



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
21 December 2021

Original: English  
English, French and Spanish only

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**Committee against Torture**

**Sixth periodic report submitted by Israel under  
article 19 of the Convention pursuant to the  
simplified reporting procedure, due in 2020\* \*\***

[Date received: 30 December 2020]

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\* The present document is being issued without formal editing.  
\*\* The annex to the present report may be accessed from the web page of the Committee.



## Introduction

1. Upon submission of its Sixth Periodic Report to the Committee against Torture (CAT), the State of Israel wishes to make the following clarification.
2. The COVID-19 pandemic has struck the State of Israel on March 2020. In order to mitigate the damages caused and threats posed by the pandemic, the Government has adopted several temporary orders and regulations for time of emergency. While addressing some of these orders and regulations throughout this report, given their temporary nature, the State of Israel will hereby focus on the legal situation applicable regardless of the pandemic.

## Reply to paragraph 1 of the list of issues (CAT/C/ISR/QPR/6)

### Medical Care

3. For general information on medical treatment of detainees, please see Israel's Fifth Periodic Report to CAT (Question No. 6).
4. A prisoner would be allowed the option of getting a second medical opinion from a private medical practitioner, if the practitioner is a specialist in the relevant area of medicine, after he/she received a medical opinion from an Israeli Prison Service (IPS) physician, in accordance with IPS Commission standing order No. 04.46.00 – Private Medical Practitioner Visits in Prisons for Second Medical Opinion. The same applies to psychiatrists. The order refers to the entrance of physicians into IPS facilities in order to receive a second medical opinion, and not visits of specialists in order to corroborate or refute claims of torture or abuse. For further data, please see Question No. 34 below.
5. Additionally, all claims of violence inside IPS facilities reach the highest ranks and mandate a medical examination of the complainant, all in accordance with IPS Commission standing order No. 02.04.00 – Rules on Reasonable Use of Force in the Line of Duty, which includes rules on handling and documenting the injury. The IPS medical staff must thoroughly document the physical state of the prisoner following a claim of reasonable use of force towards a prisoner, regardless of whether or not a complaint was submitted. Criminal issues are examined by the Unit for Investigation of Wardens (UIW), an independent Police unit.

### Solitary Confinement

6. *Incommunicado* detention is not practiced in Israel.
7. For general information on solitary confinement, please see Israel's Fifth Periodic Report to CAT (Question No. 10).
8. Separation is not a punitive measure but rather a preventive procedure regulated by the *Prisons Ordinance (New Version) 5731-1971* (the "*Prisons Ordinance*") and by IPS Commission standing order No. 04.03.00, which is intended to prevent a prisoner, including prisoners with mental disabilities, from harming themselves or harming other prisoners or the prison's staff, among other reasons. Separation may also be used due to state or prison security. A prisoner held in separation may be held alone or together with another prisoner (group separation), according to the reasons for separation as well as the prisoner's characteristics. The conditions provided in separation include: medical care, meetings with an attorney, an hour in the prison yard, meetings with a social worker and visits. The living conditions in the separation ward include a television, telephone, books and newspapers. This preventive measure of separation is subject to re-examination procedures, judicial review and appeal. It is used only when there is no other way to accomplish the aims of a separation. The authority to hold a prisoner in separation is constantly monitored and requires timely reevaluation in order to minimize the separation time.

### **Solitary Confinement with Regard to Israel Security Agency (ISA) interrogations**

9. Solitary confinement is not used as an interrogation method nor as a punitive measure by the ISA. However, naturally, during interrogations there might be a need to separate between several detainees for the purpose of the investigation.

10. The detainees have continuous and frequent contact with the IPS personnel, as well as the medical personnel. They also meet with representatives of the ICRC and relevant diplomatic representatives and are arraigned to extend their arrest, where they are represented by their attorneys, all in accordance with the law.

11. Meeting with a lawyer during this period of time may be suspended for up to twenty-one (21) days regarding interogatees held in accordance with Section 35 of the *Criminal Procedure (Powers of Enforcement - Arrests) Law 5756-1996* (the "*Criminal Procedure (Arrests) Law*"), due to the risk of potential harm of the suspect to the arrest of other suspects, to the revealing of an evidence or to its capture, to the prevention of crime or for the protection of life. Postponing the meeting with a lawyer for more than ten (10) days and up until the maximum period of twenty-one (21) days requires an approval by the court.

12. When an ISA interogatee is under investigation, his/her family or their lawyer are informed of their arrest and location.

### **Solitary Confinement and Separation of Minors**

13. Holding a minor in solitary confinement is done only in extreme cases. When considering holding a minor in separation, such decision is reviewed prior to the beginning of the separation itself by four (4) professionals of the incarceration facility, including a social worker when it is a single separation. The use of such separation is only permitted when based on professional considerations and according to the child's best interest.

### **Reply to paragraph 2 of the list of issues**

14. The inter-governmental team's work on the Draft bill on Torture is ongoing.

### **Reply to paragraph 3 of the list of issues**

15. According to the Israeli legal system, international conventions (as opposed to customary international law), only become part of the domestic law if they are formally legislated by the Knesset (the Israeli Parliament). This is the case with the CAT, which is fully implemented through a wide range of legal instruments, including the country's Basic Laws, laws, orders, regulations, municipal bylaws, and Court rulings.

16. The applicability of the human rights conventions to the West Bank has been the subject of considerable debate in recent years. In its Periodic Reports, Israel did not refer to the implementation of the Convention in these areas for several reasons, ranging from legal considerations to the practical reality.

17. Israel's position on the inapplicability of CAT beyond its territory has been presented at length to the Committee on previous occasions and remains unchanged.

### **Reply to paragraph 4 of the list of issues**

#### **The "Necessity" Defense**

18. The "necessity" defense, as stipulated in Section 34(11) of the *Penal Law 5737-1977* (the "*Penal Law*"), is one of the defense claims for a defendant in the criminal proceedings in Israel. In H.C.J 5100/94 *The Public Committee Against Torture in Israel et. al. v. The State of Israel et. al.* (6.9.99), the High Court of Justice (HCJ) held that this defense could apply to a defendant accused of using unlawful physical pressure during interrogation.

19. The number of ISA interrogations with respect to which the “necessity” defense was raised is scant and represents a minute percentage of all ISA interrogations of persons that were suspects of terrorist activity.

20. According to the *Israel Security Agency Law 5762-2002*, the ISA internal rules and procedures as well as methods of interrogations are confidential.

21. A petition for disclosure of similar details was submitted to the Jerusalem District Court, in pursuance to the *Freedom of Information Law 5758-1998*, and rejected by the Court (Ad.P. 8844/08 *The Public Committee Against Torture in Israel v. The Supervisor of the Freedom of Information Law within the Ministry of Justice* (15.2.09)).

22. For further examples for relevant cases, please see our Reply to Question No. 30 below, concerning H.C.J. 5722/12 *As'ad Abu-Gosh v. The Attorney General* (12.12.2017) and H.C.J. 9018/17 *Fares Tbeish et. Al. v. The Attorney General et. al.* (26.11.18). For further elaboration, please see Israel Fifth Periodic Report to CAT (pp. 5-6).

## **Reply to paragraph 5 of the list of issues**

### **Access to a lawyer**

23. The right to counsel was recognized as a basic right in a 2006 Supreme Court decision, where the Court held that “[t]here is no dispute as to the high standing and central position of the right to legal counsel in Israel’s legal system.” (Cr.A. 5121/98 Prv. *Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06)). The Court in this case adopted a relative exclusion doctrine, according to which the Court may rule on the inadmissibility of a confession due to the interrogator’s failure to notify a soldier of his right to legal counsel.

24. On August 2, 2018, the Supreme Court in the Cr.A. 2868/13 *Haybavtov v. The State of Israel* case acquitted the appellant of murder and other offenses due to the violation of his rights during the investigation, and in particular a severe violation of the right to counsel, which resulted in the appellant’s inadmissible confession. The Court therefore held that the confession should be excluded, and acquitted the appellant. The Supreme Court further held that in light of the importance of the right to counsel, investigators must verify that the suspect is aware of his/her right, and that in the event they choose to waive this right, it should be done in an informed and explicit manner. Therefore, the Court held that investigators are required to document the waiver of the right to consultation by a suspect using an audio-video recording.

25. The right of detainees to access to an attorney is further anchored in IPS Commission standing order No. 04.34.00 “Provision of Professional Services to Prisoners and Detainees by Attorneys”. The Provision deals, *inter alia*, with coordinating and arranging prisoners’ meetings with lawyers for the provision of professional service.

### **The right to consult with a public defender before questioning**

26. The right to consult with a public defender before questioning has seen improvement in recent years. Israel has taken several important steps in the field, including: expanding the Public Defender’s Office (PDO) response to detainees for purposes of investigation to a 24/7 format, opening a dialogue with the Police on all levels, and using an available and detailed database gathered by the PDO. For statistics, please see Annex I.

27. For further information, see Israel’s Fifth Periodic Report to the ICCPR (p. 30).

### **The right of pretrial detainees to have access to a lawyer**

28. Section 34 of the *Criminal Procedure (Arrests) Law* states that a detainee is entitled to meet and consult with a lawyer. Following a detainee’s request to meet with an attorney or the request of an attorney to meet a detainee, the person in charge of the investigation shall enable the meeting without delay, unless, such a meeting necessitates terminating or suspending an investigation or other measures regarding the investigation, or substantially places the investigation at risk. The officer in charge shall provide a written reasoned decision

to postpone the meeting for the time needed to complete the investigation, provided this deferment does not exceed several hours.

29. The officer in charge can further delay this meeting if he/she issues a sufficiently reasoned decision to the effect that such a meeting may thwart or obstruct the arrest of additional suspects in the same matter, prevent the disclosure of evidence, or the capture of an object regarding the same offence. Such additional delay shall not exceed 24 hours from the time of arrest. An additional 24-hour deferment (to a total of 48 hours) can be granted, if the officer in charge provides an elaborate written decision that he/she is convinced that such postponement is necessary for safeguarding human life, or thwarting a crime. However, such a detainee shall be given a reasonable opportunity to meet or consult with legal counsel prior to their arraignment before a court of law.

30. Section 11 of the Criminal Procedure (Powers of Enforcement - Arrests) (Terms of Detention) Regulations 5757 – 1997 (the “Criminal Procedure (Arrests) (Terms of Detention) Regulations”), stipulates that the date of a detainee’s meeting with an attorney shall be coordinated in advance, and that the commander of the detention facility shall enable the first meeting of a detainee with an attorney, at their request, even during extraordinary hours.

### **The right of convicted prisoners to have access to a lawyer**

31. The *Prisons Ordinance* stipulates the conditions for a prisoner’s meeting with an attorney. According to Section 45, the meeting shall be held in private and in conditions allowing for the confidentiality of the matters discussed and documents exchanged, and in such a manner that enables supervision of the prisoner’s movements. Following the prisoner’s request to meet an attorney, or the request of an attorney to meet a prisoner, the director of the prison shall facilitate the meeting in the prison during regular hours and without delay.

32. Section 29(b) of the *Prisons Ordinance* authorizes the IPS Commissioner and the Prison Director to postpone or stop such a meeting for a set period of time if there is a substantial suspicion that meeting with a particular lawyer will enable the commission of an offence risking the security of a person, public security, state security or the prison security, or a prison offence substantially damaging the prison discipline and that brings about a severe disruption of the prison procedures and administration.

33. According to Section 45A(b) of the *Prisons Ordinance*, which relates to all prisoners, except for detainees who have yet to be indicted, the Prison Director may delay such a meeting according to reasons elaborated under the Law for no longer than 72 hours, and the IPS Commissioner may order an additional 24 hours’ delay. Another postponement can be approved with the agreement of the District Attorney for up to ten (10) days.

34. Decisions rendered according to section 45A may be appealed to a District Court. This decision will be given only after the prisoner and his/her attorney was given a right to present their arguments before the IPS. Note that according to this section the delay applies only to a specific attorney while the prisoner can meet with another attorney. The decision may be appealed to the Court.

35. A District Court may further extend the above time-periods to up to six (6) months, following an application of the representative of AG, based on one of the grounds specified above. The maximum delay shall not exceed one (1) year, but if it was delayed for more than six (6) months, the decision would be subject to a judicial review every three (3) months (Section 45A(7)). Such a decision can be appealed to the Supreme Court. A Supreme Court judge may further extend these periods based on one of the grounds specified under the law.

36. Medical Treatment of persons deprived of their liberty and the right to request and receive an examination by an independent physician of their choice: Please see our reply to Question No. 1 above.

37. The right of persons deprived of their liberty to be informed of their rights and of the charges against them and to notify a relative of their arrest.

38. According to Section 6(c) of the Police National Headquarters Order 14.01.34 on the clarification of the detainee’s rights, a police officer who has decided to arrest a person is

personally obliged to clarify to the detainee, among others, of the reason for his/her arrest, i.e., the suspicions against him/her and the grounds for the arrest, in a language which the detainee understands. Furthermore, according to Section 6(d) of the said Order, information concerning the arrest and the whereabouts of a detainee will be provided without delay to a relative of the detainee's choice, except in such case where the detainee had requested to refrain from doing so.

39. For information on the improper use of handcuffs as a means of investigation, please see Annex I.

#### **Arraignment before a judge and detention registers**

40. The rights of the detainees to be brought before a judge immediately and regardless of the reason for their arrest is anchored in *Criminal Procedure (Arrests) (Terms of Detention) Regulations*. This is conducted according to a regulated work procedure between the IPS and the courts: the Procedure for Handling Summons to Court 06.01. Based on this procedure, the IPS, the Courts and the Police collaborate in order to summon detainees to the courts. This procedure regulates the work of the registration offices and the Court Summons Center, responsible for keeping updated detention registers.

