct violation of international law;
6. Please clarify the consequences of the new status of the Arabic language, and the impact if any on its use for official purposes, including on public signs, in public institutions including social and health services and in the education system.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Finally, we would like to inform your Excellency's Government that this communication, as a comment on pending or recently adopted legislation, regulations or policies, will be made available to the public and posted on the searchable communications database.

Please accept, Excellency, the assurances of our highest consideration.

Karima Bennoune
Special Rapporteur in the field of cultural rights

Michael Lynk
Special Rapporteur on the situation of human rights in the Palestinian territories occupied
since 1967

Fernand de Varennes
Special Rapporteur on minority issues

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
and related intolerance

נספח ע/2

דו"ח מסקנות הסקירה
התקופתית של ועדת
האוי"ם בדבר זכויות
כלכליות, חברתיות
ופוליטיות

Advance Unedited Version

Distr.: General
18 October 2019

Original: English

Committee on Economic, Social and Cultural Rights

Concluding observations on the fourth periodic report of Israel*

1. The Committee considered the fourth periodic report of Israel (E/C.12/ISR/4) at its 14th and 15th meetings (see E/C.12/2019/SR.36 and 37), held on 2 and 3 October 2019, and adopted the present concluding observations at its 60th meeting, held on 18 October 2019.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report by the State party, despite the delay in submission, and the supplementary information provided in the replies to the list of issues (E/C.12/ISR/Q/4/Add.1). The Committee appreciates the constructive dialogue held with the State party's inter-ministerial delegation.

3. While welcoming the establishment of a joint inter-ministerial team, which is tasked with the review and implementation of the concluding observations of human rights treaty bodies, the Committee regrets the lack of consultation with stakeholders, including civil society, during the process of preparation of the fourth periodic report.

B. Positive aspects

4. The Committee welcomes the ratification of the Convention on the Rights of Persons with Disabilities in 2012.

5. It also welcomes the adoption of Amendment No. 200 to the National Insurance Law that provides a gradual increase in the general disability allowance by 2021, and the progress made by the State party in certain areas relating to the Covenant rights, which are indicated in subsequent paragraphs.

C. Principal subjects of concern and recommendations

Applicability of the Covenant

6. The Committee is concerned that, despite its previous recommendations (E/C.12/ISR/CO/3, para. 6), the State party has not taken any measure to incorporate the Covenant in the domestic legal order and that the provisions of the Covenant cannot be invoked before, and directly applied by, the courts, other tribunals or administrative authorities.

7. The Committee reiterates its previous recommendations that the State party incorporate the rights of the Covenant in its domestic legal order. It also recommends that the State party enhance judicial training on the nature and scope of the State

* Adopted by the Committee at its sixty-sixth session (30 September–18 October 2019).

party's obligation under the Covenant as well as on the justiciability of the Covenant. The Committee draws the attention of the State party to its general comment No.9 (1998) on the domestic application of the Covenant.

Application of the Covenant to the occupied territories

8. The Committee reiterates its deep concern about the State party's position that the Covenant is not applicable beyond its sovereign territory and that, given the circumstances in the occupied territories, the law of armed conflict and humanitarian law are considered to be exclusively applicable. The Committee also reiterates its regrets that the State party refuses to report in relation to the occupied territories.

9. The Committee reminds the State party that the applicability of its human rights obligations in the Occupied Palestinian Territory as well as the concurrent application of international human rights law and international humanitarian law in a situation of armed conflict or occupation have been affirmed by the International Court of Justice in its Advisory Opinion of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (paras. 106, 112). This is also the view consistently adopted by various human rights treaty bodies, including this Committee, and expressed in the relevant resolutions of the General Assembly and reports of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, the United Nations Secretary-General and the High Commissioner for Human Rights. The Committee urges the State party to comply with its obligations under the Covenant in line with the Advisory Opinion of the International Court of Justice. It also reiterates its previous recommendation that the State party include information on the situation of the Covenant rights enjoyed by the people in the Occupied Palestinian Territory in its fifth periodic report.

State party's policies relating to the Occupied Palestinian Territory

10. While noting the serious security situation of the State party, the Committee remains deeply concerned about the severe impact of the policies adopted by the State party relating to the Occupied Palestinian Territory, namely the closure policy and the related permit regime regarding the Gaza Strip and the occupation and settlement policy in the West Bank, including East Jerusalem, on the enjoyment of the Covenant rights by people living there, including the rights to work, to food, to water and sanitation, to health and education, and to cultural rights. It is also concerned about the expansion of Jewish settlements in the West Bank, including East Jerusalem, and the Occupied Syrian Golan, including through delegated powers granted to organisations such as the World Zionist Organization and the Jewish National Fund.

11. The Committee reminds the State party that it has positive and negative obligations with regard to the Occupied Palestinian Territory, depending on its level of control and the transfer of authority, that it should not raise any obstacle to the exercise of such rights in those fields where competence has been transferred to the Palestinian authorities, and that any measures taken by the State party should ensure that the legislative and policy measures relating to the occupied territories, taken by the State party as the occupying power do not result in any permanent alteration in the political or legal status of the territories or have irreparable consequences for the people living there. The Committee urges the State party to:

(a) Immediately lift the blockade and closures on the Gaza Strip and provide unrestricted access for the provision of urgent humanitarian assistance;

(b) Reduce restrictions on nominated items on the dual use list to minimum levels strictly required by security imperatives;

(c) Take immediate steps to facilitate the free movement of Palestinians within the Occupied Palestinian Territory, including East Jerusalem, and the Gaza Strip, and ensure that any measures restricting the free movement of civilians and goods from, into and within the Gaza Strip are in line with its obligations under the Covenant;

(d) Immediately halt and reverse all settlement policies and developments in the West Bank, including East Jerusalem, and the Occupied Syrian Golan, and rescind the delegated powers granted to organizations facilitating settlement such as the World Zionist Organization and the Jewish National Fund, and discontinue support to these organizations.

National human rights institutions

12. While noting several national human rights institutions existing in the State party, including the State Comptroller and Ombudsman, the Committee remains concerned that these institutions do not meet the criteria set out in the Principles relating to the Status of National Institutions (the Paris Principles) and that there is no lead agency to coordinate their activities.

13. The Committee recommends that the State party take concrete steps to establish an independent national human rights institution in line with the Paris Principles, including through strengthening the independence of the existing institution(s).

Free disposal of natural wealth and resources

14. The Committee is concerned at reports that the State party has given licences to Israeli and multinational companies for oil and gas extraction and renewable energy projects in the occupied Syrian Golan and the Occupied Palestinian Territory without consultation with the affected communities while prohibiting Syrians and Palestinians from accessing, controlling and developing their natural resources. It also regrets the lack of information on the measures put in place by the State party to ensure that these companies do not infringe human rights while operating in the occupied territories (arts. 1(2)).

15. The Committee recommends that the State party immediately cease to issue licences for exploiting natural resources in the occupied territories, and regulate the operations and activities of Israeli and multinational companies operating in the occupied territories in order to ensure their compliance with human rights standards. The Committee draws the attention of the State party to its general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.

