

STATE OF ISRAEL

Ministry of Justice **Ministry of Foreign Affairs**

Follow-up to the Oral Presentation by the State of Israel before
The Committee on Civil and Political Rights

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON CIVIL AND POLITICAL RIGHTS

Compiled by the Department for International Agreements and International Litigation,
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As requested by the Committee in its concluding observations (observation no. 26) dated 3 September 2010, pursuant to rule 71, paragraph 5, of the Committee's rules of procedure, the State of Israel respectfully presents the information requested:

Concluding Observation no. 8:

"The Committee notes with concern the State party's military blockade of the Gaza Strip, in force since June 2007. While recognizing the State party's recent easing of the blockade with regard to the entry of civilian goods by land, the Committee is nevertheless concerned at the effects of the blockade on the civilian population in the Gaza Strip, including restrictions to their freedom of movement, some of which have led to deaths of patients in need of urgent medical care, and restrictions on the access to sufficient drinking water and adequate sanitation. The Committee also notes with concern the use of force when boarding vessels carrying humanitarian aid for the Gaza Strip, which resulted in the death of nine individuals and the wounding of several others. While noting the preliminary findings of the State party's investigation into the incident, the Committee is concerned at the lack of independence of the commission of inquiry and the fact that it is prohibited from questioning the officials of the State party's armed forces involved in the incident (arts. 1, 6 and 12).

The State party should lift its military blockade of the Gaza Strip, insofar as it adversely affects the civilian population. The State party should invite an independent, international fact-finding mission to establish the circumstances of the boarding of the flotilla, including its compatibility with the Covenant."

Entry into Israel of Palestinians In need of medical treatment

The District Coordination and Liaison Office, operates in the Erez Crossing and assists in all matters regarding residents of the Gaza Strip in need of medical treatment in Israel (or elsewhere), although the Supreme Court of Israel held on several occasions that these residents do not have a right to enter Israel, as this right is only granted to citizens in accordance with Section 6(b) of the *Basic Law: Human Dignity and Liberty*.

The office personnel perform its functions with great dedication, despite high personal risk imposed on them. This risk has increased since the Disengagement from the Gaza

Strip took place. This risk includes the firing of anti-tank missiles and rockets, sniper shots, concealing of demolition charges along the roads leading to the crossing, mortar shells and Qassam rockets fired towards the crossing and its surrounding area. These threats are routinely aimed towards uninvolved residents and soldiers who assist these residents on a humanitarian basis, and are an apparent part of the deliberate policy of the Palestinian terrorist organizations operating against Israel.

Terrorist organizations do not hesitate to exploit the very sensitive medical-humanitarian channel, in their endless attempts to harm civilian population and release suicide terrorists into Israel, disguised as patients and their escorts. There are many examples of such attempts, herein after are two examples:

- On March 2010, Aieesha Nazal, age 39, from Qalqilyah, was arrested for transferring money into the West Bank for a family of two deceased Hamas terrorists. She did so during her visit to Jordan for medical treatments, in February 2010.

- On June 20, 2006, Waffa al-Biss, 21, from the Jebaliya refugee camp in northern Gaza, a badly burned Palestinian woman from the Gaza Strip was caught carrying explosives for a suicide attack on her way for treatment at an Israeli hospital.

  Ms. Al-Biss was detained at the Erez crossing point from Gaza into Israel, after raising the soldiers' suspicions. She tried to blow up the explosives she was carrying but failed.

  Ms. Al-Biss suffered serious burns on her hands, feet and neck five months previously as a result of a stove explosion in her kitchen. Due to her severe burns, she was granted a humanitarian gesture by the Israeli authority, to be treated at an Israeli hospital after the accident. She was to make another trip to that hospital on Monday for further treatment - but planned to explode.

  In the TV interviews, she appeared confident and clear about her role as a suicide bomber. She said it had nothing to do with her disfigurement, which might make her less desirable as a bride. "Don't think that because of how I look

I wanted to carry out an attack, she said: "Since I was a little girl I wanted to carry out an attack."

Ms. Al-Biss said she was recruited by the Al Aqsa Martyrs Brigades, a violent offshoot of Fatah movement. "I believe in death[…] My dream was to be a martyr," she said.

Ms. Al-Biss was released on October 18, 2011, together with hundreds of additional prisoners, towards the release of the captive Israeli soldier Gilad Shalit. Following her release Ms. Al-Biss stated, *inter alia*, "I would be a suicide bomber three times over if I could".

- In addition in 2007 two pregnant women tried leaving the Gaza Strip for the purpose of a suicide terrorist attack in Israel. One of them – Fatma Zack, age 39, is a mother of eight children and was pregnant with her ninth child and the second is her niece Ruda Habib, age 30, and a mother of four children. The two were arrested on May 2007, near Erez crossing and admitted they were on their way to commit a suicide attack in Tel Aviv and Netanya.

Unfortunately, the real victims of this situation are the Palestinian residents who need to use the crossing for medical reasons, and their crossing is delayed to allow the performance of security inspections or even due to a closing of the crossing when there is a concrete threat to attack the crossing.

Furthermore, in many cases there is deficiency in the transfer of requests by the Palestinian Authority (PA), as the PA is ultimately responsible for the necessary funding to cover the relevant costs in the Israeli hospitals.

Despite the disengagement from the Gaza Strip and the fact that the control over the territory is solely in the hands of a savage terrorist organization, Israel continues to take determinate actions to prevent impingement to the medical services given to the civilian population in the Gaza Strip. These acts include the approval and coordination of bringing in medical equipment, medications, etc., in addition to offers to the Palestinian Authority to raise the level of competence of the health infrastructures in the Gaza Strip, by performing medical trainings and improving the existing health services.

Access to Water and Swage in the Gaza Strip

The Agreement on the Gaza Strip and the Jericho Area (1994) relates to the question of water in the Gaza region. In the framework of agreement implementation, control over the water supply system in the Gaza Strip was transferred to the Palestinians, who assumed responsibility for the management, development and maintenance of the water supply and sewage systems, save for the Israeli communities, mainly Gush Katif, where the wells, piping and storage reservoirs remained under Israeli ownership.

In 2005, as part of Israel's disengagement from the Gaza Strip, water supply systems that had served the Israeli communities, including 25 wells, storage reservoirs and a well-developed transmission system, were also transferred to the Palestinians. At the end of the process, all water supply and sewage systems in the Gaza Strip were under exclusive Palestinian control.

The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (1995) determined that water supply to the Palestinians would increase (during the period of the Interim Agreement) by 28.6 MCM/yr, of which 5 MCM/yr would be supplied to the Gaza Strip and 23.6 MCM/yr to the West Bank. It was agreed that this quantity would be in addition to the quantity consumed by the Palestinians in that year, namely, 118 MCM. As regards Gaza, it was agreed to transfer to the Gaza Strip an additional 5 MCM/yr from Israel's national system (at a price equal to the cost of desalinated water plus transport). The supply pipeline for this purpose was laid by Israel up to the fence with the Gaza Strip, and this supply awaits the Palestinian Authority's approval.

Desalination Plants

In recent years, Israel offered the Palestinians the possibility of erecting a seawater desalination plant in the Hadera area, which would be constructed and operated for them by the donor countries, and which would supply water directly to areas in the West Bank. In addition, Israel proposed to the Palestinians the purchase of water for the Gaza Strip directly from the desalination plant at Ashkelon. The Palestinians are well aware of the need to

develop a new major source of water (desalination), but are nevertheless not in a hurry to take steps in this direction.

The Gaza Aquifer has no impact on Israel and Israel does not prevent the flow of surface water or groundwater to the Gaza Aquifer. Clearly, the source of any additional water to the Gaza Strip must be desalination of seawater. General plans have been prepared (by donor countries, USAID) for seawater desalination, and their implementation can provide a separate, general solution for the population of the Gaza Strip.

Treatment of the Sewage and Wastewater

Programs (approved by the Joint Water Committee) exist for treatment of the wastewater, while funding has been offered by the donor countries for several Palestinian cities including Central Gaza Strip and others; the Palestinians are nevertheless not advancing the construction of these projects. It is important to bear in mind that treated wastewater can be used for irrigation of agricultural areas, thus freeing fresh water for municipal use and significantly increasing the quantity of water available for drinking, as done in Israel, making use of nearly 80% of the water for agriculture from treated water.