41. For further information, please see Israel's Fifth Periodic Report to the CAT (Question No. 6).

#### **Juvenile detainees**

##### *Representation of Minors in Criminal Proceedings by the PDO*

42. Amendment No. 14 to the *Youth Law (Trial, Punishment and Modes of Treatment) 5731-1971* (hereinafter: *Youth Law (Trial)*), which entered into force on July 30, 2009, amended *The Public Defender's Office Law 5755-1995*, entitling minors to legal representation in all stages of the criminal proceeding by the PDO.

43. Prior to a police investigation, the Police should notify the minor on his or her right to a legal counsel. In addition, a minor is entitled to be investigated with the presence of a parent or other family relative, and to consult with him/her during the investigation, unless in exceptions such as a risk posed to the process of investigation; security offences and more.

#### **The right to ensure the availability of legal aid**

##### *Representing children in civil and administrative proceedings*

44. The Legal Aid Administration (LAA) at the MoJ is the main provider of legal services for children in child protection proceedings in Israel. The National Child Representation Unit (NCRU) within the LAA is providing high-quality, child-friendly, and accessible legal aid service for children and youth, free of charge; and promotes their right to access to justice, particularly in child protection proceedings.

45. All child legal aid services are provided by the LAA free of charge. Children are represented from birth until they turn eighteen (18). For statistics, please see Annex I.

46. Since August 2018, (following Amendment No. 20 to the *Legal Aid Law 5732-1972*), the NCRU also provides legal aid and assistance to children and youth victims of severe sexual abuse, both throughout the criminal law proceedings against the perpetrator, as well as during any legal or administrative proceeding connected to the penal proceedings (such as protection orders, civil tort suits, etc.).

47. The NCRU has been designed and operates in accordance with leading human rights principles and criteria: accessibility, affordability, quality and non-discrimination, as designated by the relevant human rights instruments and guidelines.

48. For further information on the LAA, please see Israel's Fifth Periodic Report to CAT, para. 145.

49. For information on legal aid for family members of victims of homicide, please see Annex I.

### **The Number of Arrests**

50. Police data indicate that during 2018 there was a decrease of about 11.3% in the number of arrests conducted compared to the previous year. Government Resolution (GR) No. 4346 (9.12.2018) established a public committee, headed by the former President of the Jerusalem Magistrate's Court, to examine the arrests of suspects for investigation purposes.

51. The PDO has been implementing a systematic plan of action for decreasing the number of arrests. This issue is addressed through individual tasks, such as: training the defense attorneys; distribution of unique professional guidelines to attorneys representing in arrest proceedings; monitoring of proactive proceedings filed in appropriate cases such as petitions, requests for leave of appeal, periodic reviews, requests for release at the initial detention stage by the officer in charge, and requests for compensation for false arrests.

52. Recent Police data indicate a general decrease in the number of arrests, and a significant reduction in the number of detainees held for 24 hours. These figures indicate an improvement in the rate of cases where the suspects are released at the police station.

53. The Probation Service Administration has been working to reduce the time needed to prepare their report, through adding new positions and cooperation with the PDO. Following these measures, the time period required to file detention reports was shortened to two (2) weeks.

### **Family Visits**

54. For information on family visits, see Israel's Fifth Periodic Report to the ICCPR (p. 29).

### **Reply to paragraph 6 of the list of issues**

55. The following information pertains to administrative detainees held in Israeli territory, and is without prejudice to Israel's position on the applicability of CAT beyond its territory, as provided in our Reply to Question No. 3 above.

#### **Administrative Detention**

56. Administrative detention is an exceptional measure, applied only where there is clear, concrete and trustworthy evidence that an individual is engaged in acts that endanger the security of the state or human life. It is always used only as a preventative measure of last resort, where the security risk cannot be addressed by other legal means, such as criminal prosecution.

57. The legal basis for administrative detentions in Israel is the *Emergency Authorities (Detention) Law 5739-1979*. This instrument is designed primarily as a domestic security measure, which typically applies to individuals posing a severe threat to state security, and accords the Minister of Defense the authority to issue such warrants.

58. In addition, the respective local legislation in the West Bank grants all relevant security detainees the right to appeal the order to the Military Court of Appeals, for judicial review. Petitioners may be represented by counsel of their choice at every stage of these proceedings and have a right to examine the unclassified evidence against them. All individuals have the additional right to petition the HCJ for a repeal of the order. The judicial organs reviewing each and every order carefully examine whether the criteria outlined in case law and legislation are fully met.

59. Detainees are given an explanation of the grounds for the administrative order and have a right to examine the unclassified evidence against them.

60. An administrative detention order is limited to a period of six (6) months and its extension requires the reevaluation of the relevant intelligence and enables further judicial review and appeal.

61. Issuance of administrative detention orders against detainees who pose a danger to public security in the West Bank, in those cases outlined above, is recognized by international law and is in full conformity with Article 78 of the *Fourth Geneva Convention 1949*.

62. Between the end of 2016 and August 2018, the number of Palestinian administrative detainees has dropped by 37%.

63. As of August 19, 2020, there were one (1) Israeli national and five (5) Israeli residents held in administrative detention.

#### **The Incarceration of Unlawful Combatants Law 5762-2002**

64. No change has occurred in this area since the submission of Israel's Fifth Periodic Report to CAT.

65. Over the past several years, there were no individuals detained under the *Incarceration of Unlawful Combatants Law*.

### **Reply to paragraph 7 of the list of issues**

#### **ISA Interrogations**

66. Following issuance of the Turkel Report, reported in Israel's Fifth Periodic, the Government has steadily worked to implement the various recommendations. Notably, in January 2014, a professional inter-agency team of experts ("the Implementation Team"), was appointed. The Implementation Team thoroughly reviewed the Commission's recommendations and considered the most effective measures for their implementation. The Implementation Team submitted its report to the Prime Minister in September 2015. The Israeli Security Cabinet approved the Implementation Team's Report in July 2016. An inter-agency team continues to regularly monitor the completion of this process and reports to the Prime Minister every six (6) months.

67. In recommendation No. 15, the Turkel Commission recommended strengthening the thoroughness and effectiveness of the investigations of the Inspector for Complaints against ISA Interrogators Unit (hereinafter: the "Inspector") by requiring video recording of interrogations conducted by ISA, to be made according to rules that would be prescribed by the Attorney General (AG) in coordination with the Head of the ISA. The Implementation Team recommended the installation of cameras in all ISA interrogation rooms, that will broadcast regularly via closed circuit to a control room located in an ISA facility where interrogations are not conducted. The control room will be accessible and available to an external supervising entity on behalf of the MoJ at any time. The interrogators will have no indication of when the MoJ supervisor is watching them in the control room. The supervising entity must report immediately to the Inspector if he/she believes that illegal means have been used during the interrogation. The Israeli Security Cabinet adopted the recommendations of the Implementation Team and after the completion of the necessary technical arrangements and recruitment of suitable supervisors by the MoJ, along with the completion of a work protocol, the supervisors began their work in January 2018. During 2019-2020, hundreds of control and supervision hours were conducted by the supervisors (with an average of 80 to 100 monthly hours).

#### **Police Investigations**

68. For information on audio and visual recording of Police investigations, please see Israel's Fifth Periodic Report to the ICCPR (Question No. 14).

69. At present, the State of Israel does not intend to amend Section 17 to the Criminal Procedure (Interrogation of Suspects) Law 5762-2002 (the "Criminal Procedure (Interrogation of Suspects) Law").



## Reply to paragraph 8 of the list of issues

### National Institutions for the Protection of Human Rights in Israel

70. The Unit for the Coordination of the Fight against Racism–In 2016, GR No. 1958 established the Unit for Coordination of the Fight against Racism within the Ministry of Justice (MoJ). The Unit is in charge of supervising the implementation of the recommendations of the inter-ministerial team to combat racism, as well as receiving complaints concerning discrimination and racism from all populations and forwarding them to the relevant authorities, monitoring the handling of these complaints, composing an annual report regarding the Unit’s responsibilities and actions, and examining required legal amendments.

71. The Early Childhood Council - Please see Annex I.

72. The Children’s and Youth Complaints Commission for Out-of-home Placed Children- Please see Annex I.

73. For further information on national human rights institutions, please see Israel Fifth Periodic Report to the ICCPR (Question No. 3); for further information on mechanisms for the protection of human rights, please see Israel’s Core Document of 2008 (HRI/CORE/ISR/2008) and as amended in 2014 (HRI/CORE/ISR/2015) (Article 2(IV)(A)(vi) to (xiii)).

## Reply to paragraph 9 of the list of issues

74. In the past few years, following a number of Supreme Court decisions, several changes were made in the policy concerning asylum seekers, *inter alia*, regarding deductions from salaries for deposits, detention and renewal of permits, as detailed below.

### Closing of “Holot” Detention Facility

75. Over the past decade, tens of thousands of people have entered Israel illegally, not through a border station. Initially, these people had been placed in custody under the *Entry into Israel Law 5712-1952*, for a relatively short period of time, given the limitations on the length of custody as set by this law. On December 17, 2014, Amendment No. 5 to the Law entered into force (for further information, please see Israel’s Fifth Periodic Report to the CAT (Question No. 12)).

76. On August 11, 2015, the HCJ rejected the majority of claims in a petition filed against the said amendment and ruled that the new amendment is constitutional except for the provision that enabled illegal migrants to stay in “Holot” facility for up to twenty (20) months. The Court found this period was disproportionate and gave the Knesset a six (6) months period to enact a new amendment to the Law. In the interim, the Court set a twelve (12) months period as the maximum. (H.C.J. 8665/14 *Dasseta v. The Knesset* (2.2.2015)).

77. Following this HCJ decision, in February 2016, the Knesset approved Amendment No. 6 to the *Prevention of Infiltration (Offences and Jurisdiction) Law* which sets the maximum period a person can be held in “Holot” facility at twelve (12) months. On November 19, 2017, the Government approved a Resolution to close the Holot facility within four (4) months and on March 2018, the facility was closed.

### Deduction from Salaries

78. On April 23, 2020 the Supreme Court ruled that the obligation requiring people who entered Israel illegally through the Egyptian border to deposit 20% of their salary as an incentive to leave Israel is unconstitutional and ordered its nullity (H.C.J. 2293/17 *Garsgher et. al. v. The Knesset*).

79. The Court determined that the deposit would be based only on the employer component (16%) and approved the operation of the “administrative deduction” mechanism, according to which certain amounts can be deducted from the employee’s deposit, if the employee leaves the country after the departure date as set by the authorities is delayed. The

law determines deduction levels in accordance with the length of the delay, and states that the deduction will not exceed 33% of the deposit.

80. Since the Court's decision, 13,808 online applications have been processed for the employee's share of the deposit money. So far, as of July 2020, a total of 200,733,008NIS (58,435,668 USD) has been transferred to the employees.

#### **No Deportation to States in which there is a Danger of Torture**

81. The State of Israel is fully committed to the principle of *non-refoulement* and does not return any person to a country where he/she may be at risk of being tortured. We are not familiar with a claim of deportation to a state in which there is a risk of torture.

82. In a case brought recently before the Supreme Court, it was ruled that a fear of being subjected to female genital mutilation (FGM) was a ground for granting asylum. It was agreed by both parties that FGM may establish a well-founded fear of persecution and the main point of discussion was regarding the availability of an internal flight or relocation alternative for the family within Ivory Coast. The Court ruled that in the circumstances of the case (the agents of the persecution, lack of sufficient State protection, the religious and gender-based persecution), the availability of alternative places of living must be examined meticulously. The Court ruled that the relocation alternative offered to the family in this case did not address the concern and therefore they could not be removed to Ivory Coast (Ad.Ap.Rq. 5040/18 *Anonymous s. The State of Israel* (09.02.2020)).

83. The State filed a request for additional hearing on this matter, which focused on the Court's determination regarding the question of who carries the initial burden of proof for the existence of an internal flight or relocation alternative. The request was rejected by the Court on July 6, 2020 (Ad.Ad.H. 1893/20 *The State of Israel v. Anonymous et. al.* (6.7.20)).

#### **Renewal of Permits**

84. With respect to working permits, according to Section 2(a)(2) of the *Entry into Israel Law*, the duration of a tourist visa is three (3) months, during which one will not be permitted to work. Eritreans and Sudanese who entered Israel illegally through the Egyptian Border and may not be returned to their countries of origin receive temporary residence permit which is renewed periodically. The PIA recently issued several changes regarding the license renewals as detailed below.

85. On October 10, 2019, the PIA declared that Eritrean citizens who entered Israel illegally through the Egyptian Border will receive temporary residence permit pursuant to Section 2(a)(5) to the *Entry into Israel Law* for a period of six (6) months each time and the previous notification in their passports regarding the limit on the possibility to work, will be deleted. Eritrean citizens holding a B/1 visa (temporary employment permit) will receive it for a period of six (6) months at a time.

86. Sudanese citizens who entered Israel illegally through the Egyptian Border will receive temporary residence permit pursuant to Section 2(a)(5) of the Law, for a period of one (1) year at a time. Sudanese citizens holding a B/1 visa will also receive it for a period of one (1) year at a time. The previous notification in the passports of persons from Darfur, the Blue Nile and the Nuba Mountains regarding the limit on the possibility to work, will be deleted.

87. Due to the COVID-19 pandemic, the PIA notified on May 12, 2020 that the permits and visas of Eritrean and Sudanese citizens who entered Israel illegally through the Egyptian Border and are holding temporary residence permits pursuant to Section 2(a)(5) of the Law or a B/1 visa, will be extended every two (2) months automatically, from the expiry date of their permits, until a new decision is made.

