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Committee on Economic, Social and Cultural Rights

Geneva, 14 November-2 December 2011

Consideration of reports submitted by States parties under Articles 16 and 17 of the Covenant

Concluding Observations of the Committee on Economic, Social and Cultural Rights

Israel

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of Israel on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/ISR/3) at its thirty-fifth, thirty-sixth and thirty-seventh meetings, held on 16 and 17 November 2011 (E/C.12/2011/SR.35-37), and adopted, at its fifty-ninth meeting held on 2 December 2011, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Israel and the written replies to its list of issues. It also notes with appreciation the high level of the State party delegation, and its positive and constructive engagement with the Committee.

3. The Committee, reminds the State party, while noting its serious security concerns, of its obligation to report and to fully guarantee and implement the Covenant rights for all persons in all territories under its effective control.

B. Positive aspects

4. The Committee notes with appreciation efforts made by the State party in promoting the implementation of economic, social and cultural rights. The Committee welcomes in particular:

- (i) The enactment in July 2011 by the Knesset of the National Council for Nutrition Security Law;
- (ii) The amendment in July 2010 of the Equal Employment Opportunities Law;

- (iii) The enactment in 2008 by the Knesset of the Encouragement of the Advancement and Integration of Women in the Work Force and the Adjustment of Workplaces to Women's Needs Law;
- (iv) The rendering of the Supreme Court in June 2011 of a decision affirming that access to water is a basic human right;
- (v) The ruling by the High Court of Justice in February 2011 determining that the Ministry of Education was required to take concrete measures to promote the right to education for children in East Jerusalem and address the lack of classrooms;
- (vi) The adoption in October 2011 of the Trajtenberg report recommendations to lower the cost of living, ease the financial burden of poorer and middle-class families and increase the supply of affordable housing.

C. Principal subjects of concern and recommendations

5. The Committee notes with concern that most of the recommendations addressed to the State party following the consideration by the Committee of the State party's second periodic report in 2003 are still valid today.

The Committee recommends that the State party follow-up to those recommendations that were issued in 2003 and that are still valid today.

6. The Committee remains concerned that, in spite of the fact that domestic courts have referred to Covenant rights in judicial decisions, the Covenant rights have not been incorporated in the domestic legal order with the consequence that the citizens can not directly invoke the rights contained in the Covenant before domestic courts.

The Committee urges that the State party incorporate the rights of the Covenant in its domestic legal order. The Committee recommends that the State party establish training programs for the legal profession, including the judiciary and the legal profession, on the scope and function of the Covenant and of the State party's obligation to effectively implement binding human rights obligations at the domestic level. The Committee draws the attention of the State party to its General Comment No.9 (1998) on the domestic application of the Covenant.

7. The Committee notes with regret that the State party has not yet established an independent national human rights institution.

The Committee recommends that the State party establish an independent national human rights institution in compliance with the Paris Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights.

8. The Committee regrets the absence in the State party's third periodic report as well as in its replies to the list of issues of information related to the enjoyment of economic, social and cultural rights as enshrined in the Covenant in the Occupied Palestinian Territory (OPT).

The Committee urges the State party to include information on the enjoyment of economic, social and cultural rights as enshrined in the Covenant in the OPT in its fourth periodic report. The Committee reminds the State party of the Advisory Opinion rendered on 9 July 2004 by the ICJ, as the United Nations' principal judicial body, which stated that Israel is bound by the Covenant with regard to the OPT and that it should also not

raise any obstacle to the exercise of such rights in those fields where competence has been transferred to the Palestinian authorities.

9. The Committee is concerned about the continuing obstacles to employment by the Arab Israeli population, the considerably higher levels of unemployment rates of the Arab Israeli population, and the concentration of members of the Arab, Druze and Circassian population in some sectors characterized by low wages, including agriculture and the hotel and restaurant sector (art 6).

The Committee recommends that the State party take immediate steps to increase employment opportunities in towns and villages for Arab Israelis, and report on progress achieved in its next periodic report.

10. The Committee is concerned about the high unemployment level of persons with disabilities, despite the many projects and instruments established by the State party in this regard (art.6).

