



# General Assembly

Distr.: General  
28 October 2013

Original: English

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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Seventeenth session**  
Geneva, 21 October–1 November 2013

## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Israel**

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## I. Methodology and consultation process

1. The Report of the State of Israel was prepared in line with guidelines set out in Resolution 16/21 (A/HRC/RES/16/21) and its Annex, and Decision 17/119 (A/HRC/DEC/17/119) of the UN Human Rights Council. The report is based on the results of consultations between a wide range of government ministries and agencies.

## II. Normative and institutional developments

### A. International instruments

2. **Further to Recommendation 2 (Mexico, Romania)**, on 28 September 2012 Israel ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) marking the successful end of a lengthy process of internal discussions.

3. The ratification signifies another milestone in the promotion of disability rights agenda in Israel throughout the last decade, which started with the Israeli *Equal Rights for Persons with Disabilities Law 5758-1998* and continued with the establishment of the Commission for Equal Rights of Persons with Disabilities in August, 2000.

4. In order to enforce and enhance accessibility compliance, an Inspection Department was established in 2008 under the auspices of the Commission for Equal Rights of Persons with Disabilities. This department currently employs nine inspectors, acting mainly in the fields of public transportation, telecommunication and planning and building. The Commission also employs four attorneys in its legal department and a fifth attorney who handles accessibility queries.

5. Since the submission of Israel's 2008 UPR national report, Israel has enacted an additional 9 sets of regulations mandating accessibility to all existing and new public buildings and services. Another set of regulations mandating accessibility to other public places such as beaches, parks, zoos and graveyards was finalized in Sept. 2013. Largely due to the enforcement efforts of the Commission and the courts, significant achievements may be noted:

(a) 70% of municipal buses in Israel are now accessible to people with sight, hearing, cognitive and mobility disabilities. This accessibility includes vocal announcement of bus stops, ramps, accessible signage, and wheelchair fastening belts.

(b) 60% of municipal bus stops, train stations and airports countrywide are accessible to persons with mobility disabilities.

(c) The Commission has informed all planning and building committees in Israel about their duties under the accessibility laws and regulations. Sample inspections have shown that, currently the committees have complied with the accessibility laws in about half of the cases.

(d) All major cell phone and telecommunications companies now offer disability-accessible phones, as well as telecommunications relay services for persons with hearing disabilities.

(e) The *National Insurance Law (Amendment no. 109) 5768-2008* enables persons with disabilities to earn a monthly salary relative to their level of disability, without having to forgo their disability benefit, thus creating a powerful incentive to reenter the work force.

6. In addition to the aforementioned information, in 2012, the Civil Service had designated for the first time 90 positions for persons with disabilities, for the first time. A circular regarding these positions was disseminated to all Government Ministries. This was done in order to better integrate persons with disabilities in the labour market.

7. Israel's Commissioner for Equal Rights of Persons with Disabilities, Mr. Ahiya Kamara, was elected in September 2012 to the General Assembly to the Bureau of the Committee on the Rights of Persons with Disabilities for a term of two years. Israel has been involved in organizing side events, with the help of Israeli NGOs and human rights organizations, during recent annual sessions of the Conference of State Parties to CRPD. Two examples of such events are "Access to Justice in the Criminal System for Persons with Disabilities", together with the Israeli Bizchut, The Israeli Human Rights Center for People with Disabilities (13.9.2012); and "Persons with Disabilities' role in Developing Accessible Environments", with the International Disability Alliance (17.7.2013).

8. MASHAV - Israel's Agency for International Development Cooperation at the Ministry of Foreign Affairs was involved in sharing Israel's knowledge and expertise on issues pertaining to persons with disabilities. In 2010-2011 MASHAV organized several workshops on equal educational opportunities for preschoolers with special need for Latin American decision makers and NGOs. Similarly, in 2011-2012 MASHAV worked in cooperation with the U.N. Economic Commission for Europe and INAPAM (Instituto Nacional de las Personas Adultas Mayores), the umbrella organization for older people in Mexico, to focus on the special needs of the elderly and disabled within the community.

## **B. Engagement and dialogue on human rights issues with International Bodies and NGOs**

9. **Further to Recommendations 7, 40 (Latvia, Jordan, Brazil, Azerbaijan)**, Israel has been regularly subject to significant, and often politically motivated scrutiny over the years, disproportional to the international attention received by other world regions. Nevertheless, Israel regularly cooperates with various international and domestic bodies and NGOs that deal with human rights issues. Israel complies with requests for dialogue as an expression of its appreciation for transparency and dialogue in a democratic society. This includes intensive relations with a variety of human rights bodies, compilation of detailed State reports and interactive dialogues with high ranking delegations who visit Israel. In 2008-2013 Israel was visited by a number of UNHRC Special Rapporteurs including the Special Rapporteur on Adequate Housing (30.1–12.2.2012); the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (6-18.11.2011); and The Special Rapporteur on Freedom of Religion or Belief (20–27.1.2008). Israel also hosted visits by the Special Representative for Children and Armed Conflict (2–6.2.2009) and by the Program Officer in the Office of the Special Representative for Secretary General for Children and Armed Conflict (14–16.1.2013).

10. Israel is making genuine efforts to involve civil society in the process of articulating its periodic reports to all human rights treaty bodies. In addition to letters that are sent out to all the relevant Ministries and Governmental bodies, letters are also sent out to the relevant and leading NGOs, inviting them to submit comments prior to the compilation of the report through direct application, Moreover a general invitation to submit remarks is posted on the Ministry of Justice web site.

11. Israel is one of four states representing WEOG in the NGO Committee for two consecutive terms. Mission member, Mr. Yoni Ish Hurwitz, served as the 2012 Vice Chair and Rapporteur of the Committee on behalf of WEOG. During this period, Israel has helped NGOs from various countries receive "ECOSOC consultative status." One key area of

focus has been promoting the inclusion of LGBT organizations. In May 2013, together with the US, Belgium and Bulgaria, we successfully lobbied for two LGBT organizations from Austria and Australia to receive ECOSOC consultative status.

12. Since 2012, Government representatives participate in a project initiated by the Minerva Center for Human Rights at the Hebrew University of Jerusalem's Faculty of Law, with the aim of improving the cooperation between State authorities and civil society organizations in the working process of reporting to the UN human rights treaty bodies. Although civil society has always been invited to submit information in the process of preparing reports to treaty bodies, this innovative enhanced dialogue is the first of its kind in Israel. The first part of the project entailed creating a joint forum, attended by representatives of various state authorities, scholars and representatives of civil society organizations, which conducts an ongoing symposium to improve the cooperation between the parties in composing State reports that are submitted to these committees. The second stage includes inviting the civil society organizations participating in the project to comment on the State's draft report prior to its submission to the Committee. The first report that was chosen for this project is the 4<sup>th</sup> Periodic Report by the State of Israel to the ICCPR Committee. The overarching purpose of the project is to increase civil society's involvement in the process of forming the reports, and ultimately to enhance cooperation in implementing those human rights conventions in Israel.

13. In 2012, the concluding observations relating to Israel by the various human rights treaty bodies from 2007 onwards were translated to Hebrew and published on the Ministry of Justice website. Where available, links to UN translation into Arabic of these concluding observations were also published.

14. Human rights are given an additional valuable form, and are further entrenched into domestic law, by the Israeli Supreme Court. The Supreme Court has relied in a number of landmark cases on international human rights law, including citing international and regional human rights treaties and their interpretation by treaty bodies. Such cases include H.C.J. 5373/08 *Abu Libdeh et. al. v. The Minister of Education* (6.2.2011) (the right to education); H.C.J. 10662/04 *Salah Hassan v. The National Insurance Institute (NII)* (28.2.2012) (the contours of social and economic rights, primarily the right to a minimum standard of living); H.C.J. 7426/08 *Tabeka v. The Minister of Education et. al.* (31.8.2010) (the freedom from discrimination in education); H.C.J. 1181/03 *Bar Ilan University v. The National Labour Court* (28.4.2011) (the right to unionize and retirement rights); and H.C.J. 11437/05 *Kav-Laoved v. The Ministry of Interior* (13.4.2011) (rights of women migrant workers).

15. **Further to Recommendation 12 (Austria)**, the State of Israel places no specific restrictions on the right of organizations to engage in activities for the promotion and observance of human rights. For legal purposes, these organizations are indistinguishable from any other organization: to the extent that they are registered as associations, they must comply with applicable law; in every other sense, human rights defenders fully enjoy the freedom to associate and to pursue their various aims. There are nearly 15,000 Israeli registered organizations working freely and fruitfully in the promotion of all human rights including gender equality, sustainable development, health, welfare, and education. It is worth noting that virtually any person or group who claims an interest may petition either an Administrative Court, or Israel's highest civil instance, the Supreme Court residing as the High Court of Justice, including the residents of the West Bank and the Gaza Strip and any NGO. The organizations' complete access to the Courts has proven highly effective in guaranteeing human rights promotion and protection.

