



**International covenant
on civil and
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Held at the Palais Wilson, Geneva,
on Friday, 25 July 2003, at 10 a.m.

Chairperson: Mr. AMOR

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Israel (continued) (CCPR/C/ISR/2001/2; CCPR/C/77/L/ISR)

1. At the invitation of the Chairperson, the members of the delegation of Israel took places at the Committee table.

2. Ms. WEDGWOOD said that Israel's meeting with the Committee was taking place at a propitious time, in the light of recent developments in the peace process. Her first question concerned the use of force in combat. The law of armed conflict was informed by the values of the Covenant, and the 1907 Hague Convention on the law of war and the 1949 Geneva Conventions must now be read in the light of the past 50 years of development of international law. The notion of proportionality was also implicit in the law of armed conflict, particularly the idea that disproportionate harm should not be caused to civilians. In Israel, force appeared to be used not only to arrest suspected terrorists but as a pre-emptive measure, also described as liquidation, assassination or targeted killing. An important consideration in the use of force in capturing suspected terrorists was that guerrilla fighters did not usually wear distinctive uniforms, which led to the possibility of mistaken identity when targeting suspects. She therefore wished to know what precautionary measures or procedures were in place or contemplated to assess proportionality when using lethal force. She also wished to know what precautionary measures and procedures existed to assess the accuracy of information regarding suspects. Such measures were necessary to ensure transparency and to prevent any action involving force from seeming arbitrary or merely punitive. Lastly, she wondered whether there were alternative and more pacific procedures for detaining suspects that must be exhausted before force could be used.

3. On the related question of methods of interrogation, she noted that while the High Court of Justice had ruled in 1999 that the Israel Security Agency (ISA) was no longer authorized to employ certain investigation methods that involved the use of physical pressure against suspected terrorists, individuals prosecuted for employing such methods could invoke the restricted defence of "necessity". While the use of that defence might have been uncommon at the time of the 1999 High Court ruling, it had since been invoked more than 100 times, according to reports by the Public Committee against Torture in Israel, a non-governmental organization (NGO), and the Attorney-General had recognized that defence in each case. She acknowledged the dilemma posed by the notion of the "ticking bomb", but noted that human rights law contained no right to the use of force, and the Covenant completely banned its use.

4. Mr. KÄLIN agreed with the statement by the Israeli delegation that the security dilemma was a painful one to which there were no simple answers. Israel's report was impressive in many respects, and he particularly welcomed the abundance of detailed information and statistics and the open discussion of persistent problems. Where other Governments might have used a state of conflict as an excuse for not improving their country's human rights situation, Israel had made progress in several areas.

5. However, he was concerned at the lack of information on other issues, particularly the implementation of the Covenant in the occupied territories, an issue he wished to address not for political reasons but from the standpoint of legal consistency. He agreed with the delegation that it was not the Committee's task to monitor international humanitarian law; he also agreed that there were implicit distinctions between international human rights law and international humanitarian law, although the two bodies of law could be applied in a way that was complementary. Moreover, he believed that the Covenant was applicable in areas where Israeli authorities or their agents were active including the West Bank and Gaza.

6. The argument that human rights law was applicable only in times of peace was not inconsistent with the Covenant. Although article 4 referred only to public emergencies, war was in fact a public emergency. The European Convention on Human Rights was even more specific, speaking in article 15 of "war or other public emergency". Moreover, the presence of the Israeli delegation before the Committee would seem to constitute an admission that the Covenant was applicable in time of conflict.

7. He disagreed with the delegation's apparent view that there were certain times and places in which the application of international humanitarian law precluded the application of international human rights law. There was considerable States practice and jurisprudence of international bodies that indicated the contrary. The European Court of Human Rights had ruled that the European Convention was applicable in armed conflicts and in occupied territories, as in the case of Turkey in northern Cyprus. The Inter-American Court of Human Rights had repeatedly applied human rights law simultaneously with humanitarian law in situations of armed conflict. Perhaps the most striking case was that of Iraqi-occupied Kuwait: the General Assembly, in its resolution 45/170, had condemned the Iraqi authorities and occupying forces for their violations of human rights, including violations of the Covenant, in occupied Kuwait, while the Commission on Human Rights, in its resolution 1991/67, had condemned the Iraqi authorities for their violation of the international covenants on human rights. As the Commission's Special Rapporteur on Iraqi-occupied Kuwait, he had concurred, basing his conclusions on the drafting history of the Covenant, where the language of article 2 (1) bound every State party to ensure Covenant rights to all individuals "within its territory and subject to its jurisdiction".

