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COMMITTEE ON THE RIGHTS OF THE CHILD  
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*Unedited version*

## Convention on the Rights of the Child

WRITTEN REPLIES BY THE GOVERNMENT OF ISRAEL CONCERNING THE LIST OF ISSUES ([CRC/C/OPAC/ISR/Q/1](#)) TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE INITIAL REPORT OF ISRAEL UNDER ARTICLE 8, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT (CRC/C/OPAC/ISR/1) \* \*\*

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\*In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annexe 1 is circulated as received in English only. Annexe 2 is available in the Secretariat's file.

*1. Please provide information whether there is a specific penal provision for the crime of recruitment or use in hostilities of a person who is under the age of 18. In view of the State party's international legal obligations, the Committee furthermore requests information regarding the corresponding applicable penal provision in the Palestinian Occupied Territory.*

**Reply :** As detailed in Israel's Initial Report, recruitment to the IDF is regulated through the *Defence Service Law (Consolidated Version)* 5746-1986. Further, the IDF is the only military body and/or agency in the State of Israel. No armed groups distinct from the IDF exist in Israel, nor are they allowed to operate. This is in accordance with the *Israel Defence Forces Ordinance*, and Section 6 of *Basic Law: The Army* (1976), which holds that:

"No armed force other than the Defence Army of Israel shall be established or maintained except under law".

In addition, Section 143 of the *Penal Law* 5737-1977 (the "*Penal Law*") criminalizes unlawful military activities, as detailed in para. 62 of Israel's Initial Report: *Section 143 - Unlawful Military Activities*

(a) *If a person did one of the following, then he is liable to seven years imprisonment:*

(1) *He drilled or trained others - without permission from the Government - in the use of arms or the performance of military exercises, movements or operations;*

(2) *He was present at a meeting or assembly of persons held without permission from the Government, in order to drill or train other persons in the use of arms or the practice of military exercises, movements or operations.*

(b) *If he trains or drills the use of arms or the practice of military exercises, movements or operations at a meeting or assembly convened without Government permission or is present therein in order to be so trained or drilled, then he is liable to three years' imprisonment.*

Israel's position on the inapplicability of the Convention on the Rights of the Child beyond its territory has been presented to the Committee on previous occasions. Israel's position in this regard remains unchanged.

*2. Please indicate whether the Defence Services Law 5746-1986 referred to in the State party report foresees sanctions in case of direct participation in hostilities by members of their armed forces below the age of 18 years. Specifically, the Committee would like the State party to clarify the statement in the State party report, paragraph 9, that "virtually all recruits will be over 18 before they are required to participate in combat duty" and explain how this is compatible with the State party's obligations under the Protocol and the declaration made upon its ratification.*

**Reply:** There is no specific sanction encapsulated in Israeli legislation regarding cases of direct participation in hostilities by members of Israeli armed forces below the age of 18 years. However, as detailed in Israel's Initial Report, Section 6 of *Basic Law: The Army* (1976), stipulates that no armed force other than the IDF shall be established or maintained in Israel; and Section 143 of the *Penal Law* prohibits unlawful military activities and imposes a penalty for violations of this provision in the form of imprisonment for a period of time ranging from 3-7 years. The effect of these two laws, when taken together, is that Israel has a single armed force, which bars the participation of minors' in hostilities. Therefore, direct participation by minors in hostilities is forbidden.

With respect to the specific statement that has been cited from Israel's Initial Report, the State of Israel reiterates that the statement in paragraph 9 to the Initial Report refers to isolated instances in which a person under the age of 18 is recruited to a special (elite) unit, which requires long-term training that is held only once a year, as detailed in paragraph 8 to the Initial Report. However, while the individual may begin training when he/she is under the age of 18, it is crucial to note that due to the length of the training process required in the relevant elite units, as well as the fact that the commanders are given clear instructions prohibiting any person below the age of 18 from taking direct part in combat duty, the said person shall be over 18 if and when they take part in combat duty. Any commander that fails to comply with this requirement is in violation of internal IDF regulations. This, in accordance with Israel's obligations under the Protocol and the declaration it made upon its ratification thereof.

#### Statistics

Current IDF data indicates that between November 11, 2007 and December 12, 2009 - 562 persons designated for service, aged under 18 (according to the Gregorian calendar) were called for service. 181 of them were academic reserves and the Hesder Yeshivas, a program which combines advanced Talmudic studies with military service the IDF, as detailed in the Initial Report.

3. Please indicate whether Israel assumes extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using them to participate actively in hostilities. Please indicate whether Israeli courts have jurisdiction in case of forced recruitment or involvement in hostilities of a child if committed outside Israel, by or against an Israeli citizen. Please provide copies of jurisprudence, if applicable.

**Reply:** According to Section 16 ("Offences against the Law of Nations") of the Israeli *Penal Law*, the *Penal Law* applies to crimes committed abroad which the State of Israel has undertaken to penalize by virtue of its ratifying International Multilateral Conventions, which are open for accession by any state. Thus, it is possible to assume extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using them to participate actively in hostilities, based on Article 4 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts and Article 38 to the Convention on the Rights of the Child, both of which were signed and ratified by Israel.

According to the provisions of Section 16 of the *Penal Law*, extraterritorial jurisdiction will only be assumed by Israeli courts when no exemption from criminal liability regarding the offense exists under the law of the foreign country, and the offender has not already been acquitted or served his/her sentence in the foreign country. With respect to the forced recruitment or involvement in hostilities of a minor: if hostilities are committed outside Israel against an Israeli citizen, according to Section 14(a) to the *Penal Law*, which states that the *Penal Law* applies to crimes committed abroad against the life, body, health or freedom of an Israeli citizen or resident, when the maximum punishment for the crime is one year of imprisonment or more. It should be noted that when the offense was committed in the sovereign territory of another state, Section 14(b)(1) requires (in addition to the aforementioned exceptions) that double criminality of the offense exists before Section 14(a) can be implemented.

In the event of the forced recruitment or involvement in hostilities of a minor by an Israeli citizen outside Israel, the *Penal Law* will apply and Israeli courts will be able to exercise extraterritorial jurisdiction as Section 15 of the *Penal Law* stipulates that the Law applies to crimes committed abroad by a person who was, at the time of committing the offence or thereafter, an Israeli citizen or resident, provided that the punishment for the crime is more than three months of imprisonment or is a fine which is higher than the amount which can be imposed regarding an offence for which the penalty is a nonspecific fine (Section 24 to the *Penal Law*).

