

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 29th Session

Israel

I. BACKGROUND INFORMATION

Israel ratified the *1951 Convention relating to the Status of Refugees* in 1954 and acceded to its *1967 Protocol* in 1968 (hereinafter jointly referred to as the *1951 Convention*). Israel also ratified the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) in 1958 and has signed, but not ratified, the *1961 Convention on the Reduction of Statelessness*.

The *1951 Convention* has not been incorporated into Israeli legislation. Israel's obligations under the *1951 Convention* are acknowledged only in the *Procedure for Handling Political Asylum Seekers in Israel*¹ from 2011 (the *2011 Procedure*), issued by the Israeli Population Immigration and Border Authority (PIBA). The status and rights of asylum-seekers and refugees are not regulated in primary legislation. Rather, their stay is regulated by a 2(a)(5) visa, which merely constitutes a conditional release from immigration detention (a bridging visa) and does not confer rights other than *non-refoulement*.²

As of April 2017, Israel hosted 39,274 persons under UNHCR's mandate who entered Israel irregularly. The main nationalities are Eritreans (28,110) and Sudanese (7,939), who are defined as "infiltrators"³ as a result of their irregular entry into Israel. As of 23 April 2017, 25,506 asylum applications were pending, of which 9,650 were by Ukrainians and 4,305 by Georgians.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 136.105: "Ensure asylum seekers have access to a timely individualized refugee status determination and provide for the release of those detained under the Anti-Infiltration Law, in accordance with the recent decision by the Israeli High Court of Justice (United States of America)."⁴

UNHCR notes with appreciation that the current scope of the *Law on the Prevention of Infiltration (Anti Infiltration Law)* is less restrictive in comparison to the 2012 version of the Law,⁵ which allowed for indefinite detention of "infiltrators" and was repealed by the High Court of Justice in 2013.⁶ The law has since undergone three amendments. Currently, mandatory

¹ National Legislative Bodies / National Authorities, Israel: Procedure for Handling Political Asylum Seekers in Israel, January 2011, available at: https://www.gov.il/BlobFolder/policy/handling_political_asylum_seekers_in_israel/he/5.2.0012_eng.pdf.

² Article 2(a)(5) of the Law on Entry into Israel, 1952 (Amendment no. 9, 25 July 2001).

³ *Israel: Law on the Prevention of Infiltration (Offences and Jurisdiction)* [Israel], 1954, Article 1.

⁴ All recommendations made to Israel during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Israel" (19 December 2013), A/HRC/25/15, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/ILSession15.aspx>.

⁵ *Israel: Prevention of Infiltration Law (Amendment 4)* [Israel], 1954, available at: <http://www.refworld.org/docid/55116dca4.htm>.

⁶ *Adam and others v. The Knesset and others* (7146/12); *Doe and others v. Ministry of Interior and others* (1192/13); *Tahangas and others v. Ministry of Interior* (1247/13), 7146/12, 1192/13, 1247/13, Israel: Supreme Court, 16 September 2013, available at: http://www.refworld.org/cases_ISR_SC.524e7ab54.html

detention period of new arriving “infiltrators” is limited to three months. Additionally, mandatory residence at the semi-closed Holot Facility has been introduced for a maximum of 12 months. The following groups are exempt from residency at Holot: minors; women; persons aged 60 years old and older; parents to minors in their custody/care; persons whose health, including mental health could be at risk by the residence; and victims of trafficking and slavery.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Fair and efficient asylum procedures

Linked to 2nd cycle UPR recommendation no. 136.106: “Safeguard the rights of individual refugees and asylum seekers and ensure their access to a fair procedure for examining their asylum requests (Rwanda).”

The Israeli asylum procedure has been criticized for failing to meet the bar for a fair, efficient and effective system. Until 2012 Israel did not process asylum claims submitted by Eritrean and Sudanese nationals and has not publically communicated to the two communities their right to seek asylum. Israel has thus far refrained from adopting a protection policy on Darfuris, leaving many asylum applications pending for extensive periods (out of 2,369 asylum applications, 94 percent are still pending). With respect to Eritreans, Israel maintains, contrary to UNHCR’s position, that the claim raised by the vast majority of the community, based on draft evasion/desertion from the Eritrean military, does not give rise to refugee status under the *1951 Convention*. This is currently being litigated. Since UNHCR’s handover of Refugee Status Determination (RSD) to the Government in mid-2009 only eight Eritreans and two Sudanese have been recognized as refugees in Israel (less than one per cent of recognition rate).

Israel does not provide information regarding the asylum proceedings to persons who may be in need of international protection including at the borders. Assistance, legal or otherwise, is not provided. The inability to afford legal representation significantly affects the ability to access the asylum procedure and to appeal a negative decision.

The Israeli asylum system is struggling to handle large numbers of applications. The system is currently congested by approximately 25,506 pending asylum applications in first instance (as of April 2017). The RSD Unit in the Ministry of Interior numbers only 53 employees, 22 of whom conduct interviews. The Advisory Committee to the Minister of the Interior on Refugee Issues (NSGB with Officers from Ministry of Interior, Justice and Foreign Affairs) meets once a month and is headed by two chairs on part-time positions. The first appeals instance, whose jurisdiction applies to all decisions on refugee status in Israel, consists of three tribunals with only eight adjudicators. The appeals tribunals do not in practice recognize an appellant as a refugee and instead refer the case back to the first instance.

Recommendations:

UNHCR recommends that the Government of Israel:

- a) Simplify the asylum procedure by streamlining its structure, including by ensuring full-time positions for first instance determination and decision-making bodies and by allowing the Appeals Tribunals to take meritorious decisions;
- b) Provide linguistic and legal assistance throughout all stages of the asylum procedure;
- c) Develop alternative processing structures, such as *prima facie* recognition, for categories of asylum-seekers that are likely at risk, including Darfuris, Sudanese from the Nuba Mountains, Blue Nile State;
- d) Grant refugee status or at least provide subsidiary protection with associated rights where return would constitute *refoulement*; and

- e) Reconsider its refusal to assess desertion/draft evasion from the Eritrean Military as an imputed political opinion.

Issue 2: Detention

Linked to 2nd cycle UPR recommendation no. 136.113: “Ensure that detention of civilians, especially children, is carried out in accordance with international law and standards and without any discrimination paying particular attention to the recommendations of the CRC (Finland).”

Despite improvements in the *Anti-Infiltration Law* described in Section I above, Article 30A to the *Anti-Infiltration Law* provides for the automatic detention of “infiltrators”, without an individual assessment of the necessity to detain.⁷ The law does not prohibit the detention of children but unaccompanied minors are exempt as are persons whose health would be at risk if detained. Cases raising special humanitarian grounds are contemplated in the law, however it does not establish identification and screening mechanisms to apply the exemptions.