8. Mr. SOLARI YRIGOYEN recalled that when the Committee had considered Israel's initial periodic report it had expressed concern at the use of "moderate physical pressure", a form of interrogation described in the report of the 1987 Landau Commission, which the Committee had considered to be a violation of article 7. It was clear that a part of Israeli society still found the use of torture to be an acceptable way of responding to terrorist attacks which had caused the deaths of many innocent civilians, yet it was equally true that there were Israelis who opposed the use of torture, as demonstrated by the 1999 High Court judgement ruling torture unacceptable except in the case of an imminent security danger, or the "ticking bomb" as it was called. That judgement, which had been criticized by conservative elements in Israeli society, had been a considerable step forward, but it was incomplete because it left the door open to exceptions and had also suggested to parliament that it might consider drafting legislation to legalize torture.

9. The report before the Committee had contained no information on the current situation with regard to torture in Israel. The statistics included were outdated and indicated that few penalties had been imposed despite the large number of torture cases. The delegation's oral presentation had been valuable, but insofar as torture was concerned, the delegation had simply denied that it had existed since 1999. And yet there were many reports that the practice continued. The Committee against Torture had recently expressed its concern on the matter and Amnesty International had issued reports every year for the past three years detailing the many forms of torture inflicted on Palestinian prisoners.

10. The Committee did not pass judgement on countries that reported to it but sought to engage in dialogue with them. However, that dialogue would be fruitless if the necessary information was not forthcoming. Accordingly, he wished to know what Israel's official policy was regarding torture and whether it was contingent upon security considerations. He also wished to know whether there were any exceptions to the prohibition of torture and, if so, what they were and what grounds existed for them. He was also interested in learning about complaints of torture. How many had been filed since September 2000 and how had they been dealt with? Lastly, he wondered whether persons responsible for conducting interrogations or any other officials were granted impunity in respect of torture in certain circumstances.

11. Sir Nigel RODLEY said that he, too, wished to focus on the question of torture. Prolonged incommunicado detention was one of the preconditions for torture, and constituted a violation of article 7, which was non-derogable. Thus the defence of necessity was totally unacceptable, a doctrine that had been upheld by the Committee, the European Court of Human Rights and the Inter-American Court of Human Rights.

12. The prescribed 92 days of detention, comprising 32 days resulting from an administrative decision followed by 60 days based on a judicial decision, was extremely difficult to reconcile with the Covenant. He noted that the State party was scheduled to amend its rules regarding access to the judiciary in the very near future, and he requested more information on that subject.

13. The reference by a member of the delegation to the absence of complaints of torture to the High Court seemed somewhat disingenuous. Reports of such complaints did exist, with 70 lodged in 2003 alone. He wished to know how those complaints had been dealt with, how many had been found to be justified and how many unjustified. Of those that had been found to be justified, how many of the persons accused had made use of the necessity defence? It would be useful to know what measures were taken to investigate such cases and how frequently they were taken.

14. The delegation had mentioned that two investigators had been imprisoned for improper activities prior to the current intifada. However, according to information provided to the Committee, there had been no prosecutions of Israel Security Agency (ISA) personnel since 1989. If that was correct, there were only two possible conclusions: either all the allegations made were untrue, which appeared highly implausible, or the acts had been condoned on the grounds of necessity.

15. The delegation had stated that all such complaints were thoroughly investigated under the close supervision of the Head of the Department for Special Functions in the State Attorney's Office. However, it was important to know exactly who carried out the investigation. Was it the

official in charge of investigating those who were interrogated and was it true that that official was an ISA agent? If so, how was the Committee to believe that investigations into allegations of torture were being conducted independently and impartially?

16. Mr. YALDEN said he wished to raise some matters concerning the mechanisms for control, enforcement and monitoring of the rights of disabled persons, women and members of minorities, and would appreciate a written response with statistical information.

