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HUMAN RIGHTS COMMITTEE CONSIDERS REPORT OF ISRAEL

14 July 2010

The Human Rights Committee has concluded its consideration of the third periodic report of Israel on the measures undertaken by that country to implement the provisions of the International Covenant on Civil and Political Rights.

Aharon Leshno Yaar, Permanent Representative of Israel to the United Nations Office at Geneva, in opening remarks, said that Israel was proud of its long-lasting recognition of the inherent dignity, and the equal and inalienable rights of all members of the human family, which, as proclaimed by the Charter of the United Nations, and reemphasized within the Covenant itself, was the foundation of freedom, justice and peace in the world. Even in the face of serious threats to its national security, Israel had maintained its commitment to sustain its policy of opening itself to international scrutiny by United Nations’ human rights treaty bodies, other mechanisms and civil society, so as to continuously enhance and improve its compliance with its international commitments and obligations. But some understanding of Israel’s pressing security, political and social situation was clearly necessary to recognize the context in which it had made advancements, as well as to identify those challenges that still lay ahead.

Presenting the report, Malkiel Blass, Deputy Attorney General of the Ministry of Justice of Israel, said with respect to the legislative arena, Israeli legislation reflected a move into a more mature and sophisticated ability to use the legislative tool in a comprehensive manner, in creating social change in sensitive areas such as those discussed in the report. One needed to view the main recent pieces of legislation in total to be able to assess their combined effect on Israeli society. A few demonstrating examples were the enactment of the Criminal Procedure Law; the enactment of the Investigation and Testimony Procedures Law concerning the investigations of persons with intellectual and mental disabilities; the enactment of the Anti-Trafficking Law; and the enactment of the Gender Implications of Legislation Law. Mr. Blass went on to say that in the realm of measures taken by the executive branch, in 2007 the Ministerial Committee on the Non-Jewish Sector established an authority for the economic development of the Arab Sector, including Druze and Circassian sectors. Additionally, the Government of Israel constantly undertook projects to improve the infrastructure and increase the rate of development in Arab villages and towns.

Yuji Iwasawa, Chairperson of the Committee, in closing remarks, said that there was clearly a difference of opinion between the Committee and Israel on the issue of whether the Covenant was applicable in the West Bank and Gaza Strip. He was disappointed to see that in their written responses, the delegation did not answer many of the questions, but simply referred to previous answers to different questions.

Over the course of three meetings, the Israeli delegation answered questions by the Committee members relating to a number of issues, including the rights of detainees, allegations of abuses and ill treatment by authorities during Operation Cast Lead, the freedom of movement between the West Bank, the Gaza Strip and Israel, and the investigative mechanisms in place for allegations of abuse by the Israeli Security Agency. The delegation was also asked numerous questions about the use of the Arabic language by government ministries and the courts and in daily life as well as the representation of Arab Israelis in the civil service. The Committee asked the delegation to elaborate on the status of the review of the state of emergency in the country and what was the timeline for completing this review. Throughout the discussion, Committee Experts raised numerous concerns about the situation in the Occupied Palestinian Territories. In particular, the delegation was asked to elaborate on the legal basis for the State party claim that the Covenant did not apply to the Occupied Palestinian Territories, why the State party had disregarded the International Court of Justice ruling on the barrier fence, whether it would reconsider its blockade of the Gaza Strip, the situation on the access to water and sanitation in the Occupied Palestinian Territories, and the issue of home demolitions in East Jerusalem. The delegation was also asked about the movement of humanitarian and civilian goods into the Gaza Strip and what access citizens there had to medical care.

The Israeli delegation included members from the Ministries of Justice and Foreign Affairs and the Permanent Mission of Israel to the United Nations in Geneva.

The Committee will hold its next public session at 11 a.m. on Thursday 15 July 2010, when it hold a discussion on its working methods.

Report of Israel

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

Since the submission of its previous periodic report, the State of Israel has taken several dramatic steps in combating trafficking in persons for all purposes, as will be detailed below. This issue has been given great attention, and was promoted in all levels - legislative, judiciary and administrative. This resulted in a sharp decline in the number of victims of trafficking for prostitution. The Anti Trafficking Law entered into force on October 29, 2006. The law promulgates a broad trafficking crime for a number of illegal purposes: prostitution, sexual crimes, slavery or forced labour, removal of organs, pornography, and using the body of a person to give birth to a baby who is then taken from her. The crime is attended with a punishment of 16 years of imprisonment and 20 years of imprisonment if the offence is committed against a minor. The law includes a full panoply of crimes to address gradations of exploitation: Slavery - 16 years of incarceration, trafficking for the purpose of slavery or forced labour - 16 years of incarceration, forced labour - 7 years of incarceration, exploitation of vulnerable populations - 3 years of incarceration. For the first time, Israel has a slavery offense, a broad forced labour offence with heightened sentencing and heightened punishment for exploitation of vulnerable populations.

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

With regards to demolition of illegal dwellings in Jerusalem, in 2007, 283 applications, which make 12 per cent of the total number of applications, were received from residents of the eastern neighbourhoods of Jerusalem. Of the 283 applications, 135 (47 per cent) were granted. Residents in the western parts of Jerusalem submitted 2,095 applications, of which 1,505 (71 per cent) were granted. In the western parts of Jerusalem, building violations almost invariably consisted of additions to a legal building, such as the addition of a room in a courtyard or an attic within a roof space. In the eastern part of Jerusalem, violations typically take the form of entire buildings constructed without a permit. Thus, demolitions in the eastern neighbourhoods of Jerusalem are far more dramatic than in the western part of the city.

Opening Statement

AHARAON LESHNO YAAR, Permanent Representative of Israel to the United Nations Office at Geneva, in opening remarks, said that Israel was proud of its long-lasting recognition of the inherent dignity, and the equal and inalienable rights of all members of the human family, which, as proclaimed by the Charter of the United Nations, and reemphasized within the Covenant itself, was the foundation of freedom, justice and peace in the world.

Even prior to Israel’s ratification of the Covenant on 3 October 1991, these principles contained within were enshrined in Israel’s Declaration of Independence, adopted on 14 May 1948. They also found expression over the years in rulings of the Israeli Supreme Court as well as in Israel’s basic laws. In the years since Israel’s last presentation before the Committee, several other significant developments in law and in practice had taken place which had better realized civil and political rights in Israel.

In assessing Israel’s adherence to its obligations to the Covenant, it was appropriate for the Committee to also consider the dramatic developments on the ground since its last appearance in 2003. In particular, mention must be made of Israel’s disengagement initiative from the Gaza Strip in 2005, which involved the full withdrawal of all Israeli forces, the dismantling of its military administration and the evacuation of over 8,500 civilians. This disengagement initiative was subsequently followed by the Hamas-led terrorist organization’s violent overthrow of the Palestinian Authority within the Gaza Strip. Hamas’ brutal seizure of effective control over the Gaza Strip in 2005 resulted in over 10,000 Qassam rockets, mortar and missile attacks being indiscriminately fired from within the Gaza Strip against southern Israel. Targeting schools, playgrounds, community centres and the Israeli population as a whole, these terrorist attacks had no aim but to kill and maim civilians, to sow terror and fear, and to demoralize the population.