16. **Further to Recommendations 3, 6 (Azerbaijan, France)**, in 2001 Israel established a joint inter-ministerial committee, headed by the Deputy Attorney General (Legal Advice), for reviewing and implementing concluding observations of human rights

treaty bodies. This inter-ministerial team meets periodically and has promoted several significant changes in regard to various human rights issues.

### C. Newly established institutions for protection and promotion of human rights

17. **The Freedom of Information Unit** – established within the Ministry of Justice, by Government Resolution no. 2950 of March 6, 2011. The establishment of a central unit aimed at promoting transparency is an expression of Israel's adherence to the value of open governance. The principle of transparency and the right of citizens to obtain information from government authorities has been enshrined in case law since the mid 1960's. The Unit constitutes a center of professional knowledge in the field of freedom of information and gathers relevant information, conducts public awareness campaigns and trains civil servants and other public employees. The Unit's primary role is to manage the work of freedom of information officers in the various Government Ministries and handle public complaints concerning freedom of information in the various Ministries as well as rectifying the errors discovered in the process. The Unit submits annual reports to the Government on the compliance of Israeli Ministries and other authorities with the provisions of the law. The first report was submitted in May 2013. The Courts have also played a key role in developing the freedom of information in Israel. In August 2012 the Supreme Court accepted an appeal by the NGO, Movement for Freedom of Information in Israel to publish the results of national assessment scores of elementary and middle school students. The former Deputy President of the Supreme Court, Justice Eliezer Rivlin, emphasized: "Information is the property of the public held in trust by the authorities, so that the authorities cannot decide for the public if exposure to said information would benefit them... A Government which takes the liberty to determine what is best for its citizens to know will end up deciding what is best for its citizens to think - and nothing contradicts true democracy more than this." (A.A. 1245/12 *The Movement for Freedom of Information v. The Ministry of Education* (23.8.2012)).

18. **The Inspector for Complaints Against the Israel Security Agency (ISA) Interrogators** – Following comprehensive deliberations, the Attorney General announced in November 2010, that the Inspector for Complaints against ISA Interrogators, which has been an administrative part of the Israel Security Agency, would become part of the Ministry of Justice and be subordinated - administratively and organizationally - to the Director General of the Ministry of Justice, as an external inspector. Israel is pleased to announce that the procedure of transferring the Inspector to the Ministry of Justice is nearing completion. In June 2013, Colonel (Ret.) Jana Modzgvishvily was chosen to serve as the Inspector. Following this nomination, the Ministry of Justice is operating to create the additional required positions. Following the completion of the manning of these positions, the unit in the ISA will be dispersed.

19. **Witness Protection Authority** – established in 2008 within the Ministry of Public Security, pursuant to the *Witness Protection Program Law 5769-2008*. The Authority protects witnesses and their families prior to, during and after trial. The Authority is responsible for formulating policies for the protection of witnesses at risk, setting criteria for assessing threats and developing tools to protect witnesses based on those assessments. The Authority is also responsible for initiating relevant legislation and promoting international cooperation with foreign States. In April 2010, the Authority completed its initial phase of deployment and now has more than a dozen witnesses under its protection. Witnesses who do not meet the criteria for this heightened protection by the Authority are still provided protection by the Police or the Israeli Prisons Service (IPS).

20. *National Council for Nutrition Security* – established in 2011 within the Ministry of Social Affairs and Social Services, and tasked with the promotion and implementation of a national nutrition security plan for the Israeli population. The Council is chaired by Prof. Dov Chernichovsky, a professor of health economics and policy at Ben-Gurion University. The Government of Israel has allocated NIS 200 Million (\$56 Million) for nutrition security which will be distributed based on the recommendations of the Council scheduled to be published in 2014.

### III. Promotion and protection of human rights – progress and best practices

#### A. Gender based equality

21. **Further to Recommendation 9 (Azerbaijan, Guatemala)** Israel has been committed to gender equality ever since its establishment, and continues to promote and aspire to full and real equality in all aspects of life. While Israel, like many societies faces real challenges on gender equality issues, major progress has been made in recent years towards gender equality in the workplace and appropriate representation of women.

22. The Knesset enacted the *Expansion of the Appropriate Representation of Women Law (Legislative Amendments) 5771-2011* which obligates appropriate representation for women in inquiry commissions and national examination committees. According to the new Law the Authority for the Advancement of the Status of Women in the Prime Minister Office (the "Authority") will establish a list of women who are suitable and qualified applicants to take part in such committees. According to Section 3(4)(3) to the amendment, a woman who consider herself as suitable to be included in the Authority's list may apply to the Authority in order to be included, specifying her education, experience and training.

23. With the establishment of the 19th Knesset in February 2013, the percentage of female MK's increased from 19% to 22.5%. There are four female Ministers in Israel's new government, an increase from 9.7% (in the former Government) to 18%. There has been a significant increase of women in Israel's civil service. Currently, women comprise 64% of all civil servants. As of 2011, the percentage of women in high ranking positions in the civil service has risen to 32.6%. In government corporations, the percentage of female directors was 39% in 2011 and by the end of 2012 women comprised 42% of the directorates.

24. Israel's Supreme Court ruled in 2012 that according to the *Equal Pay Law 5756-1996*, once a female employee proved that her salary was significantly lower than that of a male employee performing the same task, the burden of proof shifts to the employer to prove that the difference in salary could be justified. If the employer fails to justify such difference a *prima facie* case of gender discrimination would be established. The former President of the Supreme Court, Dorit Beinisch determined: "The principle of equality and the prohibition against discrimination are essential principles in our legal system and serve as a prerequisite for any democracy based on fairness and justice." (H.C.J. 1758/11 *Orit Goren et. al. v. Home Center (Do It Yourself) Ltd., et. al.* (17.5.2012)).

25. One of Israel's challenges in the area of gender based equality has been recent attempts by some groups to exclude women from the public sphere, within certain religious communities. The Government in December 2011 formed an inter-ministerial team whose task was to recommend various solutions for this problem. In close proximity, on January 5, 2012, the Attorney General appointed a team headed by the Deputy Attorney General (Civilian Affairs), to examine the legal aspects and ramifications of marginalization of

women from the public sphere. The inter-ministerial team concluded its work and reported its recommendations to the Government on March 11, 2012. The Ministry of Justice's team submitted its own report to the Attorney General in March 2013 and in a meeting held on May 6, 2013, the Attorney General decided to adopt the team's recommendations urging local authorities to act swiftly and without delay to end all expressions of exclusion of women as they manifest in their respective jurisdictions. The work of both teams and other Israeli authorities has shown significant progress in a number of fields:

(a) The Attorney General ruled illegal the policy practiced by the Jerusalem-based ultra-orthodox radio station Kol Barama, which bars songs performed by women from its playlist and will not hire women as on-air presenters. The attorney General ordered the Second Television and Radio Authority, which has jurisdiction over local media stations, to end its negotiations with the radio station on the matter within six months, further stating that unless Kol Barama ends its discrimination against women, it will be taken off the air;

(b) Following some incidents of separation of women and men during funerals, the Director-General of the Ministry of Religious Services published in March 2012 a memorandum emphasizing the illegality of coercing gender separation in cemeteries, including the ban placed on women delivering a eulogy;

(c) Following a Supreme Court judgment from January 2011, all buses now include signs clarifying each passenger's right to sit wherever he/she wishes and that harassing a passenger in this regard may constitute a criminal offence (*H.C.J. 746/07 Naomi Ragen et. al. v. The Ministry of Transport and Road Safety et. al.* (5.1.2011)).

26. A very recent and significant example of the prominent role played by the Israeli judiciary in safeguarding women's rights and the rule of law is the conviction of the then incumbent President of the State of Israel, Moshe Katzav, of committing serious sex offences. On 30 December 2010, the Tel Aviv District Court found Mr. Katzav guilty of several serious sex offences, including rape. (*S.Cr.C 1015/09 The State of Israel v. Moshe Katzav* (30.12.10)). On March 22, 2011, the Court sentenced Mr. Katzav to seven years imprisonment, two years suspended imprisonment and compensation in the amount of 125,000 to his victims. In May 2011, Mr. Katzav appealed against his conviction and sentence and on November 10, 2011, the Supreme Court unanimously rejected his appeal.

## B. Minority rights

27. **Further to Recommendations 28, 29 (United Kingdom, Finland, Canada)**, Israel sees it as a national priority to increase equality between different communities in its diverse population. As noted by Israel in its first UPR presentation this challenge receives continued attention. In recent years, Israel has adopted long term programs, the total cost of which surpasses NIS 3 Billion (\$831.4 Million).