17. Paragraph 6 of the report mentioned that a human rights commission was being established in Israel; however, the proposal had been under study since April 2000. The Government should endeavour to establish a genuinely independent body, with broad jurisdiction, that would follow the Paris principles and have powers of investigation and the possibility of remedying complaints.

18. When Israel had submitted its initial report, there had been a brief discussion on the role of the Ombudsman. It would be useful to have a copy of the Ombudsman's annual report in order to learn about his activities, the type of complaints received and whether they concerned minorities.

19. The second periodic report (para. 89) referred to two bodies that were engaged in the investigation of complaints against police officers: the Department of Investigation of Police Misconduct and the Israel Police Public Complaints Unit. Nevertheless, it did not describe their functions or their degree of independence. The Committee did not consider that self-examination and control were acceptable; the Department was attached to the Ministry of Justice, while the Unit was part of the police force.

20. There was also an Authority for the Advancement of the Status of Women (para. 23) and a Department for the Advancement of Women within the Civil Service (para. 26), which heard complaints. It would be useful to have more information about their activities, in particular on whether such complaints related to gender discrimination or sexual harassment, or both. The report had been very frank about the situation of women, stating that over 60 per cent were still concentrated in female-dominated, low-paying occupations (para. 36). Affirmative action was mentioned, but there was no explanation of who was responsible for the programme, who monitored it and what it had accomplished.

21. The report also mentioned the Commission for the Rights of Persons with Disabilities (para. 14) but did not say whether it was an independent body or what it had accomplished.

22. Mr. KHALIL noted that, although 20 per cent of the Israeli population were Palestinian Israelis, they were not represented on the delegation. Regarding question 1, he fully endorsed the remarks of the other members of the Committee, which stressed the issue of the Committee's competence and the Israeli Government's obligation to answer questions on the responsibilities it had assumed when it had acceded to the Covenant.

23. The Israeli criticism of the mandate of Mr. Dugard, United Nations Special Rapporteur on the situation of human rights in the occupied Palestinian territories, was based on the argument that Israel was not responsible for human rights violations in those territories since, under the Oslo agreements, it was the Palestinian National Authority that was responsible

for 90 per cent of the activities of the Palestinians in the territories, which included most Palestinian cities and towns. However, Israel had taken effective control and could now be expected to answer for the deplorable human rights situation in the territories. The Israeli authorities were systematically violating many articles of the Covenant in those areas and doctrines of “military necessity” could not justify what was being done.

24. With regard to the demonstrations that had taken place in October 2000, it would be useful to know the results of the investigation conducted by the commission of inquiry established following the killing of 13 unarmed Israeli Palestinian civilians and the wounding of several hundred more by the security forces. Had those responsible been punished and what kind of disciplinary action had been taken against them?

25. According to paragraph 25 of the report there had been significant changes in women’s representation in political parties and the Knesset in recent years. To what extent had qualified Arab women benefited from those changes?

The meeting was suspended at 11.10 a.m. and resumed at 11.20 a.m.

26. Mr. LALLAH said that, on the previous day, he had mentioned a law concerning the granting of immunity, and he wished to make it clear that he was referring to the new amendment to the Torts Law on State Liability, adopted by the Knesset on 24 July 2002, which appeared to broaden the definition of war activity. He would like to know to what extent it would prevent Palestinians being compensated for any injury caused by acts of the Israeli forces.

27. Mr. NITZAN (Israel) said he wished to address the allegation that Israel’s derogation from article 9 was excessive, in the light of article 4, because it meant that judicial review of administrative detention was not effective. He denied the contention and said there were three review instances in Israel, whereas article 78 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War required only one appeal body.

28. It had been argued that the appeals process was not effective because it was rarely invoked. However, according to the statistics for 2002, in 46 per cent of the cases before the military court, which was the first instance of judicial review, the periods of detention had been reduced or annulled, while, at the second level, 41 per cent of appeals before the military court of appeal had been accepted partially or in full. For the first three months of 2003, 44 per cent of cases before the first instance had been reduced or annulled and 23 per cent of appeals had been accepted partially or in full.

