Initial Report Concerning the

IMPLEMENTATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

2012

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INTRODUCTION

1. concerning the implementation of the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* ("the Protocol"). Pursuant to the requirements of Article 12 of the Protocol, this Report provides comprehensive information on the measures Israel has taken to implement the provisions of the Protocol.

2. By way of background, the State of Israel signed the Protocol on 14 November 2001 and ratified it on 19 June 2008. The Protocol entered into force on 23 July 2008.

3. The State of Israel fully adheres to the purposes of the Protocol and is committed to its obligations thereunder. While much remains to be done in order to eradicate the worldwide phenomena of trafficking in children, child prostitution and child pornography, Israel believes that its efforts since 2008 have been quite successful. At the same time, Israel appreciates the opportunity to learn about the practices and experience of other countries leading the fight against trafficking in children, child prostitution and child pornography, and views the reporting process established by Article 12 of the Protocol as an invaluable tool for such purpose.

4. This Report is the product of extensive internal consultations and efforts. All relevant Government Ministries and bodies (including the Ministry of Justice, the Ministry of Interior, the Ministry of Education, the Ministry of Health and the Ministry of Social Affairs and Social Services) were requested to provide data and information concerning their respective fields of responsibility. In addition, Non-Governmental Organizations ("NGOs") were also invited to submit comments prior to the compilation of the Report, both through direct application, and through a general invitation to submit remarks, which was posted on the Ministry of Justice website. Their responses were given due consideration.

5. The compilation of the information and data and the drafting of this Report were conducted by the Department for International Agreements and International

agencies.

6. Please note that the imprisonment terms and monetary fines specified in the Israeli *Penal Law* 5737-1977 (th*e "Penal Law"*) represent the maximum term or fine that a court may impose. Accordingly, references in this Report to imprisonment terms and monetary fines correspond to such maximum punishments, unless specified otherwise.

Articles 1-3

7. Article 1 is introductory in nature and creates the overarching obligation to prohibit the sale of children, child prostitution and child pornography in accordance with the Protocol. Article 2 includes the definitions of "sale of children", "child prostitution" and "child pornography."

8. Article 3 provides that States parties shall ensure that the acts and activities referred to by the Article are covered under their criminal or penal law and punishable by appropriate penalties.

9. As discussed below, the acts and activities referred to by Article 3 violate the Israeli *Penal Law*.

Sale of Children

10. In the context of sale of children, State parties are required, as a minimum, to criminalize the offering, delivering, or accepting by whatever means of a child for the purpose of sexual exploitation of the child, transfer of organs for profit or engagement of the child in forced labor (Article 3(1)(a)(i)). (The prohibition on inducing consent for the adoption of a child (Article 3(1)(a)(ii)) is addressed in paragraphs 58-89 below).

11. The sale of children, as defined in Article 2, is prohibited by Israeli law through several provisions.

12. On October 29, 2006 Israel enacted the *Prohibition of Trafficking in Persons (Legislative Amendments) Law* 5766 – 2006 (the *"Anti-Trafficking Law"*). Most

of its provisions were incorporated in the *Penal Law*. The *Anti-Trafficking Law*'s provisions, as will be further detailed below, address the relevant aspects of offering, delivering or accepting, by whatever means, of a child for the purposes enumerated in Article 3(1)(a)(i) of the Protocol.

13. The legislative technique which Israel adopted on this matter was to create a group of five offenses, detailed below, which together encompass the main aspects of the trafficking phenomenon. This broad approach was adopted because it was felt the creation of a single offense might fail to cover all aspects of this criminal phenomenon. The legislation was designed to be comprehensive in order to prevent evasion by criminals.

14. The offenses were incorporated in the *Penal Law* under the chapter that deals with offenses relating to the deprivation of a person's liberty. It should be noted that of these five core offenses, only the first two criminalize the act of "trafficking in a person" in the strict sense of the term. The other three criminalize other conducts which are similar to trafficking in that a person is treated in a manner so abject that the act is assimilated to "trafficking". The common denominator of the five core offenses is that they all criminalize conduct by which a person is objectified and denied his or her basic human dignity and freedom. All five are punishable with severe prison terms.

15. *Trafficking in Persons* – This offense is set out in Section 377A of the *Penal Law*, and carries a maximum penalty of 16 years imprisonment and **20 years imprisonment if the victim is a minor**. The crime includes two elements:

    15.1. A transaction in a person (distinguished from a transaction <u>with</u> a person, thus denoting objectification of the victim). For this matter, "transaction in a person" means selling or buying a person or carrying out another transaction in a person, whether or not for consideration.

    15.2. For one of seven pernicious purposes: removing an organ from the person's body (which corresponds to Article 3(1)(a)(i)(b) of the Protocol); giving birth to a child and taking the child away; subjecting the person to slavery or forced labor (which corresponds to Article 3(1)(a)(i)(c) of the Protocol); inducing the person to commit an act of prostitution or inducing him/her to

take part in an obscene publication or obscene display or committing a sexual offense against the person (which corresponds to Article 3(1)(a)(i)(a) of the Protocol).

16. Section 377A also forbids trafficking in a person if in doing so the offender exposes the victim to the risk of one of the purposes listed above.

17. Section 377A(c) of the *Penal Law* provides that the middleman in trafficking in a person, whether or not for consideration, shall be liable to the same penalty as the actual trafficker.

18. *Abduction for the Purpose of Trafficking* – This offense is set out in Section 374A of the *Penal Law* and carries a maximum penalty of 20 years imprisonment. The crime consists of the following three elements:

18.1. Inducing a person to move from one place to another;

18.2. By means of threats or force or by fraudulently obtaining her/his consent;

18.3. For any of the purposes of trafficking in persons as detailed in Section 377A (a) of the *Penal Law* or placing the person in one of the dangers set forth in the said section.

19. *Holding a Person Under Conditions of Slavery* – It is a crime to hold a person under conditions of slavery for the purposes of work or services, including sex services. This offense is set in Section 375A of the *Penal Law*, and carries a maximum penalty of 16 years imprisonment and **20 years imprisonment if the victim is a minor**. For the purposes of this provision, "slavery" means a situation under which powers generally exercised towards property are exercised over a person; substantive control over the life of a person or denial of his/her liberty are deemed to be such an exercise of power.

20. *Forced Labor* - This offense is set in Section 376 of the *Penal Law*. According to this Section, a person who unlawfully forces a person to work, by using force or other means of pressure or by threat of one of these, or by consent elicited by means of fraud, whether or not for consideration, shall be liable to seven years imprisonment.

21. *Causing a Person to Leave Her/His State for Purposes of Prostitution or Slavery* – This offense is set in Section 376B of the *Penal Law*, and carries a maximum penalty of ten years imprisonment and **15 years imprisonment if the victim is a minor.** The elements of this crime are as follows:

    21.1. Causing a person to leave the state in which she/he resides;

    21.2. For the purpose of employing the person in prostitution or holding her/him under conditions of slavery.

22. The Israeli legislator views trafficking offenses as very grave. For that reason, a high minimum punishment has been set for the offense of holding a person under conditions of slavery and trafficking in persons. According to Section 377B of the *Penal Law*, where a person is convicted of an offense under Sections 375A (holding a person under conditions of slavery) or 377A (trafficking), the sentence imposed shall not be less than one-quarter of the maximum sentence set forth for the said offense, unless the court has decided, for special reasons that shall be recorded, to impose a more lenient sentence. Moreover, a sentence of imprisonment, as mentioned above, shall not be wholly suspended, if there are no special reasons.

23. Additionally, the *Penal Law* includes offenses that may assist law enforcement authorities in addressing trafficking in children, **which are often, though not necessarily, related to trafficking but do not constitute trafficking per se. These include crimes such as pandering and charging excessive brokerage fees**. Another example is the prohibition to detain a passport (Section 376A of the *Penal Law* - three years imprisonment), which is a common practice used by offenders to maintain control over victims and prevent their escape. If the offender detains a passport for one of the purposes set forth in Section 377A of the *Penal Law* or by so doing places the person in one of the dangers set forth in the said section, the offender is liable to five years imprisonment.

24. The *Penal Law* also includes other offenses that impose duties and criminal liability on parents, legal guardians of minors or other persons responsible for minors, *inter alia*, to protect minors and to narrow the risk of them becoming victims of trafficking. For example:

24.1 A person that leaves a child under six years of age without proper supervision, and in doing so endangers the life of the child or risks harming his/her health or well-being, is liable to three years imprisonment; if it was done out of neglect, that person is liable to one year imprisonment; and if it was done with the intent to desert the child, then that person is liable to five years imprisonment (Section 361 of the *Penal Law*).

24.2 Offering or giving remuneration for permission to have charge of a minor under 14 years old and asking for or receiving remuneration for permission to have charge of a minor as aforesaid, is an offense punishable by three years of imprisonment, irrespective of whether the remuneration was in cash or in kind (Section 364 of the *Penal Law*).

24.3 A parent or legal guardian of a minor under the age of 14 who delivers or allows to deliver the minor to a person who is not his/her parent or his/her legal guardian, while renouncing his/her duties or his/her rights towards the minor, is liable to two years imprisonment (Section 365 of the *Penal Law*).

24.4 Taking away or detaining by fraud, force, or enticement a minor under the age of 14 from his/her parent or legal guardian with the intent of depriving the parent or legal guardian from custody over the minor is an offense punishable by seven years imprisonment, unless the defendant proves that he/she has a *bona fide* claim to a right of custody (Section 367 of the *Penal Law*).

Child Prostitution

25. Israeli legislation addresses the criminal aspects of prostitution by criminalizing the various ranges of conduct of those involved in the prostitution industry, from pandering to inducing prostitution to holding or renting a place for prostitution to publishing prostitution services. This is the case for both prostitution generally and child prostitution specifically. Thus, all actions supporting or sustaining the prostitution industry are prohibited, signalling the State's efforts to minimize this phenomenon. Furthermore, the *Penal Law* imposes stricter penalties when child prostitution is involved, as detailed below.

26. Specifically, the *Penal Law* states that a person who fully or partially, permanently or for any period of time, lives on the earnings of a person engaged in prostitution or who knowingly receives something that was given for a person's act of prostitution (or part thereof) is liable to five years imprisonment (Section 199 of the *Penal Law*). Where the person engaged in prostitution is the offender's spouse, child or stepchild, or the offense was committed by exploiting a relationship of authority, dependence, education or supervision, then the maximum imprisonment term is seven years (Section 199(b) of the *Penal Law*). For the purposes of this offense, it is immaterial whether the offender received money, valuable consideration, a service or some other benefit, whether he/she received it from a person who engages in prostitution or from some other person and whether he/she receives what was given for an act of prostitution or as a substitute for what was so given (Section 199(c) of the *Penal Law*). If a man lives with a prostitute or regularly accompanies her, or if he exerts control or influence over her in a manner that aids her or forces her to engage in prostitution, then he/she shall be presumed to live on her earnings, unless the contrary is proven (Section 200 of the *Penal Law*).

27. In addition, a person that induces someone to perform an act of prostitution with another person is liable to five years imprisonment (Section 201 of the *Penal Law*), and a person that induces someone to engage in prostitution is liable to seven years imprisonment (Section 202 of the *Penal Law*).

28. The Law establishes aggravating circumstances regarding both Sections 201-202, which lead to a harsher punishment. If the abovementioned offenses are committed under the following circumstances, then the person guilty of the act is liable to ten years imprisonment (Section 203 of the *Penal Law*):

    28.1. The offense was committed by exploiting a relationship of authority, dependence, education or supervision, or by exploiting the economic or mental distress of the person who was induced to perform an act of prostitution or to engage in prostitution;

    28.2. The offense was committed by the use of force or by use of other means of pressure, or by threat of one of the above, whether against the person who

was induced to commit an act of prostitution or to engage in prostitution or against some other person;

28.3. The offense was committed by exploiting a situation that prevents opposition by the person induced to commit an act of prostitution or to engage in prostitution, or by exploiting the fact that he/she is mentally ill or mentally incompetent;

28.4. The offense was committed by consent that was obtained deceitfully from the person induced to commit an act of prostitution or to engage in prostitution.

29. The maximum prison terms are increased when an offense described in Sections 199, 201, 202 or 203 is committed against a minor, as follows:

(A) When the victim is 14 years old or older, then the applicable penalties are increased as follows:

(1) for offenses punishable by five years imprisonment, the maximum imprisonment term is increased to seven years;

(2) for offenses punishable by seven years imprisonment, the maximum imprisonment term is increased to 10 years;

(3) for offenses punishable by ten years imprisonment, the maximum imprisonment term is increased to 15 years;

(4) for offenses punishable by 16 years imprisonment, the maximum imprisonment term is increased to 20 years;

(B) If the victim is less than 14 years old, or if he/she is a minor who is 14 years old or older and is under the care and responsibility of the offender, then the maximum imprisonment terms for these offenses are doubled, up to a maximum of 20 years (Section 203B of the *Penal Law*).

30. Sections 203C and 203D of the *Penal Law* are additional measures demonstrating the severity with which the Israeli law deals with prostitution offenses committed against minors. Pursuant to Section 203C, a person who accepts sexual services

from a minor is liable to three years imprisonment. For this matter, as well as all other offenses related to prostitution or pornography committed against minors, if the defendant claims that he/she did not know the age of the person with whom or in respect of whom an offense was committed, then he/she bears the burden of proof.

31. Moreover, a person who maintains or operates a place including a vehicle or a vessel for the practice of prostitution, is liable to five years imprisonment (Section 204 of the *Penal Law*), and a person who rents out or renews the rental of such a place, knowing that it is or will be used for acts of prostitution, shall be liable to six months imprisonment (Section 205 of the *Penal Law*).

32. As an additional measure, aimed at reducing prostitution, the *Penal Law* provides that a person who delivers information or publishes any publication about the provision of a service that constitutes an act of prostitution provided by a minor, is liable to five years imprisonment or a fine of 226,000 NIS (U.S. $ 59,473) (the amount is doubled if the offense is committed by a legal person). The foregoing applies regardless of whether the prostitution service is provided in Israel or abroad, whether the information refers to a specific minor and whether the publication indicates that the person who provides the service is a minor (Section 205A of the *Penal Law*). In contrast, with respect to adults, the offense applies only to the publication of such services (it does not include the offense of "delivering information") and the penalty for such a publication is three years imprisonment (Section 205C of the *Penal Law*).

