

Second Periodic Report Concerning the

IMPLEMENTATION OF THE

CONVENTION ON THE RIGHTS OF THE CHILD

2010

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I. INTRODUCTION

1. Nations Committee on the Rights of the Child in accordance with the requirements of Article 44 of the International Convention on the Rights of the Child (hereinafter referred to as the "Convention" or the "CRC"). This report has been compiled by the Human Rights and Foreign Relations Department of the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Israeli Government bodies. Israeli Non-Governmental Organizations ("NGOs") were also invited to submit comments prior to the compilation of the present report, both through direct application, and a general invitation to submit remarks, which was posted on the Ministry of Justice website. Their contributions were given substantial consideration.

2. Since the submission of the Initial Report (UN document - CRC/C/8/Add.44), many legislative, administrative and judicial developments relevant to the implementation of the Convention have occurred. A brief summary of the most significant of these changes is set out below. This report provides a comprehensive account of these developments. It also addresses the comments made by the Committee in its concluding observations (CRC/C/15/Add.195) dated October 10, 2002.

3. As of Israel's first submission to the Committee, noteworthy legislative steps have been taken to promote children's rights. Several of the more prominent new pieces of legislation include:

- Amendment No. *10 to* the *Public Defenders Law* (the: *"Public Defenders");*
- Amendment No. 11 to the Criminal Procedure Law *5756-1996* (the: "*Criminal Procedure Law*")*;*
- Amendment No. 12 to the *Criminal Procedure (Enforcement Powers and Bodily Search) (Legislative Amendment)* 5765-2005 (the "*Enforcement Powers and Bodily Search Law*");
- Amendment No. 13 to the *Legislative Amendment Law to the Evidence Revision (Protection of Children) Law 5765-2005* (the*: "Evidence Revision Law");*

- Amendment No. 5 to the *Courts Law (Consolidated Version)* 5744-1984 (the: *"Courts Law");*
- Legislative Amendment to the *Treatment of Mentally Ill Law* 5751-1991 (the: *"Treatment of Mentally Ill Law")*;
- Amendment No. 14 to the *Youth (Trial, Punishment and Modes of Treatment) Law* 5731-1971 (the: "*Youth Law*");
- Amendment No. 9 to the *Transportation Ordinance (New Version)* 5721-1961 (the: "*Transportation Ordinance (New Version)");* and
- Amendment No. 6 to the *Penal Law* 5737-1977 *(*the: *"Penal Law"),* which endeavors to assimilate the principle of a child's *best interest* (as a leading principle) in legislative, administrative and judicial matters affecting children.

4. In Israel, the principle rights enshrined by the Convention are effectively protected through legislation and judicial decisions. Having said this, it should be noted that Israel has not enacted any further basic laws (Israel's constitutional law) regarding children's rights since the submission of its Previous Periodic Report. Israel did however incorporate the *Convention on the Civil Aspects of International Child Abduction 1980* into Israeli domestic law as the *Hague Convention Law (Return of Abducted Children)* 5751-2001. With respect to judicial decisions, the Supreme Court has continued to play a major role in the implementation of the rights protected by the Convention.

Judicial Rulings

5. Both the Israeli Supreme Court and several of Israel's District Courts referred to different provisions of the CRC in a number of their decisions. The most noteworthy examples of this practice which occurred during the reporting period are:

5.1. The Supreme Court noted the provisions of Article 3 regarding the best interests of the child in HCJ 7395/07 *Anonymous v. The Rabbinical Court of Appeals* (21.1.2008). This case involved a dispute over the education of the children of a divorced couple. The Supreme Court overruled a decision of the Rabbinical Court, which had not considered the best interests of the children in question. The Supreme Court determined that the children should study in

the national education system as opposed to the national-religious education system.

5.2. The Supreme Court also referred to Article 28 of the Convention regarding a child's right to education in HCJ 6914/06 *The National Parents Organization*

(14.8.2007). In this case, the National Parents Organization claimed that school-related payments, which parents are required to pay each year, violate the right to free education; and therefore filed a petition requiring the Ministry of Education to receive the approval of the Knesset Education Committee for all forms of parental school payments that parents are required to pay for each school year.

5.3. District Courts also referred to the rights enshrined in the CRC. For example, the Tel-Aviv District Court, when sitting as a Juvenile Court, addressed Article 37(a) of the Convention in relation to the imposition of life imprisonment upon a minor who committed a murder before he reached the age of eighteen, and stressed that the punishment in question did not violate Article 37(a) as the Israeli legal system permits the release of those sentenced to life imprisonment (S.Cr.C (Tel-Aviv) 204/05 *The State of Israel v. Anonymous* (25.1.2007)). In another case, the Tel-Aviv District Court, sitting as an Administrative Court, made reference to Article 2(2) of the Convention requiring a State to take all appropriate measures to ensure the protection of children from all forms of discrimination. In the relevant case, a school had refused to admit certain girls due to their ethnic affiliation. (Ad.P. (Tel-Aviv) 2176/06 *Anonymous v. The Ministry of Education, Culture and Sports et. al.* (15.11.06)).

Family Matters Courts also referred to the rights set out in the Convention. For example, the Jerusalem Family Matters Court relied on Article 3 of the Convention when emphasizing that the best interests of the child should be considered in determining a child's surname when her/his parents are not married nor share custody. (F.M.C (Jerusalem) 9182/06 *Anonymous v. Anonymous* (10.4.2007)).

5.4. The Jerusalem District Court was asked to grant visitation rights to the divorced parents of two minor children. The Court consulted an expert on

child development prior to reaching its decision. The Court emphasized the fact that since 1990, there had been a significant increase in the attention paid to a child's wellbeing. The visitation rights that the court decided upon were largely based on the Convention on the Rights of the Child. The Court considered the Convention and the Rotlevi Committee recommendations as sources of interpretation and guidance (C.M 6802/04 *Anonymous v. Anonymous* (19.12.2004)).

5.5. *Yated – Non-Profit Organization for Parents of Children with Down Syndrome,* together with parents of children with disabilities, petitioned the Supreme Court to order the State to finance the integration of children with disabilities (who are deemed fit) into ordinary schools. In this way, equality would be achieved for children who study in special education schools. The Court determined that the right to education is a fundamental one, which is enshrined both in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and in Articles 28 and 29 of the CRC. see specification in Chapter VI, below. (H.C.J. 2599/00 *Yated – Non-Profit Organization for Parents of Children with Down Syndrome v. The Ministry of Education* (14.8.02)).

Children and Rights

6. Children possess certain rights that are particular to them, primarily welfare rights. These rights protect important interests, such as health and adequate living standards. Recognizing a child's rights created a concomitant duty for the parent or the State respectively. Adults have duties to protect important interests of children but these interests do not necessarily correlate with rights held by children (such as choosing whether or not to attend school, purchase alcoholic beverages, drive etc.) Other rights are shared by children and adults. The guiding rule is the child's best interest. In recent years, an increasing number of liberties previously reserved for adults have been extended to children. Under Israeli law, a child is defined as any human being below the age of eighteen. Any deviations from this definition must be made in accordance with a particular law applicable to the child, such as the *Penal Law,* which stipulates that with respect to criminal liability, the age of maturity is12, whereas legal capacity is normally at eighteen.

7. **The best interests of the child** – this principle is a primary guiding principle under Israeli law, which has absorbed this relatively modern concept. The majority of child-related legal issues (including legislative, administrative and judicial issues) that arose in Israel following the submission of Israel's Initial Report were guided by this rule. In fact, decisions and rulings may be rendered based entirely on the child's best interests. If a child has a certain right, others have a duty not to interfere with that right.

8. One of the rights that promotes children's welfare, and which has been incorporated into Israeli law in recent years is the right of a child to be heard in matters affecting her/his interests. This right has been clearly defined in some of the latest legislative amendments, for example Amendment No. 14 to the *Youth Law*, which constitutes an extensive amendment that applies to several laws applicable to children, as detailed below:

9. In concluding observation No. 32 of the Committee on the Rights of the Child concerning Israel's Previous Periodic Report dated October 4, 2002 (CRC/C/15/Add/195), the Committee encouraged the continuation and assimilation of the respect for the views of the child. In that regard, Section 1B (a) of Amendment No. 14 to 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 (the *Youth Employment Law* underwent a similar amendment, below). The weight afforded to the minor's view is dependent upon the child's age and level of maturity. In order to encourage the participation of minors in matters affecting them, and for the purpose of enabling them to exercise their right to express their opinion, the minors are provided with information in a manner and language comprehensible to them (information that can cause actual harm to the minor is not conveyed). In cases where a decision has been made regarding a minor but the minor has not been afforded the opportunity to express her/his view, the minor shall be provided with such an opportunity subsequent to the completion of the decision-making process, provided that the decision has yet to be implemented, and the reason for the revocation no longer exists. If the decision that was made conflicts with the minor's wishes, the person who reached the decision or a person acting on her/his behalf shall explain to the minor (in a manner understandable to her/him) the justification for their decision. The

explanation given must be compatible with the minor's age and level of maturity. The information ought not to cause the minor actual harm or be of the kind that is forbidden to be disclosed under Section 1B (b) (1-2) to the *Youth Law*. The Amendment also stipulates, with respect to Section 2(a) of the *Youth Law* that jurists appointed to serve as juvenile court judges, may also preside in proceedings concerning the arrest of minors as well as in preliminary hearings, provided that the jurists in question undergo special educational training in youth and child care.

10. The right of the child to express her/his opinion, as stipulated in Article 12 of the Convention, is incorporated in the following legislation.

11. Amendment No. 9 to the *Youth Employment Law* 5713-1953, (the: "*Youth Employment Law")* issued on July 7, 1998, supplements Section 27F -27G which sets out guidelines regarding work permits for youth. According to Section 27F(a) a work permit for the employment of a youth will not be granted if it may harm the best interests of the youth. Section 27F(b)-(c) stipulate that the Minister of Industry, Trade and Labor may issue rules, limitations and conditions concerning the employment of youth. Section 27G(a) stipulates that any youth who is capable of expressing an independent opinion, will have the right to do so with regard to the granting of a permit for her/his employment. Her/his opinion will be afforded a degree of consideration that accords with her/his age and level of maturity. According to Section 27G(b), the Minister of Industry, Trade and Labor (ITL) shall issue regulations regarding the manners in which this right can be realized.

12. A 2009 Amendment to the *Hours of Work and Rest Law* 5711-1951 (hereinafter: the "*Hours of Work and Rest Law*") determines time for recreation away from one's work in order to enable use of the lavatory (Section 20A). As mentioned, the *Youth Employment Law* underwent a similar amendment (Section 3 of Amendment No. 13 to the *Youth Employment Law*).

13. Section 24 of the *Legal Capacity and Guardianship Law 5722-1962* (the: *"Legal Capacity Law"*) determines that parents who do not live together are entitled to conclude a guardianship agreement, as well as to determine the rights of the non-custodian parent. Such parents can therefore now determine custodianship and visitation rights. Such an agreement requires the approval of the courts in order to confirm that the agreement is in fact in the child's best interests.

14. Information concerning the implications of children's rights in legislation can be found in the *"Indication of Information Regarding Legislation Influences on the Rights of the Child" 2"* 5762-2002 *(*the: *"Children Rights Influence of Legislation Law*"). This law requires the systematic inclusion of explanatory notes in every bill regarding the bill's expected implications on the rights of children. These explanatory notes should include information as to any impingement or improvement in the rights of children and the scope of these rights as a result of the bill, as well as any changes regarding what constitutes satisfactory living conditions for children and/or services provided to children. Furthermore, the explanatory notes should include the data and information relied upon to determine whether the bill is impinging or improving the rights of children. Amendment No. 14 implemented these changes.

15. Nevertheless, in some cases, the rights of the parents or the interests of society are considered in addition to the "best interests of the child." Thus, for example, the best interest of the child is not, in itself, a cause for adoption. In a series of rulings, the Supreme Court determined that even if adoptive parents are likely to be better parents than a child's biological parents, this does not constitute a sufficient reason to remove the child from the custody of her/his biological parents (see C.A. 623/80 *Anonymous v. The Attorney General*, P.D. 45(2) 72) 12.3.1980. It is permissible to place a child up for adoption only when there is a specific reason to do so, for example, when the biological parents are unable to provide sufficiently for the child. When there is a reason for an adoption, the child's best interests will be the primary consideration.

16. This report addresses the main issues raised by the Committee on the Rights of the Child in their 2003 Concluding Observations in the period between the submission of the Israel's previous Periodic report and December 2009, as well as concerns raised by the Committee following the 2002 session before the Committee.

II. GENERAL MEASURES OF IMPLEMENTATION

A. Articles 4, 42 and 44 (6) of the Convention

The Convention's Legal Status

17. The United Nations Convention on the Rights of the Child was signed by the State of Israel on July 3, 1990 and was ratified by the Knesset on August 4, 1991; it entered into force on November 2, 1991. Although the Convention does not have the status of law, it is often cited in rulings of both the Supreme and the lower courts as a legal basis for a decision reached and as a source of interpretation.

18.

a party to several major international instruments concerning children. On March 15, 2005, Israel became a party to the *ILO Convention 182 on Worst Form of Child Labor 1999*. In its concluding observation No. 62 concerning Israel's Previous Periodic Report, the Committee encouraged the state party to ratify the Optional Protocols to the Convention on the Rights of the Child*:* On July 18, 2005, Israel became a party to the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.* The state of Israel has also signed the *Optional Protocol on the sale of children, child prostitution and child pornography* on November 14, 2001, and ratified it on June 19, 2008.

19. In addition, on December 14, 2006, Israel became a party to the *UN Convention on Transnational Organized Crime,* 5760-2000. On July 23, 2008 Israel also became a party to the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* and to the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.*

20. The State of Israel made **no reservations** upon ratification of the Convention.

The Committee to Examine Fundamental Principles Concerning Children and the Law, and the Implementation of these Principles in Israeli Legislation

21. A Committee chaired by the Deputy President of the Tel Aviv District Court, Justice Saviona Rotlevi, was appointed in 1997 by the Minister of Justice. The Minister appointed the Committee to thoroughly examine Israeli legislation concerning the rights of children and children’s legal and welfare status under Israeli law, in light of the principles set down in the UN Convention on the Rights

of the Child, so that Israel could meet its commitments under the Convention. The Committee was also asked to assess the need to draft a comprehensive law regarding the status of children and youth. The Committee was further asked to examine the necessity of establishing agencies and mechanisms to implement, coordinate, and regulate the rights of children as outlined by the Convention.