88. Additionally, in the last few years, the Government adopted resolutions granting 800 temporary residence (A/5) visas on humanitarian grounds (in addition to previous 600 recipients) to the Sudanese residents of Darfur, the Nuba Mountains and the Blue Nile who applied for asylum and have met the conditions laid down in the resolutions. This visa grants the recipient social rights, national health insurance and the right to work. Moreover, in July 2019 the Government ordered the granting of additional 300 B/1 visas to the said populations.

### Health Services

89. Health services and social security benefits - The *National Insurance Law 5755-1995* and the *National Health Insurance Law 5754-1994* apply to Israeli residents and citizens. Section 2 of the *National Insurance Law* defines who is not considered a resident in this regard.

90. People who entered Israel illegally from the Egyptian border are granted National Insurance Institution (NII) coverage in the following designated insurance categories, insofar as they are working in Israel: maternity insurance, work accident insurance and insurance against bankruptcy of the employer. These are all given to the workers regardless of whether or not their employer made the payments to the NII. In addition, they are entitled to health insurance funded by their employer.

91. Following the outbreak of the Covid-19 pandemic, the MoH has instructed all directors of general hospitals as well as the Magen David Adom (the national emergency medical services organization) to provide foreigners staying in Israel with equal medical services as those provided to Israeli nationals in the context of the Covid-19 pandemic. In addition, the MoH's instructions concerning the pandemic are translated into various languages, published at the MoH's website and distributed to relevant NGOs.

### Social Services

92. Inter-Ministerial Committee Reviewing the Social Rights Granted to Migrants Who May Not be Returned to Their Countries of Origin- for further information please see Annex I.

93. With respect to the deprivation of liberty of migrants, please see our Reply to Question No. 25 below.

### Reply to paragraph 10 of the list of issues

94. The State of Israel has been facing a very large number, respective to its size, of asylum applications. Since 2009, approximately 70,000 applications were submitted. The PIA is working to improve the services provided and to shorten the waiting time for processing the applications.

95. According to the PIA procedures, handling of the asylum applications is conducted pursuant to the Israeli law, while observing Israel's obligations under the Convention and Protocol relating to the Status of Refugees of 1951 and 1967 respectively, and in accordance with the obligations under Article 3 of the CAT.

96. According to the procedure, the PIA must ensure that information sheets will be available at places of custody, at its offices and on its website. The information includes the manner of submitting an asylum application, the procedure for handling applications, obligations of the asylum seeker and the asylum seeker's right to contact a legal representative of his/her choice and of the scope of representation to which he/she is entitled in the process. According to the procedure, an asylum seeker will not be removed from Israel, until completion of reviewing his/her asylum application, in accordance with the principle of *non-refoulement*.

97. The PIA has a designated unit that handles asylum applications in Israel – the RSD Unit. The decisions of the PIA and of the Minister of Interior to deny an asylum application are subject to an appeal to the Appeals Tribunal, a specialized tribunal in the field of immigration that has been established within the MoJ in 2014. Such appeals are filed frequently. Additional appeals may be filed to a District Court and with the Court's permission to the Supreme Court.

98. Currently, all foreigners desiring to apply for refugee status may do so through an online application form, available at: <https://govforms.gov.il/mw/forms/RSDform@piba.gov.il>. Following the completion of the online request, applicants are summoned for identification, verification and registration with

border control at the PIA branch in the city of Bnei Brak. Afterwards, applicants are invited to a refugee status interview, held at the PIA branch in Tel Aviv-Jaffa.

99. Since the establishment of the Appeals Tribunal, thousands of appeals have been filed against the decisions of the PIA, mainly by foreign nationals whose applications for asylum were denied. Any decision made in the case of a foreign national which denies all or part of the application, must inform the applicant of their right to appeal to the tribunal and bring the matter to judicial review.

100. In the five (5) years prior to the establishment of the tribunal (2009-2013), between 2,560 and 3,070 appeals were filed each year, and in the first half of 2014, 1,163 appeals were filed. Following the establishment of the tribunal, in June of 2014, there was a significant rise in appeals filed: 2,355 in the second half of 2014; 5,195 in 2015; 4,300 in 2016; 6,014 in 2017; 7,034 in 2018; and 2,322 in the first half of 2019. In 2018, more than 50% of the appeals were denied in a ruling, more than 20% became redundant due to the PIA responding or deciding to reconsider its decision, approx. 6% were accepted, and the rest ended with rejection of the appeal, partial acceptance, etc. Of the 5,889 appeals in 2018, 59% regarded asylum seekers and illegal immigrants, 15% regarded family reunification, 12% regarded a humanitarian matter, and 6% regarded entry and visitation. Child registration, residence, work and studies, citizenship, detention in Holot facility and others, each consisted of 3% or less of the total number of appeals. In addition, the decisions of the Appeals Tribunal may also be appealed before the District Court, in its capacity as the Administrative Affairs Court. Additionally, every foreign national placed in custody is brought as soon as possible, and no later than 96 hours, for review before the Detention Review Tribunal (DRT). This Tribunal proactively examines the situation of the foreign nationals, as stated, without the need for a preliminary appeal from the foreign national.

101. With respect to the suspensive effect of the appeal of a deportation decision, usually, when such an appeal is submitted alongside a request for an interim suspension order, the removal of the appellant from Israel is suspended until the end of the proceedings. In addition, even if an interim suspension order is not granted, due to the prompt nature of these proceedings, the decision will be given prior to the date scheduled for the removal. In 2019, 34 appeals out of 202 cases were granted (sixteen (16) cases are still pending); and in 2020 (as of September 2, 2020), seven (7) appeals out of 42 were granted (eleven (11) cases are still pending).

#### **Identification and treatment of vulnerable persons seeking asylum in Israel**

102. Gender sensitivity- In February 26, 2017, the Regulation on Processing Asylum Requests (PIA Regulation No.5.2.0012) was updated and a designated section entitled “*Gender Sensitivity in the process of refugee status determination (RSD)*” was added, with the aim of highlighting gender sensitivities.

103. The Gender Sensitivity Section provides that RSD interviews will be conducted with sensitivity to gender issues that might affect the interviewee’s feelings or behavior, or impact her/his testimony. Furthermore, the Section stipulates that victims of gender-based violence, including sexual violence, must be treated with the utmost respect and sensitivity.

104. A further example for developments in the field of gender sensitivity is the HCJ ruling concerning FGM as a ground for granting asylum (please see our Reply to Question No. 9 above).

105. Victims of trafficking in persons (TIP) - As a rule, TIP victims are not held in detention in Israel. Every identified TIP victim is transferred to a shelter for TIP victims. Victims may leave the shelters at will, unless law enforcement agencies estimate that they are at risk, in which case they are to remain in the shelter until it is assessed that they are no longer at risk. Victims are provided escort to the courts and the State Attorney’s Offices (SAO), as well as to medical institutions. This service is provided to support the victims emotionally and psychologically, as well as for their personal safety.

106. For further information, please see Annex I.

107. The DRT and the Appeals Tribunal Referral Procedure for TIP victims- The DRT and the Appeals Tribunal operate under the MOJ. The DRTs are charged with exercising legal

scrutiny of the detention orders that are issued by the Supervisor of the Border Control Administration. The tribunals are not authorized to review deportation orders. The Appeals Tribunal has authority over Appeals against PIA decisions regarding foreign nationals. The Tribunal's decisions may be appealed to the Administrative Courts.

108. The Tribunal notifies the Police Anti-Trafficking Coordinating Unit (PTC) and the LAA of cases they suspect are trafficking related. The LAA provides the alleged TIP victim with a lawyer and the PTC examines the available evidence and decides whether to recognize the detainee as a TIP victim. Once a detainee is identified as a victim, they are released from detention and offered to be transferred to the TIP shelters. Note that in all the court hearings in the Tribunal, a translator is present. If no translator is available, the court session is postponed unless the detainee speaks the same language as the Judge. The DRT and its personnel consider the translator to be a fundamental component of the process, since it allows for a better, more effective identification of the victim of trafficking. In 2018, five (5) cases were referred from the tribunals to the relevant authorities – including the LAA, the PTC, and the National Anti-Trafficking Unit (NATU).

### **Reply to paragraph 11 of the list of issues**

109. Between 2009 to 2019, 64,542 asylum requests were submitted in Israel, of which 55 have been approved. Please see also our reply to Question No. 9 above; For the requested statistics, please see Annex I.

#### **Extraditions**

110. Between 2016-2019, twenty-five (25) wanted persons were extradited (as will be detailed below). The majority of the wanted persons had status in the State of Israel, i.e. were Israeli citizens or residents, or were at least entitled to the right to immigrate to Israel and become an Israeli citizen under the *Law of Return* 5710-1950, and some of the latter even began a naturalization process.

111. For information on extraditions please see Israel's Fifth Periodic Report to CAT (Question No. 19); for the requested statistics, please see Annex I.

#### **Safe Relocation to Third Countries**

112. Israel had reached arrangements with two (2) third countries for the safe relocation of persons from Sudan and Eritrea who entered Israel through the Egyptian border illegally. The Government has considered this plan a more appropriate way to deal with the situation, due to the unique circumstances that Israel is facing and the geo-political context in the Middle East.

113. Ultimately, for various reasons, the arrangements were not fully implemented. Anyone who wishes to leave Israel voluntarily to these countries can still do so with State assistance according to these arrangements. Based on routine exams conducted by PIA, there have been no known cases of violations of the principle of *non-refoulement*. For further information, please see Annex I.

114. Voluntary departure data over the years 2015-2019- Please see Annex I.

115. Data regarding voluntary departure of persons who entered Israel illegally during 2012-2018- Please see Annex I.

### **Reply to paragraph 12 of the list of issues**

116. In six (6) cases in which Israeli citizens who were also Israeli residents were extradited, the requesting country undertook to allow the wanted persons to return to Israel for the purpose of serving their prison sentence if convicted and sentenced to imprisonment. In some cases, the wanted persons exercised their right to return and some waived it. In addition, in two (2) cases, the requesting country's assurance for a retrial was demanded, after the wanted

persons were sentenced *in absentia*. The monitoring of the fulfillment of the obligation is coordinated with the corresponding authority.

117. Regarding the undertakings made by the State of Israel, in the relevant period, in two (2) cases Israel provided, at the request of the relevant country, assurance to respect procedural rights such as deduction of detention days, and in three (3) cases, it gave assurance to respect procedural rights and respect human rights as required – an assurance that was required under the laws of the requesting country.

### **Reply to paragraph 13 of the list of issues**

118. No change has occurred in this area since the submission of Israel's Fifth Periodic Report to CAT.

### **Reply to paragraph 14 of the list of issues**

119. During the reporting period, extradition agreements with Brazil and India came into effect. Under these agreements, extradition offenses were defined as offenses for which, in both countries, a sentence of at least one (1) year of imprisonment can be imposed. Acts included in the CAT are prohibited under the *Penal Law*, and penalties of at least one (1) year of imprisonment may be imposed in respect thereof. Therefore, under Israeli law these constitute extradition offenses.

120. Both agreements include a clause that allows countries to refuse extradition for an offense of a political nature. However, the countries have agreed to view as an exception to this rule any offense for which the two (2) contracting countries have an obligation to extradite pursuant to a multilateral international treaty. Brazil, like Israel, is a party to the CAT and therefore, the clause prevents both Israel and Brazil from arguing that any of the offenses included in the CAT is a political offense or political act. India, on the other hand, has signed the convention but has not yet ratified it, and thus the clause of the extradition treaty with India can be seen as a kind of declaration of intent: when India ratifies the CAT, an obligation will be created between the countries to comply with the terms of the Convention.

### **Reply to paragraph 15 of the list of issues**

121. According to Section 18 of the *Extradition Law*, only after a person is declared by a court to be extraditable, the Minister of Justice may order the extradition of the person to the requesting State.

122. In Israel, a legal infrastructure has been established for the enforcement of a prison sentence in lieu of extradition for the serving of the sentence, when extradition is not possible for reasons of citizenship. In 2018, as part of the *Serving a Prison Sentence in Prisoner's Country of Citizenship Law 5757-1996*, the State of Israel enforced a prison sentence imposed in France on two (2) Israeli citizens.

### **Reply to paragraph 16 of the list of issues**

123. The State of Israel did not sign new legal aid treaties during the period in question.

### **Reply to paragraph 17 of the list of issues**

#### **Israel Police**

124. The Police Education and Information Section operates educational programs aimed at ensuring that human rights values are incorporated into police officers' training and fieldwork, such as tolerance within a multicultural society, elimination of prejudice and

awareness of human rights conventions. Special emphasis is given to training police commanders, in light of their direct influence on their subordinates.

125. The Police School for Investigation and Intelligence incorporates into its training the main provisions of the relevant human rights conventions and the law of armed conflict regarding procedures and investigation ethics.

126. In May 6, 2018, the Office of the Deputy to the Attorney General (International Law) in cooperation with the NGO “the Public Committee Against Torture in Israel”, had conducted a one-day training seminar for the UIW in the Israel Police and the Inspector in the MoJ on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”). The following subjects were addressed: the international terms and standard of torture, cruel and degrading treatment and imprisonment conditions; the obligation to investigate such treatment; and conducting interviews with the complainant in accordance with international law.

### **The IPS**

127. IPS officers and wardens undergo regular training at the School for IPS Officers and Wardens, as well as in their respective units. This training includes topics such as prevention of the use of force, warden’s ethics, values of human dignity and liberty, and the rights and liberties of the prisoner. These issues are also routinely addressed during training and guidance of other prison staff members.