The Committee urges the State party to effectively implement its measures to overcome the obstacles faced by persons with disabilities in accessing the labour market, and to report in its next periodic report on the impact of such measures on the unemployment rate of persons with disabilities.

11. The Committee is concerned about the negative impact of the budget cuts since 2009 regarding the Employment Service, as well as reductions in the expenditures on vocational training programs (art 6).

The Committee recommends that the State party take measures to strengthen the Employment Service, both in terms of its budget as well as human resources and services it offers, such as vocational training vouchers.

12. The Committee is concerned about serious obstacles to the enjoyment of the right to work of: (a) Palestinians in the West Bank whose agricultural land has been rendered inaccessible or difficult to reach by the construction of the Wall and the limited allocation of permits and opening times of the Wall gates; (b) Palestinian farmers in the Gaza Strip whose agricultural land lies in or near the buffer zone; and (c) Palestinian fishermen in Gaza (art.6).

The Committee urges the State party to ensure that Palestinians enjoy unimpeded access to their agricultural lands in all their territories, and recommends that the State party clearly demarcate the buffer zone to the extent strictly necessary to address its security concerns and effectively inform the civilian population in the Gaza Strip of the extent of its applicable regime. The Committee recommends that the State party conduct investigations of the killings and injuries of workers in the buffer zone, providing victims with an adequate remedy. Furthermore, the Committee calls on the State party to recognize and respect the right of the Palestinian people to the marine resources, including the right to fish in the territorial sea and Exclusive Economic Zone of the Gaza Strip.

13. The Committee is concerned about the continuing wage gap between men and women, in both the Jewish and the Arab Israeli population groups (art.7).

The Committee recommends that the State party effectively implement measures to ensure equal pay for work of equal value, between men and women, in both the Jewish and the Arab Israeli population groups.

14. The Committee is concerned about the persistent and significant wage disparities between the Arab Israeli and the Jewish population groups, despite recent improvements as explained by the State party delegation during the dialogue. The Committee is also

concerned that approximately 12 percent of Arab Israelis are paid below the minimum wage (art.7).

The Committee reiterates its previous recommendation that the State party take measures to eliminate inequalities in wages between Jews and Arab Israelis, in conformity with principle of equal pay for work of equal value, as enshrined in article 7 of ICESCR, and ensure that wages are never lower than the established minimum.

15. The Committee is concerned about recent legislation which prescribes that persons with disabilities have a wage that in certain circumstances is 30 percent of the minimum wage (art.7).

The Committee recommends that the minimum wage is fully applicable to persons with disabilities. The Committee further recommends that the State party make sure that this should not result in the reduction of employment opportunities for persons with disabilities.

16. The Committee is concerned that Palestinians living in the OPT and working in Israel are not allowed to be members of the General Federation of Laborers in Israel, which has been assigned by law with the responsibility to protect Palestinian workers' rights in Israel and retains half of the union fees collected from those workers (art.8).

The Committee recommends that the State party take steps to allow that all Palestinians living in the OPT and working in Israel can join the General Federation of Laborers in Israel, in accordance with article 8 of the Covenant.

17. The Committee is concerned about the revocation of residency permits of Palestinians living in East Jerusalem, which results in the loss, among other things, of their right to social security, including access to social services (art.9).

The Committee calls upon the State party to put a stop to the revocation of residency permits of Palestinians living in East Jerusalem. The Committee urges the State party not to hinder the enjoyment of their right to social security, including access to social services. The Committee also urges the State party to ensure the right of access to social security on a non-discriminatory basis, especially for disadvantaged and marginalized individuals and groups. In this respect, the Committee draws the attention of the State party to its General Comment No.19 (2007) on the right to social security.

18. The Committee, while recognizing the efforts undertaken by the State party to combat domestic violence, is concerned that the prevalence of domestic violence against women and girls has not decreased significantly. It is also concerned that domestic violence is not defined as a crime in the Penal Code (art.10).

The Committee recommends that the State party define domestic violence as a crime in the Penal Code and intensify its efforts to prevent and combat domestic violence, including through awareness-raiding campaigns aimed at all segments of the population. It recommends that the State party ensure an effective access to justice for victims of domestic violence, ensure the prosecution and punishment of perpetrators of such violence, and adopt effective protection measures, especially restraining orders. The Committee furthermore recommends that the State party provide training on domestic violence for the police, judiciary and other relevant officials.