28. *Public Representation*: Since 1994, the Government has been taking affirmative action measures to enhance the integration of Arab, Bedouin, Druze and Circassian populations into the Civil Service, including issuing legislative amendments and publishing tenders for mid-level positions solely to members of minority communities. Data indicates a steady increase in the rates of Arab, Druze and Circassian employees in the Civil Service. In December 2012, 8.4% of all the Civil Service employees were Arabs, including Bedouins, Druze and Circassians in comparison to 6.17% in 2007, 6.67% in 2008, 6.97% in 2009 and 7.52% in 2010. The number of Arab and Druze women employed in the Civil Service has also significantly increased in recent years. In 2011, there has been an increase of 30.6% in the rate of Arab and Druze women employed in the Civil Service in comparison to 2008.

29. The Knesset enacted the *Expansion of Adequate Representation for Persons of the Ethiopian Community in the Civil Service (Legislative Amendments) Law 5772-2011* and the *Expansion of Adequate Representation for Persons of the Druze Community in the Civil Service (Legislative Amendments) Law 5772-2012*. These laws dramatically expand the affirmative action scheme applicable to persons of the Druze community and individuals who were born in Ethiopia or who have at least one parent born in Ethiopia. The new legislation requires Government Ministries and agencies, government corporations with more than 50 employees, and municipalities to apply the law regarding hiring for all positions and ranks. Furthermore Government Resolution 2506 from November 2010 which designated 30 positions (13 of which are new positions) in the Civil Service to persons from the Ethiopian population will be implemented during 2013. Currently the Ethiopian population constituted 1.5% of the Israeli population which actually closely parallels its representation in the Civil Service.

30. *Economic, Social and Cultural Programs for the Arab Community –*

(a) The Authority for the Economic Development of the Arab, Druze and Circassian populations within the Ministry of the Economy, created in 2011 a program aimed at the development of industrial zones in the Arab population. The program is expected to increase employment opportunities in 13 Arab communities and villages. In some of the towns new industrial zones were established and in others existing industrial zones were expanded and upgraded. The budget for the five year program is NIS 81.5 Million (\$22 Million). An additional NIS 15 Million (\$4 Million) will be used for the establishment of regional financial companies.

(b) A professional team was established in 2011 to examine barriers to broader participation by the Arab population in higher education. The team issued an interim report that included recommendations for a holistic support system, including establishing a national center for information, strengthening pre-academic preparatory programs, strengthening assistance to the Arab population during academic studies and supporting programs to reduce student dropout from academic institutions. To implement the recommendations NIS 305 Million (\$84.53 Million) has been allocated for a five-year period.

(c) The Government approved in September 2010 Resolution no. 2289 which introduced a multi-year plan for the integration of women of minority populations in higher education institutions. The Authority for Economic Development of the Arab Localities, including Druze and Circassian was tasked with the execution of this plan with a budget of NIS 4 Million (\$1.14 Million). The plan, intended for up to 500 Arab girls, includes preparations for entry examinations for higher institutions, strengthening English and Hebrew language skills, creation of support groups, and employment guidance workshops at the end of the studies.

(d) The Ministry of Culture initiated and funded in 2008 the establishment of a new museum dedicated to the Arab culture. The Ministry allocated NIS 600,000 (\$162,000) for the purpose of acquiring the collection of the museum, which will be based in Um Al-Fahm, and for locating additional contributors.

31. *Economic, Social and Cultural Programs for the Druze and Circassian Communities –*

(a) Government Resolution no. 2861 of February 2011 launched a comprehensive four-year program (2011-2014) for the promotion of economic development and advancement of the Druze and Circassian populations. The program aims at investing primarily in employment, education, infrastructure and transportation. The Program's total budget is NIS 680 Million (\$184 Million).



(b) The Knesset enacted in 2007 the *Druze Cultural Heritage Center Law 5767-2007* aimed at facilitating the establishment of a Druze Cultural Heritage Center. The Center, which location and structure are still under development, will promote research and organize educational programs. It will also coordinate different activities including tours, lectures, conferences and exhibitions geared towards developing, enriching and promoting knowledge relating to the different aspects of the Druze culture, history and heritage.

32. *Economic, Social and Cultural Programs for the Ethiopian Community* –

(a) The Government approved Resolution 4624 in May 2012 "Improvement of the Absorption of Persons from Ethiopia". Additional support and budgets will be allocated to assist the Ethiopian population in housing, employment, adequate representation in the Civil Service, awareness raising and increasing access to religious services.

(b) The Knesset enacted in April 2012, the *Ethiopian Jewish Community Heritage Center Law 5772-2012*, aimed at establishing a center for research and commemoration of the Ethiopian community's heritage and an archive. The center will collect and map archive materials concerning the Ethiopian community and will centralize research activities concerning this community. The Law established the Center's Council, which is composed of 13 members, at least one third of which are required to be of Ethiopian origin or their descendants. As of June 2013, the Center's Council is in advanced stages of appointment and will begin its activity as soon as all its members are appointed.

(c) The Knesset enacted in July 2008 the *Sigd National Holiday Law 5768-2008*, to be celebrated every year on the 29th of the Hebrew month of Cheshvan (scheduled in 2013 for 31 October). The Sigd is a traditional Ethiopian fast day, dedicated to prayers and giving of thanks. The Ethiopian community celebrates the holiday by holding a large ceremony on Mount Zion in Jerusalem, followed by a procession to the Western Wall.

(d) The Ministry of Culture initiated in 2012 an Ethiopian culture festival in 12 cities and localities with large Ethiopian communities. The festival included music, dance shows, exhibitions of Ethiopian artists, traditional Ethiopian food and clothing fairs.

(e) In 2010, the Supreme Court ruled in a case which dealt with the insufficient integration of Ethiopian pupils into educational programs within the city of Petah Tikvah. The Court noted that "the right for education and the right for equality in education are constitutional rights" (H.C.J. 7426/08 *Tebeka- Advocacy for Equality & Justice for Ethiopian Israelis v. The Minister of Education et. al.* (31.8.2010)).

### C. **Combatting racism, discrimination and anti-semitism**

33. *Penal Law (Amendment no. 96) 5768-2008* was enacted in February, 2008 and amended section 145 of the Israeli Penal Law pertaining to illicit association. The amendment prohibited the gathering of people who preach to, incite for or otherwise encourage racism. In accordance with section 147 of the Law any adult member, employee or agent of an illicit racist association will be subject to imprisonment of up to one year.

34. On September 9, 2013, the Haifa District Court sentenced a man to four years in prison after he was convicted of arson and threats of a racial nature against a group of Ethiopian tenants of a residential building in Haifa where the convicted person's mother lived. At four different occasions the accused threatened the tenants by calling "to burn the Ethiopians down" and in two occasions he set fire to one of the tenants' car and to the building's entrance. In her sentencing, Judge Sela noted that: "there exists a clear sense of hatred and racism manifested in the accused's actions and words. This phenomenon must be rejected and uprooted." (C.C. 40112-07-12 *State of Israel v. Logasi* (9.9.2013)).

35. On November 10, 2011, the Tel-Aviv Magistrate Court accepted a suit filed by a man, claiming he was refused to enter a nightclub in Tel-Aviv due to his skin color. The Court stated that the club violated the *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law 5761-2000*, since no rational reason regarding the refusal of entrance was given. Moreover, the respondents have failed to prove that their business' policy does not constitute prohibited practice of customers' discrimination on the grounds of race and/or origin, as required by the Law. The Court stated that according to the Law, the club's owners are liable for the violation, since they did not prove they have taken reasonable steps to prevent discriminative behavior at their business. The Court awarded the plaintiff compensation of 17,000 NIS (4,500 USD) (*C.M. 969-03-11 Jacob Horesh v. Tessa Bakikar LTD* (10.11.11)).

36. On September 6, 2009, the Tel-Aviv Labor Court ruled that the prerequisite of serving military service set by Israel Railways Company as part of its requirements for employment of new supervisors constituted discrimination against citizens who do not serve in the Israel Defense Forces (IDF), which consists mainly of Arab Israeli citizens. The Court emphasized the importance of the right to equality and the prohibition of discrimination, which form the basis of all other basic rights, as well as the values of democracy, and noted that the Law also prohibits indirect discrimination (*C.M. 3863/09 Abdul-Karim Kadi et. al. v. Israel Railways et. al.* (6.9.2009)).

37. In 2010 the Supreme Court determined that the Jerusalem Municipality must allocate financial support for activities of the Jerusalem Open House for Pride and Tolerance. The Court emphasized in its judgment that the right not to be discriminated against on the basis of sexual orientation is a constitutional right and granted the Open House NIS 500,000 (\$140,800) in damages (*A.P.A. 343/09 The Jerusalem Open House for Pride and Tolerance v. Jerusalem Municipality et. al.* (14.9.2010)).

38. Israel is a leader within the Global Forum for Combating Anti-Semitism, which convened for the fourth time in Jerusalem in May 2013. In addition, Israel partners with EU Member States in an annual seminar on the fight against Anti-Semitism and Xenophobia. Both Israel and the EU assign great importance to this seminar, which reflects a common stance against the challenges of Anti-Semitism and Xenophobia.

