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on the Elimination
of all Forms
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION**

**Information received from the Government of Israel
on the implementation of the concluding observations of the
Committee on the Elimination of Racial Discrimination**

[3 July 2008]

As requested by the Committee in its concluding observations (observation no. 43) dated 14 June 2007, pursuant to paragraph 1 of rule 65 of the Committee's rules of procedure, the State of Israel respectfully presents the information requested:

Concluding observation no. 20:

"The Committee notes with concern that the Citizenship and Entry into Israel Law (Temporary Order) of 31 May 2003 suspends the possibility of granting Israeli citizenship and residence permits in Israel, including through family reunification, to residents of the Occupied Palestinian Territories, except in limited and discretionary exceptions. Such measures have a disproportionate impact on Arab Israeli citizens wishing to be reunited with their families in Israel. While noting the State party's legitimate objective of guaranteeing the safety of its citizens, the Committee is concerned that these "temporary" measures have systematically been renewed, and have been expanded to citizens of "enemy States". Such restriction targeting a particular national or ethnic group in general is not compatible with the Convention, in particular the obligation of the State party to guarantee to everyone equality before the law (Articles 1, 2 and 5 of the Convention).

The Committee recommends that the State party revoke the Citizenship and Entry into Israel Law (Temporary Order), and reconsider its policy with a view to facilitating family reunification on a non-discriminatory basis. The State party should ensure that restrictions on family reunification are strictly necessary and limited in scope, and are not applied on the basis of nationality, residency or membership of a particular community."

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

2. In order to prevent such potential danger posed by *former* residents of these areas during the current armed conflict, the Government decided in May 2002 to *temporarily* suspend granting them legal status in Israel through the process of family unification. The decision was adopted following the horrendous wave of terrorist attacks in March of 2002, when 135 Israelis were killed and other 721 were injured.
3. In addition, between September 2000 and the end of 2006, 38 of the 172 terrorist attacks committed in Israel, were committed by such individuals. The persons injured in these 38 terrorist attacks constitute 86% of the total number of persons injured by terrorist attacks. In 2006, a twenty-year old woman, whose mother is an Israeli-Arab from Kafar Qasem and her father is Palestinian, was caught – merely 12 minutes before exploding herself in a restaurant in Israel - using a bomb which was stored during the night before in the home of a relative in Kfar Qasem.
4. This situation is the result of the genuine difficulties in obtaining information concerning residents of the West Bank following Israel's transfer of authorities and termination of daily presence in this area, pursuant to the Israeli – Palestinian Interim Agreement, dated September 28, 1995.
5. Israel, as any other State, has the right to control entry into its territory, and more so, during times of armed conflict, when persons requesting to enter may potentially be involved in acts of violence against its citizens. It should be emphasized that while the value of family life is indeed sacred, there is no entitlement for it to be realized in Israel, and it may be fully realized in the West Bank.
6. On July 31, 2003, the Knesset enacted the *Citizenship and Entry into Israel Law (Temporary Provision)*, 5763-2003, which limits the possibility of granting residents of the territories Israeli citizenship pursuant to the *Citizenship Law*, including by means of family unification; and the possibility of granting such residents residence permits into Israel pursuant to the *Entry into Israel Law*.

7. The Law enables entry to Israel for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six months, as well as the unification of a minor up to the age of 12 with a parent lawfully residing in Israel. Furthermore, the Law does not change the status of people who already received their status prior to the day the Law came into effect. However, those people's status shall not be advanced, yet left static.
8. The Law was enacted for a period of one year. At the end of that period in August, 2004, the Law was extended for another six months. It was re-extended in February 2005 for a period of four more months and has been further extended until August 31, 2005. Simultaneously, the Government had prepared an amended draft of the law, while extending the exceptional cases to which the law does not apply. The revised law was published on August 1, 2005 and was invoked until March 31, 2006. At the end of that period it was extended until April 2007. Recently, the Government prepared another amended draft of the law and on March 28, 2007, the Knesset approved the new revised law which is to be invoked in July 31, 2008.
9. As mentioned, the Law, which is a temporary measure, does not change the status of persons who already received their status prior to the day the Law came into effect. However, the Law provides that those people's status shall not be advanced, but instead left static.
10. In that regard, while the amended law expands the applicability of the law to citizens of enemy states (namely, Iran, Syria, Lebanon, and Iraq), it also, and more importantly, includes humanitarian alleviations, to be taken into consideration when applying the Law.
11. The first amendment to the Law (entitled *The Citizenship and Entry into Israel Law (Temporary Order) (Amendment), 2005*) had set several new instructions:
 - a. The Minister of the Interior may authorize a request for family unification for those who are married to an Israeli spouse, and are residents of the area, for men over the age of 35 and women over the age of 25;

- b. Furthermore, the law authorizes the Minister of the Interior to grant residence permits to children of such a couple that are minors **under the age of 14**;
 - c. Additionally, with regard to children of such a couple that are minors over the age of 14, the law stipulates that the Minister of the Interior has the authority to grant temporary permits under certain conditions;
 - d. A request can be denied in cases where the Minister of the Interior or certain security officials asserts that the person, or a family member of first degree, poses a security threat.
 - e. In cases where a person or a family member has been known to act for the benefit of the State of Israel, the Law enables the Minister of the Interior and certain security officials to grant permits to a resident of the area.
12. The second amendment to the Law (2007) expands the humanitarian relieves set up in the first amendment:
- a. The Minister of the Interior is allowed, due to special humanitarian reasons and according to a recommendation of a professional committee appointed for this purpose, to grant:
 - i. Temporary Residence permit for a resident of the area or a citizen of Iran, Iraq, Syria or Lebanon, who has a family member legally residing in Israel.
 - ii. To approve a request for stay permit of a resident of the area who has a family member legally residing in Israel.
 - b. The Minister of the Interior may establish several committees to implement this section, to be formatted as detailed below.
 - c. The professional committee is to consist of a chairperson, who is qualified to be appointed as a district court judge and will be appointed by the Minister of the Interior; a representative appointed by the Minister of Defense; a representative appointed by the Head of Israel Security Agency from the