The *Penal Law* also creates offences which, if committed, could result in the implementation of Sections 14(a) and 15, and therefore the application of Israeli law to a matter. For example, Section 143 criminalizes unlawful military exercises (as detailed in paragraph 62 of Israel's Initial Report regarding the Protocol), and Section 369 criminalizes the abduction of a person (forcing a person by using force, threats or deceit to make him/her leave his/her whereabouts).

The relevant sections of the *Penal Law* are attached as **Annex I**.

4. Please inform the Committee of progress made to comply with the recommendation issued to the State party in 2002 (CRC/C/15/Add.195, para. 25) regarding the discriminatory definition of the child between Israeli children (18 years) and Palestinian children in the OPT (16 years according to Military Order 132). Please clarify whether Military Order 132 has been rescinded.

**Reply:** Please see the final paragraph of Israel's response to Question 1, above.

5. Please inform the Committee whether the Defence Services Law 5746-1986 prohibits the use of children in hostilities, notably for as informants for intelligence purposes and as human shields. Please inform the Committee of measures taken to ensure compliance with the ruling of the High Court of Justice Adalah et al. v. Commander of the Central Region et al. 1 In view of reports indicating the continued use by the Israeli army of Palestinian children as human shields, please indicate to the Committee whether such reports have been investigated, which jurisdiction has been responsible for such investigations and whether sanctions have been applied.

**Reply:** Please see the final paragraph of Israel's response to Question 1, above.

6. Please inform the Committee of progress made to comply with the recommendations issued to the State party in 2002 (CRC/C/15/Add.195, paras. 62 and 63) regarding the practices of arrest and interrogation of children in the Occupied Palestinian Territory. Please clarify whether provisions in military orders (specifically no. 378 and 1500) which violate international standards on the administration of juvenile justice have been rescinded.

**Reply:** Please see the final paragraph of Israel's response to Question 1, above.

7. Please provide information on the definition of terrorist charges which can be brought against children and whether such trials have been carried out in the ordinary justice system or in military courts. Please indicate how many children have been accused with terrorist offenses since July 2005.

#### Charges against minors

The Israeli *Penal Law* 5737-1977, *Terror Prevention Ordinance* of 1948, the *Defense Regulations (Emergency)* 1945 and the *Prohibition on Terrorist Financing Law*, 5765-2004, apply to every person that can be criminally liable, the specific provisions regarding minors relate to procedures and penalties.

Trials are held in the relevant Israeli court of law according to Section 6 of the *Criminal Procedure Law [Consolidated Version]* 5742-1982, which stipulates that a defendant shall be brought before a court of law based either on the location where the offence was committed, in full or in part, or the defendant's residence.

#### Statistics

There are no aggregated statistics regarding indictments filed against minors in security related offences. Several examples of some of the recent indictments are detailed below.

#### Indictments Filed against Minors who Committed Security Offenses

##### R.H.

R.H. was born in 1989, and is a resident in an Eastern neighborhood of Jerusalem. R.H. has been held in detention since December 10, 2008, and an indictment against him was filed on January 4, 2009, (at which time he was an adult), while some of the offenses were committed when he was a minor.

During 2007, R.H. was recruited to the Popular Front for the Liberation of Palestine (PFLP) terrorist organization, and since then he has been a member of the organization. R.H. conspired with other member of the organization to commit terrorist acts against the Jewish population in Jerusalem, such as throwing incendiary bombs, stabbing and firing weapons, and for this purpose, R.H. obtained a handgun in November 2008. In addition, R.H. committed acts of support of the PFLP, such as spraying graffiti, distributing leaflets, hanging signboards and participating in support rallies of the organization.

Subsequently, R.H. was indicted for the following offenses: conspiracy to commit a crime (in accordance with Section 499(a)(1) of the *Penal Law* 5737-1977), the possession of a weapon (Section 144(a) of the *Penal Law*) and membership in a terrorist organization (Section 3 of the *Terror Prevention Ordinance* 5708-1948). R.H. entered a plea bargain, in terms of which the indictment was amended, and he was sentenced to three years imprisonment.

##### A.G.

A.G. was born in 1990, and is a resident of an Eastern neighborhood of Jerusalem. A.G. has been detained since August 12, 2008, and an indictment was filed against him on January 4, 2009 (at which time he was an adult), for offences, several of which were committed when he was a minor.

During 2008, A.G. was recruited to the Popular Front for the Liberation of Palestine (PFLP) terrorist organization, and since then he has been a member of the organization. A.G. conspired with other members of the organization to commit terrorist acts against the Jewish population in Jerusalem, such as throwing incendiary bombs, stabbing and firing weapons. In addition, he actively supported the PFLP, by spraying graffiti, distributing leaflets, hanging signboards and participating in support rallies.

Therefore, A.G. was indicted for these offenses: conspiracy to commit a crime (in accordance to Section 499(a)(1) of the *Penal Law* ), and membership in a terrorist organization (Section 3 of the *Terror Prevention Ordinance* ). A.G. entered a plea bargain, in which the indictment was amended, and a sentence of 22 months of imprisonment was agreed. A.G. awaits a Probation Officer Report that must be submitted to the court. Thus, the sentence has been commuted to begin in February 2010.

#### R.S.R.S.

R.S. was born in 1993, and an indictment against him was filed on December 14, 2009.

During 2009, R.S. illegally purchased a 7mm handgun and a 9mm "Star" handgun, and later purchased over 150 bullets. Subsequently, R.S. was indicted for the following offenses: purchasing a weapon (Section 144(a) of the *Penal Law* ) and carrying a weapon (Section 144(b)). R.S. is currently detained (and will remain so until January 2010), when an additional hearing will be conducted after the submission of a Probation Officer Report in his regard.

Please see also the final paragraph of Israel's response to Question 1, above.

8. Please inform the Committee whether international juvenile justice standards have been applied and what procedural guarantees have been put in place to guarantee children's right to a fair trial. Furthermore, please explain the measures taken to prevent incommunicado detention and solitary confinement of children accused of terrorist offenses. Please also provide details whether the provision of legal assistance and access to family visits is guaranteed. How does the State party make sure that detention of children is only used as a measure of last resort and for the shortest appropriate period of time ?

#### Reply :

A Committee, chaired by Deputy President of Tel Aviv District Court, Saviona Rotlevi, was appointed in 1997 by the Minister of Justice. The Committee was asked to provide recommendations regarding the rights enumerated in the Convention on the Rights of the Child. In 2003, the Committee presented its recommendations.

The Minister appointed the Committee to thoroughly examine the Israeli legislation concerning the rights of the child and the child's legal and welfare status, in light of the principles established by the UN Convention on the Rights of the Child, so as to ensure that the State would meet its commitments under the Convention. It was also asked to assess the need to draft an integrative law regarding the status of children and youth on the basis of a comprehensive, uniform perspective.