Unapproved Wells

Over 3,000 unapproved wells was drilled In the Gaza Strip immediately following Israel's withdrawal in 2005, causing a severe drop in water levels and seriously harming the quality of water in the Gaza Aquifer and the general Gaza water economy. This situation is ongoing and intensifying. The total damage caused is grave and irreversible. The critical situation in the Gaza Strip remains, and mostly harms the Gaza residents, though in the future, the Mountain Aquifer will eventually be severely affected.

The Palestinians routinely claim that the unapproved wells are affecting them as well and that they too are trying to combat the phenomenon. However, no concrete actions have been taken by them to stop the drilling, which constitute a serious violation of the Water Agreement.

To date, it is estimated that the number of wells has doubled; and no concrete action is being taken by the Gaza government.

Israeli Commission of Inquiry on the Flotilla Incident

On 14 June 2010 the Government of Israel has appointed an independent Public Commission (hereinafter "**the Turkel Commission**") to examine the conformity of the actions taken by Israel in connection with the flotilla incident with the norms and requirements of International Law.

The Turkel Commission is headed by a retired Supreme Court, Justice Jacob Turkel, and includes a number of independent Israeli experts as well as two distinguished international observers, Nobel Peace Prize laureate Lord William David Trimble from Northern Ireland (UK), and former Canadian Judge Advocate General of the Canadian Forces, Brigadier General (ret.) Kenneth Watkin QC. The Turkel Commission was also advised by two consultants that are prominent experts in the field of International Law, Prof. Dr. Wolff Heintschel von Heinegg, Professor of Public Law at Viadrina European University in Germany, and Prof. Michael Schmitt, Professor of Public International Law at Durham University in the United Kingdom. The proceedings of the Commission were fully translated into English (or Hebrew, as necessary) to allow for the full participation of the international observers and legal experts. These renowned experts agreed with the legal conclusions of the Report. Prof. Ruth Lapidot, a recipient of the Israel Prize for International Law, also assisted the Turkel Commission with advice and guidance.

According to Israeli law, the Commission is bestowed with significant investigatory powers. These include the authority to subpoena and summon witnesses to testify under oath. Special procedures were established to obtain evidence from Israeli soldiers. The Commission heard testimony from Israel's Prime Minister, The Minister of Defence, the IDF Chief of General Staff and other senior state officials, as well as from Israelis who participated in the flotilla and were present on the "Mavi Marmara" and from interested non-governmental organizations (NGOs). The Commission further reviewed all available documentary evidence and submissions made to it, including over 150 files of exhibits. It should be noted that the video recordings of the public hearings, a full list of the witnesses who appeared before the Commission and

a list of the exhibits were published on the Commission's website referred to below, in both Hebrew and English.

On January 23, 2011, the Turkel Commission issued an interim report, titled "*Report of the Commission for Examining the Maritime Incident of May 31, 2010 - Part One*" (hereinafter "**the Report**") also available online at the Turkel Commission's website - http://turkel-committee.com/content-107.html.

The Report examines the legality of the naval blockade imposed on the Gaza Strip and the legality of the actions carried out by the IDF in order to enforce the naval blockade and the conformity of these actions with the rules of International Law, as well as the actions of the participants of the flotilla.

Based on the testimonies heard by the Commission and material presented to it, the Commission concluded that the Government of Israel imposed the naval blockade on the Gaza Strip for various military-security reasons.

The Commission concluded that the imposition and enforcement of the naval blockade on the Gaza Strip was lawful and complied with the rules of International Law, in view of the security circumstances and Israel's efforts to fulfill its humanitarian obligations.

In order to assess the humanitarian impact of the naval blockade on the civilian population in Gaza, the Commission also examined the humanitarian impact of Israel's land crossings policy - the civilian restrictions on, *inter alia*, entry and exit of goods and movement of people, imposed on the Gaza Strip following the Hamas' violent takeover in 2007.

In this context, it is important to point out that the main question that the Commission addressed was whether Israel has complied with its obligations according to the rules of International Humanitarian Law. Having considered the applicable humanitarian obligations, and that most of the issues raised under International Human Rights Law are addressed by the *lex specialis* that applies here (i.e. IHL rules), and based on the considerable amount of material that was submitted to it, including the material submitted by human rights organizations, the Commission found that Israel is in

compliance with the humanitarian obligations imposed on the blockading party, including in regards to the land crossings policy.

Part B of the Report, dealt with the actions undertaken by Israel to enforce the naval blockade. The Commission found that the actions carried out by Israel on May 31, 2010, to enforce the naval blockade had the regrettable consequences of the loss of human life and physical injuries. Nonetheless, and despite the limited number of uses of force for which the Commission could not reach a conclusion, the actions taken were found to be legal pursuant to the rules of International Law.

The Report was submitted to the Prime Minister who presented it to the Government. The Report has also been submitted to the United Nations "Panel of Inquiry on the flotilla incident of 31 May 2010" established by the Secretary General of the United Nations on 2 August 2010, as further discussed below.

Note, that in a letter by the two international observers attached to the report, the observers express their appreciation to the work of the commission and further state that they "have no doubt that Commission is independent."

The Commission is currently working on the second part of its report pursuant to Section 5 of its mandate.

The Report of the UN Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident

UN Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla, established on 2 August 2010, concluded its work and published the Report of the Incident on 2 September 2011.

The Panel was composed of a Chair, former Prime Minister of New Zealand Sir Geoffrey Palmer, Vice-Chair, former Columbian President Alvaro Uribe, a member from Israel, Mr. Joseph Ciechanover, and a member from Turkey, Mr. Süleyman Özdem Sanberk.

The Panel received national reports from both Israel and Turkey. The Government of Turkey submitted an Interim and Final Report prepared by a Turkish Commission of

Inquiry comprised of senior government officials. The Government of Israel provided the Report of the Turkel Commission.

The Panel in its Report reaches several important conclusions which affirm Israel's position and the findings of the Turkel Commission regarding the legality of the naval blockade imposed on the Gaza Strip in 2009 and the circumstances surrounding its enforcement on 31 May 2010, these include, *inter alia*:

- The Panel acknowledges the security threats facing Israel and Israel's need to act to defend its citizens against attacks originating from the Gaza Strip;

- The Panel affirms the legal basis for the imposition of the naval blockade by Israel and its enforcement, concluding that Israel was entitled to impose the naval blockade, that its imposition met the various requirements set forth under International Law and hence that the blockade is legal;

- The Panel rejects the allegations that Israel had the intention to starve or to collectively punish the civilian population of Gaza in retaliation for the take-over of Hamas in Gaza. It also finds that the naval blockade "was proportionate in the circumstances". It determines that the naval blockade was not disproportionate both when considered on its own and also when taking into consideration "the *combined* effects of the naval blockade and the crossings policy".

- The Panel therefore notes that its conclusions with regard to the proportionality of the naval blockade differ from those of the Fact-Finding Mission established by the Human Rights Council. The Panel explains the different findings of the bodies, *inter alia*, by the fact that the HRC Fact-Finding Mission did not receive any information from Israel and did not have the opportunity to consider the same materials made available to the Panel

- The Panel questions the true nature and objectives of the flotilla organizers, particularly the IHH organization, concluding that the decision to deliberately attempt to breach a blockade with a large number of passengers was a dangerous and reckless act which put these individuals at risk**; The Panel acknowledges the violence encountered by IDF personnel upon boarding the *Mavi Marmara* and their need to resort to force for their protection;**

- The Panel also states that it is "**satisfied that extensive and genuine efforts were made by Israel to facilitate the delivery of humanitarian supplies from the flotilla to Gaza** thus obviating the need to challenge the blockade and thereby avoiding the prospect of violence".