#### **D. Ensuring LGBT rights**

39. Israel adamantly protects the rights of its citizens to live freely according to their sexual orientation. The LGBT community is widely represented throughout Israeli society - serving in the military, government, business community and the arts.

40. The prohibition of discrimination on the basis of sexual orientation is found in several laws, such as *Patient's Rights Law 5756-1996*, *Equal Employment Opportunities Law 5748-1988* and *Prohibition of Discrimination in Products, Services and in Entry to Public Places Law 5748-2000*. In addition, in 2011, two Knesset Members initiated a lobby to promote legislation in the struggle against homophobia.

41. Israel is a member of the Core Group on LGBT issues and was deeply involved in organizing the special event on LGBT rights in December 2011 and 2012.

42. In recent years, there have been a significant number of judgments and decisions promoting the rights of same-sex couples in Israel. Some examples include:

(a) The Regional Labour Court found that a same-sex spouse is entitled to receive a dependent pension, as a widower. The Court emphasized that it reached this decision despite the fact that the couple hid their relationship from their families and friends, and despite the fact that when one partner's son arrived home on army leave they

stayed in a separate apartment (La.C. 3075/08 *Anonymous v. "Makefet" Pension and Compensation Center* (12.4.2010)).

(b) The Tel Aviv District Labor Court recognized in 2012 three children (twins and a boy), that were born to a homosexual couple in two different surrogacy procedures within two months from each other, as triplets for the purpose of an enlarged birth grant payment from the NII. The Court stated that the intention of the legislator was to relieve the burden on parents and support them when having more than two babies, and that the law should suit modern family structures in light of the *Embryo Carrying Agreement (Agreement Authorization and Status of Newborn Child) Law 1996* (L.C. 12398-05-11, *S.S.K et. al. v. The National Insurance Institute* (7.9.2012)).

(c) The Jerusalem Magistrate Court ruled in favor of a lesbian couple who sued the Yad HaShmona Guest House for its refusal to provide a venue for the couple's nuptial party. The guest house refused, claiming the couple's sexual orientation as grounds for refusal and stated that Yad HaShmona, as the owner of the guest house, is a residence of a group of Messianic Jews, who consider homosexual relationships as contradicting their religious beliefs. The Court determined that the venue met the definition of a "public place" under the *Prohibition of Discrimination in Products, Services and in Entry to Public Places Law 5761-2000*. Therefore, the owners were prohibited from refusing to hold an event on grounds of sexual orientation. The Court addressed the appropriate balance between religious freedom and the prohibition of discrimination and rejected the defendant's claim. The Court ordered that the appellants be compensated both as restitution and to serve towards education and awareness-raising for such an important issue as human dignity and equality (C.C. 5901-09 *Yaakovovitch et. al. v. Yad Hashmona Guest House et. al.* (14.4.2013)).

## **E. The fight against trafficking in persons**

43. Israel has achieved significant progress in the struggle against trafficking in persons. This success was recognized by the United States Department of State in its last two annual Reports on Trafficking in Persons (2012 and 2013), ranking Israel in Tier One, the highest ranking, indicating that Israel has acknowledged the existence of human trafficking, makes efforts to address the problem and complies the minimum standards.

44. As a result of cooperation between Government, civil society and the Knesset, Israel has managed to nearly eradicate trafficking for prostitution. A landmark achievement in this regard was the *Rami Saban* trial, which ended in May 2012 with the conviction of five defendants on charges of trafficking for the purpose of prostitution and other related offences. All convicted defendants received lengthy sentences that included imprisonment ranging from 10 months to over 18.5 years, high fines and compensations to each of the 13 victims. The District Court of Tel Aviv-Jaffa stated that the case was one of the most complex and widespread trafficking affairs Israel had dealt with in recent years (*S.Cr.C. 1016/09 State of Israel v. Rahamim Saban et. al.* (10.5.2012)).

45. The Jerusalem District Court in a precedential decision convicted on 29 February 2012 two defendants for holding a person under conditions of slavery. The victim was a Philippine housekeeper who was held under conditions of slavery, though notably, the circumstances did not include physical violence. The Court sentenced the defendants to four months community service, suspended imprisonment, NIS 2,000 and NIS 15,000 (\$5,000) to be paid as compensation to the complainant (*S.Cr.C. (Jerusalem) 13646-11-10 The State of Israel v. Ibrahim Julani and Basma Julani* (12.6.2011)).

46. In addition to the exiting shelter for female victims of trafficking, a new shelter was opened in 2009 for male victims of trafficking in persons. Between 2011 and 2013 three

transitional apartments for trafficking victims were opened. Recently the Ministry of Social Affairs and Social Services announced the allocation of resources for housing solutions for further 18 female victims.

47. A new procedure for identifying trafficking victims in Israeli Prisons Service detention facilities was established in early 2012. According to this procedure, a staff member who suspects they have encountered a trafficking victim must report to the facility's social workers who in turn report to the police coordinator and to the Legal Aid Branch in the Ministry of Justice. As a result of this procedure, the number of identifications of victims and the protection granted to these individuals, has increased markedly.

48. In May 2012, following extensive cooperation between Israeli authorities and the European Union Rule of Law Mission in Kosovo with regards to an international organ trafficking network, Israel Police arrested ten suspects for trafficking in organs offenses, as well as offenses related to the *Organ Transplant Law 5768-2008*. Most of these cases are currently pending.

49. MASHAV has long been involved, through the Mount Carmel International Training Center (MCTC) in regional and international development programs on the topic of trafficking in persons. These programs involve cooperation with various international organizations and states including the Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC) and the U.S. Government. In August 2013, MASHAV, together with the Ministry of Justice and the MCTC hosted an international seminar for judges on the topic of "The Critical Role of the Judiciary in Combating Trafficking in Human Persons". In October 2012, MASHAV hosted a conference on violence against women and children, with the help of the United Nations Educational, Scientific and Cultural Organization (UNESCO). Finally, in May 2012, MASHAV cooperated with the Ministry of Justice to lead a course titled "International Workshop on Profiles of Trafficking: Patterns, Populations and Policies", which included a day-seminar focusing on the importance of Government-NGOs dialogue in this field.

## **F. Protection of persons subjected to detention**

50. **Further to Recommendation 13 (France, Yemen)**, under Israeli legislation all acts that may be considered as torture or other cruel, inhuman, or degrading treatment or punishment constitute criminal offences. Any allegation of perpetration of such acts should be brought before the relevant authorities so that investigations and prosecutions could be brought up against the perpetrators.

51. **Further to Recommendations 13, 15 and 16 (Yemen, UK, Chile, Canada)**, the right of persons under detention to conditions ensuring their human dignity is acknowledged as a fundamental right in Israeli law. The enactment of *Basic Law: Human Dignity and Liberty 5752-1992* has spurred significant legislative reform bearing on the treatment of detainees, as well as policy changes in the education, hiring, and training of police and prison personnel who deal with detainees. Today, the *Prisons Ordinance 5732-1971* preserves all rights of prisoners, including the rights for family visitation which is strictly upheld. Even before the enactment of the *Basic Law*, the High Court of Justice repeatedly affirmed the rights of prisoners for dignity. In H.C.J. 355/79 *Katlan v. The Prisons Service* (10.4.1980), then Chief Justice Barak held that "The walls of the prison do not separate between the prisoner or detainee and Human Dignity... The prisoner or detainee might be temporarily deprived of their freedom but not of their Human character".

52. Since 2008 there were certain advancements in the protection of the right to due process and the right of prisoners and people in detention:

(a) In 2012 the Knesset enacted the *Prisons Ordinance (Amendment no. 42) 5772-2012* which echoed, on a statutory level, prisoners' rights to be held in adequate conditions that would not harm their health or dignity. The amendment stipulates that a prisoner is entitled to adequate sanitary conditions including, a bed, mattress and blankets, food and water, clothes, reasonable lighting and ventilation conditions, daily walks, and rehabilitation frameworks (if such are found suitable).

(b) In 2012 the Knesset additionally enacted the *Courts Law (Amendment no. 69) 5772-2012* and included further limitations on the publication of a suspect's name. The amendment allows the Court to prohibit the disclosure of names if found that the expected damage to the suspect would exceed the public interest in making the name public. Moreover, the police are required to notify the suspect of his/her right to ask the Court to prohibit such disclosure.

(c) The Supreme Court held in November 2009 that the *Prisons Ordinance (Amendment no. 28) 5764-2004*, which allowed for the privatization of prisons, violates the right of prisoners to human dignity in a disproportional manner and is therefore unconstitutional. The Court noted that: "the human rights of prison inmates are violated *ipso facto* by the transfer of powers to manage and operate a prison from a the State to a private concessionaire that is a profit making enterprise" (H.C.J. 2605/05 *Academic Center of Law and Business, Human Rights Division v. The Minister of Finance* (19.11.2009)).