22. The Committee involved approximately 70 senior public and other officials from a variety of fields, including the Courts Administration and the Ministries of Justice, Labor and Social Affairs, Departments of Social Work and professors from Law and Psychology Faculties of Academia. Representatives of children's mental health services and the Israeli Bar Association were also involved in this project.

23. Six reports prepared by Sub-Committees were submitted to the Minister of Justice. These reports concerned: Representation of Children in Civil Proceedings, Out-of-Home Placement of Children, Children and their Family, Education, Children in Criminal Proceedings, and a general report. Since the submission of the general report, the recommendations of the Sub-Committees' reports have been gradually implemented. Since the submission of the Sub-Committees' conclusions, numerous developments related to the implementation of the Convention have occurred. This report provides a comprehensive survey of the advancement in legislation, and judicial decisions. The Rotlevi Committee was committed to creating equal opportunities for all children, to enable them to develop independently, to be heard and represented in matters affecting them, and to create an environment that encourages and supports their individuality. The core revisions that have resulted from the Rotlevi Committee and the various subcommittees' reports are referred to throughout this report.

The Main Recommendations Regarding the Promotion of Children's Rights

- Redefine the rationale for state actions with respect to children's rights.
- Redefine state liabilities with respect to children's rights, for instance, recognize and address children's grievances in various areas or submit annual reports on the state of children to the Prime Minister and the Advisory Committee.
- The Committee recommended the establishment of an Advisory Committee within the Ministry of Justice. The Committee recommended that the Advisory Committee be empowered to provide opinions to the Minister of Justice regarding

laws passed with respect to children and judicial rulings that effect child's rights, and provide updates concerning organizations that operate to promote children's rights etc.

Recommendation Regarding the Adoption of a Comprehensive Children's Law

- The Committee recommended the adoption of a comprehensive Children's Law. Such a law, the Committee believed, should settle the legal relations between children, their parents and the State. The committee's recommendation was to take all child-related protection laws, such as: the *Legal Capacity Law*, the *Youth (Care and Supervision) Law* 5720-1960 (the: *"Youth (Care and Supervision) Law")*, the *Adoption of Children Law* 5741-1981 (the: "*Adoption of Children Law*"), the *Kindergartens Supervision Law* 5725-1965, the *Safety of Protected Persons Law* 5726-1966, and the *Welfare (Procedure in Matters of Minors, Mentally Sick Persons and Absent Persons) Law* 5715-1955 and incorporate them into one extensive Children's Law, that shall consist of existing laws and unambiguous rights of children.

Recommendations Regarding the Ban on Physical Punishment

24. The Committee formulated its recommendations against the background of the multicultural society which exists in Israel. The Committee's recommendations were based on the following premise: physical punishment is a breach of a child's right to wellbeing and physical safety, and is accordingly illegal. The Committee concluded that in order to guarantee a reduction in both the amount and degree of physical punishment directed against children in Israel, extensive regulation was required. The followings are its main recommendations:

<u>Legislation</u>

25. The Committee strongly condemned the usage of any physical punishment against children. Nevertheless, the Committee distinguished between physical punishment imposed by immediate family members (such as a parent) and physical punishment imposed within an educational framework.

    25.1. **Minimizing physical punishment inside the family** – A child is entitled to protection from physical harm and/or humiliation. The Committee proposed that the applicable law would be a Civil Law rather than a Criminal Law.

25.2. **Minimizing physical punishment in the educational framework –**The Committee recommended that specific criminal sanctions apply to educational personnel who impose physical punishment against children.

25.3. **Education and explanation** – The Committee recommended that Government bodies implement explanatory, educational activities in order to raise the consciousness of individuals against the use of physical punishment. The Committee encouraged the use of different methods of discipline.

25.4. **Prevention** – The Committee recommended that the Government take actions against any violations of the prohibition on physical punishment.

Adaptation of Laws Applicable to Children

26. Recently, there has been extensive legislative activity on behalf of children. Many new bills, as well as amendments to existing laws, have been proposed, some of which have been finalized.

27. An indication of the information concerning the implications of legislation can be found in the *Children Rights Influence of Legislation Law*. This law requires the systematic inclusion of explanatory notes in every bill regarding its expected implications on the rights of children.

These explanatory notes should include information regarding any impingement or improvement of children's rights as a result of the bill in question, any changes regarding the basic living conditions that need to be met, and any amendments to services provided to children. Furthermore, the explanatory notes should include the data and information which was employed to determine whether the bill is impinging or improving children's rights.

28. Section 2G of the *Business Licensing Law* 5725-1965, forbids businesses from tattooing and piercing minors under the age of sixteen without the consent of the minor's parents or custodian. This does not apply to ear lobe piercing.

29. An initiative for a comprehensive reform of the *Youth Law* led to the adoption of Amendment No. 14 to the *Youth Law* on July 21, 2008. The Amendment entered into force in July 2009. This Amendment greatly improves the treatment of minors in criminal proceedings.

Implementation of the Convention by National and Local Government

30. One measure taken to effect the implementation of the Convention by National and Local Government was the adoption of the *Prohibition of Selling Lottery and Gambling Tickets to Minors (Legislation Amendments) Law* 5767- 2007. This Amendment forbids any offering, selling or distributing of tickets (or other means of participation in gambling activities of any kind) to a minor. This law imposes a punishment of six months' imprisonment in the event that its terms are breached.

31. The Directives and general guidelines of the Director General of the Ministry of Education refer to various aspects of children's rights. For example, the Ministry published a Directive regarding the involvement of divorced/separated parents in school-related projects and events, such as school trips. The Directive stipulates that the school shall communicate with both parents, but shall provide updates and notifications regarding any other school-related issues to the court-appointed custodian, and/or in accordance with the best interests of the child (Directive 5763/5(a), January 2003).

32. In its concluding observation No. 22b concerning Israel's Previous Periodic Report, the Committee encouraged the dissemination of the Convention, Directive 5767/6 (February 2007) generate the implementation of the *Pupils Rights Law* 5761-2000 (the: *"Pupils Rights Law*") and its amendments, including the distribution of a brochure entitled "In the Path of Rights" aimed at promoting the awareness and inculcation of the Law by pupils. The Ministry's Division for pupils' rights is charged with guiding teachers and creating an informative disc regarding the Law for teachers in primary and secondary schools. The disc includes movies, presentations and detailed information regarding the manner in which schools and teachers at school can promote an atmosphere that embraces pupils' rights.

    Directive 5765/3(a) (September 2005) published the amendments to the *Youth Law* and the *Evidence Procedure Revision (Protection of Children) Law* 5715-1955 (the: "*Evidence (Protection of Children) Law"*). It stipulated that in cases where a pupil is under investigation and requests that her/his parents not be notified about the investigation, the school and its personnel will help the pupil manage the results of the investigation.

Below are the primary changes introduced by Amendment No. 14 to the *Youth Law* concerning legal proceedings:

Police Investigation

33. When a child is suspected of committing a crime and is summoned to a police station to undergo questioning, the minor's parents or a close relative (in the event that the parent cannot be located despite reasonable efforts to do so) must be notified.

34. A child residing at a group home will be summoned subject to the group home's superintendent's notification and parental knowledge. The policy with respect to a group home is the same as above - in the event that the parent cannot be located despite reasonable efforts to do so, then another adult who is a family member, that is known to the minor, will be notified.

35. In other circumstances (such as in the event of a minor's detention) the Police Commissioner in charge at the time, is required to notify the parents or other close relative as to the child's whereabouts.

36. Simultaneously, the commissioner is required to inform the child that the family member has been notified. When a child, who is suspected of having committed a crime, comes to a police station on her/his own initiative, or was brought to the police station by someone else, a parent or a family member must be notified, unless the minor expressly states that she/he objects to the notification.

37. Notification will not be given when the minor expresses a clear objection. If the minor has been arrested, her/his objection is considered in light of her/his age and level of maturity. The minor's objection must be specified, reported and filed.

38. The Police Commissioner's final decision - whether or not to notify the minor's parents - will be documented visually, vocally or in writing. The Commissioner's decision must be detailed, and must afford substantial consideration to the minor's objection, if the minor objects. If the Commissioner decides not to inform the parents, she/he must inform another close relative.

39. In its concluding observation No. 29 concerning Israel's Previous Periodic Report, the Committee recommended that the state party continue to fully incorporate in legislation and practice the principle of the *best interests of the child*. The above

principles demonstrate the assimilation of such considerations. However, under the circumstances below, an authorized officer may summon a minor, who has not been arrested, to undergo an investigation without giving any adult notification thereof if:

39.1. The notification may physically or mentally harm the child, or otherwise impact upon her/his or another person's wellbeing.

39.2. Obstruction of justice in the event that notification is given, is foreseeable as a result of a family member's involvement in the suspected crime.

39.3. There is a national security risk.

40. An authorized officer may consider (when issuing an order not to notify a family member) a Group Home Superintendent's statement. Such statement must disclose a threat against the minor's physical and/or mental wellbeing. When such an order is issued, the Police have eight hours before they are required to give notification to a family member, or a period until such time as the reason for the non-notification ceases to exist (whichever is the earlier).

In cases where notification is postponed, the period of additional postponement shall not exceed six hours (except for cases where genuine danger to the child’s wellbeing or safety exists, or where there is a foreseeable risk of obstruction of justice, or there exist national security risks).

41. When a suspect, who is a minor, is summoned to undergo an investigation that has been agreed upon by her/his parents (or family member) in advance, she/he is entitled to have them present during the investigation and/or to consult with them. This will not apply if the minor objects to the family member's presence or she/he is placed under arrest. This is slightly different to the situation described above as the parents know about the investigation in advance but are prohibited from participating in the investigation (rather than not being notified).

42. An authorized office may bar a family member from the investigation room in the following circumstances:

42.1. The presence of the family member could cause harm to the minor or impair the investigation.

42.2. The presence of the family member may physically or mentally harm the child or otherwise curtail her/his or another person's wellbeing; obstruction of justice as a result of the family member's involvement in the suspected crime is foreseeable; or there is the possibility of a national security risk.

42.3. There is a foreseeable obstruction to the investigation or an obstruction to some other suspect's investigation and/or an obstruction of a potential arrest. Another reason to ban the presence of family member during an investigation or to prevent consultation with a family member is the potential loss of evidence that may result.

42.4. It will create difficulties for the prevention of other crimes.

42.5. It will create difficulties for the minor's release.

42.6. It will cause the disclosure of another minor's private affairs (infringement of her/his right to privacy).

43. A decision to investigate a minor with no parent or close relative present shall be documented. The decision must include the justification therefore, as specified by the officer in charge.

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

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

46. There is no requirement to appoint an attorney to represent a minor in every case in which a minor is involved, even though the proceedings may infringe the minor's rights (with her/his parents' tacit consent or even support). However, Family Matters Courts and Juvenile Courts are authorized to appoint a legal guardian for a minor if she/he is considered to be a "minor in need" under the *Youth (Care and Supervision) Law*. In such a case the court will appoint a separate defense council to represent the minor.

A Minor's Rights in Legal Proceedings Are as Follows:

47. A minor has a right to a private consultation with a defense attorney and a right to be represented by a defense attorney. *The Public Defenders' (Entitlement of Additional Minors to Representation) Regulations* 5758-1998 entitle a minor detainee or a minor involved in legal proceedings to be represented by a public defender (Amendment No. 14).

Section 18(a) of the *Youth Law* empowers a Juvenile Court to appoint counsel for minors in legal proceedings on the basis of the *best interest of the child*. The court enjoys this power throughout the criminal proceedings, including during the investigation stage. Moreover, the minor is entitled to any right valid under the *Public Defenders Law* and to have a parent or a family member present. .

Directive 5765/4(a) (December 2004) focuses on the recognition of suicidal behavior and the prevention of suicide attempts by children. The Directive details warning behavioral signs and explains available methods of treatment for school personnel.

Directive 5763/2(a) (October 2002) determines the means to remove a pupil from a class or from school, and preliminary efforts to be taken in order to prevent such a removal, including the notification of the parents, warnings etc. (Director General of the Ministry of Education).

Mechanisms Regulating Implementation of the Convention

48. This issue was addressed in Israel's Initial Report. No change has occurred in this respect since the submission of Israel's Initial Report.

The Knesset Committee on the Rights of the Child

49. The Knesset Committee on the Rights of the Child was addressed in Israel's previous Report. Amendments to legislation and new bills have been proposed by the Knesset Committee, some of which were formulated by the Committee as a whole and some by individual Knesset members. The Ministry of Education and the Ministry of Social Affairs and Social Services aspire to improve and adjust existing laws so as to integrate the Articles of the Convention. Representatives of the National Student and Youth Council, with the collaboration of the Israeli National Council for the Child, drafted various bills; both have also participated actively in the Knesset Committee's discussions.

50. On December 18, 2001, the Committee held a session regarding the formation of Municipal Committees to promote the rights enshrined in the Convention. The Knesset Committee reviewed the functioning of Municipal Committees in municipalities where such Committees have begun to operate.

51. In other sessions held by the Knesset Committee, the principle of the *best interest of the child* has been focused upon. This focus has resulted in, for example, the right of a child to have regular contact with her/his grandparents, the right of a child to be raised by her/his family, the right of a child to have contact with her/his parents. Emphasis has been placed on the Convention as a means of preventing the deportation of minors, and as a means of imposing a duty on the State to ensure the provision of certain rights to all children, including, the right to education, the prevention of violence towards children, and the right to a name and identity. The Convention also serves to guarantee that a section of the budget is allocated so as to implement the State's duties. Special sessions of the Knesset Committee were dedicated to the ratification of the 1999 ILO Convention No. 182 Worst Forms of Child Labor, and to the experience of an Israeli delegation to the UN General Assembly, which was sent to discuss the Rights of the Child and its relevance to children in legal proceedings.[1]

State Comptroller

52. As yet there is no specific mechanism available for regulating the implementation of the Convention. Nevertheless, the State Comptroller's Office publishes an annual report citing shortcomings in government activities, including violations of children's rights. For example, the 2007 State Comptroller's annual report (published in May 2008) reviewed the Ministry of Education's attempts to address the hooliganism and violence in the school system. The report found that between the years 1999-2006 there were no changes in the frequency of physical, social and sexual violence in educational institutions. During these years, a third of school children were harassed and intimidated on school premises. Moreover, the 2008 annual report also highlighted difficulties in the ability of the Youth Probation Service to fulfill its role in rehabilitating offending youth.