The Committee involved approximately 70 senior public and other officials from a variety of fields, including the Courts Administration and the Ministries of Justice, Labor and Social Affairs, representatives of departments of social work and professors from the Law and Psychology Faculties of several universities.

Representatives of children's mental health services and the Israeli Bar Association were also involved in this project.

Six reports prepared by Sub-Committees were submitted to the Minister of Justice, one of which dealt with Children in Criminal Proceedings. One of the central outcomes of this report was a wide-ranging amendment to the legislation governing minors in criminal proceedings. Some of these amendments have been finalized - for example, an initiative for comprehensive reform of the *Youth (Trial, Punishment and Modes of Treatment) Law 5731-1971* (the ' *Youth Law* ') and a proposed bill protecting the eligibility of children at risk for services. Amendment No. 14 to the *Youth Law* was issued on July 21, 2008 and has entered into force in July 2009 (henceforth: " *Amendment No. 14* " or " *the Amendment* " ).

The primary changes to the law as a result of the amendments are conceptual, rather than technical. Notably, the primary guiding principles are the best interests of the child and viewing the child as a separate human being. This is evident in the separate representation of the child, the involvement of the child in the decision-making process, and the notification to parents of an investigation, yet their removal if the child objects or the officer thinks it is harmful for the child's wellbeing. All of these changes are compatible with the child's best interests. The conceptual revolution to the laws is also manifested in evaluating every situation from the child's perspective, and not the parental point of view. The child is treated as an individual, not a parental protégé.

This Amendment greatly improves the treatment of minors in criminal proceedings. The Amendment supplements an introduction in a new Section: 1A-1C, as part of the General Principles. This section facilitates the right of a minor to be heard, the respect for the minor's view in matters affecting her/him and promotes participation in decisions influential to the minor. The amendment regards the way it is done, as in with keeping her/his dignity and involving the minor in decision-making by law. The Amendment views children as individuals, and concentrates on the implementation of the child's Human Rights in legal proceedings in which the minor partakes. Such proceedings ought to be handled in such a way as to protect the minor's dignity. As a rule, proper consideration is given to the minor's rehabilitation, treatment and integration into society, subject to the minor's age and level of maturity. The purpose of this amendment is to augment and add to the rights granted to minors. The Amendment strives to further enhance and provide better protection of the human dignity of a minor who is arrested, imprisoned or questioned and to ensure they are provided with conditions compatible with their age and needs. Among other things, the minor is encouraged to maintain contact with members of her/his family; and the minor's wellbeing is closely monitored. The novelty is in the reference to the child's emotional needs, her/his feeling etc. The Law did not oblige this prior to this amendment with regard to involvement in decision and expressing the minor's view on the matter.

#### Police Investigation

When a minor who is suspected of committing a crime is called to a police station for investigation, the minor's parents or a close relative (in cases where the parents cannot be located following all reasonable efforts) must be notified. A child residing in a group home will be summoned subject to the group home's superintendent's knowledge and parental notification. Once again, if the parent is not located following all reasonable efforts; another adult who is a family member known to the minor will be notified.

In other circumstances (such as when a minor is detained) the police officer who is in charge at the time of detention, is required to notify the parents or other close relatives as to the child's whereabouts. Simultaneously, the officer informs the minor about the family member being notified.

When a minor suspected of committing a crime arrives on his/her own initiative to the police station, or was brought by someone else to the police station while under arrest or even when not under arrest, a parent or a family member must be notified - unless - the minor expressly states that he/she objects to such notification. A notification will not be made when the minor expresses a clear objection to the notification. If the minor has been arrested, his/her objection will be considered in light of his/her age and level of maturity. The minor's objection must be specified, reported and filed.

A police officer's final decision - whether or not to notify the minor's parents - must be documented visually, vocally or in writing. The officer's decision must include a detailed explanation of his decision and provide substantive consideration to the minor's objection. If the officer decides not to inform the parents, he/she must then inform another close relative.

These principles constitute an obligation to act in accordance with the best interests of the child (a primary consideration) as well as the rights and duties of the child's parents. As mentioned above, the Law stipulates that the minor's parent or close relative ought to be informed. However, under certain circumstances, an authorized officer may summon a minor, who is not arrested, to an investigation without such notification.

When a minor suspect is summoned to an investigation previously agreed to by his/her parent or family member, he/she is entitled to have them present during the investigation and/or to consult with them. Unless the minor objects to the family member's presence or she/he is under arrest.

A decision to investigate a minor with no parent or close relative present shall be documented. Such documentation must include justification for the decision specified by the officer in charge.

If a parent or a family member's presence in the investigation room interrupts or interferes in any way, for instance, threatens the minor in a direct or implied manner, the investigator is authorized to remove them from the room. A decision to remove a parent from the room must be made in writing.

Prior to the investigation of a minor, an investigator shall notify the minor of his/her rights and obligations particularized by law in a simple intelligible language, that is appropriate for the minor's age and level of maturity.

All the sections of the Law dealing with the notification and presence of a parent or other relative were added by Amendment No. 14.

#### Notification of a Court Hearing Which Involves a Court

The youth investigator and/or the prosecutor in the minor's pre-trial (arrest) hearing must notify the minor's parent or a close relative about the hearing. The minor's parent or a close relative are invited to appear before the court and express their opinion regarding the relevance of their presence at the hearing (Section 10(H) (a) to Amendment No. 14). Prior to this Amendment, the parents would have been notified of the hearing, but were not able to express their opinion, by law, regarding their presence.

#### Children's Rights

There are no specific instructions to appoint an attorney for a minor in every case, even though the proceedings may infringe on the minor's rights (with her/his parents' tacit consent or even support). However, Family Matters Courts and Juvenile Courts are authorized to appoint a legal guardian for the minor in proceedings under the *Youth Law (Care and Supervision) 5720-1960* (the " *Youth Law (Care and Supervision)* "), and appoint a defense council in other legal proceedings.

#### Legal Representation of Minors

Under Amendment No. 14, an indicted minor is entitled to representation. The court is also authorized, based on what it believes to be the best interests of the child, to appoint a defense attorney for a minor even though an indictment has not been filed. According to Section 22 of Amendment No. 14 - in certain matters, the court

will rule only after the child's parents have been given the opportunity to express their opinion on the matter.

The Amendment also determines that all through the legal proceedings, if a minor is not represented or his/her parents are absent; the court is authorized to appoint a legal guardian based on what it finds to be the best interests of the child. Legal instructions and case law emphasizes the importance of individual legal representation, principally when the lack of such representation imperils the interest of the minor. It also emphasizes the right of the child to be heard when there is a conflict between him/her and his/her parents. Under the *Guardianship and Legal Capacity Law 5723-1962*, parents or guardians are appointed by the court to represent minors in legal proceedings; they can however, appoint someone else to represent their child. The Law authorizes the court to appoint a representative on behalf of the child (a legal guardian or an attorney).