Concluding Observation no. 11:

"The Committee notes with concern that the crime of torture, as defined in article 1 of the Convention against Torture and in conformity with article 7 of the Covenant, still has not been incorporated into the State party's legislation. The Committee notes the Supreme Court decision on the exclusion of unlawfully obtained evidence, but is nevertheless concerned at consistent allegations of the use of torture and cruel, inhuman or degrading treatment, in particular against Palestinian detainees suspected of security-related offences. It is also concerned at allegations of complicity or acquiescence of medical personnel with the interrogators. The Committee also expresses its concern at information that all complaints of torture are either denied factually, or justified under the "defense of necessity" as "ticking time bomb" cases. The Committee observes that the prohibition of torture, cruel, inhuman or degrading treatment in article 7 is absolute and according to article 4, paragraph 2 no derogations there from are permitted, even in time of public emergency (arts. 4 and 7).

The State party should incorporate into its legislation the crime of torture, as defined in article 1 of the Convention against Torture and in conformity with article 7 of the Covenant. It also reiterates its previous recommendation (CCPR/CO/78/ISR, CCPR/C/ISR/CO/3 5 para. 18), that the State party should completely remove the notion of "necessity" as a possible justification for the crime of torture. The State party should also examine all allegations of torture, cruel, inhuman or degrading treatment pursuant to the Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment (Istanbul Protocol)."

Legislation

As stated in Israel's Previous Reports, as well as Israel's Periodic Reports on the implementation of the International Convention against Torture and Other Cruel

Inhuman or Degrading Treatment or Punishment (CAT), all acts of torture, as defined in Article 1 of the CAT, are criminal acts under Israel's legislation. In addition, all forms of torture or other cruel, inhuman or degrading treatment or punishment are prohibited by Israel's *Basic Law: Human Dignity and Liberty.*

Detainees receive all the humanitarian rights provided by the Conventions Israel is a party to and by Israeli law, including access to legal counsel and meetings with ICRC representatives.

Moreover, in C.A. 5121/98, *Prv. Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06), mentioned in Israel's Periodic Report, the Supreme Court held that: "…the nature and extent of the unacceptable methods of interrogation included today in the scope of 'harming the human character of the interogatee' may be wider than in the past. This, in light of the interpretative impact of the *Basic Law* and considering the international contractual law that Israel is a party to."

Israel's Security Agency and its employees act within the framework of the law, and are subject to internal and external review by, *inter alia*, the State Comptroller, the State Attorney, the Attorney general, the Knesset and the High Court of Justice in Israel.

The "Necessity Defense"

The Supreme Court, in H.C.J. 5100/94 *The Public Committee against Torture in Israel v. The State of Israel* determined that:

> "[A] reasonable investigation is necessarily one free of torture, free of cruel, inhuman treatment of the subject and free of any degrading handling whatsoever. There is a prohibition on the use of 'brutal or inhuman means' in the course of an investigation. Human dignity also includes the dignity of the suspect being interrogated … These prohibitions are 'absolute.' There are no exceptions to them and there is no room for balancing. Indeed, violence directed at a suspect's body or spirit does not constitute a reasonable investigation practice."

Furthermore, in its decision, the Supreme Court held:

> "…- that the "necessity" exception is likely to arise in instances of "ticking time bombs," and that the immediate need ("necessary in an immediate manner" for the preservation of human life) refers to the imminent nature of the act rather than that of the danger. Hence, the imminence criteria is satisfied even if the bomb is set to explode in a few days, or perhaps even after a few weeks, provided the danger is certain to materialize and there is no alternative means of preventing its materialization. In other words, there exists a concrete level of imminent danger of the explosion's occurrence…"

The Israeli Security Agency (ISA) operates according to the above principles and fully adheres to the Supreme Court ruling. Although the Court was ready to assume that the "necessity defense" could arise in instances of "ticking bombs," the "necessity defense," as such, did not constitute a source of authority to utilize physical means. The Court held that any future directives governing the use of these means during interrogations had to be anchored in an authorization prescribed by law and not in defenses to criminal liability. To date no such directives have been introduced.

Treatment of Interrogatees Defined as "Ticking Bombs"

The State of Israel adheres to its position that the current wording in the *Penal Law* is in accordance with International Law, as can also be seen from the above ruling of the Supreme Court.

The ISA is obligated to conduct interrogations of individuals suspected of terrorist activity in order to gather information which will enable the ISA to foil, prevent and disrupt the execution of terrorist activities and related infrastructures. ISA interrogations are conducted according to the law and according to the relevant guidelines and regulations. The interrogations are monitored regularly by the ISA, the Ministry of Justice, the State Comptroller and by the Courts. The Attorney General's guidelines direct the ISA to operate according to established internal procedures, also relating to a system of internal consultations, relevant to its operations. Accordingly, internal guidelines were prepared by the ISA, determining the manner in which consultation with high-ranking officials of the ISA should occur when the circumstances of a specific interrogation support the necessity requirement. These guidelines were presented before the Attorney General.

Requirement to Report Suspicions of Torture and Abuse by Medical Personnel

Guidelines Regarding the Requirement to Report Suspicions of Torture and Abuse

The Ministry of Health completely denies any participation of medical doctors or other medical personnel and staff in unlawful activities. However, if an allegation regarding medical personnel ignoring unlawful activities and abuse does occur, these should be considered as exceptional isolated cases, and are not to be considered as the practical norm among the Israeli medical personnel.

According to the Ministry of Health, negative behavior among those operating in the health field are occasionally found and dealt with.

Physicians Employees in the Israel Prisons Service (IPS)

The duties of the physicians working in IPS facilities are to treat the medical and health care needs of the inmates, duties which supersede any other need or requirement of the IPS system. The IPS Physicians will not approve and will not take part in any activity of investigation or punishment of an inmate.

The Physicians working in IPS facilities perform their duties as required by the law in Israel and by the rules of medical ethics. Under this legal and ethical framework they treat inmates with full dedication for their well being, and prepare professional opinions on the medical condition of any detained person, as required and in full adherence to their medical confidentiality. Any decision regarding the type of treatment or need of evacuation is made by the medical staff alone. Internal procedures in the IPS were drafted in order to ensure full observance of these principles.

Note, that there is no "dual loyalty", the IPS Physicians loyalty is always to the patient. Claims with regard to "dual loyalty" have been examined by a committee, appointed by the Ministry of Health, at the end of 2002. According to the conclusions of this committee, every physician is required to consider the needs of the organization that he/she functions in, regardless of the identity of this organization. As such, there is always a question of the need to answer to demands of the employer, which may stand in contraction to the needs of the patient, and the principles of the

medical profession. Given this inherent potential conflict, the committee found no fault in the fact that the physicians are employees of the Israel Prisons Service.

To sum, physicians working in IPS place the needs of the inmates in the highest regard, and they will not allow any harm in the treatment for other considerations. The inmates enjoy full medical rights, such as confidentiality, and will receive any needed care based solely on the decision of the professional medical staff.

Involvement of Physicians in ISA Interrogations

The ISA operates according to the High Court of Justice decision in *H.C.J. 5100/94 The Public Committee against Torture in Israel v. The State of Israel*. The ISA employees operate in accordance with the law and are subject to internal and external supervision, including the supervision of the State's Comptroller, the State Attorney's Office, the State Attorney, the Israeli Knesset and the Supreme Court. The legislation and supervision also applies to the physicians working in the detention and imprisonment facilities.

Detainees receive all the humanitarian rights they are entitled to according to international human rights conventions which Israel is a party to, and according to the Israeli legislation, including, *inter alia*, ICRC visits and meeting with their attorneys.

According to the IPS, there is no involvement of physicians in alleged "torture committed by the ISA". The physicians are not subject to ISA interrogators, and do not assist them to return a detainee or an inmate for interrogation. The physicians in the detention facilities belong to the medical alignment of the IPS that provides the medical services, and their duty is to make sure that any detainee and inmate receives proper medical care.

The Inspector for Complaints against ISA

The Inspector for Complaints against ISA Interrogators ("The Inspector") operates independently under the instruction and close guidance of the Inspector's Supervisor in the Ministry of Justice, who is a high-ranking attorney in the Ministry of Justice. The Inspector is guided professionally by the Supervisor that approves his/her decisions. These decisions are further examined by the Attorney General and the State Attorney when the issues raised are sensitive or when the circumstances so

necessitate. Every complaint regarding improper treatment which is made by an interogatee is examined by the Supervisor, with no regard, whatsoever, to whether that person is considered to be a "Ticking Bomb."

