

Distr.

GENERAL

UNEDITED VERSION

E/C.12/1/Add.27

4 December 1998

ENGLISH

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL

AND CULTURAL RIGHTS

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 considered the initial report of Israel on the implementation of the Covenant (E/1990/5/Add.39) together with the written replies to the list of issues, at its 31st to 33rd meetings, held on 17 and 18 November 1998 and adopted¹ the following concluding observations.

1. Introduction

2. The Committee welcomes the submission of the initial report which generally conforms to its guidelines on the preparation of reports. The Committee, however, regrets the delay in the submission of the reports.

3. The Committee expresses appreciation for the presentation of the State's representatives and the additional information they provided during the dialogue. The Committee also takes note of the extensive information submitted to it by a large number of non-governmental organizations which was available to the Committee for its constructive dialogue with the State Party.

2. Positive Factors

¹At its 53rd meeting (nineteenth session) held on 2nd December 1998.

4. The Committee welcomes the enactment in 1995 of the National Health Insurance Law which provides for primary health care and ensures equal and adequate health services for each citizen and permanent resident of Israel. The Committee also welcomes the amendment in 1996 of the same law so that housewives now receive the minimum old-age pension while still exempt from contributions.

5. The Committee welcomes the recent establishment of the Authority for the Advancement of the Status of Women which is vested with advisory powers on policies to promote gender equality, eliminate discrimination against women and prevent domestic violence against women.

6. The Committee takes note of the acceptance by State Party's representatives that on the question of the Covenant's applicability in the Occupied Territories, Israel has direct responsibility in some areas covered by the Covenant, indirect responsibility in others and overall significant legal responsibility across the board. This conforms to the Committee's view that the Covenant applies to all areas where Israel maintains geographical, functional or personal jurisdiction.

C. Factors and difficulties affecting the implementation of the Covenant.

7. The Committee notes that Israel's emphasis of its security concerns, including its policies over closures, has hampered the realization of economic, social and cultural rights within Israel and the Occupied Territories.

4. Principal subjects of concern

Land and People

8. The Committee notes with concern that the Governments written and oral reports included statistics indicating the enjoyment of the rights enshrined in the Covenant by Israeli settlers in the Occupied Territories but excluded the Palestinian population within the same jurisdictional areas from both the report and the protection of the Covenant. The Committee is of the view that the State's obligations under the Covenant, apply to all territories and populations under its effective control. The Committee regrets therefore that the State Party was not prepared to provide adequate information in relation to the Occupied Territories.

Status of the International Covenant on Economic, Social and Cultural Rights.

9. The Committee notes that economic, social and cultural rights have not been granted constitutional recognition in Israel's legal system. The Committee is of the view that the

current Draft Basic Law: Social Rights, does not meet the requirements of Israel's obligations under the Covenant.

Discrimination

10. The Committee expresses concern that an excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, even if they comprise over 19% of the total population of Israel. This discriminatory attitude is apparent in the comparatively lower standard of living of the Israeli Arabs, as a result inter alia of lack of access to housing, water, electricity and health care and their lower level of education. The Committee also notes with concern that despite the fact that Arabic has official status, it is not given equal importance in practice.

11. The Committee notes with grave concern that the Status Law of 1952 authorizes the World Zionist Organization/ Jewish Agency and its subsidiaries including the Jewish National Fund to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively. Despite the fact that the institutions are chartered under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State Party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies, constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties by non-Jews. Thus, these practices constitute a breach of Israel's obligations under the Covenant.

12. The Committee notes with deep concern the situation of the Jahalin Bedouin families who were forcibly evicted from their ancestral lands to make way for the expansion of the Ma'aleh Adumim and Kedar Settlements. The Committee deplores the manner that the Government of Israel has housed these families in steel container vans in a garbage dump in Abu Dis under subhuman living conditions. The Committee regrets that instead of providing assurances of solution for this matter, the State party has insisted that it can only be resolved through litigation.

13. The Committee notes with concern that the Law of Return, which permits any Jew from anywhere in the World to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements that make it almost impossible to return to their land of birth.

Employment

14. The Committee notes with concern the rapid growth of unemployment in Israel as a result of which more and more workers are employed in low-paying part time work where they have little or no legal protection.

15. The Committee notes with regret that more than 72% of persons with disabilities are unemployed. The new Law of Equality for People with Disabilities 1998 has not set any quota for the employment of such persons.

16. The Committee is alarmed that only half of workers entitled to minimum wage actually get it, and that foreign workers, Palestinians and "manpower contractor" workers are particularly vulnerable in this regard.

Closure

17. The Committee regrets that the Government of Israel has maintained "general closures" continuously since 1993, thereby restricting and controlling the movement of people and goods between Israel and the West Bank and the Gaza Strip; between Jerusalem and the West Bank; and between the West Bank and the Gaza Strip. The Committee notes with concern that these restrictions apply only to Palestinians and not to Jewish Israeli citizens. The Committee is of the view that closures have cut off Palestinians from their own land and resources resulting in widespread violations of their economic, social and cultural rights, including in particular article 1(2) of the Covenant.