### **The ISA**

128. The Legal Department of the ISA and dozens of ISA personnel have undergone specific training on international law, including human rights law, the core human rights conventions, and the work of the UN Treaty Bodies.

129. Moreover, ISA operational personnel are taught, in detail, about the relevant human rights conventions, including their implications in the unique Israeli context. This is done both during preliminary and advanced ISA training, as part of the process of implementing the recommendations of the Turkel Implementation Team. These courses emphasize the importance of fundamental human rights principles, together with upholding the rule of law and practices stipulated by the courts.

### **The IDF**

130. The School of Military Law hosts multiple training exercises for IDF forces on human rights law and the law of armed conflict. These exercises include lectures and academic courses which provide both practical and theoretical applications of international law. They analyze real and fictional operational cases designed specifically for the participants and their military specialty. In addition, commanders and the IDF’s International Law Department take part in operational exercises in order to provide the forces with the professional tools that will allow them to face such challenges in accordance with international law.

131. Every year, hundreds of lectures are given to IDF soldiers and commanders who serve their mandatory service, as well as to reserve soldiers. These exercises place special emphasis on complex issues such as arrest and detention practices, the legal responsibilities of soldiers and their commanders, as well as the laws and rules of conduct during an armed conflict. For further information, please see Annex I.

132. Furthermore, Military Police investigators undergo comprehensive training on various issues related to the manner of conducting an investigation. These trainings focus on investigatees’ rights and how to conduct investigations under reasonable conditions and in accordance with the law. Every soldier being questioned under warning by the Military Police is entitled to legal representation by a military defense attorney free of charge, who will also accompany them in the criminal proceedings, if the investigation leads to the opening of such proceedings.

**The Population and Immigration Authority**

133. Personnel in the RSD Unit in the PIA undergo a three (3)-week course on topics related to refugees and asylum seekers. This includes the Refugee Convention, human rights conventions, Israeli laws and TIP. The course was co-developed and first conducted in 2009 by the MoI, UNHCR, the Hebrew Immigrant Aid Society (HIAS), and the United States Department of Homeland Security.

134. On 16 February, 2017, a designated training of the RSD Unit staff in the PIA regarding women asylum seekers and gender-sensitivity took place. The training included sessions on crime victims' rights, women from Eritrea and Sudan, women asylum seekers in Israel, and on mental health issues among women asylum seekers and the way they are reflected in interviews.

**The Institute of Legal Training for Attorneys and Legal Advisers in the MoJ**

135. The Institute of Legal Training for Attorneys and Legal Advisers in the MoJ regularly conducts many seminars, courses, and vocational training, attended by hundreds of practitioners, to raise awareness of human rights issues and eliminate racial discrimination. For further information, please see Annex I.

**The Institute of Advanced Judicial Studies**

136. For information on the training provided to judges by the Institute, please see Annex I.

**Reply to paragraph 18 of the list of issues**

137. For information concerning training provided to prosecutors by the Institute of Legal Training for Attorneys and Legal Advisers in the MoJ and the School of Military Law, please see Annex I.

138. For information concerning training programmes provided to judges, please see our reply to Question No. 17 above.

**Reply to paragraph 19 of the list of issues**

139. The means and degrees of force utilized by Israeli security forces, including the IDF, are governed by clearly worded and defined Rules of Engagement (RoE), all of which are subject to rigorous and thorough scrutiny by military and governmental bodies.

140. The RoE are written with close legal guidance of the MAG to ensure that they comply with relevant provisions of national law and with treaty and customary international law, and in particular with the relevant rules of the law of armed conflict. These rules are periodically reviewed and updated in accordance with the changing operational needs aimed to ensure that they comply with the relevant requirements of both international and national law. In addition, some of the RoE are also approved by the AG.

141. Weapons systems employed by Israeli security forces, including less-lethal weapons (such as tear gas etc.), are subject to certain restrictions on use and to detailed professional instructions for use. These rules and procedures receive strict and comprehensive scrutiny by the command chain of the military and the Government, including an in-depth assessment of the physical effects of such systems as well as full legal reviews.

142. Training - All Israeli security forces undergo comprehensive training so as to be able to implement these rules and procedures properly and operate the appropriate equipment and weaponry relevant for the required mission, including less-lethal weapons.

143. Issues relating to the Law of Armed Conflict and Human Rights Law, including the use of lethal force, detention powers and the authority to use firearms in different situations are taught and discussed in a variety of lectures and training delivered by the IDF School of Military Law. Additional training regarding these issues is conducted, *inter alia*, in the



Officers course, Company Commanders courses, Battalion Commanders courses, as well as in the different IDF schools and colleges (the Tactical Command College training, Sea Captains training, Command and Staff courses, etc.). In addition, particular training is given to soldiers and officers carrying specific roles which involve direct contact with the population, i.e., combat interrogators and civilian population officers (charged with coordinating with the population in humanitarian issues in times of war).

144. Any allegations regarding the excessive use of force or violations of the RoE by IDF forces are given consideration and are examined in full. Where sufficient information or evidence is brought to the attention of the investigatory authorities that indicates a suspicion of a violation of the law, the authorities will order the opening of a criminal investigation into the matter.

## **Reply to paragraph 20 of the list of issues**

### **Methods of interrogations**

145. According to the *Israel Security Agency Law*, the ISA internal rules and procedures as well as methods of interrogations are confidential. A petition for disclosure of similar details was submitted to the Jerusalem District Court, and was rejected by the Court (Ad.P 8844/08 *The Public Committee against Torture in Israel v. The Supervisor of the Freedom of Information Law within the Ministry of Justice* (15.2.09)).

### **Amendments to the Youth Law (Trial)**

146. In the last decade, together with another wave of terrorism, there has been an increase in the phenomenon of stone-throwing related violence (e.g. stones were thrown at cars, buses, pedestrians, and police personnel), oftentimes by minors. Due to the serious nature of this kind of violence, which can result in grave damage to life and limb, offenders are often remanded to custody. However, it is common for offenders who are minors to be released on bail during the legal proceedings, in many instances with the approval of the State.

147. For example, in June 2020, Amendment No. 22 to the *Youth Law (Temporary Order)*, relating to the possibility of sentencing a minor under the age of 14 to a prison sentence, on the condition that she/he be held in a children closed facility rather than a prison until she/he reaches the age of 14, has expired. In addition, the *Youth Law* was amended in 2015 to extend the court's power to impose a fine on the parents of a minor, in addition to a criminal conviction.

148. For information on the Shapiro Commission appointed to examine the required adaptations of the *Criminal Procedure (Interrogation of Suspects) Law*, please see Annex. I.

### **Minors and Terrorism**

149. Israel faces a complex and difficult reality of ongoing terrorism. Unfortunately, serious offenses have been committed by minors, including minors aged 13 and 14, and on occasion, the victims of these crimes have been minors themselves.

150. For further information on this topic, please see our reply to Question No. 5 above.

## **Reply to paragraph 21 of the list of issues**

151. For Statistical data: Please see Annex I.

### **Criminal Prisoners**

#### *General living conditions*

152. Section 11B to the *Prisons Ordinance* specifies the appropriate living conditions of prisoners. The conditions include the following:

- A prisoner will be held in proper conditions that will not harm his/her health and dignity;
- A prisoner will be entitled to: proper sanitary conditions, medical care and suitable supervision in accordance with the instructions of an IPS physician; bed, mattress and blankets for personal use; food and water; clothes, personal hygiene products; reasonable lighting and ventilation conditions in the cell; and a daily walk in the open air. These rights are to be presented in a noticeable place in the detention facility.

153. The *Prisons Regulations (imprisonment conditions) 5770-2010*, specifies the requirement of living conditions of prisoners, instructing, for example, that every prison cell will have a window that allows ventilation or other means of reasonable ventilation, a toilet and sink in each cell and separation that allows privacy, shower and food requirements, lighting, a prisoner's living space, hygiene conditions, the right to a daily walk in the fresh air etc.

#### *Medical Care*

154. Please see our reply to Question No. 1 above.

#### *Visits and Family Relations*

155. Generally, family visits are allowed for criminal prisoners and are held according to IPS procedure No. 04.42.00. This procedure specifies the frequency of the visits, the persons who can visit the prisoner, the duration of a visit (30 minutes in general), the number of visitors (up to three (3) adult visitors with which the prisoners' minor children may come along), special instruction regarding minor prisoners, and instructions in regard to the ability to approve additional visits, and special visitors etc.

156. In addition, contact with families is also maintained through letter correspondence and postcards, and there are public telephones in the wings.

157. For information on the case of Pr.Ap.Rq.H.C.J. 4277/20 *IPS v. Abed Marai* (June 24, 2020), please see Annex I.

#### *Access to Legal Counsel*

158. Prisoners are entitled to meet with their lawyers and receive consultations; these meetings are held with or without a divider, depending on the circumstances. The transfer of legal material between the lawyer and the prisoner is subject to attorney-client privilege and the legal material is forwarded directly to the inmate.

#### *Leisure activities*

159. According to Section 11C of the *Prisons Ordinance*, prisoners are entitled to take part in educational or vocational activities conducted within the prison, as determined by IPS regulations. They are also allowed to receive books, magazines and papers, as well as to spend one (1) daily hour in the prison courtyard and the Prison Director is authorized to extend this hour. They are mostly given three (3) daily hours in the prison courtyard.

#### *Religious rights*

160. Prisoners are allowed to uphold their religious duties under the prison's security limitations, as elaborated under Regulations 44-46 of the *Prisons Regulations 5738-1978*.

#### *Security Prisoners*

161. Generally, the conditions granted to security prisoners are determined by the IPS Commission standing order No. 03.02.00.

162. Due to ongoing security risks posed by security prisoners, specific limitations are applied to their vacations, visits and conjugal visit rights. The need to impose such limitations was recognized, scrutinized and affirmed by the Supreme Court in several cases (for example: Pr.P.A 1076/95 *State of Israel v. Samir Kuntar* (13.11.96) and more recently in H.C.J

6956/09 *Yuness v. Israel Prisons Service* (2010); H.C.J 6314/17 *Namnam v. The Government of Israel* (2019)).

163. Nevertheless, security prisoners are offered a variety of services and benefits that enable their detention in appropriate and adequate conditions, whilst fully respecting their distinctive needs according to international law standards.

164. With regard to all prisoners (security and criminal), breaches of order and discipline in detention facilities necessitate the use of disciplinary and administrative measures, which are carried out in accordance with IPS procedures.

#### *Medical care and religious rights*

165. Please see the abovementioned information regarding criminal prisoners.

#### *Family Visits*

166. Generally, family visits are allowed for security prisoners and are held according to IPS procedures.

167. For information on the case of H.C.J 6314/17 *Fadi Sammy Namnam et. al. v. The State of Israel et. al.* (4.6.19), please see Annex I.

168. In addition to family visits, security related prisoners receive visits from representatives of the ICRC and diplomatic representatives.

#### *Access to Legal Counsel*

169. Please see the abovementioned information regarding criminal prisoners.

#### *Living conditions monitoring mechanisms*

170. The living conditions of security related prisoners, as with all other prisoners, are inspected by Official Visitors in prisons. Any complaints concerning living conditions raised before ICRC representatives, Official Visitors, and representatives from all the different mechanisms that handle the complaints of security prisoners, such as the State Comptroller's Office, the internal review mechanism of the IPS, the review mechanism of the Ministry of Public Security (MoPS), court petitions, public applications of prisoners etc., are brought to the attention of the IPS authorities.

#### *General Living Conditions*

171. Security prisoners are given food provided by the IPS and may, as a privilege, depending upon their behavior, purchase food at the prison's canteen.

172. Prisoners are allowed to hold educational activities, receive books, magazines and papers.

173. Prisoners are allowed one (1) daily hour in the prison courtyard and the Prison Director is authorized to extend this hour. They are mostly given three (3) hours per day.

174. As of May 2019, all ISA interrogation facilities have been adapted with lighting infrastructures allowing dimming the lights in the cells at night.

#### *Judicial Review*

175. Any prisoner seeking to contest an individual decision in his/her matter or to challenge a general claim regarding the conditions of detention, may address the prison authorities or petition the District Court in a Prisoner Petition, according to Section 62A of the *Prisons Ordinance*.