33. Finally, Section 208 of the *Penal Law* provides that a person who permitted a minor between the age of two and seventeen years-old, of whom he/she has custody, to reside in a brothel or to visit it frequently, is liable to three years imprisonment.

Sexual Abuse of Children

34. Just as with trafficking offenses, whereby a broad array of criminal offenses capture the different types of conduct associated with trafficking, so too with child prostitution. The following provisions of the *Penal Law* are detailed to provide a fuller picture of the legislative situation with respect to the protection

of minors from sexual offenses which typically accompany child prostitution and increased punishments where minors are involved.

34.1. Rape (Section 345 of the *Penal Law*) – Generally, rape is punishable by 16 years of imprisonment. Rape consists of intercourse with a woman (1) without her consent, (2) with consent which was obtained by deceit in respect of the identity of the person or the nature of the act, (3) with a minor who is less than 14 years of age, regardless of whether the victim consented or not, (4) by exploiting the woman's state of unconsciousness or other condition that prevents her from giving her free consent, or (5) by exploiting the fact that she is mentally ill or deficient, if – due to her illness or mental deficiency – her consent was not given freely. However, the maximum penalty for rape is increased to 20 years, if committed in the following cases: (a) if the victim is a minor under the age of 16, under the circumstances set forth in items ((1), (2) (4) and (5) above, (b) if the act was committed under threat of a firearm or other weapon; (c) if it was committed by causing physical or emotional harm, or pregnancy, (d) if abuse was committed before, during or after the act, or (e) if it was committed in the presence of one or more persons, who joined together in order for any of them to commit the act.

34.2. Forbidden intercourse despite consent (Section 346 of the *Penal Law*) – if a person has intercourse with a minor between the ages of 14 and 16 who is not married to him, or if a person has intercourse with a minor between the ages of 16 and 18 by exploiting a relationship of dependence, authority, education or supervision, or by a false promise of marriage, then that person is liable to five years imprisonment.

34.3. Sodomy (Section 347 of the *Penal Law*) – sodomy is punishable by five years' imprisonment, if the victim is between the ages of 14 and 16, or if the victim is between the ages of 16 and 18 but the act was committed by exploiting relations of dependency, authority, education or supervision. If sodomy was committed against a victim under one of the circumstances specified in section 345, *mutatis mutandis*, then the offender is liable to the penalties of a rapist.

34.4. Indecent act (Section 348 of the *Penal Law*) – Generally, an indecent act committed against a person without his/her consent is punishable by three years of imprisonment. "Indecent act" is defined as an act committed for the purpose of sexual stimulation, gratification or abasement. If an indecent act is committed under the circumstances set forth in items ((2) - (5)) in paragraph 34.1 above, or if it is committed by the use of force of any kind or by threat of using such force – against the victim or against another person, it is punishable by seven years imprisonment. If the indecent act is committed under the circumstances set forth in items ((a)-(e)) in paragraph 34.1 above, it is punishable by 10 years imprisonment. If the indecent act is committed against a minor who is above 14 years of age by exploiting relations of dependency, authority, education, supervision, work or service, it is punishable by four years imprisonment. For this matter, an act as mentioned above committed by a psychotherapist against his/her patient is considered as committed by exploiting relations of dependency.

34.5. Indecent act in public (Section 349 of the *Penal Law*) - A person committing an indecent act in public in the view of another person without his/her consent is liable to one year imprisonment. If the act is committed, in any place, in the view of a person who is under 16 years of age, the maximum term of imprisonment is three years.

34.6. Offenses within the family and offenses by persons responsible for an individual in a state of helplessness (Section 351(a) of the *Penal Law*) – This provision deals with sexual offenses committed within the family, and prescribes harsher punishments than those prescribed for offenses committed by someone who is not related to the victim.

Child Pornography

35. The Israeli legislator addresses the phenomenon of pornography in a comprehensive manner.

36. The *Penal Law* provides that if a person publishes obscene material or prepares such material for publication, or if a person presents, organizes or produces an

obscene display in a public place, or in a place which is not public (other than a private residence or a place used by a group of persons which restricts membership to persons aged 18 years old and above for a continuous period), then he/she shall be liable to three years imprisonment (Section 214 of the *Penal Law*). Additionally, if a person published an obscene publication and it includes the likeness of a minor, including a representation or a drawing of a minor, he/she is liable to five years imprisonment (Section 214b of the *Penal Law*) and if a person utilized the body of a minor in order to advertise an obscenity, or used a minor in the presentation of an obscenity, he/she is liable to seven years imprisonment (Section 214(b1) of the *Penal Law*).

37. As with trafficking in children, the legislator ascribes great importance to the responsibilities of parents and other persons in charge of children. Accordingly, the *Penal Law* provides that if an offense under subsections 214(b) or (b1), as mentioned above, was committed or consented to by a person responsible for a minor, as defined in Section 368A of the *Penal Law*, then that person is liable to 10 years imprisonment (Section 214(b2) of the *Penal Law*). In order to impair the profitability of this commerce and thereby reduce the use of children for pornography, the *Penal Law* provides that a person having in his/her possession an obscene publication that includes the likeness of a minor, is liable to one year imprisonment, except where such material was held by coincidence and in good faith (Section 214(b3) of the *Penal Law*).

38. In order to enable different officials to fulfil their duties, the *Penal Law* states that a person shall not be deemed to have committed an offense under Sections 205A to 205C and 214, if the provision of the information, its publication or the possession thereof was for a legal purpose, including true and fair reporting on the subject of prostitution and obscenity. This, subject to the condition that the provision of information, the publication or the possession are not prohibited under any other law and were not carried out in order to encourage acts prohibited under the *Penal Law*.

Duty to Report

39. In order to protect minors, there is a legislated duty to report offenses committed against minors. Section 368D of the *Penal Law* provides that the following offenses committed against minors by a person responsible for the minor, must be reported to a welfare officer or to the Police:

    (1) Prostitution and obscenity offense under Sections 199, 201, 202, 203, 203B, 203C, 205A and 214(B1);

    (2) An offense of endangering life and health under Section 337;

    (3) A sexual offense under Sections 345, 346, 347, 347A, 348 and 351;

    (4) An offense of abandonment or neglect under Sections 361 and 362;

    (5) An offense of assault or abuse under Sections 368B and 368C;

    (6) An offense of trafficking in persons under Section 377A;

    The duty to report is imposed on any person who has reasonable grounds to believe that such a crime was committed, on a person in charge of the minor, on a professional (physician, nurse, educator, social worker, social welfare employee, policeman, psychologist, criminologist, a paramedic, a director or staff member of a home or institution in which minors or persons under care live) in the course of his/her professional activity or responsibility. Violation of this duty constitutes an offense punishable by three to six months imprisonment.

Article 3(1) – Commission of Offenses on an Organized Basis

40. <u>The commission of offenses individually or on an organized basis</u> – In accordance with the requirement of Article 3(1) of the Protocol, the *Battle Against Organized Crime Law* 5763 – 2003, creates separate criminal offenses for criminal activity committed as a part of an organized crime group and states that if a crime is committed in the context of organized crime, its maximum punishment is double the punishment of that crime, but may not exceed 25 years imprisonment. This provision applies to "crimes", which is defined as offenses the commission of which is punishable by a prison term of more than three years.

As such, the great majority of offenses detailed above fall within the scope of this provision.

41. Statute of limitations – As a rule, according to Section 9 to the *Criminal Procedure Law [Consolidated Version]* 5742-1982, a person may not be indicted for an offense if the following terms have elapsed since the date of its occurrence: in an offense defined as a felony, attended by a penalty of death or life imprisonment - twenty years; in another felony - ten years; in a misdemeanor - five years; in a transgression - one year.

42. In certain sexual offenses committed against a minor, the period of limitation begins the day the victim reaches the age of 28. However, if ten years have elapsed since the offense was committed, filing an indictment requires the approval of the Attorney General (Section 354 of the *Penal Law*).

Article 3(2) - Attempt, Complicity and Participation

43. Article 3(2) provides that "subject to the provisions of a State Party's national law, the same shall apply to an attempt to commit any of these acts and to complicity or participation in any of these acts". Although the Protocol does not obligate States to criminalize attempts to commit acts covered by Article 3(1) or complicity or participation in such acts, Israeli law is consistent with the requirements of Article 3(2) of the Protocol. The *Penal Law* contains general provisions concerning attempts to commit a crime, complicity and participation in a crime.

44. Section 25 of the *Penal Law* defines “attempt” as performing an act with the intent of committing an offense, where such act is considered beyond mere preparations and provided that the offense was not completed, regardless of whether commission of the offense was impossible because of circumstances of which the person who made the attempt was not aware of or in respect of which he/she was mistaken (Section 26 of the *Penal Law*). However, no criminal liability is attached to attempt if the defendant proves that, acting of his/her own free will and out of remorse, he/she stopped in the commission of the act or substantively contributed to prevention of the results on which the completion of the offense depends; however, the foregoing does not derogate from his/her

criminal liability for another completed offense connected to the act (Section 28 of the *Penal Law*).

Where the *Penal Law* sets a mandatory penalty or a minimum penalty for an offense, then this penalty shall not apply to an attempt to commit the offense (Section 27 of the *Penal Law*).

45. Additionally, the *Penal Law* recognizes the possibility that an offense might be committed by an individual or by a group of persons. Indeed, a perpetrator of an offense is defined to include a person acting in concert with others (joint perpetrators) or through someone else. Participants in the commission of an offense are each deemed joint perpetrators, irrespective of whether the entire offense was committed by each of them or whether different acts constituting the offense were performed separately by any of them. Committing an offense "through" someone else is defined as contributing to someone else's commission of an act by using that other person as his/her instrument for the commission of the act, where the other person is in one of the following situations (within the meanings assigned to them in the *Penal Law*):

    (1) Minority or mental incompetence;
    (2) Lack of control;
    (3) Without criminal intent;
    (4) Misunderstanding of the circumstances;
    (5) Under duress or with justification.

46. **Enticement –** Enticement is defined as causing someone else to commit an offense by means of persuasion, encouragement, demanding, requesting persistently or by other means involving the application of pressure (Section 30 of the *Penal Law*).

47. **Accessory** - If a person does anything – before an offense is committed or during its commission – to make its commission possible, to support or protect it, or to prevent the perpetrator from being captured or the offense or its spoils from being discovered, or if he/she contributes in any other way to the creation of conditions for the commission of the offense, then he/she is an accessory (Section 31 of the *Penal Law*).

48. **Penalty for Being an Accessory -** The penalty for being an accessory to the commission of an offense is half the penalty established for commission of the main offense; however, if the penalty is –

    (1) the death penalty or mandatory life imprisonment, then his/her penalty shall be twenty years imprisonment;

    (2) life imprisonment, then his/her penalty shall be ten years imprisonment;

    (3) a minimum penalty, then his/her penalty shall not be less than half the minimum penalty;

    (4) any mandatory penalty, then that shall be the maximum penalty and half thereof shall be the minimum penalty (Section 32 of the *Penal Law*).

49. **Attempt to Entice -** The penalty for attempting to entice a person to commit an offense is half the penalty set for its main commission; however, if the penalty is –

    (1) the death penalty or mandatory life imprisonment, then his/her penalty shall be twenty years imprisonment;

    (2) life imprisonment, then his/her penalty shall be ten years imprisonment;

    (3) a minimum penalty, then his/her penalty shall not be less than half the minimum penalty;

    (4) any mandatory penalty, then it shall be the maximum penalty and half thereof shall be the minimum penalty (Section 33 of the *Penal Law*).

50. If a person incited another or was an accessory, then he/she shall not bear criminal liability for enticement or for being an accessory if he/she prevented the commission or completion of the offense, or if he/she informed the authorities of the offense in time in order to prevent its commission or its completion, or if – to that end – he/she acted to the best of his/her ability in some other manner;

however, the foregoing does not derogate from criminal liability for another completed offense in connection with the same act.

In this context, "**authorities**" means the Israel Police or any other body lawfully empowered to prevent the commission or completion of an offense (Section 34 of the *Penal Law*).

51. In order to properly address the problem of joint perpetrators, the *Penal Law* provides that if, in the course of commission an offense, a person also commits a different or an additional offense, then the co-perpetrator will also be held liable to that second offense if, under the circumstances, an ordinary person could have been aware of the possibility that the second offense could be committed. However, if the second offense requires "intent", then the co-perpetrator shall be liable to the lesser offense of "indifference".

    Similarly, if a person entices another person to commit an offense or acts as an accessory to an offense, and in the course of commission of the offense, the principal perpetrator also commits a different or an additional offense, then the former person will also be held liable for an offense of negligence in connection with that second offense, provided such an offense of negligence exists in respect of the second offense (Section 34A of the *Penal Law*).

52. Attempt, enticement, attempt to entice and abetting are not punishable in respect of an offense defined as "transgression" (i.e, any offense that is punishable by up to three months imprisonment or a fine of up to 14,400 NIS (U.S $ 3,789) (Section 34C of the *Penal Law*).

53. Unless legislation explicitly or implicitly provides otherwise, any enactment that applies to the commission of a completed offense itself, also applies to an attempt, incitement, an attempt to incite or abetting in respect of that same offense (Section 34D of the *Penal Law*).

Article 3(3) - Appropriate Penalties

54. State parties are required by the Protocol to make the offenses related to the Protocol punishable by appropriate penalties that take into account their grave

nature. As detailed above, all of the above offenses are attended by severe penalties, matching their grave nature.

Article 3(4) - Liability of Legal Persons

55. According to Section 23 of the *Penal Law*, legal persons can bear criminal liability as follows:
    (1) For an absolute liability offense: if the offense was committed by a person in the course of the performance of his/her duties in the corporation;
    (2) For an offense that requires proof of criminal intent or negligence: if - under the circumstances of the case and in light of the position, authority and responsibility of the person in the management of the affairs of the corporation – the act by which he/she committed the offense, his/her criminal intent or his/her negligence are to be deemed the act, the criminal intent or the negligence of the corporation;
    (3) If the offense was committed by way of omission, when the obligation to perform is directly imposed on the corporation, then it is immaterial whether the offense can or cannot be related also to a certain officer of the corporation.

