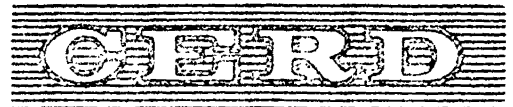


**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



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

Second periodic reports of States parties due in 1982

Addendum

ISRAEL^{1/}

[16 March 1982]

I. General

The liberal democratic basis on which the State of Israel rests and which secures equal rights to all its nationals and residents, as set out in detail in the Initial Report under the present Convention, continues to be in full effect.

The legislation enacted in the period under review and the judicial and administrative treatment of matters pertaining to the Convention continued to secure the promotion and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. The very incidence of the cases referred to below, and many others, in which the parties were members of ethnic groups, is indicative of the protection of human rights and fundamental freedoms by the Israeli judiciary.

Although Israel, following the English tradition, has no written constitution, basic constitutional laws are being progressively enacted with the intent of ultimately forming parts of a general constitutional enactment. These basic laws are to a considerable extent declaratory of the existing situation. It is in this light that the Bill for the Basic Law on Human Rights, mentioned in the Initial Report, is to be viewed. It is significant that such human rights have from the very first been invoked and enforced by judicial decision and administrative practice.

* * *

^{1/} For the initial report submitted by the Government of Israel, see document CERD/C/61/Add.1/Rev.1, and for its consideration by the Committee see documents CERD/C/SR.502-503.

Since the Initial Report, the demographic composition of the population has not varied significantly. The Population Estimate at the end of 1980 (the most recent available), based on the census of 1972, was as follows:

		<u>Percentage increase</u>
Total	3,921,700	7.3
Jews	3,282,700	6.67
Muslims	498,300	11.6
Druze	50,700	11.8
Christians	89,900	7.28

II. Information in relation to articles 2 to 7 of the Convention

In view of the respect for human rights of all individuals no occasion has arisen to take any of the negative measures indicated in this article. Attention should be drawn to the new Passport Regulations of 1980 which do away with the requirement of providing personal information about ethnicity and religion when applying for travel documents. The only personal information that is now necessary is applicant's sex, date of birth and place of residence.

Mention should also be made of the Bill for the Community Tradition Law of 1981. This Law is aimed at setting up a central authority to engage in research into the spiritual and cultural aspects of community tradition (without distinguishing among the various communities that exist in Israel).

Article 3

Nothing further can be added to what has already been reported in the Initial Report (including Appendices G, H and J) in regard to the matters covered by this article.

Article 4

Here also, for the reasons given above, it has not been found necessary to introduce legislative or administrative measures to give effect to the provisions of this article. For example, the Amutot Law, 1980, dealing with not-for-profit associations enables two or more persons to become incorporated as a body corporate. Its only substantial restrictions on registration apply to an association whose objectives negate the existence or democratic character of the State or where there are reasonable grounds for concluding that the association will be used as a cover for illegal activities. Such illegal activities will include the promotion and incitement of racial discrimination, having regard to the prohibition thereof by sections 133, 136 and 145(2) of the Penal Law, 1977. (See the Appendix to this Report.)

Article 5

A. As already stated, the right to equal judicial and administrative treatment is inherent in the Israeli legal system.

B. The same applies to the right of personal security and protection against violence or bodily harm.

Under the Police Ordinance (New Version) of 1971, it is a disciplinary offence for a police officer to cause or join in any sedition (sections 58 and 59). For this purpose, "sedition" is defined in section 136 of the Penal Law, 1977, cited above, as including actions "to promote feelings of ill-will and enmity between different sections of the population".

By virtue of the Prisons Ordinance (New Version) of 1971, a prison officer is guilty of a disciplinary offence if he inflicts or threatens unnecessary personal violence on any person in his charge (section 102). The punishment varies from admonition to dismissal. A determination of guilt will not prevent the officer from being tried for the offence in the ordinary courts. The Prisons Regulations of 1978 limit the use of force to cases where it is necessary to preserve order, protect prisoners or prison officers, or prevent escape. These Regulations also assure to prisoners the opportunity to practice their religion and pursue their studies.

Likewise under the above-cited Prisons Ordinance, a prisoner who does any act intended to create unnecessary alarm in the minds of other prisoners or causes violence of any kind will be liable to punishment (section 56).

C. Political rights and more specifically the rights associated with parliamentary elections are secured by section 5 of the Basic Law: The Knesset, as indicated in the Initial Report. During 1981 a general election was held in Israel in which ethnic groups included in many political parties participated fully and freely and secured the election of a number of their candidates.

D. The Nationality Law of 1952 was amended in 1980 to extend the right to nationality by residence to many individuals and their offspring who were residents of Palestine during the British Mandate. This Amendment extends nationality to additional groups of persons including many members of ethnic groups. Section 2 of this Amendment provides that a person born before the establishment of the State shall be an Israeli national if he: (a) was a Palestinian citizen immediately prior to the establishment of the State; (b) was a resident of Israel on 14 July 1952 (the date the Nationality Law was originally enacted) and was registered in the Register of Inhabitants; (c) was a resident of Israel on the date of this Amendment; and (d) is not a national of one of the States mentioned in section 2A of the Prevention of Infiltration Law of 1954. Section 2 of the Amendment also extends nationality to persons born after the establishment of the State by residence in Israel provided: (a) he was a resident of Israel on the date of this Amendment and was listed in the Population Register; and (b) he is a descendant of a person qualifying for nationality under section 2.