[1] This was conducted on March 5, 2001 (see the protocol of the session - http://www.knesset.gov.il/protocols/data/html/yeled/2001-03-05.html).

53. The 2007 State Comptroller Report on Local Authorities revealed that the position in schools situated in Ultra-Orthodox and Arab localities is far from satisfactory.

regarding infrastructure and maintenance, and some even pose a threat to the health of the pupils or even to their lives.

54. The 2006 State Comptroller Report on Local Authorities illustrated that in the four municipalities examined, there was no program in place to assist female minors in distress, and assistance was granted to these girls following a significant delay, if at all. Furthermore, according to a 1999 Government Resolution, the Ministry of Social Affairs and Social Services was to publish a plan for the treatment of, and follow-up on, female minors in distress. The 2006 State Comptroller Report indicated that during 2005, approximately 17,000 female minors in distress were located and assisted by the Local Authorities' social workers.

55. The 2004 State Comptroller Report on Local Authorities examined the issue of private accident's insurance for children within the education system. Under a 1994 amendment to the *Compulsory Education Law* 5709-1949 (the: "*Compulsory Education Law ")* the local education authority is obligated to insure pupils that are entitled to free education within its jurisdiction. The State Comptroller found that in several local authorities, the parental-payment required for the insurance exceeded the maximum stipulated by the Ministry of Education, and that several populations of pupils do not enjoy the insurance.

The Ombudsman

56. In Israel, the State Comptroller also serves as Ombudsman. He performs this function by way of a special unit within the State Comptroller's office - the Office of the Ombudsman. The Ombudsman investigates complaints against statutory bodies that are subject to audit by the State Comptroller, including Government Ministries, local authorities, state enterprises and institutions, and government corporations, as well as their employees.

57. Complaints relating to the activities of public bodies, which the law does not authorize the Ombudsman to investigate, such as banks, insurance companies and other non-governmental entities that serve the public, are often forwarded to the bodies statutorily charged with their supervision, such as the Supervisor of Banks,

the Supervisor of Insurance and the Director of Capital, Insurance and Savings. Thus, the Ombudsman is an effective address for dealing with problems of discrimination within a broad array of governmental and public institutions.

For example, in 2007, the Ombudsman investigated a complaint regarding the lack

regarding flawed treatment in exemptions granted from the *Compulsory Education Law*. This had resulted in a minor's missing his matriculation exams due to the Ministry's refusal to open an examinee card for the minor who did not study in a recognized institution. Both complaints were found to be justified.

In 2003, the Ombudsman investigated a complaint regarding the refusal of a school to refund payment made for a school-trip, which was paid by the parent prior to the trip, after the child did not participate in the school trip as a result of the security situation. These complaints were found justified and the relevant bodies acted according to the recommendations issued by the Ombudsman.

Reducing Discrepancies among Groups and Geographic Areas

58. The efforts to reduce gaps among population groups have continued since the submission of Israel's Initial Report. These steps are discussed extensively in the relevant chapters contained hereinafter.

Voluntary Organizations that Implement and Disseminate the Convention

59. This issue was discussed in Israel's Initial Report. No change has occurred in this regard since the submission of Israel's Initial Report.

Non-Government Organizations' Interaction with the Government

60. Many voluntary organizations have extensive contact with government agencies. While non-government organizations are not systematically involved in planning policy, their influence has continued to be felt in recent years, and they often take the initiative in developing services and promoting legislation in the spirit of the Convention, which is aimed at the facilitation of the *best interest of the child*.

Disseminating the Convention

61. As aforementioned, in observation No. 22b to the Committee's concluding observations, it is encouraged to disseminate the Convention. And thus, the English, Hebrew and Arabic text of the Convention appears on the website of the

website – a popular website for Israeli pupils and students.

Education and the Convention

62.

the Child to the majority of schools throughout the country. The purpose of this distribution was to ensure that pupils of all ages are familiar with the Convention.

63. The *Pupils Rights Law* and its Regulations were published in the Director General's section of the Ministry of Education, and are posted in Hebrew and Arabic announcements in schools once every two years, in accordance with Section 4 of the *Pupils Rights Law*.

Between the years 2000 and 2005, the Ministry of Education distributed a notebook written in Hebrew and Arabic that included a summary of children's rights as laid down by the Convention. The Ministry also distributed a summary of the Convention to all schools in Hebrew, Arabic, English, Russian[2], Amharic and Spanish. These materials were also published on the internet.

Annual teacher's training was conducted in 2008 in Oranim College. In 2010, an additional teacher's seminar will be held in the northern and southern districts for the Muslim, Bedouin and Christian populations.

64. A unique program designed for blind children was conducted by the Ministry of Education between 2005 and 2008. In this program the pupils studied the essence of the Convention, in addition to the means available for its implementation. The children implemented the Convention in their lives through the use of communication skills acquired during the program (radio broadcasting). Thus, the pupils established the foundation for verbal abilities, diction, and intonation. They are now able to express their personal opinion clearly and from different points of view. Another interesting program involved high school pupils who became familiar with the Convention and their rights by means of joint activities for children in Israel and abroad. The pupils published articles in an international journal, and two of the pupils were sent to the UN General Assembly to participate in global discussions on the subject of "A World Fit for Children."

[2] See Annex No. 1 enclosed

65. The Unit for Supervision and the Implementation of the *Pupils Rights Law* in the conducting joint seminars for parents concerning how to assimilate children's rights within the family and at school.

66. According to the head of the Israel Psychologists' Union, the chief psychologist of psychologists and SHEFI (Psychological Counseling Services) stations, and encouraging psychologists to assist schools in taking responsibility for respecting and promoting the rights of pupils.

Police Officers and Police Youth Experts in the Police

67. According to the head of the youth section at police headquarters, the Israeli Police provide guidance and training with respect to child victims of crime, with the intention 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 as juvenile interrogators. According to Section 3(a) of the *internal police regulations (Israel Police, Minors/Youth Department Directives* (the*: "Police Directives Minors")*, only a Police youth expert (an informal educational instructor) or a specially trained police officer may interrogate a minor suspect. Many of the rules governing the Police's handling of minors are not defined by statute, but may be found in internal police regulations (Israel Police, Minors/Youth Department Directives).

67.1. The youth interrogators qualification course reflects the spirit of the UN Convention on the Rights of the Child and thus, officers 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 reciprocal relationship between the youth officer, a social worker and the minor.

67.2. Officers also attend lectures given by juvenile court judges concerning detailed procedures for investigating a minor. Currently, several changes are being affected. These changes relate to minors who are suspected of having committed sexual offences, the promotion of tolerance for cultural differences, the prevention of crimes, the enhancement of investigation

methods and the level of care provided by police officers. Regarding minors who have perpetrated crimes, new guidelines, regulations and laws drafted in the spirit of the Convention have been distributed to police youth experts and field units, and are strictly enforced.

III. DEFINITION OF THE CHILD

68. The definition of a child was discussed in Israel's Initial Report. No change has occurred in the definition since the submission of Israel's Initial Report.

Taking legal action: the Legal Capacity of Minors

69. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report.

Permission to employ children

70. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report.

Marriage

71. The phenomenon of underage marriage still takes place in certain Israeli population groups, including ultra-orthodox Jews originating from Georgia, and Arabs. According to the Central Bureau of Statistics, in 2004, 1,360 Arab-Israeli girls, younger than seventeen, were married. Additionally, 44 % of Arab women were married before the age of nineteen. In 2005, the rate of marriage for Muslim girls was more than 2.5 times higher than that of Jewish girls. Also in 2005, 30 requests to allow the marriage of minors were submitted to Family Matters Courts – seventeen were approved. During the years 1997-2005, more than half of the 251 requests for the marriage of minors were approved. During the years 2000-2006, 41 complaints were submitted to the Police due to violations of the *Marriage Age Law* 5710-1950. In half of these cases criminal files were opened. In all other cases it was decided not to prosecute

Consent to Sexual Relations

72. Recently, several provisions of the *Penal Law* were amended to add specific provisions regarding sexual abuse by a therapist. This is discussed in a Chapter VI B.

The Compulsory Draft, Volunteering for Military Service, and Participation in Acts of War

73. the Child on the Involvement of Children in Armed Conflict on November 14, 2001, and ratified it on July 18, 2005. In accordance with Article 10(2), the Protocol entered into force for Israel on August 18, 2005.

74. The State's Initial Report detailing Israel's implementation of the Optional Protocol on the Involvement of Children in Armed Conflict was submitted to the Committee in March 2008.

Criminal and Tortuous Liability

75. These issues were discussed in Israel's Initial Report. No changes have occurred in these areas since the submission of Israel's Initial Report.

Statute of Limitations

76. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report.

Revocation of Liberty

Detention

77. The *Youth Law* and the *Criminal Procedure Law* established restrictions regarding minors in detention. Adults may be detained without a court order for 24 hours, children who are under fourteen years of age may be detained without a court order for only twelve hours; while in special circumstances, the on-duty officer at the police station can order the continued detention of a minor for an additional period not to exceed twelve hours. Amendment No. 14 to the *Youth Law* stipulates that a decision to hold a minor on a Saturday or on a holiday requires the approval of the Youth District Officer.

The Amendment allows for a period of extension not to exceed 24 hours in the following circumstances:

77.1. Constitution of a sufficient cause specified in Section 29 of *Criminal Procedure (Enforcement Powers Arrest) Law* 5756-1996 (the: "*Criminal Procedure (Arrests) Law.*"

77.2. Where a decision to extend the arrest of a minor in detention could not be made prior to midnight, and therefore the minor could not be brought before a judge due to the termination of working hours. Hence, the minor shall be brought before a judge immediately upon the resumption of working hours. With regard to minors between the ages of fourteen and eighteen, at present the arrangement for such a minor's detention without a court order is similar to that of an adult they may be detained without a court order for a period of up to 24 hours; in special circumstances, this period may be extended by an additional 24 hours.

78. The *Youth Law* and the *Criminal Procedure (Arrests) Law* impose restrictions pertinent to the detention of minors. According to this law, the period of a minor's detention prior to indictment is as follows:

The Amendment in question reflects a new approach that accords with the spirit of the UN Convention on the Rights of the Child. Under Section 17 to the *Criminal Procedure (Arrests) Law,* a Juvenile Court is authorized to order the detention of a minor for a period that is not to exceed ten days (fifteen days for an adult). A minor who is a suspect may not be detained continuously for a period in excess of twenty days (30 days for an adult). A petition to extend the detention of a minor may be filed only subject to the Attorney General's approval.

Under Section 21 of the *Criminal Procedure (Arrests) Law*, which addresses the detention of a minor following the filing of an indictment, the court may order that the minor be detained until the termination of proceedings subject to Amendment No. 14 to the *Youth Law* rectifications:

a) A minor who is under 14 years of age may not be detained until the termination of proceedings against her/him;

b) A minor may not be detained continuously for a period in excess of twenty days.

79. Section 59 of the *Criminal Procedure (Arrests) Law* stipulates that an adult may be detained for a maximum period of 75 days if an indictment has not been filed. In the case of a minor, the maximum period is limited to 40 days.

A minor that has been accused of a crime may be detained for a maximum period of 45 days, as opposed to the 90 days which an adult who has been accused of a crime may be detained (Section 62 to the *Criminal Procedure (Arrests) Law).*

The amendment further states that when no verdict is reached, a minor is not to be detained for a period in excess of six months (nine months for an adult).

Alternative to Detention

80. A closed residence may serve as an alternative to imprisonment. Closed residences, as defined in the *Youth Law*, serve as an out-of-home-placement or the locus of custody for a minor referred by the Supervisor of Residences. A minor may be placed in a closed residence as a penalty or as a treatment alternative to a penalty. Also, a minor who is under the age of criminal liability, and a minor who is a danger to her/himself and/or others, and who has been declared a minor in need, may be placed in a closed residence. The prohibition against a minor's leaving a place of residence (on condition of bail) (according to Section 48(a) (9) of the *Criminal Procedure (Arrests) Law)* is for a maximum period of nine months. Nevertheless, the court may issue an order necessary to extend the condition for an additional period not to exceed 90 days. If a court issued such an order on condition of bail for over sixteen hours a day; the order will be re-examined by the court once every three months during that time.

Separation Between Minors and Adult Detainees

81. In its concluding observations No. 61 concerning Israel's Previous Periodic Report, the Committee on the Rights of the Child recommends that the system of juvenile justice fully integrates into its legislation and practice the provisions of the Convention. Section 13 of the *Youth Law* requires a separation to be enforced between minor and adult detainees. This section was amended in 2008 to include more detailed orders regarding the required separation. Amendment No. 14 sets that although a minor is to be held in a separate detention facility for minors or in a separate section of a general detention facility, a female minor can be held in a detention cell together with an adult female detainee. This is subject to the minor's agreement and the following conditions: holding the minor alone is not in her best interests; holding the minor with an adult detainee is in her best interests (or there is no possibility of holding the minor with another minor) and the holding of the minor with an adult detainee does not risk the physical or mental health of the minor. Such holding is to be approved by a court within 24 hours. The amendment also stipulates that a detained minor who is in the custody of the prison's authority

is entitled to a meeting with a social worker within 24 hours, or as soon as possible after the Sabbath or a holiday ends.

Detention for Protective Purposes

82. It is permissible to detain a minor for the purpose of self-protection. Section 10(3) of the *Youth Law* stipulates that "the judge before whom a minor is brought is authorized to order the minor's detention if this is required to ensure the minor's personal safety or to remove him from the company of an undesirable individual." A police officer is authorized to order the detention of a minor on such grounds for twelve hours, until the minor is brought before a judge, and in special circumstances up to 24 hours.

Children in Criminal Procedure

83. A 2004 Amendment made several changes in this area , including:

83.1. The implementation of special procedures allowing children to testify in court, in relation to offences to which the Law applies (Section 2d). In this regard, the child's testimony will be permitted by the youth investigator subject to certain conditions being met. The investigator may require, for example, that the child testifies via closed circuit television, on one specified date, not on the witness stand, in the judge's chamber, etc.

