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Sixty-third session

SUMMARY RECORD OF THE 1676th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 July 1998, at 3 p.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA

later: Ms. CHANET

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GE.98-16924 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Israel (CCPR/C/81/Add.13, CCPR/C/63/Q/ISR/1) (continued)

1. The CHAIRPERSON invited Committee members to continue their questions on items 1 to 10 of the list of issues.

2. Mr. LALLAH, while joining other Committee members in thanking the Israeli delegation for a report which contained a wealth of detailed information, and for the helpful manner in which it had been presented, regretted having had insufficient time to make an in-depth study of the report, which was very dense and had arrived too late. He wished, first of all, to emphasize the Covenant's place in domestic law. He pointed out that, following the Covenant's entry into force for Israel in January 1992, two Basic Laws had been adopted, one on human dignity and liberty, the other on freedom of occupation. Like common law countries, Israel had not thought it advisable to enact a law or text that specifically enshrined the rights recognized in the Covenant, relying heavily on case law to ensure their enforcement. Certain common law countries, such as the United Kingdom, had very soon recognized the need for a written text to give effect to the provisions of the Covenant. The task of judges was greatly facilitated when they had a law to guide them in enforcing legislation. It would therefore be useful for the State party to consider laying down in a single instrument the provisions of the Covenant which it had undertaken to enforce. Not only were the two Basic Laws adopted since the Covenant's entry into force inadequate, but the second, the law on freedom of occupation, contained a provision whereby a new clause could not apply to a law adopted in the year following the Basic Law's entry into force. That highly restrictive provision called for clarification.

3. With regard to the territorial application of the Covenant, he could not subscribe to the Israeli authorities' view that the State of Israel was not obliged to report on the implementation of the Covenant in the territories that had passed to the Palestinian Authority. The granting of administrative autonomy in no way relieved Israel of its responsibility for the territories under international law. The rights enshrined in the Covenant belonged to individuals. He hoped that Israel's next report would deal with implementation of the Covenant throughout the territories.

4. Upon ratifying the Covenant, Israel had entered a reservation to article 23, on the ground that in Israel matters of personal status were governed by the religious laws of the parties concerned and that, insofar as those laws were inconsistent with its obligations under the Covenant, Israel reserved the right to enforce them. While article 23 did deal with the family and marriage, the religious laws could impinge on women's rights in areas other than private life, particularly their participation in the conduct of public affairs (art. 25). He asked whether any studies had been conducted on the subject. At the time of ratification Israel had also made a declaration regarding the perpetuation of the state of emergency since May 1948. The Israeli Government had also indicated in that declaration that Israel

derogated from its obligations under the provisions of article 9 of the Covenant, implying that only article 9 was affected. He sought clarification as to whether other fundamental rights, such as the right to life, the right to be treated with dignity while in detention, and the right to a fair trial, were not diminished.

5. Lord COLVILLE also welcomed the Israeli delegation, which had presented a very detailed report. Two extremely encouraging aspects were the transparency with which the report had been presented and the opportunity afforded to non-governmental organizations to make an input. He would limit his remarks to the state of emergency, which had remained in force ever since the British Mandate and therefore continued to cause concern. From the United Kingdom's experience with the terrorism rampant in Northern Ireland, enforcement of emergency laws should be kept to a minimum. It was therefore difficult to see why emergency regulations extended to certain economic sectors, as mentioned in paragraph 115 of the report. Furthermore, since the Knesset was called upon to renew the powers conferred by the emergency provisions every year, did it first receive a report justifying the continued application of the emergency provisions?

6. While the Israeli delegation had explained that the renewal of administrative detention could be challenged and reviewed, he knew that the review concentrated on the propriety of the detention measure and not on the merit. Although administrative detention was also practised in the West Bank and the Gaza Strip, the report was silent on that matter. He had seen an administrative detention order bearing the signature of a colonel, which showed membership of a particular organization as the motive. It was unclear why, if persons placed in administrative detention were reputed to threaten the life of the nation, they were not tried as suspected criminals in the ordinary courts, the only effective way of fighting terrorism. Lastly, he wondered whether administrative detention orders were monitored by the Knesset.

7. Ms. MEDINA QUIROGA, returning to the questions asked by other Committee members concerning implementation of the Covenant in the occupied territories and the Bedouins' living conditions, said she would comment on the application of the state of emergency. The emergency provisions were not properly enacted under Israeli law, which did not spell out the circumstances in which a state of emergency could be declared. Since the Covenant was not directly implemented in Israel, that omission raised problems with regard to article 4 of the Covenant. Administrative detention was authorized by the powers conferred under the state of emergency, and military order 1229 of 1988 established the possibility of challenging an administrative detention order through a superior officer. Perusal of the records of hearings clearly showed that those remedies did not deal with the merit of the accusation - because of the confidential nature of the subject, among other things - and that it was therefore a purely formal review. That procedure was all the more alarming since it was exactly the way the military tribunals in Chile had operated during the dictatorship. In addition, a six-month administrative detention order could be constantly renewed, so that a person eventually served a sentence without ever going to trial, in violation of article 14 of the Covenant. It also emerged from the report that the 1992 Basic Law: Human Dignity and Liberty could not be invoked and had no effect on previously

enacted legislation. She asked the delegation to explain how that administrative detention procedure could be considered compatible with articles 2, 12 and 14 of the Covenant, and with article 7, considering as she did that such a long period of detention without trial constituted cruel and inhuman treatment.