18. The Committee notes with grave concern the severe consequences of closure on the Palestinian population. Closures have prevented access to health care, foremost during medical emergencies which at times have tragically ended in death at checkpoints and elsewhere. Workers from the Occupied Territories are prevented from reaching their workplace thus depriving them of income and livelihood and the enjoyment of their rights under the Covenant. Poverty and lack of food are aggravated by closures which particularly affects children, pregnant women and the elderly who are most vulnerable to malnutrition.

19. The Committee is concerned at the forcible separation of Palestinian families because of closures and the refusal of Israeli authorities to allow Gaza students to return to their universities in the West Bank.

Permanent Residency Law

20. The Committee expresses its concern at the effect of the directive of the Ministry of the Interior, under which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "center of life" for the past seven years. The Committee also regrets a major lack of transparency in the application of the directive as indicated by numerous reports. The Committee notes with concern that this

policy is being applied retroactively both to Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. This system has resulted in *inter alia* the separation of Arab families and the denial of their right to social services and health care including maternity care for Arab women which are privileges linked to residency status in Jerusalem. The Committee is deeply concerned that the implementation of the quota system for the reunification of Palestinian families affected by this residency law, involves long delays and does not meet the needs of all divided families. Similarly, the granting of such a status is often a long process and as a result, many children are separated from at least one of their parents, and spouses are not able to live together.

Land use and Housing

21. The Committee is deeply concerned about the adverse impact of the growing exclusion faced by Palestinians in East Jerusalem on the enjoyment of their economic, social and cultural rights. The Committee is also concerned over the continued Israeli policy of building settlements to expand the boundaries of East Jerusalem and of population transfers of Jewish residents into East Jerusalem so that they now outnumber the Palestinian residents.

22. The Committee deplores the continuing practice by the Government of Israel of home demolitions, land confiscations, restrictions on family reunification and residency rights, of adopting policies which result in substandard housing and living conditions, including extreme overcrowding and lack of civic services which are the realities faced by Palestinians in East Jerusalem and in particular in the old city.

23. The Committee notes with concern the situation of Arab neighborhoods in mixed cities such as Jaffa and Lod which have deteriorated into virtual slums because of Israel's excessively restrictive system of granting Government permits without which it is illegal to conduct any kind of repair and renovations.

24. The Committee notes that despite State Party's obligation under article 11 of the Covenant, the Government of Israel continues to expropriate Palestinian lands and resources to expand Israeli settlements. Thousands of dunams (hectares) of land in the West Bank have been recently confiscated to build 20 new by-pass roads which cut-off West Bank towns from outlying villages and farmlands. The consequence, if not also the motivation, is the fragmentation and the isolation of Palestinian communities and facilitation of the expansion of illegal settlements. The Committee also notes with concern that while the Government annually diverts millions of cubic meters of water from the West Bank's Eastern Aquifer Basin, the annual per capita consumption allocation for Palestinians is only 125 cubic meters

while settlers are allocated 1000 cubic meters per capita.

25. The Committee expresses its concern over the plight of an estimated 200,000 uprooted "present absentees" who are Palestinian Arab citizens of Israel, most of whom were forced to leave their villages during the 1948 war on the understanding that they would be allowed to return after the war by the Government of Israel. Although a few have been given back their property, the vast majority continue to be displaced and dispossessed within the State because their lands were confiscated and not returned to them.

Unrecognized Villages

26. The Committee notes with deep concern that a significant proportion of Palestinian Arab citizens of Israel continue to live in unrecognized villages where they have no access to water, electricity, sanitation and roads. Such existence has caused extreme difficulties for the villagers in regard to their access to health care, education and employment opportunities. In addition, these villagers are continuously threatened with demolition of their home and confiscation of their land. The Committee regrets the inordinate delay in the provision of essential services to even the few villages that have already been recognized. In this connection, the Committee takes note that while Jewish settlements are constructed on a regular basis, no new Arab villages have been built in the Galilee.

27. The Committee regrets that the Regional Master Plan for the Northern District of Israel and the Plan for the Negev have projected a future where there is little place for Arab citizens of Israel whose needs arising from natural demographic growth, are largely ignored.

28. The Committee expresses its grave concern about the situation of the Bedouin Palestinians already settled in Israel. The number of Bedouin living below the poverty line, their living and housing conditions, their levels of malnutrition, of unemployment, and infant mortality are all significantly higher than the national averages. They have no access to water, electricity and sanitation and are subjected on a regular basis to land confiscations, house demolitions, fines for building "illegally", destruction of agricultural fields and trees, and systematic harassment and persecution by the Green Patrol. The Committee notes in particular that the Government policy of settling Bedouins in seven "townships" has caused high levels of unemployment and loss of livelihood.

Other Concerns

29. The Committee notes with regret the large gaps within the Israeli educational system. Dropout rates are higher and eligibility for matriculation certificates is lower within

certain segments of society: Arabs, Jews in poor neighborhoods and in development towns, where many of the residents are Jews from Asian and African origin, including Ethiopian Jews. The Committee is concerned particularly about the gap in educational expenditure per capita for the Arab sector which is substantially less than the Jewish sector.