56. The vast majority of the offenses relevant to the Protocol require criminal intent, such that the liability of legal persons would be determined according to the circumstances of the above subsection (2).

Articles 3(5) and 3(1) (a) (ii) - Adoption

57. In the context of sale of children, the Protocol requires that State parties criminalize "improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international instruments on adoption" (Article 3(1)(a)(ii)). The Protocol further requires State parties to take all appropriate measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments (Article 3(5)).

58. The law in Israel permits adoption. Most matters related to adoption, including the rights and obligations of persons involved in the process and the procedural

aspects of the issue are regulated in the *Adoption Law* 5741-1981 (the "*Adoption Law*").

59. The main principles of the *Adoption Law* are that adoption can only occur pursuant to an order given by a court of law, upon request of an adopter, and that the adoption order, as well as every decision regarding the adoption proceedings, may be issued only if the court is convinced that it is in the best interests of the child (Section 1 of the *Adoption Law*). Making the validity of any adoption conditional upon a court-issued adoption order ensures the court's supervision over the entire process. The court is thus empowered to act as guardian of the child's best interests. This process also helps to reduce the likelihood of illegal adoptions.

60. According to Israeli law, a court may not issue an adoption order unless it is convinced that the biological parents gave consent to the adoption or if the child was declared adoptable by the court, in accordance with the conditions set by the *Adoption Law*.

61. Parental consent- The *Adoption Law* contains specific detailed provisions concerning parental consent. Such consent can only be made before a state official following the provision of sufficient explanations and verification that the consent is informed.

62. Parental consent for adoption must be informed and may only be given after the full information concerning all relevant issues was brought to the parents' attention, in clear language (Section 8A of the *Adoption Law*), including: the possibility to raise the child by himself/herself or with the assistance available under law; the implications of adoption including emotional aspects; the stages of the adoption process; the legal implications and consequences of adoption; the possibility to consult any other person before signing the consent document; the possibility to be accompanied by another person while signing the document; the importance of providing details of the other parent; and the possibility to leave a letter or a memento in the adoption file for the child (Section 8B of the *Adoption Law*).

63. An authorized social worker must explain to a parent who is asking to give his/her child up for adoption, the importance of providing details of the other parent in order to seek his/her opinion concerning the adoption and to ensure the best interests of the child. If the parent refuses to do so, the authorized social worker must bring to his/her attention that he/she may provide such details that would be used only for the purpose of locating the other parent for medical reasons, reference or any other reason specified by the parent (Section 8C of the *Adoption Law*).

64. Parental consent for adoption may be given before both a judge and an authorized social worker or before both a lawyer, authorized by the Attorney General, and an authorized social worker. This arrangement was established specifically to guarantee that the consent is informed and given freely. Parental consent must be documented and signed by the parent and by both the judge or the lawyer and the social worker whom the consent was given before (Section 9 of the *Adoption Law*).

65. Parental consent for adoption given outside the State of Israel may be given by signing the consent document before the diplomatic or the consular representative of Israel, in accordance with the laws in the place where the consent was given or in accordance with the laws in the main residence of the parent or the child at the time of consent (Section 9A of the *Adoption Law*).

66. In addition to the safeguards mentioned above, the court may, upon request of a parent, annul parental consent for adoption if it is convinced that the consent was given by illegitimate means. The court may also, in special cases, allow a parent to reconsider his/her consent to give his/her child to adoption, on the condition that the request is made within 60 days following the later of the day on which the child was given to the potential adopter and the day of signature of the consent document, and that the adoption order has not yet been issued (Section 10 of the *Adoption Law*).

67. In order to prevent attempts to persuade mothers or pregnant women to give their children for adoption, the *Adoption Law* forbids the acceptance of parental consent for adoption within seven days following the birth of the child, unless

this is approved by the court upon a finding that such a delay could jeopardize the life or well-being of the parent or the child (Section 8A of the *Adoption Law*).

68. In order to prevent illegal actions and in order to maintain control over the process, transferring the custody of a child to the adoptive parents is possible only through an authorized social worker, who is required by law to verify that the child's parents have given their consent to the adoption or that the child was declared adoptable by the court. Any other action made by the social worker is required to be approved by the court (Section 12 of the *Adoption Law*).

69. As stated above, parental consent is the primary means provided by the law for adoption to occur. However, if parental consent is not given, the court is authorized, at the request of the Attorney General, to declare the child as adoptable, if the court determines that (Section 13):

1. There is no reasonable possibility to identify the parent, to locate him/her or to obtain his/her opinion concerning the adoption;

2. The parent is the father of the child but was not married to the mother and did not recognize the child as his own, or he recognized the child but the child did not live with him and the father refused without reasonable grounds to allow the child to live with him;

3. The parent is dead or was declared incompetent, or his/her guardianship concerning the child was denied;

4. The parent abandoned the child or, without reasonable ground, refrained from having a personal relation with him/her during six consecutive months;

5. The parent refrained, without reasonable ground, to fulfil all or most of his/her obligations toward the child during six months in sequence;

6. The child was held outside his/her parents' home during six months that began before the child reached the age of six and the parent refuses, without justification, to allow the child to reside with him/her;

7. The parent is unable to take proper care of the child due to the parent's behaviour or condition, and there is no likelihood that such behaviour or condition will change in the near future despite any reasonable financial or treatment assistance by the welfare authorities to rehabilitate the parent; or

8. The refusal to give consent is motivated by immoral grounds or aimed for an illegal purpose.

70. The court must refrain from ordering to take action aimed at locating the parent in any of the following cases:

1. The action could jeopardize the life or the health of any of the parents or the child, or cause irreversible damage to any of them.

2. The child was born as a result of sexual intercourse that constitutes a sexual offense or as a result of sexual intercourse between family members.

3. The father knew about the pregnancy or about the existence of the child but refrained, without reasonable ground, from contacting the mother concerning the pregnancy or from contacting the child.

Inter-country Adoption

71. In principle, Israeli law allows for the adoption of a child from another country ("**inter-country adoption**"). The procedure for such an adoption is subject to the rules set by the *Adoption Law* and to applicable international law. In that regard, the State of Israel is a party to the *Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (29 May 1993)* and fully complies with its provisions.

72. In order to conduct and supervise the process of inter-country adoption, the Minister of Social Affairs and Social Services appointed a chief social worker who functions as the "**central authority**" for inter-country adoption pursuant to the *Adoption Law* as well as for the purposes of the *Hague Convention.* (Section 28B to the *Adoption Law*).

73. Inter-country adoption may only be carried out through a non-profit organization whose exclusive purpose is to act in the field of inter-country adoption and is approved and recognized by the Minister of Social Affairs and Social Services and the Minister of Justice (hereinafter, the "**Ministers**") (Section 28C of the *Adoption Law*). The organization must act in good faith while ensuring the best interests of the child and the protection of his/her basic rights in accordance with applicable laws and international standards.

74. The approval for such organization is given for a period of two years, which can be extended from time to time for additional periods, in order to enable on-going supervision and inspection of the organization's activities (Section 28V to the *Adoption Law*).

75. The Ministers may approve an organization if they are satisfied that it meets all the conditions set by the Law, including, *inter alia*, employing qualified employees and high level professionals such as social workers, a lawyer, a bookkeeper and an internal auditor, and paying reasonable and fair remuneration or salary to its managers, employees and those acting on its behalf. The above conditions are essential to ensure that the organization functions and performs its duties in an appropriate manner and to prevent misuse of its role in a manner that might harm the minors.

76. An application for approval of the organization must be submitted in writing to the Ministers in the manner prescribed by the *Adoption Regulations (Recognition of an Inter-Country Adoption Organization)* 5758-1998. The application must include a legal opinion as to the adoption procedures applicable in the countries in which the organization wishes to act, a copy of all relevant laws, and all other permits and certifications that confirm the organization's authorization to carry out inter-country adoption in those countries.

77. A recognized organization is subject to the central authority's supervision and, upon request from time to time, must provide information and documents regarding its activities.

78. While the organization is subject to the central authority's on-going supervision, the issuance of an inter-country adoption order remains within the sole purview

of a court, which may grant it only after being convinced that all conditions for inter-country adoption prescribed by law have been met. A violation by the organization of its obligations can constitute a civil tort as well as a criminal offense liable to one year imprisonment or a fine of 75,300 NIS (U.S. $ 19,815).

79. Moreover, an organization is not allowed to publish any advertisement other than advertisements containing practical information concerning its activities and on the condition that publishing such information is consistent with the principle of the best interests of the child.

80. An organization is not allowed to demand, charge or receive, directly or indirectly, any payments from an applicant for its activities in regard to inter-country adoption, either in Israel or abroad, except for its actual expenses incurred for such activities, and for services authorized by the Minister of Social Affairs and Social Services to the extent the amount charged does not exceed the maximum amounts prescribed by the Minister of Social Affairs and Social Services in the *Adoption Regulations (Maximum Payments for Recognized Organization)5758- 1998*.

81. In order to enforce the obligations under the *Adoption Law*, Section 32 of the *Adoption Law* provides that a person who offers, gives, requests or accepts remuneration (other than amounts that can legally be charged for the inter-country adoption), whether by money or in kind, for adoption or for mediation, without the court's permission, commits an offense punishable by three years imprisonment.

82. Additionally, pursuant to Section 33 of the *Adoption Law*, a person who delivers, receives or holds a child for adoption in Israel or for inter-country adoption in a manner contrary to the provisions of the *Adoption Law*, commits an offense publishable by three years imprisonment.

83. Finally, several acts concerning the adoption procedure, such as disclosing information, breaching confidentiality obligations, making a prohibited advertisement and receiving illegal payments in regard to inter-country adoption, are criminalized and carry a penalty of one year imprisonment or a fine.

Population Registration Law 5725-1965 (the "*Registration Law*"), in which several details concerning a resident is registered. The notification for all births in Israel must be delivered to a registration official within 10 days from the date of birth (Section 6 of *Registration Law*). The notification must be delivered by the person in charge of the institution where the birth took place. "Institution" is defined to include a hospital, prison, hotel, public aircraft, sea craft or vehicle. If the birth took place elsewhere, the notification must be delivered by the parents of the newborn, the physician or the midwife who attended the birth. In such a case, the notification must include a medical certificate from the physician or a deposition from the midwife confirming that the mother of the newborn is his/her biological mother.

85. If the birth took place outside an institution and was not attended by a physician or a midwife, the notification must include an affidavit from the parents of the newborn confirming that the mother of the newborn is his/her biological mother, a medical certificate given by a physician who monitored the pregnancy starting from week 28 of the pregnancy and a medical certificate given by a physician who examined the mother of the newborn within 48 hours from the time of birth. If the above medical certificates are not available, the notification must include the results of a genetic test made in accordance with the law in order to ascertain that the mother of the newborn is his/her biological mother.

86. Moreover, according to the *Registration Law*, a notification must be made concerning any death within 48 hours (Section 7 of the *Registration Law*), and any abandoned child within 10 days (Section 9 of the *Registration Law*).

87. In order to enforce the obligations mentioned above, the *Registration Law* provides that a person that knowingly delivers any incorrect detail, document or a notification is liable to three months imprisonment. Moreover, a person who does not deliver a notification as required is liable to two weeks imprisonment or a fine (Section 35 of the *Registration Law*).

88. The above-mentioned offenses in Sections 32 and 33 of the *Adoption Law* conform with the obligation set in Article 3(1)(a)(ii) of the Protocol, in which

state parties are required to criminalize "Improperly inducing consent, as an intermediary, for the adoption of a child". A common practice used to improperly induce consent is by offering or giving compensation for the relinquishment of parental rights, an act criminalized by the offense set in Section 364 of the *Penal Law*, as mentioned above. Should parental consent be induced improperly through other means, such as intimidation, threatening or deception, the relevant criminal offenses would apply to such acts.

Case Law

89. In accordance with the above legislation, Israeli law enforcement agencies fully utilize every measure available to combat the offenses relevant to the Protocol, as evidenced by the following examples of case law.

Child Prostitution

90. On March 22, 2012, the Supreme Court rendered a judgment regarding a case in which the defendant was charged with exploitation of minors for prostitution by way of inducing minors to prostitution (Sections 203B(A)(1) and 201 of the *Penal Law*), for soliciting four girls to have sado-masochistic sexual relations in his apartment, and attempting to exploit a fifth minor. The defendant was also charged with inducing minors to prostitution by way of pandering (Sections 203B(A)1 and 199(A)2 of the *Penal Law*), exploitation of minors by way of inducing a minor to prostitution under aggravated circumstances (Sections 203B(A)(3), 201 and 203 of the *Penal Law*) and supplying all five girls with drugs (Section 21 to the *Dangerous Drugs Ordinance* 5733-1973). The Tel-Aviv District Court had initially sentenced the defendant to a five-year prison sentence, with an additional 18 months' suspended imprisonment, and fined him 10,000 NIS (U.S. $ 2,631), while taking into account that there was no precedent for sentencing such offenses. The State Attorney's office appealed to Supreme Court, which found that the sentence was too lenient and extended the term of imprisonment to eight years. The Supreme Court mentioned in its ruling that the lack of precedent was taken into account, and that future crimes, if brought before the court, should receive harsher sentences, of ten years or more (Cr.A 3212/11 *The State of Israel v. Anonymous*)

91. In August 2010, the Petah Tikva Magistrate Court convicted a defendant in three different counts: 1) maintaining a place for purposes of prostitution (Section 204 of the *Penal Law*); 2) prostitution and obscenity (Section 199(A) (2) of the *Penal Law*); and 3) exploitation of minors for prostitution (Section 203B (A) (1) of the *Penal Law*). The defendant was found guilty of operating a massage parlor and "employing" a 16-year-old girl and was sentenced to ten months imprisonment. The defendant argued that in her application, the young woman lied about her age. The Court rejected the defendant's claim, holding that the defendant willfully ignored the possibility that the young woman was underage, and did not ask for any certification and/or official document to verify her age (Cr.C, 20510/09 *The State of Israel v. Michael Praver*).