8. The authors of the report had stressed that the right to equal treatment was tantamount to a supreme constitutional rule. That statement was contradicted by a number of facts that emerged from the report itself, from the delegation's statements and from information supplied by non-governmental organizations. Accordingly, there was real discrimination in the area of military service, the funding of religious institutions (para. 544), the application of certain Jewish laws to the entire army (para. 549 (h)), form of worship (para. 558), the possibility of changing one's religion (para. 567) and in matters of marriage and divorce (paras. 576, 577, 696 and 702). Moreover, the manner in which Arab women could acquire citizenship was discriminatory, and there was evident discrimination in administrative detention, to which Jewish settlers were rarely subjected. There was no general law prohibiting discrimination, and the narrowing of the gap between the living conditions of Arabs and Jews seemed to have halted in 1996. No affirmative action was being taken in favour of Arabs, recognized as disadvantaged by everyone, even in Israel, and there was no institutional mechanism for enforcing labour legislation. The situation of women was marked by widespread discrimination. Despite the delegation's contention that measures had been taken, the incidence of violence against women continued to be very high: according to the Israeli police, 200,000 women had been the victims of such violence in 1994. The traffic in women for purposes of prostitution was an acknowledged practice, and nothing was being done to improve the situation of Arab women. The most important aspect was the problem of the personal laws which established discrimination in matters of marriage, divorce, child custody and inheritance. Moreover, those laws were enforced by religious tribunals, from which women were excluded. Israel had entered a reservation with regard to article 23 (right of the family to protection), justified by the existence of religious personal laws. Such a sweeping reservation raised serious questions, and could even compromise the very purpose of the Covenant and the international human rights protection instruments. Many articles of the Covenant, especially articles 18 and 14, could thus be jeopardized. She saw no justification for such a broad reservation, which appeared to consolidate discrimination against a section of the population. She asked the delegation to shed light on the matter.

9. Mr. BHAGWATI welcomed the very detailed report, but regretted that he had not had more time to study it. Thus far, the dialogue with the delegation had, all in all, been rewarding. Like Lord Colville, he regretted the fact that the rights enshrined in the Covenant were not set forth in a specific law, because the two Basic Laws far from sufficed to give effect to all the rights protected in the Covenant. The Government should consider promulgating a bill of rights, as several common law countries had done or were envisaging. He had read with dismay that no law adopted by the Knesset could be challenged after a certain number of years. He hoped he had misunderstood, because a law that would run counter to the Covenant should be challengeable at any time.

10. There was a great deal to be said about the issue of administrative detention already raised by other Committee members. If it was true, as the Israeli authorities claimed, that administrative detention was necessary for combating terrorism - which he doubted - it was essential that safeguards be provided. A review by senior officers was obviously not sufficient and it was important that a judicial mechanism be put in place. Administrative detention orders could be renewed every six months for years on end, making it possible for some people to be detained for a five-year period. It was noteworthy, however, that only Palestinians remained in detention for such long periods, since Jewish settlers placed in administrative detention were never held for more than six months. That was discriminatory treatment, all the more evident since, according to information supplied by the non-governmental organizations, in the past five years 5,000 Palestinians had been placed in administrative detention as opposed to a mere 11 Jewish settlers. Such discrimination called for corrective measures. The same could be said of the daily lives of the East Jerusalem Arabs; a ministerial committee report, excerpts from which had been published in the 2 November 1995 issue of the Jerusalem Post, claimed that the Arab population of East Jerusalem had been totally neglected by the de facto Government and was experiencing grave economic problems, in addition to a complete lack of physical infrastructure. According to the non-governmental organizations, 14,000 Jews occupied 100 settlements in the Negev region and possessed 1.2 million dunums and 300 million cubic metres of water, while 110,000 Bedouins lived in 7 towns and 30 settlements without access to water or farmland. Those were all examples of discriminatory treatment for which a solution could be found if the State of Israel had a bill of rights.

11. Mr. POCAR said he wished to take up two issues which called for explanations that could be useful from the juridical viewpoint. The first concerned the enforceability of the Covenant in the occupied territories. In that connection, the question was not whether different sets of rules were applicable to different territories, but of recalling that, from the moment the Covenant was ratified, it was applicable to all territories over which the State party exercised control, even de facto control. It would also be interesting to discover whether other provisions of international law, especially humanitarian law, were enforced, in addition to the Covenant, in certain areas, in view of the special situation prevailing there.