Recommendations:

UNHCR recommends that the Government of Israel:

- a) Amend the *Anti-Infiltration Law* to prohibit the detention of children and provide access to legal advice for detained persons;
- b) Ensure that detention is only used as a last resort and only after assessing the individual’s particular circumstances, including protection needs;
- c) Establish appropriate screening and set up community-based reception options and alternatives to detention; and
- d) Where there is no prospect for removal, ensure release or alternatives to detention.

Issue 3: Access to Basic Needs and Essential Services

Linked to 2nd cycle UPR recommendation no. 136.16: “Ratify the 1961 Convention on the Reduction of Statelessness, and take appropriate steps to ensure that the human rights of refugees and asylum-seekers are fully respected, including with regard to access to health care and social welfare services (United States of America)”.

Asylum-seekers are not covered by the *1994 National Health Insurance Law*, which ensures comprehensive medical services and medication to Israeli citizens and residents only (including recognized refugees). Limited health insurance is available to asylum-seekers if purchased by them privately or by their employers as required by the *Foreign Workers Law*. Asylum-seekers are provided with access to emergency medical services in hospitals. Two free clinics, a public health clinic and a mental health clinic run by the Ministry of Health in Tel Aviv, are also available. The clinics are underfunded and are less accessible to asylum-seekers living in the periphery. Children of asylum-seekers are entitled to a special subsidized health insurance scheme provided by one of Israel’s public health providers “Meuhedet”. Participation is voluntary and only half of asylum-seekers children are estimated to be currently insured.

Most welfare services and benefits are also not accessible to asylum-seekers. The *1995 Social Security Law* applies to Israeli citizens and residents only (with exceptions of maternity leave and work-related accidents). Welfare services, under the *Welfare Act* and the *Social Workers Law*, are provided to asylum-seekers by municipal authorities only in exceptional cases, such as removal of children from home and, to some degree, when arrangements for

⁷ See UN High Commissioner for Refugees (UNHCR), *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, Guideline 4.1 and 4.2, 2012, available at: <http://www.refworld.org/docid/50348953b8.html>.

shelters are needed due to domestic violence. The denial of the most basic services and benefits is particularly detrimental to asylum-seekers with specific needs, such as persons with disability, victims of torture, victims of trafficking, survivors of domestic violence and single parents.

Recommendations:

UNHCR recommends that the Government of Israel:

- a) Extend coverage of the *National Health Insurance Law* to asylum-seekers and those who cannot be removed or, alternatively, establish a subsidized health insurance scheme and provide additional resources to State-run clinics;
- b) Extend coverage of the *Social Security Law* to these groups; and
- c) Apply in full, through municipal offices, the *Welfare Act* and the *Social Workers Law* to asylum-seekers and those who cannot be removed from Israel.

Additional protection challenges

Issue 4: Access to Formal Employment

Most asylum-seekers in Israel hold a 2(a)(5) conditional release visa that does not formally allow them to work. While the Government of Israel does not enforce the prohibition, employment of asylum-seekers is in practice made difficult due to the short expiry dates of the visas (maximum two months in the case of Eritreans and Sudanese) and the high taxes levied from their employers (including 20 per cent foreign workers tax and denial of tax credits). All these create disincentives for employment of asylum-seekers.

Additionally, pursuant to amendments to the *1991 Foreign Workers Law* from 2015 and 2017, as of May 2017, employers are obligated to deduct 20 per cent of the salary of asylum-seekers defined as “infiltrators” (most of the asylum-seeker community in Israel) and deposit the money in a fund that would be accessible to the employees only upon their timely departure from Israel. These deductions could result in the further impoverishment of asylum-seekers.

Recommendations:

UNHCR recommends that the Government of Israel:

- a) Remove obstacles to employment of asylum-seekers and those who cannot be removed from Israel, including refraining from levying taxes imposed on foreign workers from employers; and
- b) Amend the *Foreign Workers Law* in order to annul employee deductions or reduce the deduction rates substantially.

Issue 6: Forced Relocations to Third Countries

Eritrean and Sudanese asylum-seekers risk forced relocation to third states by the Israeli authorities without adequate guarantees as to the status and rights received on arrival. Israel has been encouraging Eritrean and Sudanese asylum-seekers to relocate since the fourth quarter of 2013. The identity of the countries and the details of the relocation agreements are covered by a confidentiality order and are not public. In March 2015, the Population and Immigration Authority announced it would begin issuing relocation orders against Eritreans and Sudanese who have not formally applied for asylum or whose applications were rejected. The orders would make it compulsory to depart Israel or risk indefinite detention on the ground of refusal to cooperate with a removal order. Such forced relocation is pending Supreme Court review.

According to monitoring from the two countries as well as testimonies collected by phone from those who have departed, in neither State are rights recognized or a protective status provided. Despite reassurances from Israel, those who arrive in one of the States are

summarily smuggled to the second where they are without any status and subject to arrest and detention.

Recommendations:

UNHCR recommends that the Government of Israel:

- a) Refrain from a policy of forced relocation which produces refugees in orbit;
- b) Ensure relocation agreements include protection safeguards and are public so that rights and mechanisms are known by those who may volunteer for relocation; and
- c) Ensure that rights akin to refugee status and permanent residency are provided by the destination countries and that sufficient monitoring is in place.

Issue 6: Protection of Stateless Persons

Protection of stateless persons in Israel is limited in application and scope. The *2012 Procedure for Dealing with a Foreign Subject Claiming to be Stateless* excludes from its application individuals who entered Israel irregularly, i.e. “infiltrators”. Consequently, the procedure is irrelevant to most stateless in Israel. The procedure also requires, without exemptions, applicants to produce documents such as passports and birth certificates from his country of origin. Examination of the statelessness claim is carried out only after exhausting all efforts to remove the individual. The one-year visa provided to applicants is renewable subject to the applicant’s active assistance with his/her removal and does not include access to national health insurance or social security. So far, only one person has been recognized in Israel as stateless.

Recommendations:

UNHCR recommends that the Government of Israel:

- a) Amend the *2012 Procedure for Dealing with a Foreign Subject Claiming to be Stateless* in order to determine the status and provide protection to stateless persons in line with the *1954 Convention*, including to those who entered Israel irregularly;
- b) Set a time limit for the determination of statelessness claims; and
- c) Consider providing stateless persons with permanent residency after a period of three years after their recognition.

**UNHCR
June 2017**

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

ISRAEL

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Israel.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ⁸	Recommending State(s)	Position ⁹
Refugees and asylum-seekers		
136.16. Ratify the 1961 Convention on the Reduction of Statelessness, and take appropriate steps to ensure that the human rights of refugees and asylum-seekers are fully respected, including with regard to access to health care and social welfare services	Germany	Supported in part ¹⁰
136.104. Treat asylum seekers on its territory in compliance with the 1951 Convention relating to the Status of Refugees	Switzerland	Supported ¹¹
136.105. Ensure asylum seekers have access to a timely individualized refugee status determination and provide for the release of those detained under the Anti-Infiltration Law, in accordance with the recent decision by the Israeli High Court of Justice	United States of America	Supported
136.106. Safeguard the rights of individual refugees and asylum seekers and ensure their access to a fair procedure for examining their asylum requests	Rwanda	Supported

⁸ All recommendations made to Israel during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Israel" (19 December 2013), A/HRC/25/15, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/ILSession15.aspx>.