Even in the face of these serious threats to its national security, Israel had maintained its commitment to sustain its policy of opening itself to international scrutiny by United Nations’ human rights treaty bodies, other mechanisms and civil society, so as to continuously enhance and improve its compliance with its international commitments and obligations. But some understanding of Israel’s pressing security, political and social situation was clearly necessary to recognize the context in which it had made advancements, as well as to identify those challenges that still lay ahead.

Presentation of the Report

MALKIEL BLASS, Deputy Attorney General of the Ministry of Justice of Israel, presenting the report of Israel, said that Israel was pleased to receive input from non-governmental organizations to parts of the periodic report. The comprehensive report elaborated in great detail the relevant facts, legislation, court decisions, and policies of the Government of the State of Israel with respect to a broad range of issues relevant to the advancement of human rights in Israel. The issues that were discussed in the report were regularly on the agenda of all government ministries.

Mr. Blass said that the limited scope of his statement did not permit him to cover all the improvements pertaining to the implementation of the Convention in Israel, but he would endeavour to address some key topics in which significant improvements had occurred, and then highlight the particular attention provided by Israel to issues the Committee had commented on in the past.

With respect to the legislative arena, Israeli legislation reflected a move into a more mature and sophisticated ability to use the legislative tool in a comprehensive manner, in creating social change in sensitive areas such as those discussed in the report. One needed to view the main recent pieces of legislation in total to be able to assess their combined effect on Israeli society. A few demonstrating examples were the enactment of the Criminal Procedure Law; the enactment of the Investigation and Testimony Procedures Law concerning the investigations of persons with intellectual and mental disabilities; the enactment of the Anti-Trafficking Law; and the enactment of the Gender Implications of Legislation Law.

According to Mr. Blass, in the realm of jurisprudence, Israeli courts, led by the High Court of Justice, had continued to play a crucial role in anchoring human rights and promoting them throughout Israeli society. Israel’s Supreme Court, sitting as the High Court of Justice, ensured that all governmental branches and the private sector operated in accordance with the law. Moreover, in its decisions throughout the years, the Supreme Court further established and protected basic rights such as the right of freedom of speech, the right to strike, the right to associate, and especially the right to full equality as fundamental values in Israel. Thus, Israel’s High Court of Justice played a central role in protecting human rights.

A great example of the court’s central role in the promotion of human rights was its landmark decision from May 2006, laying down a court made doctrine on the exclusion of unlawfully obtained evidence. Other demonstrating examples included a case in which the Supreme Court held that the State must provide a bed for every prisoner held in an Israeli prison, and two rejections of petitions challenging the annual Pride Parade in Jerusalem. Another landmark decision was a judgement given recently revoking a law that allowed for privately operated prisons. The court was of the opinion that the law affected prisoners’ rights in an unconstitutional manner. Another important judgement of the Supreme Court was a decision to revoke a section in a criminal procedure law which allowed for a court session in absentia.

In the realm of measures taken by the executive branch, Mr. Blass said that in 2007 the Ministerial Committee on the Non-Jewish Sector established an Authority for the Economic Development of the Arab Sector, including Druze and Circassian sectors. Additionally, the Government of Israel constantly undertook projects to improve the infrastructure and increase the rate of development in Arab villages and towns. Further, the Israeli Government adopted the National Strategic Plan for the Development of the Negev in 2005 to advance growth of the Negev. The Government’s comprehensive plan covered a nine year period from 2006 to 2015 and sought to develop the Negev by improving infrastructure and the educational system; by increasing the employment and the population in the Negev; and by reducing the discrepancies in income between Negev residents and the rest of Israel.

The delegation was looking forward to a constructive and fruitful dialogue between the Committee and the professionals of the delegation.

Oral Answers to Written Questions Submitted in Advance by Experts

In an oral summary of written responses to issues one through seventeen on the list of issues, MALKIEL BLASS, Deputy Attorney General of the Ministry of Justice of Israel, said that regarding the question of Israel’s responsibility under international law to apply the Covenant to the West Bank, Israel recognized that there was a profound connection between the Law of Armed Conflict and human rights, and that there may well be convergence between these two bodies of law in some respects. However, it was Israel’s view that these two systems of law, which were codified in separate instruments, nevertheless remained distinct and applied in different circumstances. The Convention, which was a territorially bound Convention, did not apply, nor was it intended to apply, to areas outside its national territory.

Mr. Blass then went on to address the number of home demolitions carried out in the eastern neighbourhoods of Jerusalem. During the years 2004 to 2009 the Municipality of Jerusalem had demolished nearly 700 buildings and building additions, less than 500 of them in the eastern neighbourhoods in Jerusalem, where most of the population was Arab, and more than 200 in the western neighbourhoods of Jerusalem. All of these buildings were demolished based on violation of the building and planning laws. In the western areas of Jerusalem, building violations almost invariably consisted of additions to a building lawfully constructed, such as the addition of a room in a courtyard or an attic within a roof space. In the eastern neighbourhoods of Jerusalem, violations, for the most part, took the form of entire buildings that were constructed without a permit. Thus, demolitions in the eastern neighbourhoods of Jerusalem were far more dramatic than in the western part of the city.

In terms of measures taken to respect and protect the rights of Bedouins, Mr. Blass said that there were seven existing Bedouin towns in the Negev, all of which had approved plans and included infrastructure such as schools, clinics, running water and electricity. The Government decided that a further eleven new towns for Bedouins should be established in order to accommodate the Bedouin population and in consideration of their special needs. The Government of Israel spared no expense in providing the Bedouin in the Negev with education, health, electricity, water and the ability to enjoy their rich culture.

On the issue of the definition of terrorism, Mr. Blass informed the Committee that this issue as well as related issues were currently being thoroughly examined as part of a legislative process aimed at introducing comprehensive legislation concerning the struggle against terrorism and the necessary means to counter the terrorist threat faced by Israel. As to the issue regarding the Unlawful Combatants Law, since the enactment of the Incarceration of Unlawful Combatants Law, a total of 49 persons had been detained according to the law. There were currently seven persons being held under the provisions of the law.

Mr. Blass then turned to the issue of the state of emergency in Israel. He said that in the current state of affairs there was no doubt that Israel was experiencing a state of emergency. Since September 2000, the State had suffered a wave of terrorism, a war, and countless armed attacks on the civilian population. Nevertheless, in recent years, Israel had considered refraining from extending the state of emergency any further. The current state of emergency was in force until 13 June 2011.