Following comprehensive deliberations, the Attorney General announced in November 2010, that the Inspector for Complaints against ISA Interrogators, which has been an administrative part of the ISA, would become part of the Ministry of Justice and be subordinated – administratively and organizationally – to the Director General of the Ministry of Justice. This reform establishing an external inspector to examine complaints concerning ISA Interrogations, was supported by the Head of the ISA, the State Attorney and the Director General of the Ministry of Justice. Coordination towards completing this transition is in the final stages.

Investigations

In 2010, 51 examinations were conducted by the Inspector and in 2011 (until July 20th) 17 examinations were opened; compared to 47 examinations in 2007; 30 examinations in 2008; and 50 in 2009.

The fact that none of the examinations, initiated during the years 2006-2011, ended with the submission of criminal charges merely indicates that all the interrogations were performed according to law and procedures, and no ill-treatment or torture took place during the interrogations. Nonetheless, certain procedures and interrogation techniques were modified as a result of some of the examinations conducted. Additionally, in 2010, seven examinations were initiated as a result of complaints forwarded solely by the investigators themselves. In addition, 44 examinations were initiated based on complaints regarding interrogatees made by the ICRC and other public organizations. In 2011, up until July 20th, 3 examinations were initiated as a result of complaints forwarded solely by the investigators and 15 examinations were initiated based on complaints made by the ICRC and other public organizations

In 2009, Israel's High Court of Justice rejected a petition claiming that the Government and the ISA disregarded the High Court of Justice ruling in *HCJ 5100/94 The Public Committee against Torture in Israel v. The State of Israel.* The Court found no legal or factual basis for this claim.

Concluding Observation no. 22:

"The Committee is concerned at a number of differences in the juvenile justice system between that operating under Israeli legislation and that under military orders in the West Bank. Under military orders, children of the age of 16 are tried as adults, even if the crime was committed when they were below the age of 16. Interrogations of children in the West Bank is conducted in the absence of parents, close relatives or a lawyer and are not audio-visually recorded. The Committee is further concerned at allegations that children detained under military orders are not promptly informed, in a language which they understand, of the charges against them and that they may be detained up to eight days before being brought before a military judge. It is also very concerned at allegations of torture, cruel, inhuman or degrading treatment of juvenile offenders (arts. 7, 14 and 24).

The State party should:

(a) Ensure that children are not tried as adults;

(b) Refrain from holding criminal proceedings against children in military courts, ensure that children are only detained as a measure of last resort and for the shortest possible time, and guarantee that proceedings involving children are audio-visually recorded and that trials are conducted in a prompt and impartial manner, in accordance with fair trial standards; CCPR/C/ISR/CO/3 9

(c) Inform parents or close relatives of where the child is detained and provide the child with prompt access to free and independent legal assistance of its own choosing;

(d) Ensure that reports of torture or cruel, inhuman or degrading treatment of detained children are investigated promptly by an independent body."

Audio-Visual Recording of Investigations

The obligation to record the investigation of suspects is gradually implemented according to the type of offence, as detailed by the *Criminal Procedure (Investigation of Suspects) Law* 5762-2002: Since August 1, 2006, the obligation applies to murder offences; from August 1, 2007, it applies to manslaughter offences as well.

Furthermore, as of January 1, 2009, the obligation applies to all other offences punishable by a minimum of 15 years imprisonment. Beginning on January 1, 2010, the requirement will also apply to offences punishable by a minimum of 10 years imprisonment.

In addition, The Police completed the installation of the recording systems in all of its units, and in some units several systems were installed. A recent survey conducted by the Investigative Support Branch showed that the investigating units are acting according to the law. Hereinafter are the data for 2009:

	No. of cases	**No. of suspects investigated**	**No. of suspects that were recorded**	**No. of recordings and CDs**	**No. of recording converted to text**	
					Internally	**Outside the investigating unit**
Murder offences	135	801	801	2,469	278	1,661
Manslaughter offences	10	31	40	80	6	21
Offences punishable by a minimum of 15 years imprisonment	17,104	28,537	8,548	13,532	1,798	2,440
Offences punishable by a minimum of 10 years imprisonment	3,008	5,037	3,378	5,646	1,162	1,391
Total	20,257	34,406	18,734	38,310	3,779	6,274

Source: The Ministry of Public Security, August 2011.

The interrogation of a suspect in security offences was made an exception to the requirement of recording interrogations, for a period of five years since the Law came into effect. Afterwards, the exception period was extended for a period of four additional years. No additional changes have been made.

Furthermore, there are additional requirements of recording investigations stipulated by the Law, for example - when the investigation is not documented in writing in the language it is conducted in, it is possible to use audio recording. When a person can not read or write or if he/she is a person with a disability that makes it difficult for him/her to confirm the correctness of the documentation in writing - it is also possible to make due with audio recording. Also, when the investigation is conducted in sign language- there is an obligation to record the interrogation with visual methods.

Minors and the Age of Majority

On September 29, 2009, a Juvenile Military Court was established in the West Bank, following the July 29, 2009, issuance by the Israeli Defense Force (IDF) commander in Judea and Samaria of the *Security Directives Order (Temporary Order) (Amendment No. 109)* 5769-2009 (hereinafter "the previous order"). This Order was issued towards guarantying adequate and professional care of minors-detainees, while separating them from adult detainees and in order to set additional privilege for minors and children.

In a recent Amendment of the **S**ecurity Provisions Order (Amendment No. 10) (Judea and Samaria) 5711-2011 (Order No. 1676), of September 27, 2011 (hereinafter: "the current order"), the validation of the previous order was prolonged and the order is currently valid until September 29, 2012.

The current order raised the age of majority in Judea and Samaria to 18 years instead of 16. This amendment is of significant importance, due to the fact that it raises the level of protection for minors in Judea and Samaria and provides further orders regarding parent notifications, questioning etc.

Access to Parents and Appointment of Attorney - According to Section 46K of the Order, the Juvenile Military Court is authorized to appoint a lawyer for a minor, if it is considers it to be in the minor's best interest. The Military Courts do not avoid appointing a defense attorney funded by the Civil Administration. They do this not only in severe cases, but also in minor cases where there is no obligation to appoint a defense attorney. The key data that should be noted is that in 99.9% of the cases, the accused is represented by a defense attorney.

Inmates are entitled to meet with their lawyers and receive consultation; these meetings are held behind a divider, and with the Prison Director's approval, in exceptional cases, without a divider.

According to the Order, the Juvenile Military Court is authorized to order that a minor's parents will be present in every hearing in his/her regard (Section 46L(a)). Moreover, according to the Amendment, the parents have the right to act on behalf of

the minor by filing applications, questioning of witnesses and pleading together with or instead of the minor (Section 46L(b)).

Probation Officer Report – According to the Order, after convicting a minor, the Juvenile Military Court may, if it thinks it is vital for the sentencing, order the preparation of a Probation Officer Report which will be prepared by the Welfare Staff Officer in the Civil Administration. The review must contain, as much as possible, information regarding the minor's history, family, financial situation, health (of the minor and his family members) and personal circumstances which led him/her to commit the offense. The review may also recommend the court on the chances of the minor to be reformed (Section 46M).

Parents' notification

In accordance to Section 4 of the Order, Section 136 will be supplemented by three sections: Section 136A titled "Notice of investigation of a minor suspect or of his arrest", Section 136B titled "Questioning of a minor suspect without notification to his parent or another relative" and Section 136C titled "Notification to a minor suspect of his rights, before his questioning".