The Basic Law: Israel – The Nation State of the Jewish People

16. The Committee is deeply concerned about the possible discriminatory effect of the Basic Law: Israel – The Nation State of the Jewish People on non-Jewish people in the State party regarding the enjoyment of their Covenant rights. It is also concerned that this Basic Law, by recognizing the development of Jewish settlement as a national value, may further deteriorate the economic, social cultural rights situations in the occupied territories, which have already significantly been hampered by the settlement policy (arts. 1(1), 2(2) and 15).

17. The Committee urges the State party to review the Basic Law with a view to bringing it in line with the Covenant or repealing it and to step up its efforts to eliminate discrimination faced by non-Jews in enjoying the Covenant rights, particularly rights of self-determination, non-discrimination and cultural rights.

Non-discrimination

18. The Committee notes the absence of comprehensive anti-discrimination legislation in the State party and is concerned that the existing anti-discrimination legislation is not fully in line with article 2(1) of the Covenant, with limited prohibited grounds of discrimination and that the State party has not taken any step to review the existing legislation (art. 2(2)).

19. The Committee recommends that the State party revise the existing anti-discrimination legislation or adopt comprehensive anti-discrimination legislation with a view to ensuring that legislation prohibits all direct, indirect and multiple forms of discrimination on all grounds, including language, colour, social origin, property, sexual orientation, birth or other status, and providing for effective remedies for victims

of discrimination. The Committee draws the attention of the State party to its general comment No. 20 (2009).

The Bedouin people

20. While noting the adoption of the Socio-Economic Development Plan for Negev Bedouin: 2017-2021, through Government resolution No. 2397 of February 2017, the Committee is concerned about:

- (a) The large number of unresolved land claims;
- (b) The absence of meaningful participation of and consultation with the affected Bedouin communities in the process of formulating this policy;
- (c) Reports that Bedouin people in “unrecognised” villages in the Negev Desert are evicted from their homes and ancestral lands and forced to relocate to “recognised” Bedouin townships;
- (d) The substandard living conditions in both the unrecognized villages and recognized townships with very limited access to adequate housing, water and sanitation facilities, electricity, and public transportation (arts. 1(1) and 11).

21. The Committee recommends that the State party:

- (a) **Step up its efforts to resolve the pending land ownership claims in a timely, transparent and effective manner;**
- (b) **Consult with the affected Bedouin communities on the implementation of Government resolution No. 2397 and ensure that any policy affecting the Bedouin people is formulated and implemented through meaningful consultation with and participation of the affected Bedouin communities;**
- (c) **Immediately stop evictions of Bedouin people living in unrecognized villages from their homes and ancestral lands and regularize their villages;**
- (d) **Improve living conditions and infrastructure in all Bedouin residential localities in the Negev area.**

Refugees and asylum seekers

22. The Committee is concerned about the excessively large number of outstanding asylum applications and the negligible number of refugee status granted. It is also concerned that asylum seekers, including Eritrean and Sudanese asylum seekers under the State party’s temporary non-return policy who are *de facto* permanently living in the State party, are not legally allowed to work and have very limited access to social security benefits and healthcare services. It is further concerned about the Law for the Prevention of Infiltration, 1954 (“Deposit Law”) requiring employers to deposit 20 per cent out of the monthly salaries of the Eritrean and Sudanese asylum seekers into the Departure Fund, resulting in about 50 per cent of them earning less than minimum income with severe consequences for their ability to access and enjoy Covenant rights, particularly rights to health and education (arts. 2(2), 6 and 9).

23. The Committee recommends that the State party:

- (a) **Improve the refugee status determination procedure with a view to facilitating the determination process and enhancing the fairness and effectiveness of the procedure;**
- (b) **Allow asylum seekers to enter the labour market;**
- (c) **Expand their social assistance benefits, including healthcare insurance, with special attention to the needs of marginalized and disadvantaged persons, including persons with disabilities, women, children and older persons;**
- (d) **Repeal the Deposit Law or amend it with a view to making it consistent with the Covenant.**

Right to work

24. While appreciating the overall increase in the labour market participation and employment rates in the State party, the Committee is concerned that certain groups of population remain limited in enjoying their right to work and are concentrated in low-paying sectors. The Committee also regrets the lack of comprehensive and disaggregated data on the realization of the right to work (art.6).

25. The Committee recommends that the State party intensify its efforts to increase the labour market participation of persons with disabilities, Bedouins, Arab women and ultra-Orthodox Jewish men, including through providing vocational education and training tailored to their experience and level of job skills and fully implementing the quota for the employment of persons with disabilities. It also recommends that the State party provide comprehensive and disaggregated data on the realization of the right to work, including labour market participation, employment, unemployment and underemployment in its fifth periodic report.

Occupational safety and health

26. The Committee is concerned at the lack of progress made in reducing occupational injuries and fatalities and the significant decrease in the number of labour inspections carried out from 2006 to 2016 (art.7).

27. The Committee recommends that the State Party intensify its efforts to reduce occupational injuries and fatalities, including through sensitization of employers and workers to workplace safety and preventive measures, and strengthening labour inspections. It also recommends that the State party include information on occupational diseases in the fifth report.

Right to just and favourable conditions of work

28. While noting that 58 per cent of migrant workers, mostly women, are employed as caregivers on a live-in basis in Israel, the Committee is concerned that these workers are excluded from the applicability of the Hours of Work and Rest law of 1951 and that their working conditions are not effectively monitored by labour authorities. While noting that the State party has concluded bilateral agreements with some of the countries of origin of migrant workers to protect their rights, the Committee is concerned that those workers from the countries that do not have a bilateral agreement with the State party may be at risk of exploitation and abuse (art.7).

29. The Committee recommends that the State party take measures to:

(a) Ensure that live-in caregivers are adequately paid for overtime work and provided with a weekly rest for a period of not less than 25 hours, including by extending the application of the Hours of Work and Rest law of 1951 to these workers;

(b) Enable the labour inspectorate to effectively monitor the working conditions of live-in caregivers and put in place accessible complaint mechanisms for workers in this sector;

(c) Ensure that the provisions relating to the protection of the rights of migrant workers in bilateral agreements are in line with the Covenant and that there is full compliance with these provisions;

(d) Ensure that the rights of those workers from the countries that do not have a bilateral agreement with the State party are protected on an equal footing with those who are covered by bilateral agreements.

Sexual harassment in the workplace

30. The Committee is concerned about the frequent incidence of sexual harassment in the work place, despite the adoption of the Prevention of Sexual Harassment Law, 1998 and by the very small numbers of cases investigated, and leading to prosecution (arts.3 and 7).

31. The Committee recommends that the State take measures to strengthen the enforcement of the Prevention of Sexual Harassment Law; conduct gender-sensitization training for law enforcement officials; and ensure that reports of sexual harassment are duly investigated and prosecuted, that perpetrators are adequately punished; and that victims have access to appropriate redress, including compensation.