Agency's employees; a representative appointed by the Minister of the Interior from the Ministry's employees and a public representative appointed by the Minister of Justice and the Minister of the Interior. Accordingly, on December 17, 2007, the committee was consolidated.

- d. The decision of the Minister of the Interior is to be reasoned and given in writing, within 6 months from the day that the committee received all the necessary documents.
 - e. The fact that the family member (e.g.-spouse, parent or child) of the person requesting the permit, legally residing in Israel, is his/her spouse or that the couple have shared children – will not be considered as a stand-alone special humanitarian reason. If the person requesting the permit is a Syrian resident and his/her spouse is a member of the Druze community who lives in the Golan Heights, which is under Israeli jurisdiction, than the Minister of the Interior may consider it a special humanitarian reason.
 - f. The Minister of the Interior can determine in an order, with the approval of the Government, a maximum annual quota of permits that will be granted or approved due to special humanitarian reasons.
13. The Law's constitutionality was scrutinized and recently upheld by the Supreme Court in *H.C.J. cases 7052/03, 7102/03 Adalah and others v. The Minister of the Interior (14.5.06)*. The High Court of Justice, residing in an extended panel of eleven judges, rejected the petitions against the legality of the Law, by a six to five vote. The dissenting opinion was given by the President of the Court at the time, Chief Justice Aharon Barak, whose position was that the law infringes on the constitutional right to family life and equality, in a manner exceeding that required.
 14. The majority opinion was given by the Deputy President (retired), Justice Cheshin, whose position was that the law does not harm constitutional rights, and that even if some such harm occurs, it is proportionate. He concluded that the law is constitutional. Judge Naor fully concurred; Judge Gronis held that the law

may harm the constitutional right to family life, but the harm is nevertheless proportionate; Judge Adiel also held that the law harms the constitutional right to family life, but the harm is proportionate; similarly, Judge Rivlin held that the law harms the constitutional rights to family life and equality, but the harm is proportionate.

15. Judge Levi held that the law harms the constitutional rights to family life and equality, in a manner exceeding that required, but that the State should be given nine months duration to establish an alternate legislative arrangement.
16. The Court noted that the Government has decided to prepare an amendment to the Law adding exceptions to the general rule that would allow withholding application of the Law to groups of individuals who pose a lower security risk to the lives and security of Israeli citizens. The Supreme Court also pointed out the limited time frame of the Law and that the Government did not extend the Law for the full year. The Court thus did not issue any order concerning the Law, leaving open the possibility to request further information from the Government, if necessary, following the envisioned changes to the Law.
17. New petitions against the constitutionality of the Law were brought before the High Court of Justice. The first hearing of these petitions took place in May 5, 2008, in which the court ordered that the State's response to the petitions be submitted within 60 days. (*H.C.J 466/07, 544/07, 830/07, 5030/07 MK Zehava Galon et. al. v. the Minister of the Interior et.al.*).

Concluding observation no. 22:

"The Committee notes with deep concern that separate "sectors" are maintained for Jewish and Arab persons, in particular in the areas of housing and education, and that according to some information, such separation results in unequal treatment and funding. The Committee regrets that information provided by the State party on this matter was not sufficiently detailed.(Articles 3, 5 and 7 of the Convention)

The Committee recommends that the State party assess the extent to which the maintenance of separate Arab and Jewish "sectors" may amount to racial

segregation. The State party should develop and implement policies and projects aimed at avoiding separation of communities, in particular in the areas of housing and education. Mixed Arab-Jewish communities and schools should be promoted and strong action taken to promote intercultural education."

1. The term "sector", with regard to both the Arab and the Jewish populations is used solely for distinguishing between the different religion-related populations. The term does not bare any legal implications nor does it reflect any kind of unequal treatment or any form of separation.
2. The principle of equality is a fundamental principle in the Israeli legal system as portrayed both in legislation and adjudication.
3. The *Basic Law: Human Dignity and Liberty* purports to protect basic guarantees of personal liberty within the framework of Israel's Jewish and democratic character. The goal of the Basic Law is "to defend Human Dignity and Liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state." The law defines human freedom in Israel as inclusive of the right to leave the country (Israeli citizens hold the additional right to enter it), to privacy and intimacy, refrainment from searches relating to one's private property, body and possessions, and avoidance of violations of the privacy of one's speech, writings and notes.
4. Fundamental values of the human being, such as the ones manifested by the *Basic Law: Human Dignity and Liberty* have been created in the spirit of the principles set forth in the Declaration of the Establishment of the State of Israel. The Basic Law stipulates the following: There shall be no violation of the life, body or dignity of any person as such; There shall be no violation of the property of a person; All persons are entitled to protection of their life, body and dignity; There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise (unless as provided by law). There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required.