The judicial and administrative protection of the right to inherit is illustrated by the case of Abu Alful v. The Custodian of Absentees' Property (1981) 35 PD (II) 273. Here the appellant's husband had, according to her original story, left the country in April 1948 for Jordan. He never returned, but the appellant received a grant from the Custodian out of her husband's estate in accordance with the relevant law and in addition a maintenance grant under a maintenance order from the Sharia Court. In bringing the above-cited case, the appellant claimed that her husband had died in the disturbances in Haifa in April 1948 and sought to have her rights to his estate recognized. Although the evidence was contradictory the Custodian agreed to recognize her rights provided that the death was "proved" by a Succession Order of a competent court, setting out particulars of those entitled. The appellant obtained such an Order from the court in Haifa, and the Supreme Court ruled that this entitled her to inherit under the estate.

In respect of freedom of religion, mention may be made of the Adoption of Children Law, 1981. It contains, as did earlier Israeli law on adoption, a mandatory provision requiring the adopter to be of the same religion as the adopted person. In other matters, such as the age of the adopted person and the difference in age between him and the adopter, the court may, in the interests of the welfare of the adopted person, depart from the statutory provisions.

Also as regards religion, section 9C of the Hours of Work and Rest Law, (the title of which is "Prohibition of Discrimination") provides that no one may refuse to engage a person because that person refuses to work on the weekly day of rest prescribed by the religion he observes. The generality of the phrase "weekly day of rest ..." underscores the non-discriminatory purpose of the Law.

The right to freedom of assembly was considered in Salar v. Minister of Interior (1980) 34 PD (II) 169. Barak J., who delivered the main judgement, has stated: "It is well-known that the law of the State of Israel recognises the basic human freedoms common to enlightened countries. Among these, the freedom of assembly and procession has its place. Whether it is treated as standing on its own or as manifest of the freedom of expression ... it is highly important in fashioning the character of our democratic regime. The existence of the right of assembly and procession is one of the means available to members of the public for voicing their views in matters of state, means which are at times more effective and real than other modes of expression ... Nevertheless the freedom of assembly and procession is not unrestricted. It is a relative not an absolute freedom. My right to assemble and go in procession does not mean that I am entitled to enter another's property without his consent or that I may indulge in violence and cause the public peace to be disturbed. As with other freedoms, a balance must be struck between the wish ... to voice one's views in assembly and procession and the wish of the public to preserve order and security. Without order there is no freedom. The freedom of assembly does not mean the disruption of all public order and the freedom of procession does not mean freedom to riot... The restrictions placed upon freedom of assembly and procession derive from both private and public law. They are intended to protect the recognized freedoms of the individual of the use of his property and possessions and to his personal well-being on the one hand and to safeguard public order and security on the other". The court ordered that a licence for holding the public procession be granted. The logic of the opinion would apply to any group wishing to exercise freedom of assembly, regardless of its ethnic composition.

E. Indicative of the judicial enforcement of the right to work is the case of Abu Romi v. Minister of Health (1981) 35 PD (III) 185. The petitioner was refused a licence to practice medicine. His application was first considered by the appropriate committee in his absence and then again considered in a hearing in which he participated. He was not informed of the evidence presented against him to the committee when he appeared before it. Following the hearing the committee reaffirmed its refusal to grant him a licence. The court held that since the committee's decisions were of direct influence in the circumstances, it must act fairly and allow an applicant to respond to the adverse information furnished to the committee. The court granted the petitioner's application and ordered the application to be heard by a differently constituted committee.

Article 6

The assurance of effective protection and remedies through competent national tribunals has already been exemplified in the cases cited above. One more case may be mentioned. In Bat v. Minister of Religious Affairs (1980) 34 PD (III) 144,

the respondent was ordered to convene an Appointments Committee for selecting a member of the Druze Religious Appeals Court. The Appeals Court had been unable to sit for some two years for lack of a full complement of judges. The cause of the delay in making an appointment was an unsettled dispute in the Druze community over a proper candidate. The High Court of Justice rejected the main argument of the respondent that his power or duty to set up the Appointments Committee was subject to considerations of policy, in this case non-interference in the internal differences of the community. The Court held that a distinction existed between the Minister's duty to appoint a Committee and the ability of the latter to make a selection. The Minister's duty had to be exercised or performed regardless of the possible outcome.

APPENDIX

Penal Law 1977

Chapter Eight: Offences Against the Political and Social Order

Article One: Sedition

Seditious acts 133. Any person who does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention is liable to imprisonment for five years.

...

Sedition defined 136. For the purposes of this article "sedition" means -

...

(3) to raise discontent or resentment amongst inhabitants of Israel or

(4) to promote feelings of ill-will and enmity between different sections of the population.

...

Article Two: Unlawful Associations and Assemblies

Unlawful associations 145. For the purposes of this article, "unlawful associations" means -

...

(2) any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages the doing of any act having as its declared or implied object sedition within the meaning of Article One;

...

(4) any body of persons, incorporated or unincorporated, which is or appears to be affiliated with an organization which advocates or encourages any of the doctrines or practices specified in this section;

...