19. The Committee is concerned that the State Party has not provided sufficient information concerning education, services and programmes on sexual and reproductive health aimed at the most vulnerable segments, such as women and young people from the Arab Israeli population group and those living in the OPT.

The Committee recommends that the State Party increases its efforts in the creation of educational programmes and services on sexual and reproductive health for all the population, especially women and young people from the OPT and the Arab Israeli population group.

20. The Committee is concerned that the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003, as amended in 2005 and 2007, imposes severe restrictions on family reunification (art.10).

The Committee urges the State party to guarantee and facilitate family reunification for all citizens and permanent residents irrespective of their status or background, and ensure the widest possible protection of, and assistance to, the family.

21. The Committee is concerned that the State party continues to be a country of destination for trafficking in persons (art.10).

The Committee calls on the State party to ensure full and effective implementation of its Anti-Trafficking Law and two national Plans to combat trafficking in persons. It urges the State party to take all appropriate measures to ensure that all perpetrators are prosecuted and brought to justice, and that victims have access to adequate protection and assistance.

22. The Committee is concerned that, in the case of a divorce, custody of children up to the age of six is always given to mothers, and that fathers are often required to pay child support awards that exceed their income, and if not that their freedom of movement is seriously curtailed. The Committee is concerned that divorced fathers often are required to visit their children in supervised visitation centers during their working hours, which leads to the accumulation of work absences and the risk of dismissal. (art.10).

The Committee recommends that the State party amend the Capacity and Guardianship Law so that custody of children up to the age of six is not always given to mothers, and ensure that child support awards do not lead to an inadequate standard of living for the father.

23. The Committee recommends that the State party take measures so as to enable the Palestinian Authority to exercise its functions and powers emanating from the 1993 Interim Agreement, including the transfer of tax revenues to it (art.11).

24. The Committee is concerned about the high incidence of poverty among families in the State party, in particular among the Arab Israeli population, as well as in the OPT. The Committee is furthermore concerned about the high rate of privatization of social services (art.11).

The Committee recommends that the State party establish a comprehensive policy to address the problem of poverty and social exclusion, accompanied by adequate budget allocations and a scaling down of the privatization of social services. The Committee recommends that the State party focus its efforts in particular on the Arab Israeli population, Ultra-Orthodox Jewish families and disadvantaged and marginalized groups such as older persons, persons with disabilities and asylum seekers. The Committee also recommends that the State party ensure timely and unfettered access by the

humanitarian organizations operating in the OPT to the Palestinian population, including in all areas affected by the Wall and its associated regime. The Committee refers in this regard to its Statement on Poverty and the Covenant on Economic, Social and Cultural Rights (2001)

25. The Committee is concerned about the lack of social housing units, the limited availability of affordable housing, and the lack of regulation of the private rental market (art.11).

The Committee recommends that the State party take immediate steps to ensure the availability of affordable housing, by adopting a national strategy and a plan of action on adequate housing, by increasing the number of social housing units, and by offering increased rental assistance. The State party should also ensure a proper regulation of the private rental market. The Committee also urges the State party to expeditiously implement the Planning and Construction Procedures for the Acceleration of Construction for Housing Purposes Law 5771-2011. The Committee also draws the attention of the State party to its General Comment No.4 (1991) on the right to adequate housing.

26. The Committee is deeply concerned about home demolitions and forced evictions in the West Bank, in particular Area C, as well as in East Jerusalem, by Israeli authorities, military personnel and settlers (art.11).

The Committee urges the State party to stop forthwith home demolitions as reprisals and ensure that evictions in Area C are in conformity with the duty (a) to explore all possible alternatives prior to evictions; (b) to consult with the affected persons; and (c) to provide effective remedies to those affected by forced evictions carried out by the State party's military. The Committee recommends that the State party ensure that the development of special outline plans and closed military zones are preceded by consultations with affected Palestinian communities. The Committee also recommends that the State party review and reform its housing policy and the issuance of construction permits in East Jerusalem, in order to prevent demolitions and forced evictions and ensure the legality of construction in those areas. The Committee furthermore urges that the State party intensify efforts to prevent attacks by settlers against Palestinians and Palestinian property in the West Bank, including East Jerusalem, and investigate and prosecute criminal acts committed by settlers.