29. It had also been alleged that the grounds for detention were confidential and that the judicial review was therefore futile. However, all detainees were informed of the grounds for their detention in the arrest warrant; all the information which formed the basis for the detention was provided to the detainee; all the information gathered, including the part that was not provided to the detainee, was presented to the court at the three levels of review. In some cases, the court could subpoena witnesses, including ISA investigators, to provide information on the grounds for the detention. The detainee’s counsel could cross-examine those witnesses, subject

to confidentiality constraints, and could submit a list of questions about confidential issues, which the court would put to the witness. Lastly, it had been alleged that detainees were not allowed to meet with counsel; it was, in fact, not possible to prevent an administrative detainee from meeting with his counsel.

30. It had been claimed that the 1936 Press Amendment Ordinance limited freedom of speech because newspapers had to be licensed and an administrative authority could close down a newspaper. The issue had been covered in Israel's initial report, with reference to article 19 of the Covenant. The Ordinance was used very rarely and only one newspaper had been closed in the past 20 years. An appeal demanding the repeal of the Ordinance was pending before the Supreme Court and it was being reviewed at the request of the Minister of the Interior, who considered that the authority to close newspapers should lie with the courts, rather than an administrative authority.

31. The Committee had asked about the compatibility of the anti-terrorist legislation with article 15 of the Covenant. Israeli legislation did not permit retroactive prosecution or punishment. The 1948 Prevention of Terror Ordinance and the 1945 Defence Regulations authorized the Government to declare that a specific organization was a terrorist organization. But a person would not be indicted or convicted of the offence of membership of a terrorist organization unless there was sufficient evidence that he had been aware of the Government's declaration before committing the offence. The presumptions established in the 1948 Ordinance were evidentiary presumptions, which could be refuted; consequently there was no derogation of article 15 of the Covenant.

32. Mr. LEVY (Israel) said that, on 9 August 2001, the Attorney-General announced his decision to indict Mr. Azmi Bishara, a member of the Knesset, on two counts: for making statements in support of Hezbollah and for organizing an illegal visit to Syria by citizens of Israel. Under Israeli law, for the purposes of immunity, no distinction was made between statements made by members inside or outside the Knesset. The Attorney-General had found that the acts constituted encouragement of acts of terrorism and not a political statement. Mr. Bishara could appeal the Knesset's decision to the Supreme Court and, during a trial, he could argue that he had substantive immunity.

33. Question 6 of the list of issues (CCPR/C/77/L/ISR) requested information, inter alia, on Lebanese nationals currently held in administrative detention. Following the release of 13 Lebanese detainees as a result of a Supreme Court decision, only 2 were now being held because both posed a threat to security. The issue had been reviewed by the Supreme Court, which had approved their continued detention.

34. Mr. NITZAN (Israel) said that before 1999 it had been a practice of the ISA to use moderate physical pressure - though never torture - when interrogating persons suspected of terrorism, but a landmark 1999 Supreme Court decision had prohibited that practice. Since then, any complaints of such treatment had always been investigated, but had to meet the test of the "necessity defence", an internationally-recognized legal defence on the grounds that the use of some force was legitimate in the face of an imminent threat. A recent instance had been that of a terrorist being questioned because he knew the location of a bomb known to be about to explode in a populated area. During the thousands of interrogations in the past three years, that defence had applied in only a few dozen cases. Since 2000, there had been 70 to 80 complaints annually

that physical pressure had been used against suspects, and every one had been examined by a special independent investigator responsible to the Ministry of Justice, who worked closely with the Attorney-General and the State Prosecutor. None of the complaints had resulted in indictments, whether because they had been unfounded, because the necessity defence had applied, or because they had been based on hearsay or false affidavits. The Supreme Court had approved the Attorney-General's guidelines to the ISA on the matter, which in essence repeated the principles of the Supreme Court judgement of 1999.