Appointing a Public Defense Attorney to represent minors makes it possible for more minors to be represented in criminal proceedings. The *Public Defence Law, 5755-1995*, (henceforth: the "*Public Defence Law*") that was amended on July 30, 2008, by Amendment No. 14 provides a complete care for the obligation of child representation. This entails a new concept in the Israeli law, in a binding minor's representation, as is the separation between a child and his/her parents according to a separate examination of the interests of the child.

#### A Minor's Rights in Legal Proceedings are as Follows :

- 1) A right to private consultation with a defence attorney and a right to be represented by a defence attorney. *The Public Defenders Office (Entitlement of Additional Minors to Representation) Regulations 5758-1998* entitles a minor detainee or a minor involved in legal proceedings to representation by a public defender (Amendment No. 14).
- 2) Section 18(a) to the *Youth Law* empowers the Juvenile Court to appoint counsel for minor's in legal proceedings on the grounds of the best interests of the child. The court holds this power all through the criminal proceedings including during the investigation stage. Moreover, the minor is entitled to any right valid under the *Public Defenders Office Law*.
- 3) A right to the presence of a parent or family member.

#### Revocation of liberty

##### Detention

The Youth Law and the *Criminal Procedure (Enforcement Powers - Arrests) Law 1996 - 5756* (henceforth: the "*Criminal Procedure (Arrests) Law* ") establishes restrictions concerning the holding of minors in detention. Adults may be detained without a court order for 24 hours, while children who are under 14 years of age may be detained without a court order for only 12 hours; in special circumstances, the on-duty officer at a police station may order continued detention for an additional period not to exceed 12 hours. Amendment No. 14 stipulates that a decision to hold a minor on a Saturday or a holiday requires the approval of youth district officer. Here, the novelty is in the reduction and limitations of days and hours of detention.

The Amendment sets the abovementioned period of extension under the following circumstances:

- 1) Constitution of a sufficient cause specified in Section 29 of the *Criminal Procedure (Arrests) Law*.
- 2) Where a decision to extend the period of detention of an arrested minor could not be made prior to midnight, and the minor could not be brought before a judge due to the end of working hours, the minor shall be brought before a judge immediately upon the resumption of opening hours. With regard to a minor's age (14-18 at present), a minor's detention without a court order is similar to that of an adult, they may be detained without a court order up to 24 hours; in special circumstances, this period may be extended by an additional 24 hours.

The *Youth Law* and the *Criminal Procedure (Arrests) Law* establish restrictions pertinent to the detention of minors.

The periods of detention of minors prior to indictment are as follows: the Amendment in question reflects a new approach in the Israeli law that accords with the spirit of the UN Convention on the Rights of the Child. Under Section 17 of the *Criminal Procedure (Arrests) Law* that addresses detention prior to indictment, a Juvenile Court is authorized to order the detention of a minor for a period that is not to exceed 10 days (15 days for an adult). A suspect minor may not be detained continuously for a period in excess of 20 days (30 days for an adult). A petition to extend detention may be filed subject to the approval of the Attorney General. Under Section 21 of the *Criminal Procedure (Arrests) Law*, that addresses detention following an indictment, the court may order detention until the termination of proceedings subject to Amendment No. 14 to the *Youth Law* which stipulates that:

- a) Detention until the termination of proceedings will not apply to a minor who is under 14 years of age.
- b) A minor may not be detained continuously for a period in excess of 20 days.

Subsequent to Amendment No. 14 to the *Youth Law*, Section 59 of the *Criminal Procedure (Arrests) Law* that stipulates that an adult may be detained for 75 days if an indictment was not filed, states that if an indictment is not filed, then a minor is to be detained for a maximum period of 40 days. Here, the novelty is in the reduction and limitations of days and hours of detention.

When there is no verdict, a minor is not to be detained for a period in excess of 6 months (9 months for an adult). The Amendment also stipulates that the maximum period of detention for an accused minor is 45 days instead of the 90 days permitted with respect to an adult (Section 62 to the *Criminal Procedure (Arrests) Law*). Here, also, the innovation is in the reduction and limitations of days and hours of detention.

##### Closed Residence

A closed residence may serve as an alternative to imprisonment. Closed residences, as defined in the *Youth Law*, serve as an out-of-home-placement or the locus of custody for a minor referred by the Supervisor of Residences. A minor may be placed at a closed residence as a penalty or as a treatment alternative to a penalty. Also, a minor who is under the age of criminal liability, and a minor who is a danger to him/herself and/or others and who has been declared a minor in need may be placed at a closed residence. The prohibition against leaving a place of residence (on condition of bail) by a minor (according to Section 48(a) (9) to the *Criminal Procedure (Arrests) Law*) is for a maximum period of 9 months. Nevertheless, the court may issue an order to extend the period for a period not to exceed 90 days. When issuing such an order that prohibits a minor from leaving his/her place of residence for over 16 hours a day, the court shall re-examine the instruction once every 3 months during that time.

##### Separation

Section 13 to the *Youth Law* requires the separation of minors and adult detainees. This section was amended in 2008 to include more detailed requirements regarding such separation. Amendment No. 14 sets that a minor is to be held in a separate detention facility for minors or in a separate section for minors within a regular detention facility. There is an exception for a female minor who can be held in a detention cell together with an adult female detainee. This is subject to the minor's agreement and the following conditions: holding the minor alone is not in her favor; holding the minor with an adult detainee is in her best interests (or there is no possibility of holding the minor with another minor) and such holding does not risk the physical or mental health of the minor. Such holding is to be approved by a court within 24 hours. The Amendment also stipulates that a detained minor who is in the custody of the prison authority is entitled to a meeting with a social worker within 24 hours, or as soon as possible after the end of a Saturday or a holiday. Here, too, the novelty is in the reduction and limitations on days and hours of detention as well as a social worker visit within 24 hours.

##### Detention for Protective Purposes

It is permissible to detain a minor to protect him/her. Section 10(3) of the *Youth Law* stipulates that "the judge before whom a minor is brought is authorized to order his/her detention if this is required to ensure the minor's personal safety or to remove him/her from the company of an undesirable individual". A police officer is authorized to order detention on such grounds for 12 hours, and in special circumstances up to 24 hours until the minor is brought before a judge. Here, too, the Amendment reduced and limited the days and hours of detention.

##### Detention and/or Minor Custody

A minor suspected of committing a crime shall not be detained if there is a satisfactory alternative. Thus, children are placed in closed and open educational residences provided that they are closely monitored and receive treatment.