⁹ Israel's views and replies can be found in: *Addendum* (20 March 2014), A/HRC/25/15/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/ILSession15.aspx>.

¹⁰ **Addendum:** "The following recommendations enjoy the support of Israel in part: 136.16. Despite Israel's complex geostrategic situation and the dramatic impact illegal immigration has already had on the Israeli society, the Israeli Government has nonetheless committed itself to adhere to its international obligations, including the principle of non refoulement. This was recently reaffirmed in the High Court of Justice ruling 7146/12 Naget Serg Adam et. al. v. The Knesset et. al. (16.9.2013)."

¹¹ **Addendum:** "Israel continues to conduct individual refugee status determination assessments for asylum seekers of all nationalities, while providing them with their human rights. Israel will not tolerate any discrimination against asylum seekers and immigrants."

136.110. Ensure non-discrimination to the Palestinian families in Israel regarding health and education of children, in particular those living in poverty, rural areas and refugee camps	Tunisia	Supported in part ¹²
136.147. Allow the return of the refugees	Venezuela	Noted ¹³
136.155. Acknowledge the right of all Palestinian refugees to return to their homeland, as enshrined in the Fourth Geneva Convention	Pakistan	Noted
136.156. Immediately ensure the right of return to all Palestinian refugees in line with international law and relevant resolutions, in particular resolution 194	State of Palestine	Noted ¹⁴
136.231. Take practical measures to protect and respect the rights of Palestinian refugees and the internally displaced Palestinians and give them access to their homeland and their right to compensation for the losses and prejudices they have endured throughout	Saudi Arabia	Noted
136.232. Respect the right of return for all Palestinian refugees so that they can return to their homeland, and be duly compensated for the damages they and their property suffered from	Egypt	Noted
136.233. Recognize the right of refugees to return to their homes	Jordan	Noted
Detention		
136.113. Ensure that detention of civilians, especially children, is carried out in accordance with international law and standards and without any discrimination paying particular attention to the recommendations of the CRC	Finland	Noted
136.115. End all Israeli arbitrary practices such as administrative detention of Palestinians, forced exile, and sanctions	Egypt	Noted

¹² **Addendum:** "The following recommendations enjoy the support of Israel in part [...] Israel has already taken effective actions towards a progressive realization of economic, social and cultural rights for all its citizens, in line with the ICESCR. As discussed at length in Israel's national report, the State remains committed to developing policies and legislation which aim to close the gap between those facing disadvantage and their peers. These programs focus on improving the standard of living and access to social services such as healthcare and education, particularly for Israel's most vulnerable groups."

¹³ **Addendum:** "The recommendations below relate to final status issues which are currently being negotiated by Israelis and Palestinians under the auspices of the U.S. Secretary of State John Kerry. As noted in Israel's national report, Israel continues to seek an historic and comprehensive compromise with our Palestinian neighbours through direct negotiations conducted on the basis of mutual recognition, signed agreements and the cessation of violence and incitement. Therefore the following recommendations do not enjoy Israel's support at this time: 136.108; 136.147; 136.153; 136.154; 136.155; 136.163; 136.164; 136.165; 136.166; 136.167; 136.168; 136.170; 136.171; 136.172 136.173; 136.174; 136.175 136.177; 136.179; 136.180 136.182; 136.183; 136.184; 136.185; 136.186; 136.187; 136.189; 136.190; 136.204; 136.206; 136.221; 136.222; 136.223; 136.224; 136.225; 136.231; 136.232; 136.233."

¹⁴ **Addendum:** "Israel rejects three additional recommendations numbered 136.29, 136.118, and 136.156 which were raised by the so-called "State of Palestine."

136.120. Undertake an independent evaluation of its policy of administrative detention with a view to ending this practice, guaranteeing that all those detained without exception are brought before a judge and have immediate access to a lawyer	Chile	Noted
136.134. Use alternatives to detaining children, and enact regulations to ensure greater protection of children's rights particularly such as the use of restraints and strip searches	Slovenia	Noted
136.140. Conduct an immediate and independent investigation into all cases of torture and ill-treatment of Palestinian children and ensure that all persons responsible for such practices are brought to justice and punished in a manner proportionate to the gravity of their crimes	Bahrein	Noted
SOGI		
136.56. Continue all efforts to eliminate discrimination based on sexual orientation and gender identity	Greece	Supported
136.64. Intensify its efforts to combat gender-based violence against women and girls, including from minority communities	Sweden	Supported
Access to rights		
136.53. Provide equal rights for all citizens of Israel regardless of their origin and confession, allowing them equal access to employment, education and other socio-economic rights as well as participation in political processes	Russian Federation	Supported ¹⁵
136.55. Abrogate all discriminatory laws and practices against some groups of populations under its jurisdiction, in particular in the areas of access to justice, employment, education, health, right to property, freedom of expression and opinion, and freedom of religion and belief	Tunisia	Noted
136.58. Increase efforts to ensure non-discrimination, particularly in the areas of access to justice, property rights and housing rights	Canada	Supported
136.67. Take steps to ensure the rights to health, education, and other rights dependent on freedom of movement are protected	Australia	Supported

¹⁵ **Addendum:** "The State of Israel is sincerely committed to the promotion and protection of human rights for all religious and ethnic minority groups, including but not limited to, its Arab, Druze, Circassian, Bedouin, and Ethiopian communities. Much like other societies, Israel is experiencing objective challenges and difficulties in reaching these goals. Unfortunately and on occasion, these typical challenges are exploited by some in the international community to advance political goals and smear Israel without any real desire to affect change or to promote the actual well-being of those minority groups."