5. Furthermore, many laws emphasize the principle of equality, as mentioned extensively in Israel's initial and periodic reports.
6. The Supreme Court of Israel has played a pivotal role in the promotion of the principle of equality through the development of jurisprudence dealing with contentious and highly charged political and security-related issues, for example:
 - 6.1. ***H.C.J. 8060/00 Ka'adan v. Israel Lands Administration, the Jewish Agency and Katzir*** (26.4.06) – following the decision of the Supreme Court determining that the Ka'adan family can build their home in the Jewish community of Katzir, on April 2006, the Supreme Court also ruled that respondents would compensate the petitioners by paying them the amount of 30,000 NIS as court's expenses. It was the Court's position, throughout all legal procedures in the case, that discriminating against the Ka'adan family on the basis of their race or religion is fundamentally prohibited and unconstitutional. Therefore it was under the responsibility of the respondents to promptly undo its effects. Throughout its rulings in the *Ka'adan* case, the Supreme Court emphasized the significance of values such as equality and democracy in the State of Israel, explaining that all objects of laws must be examined in light of the *Basic Law: Human Dignity and Freedom*. These basic values, the Court stated, assert that legislation would guarantee non-discrimination and equality, regardless of a person's religion or nationality. In one of its decisions in the *Ka'adan* case, the Supreme Court quoted section 1 of *Basic Law: Human Dignity and Freedom*, which states that: "The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state"

The Court explained that the values of the State of Israel as a Jewish and democratic state oblige it to grant equal rights to both its Jewish and non-Jewish citizens.
 - 6.2. ***H.C.J. 11163/03, The High Follow-up Committee for the Arab Citizens in Israel et. al. v. The Prime Minister of Israel*** (27.02.06) – The Supreme Court

has affirmed the principles of equality and non-discrimination of any kind, and asserted that the allocation of resources on the basis of any discriminatory criteria was unacceptable. A unanimous ruling was issued to cancel the Government's Resolution establishing national priority areas in Israel, due to it being discriminatory on the basis of race and national origin. The Supreme Court held that the Government must respect the principle of equality and is prohibited from discriminating against the minority citizens of Israel. The Court stated that all governmental acts must be performed in conformity with the basic laws and in conformity with the values of Israel as a Jewish and Democratic State. The Court's emphasized that the basic values of Israel are *human dignity, freedom, equality, free spirit, the right to property etc.* The Court noted that the prohibition to violate these values became even stronger following the legislation, in 1992, of *Basic Laws: Human Dignity and Freedom and Freedom of Occupation*, which granted these values a higher and more significant status in the Israeli legal system.

- 6.3. ***H.C.J. 4112/99 Adalah and the Association for Civil Rights in Israel v. The Municipalities of Tel-Aviv, et.al.*** (20.11.00) – the Supreme Court stressed the status of equality as one of Israel's fundamental values according to which rights for language and equal use of municipality's services are to be assured, due to the duty to maintain equality among residents of the State. The Court emphasized that the violation of the right to equality may lead to an infringement of human dignity, especially in cases where the discrimination is based on the religion or the race of a person. Therefore, it is only legitimate for a person to expect that an administrative authority will treat him with reason, equality and fairness and refrain from acting in an arbitrarily or discriminatory manner. With respect to the right for language, the Court stated that it constitutes a crucial part of human existence and human dignity, and that the obligation to respect that right derives from both the constitutional right to freedom of expression and from the constitutional right to human dignity.

- 6.4. *H.C.J 1113/99 Adalah, et. al. v. The Minister of Religious Affairs, et. al.* (18.4.00) – the Supreme Court accepted the petitioners demand to instruct the Minister of Religious Affairs to establish clear, non-discriminatory criteria for the distribution of resources to all cemeteries. The Court ruled that the Minister of Religious Affairs should allocate money designated for cemeteries on an equal basis and according to the proportionality test (population percentage). Furthermore, the Court ruled: "The resources of the State, whether land or money...belong to all citizens and all citizens are entitled to enjoy them according to the principle of equality, without discrimination based on religion, race, gender or other prohibited consideration". In his judgment, the former Supreme Court Justice Aharon Barak stressed that the right to equality is a constitutional right included in the right to human dignity.
7. Israel invests a great deal of effort and resources, by both the Government and the civil society, towards intercultural initiatives and activities aimed to promote mutual understanding, tolerance and friendship between the various communities in the Israeli society.
8. In this respect it should be noted that there are several mixed-towns (including major cities) in Israel inhabited by Jewish and Arab populations living side by side as a unified community, as well as some mixed municipalities. These include the cities: Jerusalem, Tel Aviv–Jaffa, Haifa, Acre, Lod, Ramle, Be'er-Sheva, Maalot-Tarshiha, Nazareth-Ilit, and the municipalities of: Merom Ha'Galil, Ma'ale Ha'Gilboa, Misgav, Mate Asher and Menashe.
9. Another example of a joint community can be found in the village "Neve Shalom – Wahat al-Salam". "Neve Shalom – Wahat al-Salam", situated equidistant from Jerusalem and Tel-Aviv-Jaffa, was founded in the early 1970's. By 2007 more than 50 families had come to live in the village, with an equal number of Jewish and Arab families. Eventually, the village will include 140 homes.
10. The Bilingual educational system developed and implemented in "Neve Shalom – Wahat al-Salam" is one of the many expressions of coexistence in their

community, as well as other communities in the area. The bilingual educational system, extending from nursery to junior high-school levels, enrolls some 200 children, 90% of which come from surrounding Arab and Jewish communities. Similar bilingual and intercultural educational frameworks operate in Jerusalem, Misgav and Kfar Kara.