According to Section 136A:

a) (1) When a minor who is suspected of having committed an offense (hereinafter - "Minor Suspect ") has arrived at or is brought to the Police Station, not having been arrested, under the provisions of Section 22(c) of the Order, or a minor suspect has been arrested, the officer in charge of the investigations at the Station, and in his/her absence - the Commander of the Station and in the absence of both of them - the Officer in Charge of the Station (hereinafter - "the Officer in Charge"), shall notify his/her parent as soon as possible and after having informed the minor that he/she intends to do so, provided that the minor has provided the contact information of the parent, and if it is not possible to locate the minor's parent and reasonable effort has been made – he/she shall notify another adult relative or an adult person known to the minor, provided that the minor has provided contact information of that person (hereinafter - "another relative"), unless there is no possibility of locating either of them after reasonable effort has been made considering the circumstances of the case.

a) (2) Despite the provisions of Paragraph (1), such notice as mentioned in the paragraph above shall not be given in the case of a minor who has arrived at or has been brought to the police station, not under arrest, if the minor has expressed his/her objection, on reasonable grounds, for such notice to be given; In the case of the minor being under arrest, appropriate consideration shall be given to his/her request concerning the notification, in consideration to his/her age and maturity, and provided that such notice shall be given to another relative.

b) Where notice to a parent of a minor suspect according to subsection (a) has not been given due to inability to locate the parent as stated in subsection (a), the Police shall notify the parent, as long as the minor is being investigated or under arrest, whichever is later, without delay, should the opportunity arise of locating the parent with reasonable effort, provided that the minor has provided the contact information of the parent.

c) (1) Failure to notify a parent or another relative of a suspect minor due to inability to locate either of them with reasonable effort considering the circumstances of the case according to subsection (a), shall be recorded in writing.

c) (2) Notification of the minor, his/her response as well as his/her objection if he/she expressed such objection, and the decision of the Officer in Charge, shall be recorded by the Officer in Charge, visually, vocally or in writing.

According to Section 136B:

a) Despite the provisions of Section 136A, the Officer in Charge may, in a reasoned written decision, order the summoning of a minor suspect who is not under arrest for questioning or for his/her questioning, without giving notice to his/her parent, or to another relative, as the case may be, if he/she is convinced that such notification might -

1) Harm the physical or mental wellbeing of the minor or of another person;

2) Cause obstruction of the investigative processes having reasonable suspicion that one of the persons enumerated above, or a relative of the parent of the minor or the other relative, was an accessory to the offence of which the minor is suspected;

3) Regarding a minor suspected of one of the offences enumerated in the First Supplement - endanger the security of the area.

b) Where the Officer in Charge has issued an order to proceed according to subsection (a), without notifying the minor's parent or other relative, and eight hours have elapsed since the minor's arrival at the Police Station or the reason justifying the summons for questioning without notifying the parent has ceased to exist, whichever is the earlier, notification shall be given to the minor's parent without delay, as to the minor's presence at the Police Station and of his/her questioning, provided that the minor has provided the contact information of the parent.

c) Where the reason for not delivering notification to the minor's parent or other relative has ceased to exist, such notification shall be given without delay, unless the power mentioned in Sections 54 and 55 of the order has been exercised.

According to Section 136C:

a) Prior to the questioning of a minor suspect, the investigator shall notify the minor, in a language that he/she understands, considering his/her age and his/her degree of maturity, of his/her right to consult with a lawyer in private, in addition to the investigator's obligations under any law regarding a suspect minor.

b) Before questioning a suspect minor under arrest, an investigator shall give notice of the investigation to a defense lawyer, of whom the minor has provided details; without derogating from the provisions of any law, nothing by virtue of such notification to a defense lawyer to whom the minor has given his/her details as mentioned above, shall have the effect of delaying the investigation.

c) The Commander of the Police Forces, as they are defined in the Order, shall give instructions as to the form of notice stated in subsection (a).

Limitation period - Section 144 was also amended in order to shorten the limitation period set by the previous order regarding criminal offences committed by minors. The limitation period for these offences is now one year. The limitation period for security offences has not been changed.

Reports regarding Torture or Cruel, Inhuman or Degrading Treatment of Detainees

Every complaint or report regarding torture, cruel, inhuman or degrading treatment of detainees, adults and children alike are investigated promptly by the relevant authorities.

A number of sections of the *Penal Law* 5737-1977 provide criminal sanctions against acts of torture. Reference should also be made to the *Basic Law: Human Dignity and Freedom*. Moreover, strict guidelines relating to methods of interrogation of security suspects are also directed to prevention or torture.

Another relevant statutory provision is section 12 of the *Evidence Ordinance [New Version]* 5731-1971 which invalidated any confession made by an accused person not made freely and voluntarily.

Section 24(1)(a) of the *Penal Law* allows the defense of acting under superior orders only where the orders are lawful. Where an order is manifestly illegal, as would be the case with an order to commit acts of torture, acting under such order would clearly not constitute a defense for a person accused of committing such acts.

Furthermore, Israel legislation provides for different supervision and oversight mechanisms in order to ensure that the relevant authorities uphold the law and in particular to prohibition of torture or other cruel, inhuman or degrading treatment: Israel *Security Agency Law* 5762-2002

The Law addresses the major relevant issues concerning the mandate, operation, and scope of functioning of the ISA.

Interrogators of the ISA

The ISA is responsible by law for the safeguarding of Israel's security, regime, and state institutions, from terrorist threats, espionage and other threats. In order to fulfill its purpose, the Agency performs, among other things, investigations of suspects in terrorist activity. The main goal of such investigation is data gathering intended to foil and prevent terrorist acts.

The day by day fighting against terrorist infrastructure that seeks to carry out terrorist attacks and to spread death and destruction within the state of Israel obligates the security services, including the interrogators of the ISA, to make every effort to foil and disrupt such aspirations. The last few years saw many civilians' lives saved as a direct consequence of data originating from those investigations.

Persons interrogated by the ISA receive, at the beginning of the interrogation, a document that states their rights as interrogatees in a criminal investigation, stating their right to refrain from self incrimination, their right to see a lawyer', etc.

Israeli Police Officers

Israeli police officers that operate in police detention facilities, in which ISA interrogators operate, comply with law and its frame, and the treatment of detainees held in these facilities, including security detainees, is compatible to the law as well as internal police regulations and is subject to continuous scrutiny by the Department for the Investigation of Police Officers in the Ministry of Justice and of the courts.

For further information please see Israel's reply to concluding observation no. 11 above.

Concluding Observation no. 24:

"The Committee notes that school enrolment rates have increased and that infant mortality has declined among the Bedouin population. Nevertheless, the Committee is concerned at allegations of forced evictions of the Bedouin population on the basis of the Public Land Law (Expulsion of Invaders) of 1981 as amended in 2005, and of inadequate consideration of traditional needs of the population in the State party's planning efforts for the development of the Negev, in particular the fact that agriculture is part of the livelihood and tradition of the Bedouin population. The Committee is further concerned at difficulties of access to health structures, education, water and electricity for the Bedouin population living in towns which the State party has not recognized (arts. 26 and 27).

In its planning efforts in the Negev area, the State party should respect the Bedouin population's right to their ancestral land and their traditional livelihood based on

agriculture. The State party should also guarantee the Bedouin population's access to health structures, education, water and electricity, irrespective of their whereabouts on the territory of the State party."

The Advisory Committee on the Policy regarding Bedouin Towns

The Advisory Committee on the Policy regarding Bedouin towns was established, in its present form, on October 24, 2007, based on Government Resolution No. 2491. The Advisory Committee's task was to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which was to establish the norms for regulating Bedouin housing in the Negev, including rules for compensation, mechanisms for allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislative amendments, where needed.

The Advisory Committee, chaired by former Supreme Court Justice Mr. E. Goldberg, comprises seven members, including two Bedouin representatives.

The Advisory Committee's hearings were public and took place in Be'er Sheva. The Advisory Committee held its public discussions between January and May 2008, and on December 11, 2008, submitted its final recommendations to the Government. The Committee's final report dealt with three main areas: land, housing and enforcement. These areas were focused upon after the Committee recognized that only an integrated policy that included these issues could help in organizing the housing of the Bedouin in the Negev. The Committee recommended the development of an arrangement which balances the needs of the Bedouin and the State, can be implemented quickly and established by legislation in a way that assures a defined, consistent and egalitarian policy. The Committee asserted that such a policy would be a fair and implementable solution for the land disputes, which would serve to renew the Bedouin's confidence in the State and its intentions.

On January 18, 2009, the Government confirmed Resolution No. 4411 after a full examination of the Committee's Report. The Government accepted the Committee's recommendations as a basis for arranging the Bedouin's housing in the Negev, and appointed a professional cadre which comprises representatives of Government Ministries, the Israel Land Administration and the Attorney General. The cadre was

intended to submit a detailed and implementable outline aimed at fulfilling the Government Resolution.