136.82. Take measures to ensure compliance of the principle of same salary for same work, putting special attention that distinctions due to religion, ethnic or gender do not prevent the respect of this principle	Mexico	Supported in part ¹⁶
136.85. Take measures to ensure a fair access to education, without distinction of the origin or gender of the person	Mexico	Supported
136.91. Enhance its efforts to further promote the human rights of minorities, including citizens of Arab origin, by promoting their participation in politics, the economy and various sectors of society as well as by ensuring their equal access to education, health care and other social services	Japan	Supported
136.146. End discrimination against Palestinian households and children when loans are made available in areas such as healthcare and create a strategy for children in disadvantaged areas, in particular the Bedouin communities, migrants and asylum seekers	Iraq	Supported
Discrimination, racism and related intolerance		
136.17. Revise fundamental and other relevant laws with a view to enshrining explicitly in those the principles of equality and non-discrimination	Tunisia	Supported in part ¹⁷
136.18. Ensure the principles of equality and non-discrimination by including the principle in the Basic Law and legislation	Republic of Korea	Supported in part ¹⁸
136.19. Consider including the provision on gender equality and non-discrimination in its Human Rights and Liberty Law	Thailand	Supported
136.20. Abrogate all discriminatory laws against non-Jewish children	Tunisia	Noted
136.44. Increase efforts to implement the recommendations of treaty bodies and include general non-discrimination provisions for all Israeli citizens in the framework of basic law	Austria	Noted
136.57. Review legislation which establishes direct and indirect discrimination of national and religious minorities	Russian Federation	Noted
136.61. Intensify efforts to fight racism and xenophobia	Nigeria	Supported in part ¹⁹
136.62. Eliminate all forms of discrimination against persons of African descent	Tunisia	Supported

¹⁶ **Addendum:** “The following recommendations enjoy the support of Israel in part: 136.17; 136.18; 136.19; 136.21; 136.43; 136.59; 136.61; 136.82.”

¹⁷ *Idem.*

¹⁸ *Idem.*

¹⁹ *Idem.*

136.70. Take all necessary measures to fight against manifestation of religious intolerance and to thoroughly investigate all cases of religious hatred, including acts of vandalism of religious sites	Slovakia	Supported
Palestine and Occupied Territories		
136.173. Stop the transfer of its population to the occupied territory and put an end to all measures that encourage or perpetuate the settlements	Switzerland	Noted ²⁰
136.189. Restore all victims of the occupation of Palestinian and Arab territories, in conformity with international law norms	Plurinational State of Bolivia	Noted ²¹
136.202. Prohibit policies and practices of racial segregation that disproportionately affect the Palestinian population in the OPT	South Africa	Noted
136.205. Effectively protect the Palestinian population in the occupied West Bank, including East Jerusalem, against any form of discrimination which impairs the equitable access to basic services or natural resources, including water and land, or else the equal enjoyment of fundamental rights and freedoms, particularly the right to equal protection before the law	Brazil	Noted
136.212. Stop the revocation of residency permits for Palestinians in East-Jerusalem	Mexico	Noted ²²
136.213. Stop the revocation of permanent residency status of Palestinians in East Jerusalem and provide adequate resources for the development of services and infrastructure, including the creation of new schools	Norway	Supported in part ²³
136.214. Take immediate measures with a view to lifting the blockade and guarantee freedom of movement of goods and persons between Gaza and West bank, including East Jerusalem	Switzerland	Noted
136.220. Undertake necessary measures to guarantee the respect for the freedoms and fundamental rights in the occupied territories such as, for example, the right to freedom of movement of all persons	Spain	Supported

²⁰ See note 6 above.

²¹ See note 6 above.

²² **Addendum:** "Permanent Residents receive the same rights as citizens, excluding an Israeli passport and the right to vote in the national elections to the Knesset. Although a citizenship was offered to all inhabitants of Jerusalem, in 1967 the vast majority of them chose to receive only permanent residency. However, it should be stressed that residents have the right to participate in the municipal elections. Since 1967, over 15,000 permanent residents of the eastern neighborhoods in Jerusalem asked to receive an Israeli citizenship and received it. Israeli polices in this regard have been reviewed and reaffirmed by the Israeli Supreme Court in H.C.J 282/88 Mubarak Awad v. The Prime Minister et. al. (5.6.1998).

²³ **Addendum:** "The following recommendations enjoy the support of Israel in part: [...] 136.213."

136.226. Take all the necessary measures to guarantee for the Palestinians who live in the occupied Palestinian territories access to adequate quantities of drinking water and to appropriate sewage systems, including by facilitating the entry of the materials required to reconstruct the water supply system and sewage system in these territories	Uruguay	Noted
136.229. Guarantee the right to housing of the Palestinians in the occupied territories, including East-Jerusalem, stopping the demolition of Palestinian houses and guaranteeing the property rights of the Palestinian population	Mexico	Noted
Groups with specific needs		
136.98. Continue efforts to ensure equal access of Bedouin communities to education, work, housing and public health	Australia	Supported ²⁴
136.99. Protect the Bedouin citizens from discrimination and ensure their rights to property, housing and public service on an equal basis with others	Czech Republic	Supported
136.100. Find a durable and equitable solution to the problems faced by the Bedouin communities, particularly in the area of possession of land	Belgium	Supported
136.101. Continue taking effective measures to eliminate discrimination against Bedouin women and strengthen the respect of their fundamental rights through concrete and voluntary measures	Belgium	Supported
136.103. Implement previous commitments to increase state resources allocated to Arab Israeli and Bedouin communities, especially for education, and ensure equal access to education, housing, healthcare and employment for individuals in these communities	United States of America	Supported
Stateless persons		
136.16. Ratify the 1961 Convention on the Reduction of Statelessness, and take appropriate steps to ensure that the human rights of refugees and asylum-seekers are fully respected, including with regard to access to health care and social welfare services	Germany	Supported in part ²⁵

²⁴ **Addendum:** “The State of Israel is sincerely committed to the promotion and protection of human rights for all religious and ethnic minority groups, including but not limited to, its Arab, Druze, Circassian, Bedouin, and Ethiopian communities. Much like other societies, Israel is experiencing objective challenges and difficulties in reaching these goals. Unfortunately and on occasion, these typical challenges are exploited by some in the international community to advance political goals and smear Israel without any real desire to affect change or to promote the actual well-being of those minority groups.”

²⁵ **Addendum:** “The following recommendations enjoy the support of Israel in part: 136.16. Despite Israel's complex geostrategic situation and the dramatic impact illegal immigration has already had on the Israeli society, the Israeli Government has nonetheless committed itself to adhere to its international obligations, including the principle of non refoulement. This was recently reaffirmed in the High Court of Justice ruling 7146/12 Naget Serg Adam et. al. v. The Knesset et. al. (16.9.2013).”

II. Treaty Bodies

Committee on the Elimination of Racial Discrimination

Concluding Observations, (3 April 2012), [CERD/C/ISR/CO/14-16](#)

General situation

10. The Committee takes note of the willingness of the State party delegation to discuss questions regarding the West Bank and the Gaza Strip but regrets that the report did not contain any information concerning the population living in these territories. In this regard, the Committee is deeply concerned at the position of the State party to the effect that the Convention does not apply to all the territories under the State party's effective control, which not only include Israel proper but also the West Bank, including East Jerusalem, the Gaza Strip and the Occupied Syrian Golan. The Committee reiterates that such a position is not in accordance with the letter and spirit of the Convention, and international law, as also affirmed by the International Court of Justice and by other international bodies.