11. It should be mentioned that parents are entitled to enroll their children to an educational institution (kindergarten or school) of their choice within their local municipality, whether the spoken language is Hebrew, Arabic or a bilingual institution, whereas the only limitation is that preference in enrolment is given to children who reside in proximity to the educational institution.
12. There is a great variety of programs in Israel dedicated to the promotion of coexistence and cooperation among Israel's Jewish and Arab populations, either through education, cultural initiatives or Inter-Municipal Collaboration for the welfare of the different communities. The following are a few recent examples:
 - 12.1. *Mirkam in the Galilee*: A joint initiative of The Abraham Fund organization in collaboration with the Ministry of Education, local municipalities' leaders in the Beit Hekerem Valley and the "Delta Galilee" Company. The goal of this initiative is to promote cooperation between Jewish and Arab local municipalities and to establish joint economic and infrastructural development in the region for the welfare of the communities. In order to achieve its goal, The Abraham Fund set up a mechanism for regional deliberation, cooperation and consensus-building among decision-makers on the basis of mutual interests and interdependence in the form of inter-municipal forums. These include the Mayors Forum, Environmental Justice Forum, Social welfare forum, Tourism Forum, Regional Planning Forum, Health Forum and The Women's Leadership Forum.

In addition to the inter-municipalities cooperation, the initiative also promotes values of understanding, tolerance and acceptance of the other through educational activities in formal and extra-curricular frameworks.

Eight pairs of Jewish and Arab schools in the region participate in formal and extra-curricular activities on issues such as music, arts, the environment, sports and culture. The activities involve pupils as well as school principals and teaching staff. In addition to the school-pairing program, a Jewish-Arab Theater group and a Jewish-Arab Circus group meet weekly and hold performances in the region.

Today, the Initiative covers 47 Jewish and Arab communities, with a total population of 178,000.

- 12.2. *Mirkam Encounters in the Galilee*: A joint initiative of The Abraham Fund organization, the Ministry of Education and The Haifa, Acre and Maalot-Tarshiha Municipalities. The initiative is also supported by the Jewish Agency for Israel. The initiative intends to encourage a shared society in the mixed cities of the Galilee, by joint educational activities bringing together elementary school pupils, teachers and principals from ten pairs of Jewish and Arab schools. During the meetings, pupils learn about each other's culture, tradition and heritage thus learning to appreciate and respect each other's perspective and views. Each encounter focuses on a theme selected in order to further the goal of inter-cultural understanding. For example, the wedding theme was selected to demonstrate similarities and differences between the cultures and as a trigger to discuss various characteristics of Jewish and Arab cultures.
- 12.3. *Developing Sakhnin Valley (Park El-Mal) for the Benefit of All Its Residents*: Cooperation Between Jewish and Arab Local Authorities in the Galilee (Misgav Regional Council, the Sakhnin Municipality, the Arabe Regional Council and the Dir Hana Local Council) and several non-governmental organizations (Beit Netofa Municipal Association for the Environment, The Abraham Fund, Link for the Environment, Shchenim - Neighbors for Joint Development in the Galilee and additional organizations) based on a mutual interest to realize the agricultural and tourist potential of the Valley for the benefit of all its residents. The program will include the establishment of a local park and promenade

while maintaining the agricultural fields, open spaces, landscape and tradition of the Valley's residents, thus transforming the Sakhnin Valley into a national ecological and tourist attraction.

The development of the ecological and tourist model will increase the economic potential of the region and provide sources of income to its residents, creating a foundation for future business and personal cooperation between the Jewish and Arab residents of the Valley.

The first open meeting in the process of the Valley's rejuvenation took place on March 13th 2008, with the participation of the Head of Misgav Regional Council, the Head of Dir Hana Local Council and the Deputy Head of Sakhnin Municipality. Seventy Jewish and Arab farmers and landowners also attended this introductory meeting in order to hear about the project and to take part in the Valley's planning process

- 12.4. *The Peace Labyrinth On conflicts, how they arise, and ways they can be resolved:* The Peace Labyrinth is an interactive exhibition that was initially presented in Holland by the "Peace Education Projects". As a joint initiative of the Jerusalem Foundation, the Olive Stone Trust and the Bloomfield Science Museum in Jerusalem, it was decided to bring the exhibition to Israel within a framework that corresponds and fits the dilemmas and relevant issues of Israel and Jerusalem.

The exhibition enables the audience of visitors, made up of children and teenagers from various communities in the Israeli Society, to face issues, outlooks, standpoints and dilemmas in interpersonal and inter-group relations of the visitors.

In Israel today, a variety of organizations run informal education programs on the issues of coexistence, democracy and tolerance. The various activities are carried out in different ways as mentioned earlier - group meetings (Arab-Jewish, religious-secular), joint group projects and activities within the classroom framework. "The Peace Labyrinth"

exhibition aspires to combine all of the mentioned elements and attempts to provide the population of pupils in 5th - 6th grades with as wide an exposure as possible to the issues at hand. Through interactive exhibits, the exhibition enriches the experience of the visitors and challenges the views and ways of thinking about the issues in the exhibition.

The exhibition is constructed in the form of a labyrinth. The search for the right path requires thinking and decision-making that leads to various consequences thus demonstrating the notion that the pursuit of peace is a complex and fascinating task, but one with an attainable goal.