92. On October 18, 2009, the Jerusalem District Court convicted a defendant who had solicited two teenage girls to have intercourse with men inside his apartment in exchange for money. The defendant himself compensated the girls for maintaining sexual relations with him on several occasions and supplied the girls with drugs. The Court convicted the defendant of exploitation of minors for prostitution (Section 203B (A) (1) of the *Penal Law*) and influencing the girls to use dangerous drugs (Section 21 to the *Dangerous Drugs Ordinance*). The Court sentenced the defendant to 15 months imprisonment and four months suspended imprisonment (S.Cr.C. 605/09 *The State of Israel v. Ben Moha*).

93. In December 2008, the Jerusalem District Court convicted a woman of exploitation of minors for prostitution with aggravating circumstances, namely, an offense committed by a person responsible for the minor (Section 203B(c) of the *Penal Law*). The mother subjected and involved her 16-year-old daughter in acts of prostitution that took place in the family home. The Court mentioned that this case is complicated due to the mother's and daughter's difficult daily routine. Nonetheless, the Court held that society could not tolerate such repugnant behavior and the lack of moral values. The defendant was sentenced to five years imprisonment and one year suspended imprisonment, and she was fined NIS 30,000 (U.S. $ 7,894) (S.Cr.C, 8075/07 *The State of Israel v. Anonymous*).

Child Pornography

94. On January 10, 2012, the District Court of Nazareth rendered a judgment in an appeal regarding a case concerning the possession of child pornography. The defendant was charged with multiple violations of Section 214(b3) of the *Penal Law* (possession of obscene photos, including images of children) (see paragraphs 36-39 above). In this case, following an investigation request from INTERPOL, the defendant's computer was searched and a large amount of child pornography was found. The Nazareth Magistrate Court found the defendant guilty, despite the State's inability to prove that he had actually watched or distributed the material. The Court ruling stated that the offense required the mere possession of the material, regardless of actual use or distribution. This perception stems from the purposes of the law, which include prevention of the exploitation of minors, by deterring the potential consumers of such material. The Nazareth Magistrate Court sentenced the defendant to eight months' suspended imprisonment and fined him 10,000 NIS (U.S $ 2631). The State and the defendant both appealed to the District Court, which extended the sentence by an additional six months' imprisonment, to be served in community service. The District Court stressed the importance of sentences that will create substantial determent, but took into account the defendant's contribution to the community and his good behaviour since the offenses were committed, and therefore did not impose the maximum penalty (Cr.A. 490/11 *The State of Israel v. Yafeem Gorivich*).

95. On October 14, 2009, the Haifa Magistrate Court sentenced a defendant to five months imprisonment to be served in community service, nine months suspended imprisonment and a fine of NIS 2,000 (U.S $ 526). The defendant was found guilty of possession of obscene publications and display (Section 214(b3) of the *Penal Law*). The Court emphasizes the gravity of the offense as it enables and creates the continuance demand for child pornography (Cr.C. 14057/08 *The State of Israel v. Itzhak Bruk*).

96. On May 17, 2009, the Supreme Court rejected an appeal filed by a convicted offender. The appellant was convicted by Tel Aviv District Court based on his own admission for possession and display of obscene publications (Section

214(b3) of the *Penal Law*). The Supreme Court held that the purpose of Section 214(b3) is to eradicate sexual abuse of minors. According to the Court, the classification of this Section as a "misdemeanor" does not detract from the gravity of the crime or the severity of the defendant's actions that ultimately contributed to the production and distribution of pedophile materials (P.Cr.A.

Adoption

97. An Israeli couple offered a Philippine foreign worker compensation and flight expenses back to the Philippines in exchange for her baby. The Be'er Sheva Magistrate Court convicted the two defendants based on their own admission and sentenced them to 250 hours of community service for the crime of relinquishing a minor for consideration (Section 364 of the *Penal Law*). Contrary to the probation officer's recommendation, the Court increased the recommended community service hours from 150 to 250 (Cr.C. 4833/08 *The State of Israel v. Tibi*).

Statistics

The Sale of Children

Table 1 – Data Regarding Investigation Cases Opened Between 2006 and 2011 Concerning the Sale of Children (Sections 374A, 375A, 376, 376A, 376B, 377A of the *Penal Law*)

Year	No. of cases
2006	1
2007	1
2008	3
2010	2
2011	5
Total	**12**

Source: The Israeli Police, February 22, 2012.

Table 2 - Data Regarding the Status of Investigation Cases Opened Between 2006 and 2011 Concerning the Sale of Children

Status	2006	2007	2008	2010	2011	Total
Under investigation					2	**2**
Closed		1	2			**3**
Prosecution being considered (by the State Attorney's Office)					3	**3**
prosecuted	1		1	2		**4**
Total	**1**	**1**	**3**	**2**	**5**	**12**

Source: The Israeli Police, February 22, 2012.

Child Prostitution

98. The scope of child prostitution in Israel, that tends to be a covert activity, is subject to lack of consensus among State authorities and Non-Governmental bodies. Significant efforts are made by law enforcement agencies and NGOs, in order to arrive at accurate numbers of children in prostitution so that adequate programs would be available to all the relevant children. Government bodies along with NGOs are cooperating in this arena and are making a sincere effort towards finding an immediate solution.

99. One of the main difficulties in child prostitution is locating the children. However, all Ministries engaged in children at risk are working together towards better dealing with this phenomena, to best estimate and asses its accurate scope.

100. Child sex tourism - Police intelligence indicates that sex tourism in general, and child sex tourism specifically, does not constitute a problem in Israel.

Table 3 – Data Regarding Investigation Cases Opened Between 2004 and 2011 Concerning Child Prostitution (Sections 199, 201-203, 203B, 203C, 204, 205, 205A-205C of the *Penal Law*)

Year	No. of cases
2004	9
2005	8
2006	5
2007	12
2008	8
2009	12
2010	14
2011	11

Total	**79**

Source: The Israeli Police, February 22, 2012.

Table 4 - Data Regarding the Status of Investigation Cases Opened Between 2004 and 2011 Concerning Child Prostitution

Status	2004	2005	2006	2007	2008	2009	2010	2011	Total
Under investigation						1	1	1	**3**
Closed	6	7	3	10	7	6	4	3	**46**
Prosecution being considered (by the State Attorney's Office)			1	1		4	8	6	**20**
Prosecution being considered (by Police Prosecution)							1	1	**2**
Prosecuted	3	1	1	1	1	1			**8**
Total	**9**	**8**	**5**	**12**	**8**	**12**	**14**	**11**	**79**

Source: The Israeli Police, February 22, 2012.

Child Pornography

101. There are no statistics with regard to the extent of child pornography in Israel.

Table 5 – Data Regarding Investigation Cases Opened Between 2004 and 2011 Concerning Child Pornography (Sections 214 of the *Penal Law*)

Year	No. of cases
2004	25
2005	29
2006	25
2007	78
2008	122
2009	100
2010	46
2011	43
Total	**468**

Source: The Israeli Police, February 22, 2012.

Table 6 - Data Regarding the Status of Investigation Cases Opened Between 2004 and 2011 Concerning Child Pornography

Status	2004	2005	2006	2007	2008	2009	2010	2011	Total
Under investigation		1		1	4	3	13	14	**36**
Closed	20	16	15	50	90	71	20	18	**300**
Prosecution being considered (by the State Attorney's Office)		4	3	8	16	20	11	11	**73**
Prosecution being considered (by Police Prosecution)				2	7	3	2		**14**
Prosecuted	5	8	7	17	5	3			**45**
Total	**25**	**29**	**25**	**78**	**122**	**100**	**46**	**43**	**468**

Source: The Israeli Police, February 22, 2012.

Article 4

Article 4(1) – Jurisdiction

102. Article 4(1) provides that each State party shall take measures as may be necessary to establish jurisdiction over criminal conduct identified in Article 3(1) of the Protocol, concerning the sale of children, child prostitution, and child pornography, when the offenses are committed in its territory or on board a ship or aircraft registered in that State.

103. Israeli criminal laws apply to all domestic offenses (Section 12 of the *Penal Law*). For such purpose, the term "offense" includes every offense committed within Israeli territory, fully or partially, or an act in preparation for the commission of an offense, an attempt, an attempt to induce another to commit an offense, or a conspiracy to commit an offense committed abroad, on condition that all or part of the offense was intended to be committed within Israel territory; for this matter, "Israel territory" is the area of Israeli sovereignty, including the strip of its coastal waters, as well as every vessel and every aircraft registered in Israel (Section 7 of the *Penal Law*).

104. In order to apply the Israeli *Penal Law*, it is important to verify that the applicability of Israeli criminal laws – also in respect of foreign offenses – is not restricted by any foreign enactment or any act of a foreign court of law, unless otherwise provided by law. Moreover, no person may be put on trial for a foreign offense, except by the Attorney General or with his/her written consent, if he/she concluded that doing so is in the public interest; Israeli criminal laws do not apply in respect of an offense if the person was tried for it abroad at the request of the State of Israel and, in the event that he/she was convicted there, he/she served his/her sentence. In any case, if Israeli criminal laws can be applied by virtue of several ways of applicability, they shall be applicable by the least restricted applicability (Section 9 of the *Penal Law*).

105. In addition to the applicability of the *Penal Law* according to the sections mentioned above, the State of Israel can establish jurisdiction over foreign offenses through international conventions, at the request of a foreign state and on a reciprocal basis, provided that the criminal laws of the requesting state apply to the offense; and that the offense was committed by a person who is on Israeli territory and who is an Israeli resident, whether or not he/she is an Israeli citizen. Subject to the application of Israeli law against that person, the requesting state must waive the applicability of its law to the case at hand. Finally, the penalty imposed for that offense can not be more severe than that could have been imposed under the laws of the requesting state. Additional relevant provisions may be set in the convention.

Article 4(2)(a) – Offenses Committed by Nationals or Against Nationals

106. In regard to offenses committed against an Israeli citizen or an Israeli resident**,** the *Penal Law* applies to foreign offenses committed against the life, body, health or freedom of an Israeli citizen or of an Israeli resident, for which the maximum penalty is one year imprisonment or more. As mentioned above, according to the Israeli law, the acts referred to by the Protocol are punishable by penalties that exceed one year imprisonment and therefore, the *Penal Law* applies to such acts.

107. However, if the offense was committed on a territory that is subject to the jurisdiction of another state, then the criminal laws shall apply to it only if all the following conditions are met (Section 14(b) of the *Penal Law*):

(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/she was found guilty – he/she did not serve the penalty that was imposed.

In such cases, the penalty imposed for that offense can not be more severe than the penalty that could have been imposed under the laws of the State in which the offense was committed (Section 14(c) of the *Penal Law*).

108. In regard to offenses committed by an Israeli citizen or an Israeli resident, the criminal laws of Israel apply to a foreign offense categorized as felony or misdemeanour (maximum penalty of three months' imprisonment or more), which was committed by a person who, at the time the offense was committed or thereafter, was an Israeli citizen or an Israeli resident (Section 15 of the *Penal Law*), unless such person was extradited from Israel to another country because of that offense and was tried there for that offense. In the cases where the *Penal Law* applies, the above-mentioned restrictions in Section 14(b) and (c) apply as well. However, the double criminality condition in Section 14(b)(1) of the *Penal Law* does not apply with respect to any of the offenses set forth below if the person was an Israeli citizen at the time of commission of the offense:

(1) An offense under Section 10 of Chapter Eight (Prostitution and Obscenity), committed by a minor or in connection to a minor;

(2) Conveying a person beyond the boundaries of the State under Section 370;

(3) Causing a person to leave a State for purposes of prostitution or slavery under Section 376B;

(4) Trafficking in persons under Section 377A.

Article 5

109. Article 5 addresses the issue of extradition between State parties in connection with the offenses referred to in Article 3(1) of the Protocol.

110. Extraditing a person from Israel to another country can be made only in accordance with the provisions of the *Extradition Law 5714-1954* (*"Extradition Law"*) which regulates all aspects of extradition.

111. According to the *Extradition Law*, extradition is possible only if there exists an extradition treaty in force between Israel and the requesting state and if the requested person is either a defendant or convicted of an extraditable offense. It is important to emphasize that reciprocity is an important condition, applied in considering requests for extradition, unless determined otherwise by the Israeli Minister of Justice.

112. For the purposes of the *Extradition Law*, a "treaty" is either a bilateral agreement or a multilateral convention, including an agreement or convention that is not specific for extradition but includes provisions concerning this matter; or a special agreement between Israel and the requesting state concerning extraditing a specific person, e.g., an ad-hoc extradition agreement, in accordance with the *Extradition Law*. An "extraditable offense" is an offense that, if committed in Israel, would be punishable by at least one year imprisonment. As mentioned above, all acts and activities referred to by the Protocol are criminalized and punishable by penalties that exceed one year imprisonment. They are thus considered "extraditable offenses".

113. Accordingly, Article 5 of the Protocol constitutes an appropriate basis for extradition between Israel and other State Parties to the Protocol, subject to the fulfilment of the conditions set forth in the *Extradition Law*.

114. Some additional examples of multilateral or bilateral agreements can be mentioned here: Israel is a party to the 1957 *European Convention on Extradition* since 1967, and is also a party to bilateral extradition agreements, with the United States (1963), Canada (1969), Australia (1975), Swaziland (1970) and Fiji (1972).

is a party, that are not extradition conventions but that include provisions concerning extradition:

115.1. The *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* (Section 6);

115.2. The *United Nations Convention against Transnational Organized Crime of 2000* (Section 16); and

115.3. The *United Nations Convention against Corruption of 2003* (Section 44).

116. The *Extradition Law* places several restrictions on extradition to the requesting state, some of which are relevant to the matter at hand, for example if there are grounds to believe that the extradition request is based on discrimination against the requested person due to race or religion, or if the requested person was prosecuted in Israel for that offense and was found guilty or innocent.

117. Extradition is not possible if the extradition offense is punishable by the death penalty in the requesting State, and in Israel the penalty for that offense is not as such, unless the requesting State assures that death penalty will not be imposed or that, if it were initially imposed, it would be replaced with a less severe punishment (Section 16 of the *Extradition Law*).