On the question of the compliance of military forces with international law, Mr. Blass said it was the responsibility of the Military Advocate General’s Corps to supervise the adherence of the Israeli Defence Forces to law, including international law. This was done through the use of the military police criminal investigation division, the military courts, and was scrutinized by the civilian law enforcement authorities led by the Attorney General. The decisions of the Military Advocate General were also subject to judicial review by the Israeli Supreme Court.

Mr. Blass said that all forms of torture or other cruel, inhuman or degrading treatment or punishment were prohibited by Israeli law. Regarding audio and video recording of investigations, the obligation to record the investigation of suspects was currently being implemented. Presently this legislation did not apply to suspects of security offences, and it would not apply in the near future. However, there was no intention of making this law permanent.

Mr. Blass pointed out that Israel maintained that the provisions of its laws dealing with arraignment before a judge and access to legal council were in accordance with the Covenant. During the interrogation period a detainee was entitled to consult with a lawyer. Following a detainee’s request to meet with an attorney or the request of an attorney to meet a detainee, the person in charge of the investigation should enable the meeting without delay. The meeting could be delayed if, in the opinion of the police officer in charge, such a meeting necessitated terminating or suspending an investigation or other measures regarding the investigation, or substantially placed the investigation at risk.

With regard to the right to an arraignment before a judge, the Criminal Procedure Law specified that a person arrested without a warrant must be brought before a judge as soon as possible, and no later than 24 hours following their arrest, with a special provision regarding weekends and holidays. An additional 24 hour extension could be granted based on the need to conduct an urgent interrogation, which could not be conducted unless the detainee was in custody, and could not be postponed following his arraignment, or if an urgent action must be taken regarding an investigation in a security related offence. Following the completion of the above measures, the detainee shall be brought before a judge swiftly, or released from custody.

Questions by Committee Members

A Committee Expert said that Israel could not just sweep aside the application of the Covenant in the Occupied Palestinian Territory. It was an age old issue that came up any time the topic was raised in this Committee. The delegation was asked to elaborate on whether it felt the Covenant applied to situations of armed conflict.

It was also pointed out that the Committee had to ask the question of the legal basis of Israel’s interventions in other States including in Lebanon, the territory of the Gaza Strip and the recent stopping of a ship in international waters. In all cases deaths ensued so the Committee could not ignore the issue.

A number of questions were raised about the use of the Arabic language in Israel. Was it required that detainees receive their charges and court documents in Arabic? Were Arabic members of parliament given the same financial support to allow them to campaign?

It was also asked under what conditions Israeli nationality could be revoked and what was the status of couples with mixed nationalities. Also, on what basis were permits for circulation granted or denied?

Turning to Israel’s settlement policy, the question was raised of whether Israeli citizens enjoyed rights under the Covenant when they moved to settlements since Israel maintained that the Covenant did not apply outside its territory.

On the issue of housing demolitions, a Committee Expert asked how many housing permits were provided to Palestinians in east Jerusalem compared to the number of illegal settlements, how much land of east Jerusalem was used for illegal settlements, what was the ratio of land used for Israeli settlement for East Jerusalem and the rest of the West Bank, and what fines were people subject to after forced eviction and housing demolition?

Dealing with the issue of water supply, an Expert said that a non-governmental organization had noted that there seemed to be discrimination in terms of the water supplied to Palestinian villages versus the usage by Israeli settlements in the Occupied Palestinian Territory. Could the delegation comment on these figures and provide information on the average water usage of Israeli settlements, where did the waste water from these settlements go and did it go to Palestinian lands. The Committee also asked the delegation to elaborate on access to medical supplies for Palestinians in the Occupied Palestinian Territory. There were reports that Israeli had denied entry of radioactive materials needed to diagnose and treat certain conditions into Gaza as well as denied entry of medical teams from Ramallah to provide medical care to residents of the Gaza Strip.

On the subject of language, it was pointed out by a Committee member that a non-governmental organization had alleged that Supreme Court decisions were routinely translated into English, but not into Arabic due to budgetary reasons and documents in Arabic were routinely not accepted by government ministries. Also, documents for people suffering from psychiatric disorders were not available in Arabic, only Hebrew.

Another issue concerning minority groups had to do with the inability of Arab citizens to travel to neighbouring States such as Lebanon, even for legitimate reasons such as for the enjoyment of culture. Also, why were certain cultural and educational events organized by Palestinians such as a conference on young women and a football match impeded when they were not opposed on security grounds? In terms of street signs, could the delegation elaborate on the policy of translating names into Hebrew and then transliterating them into Arabic? A similar practise happened in Ireland and a great deal of the culture was destroyed because of it.

The Committee Experts said they did not have time to go through the dozens of concerns expressed about the situation of the Bedouin in the Negev, but would touch on some of them. A non-governmental organization had said that the urban centres where the Bedouin were being housed were completely at odds with their rural and agricultural history and culture. Could the delegation comment on this? The delegation said that Israel could not supply water and utilities to areas where people had set up illegal settlements in places that were not zoned for housing, but this seemed at odds with what the State had said in the past about having a humanitarian obligation to provide water and shelter to all people regardless of their location. Would the State be open to using the guiding principles on internally displaced persons in dealing with the Bedouin community?

Turning to the definition of terrorism, a review was underway and a Committee Expert wanted to know if there was a timeline for the completion of this review and was the review process taking into account the Human Rights Committee’s previous concluding observations that dealt with the issue.

Looking at the state of emergency, a Committee Expert pointed out that the last time Israel came before the Committee in 2003 it was also reviewing the state of emergency. When would this review be done and what would it look like if the state of emergency were amended and not suspended? Also, during this review, was the State party taking into consideration General Comment 34? The delegation was also asked if it could provide disaggregated data on allegations of torture lodged by detainees.

Committee Experts then turned to the conduct of Operation Cast Lead and the allegations that a number of crimes occurred during the conduct of this operation. The delegation was asked why so few prosecutions had taken place given that many crimes were alleged to have been committed by Israeli Defence Forces. Could the delegation also explain a discrepancy in the figures provided by the State party versus those provided by United Nations, the International Committee on the Red Cross and national human rights institutions on the number of medical personnel injured and hospitals damaged? Also, when would the State party have an update on the investigation into the killings of two Arab teenagers by Israeli Defence Forces and what remedies were available to their families? What was the delay into the opening of a criminal investigation into the assassination of an Arab man which also led to the deaths of six other people? How did the delegation respond to allegations that the Israeli Defence Forces were carrying out extrajudicial killings in the West Bank, even when arrests were possible? Had the State party given thought to how other evidence could be used in determining whether to open a formal investigation into the conduct of Israeli Defence Forces soldiers other than the military debriefing?

The delegation was asked if any thought had been given to allowing qualified medical personnel to visit places of detention to determine the physical condition of detainees while they were in custody and undergoing interrogation. Would the State party adopt the Committee’s previous recommendations that claims of torture and ill treatment be independently investigated and perpetrators prosecuted? Did the State party think internal Israeli Security Agency investigations were the best way to investigate allegations of torture against the Israeli Security Agency? Was any consideration given to having independent investigators look into these allegations?