Recalling its previous concluding observations (CERD/C/ISR/CO/13, para. 32), the Committee strongly urges the State party to review its approach and interpret its obligations under the Convention in good faith and in accordance with international law. The Committee also urges the State party to ensure that all civilians under its effective control enjoy full rights under the Convention without discrimination based on ethnicity, citizenship, or national origin.

13. As mentioned in its previous concluding observations (CERD/C/ISR/CO/13, para. 16), the Committee is concerned that no general provision for equality and the prohibition of racial discrimination has been included in the Basic Law: Human Dignity and Liberty (1992), which serves as Israel's bill of rights; nor does Israeli legislation contain a definition of racial discrimination in accordance with article 1 of the Convention. These lacunae seriously undermine the protection afforded to all persons under the jurisdiction of the State party for equal access to human rights (art. 2 of the Convention).

The Committee reiterates its previous concluding observations (CERD/C/ISR/CO/13, para. 16) and recommends that the State party ensure that the prohibition of racial discrimination and the principle of equality are included in the Basic Law and that a definition of racial discrimination is duly incorporated into the Law.

14. While noting the existence of criminal legislation on incitement to racism, racist organizations and participation in and support for such organizations, the Committee is concerned about the limitations therein, such as the restricted definition of racism, the exclusive role of the Attorney General in authorizing the prosecution of offences of incitement to racism, and the overly strict approach of Israeli legislation to proving the intentional element of such crimes. While noting the State party's concerns in regard to freedom of speech, the Committee recalls that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression (arts. 2 and 4 of the Convention).

The Committee recommends that the State party amend its current legislation to modify current requirements relating to the proof of intent for the criminal offence of incitement to racism; that it provide a more comprehensive mechanism of protection by extending the power to investigate and indict to other bodies of the judiciary; and that it expand the definition of racism to include incitement on account of ethnic origin, country of origin, and religious affiliation, when there is intersectionality of these elements, so as

to equally protect Ethiopians, Russians, Sephardim, and any other groups that are currently not sufficiently protected by the Law.

18. The Committee reiterates its concern at the maintenance of discriminatory laws especially targeting Palestinian citizens of Israel such as the Citizenship and Entry into Israel Law (Temporary Provision). The Law suspends the possibility, with certain rare exceptions, of family reunification between an Israeli citizen and a person residing in the West Bank, including East Jerusalem, or the Gaza Strip, thus greatly affecting family ties and the right to marriage and choice of spouse. The Committee is particularly concerned at the recent decision of the High Court of Justice, which confirmed its constitutionality (Articles 2 and 5 of the Convention).

The Committee urges the State party to revoke the *Citizenship and Entry into Israel Law (Temporary provision)* and to facilitate family reunification of all citizens irrespective of their ethnicity or national or other origin.

19. While some efforts have been made to improve the access to economic and social rights of non-Jewish minorities, such as the adoption in March 2010 of a Five Year Plan for the Economic Development of Minority Localities and reforms engaged for increased protection of migrant workers, the socio-economic gap between Jewish and non-Jewish communities remains worrying. It is of great concern that the two communities often continue to be compartmentalized, with one accessing education in Hebrew in Jewish schools and the other often living in separate municipalities and attending Arabic-language schools. Such separation is an obstacle to uniform access to education and empowerment. The Committee is particularly concerned at the continued low level of education and managerial employment of non-Jewish women in the private and public sectors (arts.2 and 5 (e) (i) and (v) of the Convention).

In line with its previous concluding observations (CERD/C/ISR/CO/13, para. 24), the Committee strongly recommends that the State party ensure equal enjoyment of economic and social rights for non-Jewish minorities, in particular their right to work and education. In line with its general recommendation 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party redouble its efforts to achieve equality in women's access to all the rights enshrined in the Convention.

20. The Committee is concerned about the current situation of Bedouin communities, particularly with regard to the policy of demolitions, notably of homes and other structures, and the increasing difficulties faced by members of these communities in gaining access on a basis of equality with Jewish inhabitants to land, housing, education, employment and public health.

The Committee recommends that the State party address satisfactorily the problems faced by Bedouin communities, in particular with regard to the loss of their land and access to new land. The Committee also recommends that the State party step up its efforts to ensure equal access to education, work, housing and public health in all territories under the State party's effective control. In this regard, the State party should withdraw the 2012 discriminatory proposed Law for the Regulation of the Bedouin Settlement in the Negev, which would legalize the ongoing policy of home demolitions and forced displacement of the indigenous Bedouin communities.

22. The Committee notes the State party's efforts to accept and host asylum-seekers and refugees on its territory and the protection framework afforded to migrant workers against potential abuses by employers. The Committee is, however, concerned at the stigmatization of migrant workers on the basis of their country of origin, as suggested by the enactment of the 2012 Law to Prevent Infiltration, pursuant to which irregular asylum-seekers can be

imprisoned for at least three years upon entry into Israel and asylum-seekers from “enemy states” can serve life sentences (arts. 2 and 5(d) (iii) of the Convention).

Recalling its general recommendation 30 (2004) on discrimination against non-citizens, the Committee urges the State party to amend the Law to Prevent Infiltration and any other legislation aimed at discriminating against asylum-seekers or denying refugees, on the basis of their national origin, the protection guaranteed under the 1951 Geneva Convention relating to the Status of Refugees.

23. The Committee is concerned at the recent increase in racist and xenophobic acts, manifestations and discourse, especially against Palestinian citizens of Israel, Palestinians residing in the Occupied Palestinian Territory including East Jerusalem, and asylum-seekers of African origin. The Committee is greatly preoccupied at the unavailability of precise data on complaints, investigations, indictments and prosecutions against politicians, public officials and religious leaders involved in such manifestations and discourse as well as on the outcome of the procedures related to these complaints (arts. 2, 4, 6 and 7 of the Convention).

Recalling its previous concluding observations (CERD/C/ISR/CO/13, para. 29), the Committee recommends that, in addressing issues that affect various vulnerable population groups, the State party make it quite clear, in its discourse and its action, that it has the political will to promote understanding, tolerance and friendship between individuals irrespective of their origin.

The Committee also recommends that the State party step up its efforts and use all possible means to counter and stem the tide of racism and xenophobia in public discourse, in particular by strongly condemning all racist and xenophobic statements by public officials and political and religious leaders, and by implementing appropriate measures to combat the proliferation of acts and manifestations of racism that particularly target non-Jewish minorities in the territories under the State party’s effective control.

Recalling its general recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee also requests the State party to remind public prosecutors and the judiciary as a whole of the general importance of even-handedly prosecuting racist acts, irrespective of the alleged perpetrators’ status.

The Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan.

24. The Committee is extremely concerned at the consequences of policies and practices which amount to de facto segregation, such as the implementation by the State party in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand. The Committee is particularly appalled at the hermetic character of the separation of two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources. Such separation is concretized by the implementation of a complex combination of movement restrictions consisting of the Wall, roadblocks, the obligation to use separate roads and a permit regime that only impacts the Palestinian population (art. 3 of the Convention).