176. Official visitors – please see the reply to Question No. 29 below.

**Reducing overcrowding in prisons in the course of the reporting period and imprisonment alternatives**

177. During the reporting period, and in particular following the HCJ ruling on prisoners and detainees' living space (H.C.J. 1892/14 *The Association for Civil Rights in Israel et. al. v. The Minister of Public Security et. al.* (13.6.17); for further elaboration, please see Annex I) the following amendments have been made in the legislation and in GRs in order to address overcrowding in prisons:

(a) Extending the periods of time of community service in lieu of imprisonment: On April 1, 2019, Amendment No. 133 (Temporary Order) to the Penal Law entered into force, according to which, the possibility of imposing a sentence of imprisonment in the form of community service was extended from a period of six (6) months to a period of nine (9) months;

(b) Expanding the deployment of Community Courts: Community Courts began to operate in Israel as a pilot program in November 2014, serving various populations. Community Courts use a judicial and rehabilitative approach, aiming to reduce incarceration and prevent recidivism. These Courts deal solely with criminal proceedings while focused on the cooperation between the courts and the law enforcement agencies, the welfare services, education authorities and the community. In GR No. 1840 (August 2016), The Government ordered the expansion of this program with the aim of operating at least one (1) Community Court in each of Israel's six (6) judicial districts, and to date Community Courts operate in Be'er-Sheva, Nazareth, Ramla, Jerusalem, Haifa and Tel Aviv-Jaffa;

(c) Administrative Release: On November 7, 2018 Amendment No. 54 (Temporary Order) to the Prisons Ordinance was approved by the Knesset. This amendment extended the remaining imprisonment periods under the administrative release arrangement, allowing a prisoner to be released before the end of his/her full sentence. However, according to the amendment, a prisoner will not be released in accordance with this section, unless he/she has completed at least half of his/her imprisonment sentence. This temporary amendment was introduced in order to contribute to the reduction of overcrowding in prisons, and to increase the living area of the remaining prisoners in the short term, so as to comply with the requirements of the HCJ in its decision from June 2017 (see further elaboration below), until the long term solutions agreed upon by the State are implemented. This amendment does not apply to security prisoners, prisoners who were convicted for terrorist offences under the Counter-Terrorism Law 5776-2016 (the "Counter-Terrorism Law") and prisoners who were tried in Military Courts for particular security related offences that may only be prosecuted in such courts. Currently there is a pending petition in this regard (H.C.J. 1406/19, A.A.M (Minor) et. al. v. The Knesset et. al. (pending)). On August 2, 2020, the Government adopted a Resolution on the enlargement of the living area of prisoners and the promotion of imprisonment and rehabilitation alternatives in order to comply with the HCJ's decision, according to which, a temporary amendment bill will be published within the next 60 days, that will propose a new procedure for the administrative release arrangement;

(d) Adopting the recommendations of the committee regarding the implementation of the recommendations of the public committee for the Examination of the Punishment and Treatment of Convicted Offenders: GR No. 3595 (February 25, 2018) adopted the recommendations of the Prosecution Team for examining the implementation of the Dorner Report. The guiding principle of these recommendations is that where considerations of competence or level of risk do not necessitate imprisonment or detention, and when the defendant can be introduced into an actual rehabilitation procedure tailored to his/her needs, outside of jail, the rehabilitation procedure should be favored over imprisonment or detention. Additional budgets and positions were allocated towards the implementation of these recommendations, likely to have an impact on occupancy in prisons and detention centers;

(e) The establishment of new prison facilities and renovation of existing ones: Israel has expanded the living area per prisoner to 3 square meters and is gradually increasing it to 4.5 square meters per prisoner in compliance with the HCJ ruling (H.C.J. 1892/14). Thus far, 45% of the prison cells are in compliance with the standard set by the Court (excluding

the Zalmon prison facility, where the cells are sized 3.8 square meters per prisoner, including the toilet but not including the shower). For further information, see Annex I;

(f) Extension of the quota for prisoners and detainees under electronic supervision: The quota of prisoners and detainees designated for imprisonment alternatives with electronic supervision was extended to 1,000 prisoners. A further extension to 1,250 prisoners was confirmed by the Knesset on 26 August, 2020. For further information, please see Annex I;

(g) Conditional early release: A unit for conditional early release of prisoners sentenced to short-term prison sentences was established within the IPS. This unit is certified to discuss and decide on requests for the conditional early release of prisoners convicted for up to one (1) year imprisonment. The unit was established in order to improve the conditional early release mechanism and to alleviate the backlog faced by the release committees.

### **GR No. 3595 adopted following the HCJ Ruling on Prisoners and Detainees' Living Space**

178. On 25 February, 2018, GR No. 3595 on improving prison facilities and living space was issued. It included the above-mentioned means of operation.

179. Subsequently, the Government presented to the Court an elaborated plan to implement the judgment. The State requested the Court to extend the deadlines which were initially decided by the Court. The Court granted the Government an extension of the deadlines (initially set to April 30, 2019 and May 2, 2020).

180. In May 2019, the Government reported to the Court that it had successfully met the first deadline.

181. On April 28, 2020, the State requested the Court to hold a session on the implementation of its decision and to delay the second deadline. On 30 April, 2020, the HCJ agreed to delay the second deadline as per the State's request, while the State's request to have the session is still pending before the Court.

182. On August 2, 2020, the Government adopted GR 291, aimed at reaching full compliance with the HCJ's decision by the end of 2023 at latest. The State submitted an updated request to the Court in accordance with the said timelines, and the hearing is scheduled for December 30, 2020.

### **Case Law**

183. For information, please see Annex I.

## **Reply to paragraph 22 of the list of issues**

### **Minors**

184. In recent years a significant decline is evident in the number of detained and convicted minors in prisons. For statistics, please see Annex I.

185. Minor criminal detainees are held in the Ofek Juvenile Prison and security detainees are transferred to the minors' wings in Ofer, Damon and Megiddo prisons. During their investigation, minors are held in separate designated cells for minors.

186. The IPS' approach towards minors is rehabilitative and treatment-oriented, based on the assumption that every young adult perpetrating an offense can be reformed and has the potential for rehabilitation and that one should do everything possible to help the minor reintegrate back into society in a normative manner.

187. Ongoing contact is maintained with the minors' parents and, if needed, with community authorities, including the parole services, Youth Protection Authority and social care services. IPS takes steps to separate minors from adults in the detention facilities and in the escort vehicles of the "Nachshon" Unit.

188. For further information on the recommendations for legislative amendments on the issue of minors in prison, please see our reply to Question No. 20 above.

**Female Inmates in the IPS**

189. The IPS has dedicated special efforts in recent years in order to address the issue of female prisoners.

190. Female criminal prisoners are held in the Neve Tirtza facility, and female security prisoners are held in special wings in the Damon prison.

191. There is no separation between criminal prisoners, regardless of their place of residence. Similarly, there is no separation based on religion between prisoners. However, in all prisons there is a strict separation between prisoners with a drug addiction and prisoners without any narcotic background. Division is also based on the classification of the prisoners as criminal or security prisoners; adults and minors; pretrial detainees and convicted detainees.

192. The treatment of prisoners is performed on an individual basis. Special attention is given to every prisoner through professional assistance by physicians, social workers and other officials.

*Female minors in IPS facilities*

193. As a general rule, there is a strict distinction and separation between minors and adults in prison. As there are very few minor female prisoners, they are treated on an individual basis, strictly following and abiding by laws pertaining to minor's rights. It is important to note that the small number of minor prisoners is a result of a policy that seeks to deal with minor criminals through special institutions and programs for rehabilitation, making imprisonment the very last option.

*Births and Child Raising at IPS Facilities*

194. Pregnant women prisoners are granted special treatment and are closely monitored by a physician. Women prisoners deliver in civilian hospitals and after labor, mothers are treated by a special joint committee of the prison authorities and municipal social workers. Female inmates are allowed to raise their children in special conditions until the age of two (2); these special conditions include the supervision of expert physicians and mother and child stations. The choice between keeping the child in prison and giving the child to a family is given to the mother.

*Nutrition*

195. The IPS menus were checked and approved by a nutritionist, according to the updated United States Department of Agriculture recommendations and adapted to the different populations of IPS, *inter alia*, women inmates, for example by adding milk to increase calcium provided to women.

196. The menu for pregnant women is enriched with vegetables, cheese, milk and supplements according to physician orders.

197. All prisons menus are similar and feedback received from prisoners show satisfaction from the food given.

*Physical Search*

198. There are very clear instructions and procedures that allow for physical search on female prisoners during entrance and exits from the cells and the different wings. The search is done by female wardens.

**Persons with disabilities**

199. In every entry of a detainee into a detention facility, an assessment is carried out by the relevant staff members regarding his/her unique needs, based on which his/her integration in the facility is conducted.

200. Pursuant to Section 19A of the *Welfare (Treatment for Persons with Intellectual-Developmental Disabilities) Law 5729-1969*, where a Court ordered the arrest of a person,

and the Court is convinced that that person has an intellectual-developmental disability, the Court shall order that that person be held in separation if possible, or in a closed facility, except in such case where the Court is of the view that the best interest of the inmate does not so require. The inmate shall not be transferred to a closed facility before his/her investigation is completed.

201. According to Section 16 to the *Treatment for Persons with Mental Disabilities Law* 5751-1991, where a Court orders the arrest of a person, and the Court is of the view that that person is mentally disabled and his/her condition requires hospitalization, the Court may order that that person be held in a hospital determined by the regional psychiatrist or in the psychiatric division of a prison, insofar as the hospital may ensure the conditions required for the investigation of the inmate, if the criminal procedure so requires. The Court shall not issue the said order before it has received a psychiatric opinion. For that purpose, the Court shall order that the person be brought for a psychiatric examination.

202. Data on Indictments against Minors and Minors Convictions: Please see Annex I.

203. Restorative Justice: Alternative Models to the Criminal Proceeding: Please see Annex I.

204. Inter-Ministerial Committee on Minors Recidivism: Please see Annex I.

205. Head of Juvenile Justice (HJJ) and the Inter-Ministerial Coordinator (IMC) at the MoJ: Please see Annex I.

#### **Alternative measures for detention of minors**

206. Section 26 of the *Youth Law (Trial)* provides alternative measures which the Juvenile Court may order in lieu of imprisonment, including: placing the minor under probation; receiving a commitment from the minor or her/his parent regarding her/his future conduct; placing the minor in a closed residence facility; charging the minor or her/his parent with a fine, trial expenses or compensation to the injured party.

207. The MoPS, together with the Youth Villages directors and the Ministry of Economy, lead various programs for violence and drug and alcohol use prevention in 24 Youth Villages, and participates in their funding. About 4,500 youth and children at risk are educated in these Youth Villages. The prevention programs included also children and youth who are victims of offenses. Note that Youth Villages often serve as alternative for arrest/detention for delinquent youth, and in this framework the youth are treated in various prevention programs.

208. For further information on imprisonment alternatives, please see our Reply to Question No. 21 above.

#### **Reply to paragraph 23 of the list of issues**

209. Separation and solitary confinement- For information on solitary confinement and separation, please see our reply to Question No. 1 above.

210. Solitary confinement is rarely utilized and is supervised within the IPS. The IPS distinguishes between solitary confinement and separation of certain segments of the prison populations as a preventative measure. As part of the implementation of the medical treatment guidelines established by medical professionals at the Department for Legal Psychiatry in the Ministry of Health (MoH), the IPS collects information regarding past disciplinary action taken against inmates with mental or psychosocial disabilities. These guidelines were adopted to provide the relevant treatment to mentally disabled inmates, in accordance with their individual needs.

211. For data on the use of solitary confinement, please see Annex I.

212. For information on solitary confinement and separation of minors, please see our reply to Question No. 1 above.

**Protected Prison Wards**

213. According to Prison Order 04.66.00, protected prison wards serve as transitional wards for prisoners who were taken out of separation, but are still experiencing difficulties in integrating and interacting with other prisoners. The aim of this temporary stage is to assist the prisoner in his/her future re-integration into the ordinary wards.

214. Most of the prisoners in the protected prison wards are held in the cell together with other prisoners. In addition, the courtyards in the protected prison wards are common and may serve several prisoners at a time.

215. Moreover, the prisoners in the protected prison ward are entitled to private meetings with a social worker, group therapy workshops and group or private educational activities. The religious practices of the prisoners in these wards are also protected and respected.

**Reply to paragraph 24 of the list of issues**

216. Medical Care for prisoners - please see our reply to Question No. 1 above.

217. All prisoners in custody are treated in accordance with the *Prisons Ordinance* and IPS Commission standing order No. 04.44.00 on the medical treatment of a prisoner.

218. In 2017, the MoH concluded the Berlovich Committee Report concerning the medical response and services provided to inmates held in IPS facilities. It is the MoH's position that the provision of medical services at the IPS is both reliable and in line with accepted standards. As such, individual complaints are thoroughly reviewed and appropriately handled. Furthermore, on December 11, 2019, a committee, headed by the Ombudsman for the Medical Professions, was appointed with the mandate of examining reports relayed by medical professionals concerning injuries sustained by inmates during interrogations. These Committees were preceded by a committee established by the MoH in 2012 (for further information, please see Israel's Fifth Periodic Report to CAT (pp. 63-64)).

219. With respect to identifying and documenting medical conditions that raise concerns of torture (according to the Istanbul Protocol), the medical team operates according to Medical Procedure 09-1005 on photographing and documentation of prisoners' and/or prison guards' bruises. The procedure instructs photographing and documentation of bruising caused by an unusual event such as: accident, use of force against prisoners, brawl, assault etc.

220. For information on the cases of H.C.J. 6369/20 Maher Ahras v. The Military Commander for Judea and Samaria, H.C.J. 7236/18 Physicians for Human Rights – Israel v. Israel Prison Service and Pr.Ap.Rq.H.C.J. 6214/19 Wadia Abu Amar v. State of Israel – Israel Prison Service, please see Annex I.

**Detainees on hunger strike**

221. Hunger strikers are under continuous medical supervision and monitoring by the IPS medical team, and are transferred to the hospital for examination and hospitalization in the event their medical condition so requires. The treatment is performed in accordance with the procedures of the MoH.

222. 115 security prisoners went on a hunger strike on the last hunger strike during August-September 2019. Three (3) of them also refrained from drinking (dry hunger strike), but received fluids transfusion. Of the 115 security prisoners who went on a hunger strike, 40 were held in solitary confinement due to the hunger strike. As for November 2019, the IPS reported seven (7) hunger-striking inmates.

223. On July 30, 2015, Amendment No. 48 to the *Prisons Ordinance (Prevention of the Harm Caused by Hunger Strikes)* 5775–2015, was approved by the Knesset. To date, the Law has not been utilized and no hunger-striking inmates have been fed absent consent. Furthermore, no inmates have passed away due to a hunger strike as of the enactment of the Law. Two (2) broad hunger strikes have taken place since. Applying the law will only take place in exceptional circumstances, as a measure of last resort. According to this Amendment,



forced medical treatment to a prisoner shall be approved only under specific provisions, stipulated under the Law. Further, no complaints have been registered in the MoH by inmates on hunger strikes concerning the quality of medical services provided to them.