If a request to arrest a minor was filed to a court, a probation officer is permitted to take the initiative and submit his/her report or express his/her professional opinion

regarding matter. If the minor is being indicted, the court is authorized to instruct the submission of a Probation Officer Report or agree to an oral presentation of his/her professional opinion (Section 10(G) (b) of Amendment No. 14). When a detained minor resides and/or is being held in a secured group home, the group home officer is permitted to submit his/her professional opinion regarding the minor's arrest (Section 10(G) (c) of Amendment No. 14). Non-submission of a Probation Officer Report may not, in and of itself, establish grounds for the continuance of the minor's arrest (Section 10 (G) (d) to Amendment No. 14). The innovation here is the need for the opinion of the group home supervisor and the Probation Officer Report. The court requires as many opinions as possible prior to reaching a decision; as well as hearing the view of the child.

Section 21 of the *Criminal Procedure (Arrests) Law* addresses the issue of detention following the filing of an indictment. When an indictment has been filed, the court must set the earliest date possible for the commencement of a trial (Regulation 19 of the *Criminal Procedure Regulations* ). In the case of a minor, Section 14 of the *Youth Law* stipulates that, "save with the consent of the Attorney General, a minor will not be brought to trial for an offense if a year has passed since its commission". Once an indictment has been filed, the court is entitled to order detention until the termination of the proceedings.

#### Residence/Supervision Orders, Out-of-Home-Placement and Detention Alternatives

When considering an alternative to imprisonment, a closed residence is an adequate substitute for incarceration. Release on condition of bail (according to Section 48(a) (9) of the *Criminal Procedure (Arrests) Law* ) is not to exceed 9 months. Nevertheless, the court may issue an order to extend leave on bail for an additional period, not to exceed 90 days each time. If the court has issued an order on condition of bail for house arrest of more than 16 hours per day, it shall order a hearing once every 3 months throughout that time.

#### Order of Supervision

Following the filing of an indictment, a Juvenile Court is authorized to order temporary supervision of the minor by a probation officer. The order applies until the court issues its ruling. The court decision is subject to the Probation Officer Report and the court's conviction that the temporary custody order is in the best interests of the child. The court must also ensure that there is no other, less harmful, way to achieve this objective. Here, too, the principle of the " *best interests of the child* " concept is inserted as a legally required consideration.

#### Sentencing of Children, Capital Punishment, and Life Imprisonment

The *Criminal Procedure Law [Consolidated Version]* 5742-1982 and the *Penal Law* apply to every legal hearing concerning minors, unless there is an express provision to the contrary in the *Youth Law*. Under Section 25(d) of the *Youth Law* , a court may not impose a prison sentence on a minor who is under the age of 14 at the time of sentencing. When an offense has been committed by a person who was a minor on the day he/she committed the offense, the death penalty may not be imposed. Even though other directives under the law allow for imprisonment in similar circumstances, namely if imprisonment is so prescribed by the law for the offenses that the minor is convicted of having committed, it is not obligatory to impose a life prison sentence, a mandatory prison sentence or a minimum penalty on a minor. In any case, the death penalty is not imposed in Israel, even on adults.

#### Last resort

As is demonstrated by Israel's Initial Report, over the years, from Israel's ratification of the Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflicts, there has been a constant and extensive implementation by Israel of the rights guaranteed by these conventions, in a responsible and organized manner. From the initial planning and thinking stage, the State of Israel appointed expert committees, such as the Rotlevi Committee, to discuss and suggest the best manner in which to implement the rights guaranteed and adapt the internal legislation to international standards.

This process created a culture in which close attention is paid to children's rights by the relevant authorities, and particularly to the rights of those who are in a vulnerable situation. The situation of arrest and interrogation is definitely considered such a delicate situation. The amendments to the laws that regulate the arrest of minors, from the preliminary and principle question of whether to conduct an arrest if there is a satisfactory alternative, as well as the conditions of their detention including its length, indicate that at every point the best interests of the child are borne in mind, whilst considering the public need with regard to criminal or security threats. Every aspect of the modification of the laws is designed to minimize the possible harm in this regard.

In this respect, the adoption of the Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflicts elevates the protection of children's rights in general, and with regard to their arrest and detention in particular, and the state of Israel willingly acts in accordance with its obligations in this regard, as it will continue to do in the future. Thus, detention of children is only used as a measure of last resort and for the shortest period of time. Please see also the final paragraph of Israel's response of Question 1, above.

9. Please clarify whether the State party holds children, and from what age, in administrative detention on terrorist charges and how many children have been subjected to such measures. Please also clarify whether the State party has applied the Incarceration of Unlawful Combatants Law to children

**Reply :** Please see the final paragraph of Israel's response to Question 1, above.

10. In view of the large number of children who have died in the ongoing armed conflict and the disproportionately high number of Palestinian children among them, please inform the Committee of measures taken by the State party to ensure respect for the fundamental principles of proportionality and distinction between military objects and civilians and to establish accountability for violations of international humanitarian law.

**Reply :** Please see the final paragraph of Israel's response to Question 1, above.

11. Please explain what measures have been taken to prevent direct attacks against schools and hospitals in the Occupied Palestinian Territory and establish accountability for such acts. Please inform the Committee of measures taken to ensure their reconstruction and please also provide information on measures taken to address the previous concerns and recommendations issued to the State party by the Committee in 2002 (CRC/C/15/Add.195, paras. 44-45, 52- 53).

**Reply :** Please see the final paragraph of Israel's response to Question 1, above.

12. With reference to the Committee's recommendations issued to the State party in 2002 (CRC/C/15/Add.195, paras. 31 and 32) to take all necessary measures to provide child victims of the armed conflict with adequate compensation, physical and psychological recovery as well as social reintegration, please indicate what measures the State party has taken in this regard.

**Reply :**

#### Victims of Hostilities - Government Assistance

Victims of hostilities and their families are entitled by law to monetary remuneration and various benefits that are designed to assist and support them in their recovery, such as monthly benefits, rehabilitation, annual grants and lump-sum grants. The entitlement is provided under the *Benefits for Victims of Hostilities Law* 5730 - 1970. The monetary benefits are provided under the *Invalids (Compensation and Rehabilitation) Law* 5719 - 1959. They are calculated according to managerial grade civil service salaries and are updated along with updates in the economy (employment agreements or cost of living increments). Immediately after the occurrence of hostility-related injury, rehabilitation workers (specially trained social workers) contact the victims and their families. From that point, they are available to provide counseling, training and guidance with any problem - emotional, social and family related. They also guide family members on how to exercise their rights and obtain the various services that are due for them. Orphaned and disabled children are sensitively treated, and are entitled for the same rights and benefits provided to adults. Parents are actively integrated in the treatment and rehabilitation program of children victims.

