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Committee on Economic, Social and Cultural Rights

### Implementation of the International Covenant on Economic, Social and Cultural Rights

Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant

Israel\*

[20 January 2009]

#### Introduction

1. This is the Third Periodic Report of the Government of the State of Israel, submitted to the United Nations Committee on Economic, Social and Cultural Rights, in accordance with the requirements of articles 16–17 of the International Covenant on Economic, Social and Cultural Rights. (hereinafter referred to as the “Covenant” or the “CESCR”). This report has been compiled by the Human Rights and Foreign Relations Department at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Government bodies. Israeli Non-Governmental Organizations (“NGOs”) were also invited to submit comments prior to the compilation of the present report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice website. Their contributions were given substantial consideration.

2. Since the submission of the Second Periodic Report (UN document –E/1990/6/Add.32), many legislative, administrative and judicial developments relevant to the implementation of the Covenant occurred. A short summary of the main changes is included below. This report provides a comprehensive account of these developments. It also addresses the comments made in the concluding observations by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.90) dated May 23, 2003.

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#### Article 7

##### The right to just and favorable conditions of work

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##### Enforcement of the Minimum Wage Law

257. Enforcement covers all workers: adults, teenage workers, Palestinian workers, foreign workers and workers hired by manpower contractors. The following are data concerning the enforcement of the *Minimum Wage Law*.

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#### Article 10

##### Familial rights

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##### Family reunification

392. In its concluding observations to Israel’s last periodic report the Committee expressed concern with the process of family reunification for foreign spouses.

393. Since the outbreak of the armed conflict and hostilities between Israel and the Palestinians towards the end of the year 2000, which led, *inter alia*, to the commission of dozens of suicide bombings inside Israel, there has been a growing involvement in assistance to terrorist organizations on the part of Palestinians originally from the West Bank and the Gaza Strip. Such individuals carry Israeli identity cards pursuant to procedures of family unification with Israeli citizens or residents, allowing their free movement between the West Bank and the Gaza Strip and into Israel.

394. In order to prevent such 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. The decision was adopted following the horrendous wave of terrorist attacks in March of 2002, when 135 Israelis were killed and another 721 were injured.

395. In addition, between September 2000 and the end of 2006, 38 of the 172 terrorist attacks carried out in Israel, were committed by such individuals. Those injured in these 38 terrorist attacks constitute 86% of the total number of injured by terrorist attacks. In fact, in 2007, a 20-year-old woman, whose mother is an Israeli-Arab from Kfar Qasem and whose father is Palestinian, was caught — merely 12 minutes before exploding herself in a restaurant in Israel — using a bomb that was stored during the previous night, in the home of a relative in Kfar Qasem.

396. This situation is the result of the genuine difficulties in obtaining information concerning residents of the West Bank, following Israel's transfer of powers and responsibilities and termination of daily presence in this area pursuant to the Israeli-Palestinian Interim Agreement, dated September 28, 1995.

397. Israel, as any other State, is entitled 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 and terrorism against its citizens.

398. On July 31, 2003, the Knesset enacted the *Citizenship and Entry into Israel Law (Temporary Provision) 5763–2003*, which limits the possibility of granting residents of the territories Israeli citizenship pursuant to the *Citizenship Law 5712–1952*, including by means of family unification; and the possibility of granting such residents residence permits into Israel pursuant to the *Entry into Israel Law 5712–1952*. The Law was amended in 2005 and 2007, in order to expand the humanitarian relief it initially provided. The amendments also expanded the applicability of the Law to citizens of enemy States (namely, Iran; Syria; Lebanon; and Iraq).

399. The Law enables entry into Israel for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six months.

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## Article 11

### The right to an adequate standard of living

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417. As detailed in Israel's previous reports, the right to an adequate standard of living is well recognized in the Israeli society and legal system, where the judiciary, executive and legislative branches are all committed to continued fulfillment thereof.

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### Non-discrimination in housing

#### *The Arab population*

#### Representation in the National Council for Planning and Construction

446. The National Council for Planning and Construction (hereinafter: the "Council") comprises 32 members; third of which are representatives of Ministers (appointed by the Ministers), another third are representatives of municipal authorities (appointed by the Minister of the Interior), and the final third are public representatives (partially appointed by the Minister of the Interior).

The Ministry of the Interior, ensures a balanced representation of all communities, regions and populations, including the Arab population in the Council; in that regard, 4 of the 32 Council members are Arabs.