224. Based on a written opinion by a physician which states that there is a substantial risk that a hunger strike may endanger the life of a prisoner, or that he/she may suffer a severe and irreparable disability if medical treatment is not provided, the Prisons Commissioner, with the approval of the AG, can apply to the President of the District Court or his/her Deputy for a judicial approval to provide forced medical treatment to the hunger striking prisoner. Before rendering its decision, the Court shall consider the opinion of the relevant Ethics Committee and hear the prisoner or her/his representative, unless if time does not allow further delays, due to the prisoners' health condition. The prisoner has the right to appeal the Court's decision to the Supreme Court.

225. The prisoner must be represented by a lawyer, and the State is obliged to provide her/him with legal representation if she/he is not represented.

226. It is important to emphasize that even after receiving a judicial approval, the Law does not oblige a physician to forcibly treat a prisoner, but only allows him/her to do so. Thus, the physician is free to act upon her/his own ethical beliefs.

### **Disciplinary and administrative measures relating to hunger striking prisoners**

227. Hunger strikes are seen in the IPS as impeding IPS' goal to protect the life and well-being of prisoners. As such, the IPS applies different disciplinary and administrative measures to minimize and prevent hunger strikes and their damages. *Criminal Procedure (Arrests) Law*, *Criminal Procedure (Arrests) (Terms of Detention) Regulations*, *Prisons Ordinance* and *Prisons Regulation 5738-1978* as well as IPS Commission standing orders 04.16.00, 04.13.00 and 04.33.00 regulate these measures.

228. Hunger strikes may lead to disciplinary proceedings and punishment upon conviction. Prisoners may face disciplinary proceedings for a hunger strike under the following offences: avoidance of eating meals, throwing or damaging food or commission of any other act that interferes with the order or discipline. The punishment given to **convicted prisoners** varies from warnings, severe warnings and fines to fourteen (14) days of solitary confinement (with a break), and in the case of substantive damage a fine not exceeding 2,822 NIS (819 USD) and not higher than the estimated costs of the damage caused.

229. Parallel to disciplinary measures used, administrative measures may also be implemented, after a hearing in which the hunger striking prisoner may present his/her arguments. These measures mainly include the revocation of privileges such as visitations, the use of phones (aside from contacting lawyers), canteen privileges, the use of electronic devices, books, cigarettes, newspapers, etc.

230. Pretrial detainees may face disciplinary proceedings under the offence of interfering with the order and discipline, and due to violation of the obligation to follow orders regarding the daily routine and behavioral practices of the detention facility, both of which include hunger strikes. The punishment given to those convicted varies from revocation of the right to personal belongings, of visitation rights, of the right to receive correspondence and of the right to phone calls, all for six (6) months, to seven (7) days of solitary confinement. Additionally, if the detainee received privileges additional to those mandated by law, those may also be revoked following a hearing.

231. For information on the case of H.C.J. 5304/15 The Israeli Medical Association v. The Israeli Knesset (11.9.16), please see Annex I.

### **Reply to paragraph 25 of the list of issues**

232. As of July 2020, there are 45 illegal immigrants in detention, all held in the Giv'on facility, of them 38 men, seven (7) women and no children. Due to the Covid-19 pandemic, Saharonim facility was vacated in order to serve as a designated facility for infected detainees. Hence, all irregular migrants were temporarily moved to the Giv'on facility. For further

elaboration on the conditions of detention and health care provision at Saharonim facility prior to the outbreak of the pandemic, please see Annex I.

233. In each facility, various steps were taken in order to ensure the rights of the detainees as well as to improve their living conditions as much as possible according to the characteristics of each facility, as detailed below.

234. Yahalom is a flight, escort and detention unit located in Ben Gurion Airport. The unit is designated to hold those denied entry as stated in the provisions of Sections 9 and 10(b) of the *Entry into Israel Law* and a place to hold illegal immigrants before they are removed from the state, as stated in Sections 13a and 13b of the Law, and in the *Entry into Israel Order (Special Place for Immigration Detention) 5767-2007*.

235. A person whose entry into Israel was denied, will remain at Yahalom until his return flight. In the exceptional case where a person remains at Yahalom for more than fourteen (14) days, his/her matter will be brought before the Supervisor of the Border Control Administration, in order to examine the continuation of his/her detention at Yahalom. In even more exceptional cases, if it is decided to extend that person's stay in Yahalom, a periodic examination will be conducted by the Supervisor of the Border Control Administration, after fourteen (14) days from the date of the recent examination made in his/her matter until his/her departure from Israel. In any event, any person held at Yahalom for such reasons has the right to access judicial proceedings at any point during his/her stay.

236. Illegal immigrants without valid stay permits or whose stay is in violation of the conditions of their permit will be brought before the Supervisor of the Border Control Administration, in order to examine his/her matter. The Supervisor may issue a detention order according to Section 13a(d) of the Entry Into Israel Law. If the Supervisor has found that that person is staying in Israel illegally and is not intending to leave the country independently or subject to the exceptions under Section 13f of the Law, the Supervisor will issue a detention order in the Giv'on facility (or in Yahalom, under certain circumstances). Insofar as a deportation order is issued, the illegal immigrant will remain in the country for three (3) more days, in order to enable him/her to submit an application for judicial review of the decision. In addition, within 96 hours from the beginning of his/her detention, the illegal immigrant will be brought automatically before the DRT for the examination of his/her detention. The illegal migrant may be represented at all times. So long as that person is not removed from Israel, his/her stay in detention will be periodically examined by the DRT every 30 days or according to the decision of the DRT, or pursuant to the request of the illegal immigrant, according to the earliest date. In case where an illegal migrant has submitted an asylum request, his/her request will be examined regardless of the proceedings relating to his/her removal and detention.

#### *Detention Conditions*

237. Notices detailing the rights of persons whose entry into Israel was denied are posted in the facility in the relevant languages. Upon their arrival at the facility, each person goes through a reception interview, ascertaining his/her general condition, medical condition and the medications he/she uses. In addition, they receive explanation about what objects they may carry with them and are provided with a sheet, a towel, and hygiene products. The detained person maintains the right to make telephone calls, as well to meet with a lawyer and to be visited by his/her first-degree relatives and by consular representatives from his/her country of origin.

238. The stay at the facility is made in separate rooms for men and women (families are placed together in a designated room). During the stay at the facility, three (3) daily meals are served, while each person may request extra portions, both during the meals and throughout the day.

#### **The Detention of Asylum Seekers**

##### *Legislation update*

239. In recent years a legal and constitutional debate took place concerning detention of asylum seekers. On November 19, 2017, the Government approved a resolution to close the

Holot facility within four (4) months and on March 2018, the facility was closed. As of this decision there are no asylum seekers held in Holot facility.

#### *Saharonim Facility*

240. Note that due to the Covid-19 Pandemic, 'Saharonim' was evacuated and most of the foreign detainees were transferred to the Giv'on facility.

241. With respect to the early identification of victims of torture and measures taken to ensure that such individuals are not detained in the context of asylum procedures, please see our Reply to Question No. 10 above and Question No. 35 below.

### **Reply to paragraph 26 of the list of issues**

242. Section No. 56 to the *Prisons Ordinance* determines that an inmate who, *inter alia*, fought with another prisoner (56(1)), caused violence and dis-obedience (56(25)), participated in an attack against a warden or another inmate (56(26)), committed an attack or used force that amounts to an offence (56(33)), or committed any other act or behavior [...] harming the prison's order or discipline (56(41)), has committed a prison offence. Sections 57 and 58 to the Ordinance contain instructions regarding the way such offences are to be tried and the available sanctions in such cases. According to Section 58(a) to the *Prisons Ordinance*, for example, a prisoner that has engaged in violent acts against another prisoner may face myriad sanctions, including, *inter alia*, being given a warning, a fine, or being placed in isolation for up to fourteen (14) days. Section 58 also includes instructions in regard to cancellation or mitigation of the sanctions by the relevant authority in case there are special reasons that justify doing so.

243. In regard to prevention measures taken against violence between inmates - IPS Commission standing order No. 04.04.00 addresses the protection of prisoners whose life are endangered by other prisoners. This standing order specifies the reasons for defining an inmate in need of such protection and the authority of a district committee of the IPS to so decide. The order also stipulates instruction regarding the place of incarceration of inmate in need of such protection, the ability of an inmate to appeal against such protection and means of monitoring such protection within each IPS facility.

244. In addition, IPS Commission standing order No. 04.13.00 regarding discipline measures against prisoners, instruct that an inmate who, *inter alia*, fought with another prisoner, caused violence and disobedience, participated in an attack against a warden or another inmate, committed an attack or used force that amounts to an offence, or committed any other act or behavior [...] harming the prison's order or discipline, will be liable to disciplinary measures.

245. IPS Commission standing order No. 04.15.00 includes instruction regarding restraining measures against prisoners, including in an event when he/she is trying to harm themselves or other inmates, including in regard to the authority required for the use of such measure, limitation on the use of restraints, the requirement to report the use of such measure etc.

246. Also, IPS Commission standing order No. 03.09.00 mandates the obligation of reporting any incident that takes place within IPS facilities.

247. With respect to preventive measures, please see our reply to Question No. 1 above.

### **Reply to paragraph 27 of the list of issues**

248. In regards to the transportation of detainees, following a petition filed by nine (9) female security detainees to the HCJ, and at the Court's request, the IPS has initiated an assessment of all transportation of prisoners, including, *inter alia*, transportation to and from courts and police stations, in order to evaluate the necessary steps for the full separation of female and male prisoners. Alongside the said assessment, the State informed the Court that the remedy sought by the applicants as per the separation of female security prisoners from

male detainees, was unequivocally fulfilled with respect to transportation of security inmates to military courts in Salem and Ofer. Seeing as the Court's ruling requires gender-based separation among the entire prisoner population during transport, the State noted that the implementation of said remedy will require intricate and widespread coordination with all relevant actors, as well as designated funds.

249. In regards to detainees' access to laboratories during transportation, the State noted that prisoners may use the toilets at every stop. Further, staff are instructed to actively ask prisoners before every stop if they wish to use the laboratories. The said instruction is regulated in the Prisoners Living Conditions Order, a protocol followed by both IPS staff and the "Nachshon" Unit.

250. On June 18, 2020, the HCJ dismissed the petition on the grounds that the remedies requested by the petitioner are currently under review and are being properly addressed. The Court further noted that individuals will not be estopped from bringing claims in regards to these issues (HCJ 3354/17 *Awiji et. al. v. Israel Prisons Service et. al.* (18.6.2020) (merged with HCJ 5/19 *Roan Dar Abu Matar et al. v. The Israel Prisons Service et. al.*).

## **Reply to paragraph 28 of the list of issues**

### **Death of an inmate within IPS facility**

251. According to IPS Commission standing order No. 04.63.00, the death of an inmate will be announced by a physician, and the report on the death to the IPS and the Police is conducted according to IPS Commission standing order No. 03.09.00. The family of the inmate receives the news of the inmate's death through designated personnel, trained for the task, including at least two (2) IPS staff members. In rare cases, when the District Commander considers that the team would be endangered, he/she may allow informing the inmate's family via phone call.

252. In the case of the death of an inmate who is a resident of the West Bank and not an Israeli citizen, the Coordinator of Government Activities in the Territories and the ICRC are notified. In the case of the death of an inmate who is a resident or citizen of a State that has diplomatic relations with Israel, the Consular Affairs Department in the Ministry of Foreign Affairs (MoFA) is notified, and shall relay the information to the relevant consulate. In the case of the death of an inmate who is a resident or citizen of a State that does not have diplomatic relations with Israel, the ICRC is informed. In the case of the death of an inmate who was a soldier tried in a military court, the IPS shall inform the Military Police, who shall inform the family of the deceased.

253. An investigative committee, which includes a physician, is formed and tasked with examining the causes of death and the actions of IPS staff. The committee has access to the pathological report, where issued.

254. In addition, every detainee under the care of the IPS can file, *inter alia*, a complaint to the UIW, either by phone, in writing via a closed envelope which can be placed in a designated mailbox inside the prison, or through the Prison Director. The findings of the UIW are subject to the SAO scrutiny, who decides whether to institute disciplinary measures or criminal proceedings.

### **Death of an inmate in Police custody**

255. The Department for Investigation of Police Officers (DIPO) is authorized to investigate suspected criminal offenses of Police officers for which the punishment exceeds one (1) year in prison. For data provided by the DIPO in this regard, please see Annex I.

256. For further information on compensation for victims of torture and ill-treatment, please see Israel's Fifth Periodic Report to CAT (pp. 62-64).

## Reply to paragraph 29 of the list of issues

### IPS

#### Independent Monitoring of Detention Conditions

257. Every prisoner or detainee under the care of the IPS has access to the following complaint mechanisms concerning grievances regarding the staff and wardens, including claims of excessive use of force:

- Filing a complaint to the Prison Director;
- Petitioning the relevant District Court in a prisoner's petition;
- Filing a complaint to the UIW, through the IPS or directly to the UIW. The UIW was established under the Police so as to ensure a neutral investigation of claims concerning IPS personnel;
- Filing a complaint to the Prisoners Complaint Ombudsman, which is part of the MoPS's Internal Comptroller Unit.

258. For further information, please see Israel Fifth Periodic Report to the CAT (Question No. 30).

259. During the reporting period, the UIW has investigated 94 cases concerning allegations for use of unlawful force by wardens.