(d) The Central District Court ruled on 26 July, 2012 that the IPS should consider under certain conditions allowing conjugal visits for couples that are both serving a prison sentence at the same prison. The Court relied in its decision on the right to family life (P.P. 14733-04-12 *Liliana Mandoza v. The Israeli Prisons Service* (26.7.2012)). Moreover, IPS spokesperson publicly stated on July 2013 that the IPS does not discriminate against homosexual couples and allows them to have conjugal visits.

## G. Developments in the protection of children's rights

53. Israel maintains an extensive system of laws designed to protect children's rights. It is a signatory to numerous international conventions and provides full health, education and welfare services to children. Special protections apply in the areas of child labor and sexual exploitation. Below are a few examples of developments in the field of Children's Rights Protection in recent years.

54. The National Program for Children and Youth at Risk was launched in 2007. The Program is a national, inter-ministerial program, led by the Ministry of Social Affairs and Social Services which aims to reduce the extent of risk situations among children and youth. In 2012 the program was expanded to include the most underprivileged local authorities, and will eventually be implemented in a total of 166 local authorities which encompass nearly two thirds of Israel's children. The National Program gives priority to Arab localities and localities with large populations of immigrants and ultra-Orthodox Jews. Since 2008 over 156,000 children in a range of risk situations were identified and offered support in a range of spheres, including in particular welfare, education and health. It is estimated that an additional 60,000 children and youth will be identified and offered support in the coming years. The Israeli Government will be allocating NIS 215 Million (\$60 Million) annually, until 2017, to support programs and services to meet the challenges of these children.

55. In 2008 the *Rights of Pupils with Learning Disabilities in Secondary Education Facilities Law 5768-2008*, was enacted. This law affirms the rights of pupils with learning

disabilities to adjustments in the criteria for admission to secondary educational facilities, as well as in exams and other academic requirements.

56. The *Legal Capacity and Guardianship Law (Amendment no. 17) 5772-2012* entered into force in 2012 adding the right of grandparents to file requests for guardianship over their grandchildren and authorizing the Court to determine if this would be in the best interest of the child.

57. In recent years, there have been a significant number of rulings and decisions promoting the rights of minors in Israel. Some examples include:

(a) The Supreme Court determined in October 2008 that a child and his German mother may temporarily immigrate to Germany despite the objection of the Israeli father. The Court stipulated that the leading principle in such cases is the best interest of the child. This principle obligates parents and Courts alike, and is a guiding principle in determining custody and residency issues. (F.M.A. 10060/07 *Anonymous v. Anonymous* (2.10.2008)).

(b) The Supreme Court ruled in July 2009 that the National Insurance Institute was required to recognize all children who fall on the autistic spectrum, as children entitled to full disability pensions. (H.C.J. 7879/06 "*ALUT*" *The Israeli Society for Autistic Children v. The National Insurance Institute of Israel* (19.7.2009)).

(c) The Supreme Court convicted a defendant charged with exploitation of minors by way of induced prostitution in March 2012. The Supreme Court sentenced the defendant to eight years imprisonment for a lack of precedent, but ruled that future cases should receive harsher sentences (Cr.A. 3212/11 *The State of Israel v. Anonymous* (22.3.2012)).

## H. Religious freedoms

58. **Further to Recommendations 23, 24, 25 (Jordan, Morocco, Italy, Pakistan)**, freedom of religion is an important aspect of Israeli society, and includes also the freedom from religion (freedom of conscience, and) the freedom to practice one's religion. All of these are basic principles in Israeli law, enshrined in key constitutional legislation such as *Basic Law: Human Dignity and Liberty* 1992.

59. In practice access to holy places and freedom of worship for members of all faiths is protected with exceptions relating to the maintenance of public order or morals. The Israeli police are instructed to protect the freedom of religious worship and access of persons of all religions to their places of worship without interruption. Some of these religious events take place on daily or weekly basis and demand special deployment of Police personnel. For example, Muslim Friday prayers on the Temple Mount, which takes place with the participation of thousands of worshippers. An additional example is prayers during Christian holidays, also involving thousands of believers and demand special care and sensitivity.

60. A pertinent example of police activity to protect the right to worship can be found in the case of "the Women of the Wall", a group of Jewish women who wish to wear prayer shawls, pray and read from the Torah collectively and out loud at the Western Wall. In May 2013, the members of the women's prayer group were allowed to pray for the first time near the Western Wall. They were free to wear prayer shawls and tefillin (phylacteries), and were protected by the police. This prayer was authorized following a ruling of the Jerusalem District Court in C.A. 23834-04-13 *State of Israel v. Ras et. al.* (24.4.2013) The Court reechoed the right to worship in accordance with individual practices and beliefs, and in good faith, as a basic human right.

61. The Ministry of Interior strives to ensure the freedom of religion to all non-Jewish communities and assists in the construction and development of houses of worship and

other religious sites. The Ministry employs religious personnel, as civil servants, to assist in services in mosques and churches. On Christian holidays, the State allows the increased entry of Christians from the West Bank into Israel for the entire holiday period for participants to partake in ceremonies. In addition, Israeli Christians are permitted to travel to the Church of Nativity in Bethlehem on Christmas and other holidays. For all these purposes, Israel allocates significant budgets.

62. Following a number of petitions on the subject, in August 2011, The Ministries of Finance and Religious Services announced a significant increase in the budget for alternative burial in Israel. The State notified that a budget of five Million NIS (1.350 Million USD) for each of the years 2011 and 2012 will be allocated instead of the original budget of 300,000 NIS (85,000 USD) for 2011. In 2012 the Ministry for Religious Services has allocated four Million NIS (1.081 Million USD) for development of new civilian cemeteries. As of November 2012, there are 11 cemeteries for alternative civilian burial which are contracted with the Israeli NII, in accordance to the *National Insurance (Burial Fees) Regulations 5736-1968*. These cemeteries which are located throughout Israel provide burial services for any person who desires to be buried in a civilian burial. In addition civilian burial in Israel may also be conducted in agricultural localities, in which residents may be buried without any payment. These alternatives provide solution for every Israeli resident who wants to be buried in a civilian burial.

63. **Further to Recommendation 21 (Italy)**, Israel does not impose any unnecessary restrictions on the granting of visas, and in fact provides preferential treatment to members of the Christian clergy in their entry into Israel. This policy is promoted in view of the importance Israel attaches to assisting clerics in the exercise of their religious duties. The proper procedures and requirements for a visa application, and the responsible authority within Israel, may change in light of the particular circumstances of each applicant. Any difficulty encountered throughout this process can, and should, be referred to the Consular Division of Israel's Ministry of Foreign Affairs.

## I. The right to an adequate standard of living

64. During the summer of 2011 wide-spread demonstrations for social justice in Israel was launched and hundreds of thousands of Israeli citizens took to the streets to demand economic reforms in the areas of housing, social services, health, and taxes. In response to these events the Government appointed a committee chaired by Prof. Emmanuel Trajtenberg, chair of the Planning and Budgeting Committee of the Council for Higher Education in Israel. The committee was tasked with examining ways to implement social change and recommend practical solutions. The Committee's final report was approved by the Government in October 2011 and is being gradually implemented in accordance with the Government's plan and in due consideration to changes in world economy.

65. A groundbreaking judgment was handed down by the Supreme Court on the right to minimum standard of living. The petitions challenged legislation that predetermined that ownership or use of a vehicle would preclude eligibility for unemployment benefit. In her last ruling as Supreme Court President Justice Dorit Beinisch presented the majority decision which found the legislation violated the right for a minimum standard of living. The justices agreed unanimously that this right enjoyed constitutional status and thus form the basis for the right to human dignity and other rights (H.C.J. 10662/04 *Salah Hassan v. The National Insurance Institute* (28.2.2012)).

66. In 2009 the *Israel Lands Administration Law (Amendment no. 7) 5769-2009* was enacted to allow for the conveyance of lands managed by the Israeli Land Administration (ILA), to lessees, who will be able to take any action with respect to the property as if they were its legal owners. This amendment was enacted as part of a broad organizational

reform in the ILA and is aimed at improving accessibility and the quality of service provided.

67. In June, 2012 the Knesset enacted the *Sheltered Housing Law 5772-2012* which aimed to regulate sheltered housing for the elderly population including low-rent housing and care service providers. The new law establishes a process of licensing for operators and institutes general guidelines for the interaction between service providers and tenants. By doing so it limits the power possessed by sheltered housing operators in their contracts with the elderly, a particularly vulnerable social group.

## J. Right to education

68. Since 2008, Israel has been gradually changing and reforming its educational system, putting a special emphasis on equal access to education, strengthening learning environments, strengthening the status of teachers, and preventing violence in schools. Following are some of the most fundamental improvements in education in recent years.

69. The "Ofek Hadash" (New Horizon) reform is an educational and professional reform program implemented in elementary schools and junior high schools in Israel. The program introduced fundamental changes including an increase in teachers' salaries, the lowering of the number of pupils in math and language classes, and the allocation of additional individual hours as may be needed. This reform is intended to be fully implemented in all pre-schools and elementary schools by the end of 2013.