Other questions on the right of detainees included what remedy was available to a detainee whose right to consult an attorney was violated and could the International Committee on the Red Cross visit prisons unannounced to enhance protections against torture and ill treatment? It was also alleged that when Palestinians were detained in Israel their family members in the Gaza Strip were not allowed to visit them and this had been the case since 2006. Was this information correct?

Concerning the attack on a humanitarian aid ship in June, the Committee understood there was a report recently released by the Israeli Government on the facts of the case and the Committee asked if a complete copy could be made available to it and whether Israel would reconsider its prosecution of the blockade. The delegation was also asked why Israel had not loosened the blockade to allow construction and medical materials into the Gaza Strip to address the health and sanitation conditions in the territory. In addition, a Committee Expert asked how Israel could disregard the ruling of the International Court of Justice concerning the barrier fence and what was the legal justification of this decision?

Response by Delegation

The delegation said it would attempt to answer as many questions as possible given the time constraints. With regard to the issue of the principle of equality, although it was not written down in the Israeli Basic Law, it was considered in the drafting of all legislation. On the question of financial support for Arab members of the Knesset, they received the same financial support as Jewish members.

Regarding the revocation of residency permits, if someone acquired citizenship or residency in another country or moved out of Israel for a period longer than seven years their residency would be revoked and this applied to everyone and was not targeted toward a specific group. There were exceptions to these laws, for example if a person kept an affinity to Israel or kept a residence there.

In terms of the complaint procedures against the Israeli Security Agency, the inspector of that agency was independent and no one had the right to interfere in their investigations. The appointment of an inspector was done very carefully to ensure there were no conflicts of interests and the current and previous inspections were not investigators for the Israeli Security Agency prior to their appointments. A Committee member pointed out that having a former member of the Israeli Security Agency investigate allegations of wrong doing might not be the best way to conduct investigations, but the delegation said there were advantages to appointing an inspector who had been a member of the Israeli Security Agency. They understood the language, culture and structure of the agency and were already familiar with the workings of the institution.

The delegation said that the doctrine of necessity was allowed under international law and one could not ignore this defence when looking at Israel’s fight against terrorism. Responding to the question on the lack of prosecutions for alleged ill treatment during interrogations, the delegation said Israeli Security Agency interrogators had been disciplined. The names of Israeli Security Agency interrogators had to be kept secret to protect their lives; they interrogated terrorists and if there names were released their lives could be in danger. The reason the interrogations were not recorded was because in revealing these recordings it could help terrorist groups prepare for future interrogations or aid them in future acts of terrorism.

Regarding the use of the Arabic language in public life, all Supreme Court judgements were issued in Hebrew and only the landmark judgements were translated into English. Recent changes in the law meant that all ministries would accept documents in Arabic. Regarding travel to other countries, the Committee had brought up a case in which an Arab scholar had been denied a travel permit to Lebanon to accept an award. The delegation said that any Israeli citizens wishing to visit any enemy state such as Lebanon needed a travel visa and this could be denied on security grounds.

Turning to the topic of the state of emergency, the delegation said it was difficult to estimate when the review of the state of emergency would end, as many ministries were involved and the new suggested legislation required a great deal of deliberation. On the issue of targeted killings, Committee Members asked why there had not been an investigation opened in allegations that Israeli Defence Forces had ignored the Supreme Court decision on targeted killing. The delegation said the attorney general investigated the matter and decided the soldiers were in compliance with the Supreme Court law and there was no need for further investigation into these allegations.

With regard to the application of the Covenant in the West Bank, the delegation said that the decision that the Convention did not apply there was based on legal and other considerations. Israel did not have effective control over the West Bank as envisaged in the Hague Convention and as the State had limited government authority in the West Bank and the Gaza Strip it was not in a position to enforce the rights under the Convention in these areas. In terms of Israelis entering the territories, all laws and rights applied to them.

Israel did not use targeted killings, according to the delegation, although in some instances it was a matter of military necessity and this was only carried out in extraordinary circumstances, for example if there were no means to capture the terrorist. This action had to be investigated and approved beforehand and only after it had been determined that innocent civilians would not be harmed in the operation. Israel followed the rules of armed conflict including the principles of proportionality and humanity. The use of civilians as human shields was also prohibited and civilians were not compelled to take actions that would be harmful to them. Investigations had been opened into seven allegations against Israeli soldiers who were alleged to have used people as human shields, including an instance of asking a nine-year old Palestinian boy to open bags they suspected contained explosives.

The delegation then turned to questions regarding Operation Cast Lead. Israel took measures to operate under international law and it investigated all allegations of misconduct by the Israeli Defence Forces. These criminal investigations had led to the indictment and criminal trials of two soldiers for using a Palestinian child in a manner that put that child at risk. In several cases the Military Advocate General recommended disciplinary action against soldiers for misconduct during the operation, including criminal charges. Israel had made extraordinary efforts to conduct investigations into allegations of misconduct by Israeli Defence Forces solders. The various investigations had already led to changes in the military operational guidelines. For example, the Israeli Defence Forces had instituted two new orders to protect civilian property during war and forbade soldiers from destroying private property, including farmland, for military purposes. The second order was a new doctrine for urban warfare. The new doctrine emphasized that the protection of civilians was an integral part of every commander’s mission. Integration of civilian matters into combat planning including taking into account the locations of various educational, religious, economic and cultural sites, notifying the population, as well as having evacuation routes and shelter locations for civilians.

Regarding the blockade of Gaza, the delegation pointed out that Israel was in a state of armed conflict with Hamas who had used the sea to smuggle arms into the Gaza Strip. A naval blockade was recognized as a lawful wartime measure under international law as long as the ports of peaceful countries were not blocked. The flotilla that was attacked on 31 May 2010 had been warned that it was violating a blockade and under international law Israel had the right to enforce the blockade by attacking both civilian and military ships. It was clear that the flotilla was intent on violating the blockade and the captains of the ships had been repeatedly warned. Israel attempted to take the flotilla by peaceful means, and Israeli naval forces were met with violence and had to defend themselves. Investigations were underway into the deaths of nine protesters. One investigation found that communications could have been better between the Navy and other bodies and media relations could have been better. The report also determined that the use of live fire was justifiable and Israeli sailors and commanders conducted themselves with professionalism and made sound decisions. There was an also an independent commission of experts established on 14 June 2010 to look into the flotilla incident. Every government body would cooperate fully with the commission and the commission had the power to call witnesses and compel them to testify. Of the nine fatalities in the flotilla incident, seven of the nine killed expressed in writing or orally their desire to die aboard the ship. These were not peace activists, these were death messengers. The delegation asked that the Committee keep that fact in mind.