83.2. In concluding observation No. 32, the Committee on the Rights of the Child encouraged the continuation and assimilation of the respect for the views of the child. And thus, decisions of the youth investigator and the Court concerning testimony and testimonial measures, will be concluded only after hearing the opinion of the child, if she/he can express her/his own opinion. The child's opinion will be weighed according to her/his age and her/his level of maturity (Section 2f).

83.3. Once the youth investigator reaches a decision as to the child's testimony, whether or not to allow her/him to testify, she/he must, without delay, reevaluate her/his decision in respect of the admission of the child's testimony. (Section 2g).

83.4. The decision of a children's' investigator may be re-examined by a senior youth investigator (Section 2h).

83.5. A youth investigator must provide substantial reasons for her/his decisions (Section 2i).

84. The above 2004 amendment to the *Criminal Procedure Revision (Examination of Witnesses) Law* 5718-1957 established the rule that a child's investigation must be conducted with her/his parent's knowledge, except in certain circumstances. For example; if there is a concern as to any harm to the child's physical and mental wellbeing, or that the suspect is a family relative and there is a concern of possible harm to the child. Moreover, when there is a substantial difficulty in informing the parent despite reasonable efforts having been taken to do so, and the delay might foil the investigation or the prevention of a crime (Section 4a). In addition, the amended law states that if an investigation without the parent's knowledge is required, the child may, under specific circumstances, be removed from the place where she/he is located (school, kindergarten, etc.)(Section 4b). The conditions include such requirements as consultation with educational workers who know the child, providing explanations to the child, supplying identification details of the youth investigator to the administrator of the institution in question, etc. An investigator's decision to investigate a minor without the presence of a parent or a close relative must be documented and be substantially reasoned. However, if a parent or family member is present in the investigation room, but interrupts or interferes in any way such as, by threatening the child in a direct or implied manner, the investigator is authorized to remove the parent from the investigation room. The youth investigator must provide substantial reasons for her/his decisions.

85. A 2006 amendment stated that a child with a mental disability is to be questioned by a special youth investigator in accordance with the *Investigation and Testimony Procedures (Suitability to Persons with Mental or Physical Disability) Law* 5766-2005.

86. Amendment No. 10 to the *Evidence (Protection of Children) Law* issued on August 12, 2004, supplements Section 2(f) to the Law. The Amendment stipulates that a youth investigator shall decide whether to allow or exclude the testimony of a minor, as well as determine the conditions under which the testimony is given, according to Section 2(d) of the Law. The Court shall terminate the testimony or condition it, according to Sections 2(c) and 2(e) of the Law, only after a minor,

capable of forming an opinion, was given a chance to express her/his opinion regarding her/his testimony and the manner of collecting it. The opinion of the minor shall be given proper consideration according to her/his age and maturity.

87. The 2008 Amendment No. 14 to the *Youth Law* adds the following conditions, with regard to the investigation of a minor:

87.1. The Amendment creates a rule that a child not suspected of committing a crime may not be investigated during night hours, unless the child her/himself filed the complaint or if a Child Protection Officer was convinced that the child is in danger. In such cases, the Amendment stipulates that a Child Protection Officer (Supervisor of the social workers team with regard to children protection) is authorized to conduct the investigation at night (Section 9 of the *Youth Law*).

87.2. Amendment No. 14 also broadened the definition of parental notification. The officer in charge of a police station to which a minor has been brought must notify one of the minor's parents.

87.3. Children are entitled to a consultation with a parent prior to their investigation as well as to have a parent or a close relative present during the investigation. There is also an obligation to inform the minor of her/his right to consult with an attorney, to have legal representation, and the right to have a parent or other family member present during an investigation.

88. Recently, the Tel-Aviv District Court determined that visual documentation of a suspect's investigation can be published following a court decision allowing such publication, even if the proceedings are still pending. However, the publication may not include reference to the testimony of witnesses (other than witnesses who are police officers), and shall not include any identifying details regarding a minor involved directly or indirectly in the case (Cr. C. 40247/07 *The Israeli News Company Inc. v. The State of Israel* (25.12.2008)).

Legal Representation without Parental Consent

89. This issue was discussed in Israel's Initial Report. On June 27, 1997, the former Minister of Justice appointed the Rotlevi Committee to examine fundamental principles concerning children and the law (see above) and accordingly, in 2003,

six reports prepared by Sub-Committees were submitted to the Minister of Justice, one of which addressed the increase in child representation in Civil Proceedings.

Representation of Children in Civil Proceedings:

90. The separate representation of children in civil proceedings is sometimes essential to ensure the maintenance of appropriate legal procedure. The Supreme Court, as well as the courts of lower instance, recognize the significance of this trend and have therefore promoted its development in recent years. The Sub-Committee on the Representation of Children in Civil Proceedings raised this issue by laying the foundations for specific laws drafted in the spirit of the Convention. Hence the Committee formulated a number of recommendations concerning children's representation.

91. The Sub-Committee made use of the Convention's principles, as well as adopting and adapting additional models from different countries around the world. The purpose of the recommendations is not to "attach" an attorney to every child, but rather to assist children who experience unusual difficulties resulting from judicial matters. The Committee's recommendations relate to representation of minors up to eighteen years of age and include civil courts and courts of appeal. The Sub-Committee established the following recommendations:

91.1. **A child's right to representation** – family legal disputes involve both parties' interests. However the child's interests may go unnoticed and unaddressed. Such circumstances require the courts to intervene and ensure that the child’s opinion is heard. Under optimal circumstances, the child ought to be represented by her/his parents. However, when the best interests of the child are impaired, it is the State's duty to provide separate legal representation to act on behalf of the child.

91.2. **Court Discretion** – the Sub-Committee formulated principles aimed at assisting the court in deciding whether to appoint a representative on behalf of the child. Below are two examples where there is an obligation to appoint legal representation on behalf of the child:

a. Parents are unable to represent their child’s best interest, either because of a conflict of interest or because of a lack of an individual ability. In such

a case, legal representation will be appointed to represent the child, merely for the purpose of court proceedings.

b. A child above twelve years of age that is capable of expressing her/his will articulately, will be appointed legal representation to enable the conveyance of her/his wishes to the court.

92. The degree of frequency in representation alters in accordance with the child's level of maturity and personal skills. The Sub-Committee distinguishes between children below and above the age of twelve:

92.1. When a child is below twelve years of age, the representation is similar to a legal guardian appointed by law. Child representation endorses the welfare principle, thereby the child's wishes and desires gain more credibility as she/he grows older.

92.2. When a child is above twelve years of age, legal representation is an expression of the minor's wishes and desires.

93. The Sub-Committee recommends that the court's discretion concerning children between ages ten to fourteen remain in the hands of the court. Notwithstanding, the minor's level of maturity and legal capacity must be considered. Such capacity is expressed in the child's ability to understand matters at hand.

94. The Sub-Committee also recommended acknowledging the legal representation of children as a (separate) complicated interdisciplinary legal field. This area is in need of professionals in: 1) Child care 2) child law 3) child development.

95. The Sub-Committee recommended that the court compile and maintain a list of professionals in the field of child legal care and appoint professionals solely from that list. Moreover, the Sub-Committee suggested adopting the interdisciplinary model of professional assistance - that is a counselor (psychologist, psychiatrist or social worker) that works together with the legal representative in order to achieve the best results for children involved in legal affairs.

96. The Sub-Committee recommended that minor's representatives be subject to additional legal ethical regulations that include, among other things, directives regarding the transmission of information to minors, confidentiality, and immunity towards minors in legal proceedings. Moreover, the Sub-Committee recommended

supervising the continuity and consistency of a minor's representation, assurance of a minor's participation in legal proceedings and imposing an obligation to act in good faith in reaching agreements between the parties involved.

The person who acts as guardian or as the child's legal representative is subject to a full fiduciary duty. As such, the person in charge of the child’s legal matters is obliged to treat her/him with respect and give significant weight to her/his wishes.

97. The Sub-Committee recommended setting up a legal representation unit for the sake of children and youth. As aforementioned, the State is responsible for the fulfillment and finances of a child's right to legal representation and therefore the Minister of Justice should form such a unit.

98. The recommendations determine that the child, her/his parents, the representative of the State, the State attorney’s Office and the social workers from the Family Matters Courts (Assistance Unit) are allowed to approach the court in order to ask for the appointment of legal representation for a child

99. Legal instructions and case law also emphasize the right of the child to be heard when there is a conflict between her/him and her/his parents. Under the *Legal Capacity Law*, parents or guardians are appointed by the court to represent minors in legal proceedings; they can however, appoint someone else to represent their child. The Law authorizes the court to appoint a representative on behalf of the child (a legal guardian or an attorney).

Generating a Public Defense Attorney representation makes it possible for additional minors to be represented in criminal proceedings. The Public Defenders Law provides funding for complete child representation.

Military Court Proceedings

Amendment No. 14 to the *Youth Law* effected several other changes, including to Military Court proceedings:

100. Section 45 of the *Youth Law* determines that *Youth Law Regulations* shall not apply to Military Courts' proceedings and the *Military Justice Law* 5715-1955 (the: *“Military Justice Law”)*. However, Section 45(a) of the *Youth Law* establishes that a sixteen-year old minor is indictable in a Military Justice Court (consistent with the *Protection (Urgency) Directives* 1945). Amendment No. 14 stipulates that

Juvenile Courts which arraign recruited minors above sixteen years of age shall be considered as Military Courts. Hence, Military Judges who are trained and qualified to engage in child and youth matters as defined in Section 2(a) of the *Youth law*: "Proceedings Regarding Juvenility" are appointed.

Adoption

101. According to the *Adoption of Children Law* it is possible to adopt a child who has not yet reached the age of eighteen. It is not possible, however, to adopt a fetus before it is born or an adult above the age of 21. According to Section 7 of the *Adoption Law*, the court will not grant an adoption unless it is convinced that a child above the age of nine - or who has not yet reached the age of nine but is capable of understanding the issue – stated that she/he agrees to the adoption by the specific adopter(s).

102. The court must listen to the opinion of a much younger child who is not an infant in each adoption case. On the other hand, there are cases where the court may issue an adoption order without revealing the fact of the adoption to the adoptee. There are two conditions that apply in this regard:

- The adoptee does not know that the adopter is not her/his parent.
- All signs indicate that the adoptee desires the continuation of the relationship with the adopter.

The best interest of the adoptee requires not apprising her/him of the adoption.

In lieu of hearing the adoptee in person, the court may be convinced of the adoptee's wishes in some other manner, for example, through a Child Protection Officer.

Additional changes regarding the *Adoption Law* shall be delineated below.

Changing One's Name

103. As a rule, under the *Names Law* 5716-1956 (the: *"Names Law")*, the names of minors are chosen and may be changed without their consent. However, in certain cases the court and the Minister of Interior are authorized to intervene in the decision of parents or guardians in this matter.

The Right to a Name

104. On February 18, 2008, an amendment to the *Names Law* was issued, addressing the determination of the father's name (detailed in a minor's State-issued identity card) if his identity is unknown. For a child under the age of sixteen, the mother may either determine the unknown father’s first name or make no determination at all. However, if the child is sixteen years or older and the father's name is unknown or undetermined, the child may either determine the name of the father or leave it undetermined. Finally, the amendment stipulates that if the father's name was determined by the mother, a person over the age of sixteen has the right to amend it.

Legal Capacity to Inherit and Transfer Property

Legal Capacity to Inherit

105. This issue was discussed in Israel's Initial Report. No changes have occurred since the submission of Israel's Initial Report.

Consumption of Alcohol

106. Section 193 A (a) to the *Penal Law* stipulates that a person encouraging or persuading a minor under the age of eighteen to consume alcohol is subject to three months' imprisonment.

107. Amendment No. 79 to the *Penal Law* issued on July 19, 2004 supplements Section 193A by adding Section 193A (a1): "Any person who sells alcohol to minors under the age of eighteen is subject to six months' imprisonment."

Driving

108. A minor’s receipt of a driver’s license depends upon the type of vehicle. From the age of sixteen, a minor may obtain a driver’s license for a tractor or a motorcycle with an engine up to 125 cc. If the intended driver has not yet reached the age of 17, she/he must obtain the written consent of her/his parents or guardian to receive the driver’s license.

109. At the age of seventeen, a minor may receive a driver’s license for most types of private and commercial vehicles, if the vehicle’s total weight does not exceed 3.5 tons and its maximum number of passengers does not exceed eight.

110. A driver is referred to as a "new driver" for the first two years after receiving her/his license. During the first three months after receiving her/his license, the minor must drive while being accompanied by an experienced driver. Subsequent to these three months, and until the minor is 21; she/he may not drive more than two passengers unless she/he is accompanied by an experienced driver. As of the age 21, an individual may receive a license to drive a bus, taxi or a rescue vehicle.

111. The *Transportation Regulations* 5721-1961 *(*the: *"Transportation Regulations")* allow a minor to start taking driving lessons before reaching the age at which she/he is permitted to receive a license. Thus, it is possible to begin learning to drive a motorcycle (up to 125 cc) at age sixteen, a tractor and most types of private vehicles at age sixteen and a half.

112. At age seventeen a minor may file a request to receive an apprentice pilot's license.

A Right to a Dignified Death.

113. On December 6, 2005, the Knesset enacted the *Terminally Ill Patient Law* 5766-2005 (the: "*Terminally Ill Law")* in response to the medical-ethical dilemma presented by the treatment of terminally-ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000. See further details below.

IV. GENERAL PRINCIPLES

A. Article 6 of the Convention - The Right to Life, Survival and Development

The Right to Life and Physical Development

114. Several amendments were proposed by the Rotlevi Committee concerning the scope and implementation of the *Youth Law*. The Committee advocated several mechanisms by which to guarantee the rights of minors – physically, mentally, socially and educationally – in any situation in which a minor is deprived of her/his liberty. These rights include the provision of essential necessities (such as clothing, food, medical treatment, and hygiene), psychotherapy, psychiatric

treatment, protection from violence, aspects of leisure, physical activity and the promotion of family ties.