12. The second question concerned the state of emergency. Upon ratifying the Covenant, Israel had made a declaration on the existence of a state of emergency since 1948. One might wonder what interpretation should be put on that statement, now that the 19 May 1948 law on the state of emergency had been abrogated and replaced by new provisions whereby the Knesset could declare a state of emergency for one year. Inasmuch as the Knesset had exercised that power in 1996 and 1997, he wished to know whether the Secretary-General of the United Nations had been informed, pursuant to article 4 of the Covenant, since a new declaration was involved; the international community had a right to know which articles were being derogated from and the scope of the derogation, in order to ascertain whether the conditions laid down in paragraphs 1 and 2 of article 4 were being fulfilled.

13. The CHAIRPERSON invited the Israeli delegation to reply to the various questions asked by Committee members.

14. Mr. SCHOFFMAN (Israel) said that in connection with the negotiations for the self-determination of the Palestinians, all issues (land, water, etc.) were examined without preconditions, as had occurred during the negotiations with Egypt. The position adopted at Oslo was that self-determination would be realized with the mutual consent of both parties, and everything suggested that things would move in that direction. With regard to the Covenant's enforceability, Israel did not deny its responsibility for the rights of the inhabitants of the occupied territories or the Israeli army's actions there. Nevertheless, its reporting responsibility could not extend to the territories for the simple reason that areas such as newspaper licences or freedom of religion were a matter for the Palestinian Authority alone. One solution would be for the report to be presented by a joint delegation, but he doubted whether the Palestinians would agree to appear before the Committee alongside representatives of the Israeli Government. In any event, Israel would not fail to provide all the information it could muster concerning the territories. With regard to the general obligations deriving from international law, as opposed to the reporting obligation pursuant to article 40 of the Covenant, Israel had always fulfilled its obligations under the Geneva Conventions, even when the occupation of the territories had been total. In his country's view, it was international humanitarian law, with all its attendant guarantees, that applied to the territories, rather than the system established by the Covenant; there were definite differences in the two protection systems, which meant that they could not be superimposed.

15. In reply to a question on a possible mechanism to monitor Israel's fulfilment of its obligations, he drew attention not only to the internal monitoring procedures of the judicial authorities and the Ministry of Justice, but also to the possibility of recourse to the courts, notably the Supreme Court, for any injury sustained following an Israeli action. All States parties and organs were also obliged to respect the rights enshrined in the Basic Laws, including the right to human dignity.

16. The population statistics provided at the previous meeting related to citizens and permanent residents of the State of Israel and did not include Palestinians living in the territories. Building permits were issued by Israel in zones A and B, which were home to 97 per cent of the population, and by the Palestinian Authority in the sparsely populated zone C. However, that situation was likely to change shortly since the current period was one of transition.

17. It was difficult for his delegation to respond to questions relating to information provided by the non-governmental organizations cited by Committee members, since it had had no previous knowledge of it. It could, however, state that, in known cases of discrimination, in the provision of goods and services, the competent authorities had issued instructions to crack down on those responsible, pursuant to the laws in force. There were numerous cases in which victims of discrimination had received compensation, and remedies did exist. For instance, when a teachers' association to which land had been allocated had decided to apportion lots only to persons who had performed

military service - in other words, exclusively to Jews - the matter had been referred to the Supreme Court and the Department of Public Prosecution had quashed the decision even before any judicial ruling had been issued.

18. On the subject of the use of Hebrew and Arabic, it was wishful thinking to expect the language of a minority group to be equal in status to the language of the majority of the population. That being said, Arabic was being increasingly used and the persons in charge of Arab schools, administered like Jewish establishments by the Ministry of Education, were quite at liberty to set the syllabuses. More emphasis was placed on Arab culture and history and on the Muslim religion.

19. The ombudsman's duties were performed by the State Comptroller, who received complaints and made recommendations, which were usually implemented. He was totally independent of the Executive Branch. In addition to the Comptroller, there was a High Court of Justice, to which any person who considered himself injured could appeal directly without the need for a lawyer's services. The Bedouins of the north had the right to vote in municipal elections and elected their representatives to the regional bodies. Those of the south did not have the right to vote because there was no regional administrative body. However, that situation was likely to change soon.

20. One Committee member had asked whether Israel planned to enact a law based on the Covenant. Deliberations had in fact been held within the Ministry of Justice in 1989 with a view to the preparation of a draft bill of rights, based on the Canadian model; however, its enactment was encountering political obstacles arising from complex historical events. Human rights and fundamental freedoms were protected by the Basic Law: Human Dignity and Liberty, enacted in 1992, according to the interpretation put on it by judges. Legislation also abounded in criminal law, and established, among other things, that a person arrested must be brought before a judge within 24 hours and must have access to a lawyer; the institution of a public defender's office was to be extended to the entire country by the end of 1998. Many principles set forth in the Covenant existed in Israel's laws, without appearing in the Bill of Rights.