35. Ms. SCHONMANN (Israel) said that the purpose of the security fence being built by Israel was not to establish a political border but to guarantee the safety of Israeli citizens who had been subjected to unremitting terrorism as a result of the infiltration of Palestinians into Israel's towns and cities. Since September 2000, violent attacks by Palestinians had killed over 800 people in Israel. The Government had decided to build the fence only after other options had failed to stem the attacks and the Palestinian authority had failed to fulfil its obligation under the Interim Agreement to stop Palestinian terrorism. Once the Israeli-Palestinian borders were negotiated and resolved in a future permanent status agreement, Israel would relocate the fence on the agreed border, as had been done after such agreements in the past. The Supreme Court had ruled that Israel was entitled to take a variety of measures to protect its security and, after a number of appeals and after balancing the right to property against the right to life, it had decided that the fence was one such lawful measure in the interests of self-defence. Although the route of the fence had been dictated by security concerns, humanitarian considerations had also played a role. In establishing the route, the Government had tried not to place it to the east of Palestinian villages or to requisition private Palestinian land, but basically to follow the "green line", allowing the possibility of unimpeded hot pursuit when necessary for military reasons. Special gates in the fence allowed the safe transport of goods and it sought to disrupt daily life as little as possible. Owners of any seized property or land were entitled to full compensation, and they could challenge the legality of the requisitions. Every effort was being made to solve problems caused to individual landowners, including the careful uprooting and replanting of 40,000 olive trees at Government expense. The Government was in no way concealing the route of the fence, which was a matter of public knowledge. It was untrue that a wall was being built along hundreds of kilometres, although one had been built along nine kilometres near two large Israeli cities and near two Palestinian cities that had been the source of heavy sniping. Information on the fence published by the Ministry of Defence had been circulated to members of the Committee.

36. Mr. LEVY (Israel), referring to positive developments since the previous report, said that since the adoption of the "Road Map", a number of meetings had been held between both sides directed at alleviating the suffering caused to Israelis and Palestinians by loss of life, injury or loss of property, and addressing problems such as roadblocks or curfews. There was now a new approach: fighting terrorism went hand-in-hand with reconciliation and renegotiation. Even though Israel, as a position of principle, did not recognize the applicability of the Covenant in the territories, it endeavoured at all times to live up to international humanitarian standards, especially regarding the treatment of civilian populations in armed conflict. It supported the freedom of movement of Palestinians both within the territories and between them and Israel. All the restrictions imposed had been due to the violence by Palestinians. Before the violent

riots some 100,000 Palestinians had travelled daily to work in Israel, and curfews and hindrances to education had been unknown. Israel was now trying to lift restrictions on the travel of Palestinians and aimed gradually to increase the number of permits for daily travel to Israel to 25,000 or more.

37. Regarding the right of Palestinians living in the territories to appeal to Israeli courts, all Palestinians, and indeed anyone - even non-residents or tourists, could make an appeal right up to the Israeli Supreme Court.

38. Regarding the three peace activists who had been killed or injured by Israeli defence forces, an investigation into one case had been completed and it had been determined that the woman involved had been killed unintentionally; the two other cases were still under investigation.

39. Once the commission established to investigate the events of October 2000 had reached its conclusions, the law enforcement bodies would decide if there were any grounds for taking action against specific Israeli officials. In the meantime, the Israeli police had acted to improve relations with the Palestinian minority by recruiting more Arab police officers and volunteers, becoming more involved in community affairs and meeting with Arab community leaders involved in all sectors of activity.

40. Mr. NITZAN (Israel), responding to questions about extrajudicial killings, said that in Israel's policy on the matter and according to the laws on armed conflict, the legal basis for such operations was that attacks were restricted to persons directly involved in hostile acts. Even persons known to be terrorists were legitimate targets only if there was reliable evidence linking them directly to a hostile act. Senior political figures had not been attacked for their political activities but because they had been directly implicated in hostile acts. It would, of course, be preferable to arrest such persons, but in areas like the Gaza Strip, over which Israel had no control, his Government did not have that option. Its security forces were instructed by the Attorney-General, however, to attack unlawful combatants only when there was an urgent military necessity and when no less harmful alternative was available to avert the danger posed by the terrorists. Furthermore, under the rule of proportionality, which formed part of the laws of armed conflict and was integral to Israel's accepted values, they were instructed to carry out such attacks only if they did not cause disproportionate harm to civilians. Consequently, at all stages of intelligence-gathering, operational planning and attacks on unlawful combatants, they always did their utmost to avoid injuring innocent persons. One could never, of course, ensure that only the guilty were harmed, especially given the vile practice on the Palestinian side of violating the rule that armed forces must distinguish themselves from the general population. For its part, Israel operated only against legitimate targets, using legitimate methods of warfare while abiding by the rule of proportionality in accordance with international law.