118. Additionally, extraditing a person is conditional upon the requesting State's assurance that that person will not be arrested, prosecuted or punished in the requesting State for another offense committed prior to extradition and that he/she will not be extradited by the requesting State to another country for an offense committed prior to the extradition. Such condition does not apply, however, if that person left the requesting State after extradition and came back to the State willingly, or if after extradition he/she was given the opportunity to leave the requesting State and did not leave the state during 30 days, or if the Minister of Justice consents in writing to such an action against the requested person (Section 17 of the *Extradition Law*). The same restrictions apply when

considering requests for extradition under an agreement or convention that is not specific for extradition but includes provisions concerning this matter.

119. As for extraditing nationals of the State, the *Extradition Law* provides that a person who, when committing an extraditable offense, was an Israeli citizen or an Israeli resident, may not be extradited unless the extradition request is for prosecution in the requesting State, and the requesting State has undertaken to return him/her to Israel for carrying out the sentence should he/she be found guilty and sentenced to imprisonment. An Israeli citizen may waive his/her right to return to Israel for carrying out the sentence.

Article 6

120. This Article provides for general mutual legal assistance between States parties in connection with investigations or criminal or extradition proceedings brought in respect of the offenses established in Article 3(1).

Article 6(1) - Mutual Legal Assistance

121. The *International Legal Assistance Law* 5758-1998 (the "*International Legal Assistance Law*") allows for mutual legal assistance between Israel and other countries in legal proceedings. Such mutual legal assistance may be granted without specific agreements, and the State of Israel provides and receives such assistance on a routine basis, regardless of the existence of specific agreements.

122. According to Section 2 to the *International Legal Assistance Law*, legal assistance includes the following: service of documents, collecting evidence, search and seizure operations, transfer of evidence and other documents, relocation of a person in order to testify in a criminal proceeding or to participate in an investigation, investigative acts, transmission of information, confiscation of property, provision of legal relief, authentication and certification of documents or the performance of any other legal act (civil and criminal proceedings).

not engaged in proceedings concerning the sale of children, child prostitution and child pornography among its mutual legal assistance cases.

Article 6(2) - Treaties and Arrangements on Mutual Legal Assistance

124. Israel is a party to the *European Convention on Mutual Assistance in Criminal Matters of 1959* and also to bilateral agreements on mutual legal assistance with the following states: the United States (1991), Chile (1995), Turkey (1995), Ukraine (1995), Cyprus (1996), Greece (1996), Jordan (1996), Hungary (1997), Mexico (1997), Russia (1997), Latvia (1998), Malta (2000), Argentina (2002), Panama (2002), Romania (2002), Moldova (2004), India (2005), Italy (2007), and Serbia (2010).

Article 7

125. This Article addresses the issues of seizure and confiscation of goods used to commit or facilitate offenses and proceeds derived from these offenses.

Article 7(a) and 7(b) - Seizure and Confiscation

126. Section 32 of the *Criminal Procedure Ordinance (Arrest and Search) (New Version)* 5729-1969 (the *"Criminal Procedure Ordinance")* grants policemen the power to seize an object, if he/she has reasonable grounds to believe that an offense was or is about to be committed with that object, that it could serve as evidence in a judicial proceeding, or that it was given as remuneration for the commission of an offense or as a means for its commission. Section 36 of the *Criminal Procedure Ordinance* stipulates that if during the legal proceedings, that object was submitted to the Court as evidence, the Court may determine what shall be done with the object.

127. Section 39 of the *Criminal Procedure Ordinance* states that a Court may order the confiscation of an object that was seized or held by the Police in accordance with this ordinance, if the object is owned by the person who was convicted of the offense and is connected to the offense. If the person who was convicted of an offense is not the owner of the object, and the object was given as

remuneration for the commission of that offense (or a related offense) or as a means for its commission, then the object may be confiscated only if it was given or consented to be given for such purpose by its owner or by its lawful possessor.

128. Other criminal statutes provide ample bases for seizure and confiscation. The legislation contains several provisions authorizing forfeiture for offenses covered by the Protocol: the *Battle Against Organized Crime Law* 5763 - 2003 (the "*Organized Crime Law"*) and the *Seizure and Confiscation of Profit Earned by Offenses Publication* 5765-2005; Sections 11 and 21 of the *Prohibition of Money Laundering Law* 5760-2000.

129. Section 377D of the *Penal Law*, which was incorporated into the *Penal Law* in October 2006 as part of the enactment of the *Anti-Trafficking Law*, states that the provisions of Sections 5 to 33 of the *Organized Crime Law* (other than Sections 8, 14(2) and 31 thereof), apply to the forfeiture of property related to the offense of holding under conditions of slavery (Section 375A of the *Penal Law*) and the offense of trafficking in persons (Section 377A of the *Penal Law*), as the case may be and *mutatis mutandis***.**

Article 7(b) – Mutual Legal Assistance Requests

130. On October 24, 2010 the *International Legal Assistance Law* was amended with regard to the conditions for assistance in confiscation and forfeiture. Prior to the amendment, the Law required that a foreign state requesting the issuance of a temporary order undertake to bear the expenses regarding any damages caused to third parties, in the event that the property is ultimately not forfeited. Similarly, a foreign state requesting the transfer of property outside of Israel was required to undertake to bear such expenses in the event that the forfeiture order were to be canceled by the court. Prior to the amendment, such undertaking constituted a potential obstacle to cooperation in forfeiture. The *International Legal Assistance Law* was therefore amended, by granting discretion to the Minister of Justice to waive the requirement for such undertaking by the requesting State.

Article 7(c) –Closing of Premises

131. The *Law Limiting Use of Premises in Order to Prevent the Commission of Crime* 5765 – 2005 authorizes the Police and the courts to limit the use of premises and to close them if there are reasonable grounds to suspect that those places would continue to serve for the purpose of the following offenses: procurement (Section 199 of the *Penal Law*), inducement to engage in prostitution (Section 202 of the *Penal Law*), trafficking in persons for inducing the person to commit an act of prostitution (Section 377A(a)(5) of the *Penal Law*), maintaining a place for purposes of prostitution (Section 204 of the *Penal Law*) and renting a place for prostitution (Section 205 of the *Penal Law*).

132. The courts have the authority to issue closure orders for periods of 90 days each time, with the possibility of extension. The Police may issue such orders for a period not to exceed 30 days during which they may request the court to rule on the matter. Violating such an order is punishable by two years' imprisonment.

Article 8

133. As will be detailed below, Israeli law provides extensive protection for child victims as required by Article 8 of the Protocol.

134. At the outset, it is important to note that the victim of an offense can often play a key role in all stages of the criminal legal process. Israeli law grants such victims special status, beyond their regular status as prosecution witnesses. Indeed, Israel makes every effort so that all officials at all stages of the process treat victims with dignity, fairness and understanding, assist them to receive full compensation available by law for their damages and do their best to protect victims from further damages, subject of course to the rights of defendants.

135. The main legislation regarding the rights of crime victims is the *Crime Victims' Rights Law* 5761-2001 (the "*Victims' Rights Law"),* the purpose of which is to determine the rights for a crime victim and to protect his/her dignity as a human being without prejudicing the legal rights of suspects, defendants and convicts. The principles of the *Victims' Rights Law* are that granting rights to the victim of a crime must be made while giving consideration to his/her needs, while

protecting his/her dignity and privacy, within a reasonable amount of time (Section 3 of the *Victims' Rights Law*).

136. The *Victims' Rights Law* applies to "victims of a crime". The term is defined as a person that suffered directly because of a crime, as well as a family member (spouse, parent, parent's spouse, children, brother or sister) of a person who died as a consequence of the crime (excluding the suspect, the defendant or the person convicted of the crime). For the purpose of this law, "crime" refers to an offense, excluding traffic violations, which is qualified as a misdemeanor or a felony, and which was either committed in Israel or, committed abroad but prosecuted before an Israeli court by official State authorities.

137. As mentioned above, all actions and activities referred to by the Protocol are criminalized by Israeli law and penalized by severe punishments, thus falling within the scope of the *Victims' Right Law*.

138. The *Victims' Rights Law* grants victims of crime a wide range of rights. Victims of sex or violent offenses are granted additional rights, stemming from the particular gravity of such offenses. The *Victims' Rights Law* provides measures for protecting the rights and interests of victims of crime, including children, through all stages of the legal proceedings, as more fully described below.

Article 8(1)(a) - Recognizing the Vulnerability of Child Victims

139. Section 4(a) of the *Victims' Rights Law* states, as a core principle, that the implementation of child victim's rights should be adjusted and modified according to the relevant circumstances of each case, the child's age and level of maturity, all in accordance with the *Convention on the Rights of the Child*.

140. According to Section 18 of the *Crime Victims' Rights Regulations* 5762-2002 (the "*Crime Victims' Rights Regulations*") the rights of a child below the age 14 can be exercised through his/her parent or legal guardian, while the rights of a child who is 14 years old or older can be exercised either through his/her parent or legal guardian or personally if he/she so requests. However, exercising such rights through parents or legal guardians is not possible if the parent or the legal guardian was a suspect or involved in committing the crime or if exercising the

rights through the parent or the legal guardian might impair the physical or mental well-being of the child. In such a case, the exercise of the child's rights must be done through another person, whose identity will be determined after consulting with a social worker and, to the extent possible after hearing the child's opinion.

Children as Witnesses

141. Investigating children, either as witnesses or as victims of a crime, is one of the most sensitive aspects of the legal criminal process, requiring a heightened level of awareness of the vulnerability of child victims and an adaptation of the procedures in place so as to recognize the special needs of child victims.

142. The *Law of Evidence Revision (Protection of Children) 5715-1955* (the "*Protection of Children Law")* provides that children under the age of 14 may be questioned and investigated in connection with specific offenses (which includes, *inter alia*, prostitution and obscenity offenses and sex and violence offenses), only by a specialized investigator trained in dealing with children and appointed by the Minister of Justice (the "*child-investigator*").

143. The child-investigator must document the investigation of the child, including all that transpired, by video, by audio (if video recording was not possible or if the child refused to answer questions due to the video recording) or in writing (if audio recording was not possible or if the child refused to answer questions due to the audio recording). Such testimony, written notes or report edited by the chid-investigator during the investigation or afterwards are admissible as evidence in a court of law. However, a defendant cannot be convicted based on such evidence without the presence of other corroborating evidence (Section 11 of the *Protection of Children Law*).

144. Later, during legal proceedings in court, a child under the age of 14 may not testify, and his/her written statement may not be submitted to the court, unless the submission of such testimony or statement is authorized by the child-investigator. If that authorization is granted, the testimony will be given in closed doors in the sole presence of the prosecutor, the defendant, his/her attorney and

the child-investigator. Other persons can be present only with the court's permission.

145. The reason for such an instruction is to avoid or minimize the potential harm to the minor and to allow for the testimony to be given with less pressure. Such testimony, depending on the circumstances, may be given through closed-circuit television (Section 2(c) of the *Amendment of Procedure (Examination of Witnesses) Law 5718 – 1957* (the "*Examination of Witnesses Law*)).

146. Other measures for recognizing the vulnerability of child victims and adapting procedures to recognize their special needs will be discussed below, regarding the Article dealing with protecting the privacy and identity of the child victim.

Article 8(1)(b) - Keeping Child Victims Informed

147. As mentioned above, even though a child victim of a crime is not a party to the proceedings, Israeli law grants him/her special status through all stages of the legal proceedings and imposes on all officials specific duties in this regard. This includes the duty to inform the victim of a crime regarding several matters concerning the legal process.

148. The general obligation on that matter is prescribed in Section 8 to the *Victims' Rights Law*, which details the rights of a victim of a crime to receive information concerning his/her rights as victim and also concerning the manner in which the criminal proceedings are being conducted, except if disclosure of these details is forbidden by law or if the person in charge of the investigation or the prosecution determines that providing that information could impair the investigation or the privacy or well-being of another person.

149. With respect to information concerning the manner in which the criminal proceedings are being conducted, the *Victims' Right Law* imposes duties upon all officials involved in the legal process, to provide information to the victim.

150. The *Victims' Right Law* includes a list of types of information that the crime victim is entitled to receive and specifies the identity of the person or body

responsible for conveying that information. Some of the information is mandatory while the remainder can be obtained by request of the victim.

151. Note that the provisions of this law do not derogate from the obligation to inform a complainant under the provisions of the *Criminal Procedure Law*.

Article 8(1)(c) Presenting the Views, Needs and Concerns of Child Victims

152. Section 17 of the *Victims' Rights Law* grants the victim of a "grave sexual or violent crime", as defined in that law, the right to express to the prosecutor his/her opinion, position and views concerning the plea bargain, prior to the court's approval of the plea-bargain, unless the District Attorney or the Head of the Prosecution Department of the Israel Police, as the case may be, determines that this would cause material harm to the conduct of the proceedings. A similar right is granted concerning a decision to delay the procedures against the defendant (Section 16 of the *Victims' Rights Law*).

153. Section 18 of the *Victims' Rights Law* grants the crime victim the right to submit a written statement to the investigating body or the prosecutor concerning any injury or damage caused to him/her as a result of the crime, including bodily or mental harm, or damage to property (Victim Impact Statement). In such a case, the prosecutor will present the above statement to the court during the sentencing hearing.

154. Section 19 to the *Victims' Rights Law* entitles a victim of a sexual or violent crime to express in writing his/her position and views concerning the expected danger stemming from a possible early release of the sentenced offender from prison, before the parole board makes a final decision on the matter.

155. Section 20 of the *Victims' Rights Law* entitles a victim of a sexual or violent crime to express in writing his/her opinion, position and/or views, through the Pardons Department of the Ministry of Justice, prior to the decision of the President of the State of Israel concerning an application for a pardon or mitigation of punishment. To that end, the Department of Pardons in the Ministry of Justice assigns a designated attorney to establish the contact with the victims

and their families and seek their input. The Department makes every effort to contact the victim and to inform them of their rights as mentioned above.

Article 8(1)(d) Providing Appropriate Support Services to Child Victims

156. Section 11 of the *Victims' Rights Law* provides for the right of victims of a crime to receive information concerning available support services provided by the State or by Non-Governmental bodies, including centers for prevention of domestic violence.