21. The application of the state of emergency had given rise to questions. Emergency measures were used in some cases to legislate on and meet short-term needs, for instance when the country was confronted with a massive influx of immigrants and needed to alter its plans, or to address a new housing situation. Such measures did not entail derogation from the rights set forth in the Covenant, nor did they constitute violations of the Covenant. Certain emergency regulations might infringe human rights, but in some cases they protected them, as during the Gulf War when measures had been taken to protect the rights of workers. Emergency regulations were sometimes used in the event of a strike by State agents, in order to provide a minimum health service and other emergency services, matters on which the trade unions did not really wish the Government to legislate. It was true that the proclamation of the state of emergency had twice been extended and that the State of Israel had not notified the Secretary-General, doubtless owing to a misinterpretation of article 4 of the Covenant; it had understood that it needed to notify the date on which the derogations were terminated, whereas suspension of the

application of that article was still in force. The situation with regard to monitoring of the declaration of the state of emergency had altered significantly in 1996. Since that time, if the Government wished to renew the declaration, it needed to submit the request to the Knesset before the initial period had expired. The Knesset had set up a joint committee (Constitution, Law and Justice) which had requested the Ministry of Justice to present a report with a full listing of the laws governing emergency measures and other measures relating to the state of emergency. As a result, the State and the Government were accountable, with the aim of avoiding a move towards a permanent state of emergency. The Knesset received inputs and opinions not only from its own committees, but also from non-governmental organizations.

22. On the subject of administrative detention, his delegation was eager to clear up a misunderstanding: an appeal against the administrative detention measure was possible in respect not only of the merit but also the procedure, as evidenced by various examples. The appeal was lodged first with the President of the District Court, then with the Supreme Court. Furthermore, the judge was called upon not only to examine, but also to approve, the administrative detention measure. In reality, the detention was ordered by the administrative authority but needed to be upheld by the judicial authority, which examined its merit. The Supreme Court had been known to invalidate an administrative detention measure. Administrative detention was ordered in cases where the aim was to avoid a trial in the ordinary (criminal) courts, when information supplied by informers could not be divulged at a public hearing. One could well imagine that a Palestinian testifying in court for the prosecution against another Palestinian was risking his life, hence recourse to administrative detention.

23. As to whether the Knesset exercised surveillance over the territories, he said it was obvious that it did not make laws for the territories, but could seek information and summon a minister to answer deputies' questions and attend committee hearings. In addition NGOs submitted communications to the Knesset, which also summoned officials from the Ministry of Defence to give clarifications. Administrative detention measures taken in the territories had to be referred to the judicial authority for consideration.

24. The fact that the Arab minority in Israel was not conscripted had been invoked as an act of discrimination. However, the debates in the Knesset showed that that minority was in favour of the status quo. A plan was afoot to create compulsory and universal national service which would bestow on persons performing their military service the same rights as members of the army.

25. With regard to the loss of Israeli nationality through marriage to someone residing in the territories, there had indeed been cases in which women in that situation had been asked to renounce their nationality. However, nationality could not be automatically relinquished and for quite some time women had no longer been asked to relinquish their nationality. Consequently, an Israeli citizen marrying a resident of the territories did not lose that nationality.

26. Reference had been made to discrimination between Jews and Arabs with regard to renewal of administrative detention measures. That form of

detention was only used when absolutely essential; furthermore, the overall numbers of detainees had fallen considerably. No specific statistics on detained Arabs were available. Even though there were disparities between Jews and Arabs in Israel, it should also be noted that Arabs residing in Israel enjoyed the same rights as Israelis with regard to the national insurance scheme, medical protection and other social security benefits.

27. Mr. BLASS (Israel) said that loans totalling 100 million new Israeli shekels had been allocated for East Jerusalem in 1997 for construction of new roads, a sewerage system and, more generally, works that had been neglected in previous years. The question of the Bedouins in the Negev had been raised again. His delegation had not claimed that there was parity or equality between Jews and Arabs in access to services, but had said that an effort was being made to redress the situation as far as possible, under the new blueprint which covered more municipal authorities.

28. Ms. Medina Quiroga took the Chair.

29. The CHAIRPERSON invited the Israeli delegation to continue its replies to the written questions in the list of issues (CCPR/C/63/Q/ISR/1).

30. Mr. BLASS (Israel), replying initially to the first two questions under item 11 concerning the right to life and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, said that his delegation would restrict its remarks to the Israeli security forces, which were responsible for some deaths, without supplying precise figures about the number of Palestinians or minors under 18 who had died. According to data supplied by the Israeli Defence Forces, between 1987 and 1997, the years of the intifada, approximately 100 Palestinians had been killed in incidents involving the security forces. Several hundred Israeli soldiers and civilians had also died as a result of Palestinian aggression.