On May 2011, the implementation cadre completed the preparation of a detailed Governmental Plan for regulation of the Bedouin housing in the Negev and submitted the plan to the Government. The plan was also available for the public review on the Prime Minister Office website.[1] The plan offers the Government a feasible outline to the fulfillment of Resolution No. 4411. The Cadre aimed to enable the Government to operate an effective national plan, taking into account the resources required and the need of coordination and cooperation between the different authorities and bodies involved. The plan is based on the recommendations of the Goldberg Committee and on intensive staff work that was conducted in the past year and included consultations with representatives of various segments of the Bedouin community, as well as comments made by civil society organizations on the Committee's Report.

The cadre's final report mentioned six main principles for the operation of the national plan, among them:

- Regulation of the consideration granted for Bedouin's land claims in legislation.
- Planning and Regulation of the Bedouin's housing in the Negev.
- Limited Schedule - execution of the plan on a short period of time, According to the plan, the main issues will be settled and implemented within five years.
- The State must take actions to enforce the Planning and Construction laws.
- Operational Aspects - the establishment of a small operational headquarters to lead the national process and ensure its success.
- An Economic Plan geared towards economic advancement and development of the Bedouin Population in the Negev.

Finally, on September 11, 2011, the Government approved the Cadre's plan to Provide for the Status of Communities in, and the Economic Development of the Bedouin Population in the Negev, based on the recommendations of the

[1] http://www.pmo.gov.il/PMO/PM+Office/Departments/policyplanning/goldberg.htm

Goldberg's committee. The Government also approved a plan for the economic development of the Bedouin population in the Negev, in the sum of 1.2 Billion NIS.

Education

Bedouins enjoy all the rights and opportunities of Israeli citizens, including the right to receive formal education at all levels, in accordance with the laws of Israel.

In 2009, there were 72,460 pupils in the educational institutions of the Bedouin population in the Negev, in comparison with 45,117 pupils in 2001. Since 2001 there has been an increase of approximately 70% in the number of educational institutions established in Bedouin localities in the Negev.

In recent years, the Ministry of Education conducted various activities for children of all ages. These activities included developing and improving learning skills in Arabic, Hebrew, English, mathematics and sciences, and also computerizing the school learning environment.

Following the Ministry of Education's multi-year plan to reinforce the education system in Bedouin localities and several Government Resolutions on the matter, State funding was allocated to fund new educational facilities in Bedouin localities (including kindergartens, schools and special education institutions) both in the North and the South. In addition, funding was allocated towards establishing and upgrading science and computer laboratories. Furthermore, pedagogic counsels provided assistance to school principals in preparing the school's work plan and State funding was allocated towards reinforcement hours of pupils in need at all levels of education, aimed at diminishing pedagogic gaps and improving the rate of entitlement to matriculation certificates.

The positive results of these efforts are already apparent - the rate of 12th grade Bedouin pupils entitled to matriculation certificates increased by 6% between 2004 and 2007. Furthermore, in 2009 the rate of 12th grade Bedouin pupils in the Negev entitled to matriculation certificates increased by 2.8% in comparison to 2008.

The Psychological-Counseling Service Department - The Counseling and Psychological Services ("Shefi") is a department within the Ministry of Education, which is responsible for providing counseling, psychological services, and educational counseling for pupils, parents and educators. "Shefi" currently has 50.3 educational psychologists allocated to kindergartens and schools in the Bedouin population in the south and 43 educational advisors working with the Bedouin population in the south.

Special Education Frameworks Serving the Bedouin Population

There are four special education schools (in Kssaife, Arara, Rahat and Segev-Shalom), three regional support centers (in Rahat, Abu-Basma and Hura), as well as 25 treatment kindergartens for special education serving the Bedouin population in the southern part of Israel. In 2008, two additional regional support centers were opened, as well as ten classes in primary schools. In addition, all primary and intermediate schools received additional reinforcement teaching hours.

In the northern part of Israel - a new school for pupils with severe mental deficiencies was opened, as well as six special educational kindergartens. In addition, four advance classes in secondary schools were added, as well as 3,000 hours of integration.

New Educational Programs

A new program to teach Arabic language skills in primary schools began in 2008 and will continue functioning until 2011. In addition, new educational cultural and heritage programs were added, as well as a program to teach the Hebrew language and literature in primary and secondary institutions. Furthermore, the education program in history was adjusted in order to better suit primary, intermediate and secondary schools.

The 'Daroma' (South) program – in 2004, the Ministry of Education commenced a program to improve educational achievements among exceptional pupils in the 10th - 12th grades. In the 2008-09 school year, the program was operated in five High-Schools (attended by approximately 300 pupils). The purpose of the program is to advance these pupils in Mathematics and English, and to develop their learning skills.

The pupils participate in courses in academic institutions such as the Ben-Gurion University. The program also focuses on self-empowerment and activities within the community and for the community's benefit.

As of 2008, the Ministry of Education has financed a similar program, "Atidim," in two local authorities. In the north, a similar program entitled "Atidim Launch" operates in two local authorities. During 2009, another program for the achievement of excellence commenced operation in Ka'abia High School – this program is also funded by the Ministry of Education.

An extra-curricular activities program is also operated in the Bedouin localities in the Negev, in conjunction with the Ministry for the Development of the Negev and the Galilee, and the Israel Association of Community Centers. The program provides scholarships for extra-curricular activities, for children in the 4th to 6th grades in the Negev.

In addition, two classes of diagnostic learning skills were opened, one in the College of Sakhnin (North), and the second in Be'er-Sheva (South) in the framework of the Open University, and funded by the Ministry of Education.

Abu-Basma Regional Council

Abu-Basma regional council was officially declared on February 3, 2004. It was founded for five of the new Bedouin towns mentioned above, and it is also responsible for ten Arab villages, six of which are Bedouin villages.

Government Resolution No. Arab/40 3956 of July 18, 2005, assigned Abu-Basma regional council with attending to the Bedouin population's needs in areas such as education, infrastructure, employment, transportation, agriculture etc., and established a total budget of 387.7 Million NIS (U.S. $104,783,784) for the development of infrastructures and the building of public structures in Abu-Basma and Al Sid localities between 2005 and 2008. The budget included 285 new school and kindergarten classrooms which will be operated by the Abu-Basma Regional Council, targeted and specialized educational programs with a budget of 3 Million NIS (U.S. $810,811). Between April 2004 and July 2008, the establishment of two kindergarten classes in three different localities (a total of six classes) was completed; four

additional classes are currently under construction. 66 new primary school classes were established in different localities, 42 additional classes are currently under construction, ten of which are nearing completion, and 16 additional classes are still being planned. Government Resolution No. 4088 of September 14, 2008 extended the duration of Resolution No. 3956 until the end of 2009, in order to use the entire budget allocated for the abovementioned plans.

Government Resolution No. 724 of August 9, 2009 approved a five-year-plan to improve accessibility to public services and educational centers in the regional council of Abu-Basma, and the public service centers scattered throughout the Bedouin villages in the south. The total budget for these plans amounted to 68.5 Million NIS (U.S. $18,513,514) over the course of the years 2009-2013, with 13.7 Million NIS (U.S. $3,702,703) distributed per year.

The Abu-Basma Regional Council is responsible for the education of the Bedouin population in southern Israel. In the Council's school system there are 25 elementary schools with an average of 700 pupils per school and three high schools with 100 pupils each. Recent data indicates that immediately after the establishment of regional schools in the Council's towns and villages, the dropout rate due to the transfer from elementary schools to high schools had been eliminated drastically. The dropout rate due to the transfer from elementary schools to high schools previously stood at 50%, with a majority of the dropouts being female.

In addition, the number of 12th grade Bedouin pupils entitled to matriculation certificates significantly increased. Thus, in 2009 the number of 12th grade Bedouin pupils in this Regional Council entitled to matriculation certificates increased by 11% in comparison to 2007.

Tuition Grants and Scholarships

In 2008, the Ministry of Education announced its intention to grant Bedouin students studying engineering, technology and science with tuition grants and scholarships in the amount of 5,000 NIS (U.S. $1,351) each for the 2008/9 academic year. The scholarships were intended to further encourage Bedouin students to pursue higher education.