### ISA

260. The ISA and its employees act within the limits of the law and are subject to both internal and external supervision and review, including by the State Comptroller, the Inspector at the MOJ, the AG, the SAO, the Knesset and every instance of the courts, including the HCJ.

261. The ISA operates in accordance with the ruling of the HCJ, and specifically the ruling concerning ISA interrogations from 1999 (H.C.J. 5100/94 *The Public Committee against Torture in Israel v. The State of Israel*).

262. Detainees undergoing ISA interrogation receive all the rights to which they are entitled according to Israeli law and international conventions to which Israel is a party, including the rights to legal representation, medical care and visits by the ICRC.

263. Furthermore, any case of alleged wrongdoing by an ISA investigator can be referred to the Courts and the Inspector.

264. Investigations of Alleged Cases of Torture - complaints submitted to the Inspector are examined independently and impartially. The Inspector conducts a thorough preliminary examination of such complaints. The preliminary inquiry process includes reviewing all the relevant documents, and interviewing the complainant and his/her interrogators, as needed. The Inspector's unit concludes its inquiry with a recommendation on the measures to be taken, such as: criminal investigation, prosecution, disciplinary action, drawing conclusions for the organization or recording the complaint.

265. Following such an examination, the Inspector's findings are transferred to the Inspector's supervisor, a senior advocate in the SAO, who examines if there is sufficient evidence to recommend opening an investigation. The decision whether to open such an investigation was delegated to the Deputy State Attorney (Special Affairs). A criminal investigation is opened upon a reasonable suspicion that an offence was committed, based on the existing evidence that were gathered by the Inspector.

266. The Inspector's preliminary inquiry process has been reviewed and approved by the HCJ (H.C.J. 11/1265 *The Public Committee Against Torture in Israel v. The Attorney General* (14.2.2011)) and its extensive and comprehensive work has been recognized in its ruling (H.C.J. 5722/12 *As'ad Abu-Gosh v. The Attorney General* (12.12.2017), H.C.J. 9018/17 *Fares Tbeish et. Al. v. the Attorney General et. al.* (26.11.18)).

267. The status of cases handled by the Inspector - Please see Annex I.

*Positive updates concerning the Inspector*

268. Currently, three (3) investigators are employed in the Inspector Unit, as well as an administrative coordinator and three (3) students, in addition to the Inspector.

269. In July 2016, the IPS Commissioner published an amendment to its standing order No. 02.39.00 titled "Rules of Conduct for IPS Wardens", in which Section 12 was added. This Section sets out the obligation of a warden to transfer any complaint or information regarding a suspicion against ISA interrogators, through the prison commander, to the Inspector. To date, several complaints have been filed through this channel.

270. In addition, as of July 2020, the online complaint form at the Inspector's webpage has been made available also in Arabic.

271. The leaflet of rights provided to every ISA interogatee has been updated to include the right of women to the presence of another woman during their interrogation.

272. As a general rule, the deadline for collecting statements from complainants shall not exceed 48 hours as of the moment the complaint was submitted.

273. The following measures were taken with respect to training:

(a) During 2020, one (1) of the unit's investigators participated in a juvenile investigators' training;

(b) Over 2020, the unit's investigators were trained through different simulations of questioning and investigations models. In addition, the investigators have visited the Police's forensic labs.

**The Police**

274. On November 8, 2020, the AG informed the Minister of Justice of amendments adopted to improve DIPO's procedures and timelines for handling complaints against Police personnel. These amendments include, among others, the shortening of the time for handling a complaint by DIPO's investigations section to 75 days, and the shortening of the time for handling cases by DIPO's prosecution section to six (6) months. In cases concerning hate crimes, racially motivated crimes and crimes against persons with disabilities, a unique arrangement has been agreed upon, according to which the time for handling a complaint by both the investigations and the prosecution sections in DIPO will be limited to four (4) months altogether. Where required, fixed terms were set for extensions of the said time limits, which may be granted subject to the approval of the certified authorities.

275. In addition, on November 18, 2020. The Minister of Justice has ordered the Director General of the MoJ, along with the Head of DIPO, to complete the personnel exchange process, so as to ensure that operating Police officers permanently posted in DIPO will no longer be employed therein. This is in order to ensure the neutrality of the investigations and to restore the public's trust in DIPO. The process is to be completed by the end of 2020, while two (2) high ranking Police officers have already been released from DIPO.

276. In order to improve DIPO's accessibility to complainants, an online complaint form has been published in DIPO's webpage during November 2020. The form is accessible to persons with disabilities, and will also be made available in Arabic.

277. For further information on recent State Attorney Guidelines concerning treatment of complaints made against Police personnel and for statistical data regarding the DIPO, please see Annex I.

**Military Police**

278. Complaints received regarding the conduct of Military Police officers in the course of their duties, including complaints regarding Military Police investigators, are handled by the Internal Investigation Unit, which is a military unit that is not subordinate to the Military Police Corps. This Unit works alongside the Military Prosecution Office. In addition, the Military Prosecution Office supervises the conduct of the Military Police based on reports it

receives. In cases where exceptional events or inappropriate actions taken are revealed, the Military Prosecution examines the admissibility of the evidence, determining whether it should be disqualified from the criminal proceedings against the interrogatee, and whether the proceedings should be avoided altogether.

#### **Case law**

279. With regard to the HCJ ruling regarding Fares Tbeish, please see our Reply to Question No. 30 below.

280. For information on H.C.J. 6036/19 *Ahmad Salah Musa v. The Attorney General*; S.Cr.Ca. (Be'er-Sheva District Court) 32966-12-17 *The State of Israel v. Meir Merotzagai*; H.C.J. 8899/13 *Anonymous v. The Attorney General* (24.1.16)); and Ci.C. (Ashkelon Magistrate's Court) 39124-05-17 *Yalo et. al. v. The State of Israel*, please see Annex I.

#### **Reply to paragraph 30 of the list of issues**

281. Israel is deeply committed to standards of international law regarding the prevention of ill treatment of detainees. This is exemplified by the comprehensive supervision and review mechanisms to which every state authority that has responsibility for detainees is subject. These mechanisms ensure that every complaint or report of torture, ill treatment or disproportionate use of force by state agents is investigated promptly, thoroughly and meticulously, in accordance with relevant international norms and standards.

282. For information on the HCJ rulings regarding Fares Tbeish (26.11.18) and Abu-Gosh (12.12.17), please see Annex I.

#### **Reply to paragraph 31 of the list of issues**

283. Please see the MoJ's paper on "Palestinian Minors in Military Juvenile Justice System", at the link below: <https://www.justice.gov.il/Units/YeutzVehakika/InternationalLaw/MainDocs1/PalestinianMinors2018.pdf>.

#### **Reply to paragraph 32 of the list of issues**

284. With respect to Israel's position on the applicability of CAT beyond its territory, please see our Reply to Question No. 3 above.

#### **Reply to paragraph 33 of the list of issues**

285. With regard to information about the Inspector, please see our Replies to Questions No. 7 and 29 above.

286. With respect to the investigation of allegations of acts of torture and ill treatment by IPS, Police and Military Police personnel, please see our Reply to Question No. 29 above.

#### **Reply to paragraph 34 of the list of issues**

287. As explained in our reply to Question No. 24 above, it is the MoH's position that the provision of medical services at the IPS is both reliable and in line with accepted standards. As such, submitted complaints are thoroughly reviewed and appropriately handled. Furthermore, on December 11, 2019, a committee, headed by the Ombudsman for the Medical Professions, was appointed with the mandate of examining reports relayed by medical professionals concerning injuries sustained by inmates during interrogations.

## Reply to paragraph 35 of the list of issues

### Redress and compensation measures

288. For further information on compensation for victims of torture and ill-treatment, please see Israel's Fifth Periodic Report to CAT (pp. 62-64).

### Case law

289. For information on the cases of Cr.Ap.Rq. 2707/17, Anonymous v. The State of Israel; Appeal 5492-17 Anonymous v. The Population and Immigration Authority; and Ad.Ap. 22981-02-13 Tosfay (Prisoner) v. The Ministry of Interior (the Administrative Court in Be'er-Sheva), please see Annex I.

### Reparation programmes for victims of severe violence and heinous crimes and ill-treatment

290. In general, in the offences of TIP and holding a person under conditions of slavery, the Law dictates that the Court must explain its decision to abstain from awarding compensation in the verdict – making compensation the default.

291. Section 77 of the *Penal Law* authorizes the courts to include, as part of the sentence, monetary compensation to the victim of an offence up to the limit of 258,000 NIS (approximately 72,937 USD). This legislation covers the possibility of monetary compensation for victims of an offence of torture or any other form of abuse and ill-treatment, as well as other offences.

292. At present, there are no specific monetary compensation measures that are available only to victims of torture or their families.

### LAA

293. The LAA, operating under the auspices of the MoJ, has been representing victims of TIP (Section 377A of the *Penal Law*) and victims of the slavery offense (Section 375A of the *Penal Law*). Victims need not travel to the LAA offices; rather, the LAA staff regularly visits the detention facilities and the shelters, and collects their complaints.

294. Legal aid is granted free of charge, and the victims are exempted from the economic eligibility test as set by the *Legal Aid Law 5732-1972*, usually required in order to prove one's entitlement for free legal aid services.

295. The LAA represents victims in (1) damages and monetary claims against the offenders and in (2) procedures in accordance with the *Entry into Israel Law* (which include requests for a one (1) year stay permit for the purpose of rehabilitation, and requests for release from detention and for receiving a legal status in Israel).

296. During 2019, the LAA received a total of 89 referrals based on offenses of TIP and slavery, among them sixteen (16) referrals of Sinai victims.

### The SAO

297. The SAO recognizes the importance of compensation for the victims, and works to ensure it is paid in practice. To that end, when making a plea bargain in TIP cases, the prosecution requires that the funds for victim compensation are deposited ahead of time, and before the agreement is presented to the court.

### *Dedicated Forfeiture Fund*

298. *The Anti-Trafficking Law (Legislation Amendments) 5767-2006* established a special Forfeiture Fund (hereafter: "The Forfeiture Fund"), where forfeited property and fines from TIP and slavery offenses are deposited and are dedicated to various causes in combating TIP—with a special emphasis on victim protection and compensation. Institutions, Government bodies and NGOs may apply for funds, as well as, uniquely, victims of the offences, who may ask for funds for the purposes of rehabilitation, as well as to request court ordered



compensation which they have been unable to collect from the offenders. The Law gives precedence to victim protection, ordering that at least half of the funds each year be allocated to that purpose.

299. In 2018, the Forfeiture Fund was not able to accept requests, as no new assets or funds were deposited. However, it continued to pay out and follow up on requests from previous years. On October 31, 2019 the Committee concluded its assessment of around 60 new requests which were submitted to it, and the total sum of the fund, 420,000 NIS (121,800 USD), was distributed between them.

### **The inter-ministerial pilot mapping project relating to the victims of severe violence and heinous crimes in the Sinai camps**

300. Between 2009 and 2014, a significant number of migrants, mostly from Sudan, Eritrea, and Ethiopia, were kidnapped by foreign nationals to Sinai, some while travelling through Egypt and some from their countries of origin. Their kidnappers would often use severe violence and heinous crimes against their victims to obtain their relatives' phone numbers in order to demand ransoms. Approximately 500 victims of the Sinai camps have been recognized as trafficking or slavery victims since arriving in Israel, and they are thus granted the full protection and aid previously outlined. In 2019, three (3) victims of the Sinai camps have been recognized as trafficking victims. The distinction between Sinai victims who are also recognized as being victims of slavery or TIP, and those who do not fall within that definition, is based on the wording of Section 377a and Section 375a of the *Penal Law*, which set the legal criteria for TIP and slavery offences, respectively.

301. Between 2017 and 2018, the Ministry of Justice led an inter-ministerial pilot mapping project in order to identify the number, characteristics, and needs of Sinai victims who were not recognized as TIP victims but remain in a severe humanitarian condition. The inter-ministerial team included officials from the MoH, the MoLSAaSS, the PIA and the LAA at the MoJ, and was headed by the NATU.

302. The inter-ministerial team conducted in-depth examinations of 102 Sinai victims referred to it by relevant civil society organizations as being in a severe humanitarian condition. Following these examinations, the team formulated several ministry-specific responses to assist this population, as well as an identification mechanism to determine the total size of the group of Sinai victims who were not recognized as trafficking victims but who are in a severe humanitarian condition. After extensive analysis, in collaboration with the relevant NGOs, it was determined that this group includes less than 300 individuals, and so a rehabilitation program for a maximum of 300 persons was devised to comprehensively treat this population.

303. The rehabilitation program proposed by the inter-ministerial team received ministerial approval, subject to the passing of a GR. However, although the wording of the GR was drafted and agreed upon, and the rehabilitation program was authorized subject to the MoF's approval, the Government was ultimately dispersed for the first election of 2019 before the GR could be voted on. To date, the draft GR is still being discussed, largely due to the electoral events of 2019–2020 and the current Covid-19 Pandemic.

304. Identification of victims of TIP or slavery from the Sinai camps raises certain challenges. This is because, in most cases, the atrocities took place many years ago, outside Israeli borders, so access to evidence is severely limited. Nevertheless, the LAA, the Police and the NATU invest great efforts in order to streamline the screening process, identify the victims and provide them with the appropriate care. For example, the NATU has held a series of inter-ministerial meetings aimed at improving the identification process and interviews held by the PIA officials, making sure the interview is held with maximum sensitivity, including gender-based sensitivity, and privacy, encouraging the victims to supply relevant information. Subsequently, a new questionnaire basis was distributed, enabling the streamlining of a more sensitive interview.