31. His delegation had no precise figures for complaints filed in connection with State agents' unjustified use of firearms, but they had been numerous. The information available concerned prosecutions in the military tribunals over the past 10 years: some 50 soldiers had been tried in the military courts for using their weapons in a manner contrary to military instructions. In some cases death or injury had been inflicted, even on children. Those statistics did not encompass policemen, or members of the border patrols or other security forces. Consequently, the number of charges was higher than mentioned, and most persons accused had been convicted, except for a handful who had been acquitted.

32. He could not tell the average sentence passed on those convicted of such actions, because each sentence had to be placed in the context of the act, during which the perpetrator was often being stoned, threatened by Molotov cocktails, or in peril of his life. However, soldiers and members of the security forces had orders to use weapons with the utmost caution. Sentences consisted of imprisonment or suspended imprisonment and possible demotion. Victims could be compensated if they brought a successful civil redress action. While his delegation did not know how many petitions had been submitted, it could supply the total amount of the indemnities paid to

Palestinians since the beginning of the intifada, which was approximately 100 million shekels, or over $30 million. He should point out that the victims allowed some time to elapse before submitting their compensation claims, which had multiplied in recent years; accordingly, some 28 million shekels in damages had been paid to Palestinians in 1997 alone. Giving some specific examples of sentences imposed on persons tried and found guilty, he first mentioned the case of a sergeant found guilty of negligent homicide (punishable with 3 years' imprisonment) who had been sentenced to 9 months in prison and 21 months' suspended imprisonment. The second person convicted of homicide had been sentenced to one and a half years in prison, in addition to one and a half years' suspended imprisonment; the third soldier found guilty of homicide had been sentenced to one year in prison and two years' suspended imprisonment; a lieutenant found guilty of negligent homicide had been sentenced to six months' imprisonment, and another officer found guilty of negligent homicide had been sentenced to three months' imprisonment and six months' suspended imprisonment. Those were the harshest sentences passed on soldiers; other penalties were usually lighter. However, whether the sentences were imprisonment or demotion, they showed that the Israeli authorities took those occurrences greatly to heart.

33. The last question asked under item 11 concerned the possible effect of the proposed Intifada Compensation Law, which the Government had submitted to the Knesset one year earlier. That draft law was currently being studied by a Knesset committee; it was not known when the study would be concluded or what its outcome would be. While it was, therefore, too soon to go into the details of the text, it did preserve the right to appeal to the courts for reparation, but specified new rules for examination of those petitions. As it was, a new situation had arisen since the interim agreement and the withdrawal of the Israeli Defence Forces from the areas inhabited by Arabs. When a Palestinian submitted a request for compensation to a district court in Israel on the ground that a soldier had fired on him five years earlier when he was walking along minding his own business, it was very difficult to verify his statements, since the Israeli authorities no longer had access to Palestinian hospitals in Nablus, Hebron or Gaza, nor to the medical files; they could neither call Palestinian witnesses nor even visit the site to ascertain whether the plaintiff's description was accurate. The rules of evidence therefore needed to be adapted to the new situation created by the Israeli forces' withdrawal from the Palestinian territories. Moreover, in Israel such petitions could be filed within 7 years after the events; when the victim was a minor under 18 years of age, the 7-year period started when he reached the age of 18. It was therefore likely that the authorities would be receiving such complaints for many years to come, thus rendering verification difficult.

34. Turning to item 12 on the list, and the first question concerning the compatibility of the use of physical and psychological pressure during interrogation with the provisions of article 7 of the Covenant, he pointed out that it had been covered in the periodic reports submitted by Israel to the Committee against Torture and in replies to the questions raised by that Committee. It was no secret that the State of Israel was having to combat terrorist organizations that threatened the lives of innocent persons and that the interrogations conducted by the General Security Service (GSS) were

one manifestation of the struggle against those organizations, their aim being to discover in advance the plans of the terrorist groups: bombs, Molotov cocktails, use of firearms, suicide squads and car bombs.

35. At the same time, Israel was doing its utmost to observe acceptable norms consistent with the Covenant and the Convention against Torture. To preserve the lives of persons in Israel, Jews, Arabs, tourists and others, while respecting the dignity of the person under interrogation, posed a veritable dilemma, because an interrogation could not be conducted like a normal conversation between two adults, in which one answered the other's questions. People under arrest on suspicion of terrorist acts were specially trained not to answer questions during interrogation; they refused to reply because they did not wish to do so. If the Israeli authorities conducted an interrogation as though it were an ordinary conversation, they would be failing in their duty to preserve the security and lives of the people in Israel. The Israeli position was that by no legal standard whatever did the interrogation methods employed by the General Security Service to forestall acts of terrorism constitute acts of torture or cruel, inhuman or degrading treatment. Moreover, Israeli criminal law prohibited the practice of torture, and the Supreme Court had invoked that law in many of its cases.