70. The "Oz Betmura" (courage for change) reform, initiated in September 2011, is a complementary program for high schools which purpose is to promote pupils' achievements and strengthen the role of the teacher as an educator. The reform promises an increase in teachers' salaries alongside performance-based financial incentives. This reform is intended to be fully implemented by 2015.

71. In 2007 the *Compulsory Education Law (Amendment no. 29) 5767-2007* was enacted in order to extend compulsory education to youth between the ages of 15-17 for the 11<sup>th</sup> and 12<sup>th</sup> grades. The law was gradually implemented during 2008-2011. Government Resolution no. 4088 of January 2012 extended free education to all public kindergartens for children aged 3-4. Beginning in the 2013-2014 school year, the State has been providing free and compulsory education for these young children.

72. In 2009 the *Pupil's Rights Law (Amendment no. 2) 5769-2009* was enacted in order to allow for the dismissal of pupils from schools following severe disciplinary or violence-related incidents. In 2009, reporting guidelines were put in force in the fight against physical violence in schools. These were complemented by a Directive from the Director General of the Ministry of Education which established a new policy for the prevention of violence and the creation of a safe environment in schools.

73. **Further to Recommendation 8 (Mexico)**, the State of Israel and its education system invest significant budgets and efforts in the promotion and advancement of equal opportunity for the various minority communities and implements programs towards equality in education together with affirmative action where necessary, including in access to education in all levels and grades, and to higher education.

74. The Ministry of Education developed a program to close the gaps within the Israeli education system. The Ministry has allocated additional hours for math and science classes; opened more than 100 centers for career guidance and preparation assistance leading toward college admission exams in Arab high schools and communities. Other projects in the Arab education system include improvement of infrastructures, building new classrooms, and the introduction of new teaching and learning aids. For example The



Government of Israel allocated NIS 420 Million (\$115.7 Million) for the purchase of computers for all elementary schools serving the Bedouin and Arab communities.

75. The Jerusalem Municipality and Ministry of Education remain committed to improving the quality of education in the eastern neighborhoods of Jerusalem and the access of children to equal and free education. In 2012 NIS 400 Million (\$111.4 Million) was budgeted for the planning and building of 400 new classrooms in the eastern neighborhoods of Jerusalem and in the 2012-2013 school year, 34 new classes were opened, 24 in a new high school in Ras Al-Amud, and 10 in a new kindergarten in Beit Hanina. Six of these classrooms are intended for children with special needs.

76. The Supreme Court ruled in February 2011 that every child in the eastern neighborhoods of Jerusalem must be able to register to an official public school in their residential area or receive tuition reimbursement if forced to register at a private or unofficial school. The Court ruled that improvements were necessary as "such a reality infringes on the constitutional rights of children in East Jerusalem to enjoy equality in education." (H.C.J. 5373/08 *Abu Labda et. al. v. The Minister of Education et. al.* (6.2.2011)).

77. The efforts devoted to improvement of education in Arab localities resulted in higher rates of matriculation certificate eligibility among Arab pupils. In 2010, 95.6% of the female pupils and 87.6% of the male pupils in the Arab education system took the matriculation exam (compared to 94.9% and 87.2% in 2008). In 2011, 59.7% of the female pupils and 43.6% of the male pupils in the Arab education system were entitled to a matriculation certificate (an increase of 5.8% among the girls and 13.5% among the boys compared to 2010).

## **K. The right to family life**

78. Israel is committed to promoting the right to family life and has adopted in recent years policies to ensure the right to start a family or to adopt a child is secured. Following are some of the most significant improvements in this field.

79. In 2010 and 2011, the *Women's Employment Law 5714-1954* was amended in order to grant employment rights and mitigations to new mothers, adoptive parents, intended parents and parents in foster families. According to the *Women's Employment Law (Amendment no. 45), 5770-2010*, the firing of female or male employees who are undergoing fertility treatments. This protection applies to both permanent and temporary employees after employment of six months. In accordance with Amendment no. 46, the maternity leave of an employee who is employed for at least one year prior to her maternity leave shall be prolonged to 26 weeks. Of which 14 weeks are with pay, and an additional 12 weeks are without pay, during which the employer must reserve her rights at the workplace. Finally, Amendment No. 48 provides maternity leave for parents in foster families and parents who adopt children and further extends the protection of the law to parents in such cases.

80. In 2011 the *National Health Insurance Order (Amendment to the Second Supplement to the Law), 5771-2011* was enacted to include fertility preservation treatments for women who undergo chemotherapy or radiation treatments.

81. The Knesset enacted in 2010 the *Career Service in the Israel Defense Force (Female Soldiers in Career Service) Law 5771-2010*. The law determines that a female career soldier may not be dismissed from the IDF due to her pregnancy, during her maternity leave, or in the 60 days following, without the authorization of the Minister of Defense.

82. The Courts have played an active role in promoting the right to family life. The Supreme Court ruled in March 2009 that a person's right to family life is a constitutional right, protected under Israel's *Basic Law: Human Dignity and Liberty* 1992. According to Justice Ayala Procaccia "The right to family life and parenthood espouses both the right of the biological parent to raise their children, and likewise the right of the child to be raised by their parents...This is the source of the constitutionality of the right to family and parenthood, about which there is no dispute" (H.C.J. 4293/01 *New Family et. al. v. The Minister of Labor and Welfare* (24.3.2009)).

83. The Supreme Court considered in 2013 a precedential case which involved a request by a sperm donor to withdraw his consent to donate, despite the interest of the petitioner, who had already been conceived once from his donation, to have more children who might share the same genetic makeup. The Court ruled that while the right to parenthood is a fundamental right, in such a conflict, the donor's autonomy and free will should prevail (H.C.J. 4077/12 *Anonymous v. The Ministry of Health et. al.* (5.2.2013)).

## L. The right to health

84. Israel recognizes the right to health care as a fundamental human right. As stipulated in Israel's *National Health Insurance Law 5754-1994*, every Israeli resident is entitled to health services "in accordance with principles of justice, equality, and mutual support."

85. The *Foreign Workers Law 5751-1991* obliges employers of foreign workers to provide health insurance for their employees throughout their employment period at the employer's expense. The legal duty to provide health insurance remains upon the employer regardless of whether the employee holds a legal working visa. Furthermore, an employer will receive an employment permit for a foreign worker only after showing proof of health insurance. Violation of this provision is considered a criminal offence punishable by substantial fines.

86. In an attempt to improve accessibility to dental services for youth in general, and for low-income families in particular, the Ministry of Health announced in December 2009 that it would gradually include dental treatments for children up until the age of 10 within the State medical basket covered by the National Health Insurance. In July 2010 this program was expanded to children up until the age of 12.

87. **Further to Recommendations 28 and 29 (Canada, United Kingdom, Finland)**, in 2009 a national plan for the reduction of inequality in health was developed by the Ministry of Health based on a number of international studies that were conducted. The plan was included as an integral part of the Ministry of Health Objectives for 2011-2014. Below are a few of the steps taken by the Ministry to realize the plan.

88. The Ministry of Health published a circular on cultural and lingual adaptation and accessibility within the health system to obligate all health organizations to provide services in accordance with the spoken languages and special cultural traits of patients. These guidelines are intended to remove lingual barriers before many Israeli residents, including immigrants and members of the Arab population. The Ministry determined that Hebrew, Arabic, Russian, English and Amharic are all languages in which patients are entitled to receive service, through translation or a professional that speaks the language. The Circular entered into force in early 2013 and plans for its implementation are being put in place.

89. The Ministry, in coordination with its various health funds, operates dozens of programs promoting the health of Israel's general population, including its Arab population. In fact, one third of the Ministry's Health Advancement Department's annual budget is dedicated to funding health plans in Arab communities. It is important to note that most of

these communities are concentrated in peripheral areas to the north and the south of country, thus making each investment placed, that much more crucial.

90. Examples of steps taken by the Ministry of Health in recent years to reduce inequalities in health care include:

(a) Improving infrastructures in peripheral areas, including additional 1,000 hospital beds and manpower to peripheral hospitals.

(b) Opening nurses training courses targeted specifically towards Bedouin population, in order to improve medical services and overcome language barriers.

(c) Allocation of NIS 13.6 Million (\$3.75 Million) for the development of health service and intervention plans as part of the five year plan for the promotion of the Bedouin population in the Negev.

(d) Establishment of a medical school in the northern galilee and new emergency rooms in peripheral localities, both in the north and the south of Israel.

(e) Allocation of additional medical equipment to peripheral areas, including new MRIs, linear accelerators and PET scan devices.

(f) Developing financial incentives, including grants and state sponsored salary increase, for specialized doctors to move to peripheral areas.

(g) Reduction of the maximum co-pay fees of chronic elderly patients who receive income supplements.

(h) Discount on the purchase of the amount of co-payment for generic medications.