Another area that raises concern regarding the welfare of children and youth is that of accidents, including accidents in and around the home environment, on the road, at school or during social activities. Approximately one-quarter of children's deaths are caused by accidents. In recent years, efforts have been made to reduce car accidents through campaigns launched in the media and at schools (including the participation of children in safety patrols). Programs to promote safe behavior and encourage compliance with safety measures have been instituted (examples of these programs will be provided throughout this report).

Emotional, Cognitive and Social Development and the Acquisition of Skills

115. The total national expenditure on education in the year 2007, amounted to 56.2 billion NIS ($15.1 billion), comprising 8.3% of the Gross Domestic Product. The total national expenditure on education (in constant prices) in the year 2007 increased by 5% following a 2% increase in 2006 and in 2005 respectively.

116. In November of 2003, the Government of Israel established a public committee headed by Professor Hillel Schmidt to examine the state of children and youth at risk in Israel from birth to age eighteen. In 2008, the Israeli Government launched a national early childhood initiative called *New Beginnings* through Ashalim – The Association for Planning and Development of Services for Children and Youth at Risk and their Families.

117. In Israel, 80,000 children from birth to age six are defined as being "at-risk," representing 8% of Israel's total child population. These children suffer from inadequate parental care, severe learning difficulties and poverty. In many poverty-stricken localities the *New Beginnings* Association offers programs including the improvement of services within existing day-care centers, home visits by professionals, parent-child programs, empowerment programs for fathers, nutrition and health promotion, identification of developmental delays and accident prevention.

118. According to data reported by welfare authorities, 40,000 children are victims of abuse, exploitation and neglect each year and are eligible for treatment. Out of the children who were assessed by child investigators in 2007, many were classified as

victims of abuse committed by family members (56.1%), and nearly one third of those analyzed were sexually abused (31%).

119. New medicines have been introduced as part of Israel's Health Funds and are now included in the array of medicines available to insured individuals. Some of these medications are specific to children and assist in child care.

The Right to Life, Survival and Development of Children with Disabilities

120. **In General** - In 2007, 293,000 disabled or chronically ill children resided in Israel, amounting to 12.8% of the total population of children in the country. Approximately 176,000 children (out of the 293,000) are disabled or suffer from a chronic illness. Of these, 7.7% suffer from disabilities that impinge upon their daily functioning for a period of at least a year.

121. The percentage of children who suffer from at least one disability among the Bedouin population (in the southern Negev area) stands at 9.1%, at 8.3 among the total population of Arab children, and at 7.6% among Jewish children.

122. Between the years 2001- 2005 there was a decrease in the percentage of children with disabilities who were either sexually assaulted or were victims of family violence (from 11.2% to 9%).

123. In comparison with western countries, Israel has a relatively high rate of children born at a very low weight. The rate of children born with low birth weights increased from 15.8% (on average) between 1995-1998 to 18% in 2005.

124. Approximately 25% of children with disabilities live with two unemployed parents, who in many cases depend on an income support pension. Among the Bedouin population, 50% of the children with disabilities' fathers are unemployed.

125. **Sexual and Family Violence** - The percentage of children with disabilities who were sexually molested, assaulted or were the victim of family violence and were questioned by a special child investigator (9%), is higher than the rate in the total population of children in Israel (7.5%).

126. **Education** - In Israel there are approximately 46,000 pupils in the Special Education System; which includes kindergartens for disabled children, schools for disabled children, and classrooms in regular schools which are allocated to disabled children. Between the years 2002-2005 the rate of disabled pupils and

classrooms assigned to disabled children in regular schools grew by 16%. In the same period, the number of kindergartens for disabled children grew by 26%. In 2005, approximately 72,164 children with disabilities were incorporated into the regular education system.

127. Of the children who are schooled in the Special Education System, the number of children with learning difficulties amounts to 38% of the total number of children with disabilities. Most of the children in this group study in classrooms in regular schools which are earmarked for children with disabilities. Children with mental disabilities constitute a significant group in the Special Education System – comprising roughly 20% of the total population of children in the system.

128. As mentioned above, the *Special Education Law* 5758-1998 (The "*Special Education Law*") was amended in 2002 and a chapter devoted to children with disabilities was added. In concluding observation No. 40 of the Committee on the Rights of the Child, the Committee recommended that the state party continue to strengthen its efforts to ensure the needs of children with disabilities meet the necessary services. The purpose of the amendment is to ensure that the same level of services granted to children in regular schools is afforded to children with disabilities. Moreover, the amendment obligates the Placement Committee to favor the placement of a child with disabilities in a regular educational facility rather than in a special facility. Among the purposes of the amendment is the inclusion of children with disabilities within the regular education system while gradually enlarging the budget allocated for this purpose. Eligibility is determined by a Placement Committee composed of a representative of the local school system (the chairman), two Ministry of Education supervisors, an educational psychologist, a paediatrician, a social worker, and a representative of the national special education parents' committee. The Placement Committee must hear the child's parents or representative before making a decision; it may also hear directly from the child. Prior to the Amendment 2002, children with non-physical disabilities who required care beyond age six (when their eligibility for care under the *National Health Insurance Law* ends) could receive care through the special education system.These children previously received assistance by the "reinforcement basket", which only partially covered their needs. This Amendment meets their needs and compares services of all children.

Data on Children and Institutions

129. As of 2009, 57,943 children with disabilities were placed in various educational facilities. This number represents 3.2% of the total number of pupils (approximately 1.8 million) in Israel. 9,677 attend special education kindergartens, 27,592 study in special education classrooms within regular schools and 20,674 attend special education schools.

130. There are approximately 75,000 children with disabilities included in the regular educational system. Approximately 56,000 (75%) are Jewish and the remaining 19,000 (25%) are members of Israel's Arab population. The *Special Education Law* applies to approximately 133,000 children, 103,000 of which study in regular education institutions (in regular classrooms or in special education classrooms) and 30,000 study in institutions designated for children with disabilities.

Table 1 - Number of Pupils and Classrooms in Special Education Institutions, 2009

Population groups	Classrooms	Pupils
Jewish	5,077	45,145
Arab	1,000	9,416
Druze	161	1,343
Bedouin	215	2,039
Total	**6,453**	**57,943**

Source: The Ministry of Education, 2009

131. The Dorner Committee (named after Justice Dalia Dorner - chairman of the Committee for the Examination of Special Education in Israel) was appointed by the Minister of Education in September 2007. The Committee submitted its recommendations to the Government in January 2009.

132. The Committee examined the Israeli school system for children with disabilities. The Committee recommended implementing a model based on "Parental Choice," which gives the parents the choice as to whether or not the child should attend a regular school or a special education school The Committee also recommended the adjusting of the allocation of funding according to the principle that "funding follows the child." This principle would help to insure that the needs of every child are met, and would also help to prepare future teachers and assistants on how to work with children with disabilities. The Committee recommended the establishment of more schools and kindergartens for children with disabilities alongside the existing regular educational institutions.

The Committee also highlighted problems resulting from the distinction drawn between children with disabilities who are included in the regular education system and those who receive special education services. The Committee recommended greater parental involvement in the education process, Accordingly, the Committee suggested that parents choose their child's education structure, that is whether their child will be educated in a special or regular educational framework. This model exists in other countries, including several countries that are members of the OECD (Organization for Economic Co-operation and Development).

The Committee concluded that the current method of budgeting is too rigid and does not always allow for the appropriate treatment of children with disabilities. Hence, the Committee recommended that the budget be determined based on a model called the "funding according to needs – system," which stipulates that the budget is determined by the individual characteristics of every child with disabilities. The Committee also recommended that the placement of the child and degree of assistance offered to the child, as well as the characterization of the child, should be effected based on the child's individual functioning abilities rather than the type of disability from which the child suffers.

In order to smooth the implementation of the above recommendations, the Committee suggested the following approach: establishing a committee to examine each disabled child's entitlement to special education services. Parents ought to be encouraged to participate in all stages of the various procedures and the case of every child with disabilities ought to be examined once every three years. Based on its recommendations, the Committee formulated an amendment to the *Special Education Law*.

133. In accordance with the above mentioned concluding observation No. 40 of the Committee on the Rights of the Child, in 2002, the Knesset approved the amendment to the *Special Education Law*. Following the amendment, a pupil with disabilities who is included in the regular school system, is entitled to receive supplementary tutoring and studies, as well as access to special services such as psychology services, aid services, medical services or any other services that the Minister of Education, after consulting with the Minister of Health and the Minister of Social Affairs and Social Services, establishes in a Directive (The *Special Education Law (Amendment No.* 7)).

Personal Assistance

134. Moreover, the *Safe Transportation for Children and Infants with Disabilities Law* 5755-1994 (the: "*Transportation for Children Law*") has also been amended several times: in 2002, 2005 and 2008. According to this law, a child with disabilities is entitled to transportation from her/his place of residence or a place nearby to an educational institution in accordance with her/his needs and the type of disability which the child has ((Section 2(a)).

    An infant with a disability is entitled to transportation to a rehabilitation day-care center, and to be accompanied by one adult in addition to the driver ((Section 2(a1)). The relevant local authority is responsible for providing transportation during the school year and school hours respectively (Section 3(a)). The local authority must employ a safe vehicle, as determined by the Regulations of the Minister of Transportation, unless there are less than five children or infants transferred at a time. Such transportation is available if sitting or lying in the vehicle does not harm the health or safety of the children and infants respectively (Section 4).

135. The Committee recommended that the Ministry of Education provide personal assistant services for children with disabilities The Committee recommended that the Ministry of Education periodically reassess its eligibility policy for personal assistance. The Committee recommended that these services be expanded.

    In order to fully utilize the financial resources at the disposal of the Ministry of Education, teachers from the regular education system must be educated and trained to work with children with disabilities who are included in regular education institutions.

136. The Committee recommended that the Ministry of Education instruct The National Insurance Institute (NII) to participate in the financing of any shortage of equipment in special education institutions. To this end, the Committee recommended that the Ministry of Education set up financial funds for the purchase of the equipment required.

137. Finally, the Committee recommended that the Ministry of Education advocate the establishment of schools and kindergartens for special education near the regular education institutions. In this regard, the Planning and Construction Committees

shall submit annual reports specifying the special education schools and kindergartens to be constructed by the local authorities.

In addition to the above, the *Rights of Pupils with Learning Disabilities in Secondary Education Facilities Law* 5768-2008 was recently enacted. This law affirms the rights of pupils with learning disabilities to adjustments in the criteria for admission to secondary education facilities (academic, technological, rabbinical, or professional), as well as in the exams and other assignments that they are required to sit and submit throughout school years.

138. Moreover, modifications of matriculation exams for children with Learning Disabilities were approved. In 2007, 62,912 out of 281,511 pupils (22.3%) requested modifications to their matriculation exams due to learning disabilities. The majority of the applications were approved. Among the Arab population, 3,207 of the 46,579 pupils (6.9%) requested that adjustments be made, and these requests were approved. Among the Druze population, 246 of the 5,689 pupils (4.3%) requested that adjustments be made and their requests were approved.

Case Law

139. In a recent case, the Tel-Aviv District Court, residing as an Administrative Court, addressed the scope of the State's obligation to provide free education to children with disabilities. The petitioners contested an internal Directive of the Ministry of Education, according to which, commencing in the 2007/8 school year, the supervisors of special education schools could authorize reinforcement assistants for special education classes; but could not authorize personal assistants for the children. The petitioners claimed that the Directive violates the rights of a child with a disability to free education as established by the *Special Education Law.*

The Court determined that the State has a substantial obligation, under the *Special Education Law* to provide free education for children with disabilities, and cannot release itself from this obligation once a child is placed in the special education system. A Directive that negates the ability of an individual or a group of individuals, such as persons with disabilities, to benefit from personal assistance, impinges their fundamental right to education and therefore violates the State's obligation. The Court determined that it is essential that the Ministry's policy take individual circumstances into consideration, as a strict framework of rules which

does not allow for deviation in the event of exceptional cases arising, may constitute a breach of the fundamental right of a child to education, and as such

prohibiting the authorization of personal assistants in the special education system is void and had to be reworded so as to allow for the inclusion of personal assistants for pupils in exceptional circumstances (Ad.P 1214/08 *Orel (minor) et.*

Special Education in the Minority Populations

140. Children with disabilities are absent from school for longer periods of time during the school year than children without disabilities. Approximately 25% of disabled children were absent four to seven days of school in the first three months of the school year, 19% were absent seven days of school in the first three months of the school year, and a further 14 % were absent from between fourteen days to the entire first three months of schooling.

141. **Health Care**. Approximately 18% of children admitted to general hospitals with a stay of 21 days or more, were hospitalized in psychiatric and rehabilitations wards. In 2004, 756 children were hospitalized for psychiatric reasons.

142. According to a recent Amendment to the *National Health Insurance Law* 5754-1994, Amendment 43 (the: "*National Health Insurance Law*") dated November 5, 2008, children with Autistic disorders shall receive 3 hours of paramedic treatment (physiotherapy, speech therapy and occupational therapy). These treatments require a minimum co-payment of 23 NIS ($6) per session. The Amendment was gradually implemented as of January 1, 2009.

143. The *National Health Insurance (Children with Disabilities) Directives* 5770-2010 (the: "*National Health Insurance (Children with Disabilities) Directives*") enlarged the scope of eligibility for a disability pension of disabled children. The increase in the scope of eligibility was followed by the recommendations of 2009 Ornoy Committee (named after Professor Ornoy - Chairman of the Committee for the Examination of the Criterions for Disability Pension of Disabled Children). The Minister of Social Affairs and Social Services appointed the Committee that determined the following: children dependant on others due to a mental or a physical disability will be eligible for additional pension concerning their

education. Such pension is intended for school assistance, studies arrangements and exams accommodation adapted to their disability.

Case Law

144. In July 2009 the High Court of Justice held that The National Insurance Institute was required to recognize all children who fall on the autistic spectrum, that is who have diverse autistic disabilities (including PDD, NOS and Asperser's Syndrome), as children entitled to full disability pensions, in accordance with The National Insurance Institute *(Subsistence Allowance, Studying Assistance and Arrangements for Disabled Child) Regulations* 5758-1998. The petition was submitted in 2006, subsequent to the NII's decision to cease payments of pensions to autistic children. The NII claimed that the payment of the pension was dependent on the child's level of functioning. The ruling allows parents of autistic children to finance the expensive treatments that children who fall on the autistic spectrum require. The Court also held that essential services, such as rehabilitation, day care and the like will continue to be provided by the State (H.C.J 7879/06 *"ALUT" The Israeli Society for Autistic Children v. The National Insurance Institute of Israel* (19.7.2009).