41. The CHAIRPERSON invited the delegation to respond to questions 10 to 18 of the list of issues.

42. Mr. LEVY (Israel), responding to question 10, said that there had been 830 Israeli casualties as a result of suicide and other bombings. Existing legislation on terrorism included the 1945 State of Emergency Defence Regulations, the 1948 Prevention of Terrorism Ordinance, the 1977 Penal Law and specific provisions relevant to the war on terrorism in other legislation.

There was an ongoing need for new tools to deal with increasingly sophisticated terrorist methods and the global scope of the terrorist threat. To that end, Israel shared expertise and techniques with other States and monitored developments in counter-terrorist legislation. He mentioned in that connection the International Legal Assistance Law of 1998, the Prohibition of Money Laundering Law of 2000, a far-reaching amendment to the Extradition Law of 1984 which generalized the definition of extraditable offences, and the Combating Organized Crime Law of 2003, which further criminalized terrorist organizations and streamlined international counter-terrorist action. Israel had signed and ratified most international anti-terrorism treaties. The security authorities gave top priority to the fight against terrorism. The prosecution indicted all those involved in planning and committing terrorist attacks and demanded severe penalties. The military judicial system had handled over 2,000 indictments in 2002 alone, 180 of which related to murder. Victims had many options for seeking rehabilitation and redress, and were entitled by law to seek compensation from the Government under a newly enacted Victims of Crime Law of 2001. The Penal Law authorized courts to order offenders to pay the victim compensation for damage and suffering.

43. Mr. NITZAN (Israel), responding to question 11, said that Israel had taken great care to ensure that, even in the difficult circumstances under which its armed forces had been operating for the past two years, the laws and rules governing their activities were respected. The mechanisms of the State and the Israel Defence Forces (IDF) for inspection, inquiry, prosecution and punishment remained in force. Investigating Military Police (IMP) files regarding complaints had been scrutinized (275 in 2002 and 362 as of end-June 2003). A few dozen indictments had been filed by mid-2003. Disciplinary measures had also been taken by defence force commanders. Since September 2000 the Military Advocacy had been approached in connection with over 2,000 incidents, a portion of which had related to the conduct of military personnel. In cases of alleged criminal activity such as looting and violence, an IMP investigation was launched. In the case of complaints relating to operational activities, such as the use of firearms, the IMP was asked to investigate only where a preliminary inquiry produced reliable evidence of misconduct. Complaints involving border police officers could be investigated by the Department for the Investigation of Police Misconduct.

44. The Palestinian decision to conduct violent activities from within densely populated areas had resulted in Palestinian casualties when Israel had taken action in self-defence. A criminal investigation was conducted only when misconduct by a soldier was detected. Unfortunately, the IMP received no cooperation from the Palestinian population or the Palestinian Authority, and was therefore unable to carry out autopsies or interview witnesses. Nevertheless, the IMP had conducted almost 360 comprehensive investigations, and indictments had been filed when sufficient evidence was found of, for example, abuse of Palestinians at roadblocks, using Palestinian civilians as a human shield and assaulting Palestinian detainees. In many cases, high-ranking officers had had to intervene to enable Palestinian witnesses to come to Israel to give testimony in the subsequent trials. The allegation that the military judicial system ignored information regarding misconduct by the armed forces was groundless. Moreover, the system endeavoured to understand the causes of problems in order to minimize their occurrence, and certain NGOs had been of considerable assistance in that regard. Their information had led in several cases to the development or updating of military guidelines.