91. Finally, Israel's agency for international cooperation and development, MASHAV, has joined international efforts to fight against HIV/AIDS. In 2010, MASHAV organized, in cooperation with UNAIDS, a regional workshop on "Women, Girls, Gender and AIDS" for participants from Africa. Emphasis was placed on empowering women and girls with HIV and using the media to raise awareness to the right to healthcare. In 2010, an additional workshop took place in cooperation with UNAIDS on the topic of "Care and Support of Children Affected by HIV/AIDS and their Reintegration into Society". This program was held in Russian and geared towards participants from countries of the former Soviet Union. The participants were high level professionals representing a broad spectrum of healthcare spheres, promoting societal treatment of HIV/AIDS as a holistic issue from the perspectives of health, education and welfare.

## IV. Challenges, constraints and opportunities

### A. Polygamy

92. **Further to Recommendation 18 (Chile)**, as in other countries with traditional communities, Israel faces challenges in regard to polygamy. It is clear that there are social, societal, and legal aspects to the phenomenon that demands certain sensitivity to tradition, while also protecting the rights of individuals and the rule of law.

93. Section 176 of the Israeli *Penal Law 5737-1997* prohibits polygamy in Israel making it punishable by a maximum sentence of five years imprisonment. In 2008, 31 criminal cases were at a variety of stages within Israel's judicial process. A similar number of cases were opened in 2009, of these 18 (35%) were transferred to the State Attorney's Office for

indictment. During 2009, four cases were eventually brought to trial and the offenders convicted. In 2010, 18 investigations were opened and 8 cases were transferred to the State Attorney's Office. 24 investigations were commenced in 2011 and an additional 32 investigations were launched in 2012.

94. In 2010 the Minister of Justice formulated a working plan for combatting polygamy and bigamy. In an interagency meeting chaired by the Deputy Attorney General, it was clarified that this issue was a challenge among Muslim population in the north (1%-2% of the population) and among the Bedouin population in the South (nearly 35% of the men, approximately 15,000). According to the police only few indictments were served for bigamy, due to the difficulty of obtaining evidence and the lack of cooperation by the local community. Nevertheless education activities are being regularly implemented among women, both in the north and in the south, in order to raise awareness and to reduce the phenomenon. A special team was established within the Ministry of Justice in order to come up with state incentives for monogamist families, primarily in the fields of national insurance benefits, land administration, education, welfare and employment. Finally joint teams of both the Police and the relevant District Attorney's Offices in the north and the south were established to handle cases which might be suitable for prosecution.

95. In the case of Cr.C. 31077-05-10 *The State of Israel v. Asama Duad* (4.9.2011), the Petah Tikvah Magistrate's Court cited the severity of the polygamy offence and the need to achieve public deterrence by imposing severe punishments. Yet, the Court also considered the defendant's personal background, including his will to have a child and his first wife's infertility, as well as the first wife's endorsement of the second marriage which did not involve any mistreatment or neglect. The Court sentenced the man to four months imprisonment to be served as community service.

## **B. Conscientious objectors**

96. **Further to Recommendation 22 (Slovenia)** Israel considers the freedom of conscience to be a fundamental human right and views this attitude as integral for maintaining a tolerant society, being that conscientious objection is a human phenomenon. According to Section 36 of the *Israeli Defense Service Law (Consolidated Version), 5746-1986*, the Minister of Defense has the authority to exempt any man or woman from fulfilling his or her national army service for reasons that are listed in the Law or, as an alternative, to defer his or her conscription.

97. The IDF respects the views of conscientious objectors, provided that these views are proven genuine. To this end, a special military exemption committee, headed by the IDF's Chief Enlistment Officer (or his/her deputy), reviews the applications of those who wish to be exempted from the army on the basis of conscientious objection. Among the other members of this committee are an officer with psychological training, a member of the IDF Military Advocate General Corps and a member of the Academia.

98. The Committee operated under the directions and criteria determined in the High Court of Justice's rulings in the subject (see for example: H.C.J. 7622/02 *David Zonsien v. Military Advocate General* (31.12.2002); H.C.J. 2383/04 *Liora Milo v. The Minister of Defense et. al.* (9.8.2004)). According to these rulings, given that an applicant's conscientious objection to military service and use of force is unconditional and complete it will be recognized as a cause for exemption from military service. The Committee is authorized to exempt an individual from military service, or, alternatively to recommend certain easements in the applicant's service, such as the permission not to hold weapons or an assignment to a non-combat position.

### C. Fighting terrorism within the law

99. **Further to Recommendation 30 (Sweden, Mexico)**, Israel remains committed to precedents set by the Supreme Court which determined the war on terrorism should not be waged outside the law, but within the framework of the law using means that the law affords to the security forces. Israel continues to seek to strike a delicate balance between the security needs of the civilian population in Israel and the human rights of those suspected of participating in terrorist activities.

100. The most recent development in the efforts is the current legislative work on the *Fight against Terrorism Bill 5771-2011*. In August 2011, this draft bill was approved by the Knesset in a preliminary first reading and is currently waiting to be reviewed by the Knesset Constitution, Law and Justice Committee. The bill includes comprehensive consideration of many core legal issues in the fight against terrorism introducing, among other things, definitions of "act of terrorism", "terrorist organization", and "member in a terrorist organization". Some of these definitions match similar definitions in other states. The goal of the bill is to offer law enforcement authorities with effective tools in their fight against terrorist organization and terrorism in general, but in a balanced manner that will protect human rights and due process. The bill will also allow the annulment of current long-standing legislation in the field of fighting terrorism, such as the *Fight against Terrorism Ordinance 5708-1948*, *Prohibition of Financing Terrorism Law 5765-2005*, and some provisions in the *Defense Regulation (State of Emergency) 5705-1945*.

101. The Magistrate Court in Nazareth convicted Nazam Abu Salim, the Imam of the local Shihab A-Din mosque, on April 2012, for incitement to violence and terrorism and for supporting a terrorist organization. The Court found that the director abused his position by disseminating messages of violence and incitement. According to the indictment, the defendant established a movement "Allah supporters group - Jerusalem in Nazareth", used a symbol which is recognized with the Taliban terrorist organization and distributed thousands of leaflets supporting points of view identical to those of the Islamic Jihad and Al-Qaida. The indictment further alleged that the defendant established an internet site to spread his hateful ideas among his congregation and beyond. The Court convicted Abu-Salim and ruled that he used his sermons and articles for publication of incitement with the understanding that his words would be accepted by his followers which would raise chance that some of them will be persuaded to carry out violent acts.

102. One reflection of Israel's continuing commitment to advancing the rule of law in the fight against terrorism can be the recent Turkel Commission of Inquiry's Second Report. On 14 June 2010 the Government of Israel established a public Commission of Inquiry mandated, among other responsibilities, to assess whether the mechanisms for examining and investigating complaints and claims raised in relation to violations of the laws of armed conflict conforms with the obligations of Israel under the rules of international law. The Commission was headed by former Supreme Court Justice Jacob Turkel and included prominent Israeli experts and prominent international observers. For the issue of investigations the observers were Nobel Peace Prize laureate from Northern Ireland, Lord David Trimble, and Professor Timothy McCormack, Professor of Law at Melbourne Law School and the Special Adviser on International Humanitarian Law to the Prosecutor of the International Criminal Court. The Commission examined evidence provided by Israeli officials, academics and human rights NGOs, and further consulted several international law experts. The Commission submitted a comprehensive report in February 2013. The Report carefully applied the main principles of international law on the obligation to investigate and the scope and nature of such investigations under international law, an area which was previously under researched by both scholars and States.

103. **Further to recommendations 13, 14, 15 (Canada, Sweden, United Kingdom)**, the Commission determined that Israel's law enforcement mechanisms, including its examination and investigation bodies, generally comply with international law. The Commission affirmed that Israel's justice system is sufficiently independent to carry out effective investigations. At the same time, it found that there was room for structural and procedural changes to improve the mechanisms of examination and investigation, and formulated a series of recommendations. These recommendations are currently under review by the various relevant authorities so to examine their potential application to improve the investigation process in Israel.

104. The Israeli Supreme Court continued to be deeply involved in guaranteeing due process rights for suspects of terrorist activity in recent years. In February 2010, the Court repealed Section 5 to the *Criminal Procedure Law (Detainee Suspected of Security Offence) (Temporary Provision) Law 5766-2006*, which allowed detention on remand without the presence of the detainee for up to 20 days. The initial purpose of this law was to improve the ability of law enforcement agencies to carry out effective interrogation of suspects in security offences. In its decision, the Court found that in some circumstances this law could gravely harm the rights of a suspect and prejudice the effectiveness and fairness of the judicial process. The Court ruled that Section 5 was unconstitutional as incompatible with *Basic Law: Human Dignity and Liberty 5752-1992* (Cr.C. 8823/07 *Anonymous v. The State of Israel* (11.2.2010)).