Trade union rights

32. The Committee is concerned at reports that workers in the Occupied Syrian Golan are less well informed or aware of their rights, including trade union rights, thereby making it less likely that they will claim their rights or seek effective remedies in case of violation of their rights (art.8).

33. The Committee recommends that the State party ensure that complaint mechanisms are put in place for workers in the Occupied Syrian Golan and take the measures necessary to raise awareness of workers of their rights under the Covenant and the complaint mechanisms available to them, including in cooperation with trade unions.

Right to social security

34. The Committee is concerned about the continuing disparity of five years in retirement age between men and women in the State party, which has led to a gender pension gap. It is also concerned at the insufficient level of old age pension to provide recipients with a decent living given the high incidence of poverty among older persons in the State party. The Committee regrets the lack of detailed information provided by the State party relating to the social security benefits (arts. 3, 9 and 11).

35. The Committee recommends that the State party take the necessary steps to equalize the retirement ages of men and women with a view to closing the gender pension gap; and increase the amount of the old age pension to a level that provides recipients with a decent standard of living. It also requests the State party to include, in its fifth periodic report, detailed information on the coverage and level of social security benefits and the indexation of these benefits as well as on the measures taken to extend the coverage of social security benefits to foreign workers with temporary stay visas and asylum seekers.

Protection of the family

36. The Committee is concerned that, despite its previous recommendation, the “tender years” presumption in the Law of Legal Capacity and Guardianship 5722-1962 still remains (arts. 3 and 10).

37. The Committee recommends that the State party amend the Law of Legal Capacity and Guardianship 5722-1962 with a view to abolishing the tender years presumption and ensuring that all decisions on child custody are made in accordance with the principle of the best interests of the child.

Personal status laws

38. While noting that religious courts have exclusive jurisdiction on issues relating to marriage and divorce whereas the civil family courts have parallel jurisdiction on custody and alimony, the Committee is concerned that different laws and regulations apply to the parties depending on their religions and denominations, which results in different rules and levels of protection in matters of personal status (arts. 3 and 10).

39. The Committee recommends that the State party assess the current system of religious law governing marriage and divorce with a view to harmonising this system with the provisions of the Covenant, particularly non-discrimination in the enjoyment of Covenant rights (art 2(2)) and the equal enjoyment by men and women of the economic, social and cultural rights in the Covenant (art 3).

Family reunification

40. The Committee is concerned that the Citizenship and Entry into Israel Law (Temporary Order) prohibits family reunification of Palestinians, who are from the West Bank or the Gaza Strip and who are married to Israeli or East Jerusalem residents, with their spouses and prevent them from enjoying the right to family life. It is also concerned that many families in the West Bank, including East Jerusalem, who have relatives in the Gaza Strip, remain separated for years due to the closure policy of the State party. Furthermore, it is concerned about the risk of losing the residence status of Palestinian women whose residency rights in East Jerusalem or in Israel are dependent on their husband's status in case of divorce, which may result in them staying in abusive relations (art. 10).

41. The Committee recommends that the State party review the Citizenship and Entry into Israel Law (Temporary Order) with a view to bringing the Law into line with its obligations under article 10 of the Covenant and facilitating family reunification of all citizens and permanent residents irrespective of their status or background.

Poverty

42. The Committee is concerned about the high and growing incidence of poverty in the State party, particularly amongst older persons, Bedouin families, Arab Israeli families and ultra-Orthodox families. It is also concerned about the high level of income inequality in the State party, which is the highest within the Organization of Economic Cooperation and Development (art.11).

43. The Committee recommends that the State party combat poverty, including through undertaking a comprehensive analysis of the underlying causes of poverty amongst particularly affected groups, and the adoption of concrete and targeted measures to address the incidence of poverty amongst these groups. It also recommends that the State party take the effective measures to reduce income inequality among the population, including through reforms of the tax system and the social security system.

Poverty and food insecurity in the Gaza Strip

44. The Committee is concerned at reports that one in every two person lives in poverty and about two thirds of households have been suffering from food insecurity in Gaza, which is largely attributable to the State party's closure/blockade on Gaza. The Committee, despite the explanation by the Delegation, remains concerned at the long-lasting hazardous impact of the aerial herbicide spraying carried out by private companies hired by the Ministry of Defence in its areas adjacent to the fence between Israel and Gaza on the crops productivity and soil in nearby areas in Gaza. The Committee is also concerned about restrictions imposed on the access of Palestinians to their agricultural land, water sources and irrigation facilities, and marine sources. It is also concerned about the confiscation of and damage to their fishing boats, which has deprived them of their means of subsistence (arts. 6, 11 and 12).

45. The Committee refers the State party to paras 11(a) and (b). It also recommends that the State party commission a scientific assessment regarding on the impact of herbicide spraying on the Palestinians in the affected areas, particularly relating to their livelihood, health, food security and environment and respond appropriately to the relevant findings; in the interim it is recommended that the State party cease the spraying on the basis of the precautionary principle. It further recommends that the State party ensure that farmers and fishers have free access to their land and irrigation facilities, and to marine sources and refrain from confiscating and damaging boats and fishing equipment and restricting the movement of Palestinian fishers and fishing communities.

Water and sanitation

46. The Committee is concerned that none of the unrecognized villages in the Negev region are connected to the national water network and that the majority of Bedouin villages, recognized or unrecognized, are not connected to a sewage disposal infrastructure. The Committee is also concerned about the impact of the State party's occupation and settlement policy, and the destruction of Palestinian water infrastructure by the State party, on

Palestinians in the Occupied Palestinian Territory in accessing water, which results in them living far below the extreme water scarcity level with serious health consequences (art.11).

47. **The Committee recommends that the State party take all measures necessary to:**

(a) **Ensure that all the Bedouin villages, recognized or unrecognized, are connected to the national water network and to a sewage disposal infrastructure;**

(b) **Cease the destruction of Palestinian water infrastructure and take all measures necessary to ensure that Palestinians have access to sufficient, safe and clean drinking water.**

Right to housing

48. The Committee is concerned about the decline in public expenditure in the housing sector as well as in the number of social housing units. It regrets the lack of detailed information on the situation of homelessness and of persons living in inadequate housing (art.11).

49. **The Committee recommends that the State party increase the budget allocation to the housing sector with a view to expanding social housing to disadvantaged and marginalized individuals and families, and include, in its fifth report, information on the situation of homelessness and of persons living in inadequate housing as well as provision of social housing, including relevant statistical data.**

Planning and zoning in the West Bank, including East Jerusalem

50. The Committee is concerned about the discriminatory effect of Planning and zoning laws and policies on Palestinians and Bedouin communities in the West Bank, compared to Israeli settlers, as illustrated by less than 1 per cent of the land in Area C and 13 per cent in East Jerusalem allocated for Palestinian constructions. The Committee is also concerned about the lengthy, complicated and expensive application system and the low rate of approval of building permits, which have led to high numbers of evictions and demolitions in the West Bank, including East Jerusalem (arts.2(2) and 11).