#### Planning Scheme for the Arab population

447. In recent years, the Department of Planning in the Ministry of the Interior, initiated an extensive project towards the preparation of updated planning schemes for the majority of Arab localities.

448. The objectives of the project are:

- Improvement of the quality of life in the localities, including a significant increase in dwelling areas, employment areas, open spaces, and public facilities as well as suitable infrastructure – in order to address the needs of the localities in the long run
- Regulation of the planning situation, in order to meet the needs of the localities and their integration in the surrounding area
- Providing a planning basis towards the integration of the minorities' localities in the social-economical development of the Israeli society in general

449. Seventy per cent of the Arab localities in Israel are included in the project (87 out of 128 localities). Most of the remaining localities have approved planning schemes, which adhere to their developmental needs. In some of these localities, the planning schemes are promoted by the local authorities themselves.

450. So far, 60 million NIS (\$16.2 million) were allocated for the promotion of the planning project. It is notable, that in spite of wide-ranging cutbacks in the Ministries' budgets in the past few years, the budget allocated for this project has increased.

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456. The success of the planning project depends, first and foremost, on the assumption of responsibility by the local leadership, by supporting the project, promotion of detailed planning in compatibility with the planning scheme, executing expropriation for public purposes, collection of fees and development taxes and law enforcement against illegal construction. The Department of Planning in the Ministry of the Interior is doing its utmost in order to achieve the improvement

needed for all fractions of the Arab population in Israel.

457. Notice should be given to the fact that most of the Arab localities have a planning scheme, even if not an updated one, initiated back at the 1980's by the Government.

A new Arab city

458. The Department of Planning recently began background work in order to examine the possibility of creating a modern city for the Arab population in Israel. Aimed towards the broadening of the possibilities and mobility of the population, creating value and merchantability for the land, stimulating the creation of a social-economical middle-class and to strengthening the financial, social and cultural resources.

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#### **Allocation of financial benefits**

459. In H.C.J. 2101/99 *Shibli and ACRI v. The Minister of Construction and Housing* (21.04.02), Israel's Supreme Court examined the method of allocating rental benefits. The State noted a recent change to its allocation policy that would remove any distinctions with regard to benefit allocations. Basically, the determining factor is linked to the number of residents and the percentage of housing used for rental properties. The complainant nevertheless claimed that the State's policy was discriminatory in result because most Arab towns were small and thus not entitled to such benefits. The Court held in April 2002, that the Government should be given the opportunity to implement the new program to adequately determine whether it is discriminatory in result.

460. Another notable case concerning rental benefits was presented to the Be'er Sheva Administrative Court (A.C.A. 335/04 *Vered Pinhasi v. The State of Israel*, (22.11.04)). The claimant was married to a non-citizen Palestinian with 5 children and in dire need of rental assistance. The State denied such benefits because she was married to a non-citizen. The Court held that such a basis was incorrect and contrary to the interests of justice and fairness, such that the claimant and her family should not be denied such assistance.

461. On December 13, 2006, the Supreme Court rejected a petition filed by Adalah against the Ministry of Construction and Housing, challenging the governmental policy of providing financial support — in the form of low-interest governmental loans — for home mortgages to Israeli citizens who have completed their military or national-service. The petitioners argued that the extended support for housing mortgage loans discriminates against Arab citizens of Israel, who are not required to perform military or national-service. The petitioners contended that the performance of military service is irrelevant to the purpose of supplemental governmental housing support, which is to assist the socio-economically disadvantaged to find housing solutions.

Here, the Court held that there is no impediment in principle to granting benefits to those who have completed full military and national-service above that which is afforded in the *Absorption of Discharged Soldiers Law 5754-1994* (the "*Absorption of Discharged Soldiers Law*"), provided that the use of the military service criterion is justified in the circumstances.

The former president of the Supreme Court, Justice Barak, rejected Adalah's argument that in this case the use of this criterion results in discrimination against Arab citizens. Barak reasoned in this regard that "a distinction made on the basis of the national or military service criterion is not necessarily a permissible distinction or illegal discrimination: this depends on the circumstances. Those who have completed military or national service differ in many respects, as a group, from those who did not. Thus, for example, those who have completed military or national service dedicate much of their time and energy for the benefit of the general public. They cannot work or make a living during their service period. As long as this distinction is based on these factors, and as long as it is relevant in a given situation, it should not be considered illegal discrimination."