- 12.5. *Coexistence Network*: Due to the outstanding number of coexistence practitioners and organizations across Israel, The Citizen's Accord Forum (a non-governmental organization founded by MK Melchior) and The Abraham Fund collaborated and created the "Coexistence Network". The "Coexistence Network" is a multi-year project that aims to unite, support and professionalize coexistence practitioners and organizations across Israel. The Coexistence Network has mapped the field of coexistence activity and built a membership of 166 organizations, providing them with support, thematic seminars and professional training. A communal website has also been developed for member use at www.coexnet.org.il.

Concluding observation no. 25:

"The Committee expresses concern about the relocation of inhabitants of unrecognized Bedouin villages in the Negev/Naqab to planned towns. While taking note of the State party's assurances that such planning has been undertaken in consultation with Bedouin representatives, the Committee notes with concern that the State party does not seem to have enquired into possible alternatives to such relocation, and that the lack of basic services provided to the Bedouins may in practice force them to relocate to the planned towns. (Articles 2 and 5 (d) and (e) of the Convention)

The Committee recommends that the State party enquire into possible alternatives to the relocation of inhabitants of unrecognized Bedouin villages in the Negev/Naqab to planned towns, in particular through the recognition of these villages and the recognition of the rights of the Bedouins to own, develop, control and use their communal lands, territories and resources traditionally owned or otherwise inhabited or used by them. It recommends that the State party enhance its efforts to consult with the inhabitants of the villages and notes that it should in any case obtain the free and informed consent of affected communities prior to such relocation."

The Current Situation

1. Israel's small size makes its land resources extremely limited. Therefore, the Government must embark upon a cautious and regulated land development policy. In December 2004, the Attorney General instructed that the approval of a new township can only be done through a Government decision followed by approval from the relevant planning institutions.
2. On August 2005 the National Planning Council set a procedure for the establishment of new townships, according to which the burden of proof as to the necessity of a new township would be imposed on whoever seeks to establish the new township.
3. Any request for the approval of a new township must be accompanied with a detailed document specifying the following issues:
 - 3.1. The economic, social and environmental purposes and objectives of the new township; the environmental and social influences of the establishment of the new township; the cost and benefits of the establishment with regard to the public treasury; the influence over existing nearby townships; the accessibility to employment's sources, public services and existing and/or required infrastructures.

- 3.2. Furthermore, the petitioner is asked to address the issues of ownership over the land and the reasonability of alternative solutions such as the expansion of existing townships.
- 3.3. In addition, the request needs to describe the characteristics of the planned township and the scope of expected population by the year 2025.
4. Many serious considerations underlie the decision of whether or not to approve the establishment of a new township. Among these considerations are the need to preserve lands for future development; preservation of nature's values; the ability of existing townships to provide township; employment's needs and the economic, social and topographic consequences of a new township over the relevant planning space.
5. As for the Bedouin population, it must be emphasized that this is a population which, according to its own desire, randomly settled on various territories of State's lands, without any previous planning or authorization. Nevertheless the State does everything in its powers to allow for and facilitate the Bedouin's township.
6. With that regard, a vast project for the legal regulation of Bedouin towns was initiated, during which seven existing towns were approved and legalized, and another nine towns are in the process of establishment and legalization. In addition, the District Planning Committee had set a mechanism for the establishment of new Bedouin's towns in the east part of the Metropolitan of Beer-Sheva. This mechanism is expected to expedite and shorten the planning process of future Bedouin's towns.
7. It should further be explained that the selection of towns that had been approved was based on several parameters, such as the concluding opinion of a team which included representatives from the Ministry of the Interior, the Prime Minister's Office and the Bedouins' Administration. It should also be emphasized that the new planned towns provide for a higher standard of living

than the existing standard, in order to improve the quality of life of all its inhabitants.

8. In spite of the establishment of a number of permanent towns for the Bedouins, about 70,000 Bedouins still choose to live in illegal clusters of buildings throughout the Negev, ignoring the planning procedure of the planning authorities in Israel. This illegal building is carried out without any preparation of plans as required by the *Planning and Building Law, 5725-1965*, and with no pre-approval by the planning authorities. In addition, it causes many difficulties in terms of providing services to the residents of these illegal villages.
9. Note that a solution to the housing problem of the greater part of the Bedouins living in the illegal villages will be solved subsequent to the completion of these new towns.
10. The Government is encouraging movement to permanent towns by providing unique financial benefits to all the residents of the Bedouin diaspora who seek to move to permanent towns, regardless of their economic condition or any entitlement test. These benefits include, inter alia, provision of land plots for free or for very low cost, and compensation for demolition of illegal structures.

Government Resolutions and Programs

11. On July 15, 2007, the Government concluded the following resolution (no. 1999) concerning the establishment of a new Authority in the Ministry of Construction and Housing dealing entirely with the development of the Bedouin Sector, expansion of towns and provision of housing solutions for all Bedouins. The Authority has responsibility over settling ownership claims regarding the land, organizing the permanent structures, including infrastructures and public facilities, in existing and in new communities, providing aid to the population regarding integration into the labor market and coordinating educational, communal and welfare services.