51. **The Committee recommends that the State party review planning laws and policies in the West Bank, including East Jerusalem, to ensure that they are compliant with its obligations under the Covenant and end zoning practices. The Committee also recommends that the State party reform the construction permit system in the West Bank, including East Jerusalem, with a view to preventing demolitions and forced evictions for a lack of a construction permit; and ensure that any demolition is carried out only as a last resort, and is strictly necessary as required by a legitimate state purpose in accordance with its obligations under the Covenant. The Committee draws the attention of the State party to its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.**

The practice of punitive demolitions

52. The Committee is concerned at reports of the continuing practice of punitive demolitions of the family homes of alleged perpetrators of attacks against Israeli civilians and security forces, including a report of the United Nations Office for the Coordination of Humanitarian Affairs indicating that a total of 53 residential structures were punitively demolished or sealed from 1 January 2015 to 31 May 2018, which resulted in the forced eviction of 323 persons (arts.2(2) and 11).

53. **The Committee urges the State party to immediately cease the practice of collective punitive demolition of houses and private property and ensure that victims of such practice are provided with full and effective reparations, including restitution of the affected properties.**

Right to health

54. The Committee is concerned that the level of funding allocated to the healthcare sector, as a share of GDP, has grown only by 0.4 per cent between 2000 and 2017, despite

the significant growth in population, which has led to a lack of medical personnel and critical medical equipment, long waiting times and a high incidence of hospital-acquired infections. It is also concerned about the disparities between urban and peripheral areas in terms of availability, accessibility and quality of healthcare services. The Committee is also concerned at the disproportionately poor health status of the Arab and the Bedouin populations in the State party, including the disproportionately higher rates of infant mortality compared with those of the general population (arts.2(1), (2) and 12).

55. The Committee recommends that the State party increase the budgetary allocation to the public healthcare sector and intensify its efforts to ensure equal access to quality healthcare services, regardless of place of residence, particularly those living in peripheral areas. It also recommends that the State party take concrete measures to address the disproportionately poor health status of the Arab and the Bedouin populations.

Access to healthcare services

56. While noting that the National Health Insurance Fund does not cover foreign workers and that their employers are obliged to provide them with medical insurance under the Foreign Workers Order (Employee Health Benefits Package), the Committee is concerned about the high incidence of non-compliance by employers, which has effectively deprived many foreign workers of their right to health. The Committee is also concerned that asylum seekers, including Eritrean and Sudanese nationals under the temporary non-return policy, who are not allowed to work in the State party, are not covered by health insurance and have no access to public healthcare services, except in medical emergencies. It is also concerned by the State Party's decision in 2018 to exclude children of undocumented migrant workers and asylum-seekers whose application for asylum has been refused from the Meuhedet Agreement. The Committee is further concerned that budgetary constraints, shortage of medical professionals and poor infrastructure restrict the availability of and accessibility to healthcare services provided to foreign workers, refugees and asylum seekers in state-funded clinics, particularly the Terem Clinic and the Gesher Clinic (arts. 10 and 12).

57. The Committee recommends that the State party:

(a) Take the measures necessary to ensure that migrant workers and asylum seekers have equal access to preventive, curative and palliative healthcare services, regardless of their legal status and documentation, including by extending the coverage of national health insurance to them;

(b) Ensure that all children, regardless of their legal status, have access to healthcare services at all times;

(c) Expand the healthcare services, including mental health care, provided by state-funded clinics to asylum seekers and enhance their accessibility, including through providing additional financial resources.

58. The Committee is concerned at the very limited availability of healthcare services and the deteriorating quality of health-care services in the Gaza Strip due to restrictions on dual use items, including essential medical equipment and supplies, and the escalation of hostilities, which have forced residents to seek medical treatment in the West Bank or in Israel. It is also concerned about the lengthy and complicated exit-permit system, which has impeded the ability of residents of the Gaza Strip to access medically recommended treatment (which is not available in Gaza) in the West Bank, including East Jerusalem, in Israel and abroad.. Furthermore, it is concerned about the significant increases in the refusal of permits and in delays in issuing them in recent years and their devastating consequences, including death of patients waiting for permits and a number of children undergoing critical medical procedures without their parents at their side (art. 10 and 12).

59. The Committee recommends that the State party:

(a) Facilitate the entry of essential medical equipment and supplies and the movement of medical professionals from and to Gaza;

(b) Review the medical exit permit system with a view to facilitating timely access to all medically recommended health care services by residents of Gaza;

(c) Ensure that all children referred for medical treatment outside Gaza can be accompanied by at least one of their parents.

Clinical trials on human beings

60. The Committee is concerned about the absence of framework legislation regulating clinical trials and some incidences of clinical trials on human beings carried out without undergoing appropriate regulatory processes (art. 12).

61. The Committee recommends that the State party adopt framework legislation to regulate clinical trials on human beings and protect the right to health of persons participating in such trials, and put in place effective oversight mechanisms. It also recommends that the State party ensure that thorough investigations are carried out in cases of unregulated medical trials, and appropriate remedies are provided to participants.

Right to education

62. While noting the measures envisaged by the State party to improve access of disadvantaged and marginalized children to education, the Committee remains concerned that the level of funding, as a share of GDP, allocated to the education sector, has been stagnant over the past ten years despite the continuous growth in population. It is also concerned about the disproportionately high dropout rates among Bedouin students and the large gaps in the educational achievements between Arab students and Jewish students. It is further concerned about the shortage of classrooms and kindergartens in Bedouin neighbourhoods and the proliferation of poor quality and unsupervised private kindergartens that are attended mostly by children of asylum seekers. The Committee is also concerned about the large portion of students with disabilities enrolled in special classes or special schools (arts 13 and 14).

63. The Committee recommends that the State party step up its efforts to:

(a) Increase the public funding allocated to the education sector;

(b) Identify the root causes for the high dropouts of Bedouin students and take the effective measures to address them;

(c) Improve the quality of education provided to Arab students with a view to enhancing their academic achievement;

(d) Address the shortage of classrooms and kindergartens in Bedouin neighbourhoods;

(e) Increase the number of public kindergartens and regulate and closely monitor the quality and educational environment of private kindergartens;

(f) Expand the provision of inclusive education for students with disabilities to attend mainstream schools;

Access to education

64. The Committee is concerned about the restricted access of students to education in the Occupied Palestinian Territory, in particular:

(a) The shortage of school facilities due to the frequent demolition of school buildings and confiscation of school premises or educational materials by Israeli authorities as well as difficulties in obtaining construction permits and securing construction materials most of which are banned under the dual use item regime;

(b) The precarious learning environment in which Palestinian students are being educated due to armed or non-armed searches of Palestinian schools by Israeli security forces;

(c) The frequent incidence of harassment or threats against students and teachers by security forces or Israeli settlers at checkpoints or along roads, which particularly impedes female students from going to school (arts. 10, 13 and 14).