The delegation then turned to the issue of Palestinian self-determination. Israel had explicitly and on numerous occasions publicly affirmed Palestinians’ right to self-determination. The impasse in the Middle East peace process did not stem from the denial of this right. Israel and the international community believed in a two-state solution with a Palestinian state side by side with Israel, but Palestine had to fulfil its obligations as well. Prime Minister Netanyahu said that peace was between two peoples with a demilitarized Palestinian state that recognized the legitimacy of Israel and an Israel which recognized the legitimacy of a Palestinian state.

With regard to settlements, it was pointed out that there were none in the West Bank prior to 1961 and still there was no peace between Israel and its neighbours, including the Palestinians. Israel hoped that the restart of the peace talks would lead to viable solution between itself and the Palestinians. The settlements had never precluded peace and in fact peace agreements between Israel and Egypt and Jordan had been signed and the settlements were not an issue. However, in good faith Israel had placed a ten month moratorium on any new building and housing starts in Jewish settlements, but the Palestinians still had not come to the table.

On the issue of the security fence, the delegation commented that some people referred to it as a barrier while Israel called it a security fence. In order to secure the lives of civilians, Israel had erected a temporary security fence. It was not a permanent measure and since it had been constructed the number of terrorist attacks had decreased significantly and saved the lives of thousands of civilians, both Israeli and Arab. There had been zero suicide bombings in the last two years, a testament to the effectiveness of the fence as a security measure. Israel continued to seek a balance between the security of the State and the rights of Palestinians. Any person could petition the High Court of Justice and over 200 petitions had been submitted to the High Court regarding the fence and the court had altered the route of the fence, taking into account the needs of the Palestinian people.

The delegation then addressed the issue of home demolitions, which it said were carried out by the military in accordance with applicable laws and to enforce building laws. Since these demolitions were of illegal structures, the owners were not entitled to compensation. The process was subject to judicial review and people could appeal to the courts. Fines and penalties for illegal structures were uniform, without regard for the race of the perpetrator. Regarding notifications of demolitions, documents were translated for the owners and several judges spoke fluent Arabic. There were also translators in court.

With regard to complaints against Israeli Defence Forces, any person could file a complaint at any civilian police station regarding alleged abuses by soldiers and Palestinians could also file complaints through a non-governmental organization. The media was also monitored for allegations of abuse and those cases were referred to the appropriate authorities.

In terms of the Unlawful Combatants Law, the Supreme Court held that the law met the standards of Israel constitutional law and international humanitarian law. The law did not infringe on the rights or liberties in a disproportionate measure and it struck a delicate balance between human rights law and the security needs of the state. Forty nine persons had been detained under the law since it was enacted. The seven people currently held under the law were all men and there were no minors. In light of the security situation in Israel, these detentions were obligatory and essential in preventing terrorist activity. The delegation pointed out that under this law, detainees enjoyed the same rights as other detainees in terms of filing complaints to the courts about the conditions of their detention.

The delegation also addressed administrative detention in the West Bank under military orders. These measures could be used as an exception, as it was prescribed by law that suspects be brought to justice as a first resort rather than using administrative detention. Detainees could also appeal to the military court of appeal as well as the Supreme Court and petitioners had the right to see the evidence against them as well as the right to counsel. Administrative detention was limited to six months and there had been an increase in the number of administrative detention orders in the last few years. A detainee’s meeting with his attorney could be postponed on specific grounds, but only on an order from a military judge and any such order could be challenged in the Supreme Court. The delegation said that Israel understood the importance of family visits for detainees and despite the security concerns they worked to respect this right. However, the need to insure those entering from the Gaza Strip were not a security threat led to restrictions on movement into and out of the Gaza Strip, including families attempting to visit detained loved ones. The State had wide discretion in determining who could enter the State and who would remain outside its borders, although the court ruled this discretion was not absolute and the State should strike a delicate balance between security and human rights. The court found no reason to intervene in this decision and found that entrance to Israel did not constitute a humanitarian need for residents of the Gaza Strip.

The delegation continued the presentation by answering questions regarding development of neighbourhoods in East Jerusalem. A development plan entitled “Jerusalem 2000” had been formulated to develop infrastructure in these communities, to better use the land there and to provide sanitation services there, and to decrease the number of illegal dwellings constructed there. With regard to water rights in the West Bank, there was a 1995 interim water agreement signed between Israel and the Palestinian Authority recognizing their right to water and governing water supply and desalination. Israel had not only met their obligations under this agreement, but had in fact surpassed it. In terms of sanitation, Palestinians do not treat their waste water and the responsibility fell to Israel since sewage from Palestinian towns flowed to Israel though gravity, polluting the aquifer, streams and other water supplies.

The delegation said that allegations of abuse and mistreatment against police officers were taken very seriously and anyone could file a complaint. On the question of Bedouin towns, a representative from each of the Bedouin towns took part in all planning decisions, reflecting the evolving needs of the community. Turning to the question of physicians being allowed into interrogation facilities, the delegation said that physicians who worked in the prison system did so under the legal and ethical framework laid out by the courts and their profession.

The delegation then responded to questions about the destruction of hospitals and ambulances in Gaza during Operation Cast Lead. The delegation said that Hamas used hospitals and ambulances for military purposes, against the edicts governing armed conflict. Hamas seized control of hospitals and clinics and used these locations to fire at Israeli soldiers. In addition, they hijacked the ambulances and uniforms of healthcare facilities and took refuge in hospitals to blend in with the civilian population and elude Israeli snipers. The Israeli Defence Forces were investigating allegations of abuse and ill treatment in this area.

With regard to freedom of movement, the delegation noted that on 19 September 2007, the Israeli Government resolved to restrict the passage of goods and supplies of fuel and electricity to the Gaza Strip and to limit the movement of persons in and out of the Strip. Throughout the years, authorities in charge had allowed the entrance of residents of the Gaza Strip into Israel for the purpose of family visits of their imprisoned relatives. However, following Hamas’ violent take-over in the Gaza Strip, the area had turned into a hostile zone similar to an enemy state engaged in war against the state of Israel and its citizens. In light of the situation, the State began to implement a new policy, according to which the entrance of residents of the Gaza Strip to Israel had been forbidden. This restriction also applied to visitors from the Gaza Strip.

According to the delegation, the High Court of Justice held that no foreign resident had the given right to enter Israel and that the state, according to the principle of sovereignty, had wide discretion in determining who would be allowed to enter the State and who would remain outside its borders. The court added that although the discretion given to the State was wide, it was not absolute and the relevant authorities should ensure that a proper balance was achieved between the relevant considerations in order not to cause excessive harm to human rights. The delegation said that Israel had expanded the flow of construction materials into Gaza and that there was a list of items that could not be taken into Gaza because they could be used by terrorists and posed a danger to Israeli citizens, but this left many items that could be brought into the Gaza Strip, including humanitarian and medical aid. The guiding principle was to keep the weapons out, while allowing humanitarian aid and civilian goods in.