45. Mr. LEVY (Israel), responding to question 12, said that Palestinian terrorist attacks between September 2000 and March 2002 had peaked with the Netanya Passover massacre of 30 innocent civilians. The Palestinian Authority had actively supported the terrorists, granting them impunity and respect. In an act of self-defence, Israel had launched Operation Defensive Shield targeting the terrorist infrastructure. Jenin camp was known by the Palestinians themselves as “the capital of suicide bombers”. The IDF mode of operation had been largely dictated by the need to minimize the danger to civilians. It had therefore used infantry forces to move through the camp, most of the civilian population having already departed. Throughout the operation, civilians had been given the opportunity to leave the camp and prior to entry into a house its civilian inhabitants were warned to leave. Terrorists had also been given repeated chances to surrender. The vast majority had been dressed as civilians and had operated from houses still occupied by civilian owners. Houses, streets and even corpses had been booby-trapped. Such behaviour constituted grave breaches of the laws of armed conflict and crimes against humanity. Under the circumstances, it was inevitable that civilians would occasionally be mistaken for terrorists or caught in crossfire. But not a single case of a deliberate attack on a civilian had been documented by the IDF or international organizations. The number of casualties on the Palestinian side, according to the United Nations Secretary-General’s report (A-ES-10/186), had been 52. The vast majority of those had been terrorists. The Palestinians themselves had confirmed that at least 25 were known terrorists affiliated to terrorist organizations. The number of civilian casualties in Jenin was therefore extremely low in relative terms. Israel had conducted a detailed analysis of the Jenin operation to ensure adherence to the laws of armed conflict. Terrorist infrastructure on a massive scale had been exposed and a large number of terrorists had been apprehended. As a result, there had been a marked decline in terrorist activities and casualties. The toll inflicted on Israel had been a heavy one: 23 Israelis had been killed.

46. Mr. NITZAN (Israel), responding to question 13, said that the IDF had issued an order in May 2002 reiterating Israel’s prohibition of the use of any civilian as a human shield or hostage. Every complaint was examined by the military prosecution and, if it was substantiated, a formal investigation was conducted leading in some cases to an indictment. Around 30 investigations had been conducted in recent years but almost no cooperation had been received from the Palestinian side. A battalion commander had been convicted a few months previously of using a civilian as a human shield. The sentence would be delivered within the next few weeks. An NGO case relating to the human shield issue had been filed before the Supreme Court acting as the High Court of Justice in May 2002 and was still pending. The Court had issued a temporary injunction prohibiting the State from using human beings as shields or hostages in its activities in the West Bank. The remaining point of contention related to the IDF seeking the assistance of local Palestinian residents during a military operation to deliver advance warning of an IDF military strike on a building suspected of housing a terrorist. Such a step was only taken with the consent of the local resident and in circumstances that did not expose him or her to a life-threatening risk. It was consistent with a number of international legal instruments, including Additional Protocol I to the Fourth Geneva Convention. He stressed that Palestinian terrorist groups frequently used members of their own population as human shields in their violent campaign against Israel.

47. Mr. LEVY (Israel), responding to question 14, said that the curfews were used only as a drastic measure to protect the lives of civilians and soldiers and to prevent terrorist acts. Every effort was made to minimize the effect of such measures on the civilian population. In the area

of health, improved mechanisms had been introduced in the light of lessons learned during Operation Defensive Shield. There had been a marked decrease in complaints in recent months regarding ambulance movements. A 24-hour health emergency rule was currently in force. Permits for moving during closures had been issued to those sectors of the population who were responsible for vital and life-sustaining infrastructure.

48. The West Bank and Gaza Strip had been declared closed areas by the area commander. Any person wishing to enter or leave those areas required a permit. The basis for the declaration was military necessity, i.e. the need to protect Israel and its citizens from hostile terrorist groups who abused free entry into Israel to commit acts of terror. Since September 2000 all residents had required a personal departure permit dependent on quotas and security criteria. Israel's standpoint, as approved by the Supreme Court, was that Palestinian residents of the West Bank and Gaza Strip did not enjoy an inherent right to enter Israel, which was a privilege subject to discretion, in accordance with international law. Even at the height of the hostilities, Israel had allowed the entry of 800 East Jerusalem hospital employees and employees of international organizations, and also entries for humanitarian reasons such as medical emergencies. Since the beginning of the implementation of the "Road Map", Israel had greatly increased the daily entry quotas for employment purposes. Commercial movements and the Gaza fishing zone had been expanded. Daytime curfews had been lifted and visits to prisoners increased.