65. The Committee recommends that the State party:

(a) **Rescind demolition and stop-work orders against schools;**

(b) **Limit Israeli security forces from entering school facilities and carrying out searches to the extent strictly required by the exigencies to ensure a safe and protected learning environment for Palestinian students;**

(c) **Take effective measures to ensure the unhindered and safe access of students and teachers to schools without harassment or threats; and investigate, prosecute and punish acts of harassment and intimidation by Israeli settlers and security forces;**

(d) **Endorse the Safe Schools Declaration, and take concrete measures to deter the military use of schools, including by bringing the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict into domestic military policy and operational frameworks.**

Access to higher education

66. The Committee is concerned at the blanket ban imposed on students from the Gaza Strip to access education in the West Bank since 2014, which has limited access of Gazan students particularly to higher education. It is also concerned at the serious impact of the dual use list on students in the Gaza Strip to enjoy their right to education, particularly in the science and engineering field and the benefits of scientific progress and its applications due to the lack of essential education materials and equipment (arts. 13 and 15).

67. The Committee urges the State party to lift the blanket ban on students from the Gaza Strip to access education in the West Bank and to allow the entry of materials and equipment necessary for science and engineering education to Gaza.

Cultural rights

68. While noting that the State party is a pluralist country of people from diverse cultural backgrounds, the Committee is concerned at the lack of measures taken to promote cultural diversity of the State party. It is particularly concerned that, despite the explanation given by the Delegation, about the downgrading the status of the Arab language from an official language to a language with special status through the adoption of the Basic Law – Israel: the State Nation of the Jewish People. It is also concerned by the very low level of funding allocated to the High Institute for the Arabic Language, which amounts at NIS 1,450,000 in 2019, in light of the Arab population comprising 20 per cent of the State party's population (art. 15).

69. The Committee recommends that the State party take the measures to promote diverse cultures, including through raising awareness of various cultures of the Arab population, the Bedouin people, migrant workers and asylum seekers. It also recommends that the State party reinstate the Arab language as an official language and promote the use of the Arab language, including through strengthening the High Institute for the Arabic Language, inter alia by increasing financial resources allocated to it.

Protection of and access to historical and religious sites

70. The Committee is concerned that Palestinians living in the Gaza Strip are impeded to visit religious sites in the West Bank, including East Jerusalem, due to the closure policy of the State party and that Palestinians living in the West Bank are also restricted to visit religious sites in East Jerusalem. It also regrets the lack of detailed information on the measures taken by the State party to protect historical and religious sites of all religions in the Occupied Palestinian Territory (art. 15).

71. The Committee recommends that the State party ensure that Palestinians living in the Occupied Palestinian Territory exercise their right to take part in cultural and religious life without restrictions other than those that are strictly proportionate to security considerations and are not discriminatory in their application in accordance with Article 15(1)(a), as interpreted in the Committee's general comment No. 21 (2009) on the Right of everyone to take part in cultural life.

D. Other recommendations

72. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. The Committee draws the attention of the State party to its statement on The Pledge to Leave No One Behind: the International Covenant on Economic, Social and Cultural Rights and the 2030 Agenda for Sustainable Development (E/C.12/2019/1).

73. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).

74. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national and district levels, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

75. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 11 (c) and (d) (policies relating to the Occupied Palestinian Territory), 17 (the Basic Law: Israel – The Nation State of the Jewish People) and 23 (refugees and asylum seekers) above.

76. The Committee requests the State party to submit its fifth periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 October 2024. In addition, it invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).

נספח ע/3

דו"ח מסקנות הסקירה
התקופתית של ועדת
האוי"ם לביעור האפלייה
הגזעית

ADVANCE UNEDITED VERSIONDistr.: General
12 December 2019

Original: English

Committee on the Elimination of Racial Discrimination**Concluding observations on the combined seventeenth to nineteenth reports of Israel***

1. The Committee considered the combined seventeenth to nineteenth periodic reports of Israel (CERD/C/ISR/17-19), submitted in one document, at its 2788th and 2789th meetings (see CERD/C/SR.2788 and CERD/C/SR.2789), held on 4 and 5 December 2019. At its 2799th meeting, held on 12 December 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined seventeenth to nineteenth periodic reports of the State party and expresses its appreciation for the constructive dialogue with the State party's delegation. It thanks the delegation for the information provided during the consideration of the report and for the additional written information submitted after the dialogue.

3. The Committee recognizes the issues related to security and stability in the region. The State party should, however, ensure that, in conformity with the principles of the Convention, measures taken are proportionate, do not discriminate in purpose or in effect against Palestinian citizens of Israel, Palestinians in the Occupied Palestinian Territory or any other minorities whether in Israel proper or in territories under the State party's effective control; and that they are implemented with full respect for human rights as well as relevant principles of international humanitarian law.

4. The Committee reiterates its view that the Israeli settlements in the Occupied Palestinian Territory, in particular the West Bank, including East Jerusalem, are not only illegal under international law but are an obstacle to the enjoyment of human rights by the whole population, without distinction as to national or ethnic origin. Actions that change the demographic composition of the Occupied Palestinian Territory and the Occupied Syrian Golan are also of concern as violations of human rights and international humanitarian law.

B. Positive aspects

5. The Committee welcomes the State party's ratification of or accession to the following international human rights instruments:

- (a) The Convention on the Rights of Persons with Disabilities, in 2012;
- (b) The Private Employment Agencies Convention, 1997 (No. 181), of the International Labour Organization, in 2012.

* Adopted by the Committee at its 100th session (25 November – 13 December 2019).

6. The Committee welcomes the following legislative, institutional and policy measures taken by the State party:

(a) The adoption, in 2019, of Amendment No. 137 to the Penal Law 5737-1977, which recognizes racist motives as an aggravating circumstance for the offence of murder;

(b) The adoption, in 2018, of Amendment No. 22 to the Legal Aid Law, which provides for free legal aid to any person who files a civil law suit under the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law 5761-2000;

(c) The adoption, in 2017, under government resolution No. 2397, of the Government Plan for the Economic and Social Development of the Bedouin Population in the Negev (2017-2021);

(d) The establishment, in 2016, under government resolution No. 1958, of the Unit for the Coordination of the Fight Against Racism within the Ministry of Justice;

(e) The adoption, in 2016, under government resolution No. 959, of the Program for the Development and Empowerment of Druze and Circassian Localities (2016-2019);

(f) The adoption, in 2015, under government resolution No. 922, of the Economic Development Plan for the Arab Sector (2016-2020).

C. Concerns and recommendations

Composition of the population

7. While noting the efforts made by the State party to provide information on the national background of the Jewish population of Israel, as well as on the enjoyment of economic, social and cultural rights by various ethno-religious groups residing in the territory of the State party, the Committee regrets the lack of comprehensive updated statistics on the socio-economic status of the different population groups, including migrants, refugees, asylum seekers and stateless persons, living in Israel and in the territories under the State party's jurisdiction or effective control (arts. 1 and 5).