36. GSS interrogation methods could not be described in broad terms because certain techniques were not always used - their use depended, rather, on the exigencies of the situation - and the decision was taken by the hierarchical superiors. The Landau Commission's guidelines authorized the use of a moderate degree of pressure on persons under interrogation. The Landau Commission had also mentioned the existence of the International Covenant on Civil and Political Rights in its report (of 1987), while specifying that the State of Israel was not bound by that instrument, which it had not yet ratified. The guidelines for GSS personnel suggested that the interrogator was not at liberty to inflict pressure tantamount to acts of torture or grievous harm to the person's dignity or honour (“pressure must never reach the level of physical torture or maltreatment of the suspect ... which deprives him of his human dignity”).

37. The interrogations conducted by the GSS actually saved lives and averted terrorist acts, as attested to by the fact that some interrogations had served to uncover the plans of particular terrorist groups, and then to dismantle them. It cited the cases of groups that had prepared to launch suicide bomb attacks on markets and in bus stations in Jerusalem, Tel Aviv, Haifa, Tiberias and Eilat, to occupy embassies, kidnap soldiers and abduct eminent academics or media figures. The methods approved by the Landau Commission in 1987 could not be disclosed for obvious security reasons. The strength of the security service in a democracy was contingent upon the secrecy of interrogation procedures. Moreover, States parties had no obligation under the Covenant to publicize their interrogation methods, which would help terrorist groups by enabling them to prepare for questioning. His delegation nevertheless conceded that in certain cases a person under interrogation was handcuffed, which could be uncomfortable; a bag could be placed over his head to prevent him from recognizing other persons in the same room; and he could be deprived of sleep, although never for protracted periods. Lastly, the method whereby a suspect being questioned was shaken was rarely used.

38. His delegation could not supply figures concerning detainees in Israel and the occupied territories who had been subjected to the approved interrogation methods, not knowing in which year the period under consideration should begin. In any event, ever since the beginning of the Oslo process the number of detained persons subjected to interrogation had fallen spectacularly. They were now essentially members of terrorist organizations such as Hamas and the Islamic Jihad, inasmuch as Fatah had renounced terrorism to join the peace process with the Palestinians. He had no exact figures regarding the numbers of detainees in Israel and the occupied territories subjected to methods of pressure approved by the General Security Service, but assured the Committee that ever since the start-up of the Oslo process they had been declining spectacularly. Detainees currently subjected to that type of interrogation were mostly members of the Islamic Jihad and Hamas terrorist organizations.

39. In response to the question of how often the Supreme Court had refused applications from the General Security Service to set aside an injunction restraining the use of those methods, he said that as a general rule the appeal to the Supreme Court was made by the detainee himself, or sometimes by his lawyer, who, before he had even seen his client or learned whether he was being subjected to physical pressure, called for an interim order to prevent such pressure. The Supreme Court reacted within a very short time (48 hours at the most) and summoned those responsible for the investigation, who were required to explain the interrogation methods they employed. The Supreme Court often issued an interim order prohibiting physical coercion. It was rare indeed for the State security bodies to file a petition with the Supreme Court to set aside its ruling. He believed they had done so in three or four cases only; in at least one of them the Supreme Court had rejected the petition.

40. He could not say precisely when the latest ministerial guidelines on the use of special interrogation methods had been adopted or what those guidelines contained, but pointed out that those texts were reviewed every three months.

41. Ms. Chanet resumed the Chair.

42. Mr. SCHOFFMAN (Israel), replying to the questions referring to item 13 of the list, explained first of all that his delegation could only supply information on the cases of persons detained by the Israeli security forces, but not in regard to those that came under the Palestinian Authority. Any person imprisoned or detained - in the occupied territories or in Israel - by the Israeli police or army, the General Security Service, the Border Police or the Prisons Service could file a mistreatment complaint. In that connection, he referred Committee members to table 9 of the report (CCPR/C/81/Add.13), which covered complaints of unlawful use of force by police officers and investigation results.

43. The same complaint and investigation procedures applied to the remedies available to persons who had been victims of ill-treatment at roadblocks or during house searches. If the persons in question were border guards, members of the General Security Service or policemen, the investigation was conducted by a special department of the Ministry of Justice. If they were soldiers, the procedure came under the Army Criminal Investigation Division. Persons

claiming to be victims of ill-treatment were entitled to compensation, which they could claim in the occupied territories before the claims officer; they could also take the matter to an Israeli civil court.