30. The Committee notes with concern that the recently adopted Arrangements Law has the effect of eroding the principles of universality and equality set out in the National Health Insurance Law. The Arrangements Law imposes payments for medical services in addition to the health tax; a periodic health tax links the amount of tax required to the amount of health services needed thereby increasing inequality in health care. The Committee is concerned that this provision does not conform to the Government's avowed commitment to an equitable health care system in spite of assurances that the Knesset sets a cap on such taxes.

31. The Committee notes with grave concern the high incidence of domestic violence against women which is estimated at 200,000 cases per year. The Committee is concerned about the situation of non-Jewish women who are reportedly worse-off in living conditions, in health and education. The Committee is concerned at persistent reports that the Dimona nuclear plant could pose a serious threat to the right to health and to the environment unless urgent preventive measures are undertaken.

E. Suggestions and Recommendations

32. The Committee requests the State Party to provide additional information on the realization of economic, social and cultural rights in the Occupied Territories, in order to complete the State party initial report and thereby to ensure full compliance with its reporting obligations. Detailed information including the latest statistical data is also requested on the progressive realization of economic, social and cultural rights in East Jerusalem keeping in mind the concerns raised by the Committee in the relevant paragraphs of these concluding observations. In addition, the Committee also requests updated information on the target dates of recognizing unrecognized villages, an outline plan for the delivery of basic services including water, electricity, access roads, health care and primary education, to which the villagers are entitled as citizens of Israel. The Committee requests that the additional information should also include an update of the Outline Plan of Ein Hod and the progress in the recognition of Arab El-Na'im, as well as an update on the Jahalin Bedouins who are presently camped in Abu Dis, awaiting court decision on their resettlement. The Committee requests the submission of the detailed additional information in this respect in time for the 23rd session of the Committee from November to December 2000.

33. The Committee calls upon the State Party to undertake the

necessary steps to ensure the full legal application of the Covenant within the domestic legal order.

34. The Committee calls upon the State Party to ensure the equality of treatment for all Israeli citizens in relation to all Covenant rights.

35. The Committee urges the State Party to review the status of its relationship with the World Zionist Organization/ Jewish Agency and its subsidiaries including the Jewish National Fund with a view to remedy problems identified in para 11 above.

36. In order to ensure the respect for article 1(2) of the Covenant and to ensure the equality of treatment and non-discrimination, the Committee strongly recommends a review of re-entry policies for Palestinians who wish to re-establish domicile in their homeland, with a view to bring such policies to a level comparable to the Law of Return as applied to Jews.

37. The Committee calls upon the State Party to take all necessary steps to reduce unemployment and to ensure proper enforcement of Israel's protective labor legislation including assigning additional personnel to enforce such legislation. Special attention should be accorded to enforcing the Minimum Wage Law, Equal Pay for Men and Women Law, and the Equal Opportunities in Employment Law.

38. The Committee calls upon the State Party to complete the process of implementing the Law of Equality for People with Disabilities and to address the problem of accessibility to public buildings including schools, and to public transportation for persons with disabilities.

39. The Committee urges the State Party to respect the right to self-determination as recognized in article 1(2) of the Covenant, which provides that "in no way may a people be deprived of its own means of subsistence". Closure restricts movement of people and goods, cutting off access to external markets and to income derived from employment and livelihood. The Committee also calls upon the Government to give effect to its obligations under the Covenant and as a matter of highest priority, undertake to ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuff and supplies, the safe conduct of students and teachers to and from schools, and the reunification of families separated by closures.

40. The Committee calls upon the State Party to reassess its Permanent Residency Law with the view to ensure that its implementation does not result in impeding the enjoyment of economic, social and cultural rights by Palestinians in East Jerusalem. In particular, the Committee urges the State Party to remove the quota system currently in place so that families separated by residency rules can be reunited without delay.

41. The Committee calls upon the State Party to cease the practice of facilitating the building of illegal settlements and constructing by-pass roads, expropriating land, water and resources, the demolition of houses and arbitrary evictions. The Committee urges the State Party to immediately take steps to respect and implement the right to an adequate standard of living including housing, of the Palestinian residents of East Jerusalem and the Palestinian Arabs in the mixed cities. The Committee strongly recommends equal access to housing and settlement on state land for the "present absentees" who are citizens of Israel. The Committee recalls in this connection its General Comment No. 4.

42. The Committee urges the State Party to recognize the existing Arab Bedouin villages, the land rights of the inhabitants and their right to basic services including water.

43. The Committee calls upon the State party to undertake measures addressing the inequalities in the educational system in secondary and university levels, particularly in budget allocations. The Committee recommends that a study be made on the viability of establishing an Arab university within Israel for the purpose of ensuring equal opportunities and access to higher education in their respective official languages.

44. The Committee urges the State party to adopt effective measures to combat domestic violence against women and to promote equal treatment of women in the field of employment, including in the Government and in education and health.

45. The Committee requests the State Party to ensure the wide dissemination in Israel of these Concluding Observations.

46. The Committee reiterates that the additional information requested in these Concluding Observations should be submitted in time for the 23rd session of the Committee from November to December 2000.