The following table lists the deceased, orphaned and disabled children due to hostilities, who are entitled for National Institution Insurance's benefits, ages 0-17:

	2005	2006	2007	2008
Deceased	225	231	230	246
Orphaned	551	541	514	479
Disabled	69	98	114	132

Source: National Insurance Institute, 2010

#### Civil Society

During Operation "Cast Lead", the American Jewish Joint Distribution Committee (JDC) conducted various programs to assist children from the south of Israel that were affected by the conflict. Thus, support was given to the shelters operating in Ashkelon, which were used during the operation as studying centers,

kindergartens and alternative accommodation; and many volunteers assisted children who needed personal assistance in their studies, and helped to ease their stress and tension. In addition, thousands of hugging dolls, games and toys were distributed for the children of the area, and assisted them, together with their parents and the professionals who treated them, to overcome their trauma. Moreover, the JDC supported the National Council for Volunteering in Israel to implement a program in which youth from the southern area were invited to stay and live in Kiryat Shmonah in the north of Israel.

13. Please provide disaggregated data (including by sex, age group and country of origin) covering the years 2006, 2007 and 2008 on the number of asylum-seeking and refugee children coming to the State party from areas where children may have been recruited or used in hostilities. Please provide information on existing identification mechanisms and the procedure for considering refugee and asylum claims from children who have been recruited or used in situations of armed conflict.

**Reply:**

**Statistics**

Between the years 2005 and 2006, there were five cases of child-soldiers who came into Israel, after being involved in the civil wars that occurred in West Africa. Three of the children were from Sierra Leone and two were from Liberia. They were all given, as an exception, refugee status in Israel. In addition, in 2002, a minor from Chad received refugee status in Israel, after escaping from a military camp in which he was held forcibly in order to take part in an armed conflict. The five minors who entered Israel in 2005 and 2006, were recognized as refugees after legal analysis and discussions of their situation in light of the 1951 Convention Relating to the Status of Refugees, and following an objective examination of each case which included varied parameters, such as the motivation of the minor for military involvement, the duration of such involvement, the level of cooperation of the minor and more. Eventually, it was decided that the Convention applied with regard to these minors, and they were granted with the status of refugees and provided with psychotherapy in Israel, and three of them were also placed in designated treatment. Two of these minors proceeded to higher education studies in the United Kingdom and the United States, and are planning to return to Israel after graduating.

**Existing Mechanisms**

The Refugee Status Determination (RSD) Unit (henceforth: " *the Unit* ") in the Population, Immigration and Border Authority (henceforth: "*the Authority* ") within the Ministry of the Interior, was established in order to conduct thorough interviews for asylum seekers and provide written recommendations for further discussions in the Advisory Committee. The Unit began its operation in April 2009.

The Unit employs approximately 30 employees, including a general manager, two deputies, coordinators and interviewers. The recruitment of these employees was made based on a meeting between the Authority and the UNHCR. The conditions for acceptance include, *inter alia* , having a bachelor's degree, high level English, previous experience in working with individuals and groups, and passing a group evaluation by an organizational psychologist.

The Unit's employees completed a six weeks course that began on March 1, 2009. The course was coordinated by representatives of the UNHCR in Israel and a representative of HIAS - The Hebrew Immigrant Aid Society, and was supervised and approved by the UNHCR management in Geneva.

The course emphasized various issues, including the 1951 Convention on the Status of Refugees, the rules for conducting interviews, techniques, research methods, treatment of populations with special needs, formulating recommendations and reports and more. In order to qualify, each employee was required to pass weekly and final examinations with high scores.

After completing the course, the employees began interviewing asylum seekers for a period of three months, during which they were all accompanied and inspected by the representatives of the UNHCR. Moreover, during the six months after completing the course, the Authority and the UNHCR conducted periodical meetings in order to identify difficulties, receive updates and assist in solving problems. The Unit's employees received additional professional training by the UNHCR.

14. Please inform the Committee of the training and dissemination of the Protocol among relevant professional groups working at the national level with children who may have been recruited or used in hostilities, including migration authorities, lawyers, judges, medical professionals, social workers and journalists .

**Reply :**

**The Government of Israel**

a) The Institute of Legal Training for Attorneys and Legal Advisers (henceforth: " *the Institute* ") in the Ministry of Justice, is continuously operating seminars on human rights in general, and children's rights in particular, as detailed hereafter:

- On March 9, 2006, the Institute held a seminar on the issue of international confrontation with terrorism, which included a lecture on the war against terrorism while protecting human rights.
- On February 15, 2007, the Institute held a seminar on the issue of the individual in the international law, which included a lecture on the laws of war in protecting the individual.
- On February 12, 2009, the Institute held a seminar on the issue of enforcing international law, which included a lecture on the implementation of international law during IDF operations.
- On September 24, 2009, the Institute held a seminar on the issue of human rights in international law, which included a lecture on various human rights conventions, and a discussion of the Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflict.

b) In December 2009, the interviewers of the Refugee Status Determination (RSD) Unit underwent specific training by the Ministry of Justice regarding the provisions of the Optional Protocol on the Involvement of Children in Armed Conflict and the relevant provisions of General Comment 6 of the Convention on the Rights of the Child on "Treatment of Unaccompanied and Separated Children Outside Their Country of Origin." <sup>1</sup> In addition, the training included specific case studies and review of relevant recommendations made by the committee to state parties regarding the application of the Protocol. The interviewers were also provided with the relevant text of the Protocol and the List of Parties that Recruit or Use Children in Situations of Armed Conflict on the Agenda of the Security Council and the List of Parties that Recruit or Use Children in Situations of Armed Conflict Not on the Agenda of the Security Council.

c) On 7-9 of December 2009, a representative of the Department of International Agreements and Litigation in the Ministry of Justice attended an ICRC expert meeting on "Children Associated with Armed Forces or Armed Groups: Implementation of International Norms on the Recruitment and Participation of Children in Armed Conflict".

**Civil Society**

d) Since 2000, the JDC has assisted Israeli localities along the southern border with Gaza, mainly focusing on assisting the professionals who treat the residents of the southern area, in order to decrease their workload. Thus, the JDC added more professionals, including social workers and psychologists, recruited more

professionals who were trained to operate in states of emergency, financed vacations for educational teams who treated the children of the area, and provided them with additional professional measures. In addition, the activities of school's "peace rooms", in which children can discuss their feelings and fears with professionals, in light of the situation, were expanded.

e) In 2008, the Israel Trauma Centre for Victims of Terror and War (NATAL) dedicated stem efforts to assisting and improving the services of educational teams for children and youth. Thus, 601 persons participated in workshops in which 373 training hours were provided. The increase is a result of the security situation in the south which required the allocation of special budgets for training large groups of pupils. NATAL is intending to further support such educational teams during 2009.