The Committee draws the State party’s attention to its general recommendation 19 (1995) concerning the prevention, prohibition and eradication of all policies and practices of racial segregation and apartheid, and urges the State party to take immediate measures to prohibit and eradicate any such policies or practices which

severely and disproportionately affect the Palestinian population in the Occupied Palestinian Territory and which violate the provisions of article 3 of the Convention.

25. The Committee is increasingly concerned at the State party's discriminatory planning policy, whereby construction permits are rarely if ever granted to Palestinian and Bedouin communities and demolitions principally target property owned by Palestinians and Bedouins. The Committee is concerned at the adverse tendency of preferential treatment for the expansion of Israeli settlements, through the use of "state land" allocated for settlements, the provision of infrastructure such as roads and water systems, high approval rates for planning permits and the establishment of Special Planning Committees consisting of settlers for consultative decision-making processes. The Committee is greatly concerned at the State party's policy of "demographic balance", which has been a stated aim of official municipal planning documents, particularly in the city of Jerusalem (arts. 2, 3 and 5 of the Convention).

In light of its previous concluding observations (CERD/C/ISR/CO/13, para. 35) and considering that the current Israeli planning and zoning policy in the West Bank, including East Jerusalem, seriously breaches a range of fundamental rights under the Convention, the Committee urges the State party to reconsider the entire policy in order to guarantee Palestinian and Bedouin rights to property, access to land, access to housing and access to natural resources (especially water resources). The Committee also recommends that any planning and zoning policy be implemented in consultation with the populations directly affected by those measures. It calls on the State party to eliminate any policy of "demographic balance" from its Jerusalem Master Plan as well as from its planning and zoning policy in the rest of the West Bank.

29. The Committee remains concerned at the vulnerable situation of Syrian residents of the Occupied Syrian Golan and their unequal access to land, housing and basic services. The Committee is also gravely concerned at the continued impact of the Citizenship Law on family ties, which continue to be disrupted as a consequence of the territory's illegal annexation in 1981 (arts. 2 and 5 of the Convention).

The State party should ensure equal access for all residents of Israeli-controlled territories to fundamental rights such as the right to land, housing, movement, marriage and choice of spouse. The Committee urges the State party to find a satisfactory solution to the issue of family separation that particularly affects Syrian residents of the Occupied Syrian Golan.

Committee on the Rights of the Child

Concluding Observations, (4 July 2013), [CRC/C/ISR/CO/2-4](#)

C. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

21. While taking note of court decisions on discrimination, the Committee however reiterates its concern (CRC/C/15/Add.195, para. 26) that non-discrimination is not expressly guaranteed under the Basic Laws of the State party. The Committee also expresses concern about the adoption of numerous discriminatory laws over the reporting period as pointed out notably by the Committee on the Elimination of Racial Discrimination (CERD/C/ISR/CO/14-16, paras. 11, 15, 16, 18 and 27, 2012) and which primarily affect Palestinian children, in all aspects of their life, but also Arab Israeli, Bedouin, and Ethiopian children as well as children of migrant workers and asylum seekers. The Committee is deeply concerned that the establishment of separate means of transport and road services as well as the implementation of two separate

legal systems and institutions amount to de facto segregation and lead to inequality between Israeli and Palestinian children in the enjoyment of their rights.

22. The Committee urges the State party to include the prohibition of discrimination and the principle of equality in its Basic Laws and to undertake a comprehensive review of its legislation and policies to ensure that laws that discriminate against non-Jewish children be repealed without delay. The Committee also urges the State party to take immediate measures to prohibit and eradicate policies or practices which severely and disproportionately affect the Palestinian population in the OPT as already recommended by the Committee on the Elimination of Racial Discrimination (CERD/C/ISR/CO/14-16, para. 24) and to ensure that all children living in the OPT enjoy their rights under the Convention without discrimination.

27. The Committee notes as positive the steps taken to expand to all courts by 2014 the experimental programme initiated in 2007 at the Haifa and Jerusalem Family Matters Courts with the participation of children involved in family matters proceedings as well as the Hadassah University hospital's practice of including children in decision-making on medical treatment and procedures. The Committee is however concerned that:

- (a) In proceedings involving conversion, or admission to a psychiatric hospital, courts are not obliged to hear the opinions of the child if it would cause harm to the child, and that derogation to the right of the child to be heard in adoption proceedings is permissible when children are not aware of being adopted. The Committee is further concerned that migrant and asylum-seeking children are rarely heard in proceedings that concern them;
- (b) The participation of children in decision-making processes, while receiving increased attention in the State party, is still not a widespread practice and the views of children are not sufficiently solicited or taken into account, especially in public policy decisions.

28. Referring to its general comment No. 12 (2009) on the right of the child to be heard, the Committee reminds the State party that this right applies to all relevant judicial and administrative proceedings affecting the child, without limitation, and that in decisions on adoption, the "best interests" of the child cannot be defined without consideration of the child's views. The Committee recommends that the State party reconsider the limits it has posed on the right of the child to be heard in cases of conversion, admission to a psychiatric hospital or adoption and to take measures to effectively ensure the right of migrant and asylum-seeking children to be heard in proceedings that concern them. The Committee also recommends that the State party establish clear mechanisms and guidelines for an effective implementation in practice of the right of the child to be heard and ensure that the views of the child are taken into account by policymaking bodies and that children are provided with adequate responses to their proposals.

Family environment

45. The Committee welcomes the measures adopted by the State party to provide assistance and support services to parents and legal guardians in the performance of their child-rearing responsibilities, including the provision of income support benefits to families which do not earn the minimum level of income, as well as the 2007 amendment to the Sick Day Payment Law which entitles parents of children with disabilities to additional leave days to care for their children. The Committee is however concerned about the situation of children of asylum seekers, refugees and migrant workers who are left in mass babysitting or alone in apartments or in the streets without any support from social services during the time their parents work outside the home.

46. The Committee urges the State party to take concrete measures to ensure that social support is provided to all parents who cannot afford private after school programmes for their children and have no choice but to leave their children alone while they work. Special attention should be paid to children in particularly vulnerable situations, such as children of asylum seekers, refugees and migrant workers.