The decision's text is as follows:

"D. The Government decided to establish, in the Ministry of Construction and Housing, the Authority for the Regulation of the Bedouin Residence in the Negev, which purpose, functions and organizational structure are as follows:

- The arrangement of Bedouin residence in the Negev, including:

- * Arranging claims of ownership over the land;
- * Arranging permanent residences, including infrastructure and public services, both in existing towns and new towns;
- * Aid in incorporation in employment;
- * Coordination of education, welfare and community services.

- The functions of the authority and its main powers:

1. Accumulating information concerning the existing situation of the population, whether scattered or located in existing towns, including claims of ownership;
2. Initiation and execution of land arrangements;
3. Initiation of statutory planning, in coordination with the Planning Administration in the Ministry of the Interior, of suitable residence solutions, including solutions that address the characteristics of the group, social reciprocity, possible locations etc.;
4. Promoting the planning and development of local and regional infrastructures for permanent solutions;
5. Accompanying the population through all the stages of residence;
6. Giving recommendations in the issue of enforcement priorities;
7. Coordination and synchronization between the various authorities, while accompanying, tracking and supervising the execution of the decision.

8. The aforementioned functions of the Authority will not detract from the powers of the various Government Ministries or the powers of the local authorities according to the law.

- The proposed organizational structure of the Authority is designed to enable the efficient execution of all its goals and functions, as follows:

- * The Authority will act within the framework of the Ministry of Construction and Housing.
- * Alongside the Authority, an Inter-Ministerial steering committee will be established, which function will be to discuss the obstructions in the way of arranging the residence and implementing the goals of the Authority. The head of the steering committee will be the General Director of the Ministry of Construction and Housing.
- * A council will be appointed to the Authority, whose functions will be to lay out the Authority's line of action and advise the general manager of the Authority in all that regards the execution of the Authority's policy. The council will be composed of 21 members, among them: 14 relevant Government representatives (Construction and Housing – chairman, Finance, Justice, Education, the Interior, Industry, Trade and Labor, Health, Social Affairs and Social Services, Tourism, the Negev, the Galilee, Public Security, Agriculture and Rural Development, Environmental Protection and Transportation and Road Safety) and 7 public representatives which will be appointed by the Minister of Construction and Housing, out of them 4 will be from the Negev Bedouin, which have no ownership claims to land.
- * The operational responsibility of the Authority will be in the hands of the Authority's general manager and, underneath him, will operate various sections, which areas of occupation will be, among others, land transactions; programs and residence; planning, development and construction; community; legal counseling; finances, logistics and

research, propaganda and documentation. The land transaction section will be subject, statutorily, to the Israel Land Administration.

- * In addition, alongside the general manager of the Authority, a concessions and proceeds committee will act, headed by a retired judge, and its function will be to make recommendations concerning agreements brought before it, on the basis of the standards set in the law. The recommendations of the committee will be submitted to the approval of the Authority's general manager.

- The Government has further decided:

- To request the General Director of the Ministry of Construction and Housing to recommend to the Government, within 30 days and in coordination with the General Director of the Prime Minister's Office, the Supervisor of Budgets in the Ministry of Finance and the Civil Service Commissioner, on the budgetary resources and personnel that are required to the execution of this decision and the sources of their finance.
- To entrust the Minister of Construction and Housing to appoint a public committee, headed by a retired Supreme Court Justice, and which at least half its members are representatives of the relevant Government Ministries, including representatives of the Ministries of Construction and Housing, Finance, the Prime Minister, Agriculture and Rural Development, the Negev and the Galilee, the Interior, Justice, the Transportation and Road Safety and the Israel Land Administration, as well as public representatives, among them representatives of the Bedouin sector that have no ownership claims to land. The committee will submit its recommendations to the Minister in order to form a bill concerning the regulation of hebetating the Bedouin sector in the Negev, including the sum of the reparations, arrangements of allocating alternative land, civil enforcement, and a schedule of the execution of arrangements. Public representatives which have no personal interest or a conflict of interests in this matter will be selected as members of the

committee. The committee will submit its recommendations within three months. The committee will act under the framework of a budget and land inventory which it will determine in coordination between the General Director of the Prime Minister's Office, the General Director of the Ministry of Construction and Housing and the Supervisor of Budgets in the Ministry of Finance, within 30 days".

12. This Resolution was further detailed in Government Resolution 2491, dated 28.10.07. The Committee's task, as set forth by the Government in its aforementioned Resolution, is to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which will establish the norms for regulating Bedouin settlement in the Negev, including rules for compensation, mechanisms for allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislation's amendments, where needed.
13. The Committee (hereinafter: the Goldberg Committee) comprises seven members and one Chairperson, former Supreme Court Justice Mr. E. Goldberg. Note that two of the Committee members are representatives of the Bedouin sector.
14. The Goldberg Committee in a press release, requested the public, individuals and organizations, who have an interest in the matter, to address the Committee in writing, until February 14, 2008.
15. The Committee began its sessions on January 2008, after having received over a hundred letters from the public, together with numerous other written material and documentation. The Committee's hearings are public and take place in Beer Sheva.
16. From the commencement of its activity, the Committee has held tens of sessions and has heard many depositions from various sources, including Bedouin representatives, various stakeholders, experts in the relevant fields (inter alia town planners, geographers, anthropologists, historians, sociologists and lawyers), and the general public. The Committee has also heard representatives

of public bodies and institutions, including Municipal Authorities, public figures, Knesset members, and NGOs.

17. The Committee has, to date, held four field study trips in the Negev region in order to further deepen its knowledge on the subjects within its mandate.
18. The Committee has concluded its public discussions and is expected to give in its final recommendations to the Government within the next few months.