44. Mr. BARDENSTEIN (Israel), replying to the first question under item 14 of the list, explained that the report of the State Comptroller's Office dealt with the situation in the Gaza Strip between 1988 and 1992, and that the territory was currently under the jurisdiction of the Palestinian Authority. That having been said, the law authorized the Knesset to refrain from publishing the State Comptroller's report for the reasons it determined. Contrary to normal practice, the 1995 report had not been published by the competent parliamentary sub-committee. The authors of the report had noted a number of disparities between the interrogation methods employed in the Gaza Strip and the Landau Commission guidelines, and considered that the General Security Service investigation unit had not displayed the degree of integrity expected of an essential State security body. The parliamentary sub-committee had made a close study of the report's findings and had formulated conclusions and precise recommendations, most of which had already been implemented. However, it had decided to keep the report confidential for security reasons. Following a number of meetings with senior officials of the bodies concerned, the sub-committee had decided that the General Security Service had patently learned lessons from the scrutiny of its activities, notably by establishing an oversight, supervision and follow-up procedure to ensure observance of the provisions and restrictions to be applied in interrogations. It had further determined that the frequency of deviations from the Landau Commission guidelines could not be tolerated and must not be ignored by the authorities. On the one hand, it considered that in the light of the circumstances and the gravity and imminence of danger, the General Security Service's investigation unit should enjoy all the resources needed to combat terror, including effective methods of interrogation designed to prevent terrorist attacks. However, the sub-committee stressed that Israel must strive to maintain an image of a society informed by the principles of respect for human rights, dignity and welfare.

45. In response to the question on the remedies available before the creation of the Department for Investigation of Police Misconduct, he said that they had been both civil and criminal. In the event of a complaint, the police had opened an investigation and communicated the results to the Department of Public Prosecution. In addition, the suspect had enjoyed immediate access to the Supreme Court at every stage of an interrogation.

46. A part of the draft law designed to implement the Goldberg Committee's recommendations, which dealt with the availability of retrial, had been adopted, thus amending the Courts Law. In that connection, he referred Committee members to the paragraphs of the report (CCPR/C/81/Add.13) concerning enforcement of article 14 of the Covenant, especially paragraph 458. Also, the section of the Goldberg Committee's recommendations which concerned the efficacy of convictions based solely or almost solely upon the defendant's confession had been incorporated into a draft law currently before the ministerial committee on legislation. In any event, that draft law did not envisage invalidating the Landau Committee guidelines.

47. Mr. BLASS (Israel), replying to questions under item 15 of the list, said that segregation was a preventive measure that could be imposed by the prison authorities for reasons connected with State security, maintenance of security or order and discipline in prison or to protect the safety or health of the person concerned or of other prisoners. It was not a punitive measure and did not therefore circumscribe the rights and privileges of those subject to it. The Prison Regulations established that that measure could not be applied to a detainee for more than 14 days if he could be transferred to another establishment. The measure could only be extended beyond 14 days by order of the prison warden, and in the event of a period exceeding eight months, with the agreement of the Commissioner of Prisons. By and large, the person segregated was incarcerated with other detainees who did not put his life in peril. He could take daily walks and receive family visits, but in a separate place. Solitary confinement was a disciplinary measure that could be imposed on a detainee who violated the regulations, and could only be ordered by the prison warden or his deputy, following an investigation and a hearing in the prisoner's presence. The maximum duration of solitary confinement was 14 days, but it could not be imposed on a prisoner for more than seven consecutive days, followed by an interval of at least seven days.

48. Mr. BARDENSTEIN (Israel), replying to questions under item 16 of the list, said that there were a number of legislative provisions for the protection of women who were forced to work as prostitutes as a result of coercion or fraud. The main problem was that the authorities were not always aware of those situations, since the women were reluctant to file complaints. However, it sufficed for someone to report such a situation to the police for a criminal action to be set in train. In addition, a number of private bodies provided legal assistance to the victims, whose numbers had regrettably grown in recent years. One such organization, which had existed in Israel since 1995, was a branch of the International Abolitionist Federation, which concerned itself exclusively with prostitution-related matters. Lastly, a number of governmental and municipal services could also help women who were victims of that type of situation.

49. Mr. SCHOFFMAN (Israel), replying to questions asked under item 17 of the list, said that the six-month period of administrative detention could be extended indefinitely, but that each extension must be approved by the President or Deputy President of the Supreme Court; the decision could be appealed to that Court and, beyond three months, the Supreme Court periodically examined the propriety of the extension. Nor could persons subject to that regime be detained without charge for an unlimited period; the competent authorities had to justify the need to extend the detention to a judge. No Israeli resident was detained under an administrative detention order. Conversely, the measure was applied to 86 persons from the occupied territories, and to the Lebanese concerning whom the Committee had raised a question under item 20 of the list. To the question whether the review procedures differed in the occupied territories and Israel, the reply was affirmative, pursuant to an order dating back to the beginning of the intifada. Contrary to the procedure established in Israel, review of the propriety of an administrative detention ruling was no longer automatic in the occupied territories, but had to be sought by the detainee or his counsel. Inasmuch as the number of persons held in administrative detention was declining, there were plans to revert to the previous provisions, which were

modelled on the legislation applied in Israel, save in regard to the deadline within which the decision must be reviewed, which was 48 hours in Israel, as opposed to 96 hours in the occupied territories.