105. A similar judicial finding took place regarding the case of Mr. Mahmud Dirani, formerly one of the heads of the Lebanese terrorist organization "Amal" and now a senior member of Hezbollah. Dirani was held in Israel from 1994-2004. During this time he filed a tort claim against the State of Israel. He was returned to Lebanon before the court decided on the case. On 18 July 2011, the Supreme Court ruled on the State's appeal to dismiss the petition in limine owing to Dirani's return to an enemy state. The Court noted that although Dirani was a citizen of an enemy state and actively acting against Israel, the constitutional right for due process and the protection of human rights oblige that the right for access to courts be protected. Thus, the Court heard the case and ultimately determined that the established Israeli mechanisms for investigation of claims against ISA interrogators provided a reasonable balance between all relevant interests. This determination was conditional upon completing changes within the ISA and the Ministry of Justice (C.A. 993/06 *State of Israel v. Mustafa Dirani* (18.7.2011)). This case is pending a further decision by the Supreme Court at the request of the State (A.C.H. 5698/11 *State of Israel v. Mustafa Dirani*).

#### **D. Ensuring the rights of the Bedouin population**

106. **Further to Recommendation 26 (Canada)**, there are approximately 210,000 Bedouin citizens of Israel that live in the Negev desert region of Southern Israel, out of a total Negev population of about 640,000. Approximately 90,000, of those residents of the Negev, live in poor conditions, many in scattered encampments outside the planned and regulated towns and villages. They lack basic infrastructures such as sewage and electricity and face difficulties accessing educational and health facilities, as well as local government services.

107. The Government of Israel is committed to ensuring that these citizens enjoy modern living conditions, and to that end has adopted a comprehensive policy for the immediate improvement in their standards of living. The policy also strives towards finding a long-term solution that will enable planning and regulation of existing communities that lack zoning plans. This policy is being implemented following an extensive planning process

which included and open-to-all consultations with hundreds of Bedouin community members, local authorities, NGOs, and human rights organizations.

108. The draft law to regularize Bedouin settlement in the Negev passed its first reading in the Knesset in June 2013. The purpose of the bill is to put an end to land disputes by means of a compromise in which Bedouin with private land claims (approximately 15%) would receive, under certain conditions and in an agreed upon time frame, compensation in land and/or money, without having to resort to the courts. The bill bases the entire process on principles of fairness, transparency and dialogue, while strengthening law enforcement.

109. Israel established designated agencies to advance the regularization process and has allocated considerable amounts of resources, approximately NIS 8 billion (\$2.2 billion) to the implementation of the plan. Within this budget, the Government approved Resolution 3708 which allocated NIS 1.2 billion (\$0.34 billion) over five years (2012-2016), for a variety of programs in the spheres of employment, education, infrastructures and services. These programs are intended to promote the development and economic growth of the Negev Bedouin communities.

110. As part of the Government's Negev Bedouin development plan, dozens of initiatives are already being implemented to improve the Bedouin situation within this five-year framework. Examples include: establishing employment guidance centers; planning and development of tourism infrastructure; municipal training to strengthen the organizational and professional capabilities of local Bedouin authorities; improvement of the transportation system in the Bedouin areas; expansion of technological education, adult education, centers of excellence for students and informal education for youth; a plan to reinforce the connection of the Bedouin community to their culture and heritage; and the encouragement of Bedouin women enter the work force and to start businesses while establishing incentives for employers to employ Bedouins. In this context the IDF intended transfer of a number of key IDF bases to the Negev will necessitate the hiring of thousands of workers, many of them will be Bedouin.

111. One important aspect of the Government's development plan includes the construction of a number of industrial areas jointly with regional councils. The Idan Hanegav Industrial Park, for example, is being built southeast of the Bedouin City of Rahat and is planned to employ nearly 8,000 workers, including Bedouin workers, thus alleviating unemployment in this local population. In addition the Government, on July 2013, approved Resolution 546 declaring the Negev's Bedouin locales as national priority communities for development.

112. Financial settlement arrangements for all Bedouin residents scattered throughout the Negev have been planned not only for those claiming land:

(a) Eligible claimants of land will receive land compensation of 25% to 50% of the land they are currently holding and/or claiming, plus monetary compensation for the rest of their land claim. Land allocated will be registered in the Land Registry and will become their lawful property.

(b) Free allocation of a developed residential lot to every family or eligible single person.

(c) A variety of housing options, rural, agricultural, communal, suburban, and urban will be made available so that the people can choose the option that suits their lifestyle and desires. Dialogue is already taking place on this subject.

113. It is important to note that a large majority of the Bedouin residents currently residing in areas that are not regularized will be able to continue residing there as part of an effort to minimize relocation. At the same time, areal spread of some non-regularized communities is such that some of the dwellings will have to be moved a relatively short

distance, of some hundreds of meters, in order to create the necessary contiguity and enable the installment of infrastructures at a reasonable cost. For those communities which do not coincide with the master plan and do not meet the necessary minimum number of residents, contiguity or density required for the establishment of separate planning entities, alternatives for settlement will be examined through dialogue with the residents. Finally a small number of families will have to relocate mainly for reasons of humanitarian risk. For example, those who live in close proximity to the Ramat Hovav Toxic Waste Disposal Facility will relocate to a community several kilometers from their present location, as part of future expansion of that community.

## **E. Combatting illegal immigration**

114. In recent years, and in growing numbers since 2008, the phenomenon of mass movement of people through the border with Egypt raised significant challenges for the Israeli society and economy. In 2008 9142 crossed the border from Egypt and in 2009, 5305 people arrived. In 2010, the numbers almost tripled to 14,747. This rise continued in 2011, when numbers reached 16,851. In 2012, 10,322 people crossed the border. In 2013 (until August 2013) 28 people crossed the border.

115. The problem of controlling the State borders while upholding the rule of law is certainly not unique for Israel. Many other countries face similar dilemmas. However, the situation in Israel is much more complex than that of other developed countries. Israel is the only OECD member with a land border with Africa, which makes it a comparatively accessible for those who wish to enter. Moreover, Israel is located in a difficult neighborhood. Many scholars see problems of migration as a regional phenomenon and believe that policies for coping with it should be regionally-based. However, due to Israel's unique geostrategic situation and the current political instability surrounding its borders it becomes practically impossible to develop such regional cooperative solutions.

116. The Jewish people's history, and the fact that during the Holocaust many Jews were asylum seekers, makes Israel highly sensitive to this humanitarian issue. Due to our shared memory, Israel was among the first countries to adopt and ratify the 1951 Refugee Convention. Israel applies the convention and all other human rights instruments to which it is a party. Israel thus ensures that no person is returned to a country where he/she might face serious threats to life or person. This undertaking, despite increasing challenges, is derived from Israel's obligations under international law and from the commitment of the Government of Israel to protect the human rights of these individuals.

117. One significant example of the due seriousness in which Israeli authorities, including in particular the Israeli judiciary, take the need to ensure a delicate balance between human rights of migrants and state national interests, can be found in the High Court of Justice's recent decision of 16 September, 2013. The High Court ruled in a petition filed by several NGOs, regarding the constitutionality of the *Prevention of Infiltration Law (Offenses and Jurisdiction) (Amendment no. 3) 5772-2012*. This amendment entered into force in January 2012, as a temporary provision. Under Section 30A of the Law, as amended, a person that enters Israel illegally can be held in detention for a period of up to three years, subject to certain exceptions. An extended panel of nine Judges ruled that holding persons for such a long period of time constitutes a material violation of their rights, including liberty and dignity, as enshrined in *Basic Law: Human Dignity and Liberty*, and is thus unconstitutional. The Court therefore annulled Section 30A of the Law (H.C.J. 7146/12 Naget Serg Adam et. al. v. The Knesset et. al. (16.9.2013)).



## **F. The Israeli-Palestinian peace process**

118. **Further to Recommendations 31, 34, 36 (Turkey, Malaysia, Maldives, Sudan, South Africa, Yemen, Jordan, Pakistan, Egypt, Kuwait)**, the recent resumption of the direct negotiations for peace, headed by US Secretary of State John Kerry, are a welcome step. PM Netanyahu announced its commitment to this process in his speech at Bar-Ilan University in June 2009, where he stated that: "in my vision of peace, in this small land of ours, two peoples live freely, side-by-side, in amity and mutual respect. Each will have its own flag, its own national anthem, and its own government. Neither will threaten the security or survival of the other." PM Netanyahu reechoed this view in his remarks following Kerry's announcement of the resumption of talks on 20 July 2013: "I view the resumption of the diplomatic process at this time as a vital strategic interest of the State of Israel. It is important to try and bring about the conclusion of the conflict between us and the Palestinians"; and again in his address before the 68<sup>th</sup> Session of the U.N. General Assembly, on 1 October 2013: "Israel continues to seek an historic compromise with our Palestinian neighbors, one that ends our conflict once and for all... I remain committed to achieving an historic reconciliation and building a better future for Israelis and Palestinians alike."

119. Israel is willing to make painful compromises towards peace and will act to achieve this through negotiations conducted on the basis of mutual recognition, signed agreements and cessation of violence.

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