157. The *Crime Victims' Rights Regulations* require the State to disseminate information leaflets which contain details concerning the legal rights of a victim of a crime and the stages of the legal process, telephone numbers and addresses of bodies providing social and legal support to victims of a crime and details concerning available protection from perpetrators. Those information leaflets are deposited in an accessible and conspicuous place in different locations where they are most likely to be viewed by victims of a crime after its occurrence, such as police stations, relief agencies, emergency rooms, ambulance stations, legal aid offices, centres for treatment and prevention of domestic violence, secretariat of the State Attorney's Offices, and courts of law. The information leaflets are printed in different languages including Hebrew, Arabic, English, Amharic and Russian, and they are available also on the internet.

158. Furthermore, the *Victims' Rights Law* requires that the State Attorney's Office establish an Assistance Unit and that the Police appoint a policeman in charge, in order to ensure that victims can properly exercise their rights. These officials are responsible for conveying of information to and from victims, guiding other employees and assisting them in implementing this law and gathering relevant and updated information concerning support and assistance services for victims of a crime and disseminating such information to other employees.

159. State Attorney's Guideline No. 14.7, entitled "Assistance to Crime Victims and Prosecution Witnesses in a Criminal Proceeding" (last update – 1.8.2011) ("*Guideline No. 14.7*"), instructs that members of the State Attorney's Office be trained to ensure that crime victims are provided with the information necessary to receive support, including urgent medical and social care, compensation

according to the law and information on public and national bodies providing counsel and care.

Article 8(1)(e) - Protecting the Privacy and Identity of Child Victims

160. As mentioned above, Israeli law recognizes the vulnerability of victims of sexual or violent offenses, including and especially children.

161. When a minor is a witness in a criminal procedure or a victim of an offense under Sections 208, 214, 352-345, 374A or any of 377A(5) to (7) of the *Penal Law* (sexual offenses and prostitution, obscenity offenses, abduction for the purpose of trafficking and trafficking in persons), it is forbidden to publish the minor's name, picture, address or other details that can identify him/her without the court's permission (Section 70 to the *Courts Law (Consolidated Version) 5744-1984* (the "*Courts Law*")).

162. *Guideline No. 14.7* of the State Attorney's Guidelines instructs that members of the State Attorney's Office must ask the court to explicitly mention the prohibition to disclose the child-victim personal details, so that everyone present in the court, including the media, can be aware of it.

163. Moreover, it is forbidden to publish (except with the court's permission) any details that can identify a child under the age of 14 who was interrogated concerning an offense listed in the *Protection of Children Law* or who testified concerning such an offense in court, or to publish any part of their testimony. Violating the above prohibition is an offense punishable by three years imprisonment, by a fine or both (Section 6 to the *Protection of Children Law*).

164. With respect to protecting the privacy of victims generally, Section 7 to the *Victims' Rights Law* prohibits all authorities from providing personal details of a victim of sexual or violent offense (home address, workplace address and telephone number) including to the defendant or his/her attorney, without the victim's consent. The rule in regard to other crimes is that, only the prosecutor is authorized to withhold personal details of the crime victim from the defendant or his/her attorney, and the prosecutor may do so only if there are grounds to believe that providing such details would impair the well-being of victim/s**.**

165. In order to balance between a victim's right to privacy and the rights of the defendant, in cases where details regarding the victim are not disclosed to the defendant, the *Victims' Rights Law* authorizes the court, upon request of the defendant or his/her attorney, to order the disclosure of the victim's personal details, if the court finds it necessary for the defendant's defense.

166. Another kind of protection for the privacy of a victim of a crime can be found in Section 13 to the *Victims' Rights Law*, according to which during an investigation of a sexual or violent crime, the crime victim may not be investigated about his/her sexual past, except for an inquiry relevant under specific circumstances regarding a previous sexual relationship with the suspect, unless the officer in charge of the investigation determines that due to written reasons, such an investigation is essential for discovering the truth. If such an investigation is approved, it shall be conducted with due care while maintaining the victim's dignity and privacy. Moreover, during the trial, the court shall not allow questioning a victim of a sexual offense about his/her sexual past unless preventing such questioning would cause a miscarriage of justice with regard to the defendant (Section 2A of the *Examination of Witnesses Law*).

Article 8(1)(f) Providing for the Safety of Child Victims

167. Protection of victims during the criminal procedure constitutes a key aspect of victims' rights. The right of victims for protection is provided in Section 6 of the *Victims' Rights Law*, the first section in the chapter that enumerates the various rights granted to victims of a crime. Without such a protection, the criminal procedure cannot exist. Victims of a crime would not complain and would not testify, and perpetrators would not be brought to justice.

168. Such a protection must be effective and comprehensive. To that end, Section 6 to the *Victims' Rights Law* provides that during criminal procedure a crime victim is entitled to four aspects of protection: **first**, protection from the suspect, the defendant or the convicted person, or from his/her agents or his/her friends and relatives, as much as possible and according to necessity; **second**, protection in the court of law, as much as possible, from any contact or unnecessary communication with any of the above individuals; **third**, to receive information from the Police concerning relevant options for protection from the above

mentioned persons; **forth**, to live quietly in his/her home, without the presence of the suspect, defendant or convicted person, if he/she resides with him/her, under a decision of a court of law in accordance with the *Prevention of Domestic Violence Law 5751-1991* ("*Prevention of Domestic Violence Law*").

169. Generally, the hearings in Israeli courts are open to the public. However, for the sake of protecting victims of a crime or witnesses, the prosecutor may ask the court to conduct the hearings behind closed doors if he/she finds that it is essential for 1) protecting of moral values; 2) protecting a matter related to minors or persons in a state of helplessness; 3) protecting a victim of a sexual offense; 4) protecting a victim of trafficking in persons; 5) ensuring that a victim or a witness is able to testify freely, if holding a public hearing might deter him/her from testifying or from doing so freely. If the prosecutor's motion is approved, the legal hearing is to be conducted behind closed doors. The court may however allow certain persons or a group of persons to be present during that legal hearing. In such cases, the court must clarify the prohibition to publish any details concerning that legal hearing to all persons present in the courtroom. A violation of this prohibition constitutes an offense punishable by six months imprisonment, or one year imprisonment if the violation concerned a minor (Section 68, 70 of the *Courts Law*).

170. Even in cases where the hearings are open to the public, the prosecutor may ask the court to prohibit any publication concerning the legal hearing if he/she believes that it is necessary to protect the safety of a witness or another person who was mentioned during the hearing (Section 70(d) to *Courts Law*).

171. Moreover, if the presence of a certain person in the courtroom might deter a witness from testifying freely or from testifying at all, the prosecutor may ask the court to remove that person from the courtroom (Section 69(b) of the *Courts Law*).

172. In cases where a minor who is less than 14 years of age is testifying during a criminal procedure under Sections 345-351 of the *Penal Law* (sexual offenses), the prosecutor may ask the court to allow the minor to testify without the presence of the defendant, but with the presence of his/her attorney, if he/she

believes that doing so is necessary to prevent mental harm to the minor (Section 2 of the *Protection of Children Law).* Additionally, Section 2B of the *Examination of Witnesses Law* enables a complainant of a sexual offense, in certain circumstances and subject to certain conditions, to testify in court without the presence of the defendant, except his/her attorney, if testifying in front of the defendant could cause damage to the complainant or impair the testimony.

173. Finally, Section 2 of the *Examination of Witnesses Law* grants crime victims and witnesses protection from inappropriate examination in court. This section provides that the court shall not allow examination of witnesses which includes insults, intimidation or shaming which are irrelevant or unfair.

174. In addition to the protections detailed above, which are relevant to the course of the criminal procedure itself, victims of trafficking in persons and victims of sexual offenses may be admitted to the Witness Protection Program should they meet the relevant eligibility criteria, in particular concerning the level of intimidation and threats they risk being subjected to. The Witness Protection Authority protects the witnesses and their families prior to, during and after the trial. The Authority was established in 2008, pursuant to the *Witness Protection Program Law* 5769-2008. The Police and the Israeli Prisons Service (IPS), as applicable, continue to protect witnesses who do not meet the criteria for this heightened protection.

Article 8(1)(g) - Avoiding Unnecessary Delays

175. Section 12 of the *Victims' Rights Law* requires that proceedings in regard to sexual or violent offenses take place within a reasonable time to prevent any miscarriage of justice.

176. State Attorney's Guideline No. 8.2, titled "Plea Bargain in Sex Offenses and Child Domestic Abuse Cases" (last update – 1.1.2003), instructs the State Attorney's Office to utilize the greatest sensitivity and caution in handling such cases, and to take special care when considering plea bargains in such cases.

177. State Attorney's Guideline No. 8.2, also instructs that a plea bargain should be considered to promote swift indictment and sentencing, in the case where holding

a trial may cause additional harm to the victim. Due to the unique sensitivity of this issue, every such plea bargain requires the approval of the District State Attorney, and in especially sensitive cases, further consultation may be held with the State Attorney. Prior to decision-making regarding such a plea bargain, consideration should be given to the possibility of consulting with an expert or the relevant welfare officer.

Article 8(2) - Uncertainty as to the Actual Age of the Victim

178. The first step to determine the age of the victim is to consider documentary proof, which is possible mainly to Israeli victims who hold an identity card or are otherwise registered in Israel's population registry. For this matter, the official national population registry of the Ministry of Interior constitutes a reliable proof of age.

179. With regard to foreign victims, who usually lack any documentation, the Ministry of Health issued a special procedure for determining the biological age of a foreign resident, using three levels of evaluation – a physical examination by a physician specializing in child endocrinology, an ex-ray of the left hand and an ortho-partogramic filming. The findings are examined by an expert physician.

Article 8(3) - The Best Interest of the Child as a Primary Consideration.

180. The *best interest of the child* principle exists in most of the Israeli child-related legislations and constitutes a primary guiding principle under Israeli law. The majority of child-related legal issues (including legislative, administrative and judicial issues) are guided by this principle. For instance:

180.1. Section 2 of the *Prevention of Domestic Violence Law* states that any order for the protection of the child must accord with the *best interest of the child* consideration.

180.2. Section 8(c) of the *Youth Law (Care and Supervision)* 5720-1960 empowers courts engaged in matters concerning a minor to appoint a legal guardian for the child if it is in the child's best interest.

180.3. The *Youth (Trial, Punishment and Modes of Treatment) Law* 5731-1971 (the "*Youth Law*") considers the child's best interest as a primary

consideration. The *Youth Law* states that minors are entitled to state their opinion and express their personal feelings prior to a decision being reached in matters that affect them.

181. The determination of the best interest of a child in a given case is based on factual elements, and is made by the court in accordance with the ordinary rules of evidence and procedure. In order to make its decision, the court hears all relevant parties and their arguments, guardians of the child, welfare representatives and social workers, expert opinion on behalf of the parties to the case or at the request of the court, and the child him/herself concerning his/her needs, views and opinion. Sometimes, the court requests the opinion of the State Attorney.

182. The weight afforded to the minor's view is dependent upon the child's age and level of maturity.

Article 8(4) – Training

Child-Investigators

183. As mentioned above, children under the age of 14 can be investigated as suspects, witnesses or victims of prostitution and obscenity offenses (Section 199-214 of the *Penal Law*) only by a child-investigator, appointed by the Minister of Justice after consultation with an advisory committee headed by a juvenile court judge. Child-investigators are under the authority of the Ministry of Social Affairs and Social Services.

184. The training process of child-investigators includes several stages, the first of which is a basic child-investigators course, which includes 20 sessions totalling 120 hours. During the course, the investigators learn about the various ways in which children are typically harmed, thus allowing the graduates to conduct basic investigations of children. The training involves lectures, workshops, simulations, guidance and joining experienced child-investigators in real investigations. During this course, the investigators are taught both the legal basis for working as child-investigators, the unique aspects of such an investigation process, and child psychology including the memory process in

regard to children, behaviour patterns that characterize children who have fallen victim to offenses and the like. The investigators are then taught how to assess whether the child is fit to testify, the reliability of their testimony and other data resulting from the investigation. The investigators are able to exercise their newly acquired skills by using the video-recordings of previous investigations and by reading instructional materials. At the end of the course, the investigators receive formal certification and become eligible for nomination before the Advisory Committee for the appointment of children's investigators.

185. The second stage of the training process is an advanced child-investigators course. This course is available for investigators with one year of practical experience, and also includes 20 sessions totalling 120 hours. This course is designed to enhance the investigators' grasp of complex issues related to their work, and expose them to the work and expertise of professionals in related fields. Among the topics included in the course are the therapeutic aspects of dealing with victims of sexual assault, considerations for permitting a child to testify in court, investigation of a child suspect, collaboration with social workers and with the Police and more.

186. Additionally, the training process of a special-investigator may be relevant to children who are victims of offenses covered by the Protocol. This training process is intended to train the child-investigators, once they have acquired the skills of investigating and questioning children, to conduct investigations of people with mental disabilities, pursuant to the *Investigation and Testimony Procedures Law (Adaptation to Persons with Mental or Psychological Disability) 5765-2005*. The training process is divided into two parts: the first part is an annual course consisting of 20 sessions totalling 120 hours, which covers topics such as the definition and diagnosis of mental deficiency and other disabilities, the effects of such a disability on the behaviour of the victims, and how to deal with people with disabilities who have fallen victim to sexual assault. This course includes professional guided tours and an introduction to the various populations in question. At the end of the course, the Minister of Social Affairs and Social Services is asked to appoint the graduate as a special investigator, and only then may she or he conduct special investigations.

187. The second part of the training process is an annual course of ten sessions, totalling 60 hours, which is intended to further educate the investigators and accompany them in professional issues which they may encounter while investigating people with disabilities. This part completes the training process of the special-investigator, who at that point will have undergone 420 hours of training in total.

Police Juvenile Investigators

188. Investigating minors (under the age of 18 years-old) concerning trafficking offenses (section 374A-377A of the *Penal Law*) is under the jurisdiction of the Police.

189. The Police provide guidance and training to its officers with respect to child victims of crime, for the purpose of increasing the efficiency and sensitivity of the Police in handling youth. Police investigators attend special courses offered by the Police Youth Department in order to qualify them as juvenile investigators.