50. Mr. BLASS (Israel), replying to questions under item 18 of the list, concerning enforcement of article 9 of the Covenant, pointed out that upon ratifying the Covenant, Israel had made a declaration regarding the maintenance of a state of emergency for security reasons. For certain security-related offences the time limit for the first appearance before a judge could be a few days, even 15 days in the case of treason or espionage, which had extremely grave implications for State security. Fortunately, however, such cases were very rare. Enforcement of paragraph 3 of article 9 of the Covenant should therefore be viewed in the light of Israel's declaration concerning the maintenance of the state of emergency. He pointed out, nonetheless, that evidence permitting a person to be kept in detention for 15 days without being brought before a judge needed to be examined by a magistrate, who ruled on the continued detention for such a long period.

51. Concerning the question of information that might be withheld from a detainee's counsel, he pointed out that in accordance with evidence procedures, a ministry could issue a certificate declaring certain evidence to be confidential. However, the certificate was subjected to judicial control which, in the case of a breach of security, was exercised by a Supreme Court judge. The court hearing the case could invalidate the certificate and order the evidence to be communicated to the detainee or his counsel. In all cases, if the court established that an item of evidence would prove the accused's innocence, it required that it be communicated to him. In that event, it was not unusual for the prosecution to withdraw the indictment in order to protect the life of the informer or informers.

52. To the question whether the safeguards contained in article 9 of the Covenant applied to Palestinians detained by the Israeli authorities, he replied that that in principle was so. The safeguards established in the Geneva Conventions and those set forth in article 9 of the Covenant both applied to Palestinians. However, as he had said earlier, security reasons could require a person to be detained in the occupied territories for 96 hours before appearing before a judge. The detention could be extended for a further 96 hours by decision of a senior police officer. However, that did not often occur and the person was usually brought before a judge at the earliest opportunity.

53. Replying to item 19 of the list, he explained that all persons subject to trial in military courts under the Defence (Emergency) Regulations were initially brought before a judge in the civil courts and could later be handed over to a military tribunal, which might order his detention. However, the detention could not be motivated by the exigencies of the investigation, but only occurred at the trial stage. Concerning the type of offence that came exclusively under military jurisdiction, he referred Committee members to provisions 57 to 65 of the aforementioned Regulations, explaining that a person could be tried for the same crime in the military and the civil courts. Civilians were subject to those Regulations; they could be tried in the military courts, but only in cases where the offence constituted a breach of security. Any person detained under the Defence (Emergency) Regulations had

the right to be represented by counsel, and examined by a doctor immediately following his arrest. However, authorization to communicate with counsel was occasionally withheld during the early days following the arrest. In the case of a security-related offence, the law currently in force in Israel established a maximum period of 21 days between arrest and first contact with a lawyer. For such a long period the agreement of a district judge was necessary. Families were of course notified of the arrest and often made direct contact with the lawyer, who then sought authorization from the district court or the Supreme Court to contact his client. The appropriate judicial authority was obliged to reply within 48 hours at the most.

54. Mr. SCHOFFMAN (Israel), in connection with the first question under item 20 of the list, repeated his earlier reply to the effect that the Israeli forces were not responsible for the detention without trial of Lebanese in the Al-Khian prison and other detention centres in southern Lebanon. He considered the ruling of the Supreme Court on Administrative Appeal 10/94, which Committee members appeared to have in English translation, to be quite explicit. He would merely point out that, inasmuch as Israeli prisoners of war had been held for years now, with their exact whereabouts unknown, the competent authorities had deemed it wise to keep in detention several Lebanese whose fate would be discussed during negotiations for the release of the Israeli prisoners of war. It was the view of the Supreme Court that to release those Lebanese would seriously compromise the outcome of the negotiations.

55. Mr. BARDENSTEIN (Israel), replying to questions under item 21 of the list, said that, according to information from the police, the standards established in the new statutory provisions governing detention conditions were fully applied, with two exceptions: the requirement of one bed per detainee, and compulsory segregation of convicts and defendants. However, it was expected that both those deficiencies would be remedied within a year or so. The transfer of security detainees to prison establishments was contingent upon practical considerations; in other words, they were transferred as soon as places became free.

56. Lastly, concerning the programmes and facilities for promoting the rehabilitation of juvenile detainees, he stressed that the Prisons Service organized four programmes for the rehabilitation of convicted minors. All detainees were enrolled in a rehabilitation programme six months prior to their release. Counselling and psychological help were also provided, as were classes in Arabic, devised by the Ministry of Education. All minors had the same right to family visits as adult detainees. However, those who had committed security-related offences were kept separate, did not benefit from fully-fledged rehabilitation programmes, and were not authorized to leave the premises. That apart, they were subject to the same treatment and detention conditions as other juvenile detainees and enjoyed the same rights.

57. The CHAIRPERSON thanked the Israeli delegation for its replies and announced that the Committee would continue its consideration of the initial report of Israel (CCPR/C/81/Add.13) at a forthcoming session.

The meeting rose at 6 p.m.