*15. Please provide information on education and training on human rights, in particular on children's rights, provided to the Israeli police and military. Please also provide information available on such trainings in the Palestinian Occupied Territory. Please indicate whether military codes of conduct and rules of engagement take into account the Protocol.*

**Reply :**

IDF

Soldiers of all ranks and levels in the IDF receive trainings and guidance on the issues of the law of armed conflict and ethics during an armed conflict. This training, as well as other interactive educational software produced by the military advocacy, refers to children's rights and the necessity to protect them.

The Police

The education and training regarding children's rights among Israel's Police force is implemented through the center of the Investigations and Intelligence Department, by a representative of the NGO Israel National Council of the Child. Moreover, additional training is conducted for youth investigators, by a representative of the Youth Department.

The education and training concerning human rights is implemented through different professional training for investigators and intelligence officers.

The Israel Police basic training course includes a workshop prepared and performed by the Association for Civil Rights in Israel (ACRI). Thus, every civilian joining the Police is participating, during his/her training, in this workshop which deals with protection of human rights in the course of Police activities. The workshop is based on a similar program formulated by the UN Human Rights Council, as well as on test cases from Israeli experience.

The purpose of the workshop is to educate on the issue of human rights, to enhance the commitment for protection of human right while understanding the tension stemming from Police work, and entwining human rights within the regular security activities. Such training result in more professional policemen and raising the legitimacy of Police work, as well as the public trust, promoting successful prosecutions.

During 2010, approximately 800 policemen are intended to participate in this workshop during their basic training course along with approximately 50 police officers of the Police Training Center.

Please see also the final paragraph of Israel's response to Question 1, above.

*16. Please inform the Committee of the training provided on the provisions of the Protocol for teachers at military schools. Please inform the Committee whether children in military schools have access to complaints mechanisms and whether an independent entity oversees the curricula and administration of such schools*

**Reply:**

Complaints: Pupils in military schools are not members of the armed forces and the provisions of the *Military Jurisdiction Law* do not apply to them. As detailed in para. 59 to Israel's Initial Report, a right to plea provides a mechanism for the pupils to complain against their superiors in circumstances where discipline is considered excessive or ill-suited. These guarantees help uphold the pupils' right to human dignity, and are in accordance with the spirit of the Optional Protocol and the Convention on the Rights of the Child.

An Independent entity : As was stated in Paragraph 53 to Israel's Initial Report, the educational part of the training in military schools is carried out in high schools in the vicinity of the military schools, whilst the technical/professional part is carried out on school grounds.

Furthermore, the curriculum of the military schools is administrated by the Israeli educational system, which is an independent entity, as was enumerated in Paragraph 55 of Israel's Initial Report. The curriculum specifically introduces the pupils to relevant human rights and humanitarian issues, such as the United Nations Declaration of Human Rights and the Convention on the Rights of the Child.

*17. Please inform the Committee of efforts to promote peace education for children in all schools within the territorial responsibility of the State party. Does the State party provide parent education on the contents of the Protocol ?*

Peace Education

The Ministry of Education

- Since 2007, the Ministry of Education has implemented the "**Pupil's Rights - A Model for Active Learning**" program, which is designed to assimilate the Convention on the Rights of the Child, as well as pupils' rights in schools and within the community, including the Arab population. The program is aimed at outlining the civic duties for recognizing and implementing the child's rights among pupils, teachers and parents.

This program adopts a straightforward approach to pupils' rights, side by side with the rights of the teaching staff - it guides complex relationships, through a methodical dialogue about key values, ways to implement them and creating obligating codes of conduct, leading to an establishment of authority based on mutual trust. The activities of the program respect the different affiliations, through recognizing and learning the rights derived from them. The basic reference point is the pupil, as a human being and an individual, and the recognition of his rights.

The program is carried out by conducting a series of dozens of meetings which are designed to provide schools with tools they can use to create a culture of dialogue, based on democratic values and on the rights of adults and children in the educational system. This dialogue culture is carried out through a process of

establishing agreements, which are based on a relationship of trust and respect between all the elements at school, and in accordance with the school's vision and educational goals. The meetings help to develop dialogue skills, listening skills and to inculcate respect, as well as to establish a relationship of trust between all the elements at school.

The goals of the program are to enable an in depth analysis of the child/pupil/citizen rights in schools, to examine the different aspects – in terms of values – derived from child/pupil/citizen rights, to promote a process of establishing agreements through dialogue between the different school elements, and to encourage the creation of appropriate codes of conduct, without violating these rights.

The guidance material for this program is attached as **Annex 2**.

- Since 2004, the Ministry of education has implemented, with the cooperation of Amnesty International and the artist Yoko Ono, the international **"Imagine"** program, which is intended for youth at risk. In this program, children receive education on the rights of the child and the pupil's rights by studying music and dancing, thus actively experiencing human rights through art. The program operates in 26 remedial classes and Jewish and Arab youth centers, which are under the auspices of the Department of Education and Welfare Services in the Ministry of Education, and has improved the learning abilities in these schools, as well as the awareness of principals and educators on the importance of studying children and pupils' rights.
- The **"Building Agreements"** program has been implemented by the Ministry of Education since 2003, in accordance with the Rotlevi Committee's recommendations (The Committee to Examine Fundamental Principles Concerning Children and the Law, and Their Implementation in Legislation) for the purpose of fostering positive environment of communication between the education system, parents and pupils, in order to realize the pupil's rights. Thus, by involving parents and pupils, the program is allowing them to set the accepted behavioral norms and ethics, and is providing them with useful tools for listening, expressing and communicating between themselves and with each other. The program promotes the creation of trust and mutual respect between educators, parents and pupils, and increases the awareness of their rights and personal or communal duties. In addition, UN and UNICEF reports regarding pupils and parent participation were translated and distributed to school principles and directors of educational divisions.
- Another program which has been in the process of formation since 2006 is designated to teach educators, parents and pupils, on the rights of minors in criminal proceedings. The program is implemented with the cooperation of the Public Defenders Office, and as of now, training materials have been produced for teachers and pupils of post-primary education, and professional guidelines were provided to pupils, principles and supervisors in 51 schools, to date, both Jewish and Arab, reaching over 20,000 pupils.
- In an international activity conducted in December 2007, high school pupils studied children's rights in Israel and overseas, while participating in writing an international journal in English. Two of these pupils were sent to the UN and participated with youth from other states in discussions on "A World Fit for Children".