Asylum seeking and refugee children and children of migrant workers

69. The Committee welcomes the creation of a Youth Village in Nitzana in 2011 for unaccompanied children. The Committee also notes as positive the attention that the situation of children without legal status has recently received from the State Comptroller and the Knesset Child Rights Committee. The Committee is however concerned about the increased marginalization of children of asylum seekers and migrant workers as well as unaccompanied children in the State party, who are often left without any support from welfare authorities. The Committee is further concerned that these children are often denied access to day-care centres, education, and health services and therefore stay alone while their parents work outside of their home or are exposed to various forms of exploitation. The Committee also expresses concern about:

- (a) The Anti-Infiltration Law enacted in January 2012 which allows for the prolonged detention of children, including child victims of exploitation, torture and trafficking who migrate illegally to the State party;
- (b) The rise in arrests since August 2011 of children of migrant workers, including children born in the State party, in extremely stressful conditions such as those conducted at night. These children and their mothers are then placed in Yahalom detention facility at Ben Gurion International Airport until their deportation, in small cells that are unsuitable for families without the possibility to contact their father or any other family members and without access to health services, social workers or legal counselling;
- (c) The conditions of detention of children in Saharonim detention centre which were judged harsh and overcrowded by the Public Defender in his August 2011 report. In 2011, 19 boys attempted suicide in the Matan detention facility of Harera and in the Givon detention facility, girls have been detained together with adults. Child victims of abuse, torture or trafficking are not provided with appropriate psychosocial care and support;
- (d) The arrest, imprisonment in harsh conditions and deportation in 2012 of Sudanese children, including children who had been placed in protective care services due to violence and severe neglect by their parents, following arrest and imprisonment of the parents in harsh conditions, causing serious emotional damage to these children.

70. The Committee draws attention to its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin and reminds the State party that all children involved in or directly affected by international migration are entitled to the enjoyment of their rights, regardless of age, sex, ethnic or national origin and economic or documentation status, in both voluntary and involuntary migration situations, whether accompanied or unaccompanied, on the move or otherwise settled, documented or undocumented or any other situation. The Committee urges the State party to:

- (a) **Guarantee the right for all asylum-seeking children and children of migrant workers to access public schools, boarding schools, kindergartens, nurseries and health services and ensure coordination among responsible government actors with the view to protecting and adequately supporting these children;**
- (b) **Develop and enact as a matter of priority a national legal framework to regulate the Israeli asylum procedure, including the principle of non-refoulement, and repeal the provisions of the Anti-Infiltration Law which allow for the prolonged detention of children;**

- (c) **Take all appropriate measures to promote physical and psychological recovery, as well as social reintegration of child victims of any form of neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment;**
- (d) **Cease with immediate effect the detention of children on the basis of their immigration status;**
- (e) **Conduct individual assessments and evaluations of the best interests of the child at all decision stages of the migration process affecting children, and with the involvement of child protection professionals, the judiciary as well as children themselves. Primary consideration should also be given to the best interests of the child in any proceeding resulting in the child's or their parents' detention, return or deportation;**
- (f) **Consider ratifying the 1961 Convention on the Reduction of Statelessness, and review nationality legislation and existing procedures to bring them in line with international standards for the prevention and reduction of statelessness.**

Human Rights Committee

Concluding Observations, (21 November 2014), [CCPR/C/ISR/CO/4](#)

C. Principal matters of concern and recommendations

Equality and non-discrimination

7. The Committee reiterates its concern (CCPR/C/ISR/CO/3, para. 6) that the principle of equality and non-discrimination is not explicitly codified in the State party's Basic Law: Human Dignity and Liberty 5752-1992, which serves as the State party's bill of rights, despite its recognition as a fundamental principle in the State party's legal system. The Committee, while noting that relevant legislation is currently under review, is also concerned that the Jewish and non-Jewish population are treated differently in several regards and that the State party's domestic legal framework maintains a three-tiered system of laws affording different civil status, rights and legal protection for Jewish Israeli citizens, Palestinian citizens of Israel and Palestinian residents of East Jerusalem (arts. 2 and 26).

The Committee reiterates its previous recommendation (CCPR/C/ISR/CO/3, para. 6) that the State party amend its Basic Law: Human Dignity and Liberty 5752-1992 to explicitly incorporate the principle of equality and non-discrimination. It should ensure equal treatment for all persons within its territory and subject to its jurisdiction, regardless of their national or ethnic origin, and in particular, pursue the review of all laws discriminating against Palestinian citizens of Israel and ensure that any future legislation is fully compatible with the principle of equality and non-discrimination.

Freedom of movement

18. The Committee expresses concern, in conjunction with the concerns raised in paragraphs 12 and 17 above, at the restrictions on freedom of movement of residents of the OPT, including persons residing in the "Seam Zone" between the Wall and the State party. The Committee is further concerned at the treatment of Palestinians residents in East Jerusalem as aliens and the insecurity of their permanent residency status that can be revoked if they live outside the municipal boundary of Jerusalem (arts. 2, 12 and 26).

The State party should take all necessary measures with a view to ensuring respect for the right to freedom of movement for Palestinians throughout the OPT, comprising the

West Bank, including East Jerusalem and the Gaza Strip, and ensure that any restrictions on freedom of movement are in line with its obligations under the Covenant. It should also ensure respect for the rights of Palestinian residents in East Jerusalem to freedom of movement and freedom to choose residence.

Refugees and asylum seekers

20. The Committee is concerned about the very low recognition rate of refugees in the State party, including of Eritreans and Sudanese from South Sudan seeking such status. While noting that the State party does not deport such persons to their country of origin, it is concerned that the lack of formal procedures at the border for those wishing to apply for refugee status and the lack of a clearly defined legal status for individuals who have not been recognized as refugees but whose continued presence in the country is tolerated, may expose them to the risk of refoulement. Furthermore, while welcoming the decisions of the High Court of Justice of 16 September 2013 and of 22 September 2014 declaring unconstitutional the mandatory detention of asylum seekers for a period up to three years and one year respectively, the Committee is concerned about the prolonged detention of a large number of asylum seekers over the course of past years and the lack of new legislation that would introduce a detention regime in line with the requirements of article 9 of the Covenant (arts. 2, 7, 9, 13 and 26).

The State party should:

- (a) Review its policy of recognition of refugees;**
- (b) Ensure that formal procedures for asylum application are made available at its border;**
- (c) Create a legal status for failed applicants for refugees status who cannot be deported to their country of origin, allowing them to stay in the State party until return becomes possible, as well as having access to formal employment and basic services;**
- (d) Ensure that the new legislation abolishes the system of automatic detention of asylum seekers and requires that in each case, detention is reasonable, necessary and proportionate in light of the circumstances, and reassessed as it extends in time.**

Committee against Torture

Concluding Observations, (3 June 2016), [CAT/C/ISR/CO/5](#)

Checkpoints

36. Recalling its previous concluding observations (CAT/C/ISR/CO/4, para. 31), the Committee remains concerned at allegations of instances of degrading treatment at checkpoints and of undue delays or denials of passage, including in emergency cases (art. 16).

37. The State party should take effective measures, including adequate training for relevant personnel, to ensure that security controls at checkpoints are carried out in a humane and respectful way, in accordance with the Convention. It should also ensure that there are no undue delays or restrictions for the passage of persons, in particular in emergency cases.