8. Bearing in mind paragraphs 10 to 12 of its guidelines for reporting under the Convention (CERD/C/2007/1) and its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party provide updated statistics on the demographic composition of the population and on the socio-economic status of the different population groups, within its territory and in the territories under its effective control, disaggregated by ethnic or national origin, gender, and languages spoken, including migrants, refugees, asylum-seekers and stateless persons, taking into account the principle of self-identification.

Applicability of the Convention

9. While acknowledging the willingness of the State party delegation to discuss questions relating to the Occupied Palestinian Territory, the Committee regrets that the report did not contain any information concerning the population living in these territories. In this regard, the Committee remains concerned at the position of the State party to the effect that the Convention does not apply to all the territories under the State party's effective control, which not only include Israel proper but also the West Bank, including East Jerusalem, the Gaza Strip and the Occupied Syrian Golan. The Committee reiterates (CERD/C/ISR/CO/14-16, para. 10) that such a position is not in accordance with the letter and spirit of the Convention and international law, as also affirmed by the International Court of Justice (art. 2).

10. Reiterating its previous concluding observations (CERD/C/ISR/CO/14-16, para. 10), the Committee strongly urges the State party to review its approach and interpret its obligations under the Convention in good faith and in accordance with international law. The Committee also urges the State party to ensure that all persons

under its effective control enjoy full rights under the Convention without discrimination based on grounds of race, colour, descent and ethnic or national origin.

Prohibition of racial discrimination

11. The Committee reiterates its concern (CERD/C/ISR/CO/14-16, para. 13) that no general provision for equality and the prohibition of racial discrimination has been included in the State party's Basic Law: Human Dignity and Liberty (1992), which serves as the State party's bill of rights. While the prohibition of discrimination appears in several specific laws in a fragmented way, it is still not contained in a comprehensive law, which would encompass a definition of racial discrimination in line with article 1 of the Convention (arts. 1 and 2).

12. The Committee recommends that the State party amend its Basic Law: Human Dignity and Liberty (1992) to explicitly incorporate the principle of equality and the prohibition of racial discrimination and adopt a comprehensive anti-discrimination legislation which includes a definition of racial discrimination covering all grounds of discrimination, in line with article 1 of the Convention, and encompasses direct and indirect discrimination in both the public and private spheres.

Basic Law: Israel – the Nation State of the Jewish People

13. The Committee is concerned about the discriminatory effect of the Basic Law: Israel – the Nation State of the Jewish People (2018) on non-Jewish people in the State party, as it stipulates that the right to exercise self-determination in Israel is “unique to the Jewish people” and establishes Hebrew as Israel's official language, downgrading Arabic to a “special status”. Furthermore, while Israeli settlements in the Occupied Palestinian Territory are not only illegal under international law but also an obstacle to the enjoyment of human rights by the whole population, the Basic Law constitutionally elevates them “as a national value” (arts. 1, 2 and 5).

14. The Committee urges the State party to review the Basic Law: Israel – the Nation State of the Jewish People with a view to bring it in line with the Convention. According to general recommendation No. 21 (1996) on the right to self-determination, “all peoples have the right to determine freely their political status”. The Committee recommends that the State party ensure that the change in the status of Arabic language does not weaken the linguistic rights of the Arabic-speaking population. As regards the expansion of Jewish settlements, the Committee urges the State party to comply with its international legal obligations, including under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

Discriminatory laws

15. The Committee remains concerned at the maintenance of several laws which discriminate against Arab citizens of Israel and Palestinians in the Occupied Palestinian Territory, and create differences among them, as regards their civil status, legal protection, access to social and economic benefits, or right to land and property. The Committee is also concerned about the adoption of Amendment No. 30 of 2018 to the already discriminatory Entry into Israel Law (1952), which grants the Israeli Minister of Interior broad discretion to revoke the permanent residency permit of Palestinians living in East Jerusalem (art. 2 and 5; see also paragraph 22 of the present concluding observations).

16. The Committee recommends that the State party ensure equal treatment for all persons on the territories under its effective control and subject to its jurisdiction, including by guaranteeing equal access to citizenship, legal protection, social and economic benefits, as well as right to land and property, and that it amend or revoke any legislation that do not comply with the principle of non-discrimination.

Institutional framework

17. While the Committee regrets that the Ministry of Minority Affairs was dismantled since the State party's last review, it welcomes the establishment of the Unit for the Coordination of the Fight Against Racism within the Ministry of Justice, which is mandated, *inter alia*, to receive and examine complaints of racial discrimination. While noting that the

State party has started the necessary consultations to establish a national human rights institution in line with the Paris Principles, it remains concerned that such institution has not yet been established. The Committee is also concerned at reports about the unclear status and activities of certain quasi-government entities, which carry out specific decision-making functions without being part of the executive structure (art. 2).

18. The Committee recommends that the State party:

(a) Prioritize and expedite the establishment of an independent national institution for the promotion and protection of human rights, with a mandate to combat racial discrimination, in full compliance with the Paris Principles, in light of its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention;

(b) Ensure that all institutions carrying out governmental functions fully comply with the State party's international legal obligations and are accountable on equal footing with other executive bodies.

Complaints of racial discrimination

19. The Committee welcomes the various measures taken to facilitate the reporting of complaints for acts of racial discrimination, including the adoption of Amendment No. 22 to the Legal Aid Law, the launching of several awareness-raising campaigns, and the creation of various complaints mechanisms, including a hotline to provide information and assistance to persons affected by such acts. It is, however, concerned:

(a) About the lack of detailed information on racial discrimination complaints filed with the national courts and other relevant Israeli institutions, as well as on investigations, prosecutions, convictions, sanctions, and on the reparations provided to victims;

(b) That people belonging to minority groups, in particular Palestinian and Bedouin communities, migrants, refugees, asylum seekers and stateless persons may face obstacles in accessing justice while seeking remedies for cases of discrimination (art. 6).

20. Bearing in mind general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

(a) Provide information and statistics on complaints of racial discrimination, as well as on investigations, prosecutions, convictions and sanctions imposed, and on the reparations provided to victims, disaggregated by age, sex, ethnic or national origin.

(b) Increase awareness among minority groups, in particular Palestinian and Bedouin communities, as well as among migrants, refugees, asylum-seekers and stateless persons, of their rights under the Convention and eliminate all barriers preventing them from accessing justice; and continue facilitating the filing of complaints for victims of racial discrimination.

Segregation between Jewish and non-Jewish communities, including in the Occupied Palestinian Territory

21. The Committee reiterates its concern (CERD/C/ISR/CO/14-16, para. 11) that the Israeli society continues to be segregated as it maintains Jewish and non-Jewish sectors, including two systems of education with unequal conditions, as well as separate municipalities, namely Jewish municipalities and the so-called "municipalities of the minorities", which raises issues under article 3 of the Convention. The Committee is particularly concerned about the continued full discretion of the Admissions Committees to reject applicants deemed "unsuitable to the social life of the community" (arts. 3, 5 and 7).