The Interim period

19. On August 2007, the Attorney General issued a letter to the Minister of Construction and Housing stating that the enforcement policy practiced in the Negev should be reexamined, including the policy of execution of demolition orders.
20. Government Decision 2860, dated December 30, 2007, appoints the head of the Authority for the Regularization of the Bedouin Settlements in the Negev.
21. On January 2008, the Director of the Department of Enforcement of Immovable Property Laws issued a letter on behalf of the Attorney General, intended to clarify any uncertainties and reiterate and refresh the guidelines.
22. The letter states that:
 - 22.1. In the intermediate period until the completion of the working process in the Enforcement Activity Coordination Administration and until the approval by the Attorney General of the enforcement policy in the Negev during the operating period of the Goldberg Committee, including the policy of execution of demolition orders, the enforcement measures in the areas of the Bedouin diaspora in the Negev will continue.
 - 22.2. Operations for identifying existing and new offences and their investigation will continue, as well as the conduct of legal proceedings due to them and due to pending cases before the courts.

22.3. Execution of demolition orders and dispossession orders will be carried out as follows:

22.3.1. Execution of all types of orders concerning new construction or recent incursions will continue.

22.3.2. Execution of criminal and civil demolition orders concerning older construction – even if issued recently – will be carried out only with approval from the Department for Enforcement of Property Law in advance and in writing. Every case will be examined independently and approval will be granted based on various considerations, including: existence of a special public necessity for performing demolitions, life or health risk, focal points of criminal behavior, existence of an available alternative solution and etc.

Concluding observation no. 34:

"The Committee is deeply concerned that the severe restrictions on the freedom of movement in the Occupied Palestinian Territories, targeting a particular national or ethnic group, especially through the wall, checkpoints, restricted roads and permit system, have created hardship and have had a highly detrimental impact on the enjoyment of human rights by Palestinians, in particular their rights to freedom of movement, family life, work, education and health. It is also concerned that the Order on Movement and Travel (Restrictions on Travel in an Israeli Vehicle) (Judea and Samaria), of 19 November 2006, which bans Israelis from transporting Palestinians in their vehicles in the West Bank, except in limited circumstances, has been suspended but not cancelled. (Articles 2, 3 and 5 of the Convention)

The State party should review these measures to ensure that restrictions on freedom of movement are not systematic but only of temporary and exceptional nature, are not applied in a discriminatory manner, and do not lead to segregation of communities. The State party should ensure that Palestinians enjoy their human

rights, in particular their rights to freedom of movement, family life, work, education and health."

While Israel's position on the applicability of Covenant beyond its territory has been presented at length to the Committee on previous occasions and remains unchanged, it should be emphasized that with the disengagement initiative, including the withdrawal of all Israeli forces and the dismantling of the military government, along with the evacuation of over 8,500 civilians, Israel has further relinquished its powers of administration in the Gaza Strip.

At the same time, notice should also be given to the alarming outcome of the elections in the West Bank and Gaza, which gave rise to a Palestinian Hamas-terrorist leadership, whose covenant to this day still calls for violence against Jews and the destruction of the State of Israel. Faced with the failure of the Palestinian leadership to comply with its obligations to fight terrorism, prevent the daily indiscriminate firing of rockets into Israeli territory, stop incitement and prevent the smuggling of weapons, explosives and suicide bombers, Israel has been compelled to combat the ongoing threat to the lives of Israelis and foreigners while upholding its obligations under international law and striking a delicate balance between competing human rights and concerns.

Notwithstanding Israel's longstanding legal position on the inapplicability of the Convention in areas beyond its territory, in a spirit of constructive dialogue with the Committee, Israel provides the following information.

1. Imperative security necessity and the inherent right to life of Israeli citizens, is at the basis of the restrictions on movement imposed in the West Bank. Since September 2000, the State of Israel has been coping with a terrorist attack of unprecedented strength, which is addressed towards the citizens of Israel wherever they may be, and towards Israelis who live and pass through the region.
2. In this matter, please refer for example to the words of the former President of the Israeli Supreme Court, the honorable Justice Barak (HCJ 7957/04, *Maraaba v. the Prime Minister of Israel*, Takdin-Supreme, 3333, (3)2005):

"1. Terrorism and the Response to It

1. In September 2000 the second *intifada* broke out. A mighty attack of acts of terrorism landed upon Israel, and upon Israelis in the Judea, Samaria, and Gaza Strip areas (hereinafter – *the area*). Most of the terrorist attacks were directed toward civilians. They struck at men and at women; at elderly and at infants. Entire families lost their loved ones. The attacks were designed to take human life. They were designed to sow fear and panic. They were meant to obstruct the daily life of the citizens of Israel. Terrorism has turned into a strategic threat. Terrorist attacks are committed inside of Israel and in the *area*. They occur everywhere, including public transportation, shopping centers and markets, coffee houses, and inside of houses and communities. The main targets of the attacks are the downtown areas of Israel's cities. Attacks are also directed at the Israeli communities in the *area*, and at transportation routes. Terrorist organizations use a variety of means. These include suicide attacks ("guided human bombs"), car bombs, explosive charges, throwing of Molotov cocktails and hand grenades, shooting attacks, mortar fire, and rocket fire. A number of attempts at attacking strategic targets ("mega-terrorism") have failed. Thus, for example, the intent to topple one of the Azrieli towers in Tel Aviv using a car bomb in the parking lot was frustrated (April 2002). Another attempt which failed was the attempt to detonate a truck in the gas tank farm at Pi Gllilot (May 2003). **Since the onset of these terrorist acts, up until mid July 2005, almost one thousand attacks have been carried out within Israel. In Judea and Samaria, 9000 attacks have been carried out. Thousands of attacks have been carried out in the Gaza Strip. More than one thousand Israelis have lost their lives, approximately 200 of them in the Judea and Samaria area. Many of the injured have become severely handicapped.** On the Palestinian side as well, the armed conflict has caused many deaths and injuries. We are flooded with bereavement and pain.