The Authority for the Advancement of the Status of Women issued an announcement regarding the distribution of scholarships for female Bedouin students from the north, as well as for female students from the Druze and Circassian populations. These scholarships are granted in accordance with Government Resolutions no. 412 and 413 issued on August 15, 2006 and are intended for tuition in recognized academic institutions, in the fields of law, engineering, medicine, pharmaceutics, nursing and other medical related professions. Between the years 2007 and 2008, the Authority received 800 applications for such scholarships from Druze and Circassian women, of which, following an examination process, 100 scholarships were approved and granted, and 400 applications from women of the Bedouin population in the north, of which 45 were approved and granted. In 2009, 200 scholarships were granted and in 2010, 289 scholarships were granted. The Authority recently published an announcement inviting Bedouin, Druze and Circassian women to submit applications for the upcoming year (2011/12).

The Authority for the Advancement of the Status of Women conducted a special survey regarding the needs of women in minority populations, and based on the results it was decided to conduct training and to empower women in these populations in varied fields, such as completion of their education, leadership, employment, business entrepreneurship and operating communal projects. Each locality, out of the 40 detailed in Government Resolutions no. 412 and 413, received at least two professional training courses. Approximately 30 professional courses were conducted in 2008, and 50 were conducted in 2009 (of which 15 focused on business entrepreneurship, 11 focused on empowerment issues and four focused on completing education).

Moreover, in accordance with the abovementioned survey, the Authority conducts workshops focusing on various issues in these localities, including: parental authority, first aid, prevention of domestic accidents and couples communication. There are also workshops conducted in high schools on issues of respect etc.

The Situation in the Unauthorized Bedouin Villages

Since 2004, three high schools were established for the first time in the unauthorized villages of Abu-Krinat, Al-Huashlla and Bir-Hadge. These schools were connected to

the main electricity network, and access roads were paved towards them. The schools' establishment contributed greatly to the prevention of dropout rates, especially among Bedouin girls, who previously were not sent to school by their parents, due to the distance of the school from the village and Bedouin tradition. In addition, since 2004, 14 inspectors' positions were added, including general and vocational inspectors for schools in Bedouin localities, in order to improve the quality of education in these localities.

Water

The Bedouins living in existing Bedouin towns enjoy the same services provided to all Israeli citizens, some of which are specially adapted to their needs. Unfortunately, many Bedouins choose to live outside permanent towns, in living conditions which are considered as inadequate by the Ministry of Health. Thus, additional funds were allotted towards the development of their health services and the Government is doing all it can to provide sufficient health care to Bedouins who live in unauthorized villages.

Approximately 60,000 Bedouin live in unauthorized villages in the Negev. These unauthorized villages pose difficulties in supplying the residents with necessary services, especially water. While the Government does not question its duty to supply its inhabitants with services such as water, it is practically impossible to supply such services to sporadic places which disregard the national construction and planning programs.

Nevertheless, pending the completion of the establishment of the 11 additional permanent Bedouin towns and the regulation of water supply systems, the Ministerial Committee for the Arab, Druze and Circassian Populations' Affairs has decided to build "Water Centers." Pursuant to this decision, instructions have been given concerning the planning of water supply systems to several centers in the Negev called "Water Centers." The Water Centers result from the Government's understanding of the needs and current realities faced by the Bedouin population, and governmental efforts to improve their living conditions. The planning of the centers takes into account the amount of water necessary for the size of population expected in 2020, and the establishment of the centers involves great costs. These systems will enable

the supply of water to a significantly larger portion of the Bedouin population than that which is currently receiving a water supply through individual connections.

To date, there are Water Centers in the following Bedouin localities: Um Betin, El-Seid, Abu-Krinat, Bir Hadaj, Darijat and Kaser A-Sir. In addition, there is an agreement to establish additional Water Centers in Moleda, Abu-Talul, Foraa and Lakia. These Water Centers are located in the most populated areas of the Bedouin Diaspora, compatible with Government's plans for the establishment of permanent towns.

An additional method relied upon to provide water is through direct water connections being made to the main water pipeline, which are granted to a minimum of ten families. Due to the problematic nature of these connections, which require the transfer of water to unauthorized villages, this method is less frequently employed. The connection to the main pipeline is approved by the Water Committee, which evaluates requests for connections to pipelines, and conducts negotiations in cases where disputes arise between residents of the Diaspora concerning the ownership of such connections.

Mekorot

In February 2009, 'Mekerot' begun laying new pipelines, two inches in diameter, in order to improve and enlarge the amounts of water supplied to the Bedouins and to prevent technical difficulties (pipelines that were previously approved for direct connections by the Water Committee are of one inch diameter, which is insufficient for a supply of water to a large number of persons and which causes technical problems, such as low water pressure, freezing of pipes etc.).

Owners of direct water connections to the pipeline of one inch diameter may apply to 'Mekorot' and request that the corporation expand the pipeline. Note that even in cases where such an application has not been made, 'Mekorot' can identify pipes with respect to which there is a large amount of water consumed, and can widen the pipeline at its own initiative.

There are currently 16 service points which provide services to the Bedouin population who live outside the permanent towns. Each service point is equipped with water systems built according to the customary standards.

All of 'Mekorot's' pipelines are located underground, and claims regarding pipelines that are laid on the ground probably refer to pipelines that were illegally laid down by the local population.

Case Law

On September 13, 2006, the Haifa District Court (residing as a Water Tribunal) rejected an appeal filed by Adalah on behalf of 767 Israeli-Bedouin living in the Negev's Diaspora, demanding access to sources of water (*D.C.H. Appeal 609/05, Abdallah Abu Msaed, et. al. v. The Water Commissioner*).

In its decision, the Haifa District Court President emphasized that while the case directly deals with connections to the main water pipelines, it indirectly addresses the complex issue of the organization of "Bedouin housing." The Court added that it is not disregarding the fact that all citizens enjoy the basic human right to water and health, which must be granted by the State in order to guarantee the right to dignity, but explained that, in its opinion, providing connections to the main water pipeline is not the way to resolve the problem of unauthorized villages. According to the Court's decision, the right to water is not absolute, but can be made conditional upon a "clear" public interest "not to encourage cases of additional illegal settlement."

On November 18, 2006, Adalah submitted an appeal to the Supreme Court against the ruling delivered by the Haifa District Court. On June 6, 2011, the Israeli Supreme Court delivered its judgment.

The Court noted that the *Water Law* 5719-1959 stipulates that the authority to approve connection to a private water connection is of the Director of the Water and Sewage Governmental Authority (hereinafter: "the Authority"). in addition, the Court noted that as long as the unauthorized villages continues to grow, and as an intermediary step, the Authority is operating to ensure access to water for Bedouins in two ways: first, establishing water centers near the Bedouin Diaspora, and second,

providing authorizations for private water connections according to the Water Committee's recommendations and humanitarian considerations.

The Court stated that the access to water sources for the purpose of basic human use is a part of the right to minimal respectful existence. The Court further noted that, water is an essential product for human beings and without basic access to water in reasonable quality, people can not survive. Therefore, according to the Court, the right to water should be seen as a part of the right to respectful human existence, which is under the constitutional protection of the basic right to dignity according to the Israeli *Basic Law: Human dignity and Liberty*. The Court further noted that as every constitutional right, the right to water is not absolute and the protection of the law is relative and obligates consideration of other important contrasting values.

The Court stated, *Inter alia*, that the right for water is a statutory and constitutional right according to the Israeli law and therefore the State is obligated to facilitate the access to water for all its citizens, even if they are living in unauthorized villages. In addition, the Court stated that Article 11 of the CESCR convention, which has been sighed by Israel in 1991, and was ratified on October 3, 1991, states that food is a fundamental right and this right also includes the right to water. The Court also noted however, that Article 4 of the convention that allows limiting the rights mentioned in the CESCR convention, but only to the extent that that limitation does not contradict the nature of these rights and only for the purpose of promoting the welfare in a democratic society. The Court further mentioned that the right to water was not mentioned explicitly in the said convention, but in its General Comment no. 15, the Committee on Economic, Social and Cultural Rights stated that the right to water is a part of the right to adequate standard of living (Article 11) and the right to highest attainable standard of physical and mental health, and stated normative standard for its implement. The Court mentioned that the convention text and relevant recommendations constitute guidelines for the interpretation of the Israeli Law. Therefore, the Authority's decisions should be examined in the light of the Israeli Constitutional Law.