27. The Committee is concerned that the Plan for the Regularization of Bedouin Housing and for the Economic Development of the Bedouin Population in the Negev, based upon the recommendations of the Goldberg Committee and adopted in September 2011, foresees a land planning scheme that will be operated in a short and limited period of time, and includes an enforcement mechanism for the implementation of the planning and construction laws (art.1).

The Committee recommends that the State party ensure that the implementation of the Plan does not result in the forceful eviction of Bedouins. The Committee recommends that any eviction should be based on free, prior and informed consent and that those relocated are offered adequate levels of compensation, in line with the Committee's General Comment No.7 (1997) on the right to adequate housing: forced evictions.. The Committee also recommends the State party to officially regulate the unrecognized villages, cease the demolition of buildings in those villages, and ensure the enjoyment of the right to adequate housing.

28. The Committee is concerned about the increasing food insecurity among **disadvantaged and marginalized individuals or groups, including** older persons, the Jewish Ultra-Orthodox population group, and Palestinians living in the OPT. It is also concerned about the rising prices of consumer goods and the increasing share that these take in the overall family household budget (art.11).

The Committee recommends that the State party intensify its efforts to address food insecurity and hunger in the State party, as well as in the OPT, focusing on all disadvantaged and marginalized individuals or groups, without discrimination. The Committee recommends that the State party urgently adopt the report and implement the recommendations of the Inter-ministerial Committee set up to examine the Government's role and responsibility for ensuring food security for all its citizens, submitted to the Ministerial Committee for Social Affairs in March 2008. The Committee also urges the State party to establish the Food and Nutrition Security Council, in line with National Council for Nutrition Security Law 5771-2011, and task it to set up a nutrition security policy.

29. The Committee is concerned that Palestinians living in the OPT do not have access to sufficient and safe drinking water and adequate sanitation. It is also concerned about the continuing destruction of the water infrastructure in Gaza and in the West Bank, including in the Jordan Valley, under military and settler operations since 1967. (art.11).

The Committee urges the State party to take measures to ensure the availability of sufficient and safe drinking water and adequate sanitation for Palestinians living in the OPT, including through the facilitation of the entry of necessary materials to rebuild the water and sanitation systems in Gaza. The Committee urges the State party to take urgent steps to facilitate the restoration of the water infrastructure of the West Bank including in the Jordan Valley, affected by the destruction of the local civilians' wells, roof water tanks, and other water and irrigation facilities under military and settler operations since 1967. The Committee draws the State party's attention to its General Comment No.15 (2002) on the right to water.

30. The Committee is concerned about the unequal treatment of Bedouin women and girls with regard to education, employment, and health, especially those living in unrecognized villages (articles 3, 11, 12, 13, 14).

The Committee recommends that the State party continue to take measures to improve the situation of Bedouin women and girls with regard to their access to health care, education and employment.

31. The Committee is concerned that the National Health Insurance Law excludes persons who are not in possession of a permanent residency permit, denying in practice the access to adequate health care for Palestinians with temporary permits, migrant workers as well as refugees. The Committee is also concerned about the infant and maternal mortality rates among the Arab Israeli and Bedouin population groups (art.12).

The Committee recommends that the State party extends the coverage under the National Health Insurance Law to persons not in possession of a permanent residency permit, so as to ensure universal access to affordable primary health care for all. The Committee also urges the State party to intensify its efforts to lower the infant and maternal mortality rates among the Arab Israeli and Bedouin population groups.

32. The Committee is concerned that Palestinians living in the OPT, especially those living in the closed zones between the Wall and the Green Line, and in Gaza, have severely restricted access to health facilities, goods and services (art.12).