190. Consistent with the UN Convention on the Rights of the Child, officers taking the juvenile investigators qualification course receive information on the distinct laws and procedures available for handling youth and on community services for minors and youth. Among the topics taught is the encouragement of a constructive relationship between the youth officer, a social worker and the minor.

State Attorney's Office

191. State Attorney's Guideline No. 14.7 requires that members of the State Attorney's Office be trained to ensure that crime victims are provided with the information necessary to receive support, including urgent medical and social care, compensation according to the law and information on public and national bodies providing counsel and care.

Article 8(5) - Protecting the Safety and Integrity of Persons and/or Organizations Protecting Victims

and organizations involved in the prevention and/or protection and rehabilitation of victims of such offenses. While there are no formal procedures in place dealing specifically with this issue, the Police remains in constant contact with such persons and organizations, such that if any actual or perceived safety threats arise, the Police responds immediately.

Article 9

Articles 9(1) and 9(2) - Prevention of the Offenses and Promoting Awareness

193. The Government of Israel spares no efforts in the prevention of the offenses referred to in the Protocol and promoting awareness, both among the public at large and among children specifically, in relation to the harmful effects of these offenses and preventive measures that can be taken.

194. Due to the complex nature of the phenomenon, many governmental agencies are involved, in one way or another, in anti-trafficking efforts. The agencies which have taken the lead are: the National Anti-Trafficking Coordination Office, the Ministry of Public Security and the Israeli Police, the State Attorney's Office, the Legal Aid Branch of the Ministry of Justice, the Ministry of Social Affairs and Social Services, the Ministry of Health, the Ministry of Education, and the Ministry of Foreign Affairs.

<u>The Levinsky Clinic</u>

195. The Levinsky Clinic ("the Clinic") was established in 2002 by the Ministry of Health's Tel Aviv District Health Clinic in order to reduce the rate of sexually transmitted diseases and raise awareness among the public at risk. The Clinic provides medical services, diagnosis examination, and support and counseling, all of which are provided anonymously and free of charge. These services are given impartially to individuals of all ages (including minors), without discrimination.

196. In line with other similar clinics worldwide, children and youth were identified as populations at risk for sexually transmitted diseases (STD). The Levinsky Clinic provides support and counseling in matters relating to sex, sexually transmitted diseases, sexuality and sexual relationships, and also organizes explanatory meetings and workshops outside the Clinic, such as in schools, military units and other educational frameworks.

The Clinic offers professional training on the subject of sex, sexuality, sexual orientation, and the identification, treatment and prevention of STD's. During these meetings the staff promotes discussions about stigma, prejudice, ignorance and other challenging topics. The program qualifies professional teams that will facilitate the prevention of sexually transmitted diseases and responsible behavior among youth, IDF soldiers, students, etc.

The Authority for the Advancement of the Status of Women

197. The Authority for the Advancement of the Status of Women, under the auspices of the Prime Minister's Office, is directing its efforts towards breaking the cycle of prostitution and addressing the phenomena of prostitution in general, through public information campaigns and inter-ministerial plans of action. These measures target both potential trafficking victims and the potential "clients" of prostitution. They have been widely acknowledged as having contributed significantly to raising public awareness regarding prostitution and trafficking.

The following are examples of these information and education campaigns:

- The Authority's **website** (http://www.women.gov.il/MA/) is regularly updated with information regarding trafficking in women and related information on governmental plans for eliminating trafficking, as well as further relevant links on the issue.

- The Authority established and published a list of women who are **experts on trafficking in women and gender issues, and fund their lectures** in local authorities, Government Ministries and governmental hospitals all over the country. The lectures target the public and government officials. The list of lecturers is published in the Authority's website for the behalf of the public.

- During 2011, the Authority has initiated a **new educational campaign for youth**. It has appointed a professional team responsible to create a campaign targeted specifically at youth, in order to address several worrisome phenomena among Israeli youth, such as strip-tease performances during parties, etc. The team is expected to launch the campaign in the next few months on websites targeted for the youth.

- An annual budget of NIS 200,000 (U.S. $54,000) is allocated by the Authority to the Ministry of Education's programming for **raising awareness within the education system** on the topic of trafficking in women (as described above). Teachers and other educators are provided with a detailed lesson regarding prostitution and trafficking in women as a form of slavery in the 21st century, and with booklets on trafficking in women, to serve to educate students on these subjects.

- The Authority annually updates and distributes the "Nobody has the right to hurt you" brochure, which includes contact details of organizations that assist women who were victims of violence and of trafficking for prostitution. This brochure is distributed in hospitals, clinics, local authorities, culture, youth and sports centers, and during various public events conducted throughout the country. The brochure is published in Hebrew, English, French, Amharic, Russian, Spanish and Arabic.

- The Authority contacted officials of local authorities regarding strip clubs working within their jurisdiction, and the Chief of Police was requested to address the issue of advertisements for prostitution services distributed locally.

- In addition, the Authority is cooperating with the Office of the National Anti-Trafficking Coordinator and the 'Hotline for Migrant Workers' to publish a brochure for the public detailing the means of identifying victims of all forms of trafficking. This brochure will be wholly funded by the Authority.

198. Educational programs on empowerment and gender equality for pupils aged 3-16 and for all educational staff (e.g. teachers, principals):

- Seminars for teachers on challenging common stereotypes regarding gender, the status of women and violence against women.
- Integrating gender topics within education programs and research papers of pupils.
- Conventions and seminars.
- Programs designated for pupils on issues of empowerment, gender, equality between the genders, preventing trafficking in women and violence against women.

199. Programs focused on preventing human trafficking and violence against women and young girls:

- A program for pupils and seminars for teachers on gender equality - in the Jewish education system.
- Programs for preventing violence against women - in the Arab education system.
- Lectures for pupils and teachers in junior high school during the month of November, marking the International Day for the Elimination of Violence Against Women. Every year, 200 lectures are given throughout the country, in collaboration with the Authority for the Advancement of the Status of Women.
- Conventions for teachers and pupils in junior high school entitled "Human Dignity - Men and Women", dealing with the prevention of trafficking in women (seven conventions in collaboration with the Authority for the Advancement of the Status of Women have taken place thus far).

- Informational brochures are sent to schools and uploaded on the Ministry's website, to mark the International Day for the Elimination of Violence Against Women.

Rights of the Child to educational psychologists and the Psychological Counseling Services stations (SHEFI), thereby encouraging psychologists to assist schools in promoting awareness of the rights of children among the teaching staff and students.

201. SHEFI employs approximately 50 consultants, advisors, experts and psychologists specializing in sexuality, family relations and domestic disputes as well as the prevention of sexual vulnerability and the detection of potential abuse situations. These experts guide and accompany school personnel in the implementation of educational programs and in making interventions where suspicions of exploitation or abuse are raised.

202. **Seminars and study days -** SHEFI personnel undergo professional training regarding sexual abuse and distress and the duty to recognize and report potential abuse situations. The courses taught include "From Healthy Sexuality to Sexual Abuse and Back"; "Identifying Children at Risk"; "Treating and Caring for Sexual Crime Victims"; "Treating Children with Sexual Behavior Disorders".

203. **Treatment and care** - SHEFI has trained about 500 pedagogical psychologists to treat children victims of sexual offenses. Around 160 children are treated annually by SHEFI professionals. In addition, courses are taught on treatment and care for children with emotional and behavioral problems. This includes a unique approach on how to identify and assist child hardship.

204. **Prevention programs -** the Ministry of Education operates several programs in elementary and middle schools. One of the more substantial programs, called "Life skills" ("Kishurey Haim"), teaches about safe browsing of the internet, dealing with pornography and more. Educational materials are written and developed, and real-time assistance by professionals is available for school personnel.

translation of the Convention on the Rights of the Child, as well as its child-friendly version, and the text of the Protocol.

The National Anti-Trafficking Coordination Office

206. While data in recent years shows that trafficking in children is not an issue in Israel, Israel is aware of the need to combat trafficking in children worldwide, and remains vigilant as to any possible emergence of such a phenomenon in Israel. To that end, several government bodies take an active role in raising awareness of trafficking.

207. The National Anti-Trafficking Coordination Office has a central role in the fight against trafficking on two levels: creating mechanisms to encourage cooperation and designing substantive initiatives.

208. The Office assists policy making in this area and in particular as regards protection of victims. It makes efforts to identify potential issues and bring about solutions before the problems escalate, promotes education and training, encourages research, develops established channels of communications between Government and NGO actors, in an effort to strengthen cooperation, deals with specific problems which arise as they arise, promotes legislation, regulations and procedures which are important for the battle against trafficking, and is actively involved in subjects which pertain to the battle against trafficking in the Government Ministries, including procedures which create a climate unfriendly to trafficking. The Office serves in an advisory capacity to government agencies and other bodies who need information on issues regarding this subject. Most importantly, the Office's first concern is the battle against trafficking and as such, it places the issue in the foreground of any context in which it appears. It also sees as its first duty - ascertaining that Israel accords with international standards in this area and in particular human rights focus.

209. To that end, the Office strengthened and broadened cooperation mechanisms with governmental agencies by means of convening meetings when apprised by problems, opening communication channels among bodies experiencing difficulties with one another, assisting bodies by means of tool kits, comparative

research and legal documents, and serving as a clearing house for information among bodies. The Office conducts periodic meetings every few months in order to exchange information and forge common solutions. In addition, the Office conducts periodic meetings with NGOs, sometimes together and sometimes separately.

210. The Office is active in building and maintaining the coordination between different Ministries as well as between these Ministries and other organizations, in issues concerning the battle against trafficking in person, in the national and international levels. The Office initiates and participates in training of various government officials and non-governmental personnel. The Office is involved in public information lectures aimed at the public at large and certain targeted audiences. The Office prepares legal opinions, participates and convenes meetings and accompanies the work of legislation. In regard to regulations – in the wake of the regulations regarding the forfeiture fund (Section 377E of the *Penal Law* – see paragraph 241 below), the Office has acted to facilitate transfer of money to the fund.

211. The Office maintains a broad network of international connections with international bodies like the UNODC, the OSCE, the IOM, and the ILO and with other countries.

212. While the Office does not maintain direct connections with victims as a rule, it does assist them in cases which are emergencies or are particularly sensitive. Thus, the Office assists specific victims, when approached by the Legal Aid Branch of the Ministry of Justice, or NGOs.

213. The Office maintains daily contact with NGOs and meets with NGOs in order to learn about problems they encounter and to report to them regarding developments. In addition, the Office tries to involve them in inter-ministerial teams and training sessions.

214. Identifying New Patterns of Trafficking – One of the most important functions of the Office is to identify new patterns of trafficking and assist government agencies to deal with them, by alerting them to their potential and bringing together relevant bodies in an effort to forge policy and procedure.

The Knesset Subcommittee on Trafficking in Women

215. In the Knesset (Israel's Parliament), there is a subcommittee within the Committee for the Advancement of the Status of Women, focusing on the battle against trafficking in women.

216. The Subcommittee is active in three major areas related to trafficking: (1) policy development and deliberating legislation; (2) on-going monitoring and debating of current events; and (3) in-depth research and assessment of subjects of interest.

(1) Policy Development and Legislation:

- Active promotion of the amendment to the *Penal Law* prohibiting the advertisement of sexual services.

(2) On-going Monitoring and Debating of Subjects of Interest:

- Assessment of the steps taken by the Authority for the Advancement of the Status of women regarding trafficking in women;
- Assessment of the final report of the Inter-Ministerial team regarding trafficking patterns on prostitution and related offenses;
- Hearing various data on sexual assaults against women migrant workers;
- Conducting a hearing on prostitution and commercial sexual exploitation of minors;

(3) In-Depth Research and Assessment of Subjects of Interest

- Initiating the preparation of research reports on issues related to trafficking in women, including reports on the medical treatment provided to victims of trafficking in persons for the purpose of prostitution, and on commercial sexual exploitation of minors and minors' prostitution.

Israel Police

217. The Police has made the fight against trafficking one of its priorities over the last few years, such that every District Unit and Regional Unit within the Police has accounted for this issue in their annual action plan. This has impacted positively not only on the Police's enforcement efforts on the field, but on its intelligence-gathering activities as well, both in Israel and abroad.

218. An anti-trafficking Coordinating Officer has been appointed to monitor the trafficking, slavery and forced labour-related offenses and to ensure proper coordination between the various units. The Coordinating Officer also seeks to ensure the seamless implementation of the organizational reform, and serves as a contact point for trafficking, slavery and forced labour cases within the Police and before governmental authorities. Each of the Regional Units have appointed contact officers who serve a double function: they act as liaisons to the Coordinating Officer and other personnel involved in anti-trafficking efforts, and they serve as experts with knowledge and experience who can advise other regional officers regarding the special aspects of trafficking cases.

State Attorney's Office

219. Members of the State Attorney's Office often lecture in various forums on trafficking issues, in order to raise their awareness of the phenomenon. Among the forums are international representatives from source countries, high schools, higher education facilities, social workers.

Legal Aid Branch

220. The Legal Aid Branch is a special division of the Ministry of Justice, and in many ways, its operational model is unique. The Branch's attorneys are Ministry of Justice attorneys, but they function independently from the Ministry of Justice and other government entities in some ways. The Branch provides legal services to various segments of the population, free of charge. In effect, it can be described as a **government-funded independent pro-bono legal department**. Its independence from the Ministry of Justice enables it to represent individuals

in all kinds of civil and administrative proceedings, including, in some cases, **against the Government itself**.

221. The Legal Aid Branch acts to raise awareness among the public, potential victims and trafficking perpetrators and potential "clients", through publication of its achievements and activities in the media, and through lectures conducted in educational institutions on trafficking in persons. The Legal Aid Branch also directs its advocacy efforts towards ensuring that victims are made aware of their right to legal aid.

The Israel Second Authority for Television and Radio

222. The Israel Second Authority for Television and Radio routinely addresses the issue of trafficking for prostitution. The issue is expansively addressed and debated in the Authority's television and radio channels. For example, channel 2 television morning programs regularly include items and discussion on the issue, with the participation of government officials and representatives of NGOs.

Article 9(3) - Victim Assistance

223. Article 9(3) requires State parties to take all feasible measures with the aim of ensuring all appropriate assistance to victims of the offenses covered by the Protocol, including their full social reintegration, physical and psychological recovery.