The Court noted that, the Authority's decisions concerning the petitioners was made after the committee examined the petitioners housing situation on the field and

examined closely each petitioner's needs and their accessibility to water centers. The committee's findings were as follows:

Petitioner 1- the Committee found water tanks and pipes for water supply; the water center is 3.5 kilometers from the locality; and the petitioner and his family have a legal place of residence in Aroer.

Petitioner 2- The committee found that this petitioner and his family were living in fire zone 503. The Committee noted in its decision that it can not permit provision of water to fire zone, and that this family also has two legal places of residence in Aroer and Abu-Krinat.

Petitioner 3- the Committee found severe water distress and therefore recommended to permit this petitioner and his family a private pipeline connection through a connection to another group in the area, due to topographic and technical problems.

Petitioner 4 – the Committee found that the water line near the petitioner's locality is unable to provide the required amount of water to the existing connections and therefore, it is technically impossible to add additional connections. The Committee stated that there is no place to connect new pipes. The Committee further noted that the group has a legal permanent place to reside, which has all the required water connections to the private houses. The Committee noted that evacuations and dispossession procedures are conducted against some of the group members, and there are even demolition orders for several structures that were built illegally.

Petitioner 5 – the committee noted that this group was allocated with lots for permanent housing in 2001. These lots have all the water services directly to the houses.

Petitioner 6 - during the examination the Committee found a water system infrastructure and 14 water connections on the field. In addition, a water center is planned to be established nearby.

The Court noted that according to the Committee's decisions, petitioners 1 and 6 have reasonable access to water resources. Regarding petitioner 3, the Authority's Director approved his request for a private water connection. However, in regard petitioners 2,

4 and 5, it is unclear whether they have reasonable access to water sources, even without a private water connection. The Court stated that since these groups live in unauthorized villages and there are residence solutions in permanent localities, there is a justification, in principle, to deny their requests, as long as the State provides these groups reasonable access to water resources and there are no special humanitarian circumstances that justify a specific authorization for private connection.

According to the above, The Court decided it is appropriate that the Water Committee and the Authority's Director will reexamine the cases of petitioners 2, 4 and 5 and decide if they have reasonable access to water sources near their locality and the existence of special humanitarian needs that might justify authorization for private connection. If required, there will be a possibility to order alternative solutions for private connection if it these will guarantee minimal accessibility to water sources.

The Court Noted that the State's principle policy in regard to solving the water problem in the unauthorized Bedouin villages reflects proper balance between the opposing values in this case. According to the Court, as far as the Bedouin population shall move into legal permanent localities, their entitlement to all of the civil services provided by the State, including private connection to water supply will be solved anyway. The Court noted that in any case, reasonable access to minimal supply of water should be ensured, even if not be private water connections to the unauthorized villages, and that the State must provide solutions to specific needs, based on humanitarian considerations if required.

The Court finally determined to reject the petitions of petitioners 1, 3 and 6; however, the Court suggested reexamining the cases of petitioners 2, 4 and 5 by the Water Committee and the Authority's Director in order to determine whether they have reasonable access to water sources, in order to ensure minimal accessibility to water sources. Furthermore, the Court stated that special humanitarian needs, if exist, should be taken in to account when considering private water connections. (C.A. 9535/06, *Abdullah Abu Musa'ed, et. al. v. The Water Commissioner et. al.).*

Health

Health Clinics – As of May 2010, the total number of health clinics and independent physicians in the Bedouin population was 51, according to the following distribution: in the permanent localities there were 27 clinics and eleven independent physicians; in the localities in the process of planning and development there were nine clinics and in the unauthorized villages there were four clinics.

The clinics located in the Bedouin localities are equipped according to the standards of every Health Fund in the country. Clinics in unauthorized Bedouin villages located throughout the Negev are all computerized, air conditioned, and equipped according to the standards followed by all the Health Funds (HMOs) in the country.

It is important to note, that medical services are also available in the various Health Funds' clinics, which are located outside the Bedouin localities, such as in Be'er Sheva, Arad, Dimona, Omer, Mitzpe-Ramon etc.

Special Services The General Health Services Department operates a special health service for the Bedouin population that includes an ambulance service for Bedouins, run by a Bedouin employee. This enables a talented professional staff to evaluate the living conditions of patients prior to their release from hospitalization.

Physician specialty services - Physician specialty services are currently being provided to the Bedouin community in the Negev, including: Pediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Gynecology and Obstetrics, etc. In addition, every resident has equal access to all the specialty clinics at the Soroka Hospital, with no discrimination between Bedouin or Jewish patients.

Immunization coverage - There have been significant improvements in the past decade. Improved immunization coverage of Bedouin infants in the Negev, for example, resulted in a significant decrease in vaccine-preventable infectious diseases. 2006 figures indicate that 90%-95% of Bedouin children have completed all necessary vaccinations by age three – a sizeable improvement compared to the 1981 rate of 27%. Note that the vaccination figures of the Arab population are higher than those of the Jewish population, both nationally and in the southern district. 2010 figures show that the rate of immunization coverage regarding hemophilus influenza B, infantile paralysis, diphtheria, tetanus and pertussis is 88% among Bedouin children and 90% among Jewish children. With respect to measles, mumps and

rubella, the rate of immunization coverage among Bedouin children is 93% in comparison to 91% among Jewish children.

Two mobile immunization teams managed by the Ministry of Health also provide home immunizations to infants of Bedouin families living outside of permanent towns. A computerized tracking system allows the Ministry to identify infants who are overdue for their immunizations and to send one of the mobile immunization teams to immunize them.

Prevention of Language Barriers in Providing Health Services - Ben-Gurion University has opened a course of studies – a bachelors' degree for male/female qualified nurses from the Bedouin population. As of 2010, 37 students have enrolled in this new course. In addition, as of January 2010, five nurses were hired to work in mother and infant health care stations. There is also a two year program intended to train nurses, who will work in the Bedouin population, in providing parental guidance. In 2010, 16 nurses graduated from this program and a new group of nurses is currently being assembled. Note however that there is still a substantial shortage of qualified nurses in the Bedouin population.

Mother and infant health care stations - There are 46 mother and infant health care stations located in the southern district, 27 of which (more than 50%) serve the Bedouin population:

- 13 stations are located in the Bedouin towns (also serving the Bedouin population living in nearby unauthorized villages)
- Eight stations serving unauthorized villages
- Five stations located in Jewish localities, which also serve the Bedouin population in localities nearby (Abu-rabiah Station in Be'er Sheva which mainly serves Bedouins living in unauthorized villages, Dimona A, Arab A, Yeruham and Mitzpe Ramon stations.)
- One mobile station serving the Bedouin population located in the unauthorized villages in the Marit Area, near the city of Arad.

Electricity

The *Electricity Supply Law (Temporary Order)* 5756-1996, was enacted to solve the problem of providing electricity to Arab and Druze citizens whose houses had been built without building permits, and were consequently not connected to the central electricity grid. This law was amended in 2001, extending the temporary supply for a period of seven years. In 2004 the Law was amended again, so that the extension would cease as of May 31, 2007. Since the enactment of the Law and up until May 31, 2007, the Electricity Administration approved the connection of 8,941 buildings to the electricity grid. Recently there were attempts to promote the further extension of the Law.

Israel Electric Corporation began connecting el-Mustakabal and el-Aasam b' schools, which operate in the unauthorized village of Abu-Talul, to the national electricity grid. The corporation is also working to connect el-Amal school in the village Hirbat el-Watan and additional schools in other unauthorized villages in the Negev. These steps were taken following a petition to the High Court of Justice by Adalah in July 2009. Following the State's notification to the Court in February 2010 that the necessary works for connecting the schools to the national grid were completed, and that the schools would be connected within several days, the Court stated that the remedy requested in the appeal had been provided, and therefore rejected the appeal (*H.C.J 5475/09 Aiub Abu-Sabila et. al. v. The Ministry of Education et. al.* (10.3.10)).