Follow-Up Questions by Committee Members

Committee Members noted that their question regarding the legal basis for Israel failing to apply the Covenant in the Occupied Palestinian Territories had not been answered and asked the delegation to please address this issue in further detail.

Regarding access to language, a Committee Member pointed out that people accused of a crime should be given documents in the language they understood. In terms of the right to self-determination, the International Court of Justice had found that Israel had placed a number of obstacles in the way of this right, but each time these rulings were handed down Israel reverted to the rulings of its own court so it was difficult to have a dialogue with an international body such as the Human Rights Committee when the only point of view put forward was that of the Israeli Supreme Court.

A Committee Expert asked that additional information be provided on the questions of waste water and sanitation in Palestinian communities. The delegation was also asked for a clarification on the blockade in terms of letting through humanitarian aid and civilian provisions.

It was noted that the delegation gave answers to many questions, but not as fully and detailed as the Committee would have liked; disaggregated data would be helpful in assessing the situation of human rights in Israel.

On the issue of torture, the delegation said there were guidelines and regulations governing torture during interrogations, but the Committee wanted to know if the guidelines were publicly available and what they were specifically.

The Committee also asked for a clarification on the criteria for revoking residency permits. Other areas in which the Committee asked for additional information, in writing if needed, were the translation of place names in predominately Arab neighbourhoods, issues surrounding the urbanization of the Bedouin population and the accommodation of traditional nomadic practices.

The issue of the doctrine of necessity also drew follow-up questions from the Committee Experts, who wanted to know more about the criteria used to determine the use of this doctrine and the limits of this doctrine. What lines could not be crossed in the use of this doctrine? If one was not careful, everything could be justified by necessity.

Response by Delegation

In response to the follow-up questions raised by the Committee, the delegation began by responding to the question on equality and the difficulty in bringing such cases before the Supreme Court and delays in implementing the judgements that had been handed down by the High Court. The State asked for a delay in implementing a court decision that had been passed on equality legislation because it was a very difficult and complicated case with widespread influence and budgetary ramifications.

The delegation then turned to the question of the status of the area known as Area C in the West Bank. This area, roughly 60 per cent of the West Bank, included Arab villages and Jewish settlements in addition to nature preserves and a military training ground. Some open areas had to be reserved as open space as well, but even without that space there was still room to build in Areas A and B, which were under control of the Palestinian Authority.

Regarding the question of guidelines for Israeli Security Agency interrogations, most guidelines of the Israeli Security Agency were considered classified, including those regarding interrogations. There were few countries which revealed their guidelines for investigation of terrorism suspects. The justification for this was that the agency did not want terrorists to know how interrogations were done so they could prepare for them or inadvertently release information gleaned during these sessions which could be used to prepare future attacks.

With regards to translating place names into Arabic, the delegation said that last year there was an idea to change the name of places on road signs into Hebrew script, but this was not implemented.

In terms of the limits on the doctrine of necessity, the Supreme Court judgement from 1999 laid out clearly the guidelines for implementing the doctrine of necessity. The court ruled that the need for the doctrine was likely to arise in instances of “ticking time bombs”, meaning the situation met the imminence criteria. In other words, there had to be evidence of immediate danger, the danger was certain to materialize, and there was no alternative means of preventing its materialization; there also had to be concrete evidence of imminent danger.

On the topic of Palestinian self-determination, the delegation said Israel had publicly affirmed numerous times its support for Palestinian self-determination. The problems in the Middle East did not stem from the denial of this right. But Israel had also been quite clear of the Palestinian need to fulfil its obligations including the recognition of Israel, the renunciation of terror and the acceptance of previous agreements signed with Israel. Unfortunately, the Hamas-led Palestinian Authority was undermining the national rights of its very own people.

In terms of the application of the Convention in the West Bank and Gaza Strip, Israel did not control these territories and thus could not enforce the rights under the Convention in these areas. The State party felt the rules governing armed conflict provided some measure of rights guarantees in these areas.

With regard to the delivery of humanitarian aid, the delegation wanted to note that Israel delivered the supplies from the Gaza flotilla with cooperation of United Nations agencies and other international organizations.

The delegation also elaborated on the topic of repatriation orders and revocation of residence permits. People found to be unlawful residents were to be informed of their repatriation and given the chance to appeal the order to a military court. They were also to be informed of the decision in a language they understood. This law applied to people who had entered the country illegally or who stayed in the country without the proper permit. This did not affect people from Gaza in the West Bank. In 2008 only 48 people from Gaza who were living in the West Bank had been forced to move back to Gaza. The phenomenon of unlawful residency in the West Bank was a minor one because the Israeli government had made strides in legalizing people living in this area. Over the years 32,000 people living in the West Bank illegally had normalized their status.

On the topic of translations in military courts, simultaneous translations were provided for the accused.

On the issue of Bedouins, the delegation said the Israeli authorities undertook planning of these communities in consultation with Bedouin representatives and with consideration of their special needs. For example, in the planned communities agricultural plots were included. Israeli authorities had no intention of changing the nature of the Bedouin community and in fact changes had occurred naturally within the community over time.

Regarding water quality in the West Bank, the World Health Organization had raised no concerns with regard to water quality. Israel and Palestine shared the water source and the water provided to Arab villages from Israel was of the same quality as that given to Israeli settlers. If there was a problem with the water in the West Bank it was due to the Palestinian Authority, which had sole control over the distribution methods within this area.

Oral Answers to Written Questions Submitted in Advance by Experts

In an oral summary of written responses to issues 18 through 30 on the list of issues, MALKIEL BLASS,Deputy Attorney General of the Ministry of Justice of Israel, said on the issue of holy Muslim sites located in Israel, there were several statutes aimed at protecting holy sites against physical harm by requiring consent and guidance from relevant ministries as precondition to performing certain actions in or around a holy place. The Planning and Building Law of 1965 stipulated that every plan promoted by the planning institutions must be published and an opportunity for submitting objections together with the right to a hearing must be provided. This included the opportunity to contend against real estate initiatives concerning religious structures and sites. The Protection of Holy Places Law of 1967 and the Planning and Construction law did not include any distinction between Jewish holy places and holy places of other religions, nor between structures which were used for the needs of the Jewish religion and structures which were used by other religions.

In terms of activities by certain religious groups in connection with holy sites in the Old City of Jerusalem, Mr. Blass noted that access to the Temple Mount existed; yet up to the present day, access was still limited. Jews and other visitors who were not Muslim were permitted to access the Mount and to enter the area that was reserved most days of the year only during morning and noon hours, when prayers were not being performed in the mosques. The Israeli policy regarding the Temple Mount and other holy places did not allow individuals who were not Muslim (Jewish or Christian individuals) to hold any kind of ritual ceremonies on the Temple Mount. Should there be any indication that a group intended to hold such a ceremony, law enforcement authorities prevented such individuals from approaching the Mount, not to mention ascending the Mount and holding religious ceremonies. This policy was supported by judicial and legal authorities in Israel.