145. Children with disabilities receive various services from the Social Welfare Department, including family guidance, education, psychosocial aid and para-medical treatments. There is also an allowance granted by the NII for disabled children, although only 12% of the children with disabilities are entitled to it. Approximately 1,000 children are entitled to walking aids, orthopedic shoes or limb prosthesis, funded by the Ministry of Health. In 2008, the number of families receiving child allowances increased by 1.4%, following a similar increase in 2007. In 2008 (monthly average) child allowances were paid to approximately 2.4 million children from 994,800 families.

B. Article 2 of the Convention – Non-Discrimination and Equal Opportunity

146. Non-discrimination is a central principle of Israeli legislation. Equality among population groups is promised in the State's Declaration of Independence and in various pieces of legislation. The provision of equal opportunity for all citizens has guided social policy since the establishment of the State.

For the last two decades, two groups of immigrants with radically different social and cultural characteristics came to Israel: immigrants from the former Soviet Union and immigrants from Ethiopia. Immigrant children and youth face major difficulties, and in general, experience higher rates of dropping out of school and of social deviance. The educational gap is particularly significant for Ethiopian immigrants and for certain groups of immigrants from the southern parts of the former Soviet Union.

In recent years, concern regarding the quality of the integration of immigrant children into the school system has led to a range of initiatives taken to promote their educational and social integration (see details below).

The absorption of Ethiopian immigrant children presents a particular challenge given the dramatic cultural transition and their families' socio-economic status. There is also a problem of demographic composition and their parents' fairly low level of education. Policies have been developed to promote equal opportunity for these children and to support their absorption into the school system.

Nevertheless, a certain percentage of them have scholastic difficulties and do not regularly attend school. The rate of school attendance and of eligibility for matriculation certificates among Ethiopian youth are low, compared to the general population.

147. In May 2009, the Israel National Council for the Child applied to the Ministry of Social Affairs and Social Services (as a final resort before filing a petition with the High Court of Justice) for equal medical treatment and social services for all children in Israel. In the request, the Ministry of Social Affairs and Social Services was asked to issue an order granting equal services in the fields of medical care, general assistance, and social services for children who have no legal status in Israel.

Differences between Jewish and Arab Children

148. Gaps between the Arab and Jewish population with respect to child development services have considerably decreased in recent years. Eight child development centers, which provide health services, have been opened in close proximity to Arab populations, in addition to the opening of the development institute located at

the French Hospital in Nazareth. Recent years have witnessed an increase in the establishment of Child Development Centers in majority Arab areas.

Currently there are 34 child development institutes and 65 units that are recognized

serve children who suffer from arrested development difficulties. In majority Arab areas there are six units that serve children with developmental difficulties and one development institute. The services provided at these facilities include access to preventive medical care, tracking delays in development, diagnostic services, and support services (such as psychological and counseling services). This indicates significant progress in medical and therapeutic services for disabled Arab children and Arab children who suffer from arrested development.

Children of Foreign Workers

149. In 2007, approximately 1,000 children of foreign workers lived in Israel. According to Directive No. 5760/10(a), dated June 2000, of the Director General of the Ministry of Education, the *Compulsory Education Law* applies to all children living in Israel, regardless of their status in the Population Registry.

150. Since the submission of Israel's Initial Report, there has been progress in the legal status of foreign worker's children. Government Resolution No. 3807, dated June 26, 2005, was amended by Government Resolution No. 156, dated June 18, 2006, and states the following:

"Upon request, the Minister of Interior is entitled to grant permanent residency status to children of illegal immigrants who have been part of the Israeli society and culture, if they fulfill the following conditions:

a) The child has lived in Israel for at least six years (as of the date of the Resolution), and entered Israel prior to the age of fourteen. A short visit abroad will not be viewed as an interruption of this time period.

b) Prior to the child's entry or birth, the parents must have entered Israel legally, and with an entry permit in accordance with the *Entry into Israel Law* 5712-1952 (the: *"Entry into Israel Law").*

c) The child speaks the Hebrew language.

d) The child is in first grade or above, or has completed her/his studies.

e) Those filing the request will be required to submit documentation or participate in hearings, in order to prove that they meet the abovementioned criteria.

151. The Minister can grant temporary residency status in Israel to the parents and the siblings of the child, as long as they have lived in the same household from the date of the child's entry into Israel or birth in Israel, and are in Israel as of the date of this Resolution. If there is no reason for objection, the temporary residency status will be renewed until the child reaches the age of 21. At that point, the parents and the siblings will be entitled to file a request for permanent residency status.

152. As of June 1, 2009, approximately 862 requests have been filed of which 436 were accepted, 424 were rejected and 2 were still pending. In the case of 424 rejected requests, 354 appeals were filed to the committee of appeals. On review, 131 applications were accepted by the Ministry of Interior, and 219 were rejected. Of the rejected appeals 31 were referred to the committee that reviews humanitarian issues and 4 appeals are currently under review. In total 567 files were accepted and 291 were rejected.

153. As of June 2009 there are 1,431 children of foreign workers who study in schools and kindergartens. Among them are 956 schoolchildren and 475 are kindergarten children.

Table 2 - Distribution of Children of Foreign Workers by Grades, 2009

Total	High school	Junior high school	Elementary school	Grade
475	-	-		**Kindergarten**
150	-	-	150	1
104	-	-	104	2
85	-	-	85	3
78	-	-	78	4
70	-	-	70	5
60	-	-	60	6
53	-	34	19	7
47	-	30	17	8
53	23	28	2	9
92	92	-	-	10
115	115	-	-	11
47	47	-	-	12
2	2	-	-	13
1,431	**279**	**92**	**585**	**Total**

Source: Ministry of Education, 2009

C. Article 3 of the Convention - The Best Interest of the Child

The Best Interest of the Child as a Guiding Principle

Preserving the Best Interest of the Child

Case Law

154. The District Court determined that if child support payments impose a heavy burden, a father is entitled to request a reduction in payments, provided that the reason for the reduction accords with one of the causes listed by the law as sufficient cause. However, the father can only seek to enforce an indemnification agreement when his former wife can refund him without causing harm to the welfare of the child after she/he reaches the age of eighteen, or when his former wife has financial prosperity and if there is no conflict with the best interest of the child. (F.M.A 785/05 *Anonymous v. Anonymous et. al.* (03.01.2006))

155. In a separate case, the Supreme Court accepted an appeal against a decision of the Family Matters Court which determined that a claim for child support should be regarded as a substantial claim, given that the children are not bound by the amount agreed to by their parents during their divorce. The appeal was submitted by a mother on behalf of two minors regarding their child support payments. The father did not oppose the change, but emphasized that from his viewpoint, the claim was essentially for a change of child support payments that had already been ruled upon. It is critical to understand the difference in the parents' positions is since a substantial claim requires the Court to examine the needs of the minor(s) before it and then set the amount of child support accordingly. On the other hand, a claim for the alteration of child support payments means that the applicant must prove a change of circumstances which justify the alteration. (F.M.A 7916/03 *Anonymous et. al. v. Anonymous* (28.02.05)).

Preserving the Best Interest of the Child in Child Welfare Proceedings

156. The Supreme Court, residing as the High Court of Justice, was asked to revoke a decision reached by the 'Shari'a' (the Muslim Court System) regarding guardianship of three children, aged seven, eight and a half, and ten. The Shari'a Court and the Shari'a Court of Appeals both granted the father of the children with guardianship, without examining evidence regarding their best interests or

questioning the children themselves. Moreover, the Courts' decisions violated the relevant laws, in particular the *Legal Capacity Law* and the *Equal Rights for Women Law* 5711-1951, which stipulate that guardianship is to be determined according to the best interests of the children and which apply to all courts, including those part of the religious court system. Therefore, the Supreme Court ruled in favor of the applicant, revoked the decision and remanded the case to the Shari'a Court so that evidence from social workers regarding the best interests of the children could be considered. (HCJ 1129/06 *Anonymous et. al. v. The Shari'a' Court of Appeals et. al.* (05.06.2006)).

157. In another case, the Supreme Court determined that the judgment reached by the Jerusalem Rabbinical Court and affirmed by the High Rabbinical Court should be annulled. The Supreme Court determined that the rabbinical judges did not consider the best interest of the child when considering the father's request to be awarded custody over the child. The family's place of residence was in the United States and the child remained there with his mother following his parents' separation and divorce proceedings, which were held before the courts abroad. Those courts awarded the father supervised visitation rights with the child. However, since the father opposed the requirement that his visits be supervised, he refused to visit his child. Subsequently, the father moved to Israel and upon learning this, the mother petitioned the Jerusalem Rabbinical Court for a "Get" (Jewish divorce document). The father, simultaneously, petitioned for custody. The Jerusalem Rabbinical Court determined that the custody issue should l be resolved after the finalization of the divorce, by agreement of the parties. The Jerusalem Rabbinical Court, after granting the divorce between the couple, awarded the father custody. The High Rabbinical Court affirmed the lower court's decision. The decision was reached without considering the child's best interest; and since the courts in the United States had already awarded custody to the mother, the Supreme Court determined that the courts in Israel were 'Forum Non Convenient' according to private international law applicable in Israeli courts, including the rabbinical courts, and that therefore custody should remain with the mother, and the judgments of the High Rabbinic Court should be annulled. (H.C.J 1073/05 *Anonymous et. al. v. The High Rabbinical Court et. al.* (25.06.2008))

Preserving the Best Interests of the Child in Out-of-Home Care

158. In Israel there are approximately 70,000 children and youth (3% of all children) living separately from their families. For the most part the children are scattered among government-supervised facilities. 55,000 children (ages fourteen to eighteen) attend boarding schools. In most cases the decision to leave home is made by the children themselves or their families. Far fewer children and youth (approximately 8,500) have been placed outside their homes by Child and Family Services. 6,500 children were placed in boarding schools and the remaining 1,950, were placed in foster families.

    Some children were placed in facilities operated by the Youth Protection Authority (a government agency of the Ministry of Social Affairs and Social Services that is responsible for supervising correctional facilities), which is responsible for the placement of delinquent and near delinquent youth; while others were admitted to psychiatric hospitals, and certain disabled children were removed from their homes by Social Welfare Departments.

159. Another issue concerning children in out-of-home frameworks is their relationship with their parents. The welfare system is aware of the importance of maintaining a relationship between parents and their children, and a special program has been designed for this purpose. A committee of experts that established standards for maintaining the relationship between boarding school pupils and their parents recommended that schools regularly report to parents on their child's status, set times for telephone calls between parent and child, pre-arrange vacation dates, and host at least one event per year to which parents are invited. The Youth Protection Authority has also set guidelines and methods for including parents in the care of their child and reinforcing their relationship with their child. Such recommendations are already in effect.

Preserving the Best interests of the Child in Immigration Matters

160. On October 2, 2008 the Supreme Court overturned a decision reached by the District Court preventing the immigration of a seven year-old minor to Germany with his German mother, and determined that they may temporarily emigrate to Germany despite the objection of the Israeli father. The Court stipulated that the leading principle in the decision making process regarding custody and residency of children, as in any other case concerned with the relationship between parents and their children is the best interest of the child. This principle obligates parents

and Courts alike, and is an individual and independent guiding principle in determining custody and residency issues.

In situations of parental separation, the Court must determine what is the lesser of two evils with regard to the minor. The Court is obligated to find an arrangement which will be a stable solution -- awarding custody to the parent deemed to be fitter, while maintaining, as much as possible, the relationship between the child and the second parent, especially when the minor emigrates from Israel.

In the case in question, the Court imposed several restrictions on the emigration, including the continuation of the minor's education in a Jewish school, and at least four annual visits of a minimum of seven days each by the minor to Israel, as well as awarding the father the right to visit the minor in Germany as many times as he desires following the giving of advance notice. The mother was required by the court to deposit a personal bond with the Family Matters Court to guarantee the fulfillment of these conditions, and it was decided that the Court would reconvene after two years to determine whether the conditions were met, as well as to determine whether to make the arrangement a permanent one. (F.M.A 10060/07 *Anonymous v. Anonymous* (2.10.2008))

161. Subsequent to the immigration of families with children to Israel, requests for status in Israel are filed. The file is forwarded to the Ministry of Interior's Inter-Ministerial Humanitarian Committee for review. Since the best interest of the child is the leading criterion, requests for status which involve children are granted more often than not.

Preserving the Best Interest of the Child in Local Authorities

162. Following the details presented in the Initial Report, according to a 2000 Amendment to the *Municipalities Ordinance (New Version*) 5724-1964, the municipality's council should elect a Committee for the purpose of initiating and planning activities for the advancement of the status of children and youth. This Committee should act in order to protect children and youth, to ensure their rights, including the realization of the principle of the child's best interest, non-discrimination, the right to decent conditions of development and the right of children and youth to participate in the decision-making process with respect to decisions concerning them.

The Committee should include between three and five members of the municipality's council, the director of the education division and the director of the social services division, a principal of one of the schools in the municipality, representatives of the teacher's union, the chairperson of the pupils council, the chairperson of the parent's organization, representatives of youth movements and others.

D. Article 12 of the Convention - Respect for the Views of the Child

The Right to be Heard and Respect for the Views of Minors in Matters Affecting Them

163. Israeli Laws and policies support the broader consensus that a child's opinion should be heard and considered in matters affecting her/him. Laws and administrative procedures tend to recommend, and even demand, that the child's opinion be heard prior to making a decision that concerns the child.

In proceedings involving conversion, adoption or admission to a psychiatric hospital, the consent of the minor (once she/he has reached an age determined by the law) is required before a decision is made and actions are taken. Courts are authorized to rule against the minor's wishes or even not to allow her/his opinion to be heard if doing so (allowing her/him to be heard) would cause harm to the child. Another reason for a court to disallow a child's statement is if the information that would be revealed is confidential (Section 1B to the *Youth Law*).

The novelty in the above legislation is in the legislative requirement as opposed to merely a customary one. Amendment No. 14 to the *Youth Law* stipulates that courts' rulings should be given subsequent to the child in question having expressed her/his opinion. Judges and administrators are required to pay attention and give substantial weight to the minor's opinion when ruling or making a decision that affects the child, bearing in mind the child's age and level of maturity (though not to obtain her/his consent). The court will explain its decision to the minor in a comprehensible manner.