22. As regards the specific situation in the Occupied Palestinian Territory, the Committee remains concerned (CERD/C/ISR/CO/14-16, para. 24) at the consequences of policies and practices which amount to segregation, such as the existence in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities in illegal settlements on the one hand and Palestinian populations living in

Palestinian towns and villages on the other hand. The Committee is appalled at the hermetic character of the separation of the two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services, lands and water resources. Such separation is materialized by the implementation of a complex combination of movement restrictions consisting of the Wall, the settlements, roadblocks, military checkpoints, the obligation to use separate roads and a permit regime that impacts the Palestinian population negatively (art. 3).

23. Recalling its previous concluding observations (CERD/C/ISR/CO/14-16, para. 11), the Committee draws the State party's attention to its general recommendation 19 (1995) concerning the prevention, prohibition and eradication of all policies and practices of racial segregation and apartheid, and urges the State party to give full effect to article 3 of the Convention to eradicate all forms of segregation between Jewish and non-Jewish communities and any such policies or practices which severely and disproportionately affect the Palestinian population in Israel proper and in the Occupied Palestinian Territory.

Family reunification

24. The Committee remains deeply concerned about the disproportionate and adverse restrictions imposed by the Citizenship and Entry into Israel Law (Temporary Provision), which suspends the possibility, with certain rare exceptions, of family reunification of Israeli citizens or residents of East Jerusalem with Palestinian spouses living in the West Bank or Gaza Strip. The Committee notes that, although the legislation now allows the granting of temporary residence permits for humanitarian reasons or a residence permit under special circumstances, the process requires the fulfilment of strict security and age conditions, and the withdrawal of such permits can be arbitrary (arts. 2, 3 and 5).

25. The Committee recommends that the State party objectively balance its security concerns with the human rights of persons affected by the various laws and policies regarding citizenship and entry into Israel, review its legislation in order to ensure the respect of the principles of equality, non-discrimination and proportionality, and further facilitate family reunification of all citizens and permanent residents of the State party.

Racist hate speech and hate crimes

26. The Committee welcomes the recent adoption of Amendment No. 137 to the Penal Law 5737-1977, which recognizes racist motives as an aggravating circumstance for murder. It also notes the existence of criminal legislation on hate speech, incitement to racism and to violence, as well as on racist organizations and participation in and support for such organizations. The Committee is, however, concerned about:

(a) The tide of racist hate speech in public discourse, in particular by public officials, political and religious leaders, in certain media outlets and in school curricula and textbooks;

(b) The proliferation of racist and xenophobic acts that particularly target non-Jewish minorities, especially Palestinian citizens of Israel, Palestinians residing in the Occupied Palestinian Territory and migrants and asylum-seekers of African origin;

(c) Reports that the judiciary might handle cases of racial discrimination by applying different standards based on the alleged perpetrator's ethnic or national origin (arts. 2, 4 and 6).

27. Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee urges the State party to:

(a) **Step up its efforts to counter and stem the tide of racism and xenophobia in public discourse, in particular by strongly condemning all racist and xenophobic**

statements by public figures, political and religious leaders, as well as media personalities, and by implementing appropriate measures to combat the proliferation of acts and manifestations of racism that particularly target non-Jewish minorities; and remove any derogatory comments and images that perpetuate prejudices and hatred from school curricula and textbooks;

(b) **Ensure that public prosecutors and the judiciary as a whole prosecute racist hate speech and hate crimes by applying the same standards, irrespective of the alleged perpetrators' ethnic or national origin.**

Situation of the Bedouin people

28. While welcoming several measures taken to improve the situation of Bedouin people, including the adoption of the Socioeconomic Development Plan for Negev Bedouin (2017–2021), to enhance their educational opportunities and their access to public and social services, the Committee remains concerned about house demolitions and the ongoing transfer of Bedouin communities to temporary locations, as well as the absence of meaningful participation of and consultation with Bedouin communities in the formulation of such plans affecting their access to land and property. The Committee is also concerned about the substandard living conditions in both the unrecognized villages and the recognized townships, which are characterized by limited access to adequate housing, water and sanitation facilities, electricity and public transportation (arts. 2 and 5).

29. **The Committee recommends that the State party ensure meaningful consultation with all concerned Bedouin communities regarding the implementation of the various plans affecting their right to land and property and resolve the pending land ownership claims in a timely, transparent and effective manner, recognize their villages, take all necessary measures to improve their living conditions, and stop house demolitions and the eviction of Bedouin people from their homes and ancestral lands.**

Situation of Domari (Gypsy) people

30. While taking note of the existing measures to improve the situation of Domari (Gypsy) people, the Committee remains concerned about their generally low socio-economic status, including extreme poverty, substandard living conditions, low attendance rates of children in primary schools and their underrepresentation in secondary and post-secondary education, and their high rates of unemployment (arts. 2 and 5).

31. **Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee urges the State party to improve the situation of Domari people, including through coordination at all levels of government and by engaging with Domari communities in the design, implementation and evaluation of inclusion policies and action plans. The Committee recommends that the State party take effective measures to end extreme poverty of Domari people, provide genuine solutions to increase school attendance and employment, and improve their housing conditions and their access to basic services.**

Situation of minority women

32. The Committee is concerned that minority women, in particular those belonging to Palestinian, Druze, Bedouin, Circassian and Ethiopian communities, may face multiple and intersecting forms of discrimination on the basis of ethnic origin and gender, including barriers to obtaining access to employment, education, health care and justice (arts. 2 and 5).

33. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party eliminate all barriers faced by minority women, in particular those belonging to Palestinian, Druze, Bedouin, Circassian and Ethiopian communities, in obtaining access to employment, education, health care and justice. To this end, it recommends that the State party incorporate a minority women perspective into all gender-related policies and strategies.**

Minorities within the Jewish population

34. While taking note of the various measures taken to improve the situation of minorities within the Jewish population, the Committee reiterates its concern (CERD/C/ISR/CO/14-16, para. 21) at allegations of ongoing discrimination against Ethiopian Jews (arts. 2 and 5).

35. The Committee recommends that the State party intensify its efforts to eliminate all forms of racial discriminations affecting Jewish minorities so as to ensure equal enjoyment of their rights under the Convention, particularly the rights to education, work and political representation.

Participation in public and political life

36. The Committee welcomes the various initiatives taken to increase the representation of persons belonging to minorities, such as the Palestinian, Druze, Bedouin, Circassian and Ethiopian communities, in the public sector, especially in government offices. It also notes the outreach programs which have taken place in the judicial and law enforcement sectors to attract more professionals of minority background. However, the Committee is concerned about recent legislative changes regarding the Knesset, such as Amendment No. 62 (2014) to the Knesset Elections Law raising the threshold required for political parties and Amendment No. 44 (2016) to the Basic Law: The Knesset (Dismissal of a Knesset Member in accordance with Section 7A) (2016) regarding the establishment of a procedure to oust a sitting Knesset Member on political and ideological grounds, which could both considerably weaken the right to political participation of non-Jewish minorities (arts. 2 and 5).

37. The Committee recommends that the State party continue and step up its efforts to achieve adequate representation of minorities in the civil service, law enforcement and judicial bodies, in particular in senior positions. Furthermore, it recommends that the State party eliminate obstacles and create favourable conditions for the participation of minorities in political decision-making processes.