#### Civil Society

- The Culture, Media and Arts Department, in the Peres Center for Peace designs and implements multifaceted programs directed at Palestinian and Israeli children, youth and adults. The Peres Center has chosen to concentrate its efforts on two levels of activities: The first level is based on direct intervention, and is targeted at specific groups of participants (among them, photojournalists, youth, film and television professionals etc.). The second level is targeted at the greater Israeli and Palestinian publics, and focuses on the significant need to learn more about the "other side", and increases the portrayal of positive images in the media, in contrast to the violent and depressing images generally displayed. As such, the programs are designed to reach out to large audiences, in order to expose them to positive messages and images.
- For example, the Peres Center holds Peace Education Seminars, aiming to offer instruction to Palestinian and Israeli educators and teachers, in order to provide them with the educational tools to guide their pupils in dealing with issues related to the conflict, and allow them to implement peace building activities. Thus far, two seminars have been held, in which nearly 100 Israeli and Palestinian educators have taken part.
- The Peres Center also holds numerous programs in different fields of the arts, such as photojournalism, theatre and cinema, as well as programs in the field of sports.

*18. Please provide information with respect to dissemination to the general public of information related to the issues covered by the Protocol.*

**Reply :** The Convention was translated into Hebrew and is available on the web-site of the Ministry of Education in both Hebrew and English, the Optional Protocol on the Involvement of Children in Armed Conflict is available on the web-site of the Ministry of Justice, in Hebrew, English and Arabic, in addition to the Initial Report submitted by the State of Israel concerning the Optional Protocol and the List of Issues presented to the State of Israel. The Optional Protocol on the Involvement of Children in Armed Conflict is also available on the web-site of the Ministry of Foreign Affairs in English and Arabic.

*19. Please inform the Committee of measures taken by the State party to prevent the recruitment of children into non-State armed groups.*

**Reply:** As detailed in the reply to Question 1, above, there are no non-State armed groups in Israel.

*20. Please inform the Committee whether national legislation prohibits the sale of arms when the final destination is a country where children are known to be, or may potentially be, recruited or used in hostilities* 1

**Reply :** The *Israeli Security Export Control Law* 5767-2007 regulates the control of defense exports in the State of Israel, while considering interests of national security, diplomatic relations and international obligations. In accordance with this law, the Defense Export Control Division (DECD) in the Ministry of Defense, in coordination with the Ministry of Foreign Affairs, conducts an examination of marketing and export license applications. In this framework, an assessment of license applications is conducted, in light of UN Security Council Resolutions and takes into account considerations such as the country of final destination, the intended end-use/end-user and the internal situation in these countries, including the respect of children's rights in regard to their recruitment and their use in armed conflicts.



21. Please inform the Committee how the State party collaborates and supports the implementation of the Security Council Resolution 1612.

**Reply :** Israel fully adheres and supports Security Council Resolution 1612, similarly to the previous and following relevant Security Council Resolutions on children involved in an armed conflict, through signing and joining the Optional Protocol, relevant legislation, training and raising awareness, as detailed in Israel's Initial Report and as detailed above.

As presented by the Israeli delegation during the session before the Security Council on June 24, 2006, on the 1st Anniversary of Resolution 1612: "[Israel] ... ascribed great importance to the protection of children during armed conflict. They should live without fear of physical, psychological or any other form of suffering, regardless of the national flag under which they lived. Continuing grass-roots efforts must be made alongside Government efforts to protect the rights of all children. ... Israel wrestled daily with the strategic and practical complexities of the delicate balancing act of fulfilling its obligation and right to protect its citizens, while taking great pains to minimize the suffering of all civilians concerned, for whom it grieved. When there was peace on its borders, Israel would have no interest in conflict. On the other hand, Hamas and Hezbollah had repeatedly shown their callous disregard for life."

22. Please inform the Committee how civil society was involved in the preparation of the report.

**Reply :** The Initial Report was compiled by the Human Rights and Foreign Relations Department in the Ministry of Justice. All relevant Government Ministries and institutes were requested to supply data and information concerning their respective fields of responsibility. Non-governmental organizations were also approached to contribute information that would assist in the compilation of the present report. The most relevant NGOs were the Israel National Council of the Child and Defense for Children International - Israel.

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#### Annexe 1

##### **Offenses against Israel citizen or Israel resident**

14. (a) The penal laws of Israel shall apply to foreign offenses against the life, body, health or freedom of an Israel citizen or of an Israel resident, for which the maximum penalty is one year imprisonment or more.
- (b) If an offense was committed on a territory that is subject to the jurisdiction of another state, then Israel penal laws shall apply to it only if all the following conditions are met:
- (1) it is an offense also under the Laws of that state;
  - (2) no restriction on criminal liability applies to the offense under the Laws of that state;
  - (3) the person was not already found innocent of it in that state, or – if he was found guilty – he did not serve the penalty imposed on him for it.
- (c) No penalty shall be imposed for the offense that is more severe than that, which could have been imposed under the Laws of the state in which the offense was committed.

##### **Offense committed by Israel citizen or Israel resident**

15. (a) The penal laws of Israel shall apply to a foreign offense of the categories of felony or misdemeanor, which was committed by a person who – when the offense was committed or thereafter – was an Israel citizen or an Israel resident; if a person was extradited from Israel to another country because of that offense, and if he was tried for it there, then Israel penal laws shall no longer apply.
- (b) The restrictions said in section 14(b) and (c) shall also apply to the applicability of Israel penal laws under this section; however, the restriction said in section 14(b)(1) shall not apply if the offense is one of these, committed by a person who – when he committed it – was an Israel citizen:
- (1) polygamy under section 176;
  - (2) an offense under Article Ten of Chapter Eight, committed by a minor or in connection to a minor;
  - (3) conveying beyond the borders of the State under section 370;
  - (4) causing departure from the State for prostitution or enslavement under section 376B;
  - (5) trafficking in persons under section 377A.

##### **Offenses against international law**

16. (a) Israel penal laws shall apply to foreign offenses, which the State of Israel undertook – under multilateral international conventions that are open to accession – to punish, and that even if they were committed by a person who is not an Israel citizen or an Israel resident and no matter where they were committed.
- (b) The restrictions said in section 14(b)(2) and (3) and (c) shall also apply to the applicability of Israel penal laws under this section.

##### **Abduction**

369. If a person compels another by force or threats, or if he entices him by deceitful means to leave the place where he is, then that constitutes abduction and he is liable to ten years imprisonment.

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<sup>1</sup> CRC/GC/2005/6, 1 September 2006 - [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2005.6.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2005.6.En?OpenDocument)