224. The *Assistance to Sex Violence Minor Crime Victims' Law* 5769-2008 was enacted in 2008 and is gradually being implemented. This law adds the right of a child victim of a sexual or violence crime to immediate assistance in a crisis center designated by the Minister of Social Affairs and Social Services particularly for this purpose. Such centers are intended to provide initial treatment in:

224.1. Diagnosis and medical care.

224.2. Providing for the victim's immediate and essential needs, including food and clothing.

224.3. Setting up a meeting with child investigator, police investigator, social worker or any other agent as needed based on the situation at hand.

224.4. Referring the victim to the Legal Aid Branch, appropriate medical, health, and/or psychological care, and emergency centers for long-term treatment.

Shelters

225. **Atlas and Ma'agan shelters**: Government-funded shelters specially created to care for victims of trafficking for the purpose of prostitution, slavery and forced labour. While receiving their funding from the Government and being under the supervision of the Ministry of Social Affairs and Social Services, they are operated by an independent, non-profit NGO. The Ma'agan shelter houses female victims of trafficking, and the Atlas Center houses male victims.

226. The above mentioned shelters do not house children victims of trafficking offenses, but they constitute a well-founded platform for establishing shelters for children if the need were to arise.

Visas

227. The Ministry of Interior has issued specific internal directives that deal with visas for trafficking victims. There are three directives: 1) a directive regarding treatment of victims of trafficking for prostitution who request to testify; 2) a directive regarding visas for victims of trafficking and/or prostitution for rehabilitation purposes; and 3) a directive regarding the status of victims of trafficking and/or forced labor. In addition, in cases where the criminal proceedings against an offender have ended or where a victim does not wish to cooperate with the Police, the victim is entitled to apply to the Ministry of Interior to receive visas for rehabilitation purposes.

228. The B1 visa is a work and residency permit, which can be granted to a victim of trafficking for a one-year rehabilitation period, which period may be extended in exceptional circumstances. A B1 visa can also be granted to enable a victim to remain in Israel in order to testify in proceedings against traffickers. The B1

testimony-related visa may be extended for the duration of investigations and/or court proceedings.

229. Such visas can only be issued if a) is the person indeed is a victim of trafficking, and b) the person is capable of being rehabilitated. It is not a prerequisite that victims reside in the shelters in order to receive year-long visas for rehabilitation purposes.

Treatment and Assistance

230. The Authority for the Advancement of the Status of Women has been cooperating with the Ministries of Social Affairs and Social Services, Health and Education since 2008, in an inter-ministerial plan offering services to empower women to leave the vicious cycle of prostitution, including access to safe accommodation, education, training, drug rehabilitation, and to on-going support. The budget allocated to this program in 2011 was NIS 8 Million (U.S. $2.1 Million), and this has become a permanent item in the State budget. During 2011, the budget was used in the following endeavours:

- Holding emergency apartments which provide temporary housing for prostitutes, in Tel Aviv (Sal'it) and in Haifa (Ofek Nashi);

- Creating a national hotline for providing an initial response for women and youth in the cycle of prostitution which often encounter severe cases of abuse, rape and robbery; the hotline provides response by promptly referring the women to the appropriate treatment providers, and by providing emergency care;

- Operating a hostel, located in Tel Aviv, intended for psychological treatment and rehabilitation over prolonged periods of time;

- Operating two day-centres for psychological and occupational rehabilitation, in Tel Aviv and in Haifa

- Operating two therapeutic evening-centers, in Tel Aviv and in Haifa;

- Operating a therapeutic day-centre in Be'er-Sheva;

- Operating an emergency program in Eilat.

Affairs and Social Services has been operating a free psychological treatment program for child victims of sex crimes. The National Insurance Institute (NII) and the "Rashi Foundation" established this program. The budget allocated for this purpose is ten million NIS (U.S. $ 2,631,578). There are twelve centers throughout the country, located in central cities. Rural populations are also treated by additional clinics that include sex crime victim's professionals. The treatment plan is tailored to the children's needs, the trauma he/she experienced and the needs of the child's family necessities. Treatment is provided for up to 18 months.

Article 9(4) – Compensation of Victims

232. Article 9(4) requires State parties to ensure that child victims have access to adequate procedures to seek compensation for damages.

233. While financial compensation alone is not sufficient to heal all the physical, psychological and emotional damage endured by child victims of an offense, it remains nonetheless a key component of restorative justice.

234. To that end, Section 77 of the *Penal Law* authorizes the court to impose monetary compensation to the victim, as part of the court's sentence. In the appropriate cases, during the argumentation for punishment, the prosecutor may ask the court to grant the victim of the offense full compensation. The prosecutor must inform the victim as to ways to obtain the documentation and evidence required for determining the damages.

235. Such compensation can be imposed in respect of each offense of which the defendant was convicted, up to an amount of 258,000 NIS (U.S. $ 67,894), as partial compensation for the damage or suffering caused to him/her. Compensation under this section must be determined according to the value of the damage or suffering caused, on the day the offense was committed or on the day the decision on compensation is rendered, whichever is greater. For purposes of collection, compensation under this section is treated like a fine. Furthermore,

any amount paid or collected on account of a fine when compensation is also due, shall first be allocated to compensation.

236. Such a procedure is aimed to ease the victim's suffering and to prevent him/her the need to conduct a separate procedure for compensation and from enduring once again the difficulties of the legal process, including testifying and cross examination.

237. As opposed to ordinary offenses, if a person is convicted of an offense under Sections 375A (holding a person under conditions of slavery) or 377A (trafficking in persons), and if the Court did not award compensation for the injured person under Section 77, then the Court must explain, in its sentencing ruling, its reasons for not awarding such compensation (Section 377C of the *Penal Law*).

238. The compensation granted under Section 77 of the *Penal Law* is not exclusive and does not restrict the victim's right to seek compensation under any other statute, including under the laws of tort.

239. If a victim of an offense believes that the amount of compensation awarded to him/her according to Section 77 of the *Penal Law* is not adequate, and wishes to file a civil lawsuit against the convicted perpetrator, with or without others, he/she is entitled to do so through two different procedures. First, the victim may file a lawsuit according to Section 77 of the *Courts Law*. Such a lawsuit can be filed only against the convicted person and should be submitted to the court that convicted the perpetrator and to the same judge. All factual determinations made during the criminal procedure are admissible in the civil procedure without the need for the victim to prove them again. The second option is to file an ordinary and independent lawsuit, whether against the convicted perpetrator or against him/her and others parties who might also be liable towards the victim.

240. Moreover, section 377E of the *Penal Law* creates a special victims' compensation fund. If there is no reasonable possibility for the victim to actually obtain the compensation by having recourse to existing laws, then Israel's Administrator General (the Government authority handling State assets and managing public

trusts) must provide the compensation stated in the judgment and not yet realized directly to the victim of the offense out of that fund.

Legal Aid

locating and referring trafficking victims in need of legal assistance. The Branch has been working since 2004 to represent victims of trafficking. Until 2006, only victims of trafficking for prostitution were represented, but since the end of 2006 all victims of trafficking have been represented, including persons held under conditions of slavery, victims of trafficking in persons for purposes such as slavery, forced labour, organ harvesting, kidnapping and forced participation in illicit advertisement. Legal aid is provided in civil and torts claims against the offenders and in proceedings according to the *Entry into Israel Law* 5712-1952, such as requests for a one-year rehabilitation work visa, release from detention and requests for legal status in Israel. It should be noted that victims of trafficking are accorded **free legal aid, without having to meet the prescribed economic criteria for eligibility**.

242. It should be stressed that the evidential burden a victim needs to establish in order to receive legal aid is relatively low and Preliminary evidence is enough. In addition, Legal Aid Branch accords legal aid even if the case is a borderline one. Thus, there are cases in which the Police reached the conclusion that the evidentiary burden of "beyond reasonable doubt" has not been established regarding trafficking or slavery, but the Legal Aid Branch will conclude that according to its own evidentiary burden, the person is a victim of trafficking or slavery.

243. According to the *Courts (Fees) Regulations* 5767- 2007, those represented by the Legal Aid Branch are exempted from paying court fees.

Article 9(5) – Prohibition of the Production of Material Advertising the Offenses

244. Article 9(5) requires State parties to take measures to effectively prohibit the production and dissemination of material advertising the relevant offenses.

245. Please see Articles 1-3 above for the legal basis for prohibiting access to the production and dissemination of material advertising the relevant offenses – the sale of children, child prostitution and child pornography.

Article 10

Article 10(1) – International Cooperation

246. Article 10(1) calls on State parties to strengthen international cooperation to best address perpetrators of the crimes relevant to the Protocol, and to promote international cooperation and coordination.

International Mechanisms

247. The mounting extent of the worldwide trafficking phenomenon led to the creation of global mechanisms to deal with this issue. In addition to the Protocol, the applicable instruments to which Israel is a party are: the *International Covenant on Civil and Political Rights* (1969) (Articles 4 and 8), the *Convention on the Rights of the Child* (1989) (Article 11(1)), the *Convention on the Elimination of Discrimination against Women* (1979) (Article 6), the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (2002) (Article 1), the *Slavery Convention* (1926); the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (1950); the *Supplementary Convention on the Abolition of Slavery,* the *Slave Trade, and Institutions and Practices Similar to Slavery* (1956); and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (2000).

International Cooperation

248. Israel regularly engages in bilateral and multilateral efforts to deter and prevent the increasing international traffic in children for labor and sexual exploitation. In an effort to address this issue at its core, Israel has worked with foreign governments and non-governmental organizations (NGOs) to inform potential victims of the risks posed to them by the traffic in children. Within the United

Nations system, Israel supports UNICEF and the International Labor Organization (ILO) and thus, participates in ILO programmes such as the International Programme on the Elimination of Child Labor aimed at Suppressing Trafficking in Children and Prostitution. International labor law imposes a total prohibition on labor trafficking, as enshrined in the following conventions of the ILO: the *International Labor Organization, including Convention No. 29 on Forced Labor* (1930); *Convention No. 105 concerning the Abolition of Forced Labor* (1957) *Convention No. 182 concerning the Worst Forms of Child Labor* (1999), all of which Israel is a party to.

249. Additionally, pursuant to bilateral and multilateral legal assistance treaties with foreign governments, Israel cooperates with law enforcement agencies of other countries to combat child prostitution, pornography, the sale of children and sex tourism. Israel also supports deterrent programs that encourage innovative partnerships among governments, labor, industry groups, and NGOs to end the employment of children in hazardous or abusive conditions.

Sex Tourism

250. According to the Israeli authorities' information, sex tourism in general, and child sex tourism specifically, does not constitute a problem in Israel. No cases or other information have been brought for examination of the Israeli authorities by NGOs, international organizations or other entities regarding international and domestic child sex tourism, involving Israeli citizens.

Article 10(2) – International Victims Assistance

251. Article 10(2) calls on State parties to promote international cooperation to assist child victims of the offenses referred to by the Protocol.

252. To date, all of these victims of trafficking in need of assistance were adults rather than children, due to the nature of the trafficking phenomena in Israel. Should a child-victim be found, he/she would be eligible to benefit from the "Safe Return" program, detailed below.

253. The "Safe Return" Program: The "Maagan" and "Atlas" shelters work in cooperation with NGOs in the origin countries of victims in order to assist and facilitate the return of the victims of trafficking to their home countries and their reintegration into their communities. When it is determined that a victim is to return to his/her country of origin, the social worker in the respective shelter meets with him/her and inquires whether he/she needs and wishes to receive assistance with regard to his/her return. If the victim requests such assistance, contact is made with shelters and organizations in the origin country in order to find appropriate solutions, such as assistance in returning to the family residence or to shelter for an initial adaptation period. The shelters' staff remains in contact with the relevant organizations in the country of origin and monitors the integration process of the victims even after they arrive home. Currently the shelters maintain a list of approximately 50 organizations in countries of origin.

Article 10(3) – International Cooperation on the Root Causes

254. Article 10(3) addresses cooperation in addressing the root causes of the crimes relevant to the Protocol.

255. Unfortunately, currently Israel is unable to provide such assistance.

Article 10(4) – Providing Financial, Technical or other Assistance

256. Article 10(4) calls state parties to provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

257. The International Development Cooperation Division (MASHAV) of the Ministry of Foreign Affairs supports and funds international anti-trafficking training courses attended by representatives of other governments and NGOs from developing countries. These courses are conducted in cooperation with foreign embassies, international organizations and relevant NGOs. In 2011, two courses were dedicated to the subject of trafficking. In June 2011, the Ministry sponsored a course entitled, "The Battle Against Trafficking: A Victim-Centred Approach," at the Golda Meir Mount Carmel International Training Center (MCTC) in Haifa. The course was organized jointly by the International Aid Division, the U.S. embassy in Tel Aviv, CIMI (Center for International

20 individuals from 12 countries. In September 2011, a course was held on the subject of “Violence Against Women and Children”, also at the Carmel Center. This course, organized jointly with the International Organization for Migration, was attended by 27 individuals from 20 countries.

258. During these training courses, government representatives introduce the Israeli anti-trafficking system and support systems introduced for victims in trafficking. For instance, the participants visited the Ma'agan and Atlas Shelters and other NGOs serving victims of violence and trafficking In addition, the Legal Aid Branch has participated in one of their special workshops and presented the Branch's work and its unique role in assisting all trafficking victims with free legal assistance, representing them in civil suits against the traffickers, in applications for work visas from the State and in personal status related suits. A similar course, entitiled “Profiles of Trafficking: Patterns, Populations and Policies” was held in May 2012 for 24 participants representing 19 countries, and also included a day conference on the Relationship between Governmental and Non-Governmental Organizations. A 2012 Workshop on Violence Against Women has 25 professionals taking part from 17 countries.

Israeli trafficking experts participate in professional meetings and conferences in international forums aimed to enhance cooperation and assist counterparts worldwide.

259. The National Anti-Trafficking Coordination Office maintains a broad network of international connections and cooperation with international bodies, including dealing with mutual assistance requests. Among the organizations the coordinator works with are: UNODC, the OSCE, the IOM, and the ILO and with other countries.