The Committee recommends that the State party take measures so as to enable the Palestinian Authority to exercise its functions and powers emanating from the 1993 Interim Agreement. The Committee urges the State party to ensure unrestricted access to health facilities, goods and services, including urgency treatment, for Palestinians living in the OPT, especially those living in the closed zones between the Wall and the Green Line, i.e. seam zones. The Committee also urges the State party to take disciplinary action against checkpoint officials who are found responsible for unattended roadside births, miscarriages, and maternal deaths resulting from delays at checkpoints, as well as maltreatment of Palestinian ambulance drivers. The State party should take urgent measures to ensure Palestinian women's unrestricted access to adequate prenatal, natal and post-natal medical care. The State party should also take measures to ensure the availability and accessibility of psychological trauma care for people living in Gaza, in particular children.

33. The Committee is concerned that the school dropout rate is systematically higher in Arab schools compared to Hebrew schools, especially in Grade 9. It is also concerned about the serious shortage of classrooms in schools for Arab Israeli children, as well as in the OPT (articles 13 and 14).

The Committee recommends that the State party intensify its efforts to lower the high drop-out rate for Arab Israeli and Bedouin children, including through strict enforcement of the Compulsory Education Law 5709-1949. The Committee recommends that the State party take the necessary measures to address the serious shortage of classrooms in schools for Arab Israeli children and in the OPT. The Committee also urges the State party to ensure that children living in East Jerusalem are able to be absorbed in the regular education system through the establishment of adequate infrastructures, and until such time to provide financial coverage for alternative educational frameworks as an interim solution, in line with the decision of the High Court of Justice of 6 February 2011.

34. The Committee is concerned that the education system still does not provide adequate support to children with disabilities. It also notes with concern reports of the lack of services provided in practice to children with disabilities in regular schools, effectively limiting their integration into regular class settings (art.13 and 14).

The Committee recommends that the State party adopt measures in the law and in practice to ensure the implementation of inclusive education of children with disabilities, such as the obligatory training of all teachers (beyond special education teachers), to require individual education plans for all students, ensure the availability of assistive devices and support in classrooms, educational materials and curricula, ensure the accessibility of physical school environments, encourage the teaching of sign language, and allocate the necessary budget for all those measures. The Committee draws the attention of the State party to its General Comment No.5 (1994) on persons with disabilities.

35. The Committee is concerned that Palestinian children living in the OPT are not able to enjoy their right to education, as a consequence of restrictions on their movement, regular harassment by settlers of children and teachers on their way to and from school, attacks on educational facilities, and sub-standard school infrastructure. The Committee

also notes with concern that there are as many as 10,000 unregistered children in East Jerusalem, out of which around 5,500 are of school age but do not attend school due to their lack of registration (articles 13 and 14).

The Committee recommends that the State party take measures so as to enable the Palestinian Authority to exercise its functions and powers emanating from the 1993 Interim Agreement, ensuring the right to education for Palestinian children living in the OPT. The Committee also urges the State party to address violations of the right to education, including those stemming from restriction on movement, incidents of harassment and attacks by the Israeli military and settlers on school children and educational facilities, as well as non-attendance caused by a lack of registration.

36. The Committee is also concerned that the measures adopted by the State party to restrict freedom of movement of both people and goods in the OPT severely impede the Palestinian population's access to religious sites, cultural exchanges and events (art.15).

The Committee recommends that the State party take measures to ensure that Palestinians living in the OPT can exercise their right to take part in cultural and religious life, without restrictions other than those that are strictly proportionate to security considerations and are non-discriminatory in their application, in accordance with international humanitarian law. The Committee also recommends that holy sites in the OPT are protected against demolition and desecration, in accordance with the Protection of Holy Places Law 5727-1967.

37. The Committee is concerned that the measures adopted by the State party to relocate the Arab-Bedouin villages in new settlements will negatively affect their cultural rights and links with their traditional and ancestral lands.

The Committee recommends that the State party fully respect the rights of the Arab-Bedouin people to their traditional and ancestral lands.

38. **The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and ratify the Convention on the Rights of Persons with Disabilities..**

39. **The Committee requests that the State party disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, translate and publicize them as far as possible and inform the Committee of the steps taken to implement them in its next periodic report. It also encourages the State party to engage all the relevant actors, including non-governmental organizations and other members of civil society, in the process of discussion at the national level prior to the submission of its next periodic report.**

40. **The Committee requests the State party to submit its fourth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 2 December 2016.**