Rights to education, work and health

38. The Committee is concerned:

(a) About the disproportionately high dropout rates among Bedouin students and the significant gaps in the educational achievements between Arab students and Jewish students, as well as the shortage of classrooms and kindergartens in Bedouin neighbourhoods

(b) That non-Jewish minority groups, in particular Palestinian and Bedouin communities, continue to face limitations in the enjoyment of their right to work and are concentrated in low-paying sectors;

(c) About the disproportionately poor health status of the Palestinian and Bedouin populations, including shorter life expectancy and higher rates of infant mortality compared to those of the Jewish population (art. 5).

39. The Committee recommends that the State party:

(a) Step up its efforts to address the high dropout rates of Bedouin students, as well as the shortage of classrooms and kindergartens in Bedouin neighbourhoods, and take effective measures to improve the quality of education provided to Arab students with a view to enhancing their academic achievements;

(b) Intensify its efforts to increase the labour market participation of non-Jewish minority groups, in particular Palestinians and Bedouins, especially women belonging to these communities, including by providing education and training tailored to their experience and level of job skills and by considering the establishment of special measures;

(c) Take concrete measures to improve the health status of the Palestinian and Bedouin populations.

Situation of migrants, refugees, asylum-seekers and stateless persons

40. The Committee is concerned about:

- (a) The very low recognition rate of refugees in the State party;
- (b) The Law for the Prevention of Infiltration (1954) and its amendments, which stigmatize persons who entered irregularly as “infiltrators”, especially Sudanese and Eritreans, allow for their detention and enforced residence, and penalize irregular entry into the State party without exempting individuals who are in need of international protection;
- (c) The requirement for employers, under a new provision of May 2017, to deduct part of the monthly salaries of employees falling under the Law for the Prevention of Infiltration, which causes further impoverishment of these persons;
- (d) Instances of de facto segregation of children of asylums-seekers and about their poor educational conditions, which results in a significantly higher percentage of them requiring special education and development assistance;
- (e) The lack of adequate protection for stateless persons who entered Israel irregularly, primarily people of African descent, and the revocation of the citizenship of Bedouin persons without due process (arts. 2 and 5).

41. The Committee recommends that the State party:

- (a) Ensure that the refugee status determination procedure is in full compliance with the 1951 Convention relating to the Status of Refugees and that the process of application is fair and effective;**
- (b) Amend the Law for the Prevention of Infiltration and any other relevant legislation in order to ensure that they do not stigmatize asylum-seekers and are in line with the State party’s international obligations;**
- (c) Consider abolishing the provisions which require the employers to deduct a significant percent of the salaries of employees falling under the Law for the Prevention of Infiltration, which further hampers their socio-economic status and opportunities;**
- (d) Ensure equal access to and quality education of children of asylum-seekers, continue the establishment of educational institutions, including by increasing the number of public kindergartens, and put an end to the de facto segregated schooling system;**
- (e) Ensure adequate protection for all stateless persons and establish an effective mechanism to end statelessness among Bedouins.**

Settlement policies and acts of violence in the West Bank, including East Jerusalem

42. The Committee is concerned at continuing confiscation and expropriation of Palestinian land, continuing restrictions on access of Palestinians in the Occupied Palestinian Territory, including East Jerusalem, to natural resources, inter alia, agricultural land and adequate water supply. The Committee is particularly concerned:

- (a) About the discriminatory effect of planning and zoning laws and policies on Palestinians and Bedouin communities in the West Bank, the continued demolitions of building and structures, including water wells, and as a consequence, further displacement of Palestinians;
- (b) That the process of applying for building permits is prolonged, complicated and expensive and that few such applications are approved, while a preferential treatment continues for the expansion of Israeli settlements, including through the use of “state land” allocated for settlements;
- (c) About acts of violence perpetrated by the State party’s settlers against Palestinians and their property in the West Bank, including East Jerusalem, and at the lack of effective accountability for and protection from such acts by the State party’s authorities (arts. 2, 4, 5 and 6).

43. The Committee recommends that the State party:

(a) **Review planning laws and policies in the West Bank, including East Jerusalem in consultation with the affected populations, to ensure that they are compliant with its obligations under the Convention and ensure the rights to property, access to land, housing and natural resources of Palestinian and Bedouin communities;**

(b) **Review the construction permit system in order to prevent demolitions and forced evictions and put an end to the expansion of illegal Israeli settlements;**

(c) **Take all necessary measures to prevent violence perpetrated by the State party's settlers and that all incidents of violence are promptly and properly investigated, and that victims are provided with effective remedies.**

Ongoing blockade of the Gaza Strip

44. The Committee is concerned about the long-standing blockade of the Gaza strip imposed by the State party. It notes with concern that the blockade continues to violate the right to freedom of movement, access to basic services, especially to health care, and impedes the ability to access safe drinking water (arts. 2,3 and 5).

45. **The Committee urges that the State party review its blockade policy and urgently allow and facilitate the rebuilding of homes and civilian infrastructures, ensure access to necessary urgent humanitarian assistance as well as to the right to freedom of movement, housing, education, health, water and sanitation, in compliance with the Convention.**

Occupied Syrian Golan

46. The Committee remains concerned at the vulnerable situation of Syrian residents of the Occupied Syrian Golan and their unequal access to land, housing and basic services. It is particularly concerned about the expansion of settlements and activities that have reduced Syrian farmers' access to water, and about the fact that, due to the Law on Citizenship (1952), families ties continue to be disrupted (art. 5).

47. **The Committee urges that the State party ensure equal access for all residents of the Occupied Syrian Golan to fundamental rights, such as the right to land, housing, water and basic services. It also recommends that the State party put an end to the expansion of Israeli illegal settlements and find a satisfactory solution to the issue of family separation.**

D. Other recommendations

Ratification of other treaties

48. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Domestic Workers Convention, 2011 (No. 189), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization, as well as the 1961 Convention on the Reduction of Statelessness.**

Amendment to article 8 of the Convention

49. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Declaration under article 14 of the Convention

50. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention with a view to recognizing the competence of the Committee to receive and consider individual communications.

Follow-up to the Durban Declaration and Programme of Action

51. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

52. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

53. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Follow-up to the present concluding observations

54. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 18 (institutional framework) and 29 (situation of the Bedouin people) above.

Paragraphs of particular importance

55. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 14 (Basic Law: Israel – the Nation State of the Jewish People), 16 (discriminatory laws), 23 (segregation between Jewish and non-Jewish communities, including in the Occupied Palestinian Territory) and 27 (a) (racist hate speech and hate crimes) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

56. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention,

including municipalities, in the official and other commonly used languages, as appropriate.

Common core document

57. The Committee encourages the State party to update its common core document, which dates to 19 January 2015, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Preparation of the next periodic report

58. The Committee recommends that the State party submit its combined twenty to twenty-third periodic reports, as a single document, by 2 February 2024, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.