2. Israel took a series of steps to defend the lives of her residents. Military operations were carried out against terrorist organizations. These

operations were intended to defeat the Palestinian terrorist infrastructure and prevent a reoccurrence of terrorist acts (*see* HCJ 3239/02 *Marab v. The Commander of IDF Forces in the Judea and Samaria Area*, 57(2) P.D. 349, hereinafter – *Marab*; HCJ 3278/02 *The Center for Defense of the Individual v. The Commander of IDF Forces in the West Bank Area*, 57(1) P.D. 385.) These steps did not provide a sufficient answer to the immediate need to halt the severe terrorist attacks. Innocent people continued to pay with life and limb..." (bold text added)

3. Needless to mention that, as the President of the Israeli High Court of Justice, the honorable Judge Dorit Beinisch indicated: "The terrorist attacks have intensified and worsened since the Hamas organization secured its control of the Gaza Strip. These attacks include continual firing of rockets and mortar shells toward civilian communities inside the State of Israel, as well as terrorist attacks and attempted terrorist attacks directed against civilians and IDF soldiers both at the border crossings along the fence between the Gaza Strip and the State of Israel."(HCJ 9132/07 *Jaber al Bassiouni Ahmed et al. v. The Prime Minister and The Minister of Defense*).
4. As the former honorable President of the Israeli Supreme Court, Judge Aharon Barak, has denoted in the above mentioned HCJ 7957/04, in the on-going fight against terrorism, the security forces face various and different threats. In order to provide an answer to the threats addressed towards the State of Israel, and against the Israelis who live in the area, the military commander is authorized, **and is often obligated**, to undertake various security measures that may, as much as possible, provide a response to these threats.
5. Thus, as part of his duty to protect the State of Israel, and the lives of the area's residents, the military commander undertakes security measures targeted at thwarting terrorist attacks. This authority has also been recognized in the ruling, in the verdict pronounced by the honorable judge (her title at the time), Beinisch, in HCJ 9593/04, *The head of the Yanon village council v. The military commander of the IDF forces in Judea and Samaria*, Tak-Al 4362(2) 2006 (2006) (Hereinafter: "*The Yanon Village Affair*"), as follows:

"12. The Judea and Samaria area is held by the State of Israel under a belligerent occupation, and there is no dispute that the military commander, appointed on behalf of the State of Israel over the region, is authorized to instruct, through an order issued, on the closure of the entire area, or part of it, and by this prevent the entry and exit of people from the closed area. This authority of the military commander derives from the belligerent occupation rules, based on the international public law, the military commander's duties are to assure the peace of the region's residents, their security, and the region's public order (see article 23 (g) and article 52 of the Regulations concerning the Laws and Customs of War on Land, supplementing the fourth (IV) Hague Convention of 1907; respecting the Laws and Customs of War on Land and its annex (hereinafter: "Hague Regulations"); article 53 of the 4th Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949 (hereinafter: "the Fourth Geneva Convention"); H CJ 302/72, *Chilo v. the Government of Israel*, verdicts KZ(2) 169,178-179 (hereinafter: "UCJ Chilo"). This military commander's allotted authority, is also anchored in the security legislation in article 90 of the Security Commands' Order (see for example: H CJ Chilo, at pages 174,179; Israeli Supreme Court 6339/05, *Matar v. the IDF forces commander in the Gaza Strip*, verdict NT (2) 846, 851-852)..."

6. Unfortunately, the terrorism threat which took the lives of over a 1,100 Israeli citizens', necessitates in certain cases, that there be a restriction on the freedom of movement within the area. **This need derives from the fact that Palestinian Terrorism operates from within the civil population under its auspices, whilst obstinately and severely violating international law.** This intricate reality dictates, in certain cases, the imposition of restrictions on movement within the area.
7. When imposing restrictions, the military commander recognizes the local population's needs. As such he undertakes great effort, including the allotment of vast resources, in order to alleviate, to the extent possible, any difficulties caused to that part of the population which is not involved in terrorist activity. He must do

all this in parallel with fulfillment of his duty under the international law, to fight terrorism and to secure the public order and public life in the area.

8. Thus, even though restrictions on movement are imposed, many efforts are made to relieve the local population, either by verifying the existence of reasonable alternatives for the movement of Palestinians in the area, and also by facilitating the freedom of movement of ambulances, medical crews, and those residents who are in need of medical care.
9. Finally, it should be stressed that the Israeli Supreme Court residing as the High Court of Justice, has affirmed, in a long list of verdicts, that the military commander is authorized to impose restrictions on movement within the area, in order to provide a solution to legitimate security needs, as long as these restrictions respect the principles of proportionality.
10. With regard to *the Order on Movement and Travel (Restrictions on Travel in an Israeli Vehicle) (Judea and Samaria), of 19 November 2006* – the order was revoked on March 21, 2007.