49. Turning to question 15, he said that the State of Israel had been established as a homeland for the Jewish people. Under the 1950 Law of Return enacted by the Knesset, a Jew who migrated to Israel could be accorded the status of oleh and was automatically granted citizenship. Israel was no different from other States that granted preference to individuals with certain social, cultural or ethnic links to the State for the purpose of developing a national identity. Non-Jews were not prevented from immigrating and could apply for citizenship under Israel's Nationality Law of 1952. Citizenship could be acquired by birth, residence, or a combination of both, by return under the Law of Return, by naturalization or by grant. All persons regardless of religion or ethnicity who were born in Israel or outside Israel to an Israeli citizen were automatically granted citizenship. According to the current policy of the Ministry of the Interior, the Law of Return did not apply to the non-Jewish spouse of an Israeli national. A petition challenging the policy had been dismissed by the High Court of Justice. The new policy was consistent with the right to enjoy the rights enshrined in the International Covenant on Civil and Political Rights without discrimination, since it standardized the situation of all Israeli citizens who married a foreign spouse.

50. Ms. SHARON (Israel), responding to question 16, said that the Multi-Year Plan for the Development of Arab-Sector Communities was supervised by an independent private-sector auditor. Notwithstanding the difficult security situation, the estimated execution rate for the plan had been 91.9 per cent for the period 2001-2002. All development plans relating to sewage and road infrastructure, communal bodies and classroom construction were being executed at a rate faster than planned. In the area of residential construction, the Arab sector enjoyed the same level of State funding as any other sector in Israel. The Administration of Sewage Infrastructure had made loans and grants available to the Arab-sector authorities for regulation of the internal sewage system, conduit lines and end installations. Under the Electricity Supply Law (Temporary Order), some 6,000 Arab and Druze households had been connected to the electricity grid over the past three years. The Ministry of Transport had allocated 180 million new shekels (NIS) for internal road systems and safety projects in Arab-sector communities and

the Public Works Administration had allocated a further NIS 325 million for the road network. NIS 120 million had been allocated for the development of infrastructure in six industrial zones. The Ministry of Education had allocated NIS 700 million for classroom construction and the Ministry of Construction and Housing NIS 320 million for the construction of public institutions for cultural, social and sports activities.

51. Turning to question 17, she said that the Government Corporations Law had been amended in May 2000 to require appropriate representation of the Arab population on the board of directors of every government corporation. In October 2000, the Attorney-General had issued guidelines to government ministries on the implementation of the provision.

52. In 1998, in the Association for Civil Rights v. The Government of the State of Israel case, the Supreme Court, sitting as the High Court of Justice, had examined whether the right to equality created an obligation for appropriate representation of the Arab minority even where the law did not apply, as in the case of the Israeli Land Administration. The Court had held that, when appointing members of the civil service to sit on the Administration's council, the Government should take into account the need for appropriate representation of the Arab minority. It had ordered the Government to consider appointing a second Arab member, and the Government had acted on the order.

53. Between January 2001 and January 2003, the rate of Arab representation in governmental bodies had increased from 1 per cent to 5.7 per cent (38 Arab directors out of a total of 667 directors of government corporations and their subsidiaries). In statutory corporations and another 17 bodies, the rate of Arab population representation had increased to 3.3 per cent.

54. In December 2001, the Sub-Committee of the Planning and Budget Committee on the Advancement of Higher Education among the Arab Population had adopted a decision aimed at enlarging the pool of qualified candidates in order to achieve appropriate representation.

55. Mr. NITZAN (Israel), responding to question 18, said that the 1952 Law on Citizenship authorized the Minister of the Interior to revoke the citizenship of an Israeli citizen whose action was in breach of allegiance to the State of Israel. It was an extreme measure, used only in rare and exceptional cases. Any such person could file a petition to the Supreme Court sitting as the High Court of Justice. In 2002, the Minister had revoked the citizenship of two Israeli Arabs who had taken an active part in hostilities against the State. Mr. Nihad Abu Kishak, residing at the time in Judea and Samaria, had been a member of a Palestinian terrorist group. On revocation of his Israeli citizenship, he had announced that he considered himself a Palestinian and was willing to renounce his citizenship voluntarily. Mr. Kase Ubade, residing at the time in Lebanon, had not chosen to file a petition to the Supreme Court.

The meeting rose at 1.05 p.m.