Mr. Blass then turned to the issue of conscientious observers and alternative civilian service. He said that the Minister of Defence had the authority to exempt any man or woman from fulfilling his or her national army service for reasons listed in the Israeli Defence Service Law of 1986. Further exemptions by law were granted in Section 39 of the law to women that wished to be exempt from their duties, including on grounds of conscientious objection. The High Court had ruled that where conscientious objection had been proven, exemption from army service was granted to men and women alike, and the Israeli Defence Forces fully adhered to this ruling.

Turning to the issue of the loyalty bill, Mr. Blass said that the state of Israel was a democratic state, which allowed for freedom of expression in its fullest sense. The “loyalty bill” was a private bill initiated by a Knesset member and was rejected on 31 May 2009 by the Ministerial Committee for Legislative Affairs.

On the issue of family visits for Palestinian prisoners from Gaza, Mr. Blass said that the Citizenship and Entry into Israel Law (Temporary Provision) of 2003 stemmed from the growing involvement in assistance provided to terrorist organizations on the part of Palestinians originally from the West Bank and the Gaza Strip. Such individuals carried Israeli identity cards, allowing their free movement between the West Bank and the Gaza Strip into Israel. In order to prevent the potential danger posed by former residents of these areas during the current armed conflict, the Government decided in May 2002 to temporarily suspend granting them legal status in Israel, through the process of family unification. Israel, like any other state, had the right to control entry into its territory and more so during times of armed conflict when persons requesting to enter may potentially be involved in acts of violence against its citizens. While the value of family life was indeed sacred, there was no necessity for it to be realized in Israel and it could be fully realized in the West Bank. On 19 September 2007, the Israeli Government resolved to restrict the passage of goods and supplies of fuel and electricity to the Gaza Strip and to limit the movement of persons in and out of the Strip. Throughout the years, authorities in charge had allowed the entrance of residents of the Gaza Strip into Israel for the purpose of family visits of their imprisoned relatives. However, following Hamas’ violent take-over in the Gaza Strip, the area had turned into a hostile zone similar to an enemy state engaged in war against the State of Israel and its citizens. In light of the situation, the State began to implement a new policy, according to which the entrance of residents of the Gaza Strip to Israel had been forbidden. This restriction also applied to visitors from the Gaza Strip.

With regard to Arab-Israelis in the civil service, Mr. Blass noted that in recent years an inter-ministerial team had been developed to assist government ministries in removing barriers hindering the employment of members of the Arab population. The Civil Service Commission was very active in the promotion and advancement of proper representation of the Arab, Druze and Circassian populations of the civil service. As in previous years, in 2009 it took several important steps to this end, including: hosting explanatory conferences intended for Arab-Israelis regarding integration into the civil service; the allocation of designated jobs and positions for Arab-Israelis; the recruitment of manpower companies to find suitable Arab candidates and applicants; and the modification of tests intended for Arab nominees and applicants as well as preparing a cadre of Arab examiners in order to integrate them into the civil service examination committees. Data indicated a steady increase in the rates of Arab, Druze and Circassian employees in the civil service. In 2009, 6.97 per cent of employees in the civil service were Arab, Druze and Circassian (in comparison to 6.17 per cent in 2007 and 6.67 per cent in 2008).

Many of the Arab-Israeli employees within the civil service maintained senior level positions, some with decision making capacity. Moreover, these employees served the good of the Israeli community as a whole and were a driving force in the integration of the Arab minority into Israeli society.

Mr. Blass said that in the past ten years there had been a significant increase in the number of Arab citizens working in the Israeli judicial system. This was greatly the result of the increase in appointments of members of minority populations within the Ministry of Justice. In the judicial system there were currently 569 judges. Of the twelve judges serving on the Supreme Court, one was Christian Arab. Of the 128 judges serving in district courts, five were Muslim, two were Christian and one judge was of Druze origin. Of the 381 judges serving in the magistrate courts, 14 were Christian, 10 were Muslim and 5 were of Druze origin. One Christian judge and one Druze judge served in the labour courts. In total, 40 judges from minority groups functioned in the judicial system.

Questions by Committee Members

A Committee member wanted to clarify the point on water consumption. The question was not about water quality, but about water quantity as the World Health Organization recommendation was 100 litres per person per day, whereas Palestinians only consumed 23 litres per day.

Turning to the freedom of movement, the Committee Experts wanted to know how military orders regarding infiltrators impacted civil and political rights, could these orders be used to forcibly remove Palestinians from certain areas and what judicial safeguards were in place to protect people from abuse by the military of these orders.

A Committee Expert pointed out that the delegation continued to fail to answer there questions regarding rulings by the International Court of Justice; it was as if the court did not exist for them.

Could the delegation comment on the allegation by non-governmental organizations that when accusations involved national security and state defence, the accused were not told of all the charges and evidence against them, but this information was communicated to the court?

It had been asserted that the deck was stacked against people who claimed they were conscientious objectors because their case was heard by a military court. Could the delegation comment on that and explain the burden of proof required by applicants for exemption from military service? Wouldn’t this function better be carried out by a civilian board?

There were also concerns raised about a pending law that would make it very difficult for non-governmental organizations to do their work in the country and it was alleged that there was a difference in the treatment accorded to Palestinian non-governmental organizations versus Israeli non-governmental organizations. The draft legislation would also require non-governmental organizations to register their members’ identity numbers and would also clamp down on groups trying to influence public policy, which was what non-governmental organizations tried to do. Could the delegation provide more information on this bill?

If the loyalty bill mentioned earlier had passed, would the Supreme Court have been able to strike it down? The issue of restrictions on judicial review had been raised in the country and the delegation was asked if there was a parliamentarian movement afoot to undermine the Supreme Court.

A Committee Expert said that in March 2009 the Supreme Court rejected a petition from a legal centre on the rights of Arab minorities which wanted an act promulgated to protect holy sites in Israel. From what the Committee understood most of the areas declared to be holy sites were Jewish. How could the State ensure these designations were not made on a discriminatory basis?

In light of the inability for prisoners to have visits from family members living in the Gaza Strip, the delegation was asked if other provisions had been made for them to have contact with their families, other than letter writing (i.e. enhanced phone privileges or visits via Skype)? Also, would the State consider the reinstatement of the International Committee on the Red Cross family visit programme in the Gaza Strip which was suspended in 2007?

A Committee member asked about the interrogation of minors suspected of security offences and whether the delegation could provide more information on that topic.

The Committee then asked the delegation about military attacks on schools during Operation Cast Lead. The United Nations Board of Inquiry found that there was no military activity at two schools which were attacked and that they were functioning solely as educational institutions. Could the delegation please comment on this information?

What impact did the planning laws and home demolitions have on communities and children in these communities? There was concern that these policies could trigger humanitarian crises and human suffering.