164. The Rotlevi Sub-Committee regarding the Child and her/his Family provided a valid argument in favor of the right of the child to be heard: it promotes the child's

independence (subject to the child's age and level of maturity). This right is granted in a gradual manner, consistent with the child's best interest. The committee also recommended setting up a mechanism to facilitate the child's participation in court proceedings. Below are the primary mechanisms:

164.1. Appointing a person to accompany the child throughout the court proceedings.

164.2. Establishing a separate department within the Assistance Units of the Family Matters Courts, intended for children in legal proceedings.

Protection of Children in Legal Proceedings

165. Amendment No. 1 to the *Pupils Rights Law* issued on December 22, 2004, amends Section 1 of the *Pupils Rights Law*, and stipulates that the purpose of the Law is to formulate principles for the rights of pupils which are in accordance with the spirit of human dignity and the principles contained in the CRC, while still preserving the dignity of all who operate in the education system (the pupil, the educational employee, and the education institution staff), and preserving the uniqueness of different kinds of educational institutions, and fostering an atmosphere of mutual respect in the educational institution community. The amendment also amends Section 4 of the *Pupils Rights Law*, and stipulates that the Director General guidelines, as well as the guidelines of each school principal, must include rules for the protection of dignity, discipline and the prevention of violence.

166. On June 1, 2007, an experimental program entered into force at the Haifa and Jerusalem Family Matters Courts, with the participation of the children involved in Family Matters Court's proceedings. The program operates in association with the Courts Administration bodies within the Ministry of Justice, the Assistance Units to the Family Matters Courts within the Ministry of Social Affairs and Social Services body and Ashalim (an NGO).

167. The participation of children in the decision-making processes that affect their lives is achieved by implementing the recommendations of the Rotlevi Committee, with the assistance of the Department for Child Participation in Family Matters Courts.

168. On December 3, 2007, the Minister of Justice signed the *Civil Procedure Regulations (Temporary Order)* 5767-2007, which adds Chapter K2 to the *Civil Procedure Regulations* 5744-1984. The practice embodied in Chapter K2 regulates

the procedures for children's participation in Family Matters Courts for the duration of the experimental program, namely between December 7 and December 9 2007. (See also Supreme Court Decision HCJ 1129/06 *Anonymous et. al. v. The Shari'a' Court of Appeals et. al.* (05.06.2006)) above**.**

169. **Removal of Pupils**. In 2004, the Minister of Education published Regulations regarding the removal of pupils from the educational system (*Compulsory Education Regulations (Rules for the Permanent Removal of a Pupil Due to School Achievement)* 5765-2004).

These Regulations include a prohibition on removing a pupil in the first to sixth grades from school due to a lack of achievement in their studies. Regarding pupils in the seventh to twelfth grades, removal from school shall not be made based on a lack of achievement unless the pupil fails at least 70% of the mandatory subjects for that school year. Moreover, the failure must not occur due to illness, death of a family member, separation or divorce of the pupil's parents, or other exceptional event which, according to the educational personnel, led to the failure.

170. The *Pupils Rights Regulations (Publishing Orders and Pupil Removal)* 5762-2002, establishes rules regarding the removal of pupils from school. Among them is the necessity of holding a hearing before finalizing the decision to remove a pupil (Section 4). The pupil or her/his parents can file an appeal with the Head of the Ministry of Education's District, according to Section 6(a). A hearing should be held before a panel within fourteen days, according to the provisions of Section 6(b). According to Section 6(d) the pupil and her/his parents may state their claims in person or through an appointed person.

171. The *Pupil Rights Law* was amended on July 27, 2009. The amendment allows the removal of pupils from school following severe disciplinary or violence-related problems. Prior to the amendment the actual removal of a pupil was impossible until a final decision had been reached in the case. Section 6(d) to the *Pupil Rights Law* determines that a school principal is permitted to permanently dismiss a pupil who has presented repeated disciplinary and/or violence-related problems without delay, provided the principal has received the approval of the District Supervisor. Section 7(b) to this law was also amended with respect to a decision taken on appeal. As of the entrance into force of this amendment, the Discipline Committee

will be presented not only with the pupil's parents, but also with the person in charge of the educational institution or someone acting on her/his behalf.

Case Law

172. Recently, the District Court of Jerusalem sitting as an Administrative Court, dealt with a case regarding the right of a minor to be heard in administrative appeal procedures. Specifically, the issue before the Court concerned the possible violation of the integrity of matriculation exams. The Court stated that in general, it is sufficient for an administrative authority (the Ministry of Education in this case) to allow for a written right of appeal – it is not required to alter the appeal procedure and allow for an oral right of appeal simply because the appellant is a minor.

The Court did however note that in several cases, the fact that the administrative authority was dealing with a minor justified their granting the right to appeal orally. For example, minors who cannot express themselves properly in writing, may give rise to a justification for holding an oral appeal.

The Court in the case held that the disqualification by the supervisor or inspector, on the basis of a breach of the integrity of a matriculation exam, violated the rights of pupils as defined in the *Pupil Rights Law*. Being disqualified in this way allowed for appeals to be lodged only after the administrative act was completed, which violates the requirement that the right to a hearing shall be granted prior to the relevant decision being finalized. Since the circumstances of the case in question did not fall into any of the exceptions to this rule, the Court held that the Ministry of Education had to revise the Director General's Directive, and grant the right to a hearing prior to disqualification based on the suspicion of the supervisor or inspector. (Ad.P 362/07 *Anonymous v. The Ministry of Education*; Ad.P 377/07 *The National Council for the Child v. The Ministry of Education* (1.7.2007)).

173. Additional protection in legal proceedings is found in the *Crime Victims' Rights Regulations* 5762-2002, which were enacted following the enactment of the *Crime Victims' Rights Law* 5761-2001, under which the rights of a minor under the age of fourteen may be realized by her/his parents or legal guardian (Section 18(b)). However, the rights of a minor over the age of fourteen may be realized by the

minor herself/himself, as well as by the parents or legal guardian, unless the minor requested that she/he alone will realize her/his/ rights (Section 18(c)).

The realization of the minors' rights will not be made by the parent or legal guardian if either of them is a suspect or an accomplice of the offense of which the minor was a victim, and if the realization of the minor's rights by them may harm the physical integrity or mental stability of the minor (Section 18(d)). The realization of the rights of a minor, who is a victim of violence or of a sexual offense, includes a right to express an opinion with respect to the possibility of a delay in procedures and/or a plea bargain, as well as a right to express an opinion before a prison release board, and to express an opinion regarding the possibility of a pardon being granted.

174. Furthermore, reference can also be made to the *Pupils Rights Regulations (Publishing Orders and Pupil Removal)* 5762-2002*;* mentioned in this periodic report (Chapter II, Section D(a-d)), which stipulate the right of a pupil to express her/his opinion before her/his removal from school.

Legal Representation of Minors

175. Observation No. 61 made by the Committee in its concluding observations engaged in children and the criminal justice system. This recommendation, among others things, was aimed at ensuring that children have access to legal aid. Amendment No. 14 to the *Youth Law* determines that a minor who is prosecuted is entitled to representation. The court is also authorized, based on what it believes to be the best interest of the child, to appoint a defense attorney to act on behalf of a minor even if an indictment has not been filed. In matters specified below, the court will rule only after the child's parents have been given the opportunity to express their opinion on the matter.

176. The Amendment also determines that at any point during the legal proceedings, if a child is not represented or her/his parents are missing; the court is authorized to appoint a legal guardian based on what it considers to be the best interest of the child. Legal instructions and case law emphasize the importance of individual legal representation, principally when an absence of representation imperils the interest of the minor.

177. **Legal Representation**. On January 24, 2007 (A.A 000379/06 *Anonymous v. The*

old foreign minor who had been a victim of trafficking in persons (TIP). The Court decided to release the minor after eight and a half months in custody. This was the first decision of an Israeli court which recognized a person as a TIP victim for purposes other than prostitution.

The District Court held that in cases where an illegal resident is a minor and cannot speak Hebrew, the Detention Review Tribunal must appoint a Public Defender to provide him with legal assistance. As the minor in question had not been provided with legal representation, the Court held that he had been deprived of his procedural and fundamental rights to such a degree as to amount to a distortion of justice.

The Court stated that 'custody' as it is referred to in the *Entry into Israel Law,* can be defined as "custody until the completion of the proceedings." Subsequently, if proceedings cannot be completed, then custody which is based solely on this law is illegal. In this particular case, the proceedings could not be completed because they required the minor's removal from the country. This was however impossible as a result of a lack of diplomatic relations between Israel and the child's country of origin. Indefinite detention of the minor under these circumstances, and based only on the *Entry into Israel Law,* was thus considered to be invalid.

Subsequent to the above court decision and following proceedings that took place in the Detention Review Tribunal (February 14, 2007), the General Director of the Ministry of Justice ordered the Department of Legal Assistance in the Ministry Of Justice to provide legal representation to minors and persons claiming minority, including on appeals. In a case where a minor is in custody during criminal proceedings and is not represented – she/he is entitled to legal representation and this information must be conveyed to her/him by the relevant authority. This Directive is retroactive, that is to say that people who began their criminal proceedings prior to this regulation's coming into effect are also entitled to representation from the moment that the regulation came into effect.

E. Articles 7 and 8 of the Convention

Registration of Children at Birth and Establishment of Identity

178. Under Section 6 of the *Population Registry Law* 5725-1965 *(*the: *"Population*

Interior of every birth that occurs in Israel. The notification is to be made within ten days of the birth by the institution at which the birth occurred, or by the parents of the child.

179. Amendment No. 9 to the *Population Registry Law* issued on December 14, 2005 supplements Section 6, so as to include requirements regarding a birth that occurred outside a health institution. According to Section 6(b), if the birth occurred outside an institution and a midwife or a physician was present at the birth then the midwife or the physician should provide a written deposition stating that the mother of the infant is her/his natural mother. According to Section 6(c)(1), if the birth occurred outside an institution but was not attended by a midwife or a physician then the following additional documents should be provided: depositions from the infant's parents stating that the infant's mother is her/his natural mother, a medical certificate issued by an authorized physician who examined the pregnant women from the 28th week of her pregnancy, and a medical certificate issued by a physician who examined the women within 48 hours of the birth. If the parents fail to provide the abovementioned medical certificates, they will be required to provide the results of a genetic parental test confirming that the mother is the infant's natural mother.

180. Section 32 of the *Population Registry Law*, stipulates that details that might reveal the identity of an adopted person, her/his adoptive parents or her/his biological parents and other relatives will not be disclosed other than to officials as prescribed in the Law. However, the Minister of Interior shall issue orders for allowing an official who registers marriages, or a person who needs the information in order to perform her/his duty in registering marriages, to ascertain whether the marriage-applicant was adopted. This provision is necessary to prevent consanguineous marriages.

The *Citizenship and Entry to Israel Law (Temporary Provision),* 5763-2003 (the: "*Citizenship and Entry to Israel Law*")

181. According to a 2005 amendment to the *Citizenship and Entry to Israel Law,* the Minister of Interior is authorized to grant a permit to stay in Israel to a minor under the age of fourteen from the West Bank, in order to prevent her/his separation from her/his legal guardian who is lawfully residing in Israel.

    Furthermore, the Minister is authorized to approve a request for a stay permit submitted by the Military Commander of the Judea and Samaria Area, for a minor over the age of fourteen, residing in the West Bank, in order to prevent her/his separation from her/his legal guardian, who is lawfully residing in Israel, as long as the permit shall not be extended if the minor does not reside in Israel on a permanent basis.

Case Law

182. The Tel-Aviv District Court, while residing as an Administrative Court, dealt with the case of a child born to an Israeli mother and to a father who lacked legal status because he had illegally resided in the country for ten years, subsequent to overstaying his tourist visa. The Court found that the competent authorities failed to address the best interest of the child despite evidence presented before them regarding the emotional bond between the child and his father and the father's financial support of his child. Thus, the Court ordered the Ministry of Interior's Inter-Ministerial Humanitarian Committee to reconsider granting the applicant legal status in the State in accordance with the best interests of the child. (A.A. 002454/04 *Collins Okthzuko Obi v. The Minister of Interior et. al.* (06.03/2007)).

The Right to Acquire Nationality and the Protection of Nationality

183. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report.

The Right to Know one's Parents' Identity

Case Law

184. On January 28, 2008 the District Court of Haifa affirmed a judgment reached by the Family Matters Court in Haifa, which determined that the determination of the identity of the father of a child through paternity tests does not accord with the best

interest of the child, as it might result in the child's being labeled a 'bastard' according to Jewish "Halacha" resulting in her/his inability to marry a Jewish person other than another 'bastard.' Therefore, the Court ordered that the said test not be conducted. In the case in question, a couple who had two children, were in the process of divorce, during which time the woman was in a new relationship with a man whom she claimed was the father of her third child, born eight and a half months after the finalization of the divorce. A year and a half after the child was born, and a month after the mother requested an increase in the amount of the maintenance paid for the couple's two children, the divorced husband submitted a claim to the Court to be recognized as the child's father. The Court determined that although society in general supports the clarification of the identity of a child's parent, and although it is the right of a person to know that he fathered a child, the rights of the minor prevail and his best interest is the primary concern of the court.