462. Adalah's motion for an additional hearing before an expanded panel of Supreme Court Justices in order to re-consider the decision was rejected (H.C.J. 11956/05, *Suhad Bishara, et. al. v. The Ministry of Construction and Housing*).

463. On June 17, 2008, the *Absorption of Discharged Soldiers Law* was amended, stipulating that recognized higher education, vocational training or academic preparatory institutions, may consider military service among the considerations in determining entitlement to dormitories or other financial benefits.

#### **Dwellings in Jerusalem**

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

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

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### **Article 12**

#### **The right to the highest attainable standard of health**

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#### **Health care in the Arab population**

527. In 2005, a report regarding the health condition of the Arab population in Israel was published by the I.C.D.C. – Israeli Center for Disease Control. The report demonstrates positive changes of the health conditions of the Arab population. According to the report, infant death rate decreased, as did the death rate due to heart and vascular diseases. The rate of the population's vaccination coverage had increased and so did the use of mammography for early detection of breast cancer.

528. According to the report, there is a noticeable improvement in the level of health-care services and accessibility to these services among the Arab population. As of 2005, at least one primary medical clinic and at least one family health-care station provide services in each Arab locality.

529. The report reveals an increase in illnesses such as diabetes and obesity, especially among older Arab women. An additional increase is found in the numbers of malignant Neoplasms (note that except lung cancer, the rates of malignant Neoplasms among the Arab population is lower than that of the Jewish population).

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## **Article 13**

### **The right to education**

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#### **Equal educational opportunities**

##### *Gender equality*

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

##### *Arab population*

602. Since 2000, a unique program has been implemented exclusively within the Arab population. This program is geared towards training teachers; training educational advisors for an M.A.; advancing the teachers professionally; creating programs aimed towards encouraging students to achieve greater results in their native language, mathematics and sciences; implementing programs geared towards increasing the number of pupils eligible for a Matriculation Certificate; programs to prevent drop-outs, investment in computers, equipment and physical infrastructure, including technological and science classes for the higher division classes, etc. This program has resulted in great achievements: a steady rise in students' achievements in national exams, the reduction of gaps in the achievements of middle-school pupils in mathematics and sciences, an increase in the number of pupils and decrease in the number of drop-outs, an increase in the number of pupils eligible for Matriculation Certificate, change of attitudes towards education and school among female pupils, significant increase in the number of pupils that participate in science and technology competitions.

603. Updated information concerning construction of schools, teaching positions, attendance and graduation rates with regard to the Arab population is provided throughout this Article.

604. It must be mentioned that on November 23, 2008, the Appointments Committee of the Higher Education Council bestowed the title of professor on Haula Abu-Bakar, a teacher and lecturer at Jezreel Valley College, making her the first female Israeli-Arab professor in Israel.

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## **Article 15**

### **The right to take part in cultural life and enjoy scientific progress**

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#### **Status of the Arabic language**

649. On March 21, 2007, the Knesset approved the *High Institute for the Arabic Language Law 5767-2007*, according to which, the Arabic Language Academy was established. Among its functions, the Arabic Language Academy is charged with researching the Arabic language and its cultural and historic resources, promoting the study of terminology, grammar, vocabulary, pronunciation and transcription. The Academy also addresses linguistic innovation and the adaptation of the Arabic language to the modern and computerized reality. According to the Law, the Institutions activities are financed by Government budget.

650. H.C.J. 4112/99 *Adalah v. Municipality of Tel Aviv et al.* (25.7.2002) addressed the duty of municipalities in which Arabs reside, to use the Arabic language along with Hebrew in all municipal signs. The Supreme Court determined that two principles are important in this context: the protection of the individual's right to a language, and the right to equality. This is due to the fact that the language comprises part of the individual's personality and the instrument through which he thinks and communicates with others. The Supreme Court stipulated that: "Indeed language plays a major role in human existence for both the individual, and for society. Using language we express ourselves, our individuality and our social identity. Take away a person's language and you have taken away his essence". The Court further stated that a language receives special importance when it is the language of the minority. The Supreme Court stressed the status of equality as one of Israel's fundamental values, according to which rights for language and equal use of municipality's services are to be assured, due to the duty to maintain equality among residents of the State.

The Court ordered the immediate use of Arabic in all new signs or instances where old signs are replaced. In major roads or public institutions, and side streets in districts with a significant Arabic-speaking population, signs must be altered within 2 years. Finally, regarding remaining signs, the Court required a change within 4 years from the date of the judgment.

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