The Committee came back to the issue of the application of the Covenant in the Occupied Palestinian Territories. Was the Covenant applicable to the Jewish settlements established in the Occupied Palestinian Territories and if it was, did this mean that the Covenant was subject to personal determinations of when it could be applied versus territorial determinations of when it could be applied?

On the issue of settler violence, the Committee said Palestinians were regularly subjected to violence due to the occupation and their isolation left them vulnerable to attacks. Victims were reluctant to file complaints because police stations were located inside settlements and they felt nothing would be done. What was the State party doing to bring the perpetrators of these crimes to justice and address this issue?

Response by Delegation

On the topic of non-governmental organizations, the bill initially came up as a way of controlling money received from abroad by non-governmental organizations because there was concern that other nations or parties were funding non-governmental organizations in an attempt to influence policy so the aim of the bill was to foster more transparency in funding of non-governmental organizations in the country. The bill had been broadened, but most likely it would undergo changes while under consideration in the Knesset, but the aim was for more transparency, not to undermine the work of civil society groups.

The Supreme Court of Israel was very brave and it continued to operate independently and monitor the laws of the military and there were some people who were not happy with that so sometimes there were calls to limit its scope. For example, the Court had ruled that the Government should spend hundreds of millions of shekels on protecting people living in southern Israel from Qassam missiles. This changed policy objectives and people were not nor happy about it. This led to a discussion about the scope of the Supreme Court to abolish laws because it was not specifically written in the Basic Law that the Supreme Court had this power.

Concerning the rights of detainees, there was discussion about a bill to limit their privileges while in jail, not their rights.

The delegation said that in criminal proceedings, evidence was never withheld from the accused. In administrative detention cases the relevant evidence could not be presented to the accused due to security concerns, but it would be presented to judges at various levels and if the accused had access to this each time it was presented it could prove harmful to sources and to ongoing investigations.

The delegation said that in the matter of conscientious objections, it did not have the statistics available at hand on the number of cases approved. The burden of proof was on the objector, but it was difficult to say what the burden of proof was because it was hard to determine what was in a person’s heart and mind and whether they were lying. Conscientious objectors were not subject to punishment, but if someone’s application was rejected and they were told to report to duty and they did not, they would be subject to punishment just like any other soldier not upholding their duties.

Turning to the question of family visits for detainees, the delegation said that people held on security offences did not have access to phone calls or video conferencing while in prison so these methods would not be used in lieu of family visits or to facilitate family contact.

The separation zone, the zone between the security fence and Israel, was considered a military zone according to the delegation and people living there had to have a residency permit. Efforts were made to minimize the destruction of property and the impact on the lives of people living there. The Supreme Court had reviewed this topic many times and had changed the course of the fence and granted access to farmers whose fields lay on the other side of the fence. There were currently 7,000 Palestinians in the zone and following completion of the fence this would increase by 1,000 Palestinians.

On the question of the protection of holy sites, currently only Jewish sites were protected, but they had tried to compile a list with Arab representatives and when they did not participate in the process the list was compiled without them. There were plans, however, to add more Muslim holy sites.

With regards to allegations of violence committed by Israeli settlers, the delegation said violence was a crime regardless of the perpetrator and was investigated thoroughly by law enforcement. There had also been indictments handed down for incitement to racial hatred and hate crimes.

On the subject of the interrogation of minors, the delegation said that Israel followed the law in which a person became criminally liable at the age of 9, but there were enhanced military laws to protect children under 12. In addition, a juvenile military court in the West Bank was established in 2009 to strengthen the rights of minor defendants in the West Bank and to keep them separate from adult detainees.

The delegation then turned to the attacks on two schools and the investigation found that one school was not directly hit, but was hit by flying shrapnel, which damaged the school and injured people. The Israeli Defence Forces had come under mortar attack from a school only a few metres from that school and only returned fire after determining that the school was the source of the Hamas mortars. The Israeli Defence Forces acted to protect the lives of soldiers under fire and Israeli took care not to hit the school itself. Israel regretted the loss of life, but as tragic as that loss was it did not mean that Israel did not have a right, indeed a duty, to protect its citizens who were being attacked every day.

Turning to the expulsion of people deemed infiltrators, the delegation explained that infiltrators must be given a period of at least 72 hours prior to their repatriation to petition the Supreme Court for judicial review of their repatriation order. A low number of people were likely to be affected as Israelis and Arab-Israelis could still visit the West Bank using their general permit. The laws had not changed.

The delegation reiterated its belief that the Convention was territorially bound and not meant to apply outside a nation’s territory.

Follow-Up Questions by Committee Members

A Committee Expert asked the delegation if they could comment on the United Nations board of inquiry findings with regards to the attacks on the schools in Gaza? The Committee appreciated the information provided by the delegation, but wanted to hear its thoughts on the United Nations findings.

One Committee Expert remarked that a State must not violate the provisions of a Covenant in combating terrorism.

The delegation was asked under what conditions Arabs from the West Bank would be allowed to visit their holy sites.

In terms of restrictions on people living in the separation zone, were they allowed to visit family members in other areas, were there adequate medical services in this area and could they bring in agricultural products and the like without prior coordination with Israeli authorities?

Response by Delegation

In terms of the United Nations board of inquiry, the delegation said Israel respected the Secretary-General and felt that unlike other bodies, which were political and biased, the Secretary-General was fair and unbiased. Israel did cooperate with the inquiry, although it may not have agreed with the all the findings.

Regarding the separation zone, the delegation said great effort was made not to leave Palestinians on the Israeli side of the fence. There was an opportunity for people to cross the barrier for special events and to visit family members on the other side, but the reality was once people crossed the barrier they had a free path to Israel so people could not be allowed to cross the barrier all the time or else it would lose its meaning.

The bill on the ban on universal jurisdiction was a private bill introduced in the Knesset, but it had only been introduced on 14 June 2010 so it was at a very preliminary phase. Bills were introduced, but they went through numerous steps so it was difficult to say what would become of this law.

The delegation said that any desecration of a holy place was dealt with severely in Israel and they were many laws pertaining to this.

Concluding Remarks

AHARAN LESHNO YAAR, Permanent Representative of Israel to the United Nations Office at Geneva, thanked the Committee for listening and said the delegation learned a great deal from these sessions and took the reports extremely seriously and all the ministries studied them carefully and he was sure this dialogue would continue to the benefit of Israel.

YUJI IWASAWA, Committee Chairperson, said that there was clearly a difference of opinion between the Committee and Israel on the issue of whether the Covenant was applicable in the West Bank and Gaza Strip. He was disappointed to see that in their written responses, the delegation did not answer many of the questions, but simply referred to previous answers to different questions. Mr. Iwasawa hoped it was a constructive dialogue and the views of the Committee would be useful for the State party. The delegation could provide the Committee with further information in writing if needed. The delegation was thanked for its willingness to engage in a fruitful and constructive dialogue.