305. In addition, several seminars and trainings on the treatment of Sinai victims have been conducted in recent years, in all relevant bodies and authorities, including judges and court personnel of the DRTs, judges and staff of the Appeals Tribunals, staff of the IPS and officials of the PIA.

306. Rights of TIP victims: Please see Annex I.

### **Reply to paragraph 36 of the list of issues**

307. In regard to the principle of inadmissibility of evidence, please see Israel's Fifth Periodic Report to CAT (Question No. 45).

308. The Institute of Advanced Judicial Studies holds periodical seminars regarding issues relating to criminal law, including new information and innovations in this field and aspects relating to the stage of investigation, rights of suspects and sentencing.

#### **Case Law**

309. For information on the cases of Cr.C. 893-01-16 *The State of Israel v. C.Y.B (Minor)* (Lod District Court) (1.1.19) and Cr.C. 932-01-16 *The State of Israel v. Amiran Ben-Uliel et. al.* (Lod District Court), please see Annex I.

310. With respect to the HCJ ruling regarding Abu-Gosh (12.12.17), please see our Reply to Question No. 30 above.

### **Reply to paragraph 37 of the list of issues**

#### **Israel's Investigation and Prosecution of Ideologically Motivated Offences Against Palestinians in the West Bank**

311. Israel has a deep commitment to the rule of law. In recent years, Israel has taken extensive measures to prevent violence in general, and against Palestinians in particular. In addition, efforts have been made to investigate criminal complaints and to prosecute perpetrators when appropriate. In particular, Israeli officials, including high-ranking politicians and senior officials from law-enforcement bodies, have declared an unequivocal zero-tolerance policy towards the phenomenon of "price-tag" offences by Israeli extremists against Palestinians.

312. In recent years, Israeli authorities made considerable efforts to enhance law enforcement in the West Bank, which have led to a significant decrease in ideologically-based offences and an increase in the number of investigations and the rate of prosecution. These efforts included the establishment of designated taskforces, increased allocation of funds, and the addition of professional manpower.

313. For information on the cases of Cr.A. 1466/20 *The State of Israel v. Anonymous* (22.7.2020); Cr.C. 41705-08-14 *The State of Israel v. Lior Cohen* (7.7.19); Cr. Ap. 6928/18 *The State of Israel v. Yehuda Asraf* (16.8.18); Cr.C. 31351-12-14 *The State of Israel v. Itzhak Gabay* (1.12.15); Cr.A. 401/16 *The State of Israel v. Yitzhak Gabay* (28.9.16); The Jerusalem District Court, S.Cr.C. 34700-07-14, *The State of Israel v. Yossef Haim Ben David* (19.4.2016); Cr.A. 5794/15 *The State of Israel v. Shlomo Tweeto et. al.* (31.1.16); and Cr.C. 4001-05-15 *The State of Israel v. Shlomo Tweeto et. al.* (22.7.15), please see Annex I.

### **Reply to paragraph 38 of the list of issues**

314. With respect to Israel's position on the applicability of CAT beyond its territory, please see our Reply to Question No. 3 above.

### **Reply to paragraph 39 of the list of issues**

315. With respect to Israel's position on the applicability of CAT beyond its territory, please see our Reply to Question No. 3 above.

316. The security checks and law enforcement personnel in the Land Crossings Authority undergo numerous specialized courses and training on subjects such as: religion and Islam, quality of service, Arabic language studies, ethics etc., with the aim of providing a humane

and respectful service in the security checks. Additionally, the Authority has been conducting satisfaction surveys targeted at the people crossing with the aim of improving and optimizing the procedure.

317. As part of the initial training of the crossings forces in the IDF, the following classes are given:

- The authorities of the military officer with an emphasis on search, holding and arrest;
- The need for crossings – the overall political context;
- Islamic culture, respectful discourse with persons passing through the crossing;
- Ethics, values and decision making.

318. In addition, over the past few years, the annual training program of the Military Law School includes training in the form of a legal lecture on courses and educational conferences of the “Erez” and “Taoz” Crossings battalions in the Military Police Corps; the lecture is aimed at the command level, ranging from the sergeant level to the battalion commander level (Lieutenant Colonel). In the lecture, the following topics are discussed:

(a) The legal framework for the crossings forces activities, with an emphasis on the characteristics of the routine security operations;

(b) Obligations and authorities of the crossings forces, including the powers of holding, detention, search, duty of intervention and prohibition of standing by in the face of a threat to the wellbeing, body or life of a person;

(c) Major offenses and their characteristics, including the prohibition of abuse of authority and the prohibition of inflicting harm on persons in custody;

(d) Obligations relating to crime scene examinations, obligations regarding documentation, reporting and cooperating with investigative institutions.

319. Complaints regarding the conduct of a crossings soldier can be received via two (2) channels: (1) the submission of a complaint to the Internal Investigation Unit; (2) the submission of an inquiry to the military commander through public inquiries. Such inquiries also reach the MAG in the West Bank. Upon the arrival of an inquiry regarding the conduct of a crossings soldier, it is transferred to the examination of the relevant entities – the commander of the relevant crossings battalion and the other relevant commanders, in order to examine the complaints and to investigate them.

320. In accordance with the above, a decision is made regarding the steps to be taken: clarification of procedures, disciplinary action or criminal prosecution.

## **Reply to paragraph 40 of the list of issues**

### **The return of bodies of deceased Palestinians to their relatives**

321. With respect to the burial of the remains of terrorists, on September 9, 2019, the HCJ ruled that the Military Commander is authorized to order a temporary burial of enemy soldiers or terrorists remains, while protecting the dignity of the deceased and of his/her family, for reasons of State security and the safety of its citizens, for the purpose of negotiating the return of Israeli soldiers (dead or alive) and Israeli citizens held by the terrorist organizations. For information on the events leading to this decision in the cases of H.C.J. 4466/16 *Mohamad Alian et. al. v. The IDF Commander of the West Bank et. al.* (14.12.17) and Ad.H.H.C.J 10190/17 *The IDF Commander of the West Bank et. al. v. Mohamad Alian et. al.* (9.9.19), please see Annex I.

322. On September 2, 2020, the Security Cabinet adopted a resolution which amended the conditions under which remains of terrorists will be returned. This resolution, along with other issues in this context, is currently the subject of ongoing judicial proceedings before the HCJ.

### **Amendments to the Counter-Terrorism Law**

323. With respect to the *Counter-Terrorism Law*, which was enacted on June 15, 2016, on March 7, 2018, the Knesset approved Amendment No. 3 to the Law in which, among other things, it vested a Police District Commander with the authority to issue an order authorizing to delay the transfer of a terrorist's body to his/her relatives for up to ten (10) days for one (1) of the following three (3) grounds: a reasonable threat that the funeral will cause serious harm to life; a reasonable threat of the commission of a terrorist act; or a reasonable threat of incitement to terrorism or identification with a terrorist organization or a terrorist act during the funeral. Such an order may be extended from time to time, as necessary, by the Police General Commissioner until the implementation of the terms set for the funeral (Section 70B).

324. Prior to this Amendment, the Police relied on Sections 3 and 4A to the *Police Ordinance* to delay the provision of a terrorist's remains to his/her relatives for the purpose of protecting public order. However, in the Jabarin case the HCJ ruled that these sections do not constitute sufficient legal basis for such delay and explicit legal authorization is required for such action (H.C.J. 5887/17 *Ahmad Moussa Jabarin et. al. v. The Israeli Police et. al.* (25.7.17)). In addition, this Amendment also vested the Police with the authority to set terms in regard to a funeral of a person who committed or attempted to commit a terrorist act and subsequently died ("a Terrorist"). According to this Amendment, a Police District Commander is authorized to issue an order setting certain conditions in regard to a funeral of a terrorist, for the purpose of protecting the safety and the security of the public, including the prevention of riots, incitement to terrorism or identification with a terrorist organization or a terrorist act. Such conditions may refer to the number and identity of the funeral participants, the funeral time and date, its route and in certain cases the place of burial, while considering the family's position on this issue. A Police District Commander may also order to deposit a guarantee in order to ensure the implementation of these conditions (Section 70A).

325. For further elaboration on the *Counter-Terrorism Law*, please see our Reply to question No. 43 below.

### **Reply to paragraph 41 of the list of issues**

#### **Protection of Journalists**

326. The State of Israel attaches great importance to the protection of the freedom of journalism, as part of the freedom of expression, which constitutes a fundamental right in its legal system.

#### **Human rights defenders and aspects relating to freedom of expression in Israel**

327. Israel has an active civil society, with hundreds of NGOs operating in a large number of issues, including human rights issues. Israel, as a democratic society, places no legal restrictions on the right of organizations to engage in activities for the promotion and observance of human rights, which fully enjoy the freedom to associate and to pursue their various aims, according to the applicable law.

328. There is no dispute however, that an organization or an individual that presents itself as a human rights organization/activist/defender is not exempt from obeying the law. In any case, each individual is afforded the rights and protections provided by law, including the different aspects of the right to due process.

329. Cooperation with Civil Society Organizations- NGOs in Israel maintain a constructive discourse with different Government authorities, and are active in initiating legislation, in raising awareness and in assisting the promotion of human rights in policy building, inter-ministerial teams and more, in various aspects of life: social economic rights, civil rights, women rights and more. The Government constantly strives to enhance cooperation with human rights NGOs on different issues.

330. Since 2012, the MoJ and the MoFA, together with the Minerva Center for Human Rights at the Hebrew University of Jerusalem, have been participating in a project centered

on the reporting process to the UN Human Rights Treaty Bodies. Meetings attended by representatives of Government ministries, NGOs and academics are held, in which NGOs are invited to comment on drafts of Government reports. NGOs are also encouraged to submit shadow reports to the committees.

331. In 2017, as part of the ongoing cooperation between civil society and Government authorities, the MoJ and MoFA initiated a “*Round Tables*” project. This project included six (6) discussion sessions, which offered a unique platform for open discourse between civil society, academics and Government representatives on core human rights issues including LGBT rights; issues affecting Israelis of Ethiopian descent; the Bedouin population; women’s rights; rights of persons with disabilities; and social and economic rights in the periphery.

332. In September 2017, the AG penned a letter to members of the Government and to the CEO of the Association for Civil Rights in Israel, emphasizing the importance of professional discourse between state authorities and civil society including by way of participation of public servants in relevant events and conventions. Such collaboration, as the AG stated, contributes greatly to the promotion of the public interest.

333. Freedom of Assembly- please see Israel’s Fifth Periodic Report to the CAT (Question No. 15).

334. In this regard, AG Guideline 3.1200, which was last updated in March 2010, further requires the allocation of Police forces with the objective of protecting the demonstration and its participants from any form of external harassment. For information on the HCJ ruling in the case of *The Movement for Quality Government in Israel v. The Police (H.C.J. 6536/17)*, please see Annex I.

### **Reply to paragraph 42 of the list of issues**

335. Israel’s reservation to Article 20, which pertains to the confidential inquiry mechanism based on information received by the Committee, is reviewed periodically. At present, Israel maintains its position on this matter.

336. Despite periodic consideration of its position on the matter, Israel is not planning on ratifying the Optional Protocol at this stage. As detailed above and in the previous reports, Israel’s legal system affords numerous opportunities, for individual and groups alike, to seek remedies and redress for any alleged violations of CAT. This equally applies to people in detention or imprisonment, who have various internal and judicial mechanisms available should they feel their rights have been infringed.

337. For the reasons mentioned above, at present, Israel is also not planning on making the declarations provided for under Articles 21 and 22 of the Convention.

### **Reply to paragraph 43 of the list of issues**

#### **The Counter-Terrorism Law (and Amendment No. 3)**

338. With respect to the *Counter-Terrorism Law* (and Amendment No. 3), which was enacted on June 15, 2016, as part of Israel’s ongoing battle against terrorism, the law is part of an effort to provide law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against inappropriate violations of individual human rights. The Law provides, *inter alia*, updated definitions of “terrorist organization”, “terrorist act” and “membership in a terrorist organization”, detailed regulations for the process of designating terrorist organizations, and enhanced enforcement tools, both criminal and financial. The Law nullified previous legislation in the field of counter-terrorism such as the *Prevention of Terrorism Ordinance 5708-1948*, that was linked to a state of emergency. Additional legislation is currently being reviewed and amended in order to disconnect it from a state of emergency. This law does not create discrimination on the grounds of gender, race, color,

decent or national or ethnic origin and does not subject individuals to racial or ethnic profiling or stereotyping.

339. Indictments pursuant to the *Counter Terrorism Law*- Please see Annex I.

**Training provided to law enforcement officers on the *Counter-Terrorism Law***

340. As part of the ISA training process, lessons, lectures and training sessions are given to employees on all matters pertaining to international law, with an emphasis on human rights relevant to their practice. The same standards are also reflected in the ISA Investigation Supervision Mechanism, which is responsible for thoroughly investigating any claim raised by an interrogatee regarding any deviation from the observance of human rights and human dignity (for further elaboration, see our reply to Question 33 above).

341. In addition, the MoJ has conducted trainings concerning the Law for attorneys working at the SAO in 2016, following its adoption, as well as on May 1, 2018. The MoJ also heads a security forum, composed of all State Attorney's Offices and security bodies, which convenes four (4) times a year, where information and training on subjects relating to security-related offences and, *inter alia*, the *Counter-Terrorism Law*, are delivered.

**Reply to paragraph 44 of the list of issues**

**Prison conditions and the rehabilitation process of inmates**

342. With respect to prison conditions and the rehabilitation process of inmates, the case of Pr.P. 4051-01-19 *Kariv v. Israel Prisons Service* (District Court Lod) (10.5.20) indicates a positive institutional development in this field. For information on the said case, please see Annex I.

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