Detention of persons entering the State party irregularly

44. The Committee takes note of the decisions adopted by the High Court of Justice in 2013-2015 relating to the detention regime under the Prevention of Infiltration Law and of the amendments that were made to the law as a result. However, it is concerned that the current text of the law provides that a person who enters Israel irregularly, with certain exceptions, is

to be detained for a period of up to three months. The Committee notes that, according to the law, if the person cannot be deported, that period is followed by up to 12 months of mandatory residence in the “Holot” open facility, of which certain groups of persons, such as women and children, are exempted (arts. 2, 11 and 16).

45. The State party should take the legislative and other measures necessary with a view to ensuring that the detention of persons entering its territory irregularly is only used as a last resort, when determined to be strictly necessary and proportionate in each individual case, and for as short a period as possible.

Asylum seekers and refugees

46. The Committee is concerned at the low recognition rate of refugees and regrets not receiving clarifications about the “prima facie rejection procedure”. The Committee takes note of the information provided by the State party concerning the criteria to be met before signing agreements with third countries for the relocation of nationals of Eritrea and the Sudan who entered the State party irregularly; however, it regrets that these agreements are made confidential by the countries involved, which hinders public scrutiny of whether the protection needs of the persons to be relocated would be adequately covered. While noting that the State party’s delegation stated that, according to the information available to them, there were no violations to the principle of non-refoulement with regard to the persons relocated in the context of the said agreements, the Committee is concerned by information that some of the Sudanese and Eritrean nationals who were relocated in 2014 and 2015 pursuant to these agreements did not receive permission to stay in the third countries and therefore faced a risk of being sent to their countries of origin. While taking note that the “coordinated return procedure” with Egypt was put on hold in March 2011, the Committee is also concerned at allegations of incidents taking place after that date when Israeli Defence Forces reportedly returned people to Egypt shortly after they crossed the border without conducting an interview. The Committee notes with appreciation the procedure in place for the identification of victims of trafficking and the rights afforded to them, including shelter and free legal aid. While noting that victims of trafficking could have also been victims of torture and that upon arrival at “Saharonim” detention centre all persons are examined by a physician, the Committee is concerned that the measures taken by the State party do not seem to fully ensure the effective identification of victims of torture among asylum seekers and to guarantee that they receive adequate State-sponsored holistic rehabilitation support and free legal aid when they do not qualify as victims of trafficking (arts. 2, 3, 14 and 16).

47. The State party should:

- (a) Guarantee in practice that all asylum seekers have access to efficient refugee status determination procedures that include a thorough examination of the merits of each individual case under article 3 of the Convention;**
- (b) Ensure that effective procedures are in place to identify as early as possible all victims of torture among asylum seekers, in particular by conducting thorough medical and psychological examinations, and that, when signs of torture or traumatization have been detected, victims have immediate access to specialized medical and psychosocial services;**
- (c) Guarantee that all asylum seekers have access to independent, qualified and free-of-charge legal assistance during the entire asylum procedure;**
- (d) Refrain from removing any person from the State party without previously conducting a thorough risk assessment of situations covered by article 3 of the Convention;**

- (e) Ensure that relocation agreements with third countries are transparent and establish effective guarantees against refoulement and post-return monitoring mechanisms.

III. Special Procedures Mandate Holders

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Addendum: Mission to Israel and the Occupied Palestinian Territory (24 December 2012)
[A/HRC/22/46/Add.1](#)

IV. Concluding remarks and recommendations

[...]

Throughout her visit the Special Rapporteur witnessed a development model that systematically excludes, discriminates against and displaces minorities in Israel and which has been replicated in the occupied territory since 1967. In very different legal and geographical contexts, from Galilee and the Negev to the West Bank, she received multiple similar complaints from Palestinians, notably concerning a lack of or discriminatory planning, which seriously hamper s the urban and rural development of these communities. As a consequence, a disproportionate number of members of such communities live and sometimes work in structures that are “unauthorized” or “illegal” and liable to eviction and demolition.

[...]

Accordingly, the Special Rapporteur presents the following recommendations to the State of Israel:

- (a) Revise and reform the Israeli legal framework relevant to the right to adequate housing:
- (i) Revise and reform the laws of Israel in order to: (a) guarantee the protection of the right to adequate housing in all its elements; and (b) repeal all legislation and regulations relevant to the right to adequate housing that, in their application, do not comply with the principle of non-discrimination as provided in the international human rights instruments to which Israel is a party;
 - (ii) Revise zoning and planning legislation and processes so as to ensure, at a minimum, meaningful consultation with affected populations throughout the planning process. This implies: dissemination by the authorities of relevant information in advance; a reasonable time period for public review of, comments on, and/or objection to the proposed plan; opportunities to propose alternatives; and a decision - making process that is transparent;
 - (iii) In accordance with general comment No. 4 (1991) of the Committee on Economic, Social and Cultural Rights, take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in active and meaningful consultation with affected persons and groups (para. 8 (a));
 - (iv) Review legislation and procedures regarding evictions to bring them in to conformity with international human rights norms and standards, in particular to ensure opportunity for genuine consultation with those affected, that alternative solutions and relief for those affected are considered and that evictions do not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, take all appropriate measures, to the maximum of available resources, to ensure

that adequate alternative housing, resettlement or access to productive land, as the case may be, is available;

(v) Revise legislation regulating private rental in order to ensure adequate protection of private tenants against unreasonable rent levels or rent increases;

(vi) Recognize the specific rights of the Bedouin community as indigenous peoples as per the United Nations Declaration on the Rights of Indigenous Peoples, and revise all relevant policies and laws on this basis, ensuring respect for their land ownership and their cultural traditions;

(b) Revise public policies for the housing sector within Israel:

(i) Adopt a comprehensive national strategy and a plan of action on adequate housing, paying particular attention to the situation of groups living in poverty and historically marginalized groups , such as minorities;

(ii) Increase investment in the provision of social housing units and rental assistance schemes in order to meet the unserved demand for affordable housing;

(iii) Revise all existing criteria for the provision of land or economic support for housing in order to repeal the unfair exclusions and ensure priority assistance for the most marginalized groups. Ensure transparency and participation in the design and implementation of all housing policies;

(iv) Adopt and adequately fund a targeted housing strategy in order to assist Palestinian minorities , both in rural and urban areas, ensuring that these are designed, implemented and evaluated through meaningfully participatory processes and are culturally acceptable ;

(c) Respect, protect and fulfil the right to housing of Palestinians living under occupation:

(i) Stop immediately all home demolitions and evictions, both in the West Bank and in East Jerusalem, and explore all possible alternatives prior to evictions; consult with the affected persons; and provide effective remedies to those affected by evictions ;

(ii) Stop, as a first step, the construction and expansion of all settlements and outposts, and develop a strategy to reverse the development of settlements;

(iii) Lift immediately the blockade of Gaza for all imports of construction materials and facilitate the work of international donors promoting reconstruction.