The Court determined that subjecting the minor to a paternity test in order to determine who her father was, may harm the minor's dignity, her developmental needs, and the formation of her self-identity. The Court stressed that although the right of the child to know her/his father is an important right as it is stipulated in Article 7 to the Convention on the Rights of the Child, and is recognized at a national constitutional level as constituting the basic dignity of a person, this right can be realized at a later date if the need arises. *(*F.A. 526/07 *Anonymous v. Anonymous* (28.1.2008))

185. On January 22, 2006 the Jerusalem Family Matters Court determined that a person, who refused to undergo a tissue analysis in order to determine whether he was the biological father of a minor, would be regarded as the father since there was external evidence to support such a conclusion being drawn. In the case in question, the Court determined that the child's interest to know the identity of her father, and the need to know in case of a medical emergency in the future, overruled the alleged father's right to privacy and to abstention from invasive examinations. Moreover, the alleged father tried to resist the request for analysis by pointing to the fact that the mother had several other relationships at the time that she fell pregnant and that she had previously unsuccessfully claimed that another man, with whom she claimed to have had an exclusive relationship, was the father. The Court held that even if the mother's previous testimony was a lie, the proper

response was not to deny the request for a paternity test, as the harm resulting from not holding the test would be inflicted upon the child and would impinge upon the child's rights and not the mother's. (F.M.C 26762/01 *Anonymous v. Anonymous* (22.01.2006))

186. The Jerusalem District Court decided to allow a single woman to receive fertility treatments involving sperm donations from a married man, although such a practice is not in accordance with current regulations. The Court considered the rights of all parties involved, including those of the wife and children of the married man. The Court determined that becoming a parent is a fundamental right, and the couple made an agreement regarding the child as required by the regulations of the Ministry of Health. Moreover, the Court held that the rights of a child, even one that is not yet born, to know both his parents, takes priority over the property rights of the wife and children involved in this case. The rights of the child include the right to dignity, the right to know both parents, to receive emotional and financial support from both parents, and the right not to be considered a "Sh'tooki" - a Jewish term meaning the illegitimate child of an unknown father, who according to Jewish "Halacha" as interpreted by some rabbinical circles, cannot marry a Jewish person and may only marry a converted person. Therefore, the Court issued a declaration allowing the woman to receive fertility treatments with sperm donated by a married man. (O.M. 5222/06 *Anonymous v. The Minister of Health, et. al.* (26.07.2006)).

187. In another case, the Tel-Aviv District Court determined that in certain cases when two males claim parentage to the same child it is important to determine the identity of the biological father. In the case in question, the child was being raised by the mother and her new husband, who signed a child support agreement prior to the marriage, stating that in the event of separation, he would provide child support until the child reached the age of eighteen. This second marriage took place four years after the child was born, but the new husband claimed to be the child's biological father, and stated that even if it was proven that the child was not biologically his, he wanted to adopt her. However, the first husband also claimed parentage of the child, paid child support and had visitation rights under the divorce agreement regarding the said child and two other children.

The Court examined the complex situation, in which the child recognized the new husband as her "psychological father" and while the visitation with the first husband took place, feared him and was intimidated by him. The Court held that under these circumstances, it is important to determine the identity of the father, due to the complex relationships between the parties involved and their effects on the child. The Court disagreed with the Family Matters Court who postponed the determination until the child reached the age of eighteen. The Court held that the decision should be made based on the best interests of the child; either by paternity tests or by external evidence, and therefore remanded the case to the Family Matters Court for a ruling. (F.A (Tel-Aviv) 1327/06 *Anonymous et. al. v. Anonymous et. al* (18.12.2007)).

The Right to Parental Care

188. As detailed in Israel's Initial Report, parents are regarded as the natural guardians of their children. This means that children are entitled to be cared for by their parents and parents are entitled to care for their children.

189. Amendment No. 12 of the *Legal Capacity Law* issued on June 28, 2004 supplements Section 35 to include Section 35(b), which stipulates that when appointing a legal guardian for a minor, the court should give priority to a fit person who is a member of the minor's family (including siblings, grandparents, aunts or uncles, or a spouse of one of the parents) unless the court decides it is in the child's best interest to appoint a legal guardian that is not a family member.

190. Section 24 of the *Legal Capacity Law* stipulates that if the parents of a minor are separated, whether they remain married or their marriage is annulled, they can agree on the issue of guardianship over the minor and each parent's respective rights. Such an agreement requires the approval of the court. Amendment No. 13 to the Law issued on March 23, 2005 amends Section 24 so as to include unmarried parents. The Amendment also broadens the scope of the court's approval which is needed to validate the agreement, so as to include recognition by the court that the guardianship agreement is in the best interest of the minor. Upon receipt of the court's approval, the agreement will have the status of a court decision for all matters other than appeals. (See above).

F. Article 13 of the Convention - Freedom of Expression

191. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report

G. Article 14 of the Convention - Freedom of Thought, Religion and Conscience

192. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report.

H. Article 15 of the Convention - Freedom of Association and Peaceful Assembly

193. *The Non-Profit Associations Law* 5741-1980 *(the: "Non-Profit Associations Law*") requires that the establishment of any association be by at least two adults, thus restricting the right of children to establish an association. Nevertheless, Amendment No. 5, issued in February 2005 amends Section 15 to stipulate that any person aged seventeen and above is eligible to be a member of a non-profit association.

194. Section 4 of the *Legal Capacity Law* states that legal action taken by a minor requires the approval of her/his representative (a parent or a legal guardian appointed) either in advance of the action or subsequent to the action. In contrast, Section 15(b) that was included in amendment No. 5 to the *Non-Profit Associations Law* holds that a minor joining such an association and voting in its institutions does not require the approval of her/his representative.

Political Assembly

195. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report.

Assembly of Pupils and Youth Councils

are elected bodies of pupils that represent the entire student body before the school

Pupils' councils are elected democratically, with adequate representation for every age group (see the Director-General's circular nt/1(a) of September 1, 1998) A pupil council member also serves on the committee to promote the status of children, which was established in each local authority under Section 149G of the *Municipalities Ordinance*, as amended in 2000. *The Pupils' Rights Law* stipulates that a school must encourage the establishment of a pupils' council, and refrain from any action that would inhibit its establishment.

Freedom of Protest and Demonstration

197. In principle, the freedom of protest and demonstration enjoyed by adults also applies to children. The Ministry of Education prohibits pupils from taking part in political demonstrations during school hours, although it recognizes that pupils and teachers have a right to participate in demonstrations outside of school hours, subject to their own responsibility.

The Ministry also stipulates that parents of children who are absent from school due to participation in any gathering or demonstration are required to notify the school of the absence in writing. The school will handle this absence in accordance with the regulations applying to any absence from school.

I. Article 16 of the Convention - The Right to Dignity, Privacy and Reputation

198. The Ministry of Education Directives include numerous provisions to protect pupils' dignity, including their privacy. For example, the Directives prohibit anyone in the school from conducting a bodily search of a pupil to discover drug use, even if pupils and parents have given their consent to such searches. Another Directive of the Ministry of Education prohibits an educational institution from punishing a pupil for any act or omission of her/his parents. This is directed at parents who fail to make all of the payments requested by the institution. A pupil may not be removed from a classroom or suspended from school as a result of

non-payment, nor can her/his grades or certificates be withheld for reason of non-payment. In fact, another Directive stipulates that matters of payment will be settled directly with parents, without involving pupils. A pupil's dignity will not be violated due to a dispute with her/his parents regarding payment.

The Right to Privacy in the Narrow Sense

199. Juvenile court proceedings are conducted *in camera*. The Court must authorize the publication of a hearing conducted *in camera*, including a photograph of the courtroom. Sections 70 and 70(c) of the *Courts Law* prohibits publication of any detail including pictures, addresses or other details that are likely to lead to the identification of minor defendants or witnesses in criminal trials, or a complainant, or those affected in a trial for offenses according to Sections 208, 214, 345-352 and 377A to the *Penal Law*, which includes the prohibition against allowing a minor to reside in a brothel, the prohibition against committing sexual offenses and the prohibition against trafficking in persons. This provision applies to courts of all instances in which minors may be tried - not only juvenile courts - and its application is not restricted to cases which are heard in camera.

Genetic Testing

200. Following previous information provided regarding the *Protection of Genetic Information Law* 5760-2000 *(*the:" *Genetic Information Law")*, an amendment was enacted in July 2008. The amendment entered into force on November 30, 2008.

The Definition of Genetic Testing for Family Connections

201. The definition of "Genetic Testing for Parenthood" set out in Section 2 of the Law was amended and is now entitled : "Genetic Testing for Family Connections," which is genetic testing for establishing the family connections of an individual.

The Performance of Genetic Testing for Establishing Family Connections

202. The Amendment added chapter E1 to the *Genetic Information Law* to regulate this issue through Sections 28A to 28Q.

Section 28A stipulates that genetic testing can be conducted only subject to an order granted by the Family Matters Court. Furthermore, Section 28B determines that the person's consent to the testing is required. If the individual is under 16 years, the consent of her/his guardian is necessary. A minor over the age of 16's

consent is required; the Court shall not order the performance of such a test prior to hearing the minor's objection (regardless of her/his age).

203. The court shall take into consideration the minor's age and level of maturity, unless it is convinced that such a hearing may harm the best interest of the child. Nevertheless, if the minor is a parent or is alleged to be a parent, the court may order (for reasons noted) the performance of the test without the consent and presence of the minor's guardian as long as an explanation is provided to the minor. This option is subject to the minor-parent's consent to the test and consideration of the minor-parent's best interest.

204. Section 28C stipulates that a court may order genetic testing of an embryo, only when such a test is required during the pregnancy. The test may be conducted subject to the mother's informed consent and only after she was provided with a detailed explanation of the possible risks involved.

Section 28D refers to special circumstances. These circumstances are as follows: when the mother of a minor was married (in accordance with the *Population Registry Law*) for a period of 300 days prior to the minor's birth, the court shall not order genetic testing. The reason for this is the best interest of the child, which prevent performing a test that may indicate that another person is the child's father. However, the court may order the tests in cases where it is convinced that the necessity of the test outweighs the harm it may cause the child.

Furthermore, Section 28E to the amended *Protection of Genetic Information Law* amendment also stipulates specific rules regarding the performance of the test when the outcome is likely to indicate that the child is a 'bastard' (illegitimate according to the Jewish Halachic Law). This status prevents the person from marrying another Jewish person. Therefore, the Law tries to prevent such results from being reached by prohibiting the performance of the test in such cases.

The court may find that it is in the best interest of a minor to undergo such a test even though it may result in illegitimacy, however, it shall order that the test results will not be valid in a Religious Court.

Case Law

compel the performance of a paternity test. The Court held that a child has a

fundamental right to know the identity of her/his biological father. And thus, the court can order a paternity test or draw the conclusions arising from a person's refusal to undergo the test. As a rule, the court will not order that a paternity test be performed when there is a fear of illegitimacy. Still, this rule is not absolute; there are exceptional circumstances in which the court will consider ordering the performance of a paternity test despite the fear of illegitimacy. In such circumstances the court examines the child's best interest together with the legitimate interests of the parents. When the court orders a paternity test it must examine the best interest of the child and be certain of the degree of any potential harm to the child as a result of the test outcome *(*M.A 1364/04 *Attorney General v. Anonymous et. al.* (5.7.2006)).

206. The Tel-Aviv District Court, while residing as Juvenile Court, agreed to disclose a minor's identity, subsequent to the child's fleeing from a closed residence where he was sent post-conviction. The minor was convicted of committing severe sexual offences against two small children, aged six and ten.

The Court faced a difficult decision, balancing between the defendant's and his family's right to privacy, as they were member of an ultra-orthodox community, and the protection and security that the court owed to the public. The Court stressed that the publication would in fact terminate the efforts to rehabilitate the defendant; however, by escaping from the facility the defendant had actually showed indifference to the rehabilitation efforts.

The Court held that the defendant's identity would be publicized. However, the Court gave the defendant a chance to come forward and avoid such publication. (S.Cr.C 203/05 *Anonymous v. Anonymous* (08.12.2008)).

The Right to Privacy in the Broad Sense

207. In a recent decision of the Tel-Aviv Magistrate Court, the Court convicted a defendant for violations of the right to privacy and for the publication of profanities. The defendant was caught taking photographs of naked children at the beach with his cellular phone, which attracted the attention of bystanders. The Court found that these profane photos included images of children and thus violated Section 214(b3) to the *Penal Law* which states that a person who possesses profane photos, including images of children, will be sentenced to one-

year imprisonment unless the possession is random and in good faith. The Court found that although the legislator did not specify what constitutes profanity, the concept involves emotions of repugnance and loathing. The Court determined that photographing children for the purpose of satisfying the sexual desires of the defendant qualified as profanity. The Court further stipulated that the interpretation of what profanity is should include reference to the nature of the Law, which is to protect children against pedophiles and sex maniacs.

Furthermore, the Court found that the defendant violated the *Protection of Privacy Law*, 5741-1981. These children were photographed without their parents' consent. The Court held that there is a difference between an adult who exposes himself in public and can therefore be seen as consenting to any resulting photographs, and a child who does not have legal capacity, is naïve, and is being used for profane purposes.

The fact that the children were naked on the beach does not preclude their right to privacy, including the right not to be stalked or photographed. The defendant was eventually sentenced to one year imprisonment and 18 months of suspended imprisonment. (Cr.C (Tel-Aviv) 006136/07 *The State of Israel v. Salomon-Ballivoy Korido* (08.01.2008)).

J. Article 17 of the Convention - Access to Information: Television, Radio, and Film

Protection of Children

208. In accordance with recommendation No. 59 to the concluding observations of the Committee on the Rights of the Child, the Committee recommended that the state party shall take all necessary measures to increase the effectiveness to address commercial sexual exploitation by providing the necessary financial and other resources. Below are the measures undertaken to address this recommendation.

209. In 2001, the Knesset approved the *Classification, Marking and Prohibition of Harmful Broadcasts Law* 5761-2001 (the: "*Broadcasts Law")*. The Law determined that television broadcasts that allow visual, verbal or vocal elements of violence, sexual acts and cruelty or which could be seen as encouraging criminal behavior or the use of illegal drugs, shall be classified as broadcasts that are not appropriate for children under a certain age.

210. The *Classification, Marking and Prohibition of Harmful Broadcasts Rules (Commercial Broadcast, Advertisement and Issuing of a Notice)* 5765-2005, (The: "*the Broadcasts Rules*") distinguish between three categories of classification: programs inappropriate for children under the age of eight, programs inappropriate for children under the age of fourteen and programs inappropriate for children under the age of eighteen. The classifications are made according to the content of the program.

211. After a long process initiated by the Broadcast Cable and Satellite Council (the "Council"), which included a public hearing and a comprehensive examination accompanied by a professional counselor, the Council decided on July 9th, 2009, to recommend to the Minister of Communication, to change the existing rules in order to adapt the broadcast categories of classification in a more appropriate way to the stages of development of children and youth.

212. Therefore, the Council recommended classifying the broadcasts according to four categories of classification instead of three. The 4th category recommended is: "programs inappropriate for children under the age of twelve". In addition to this, the Council recommended to cancel the category of "programs inappropriate for children under the age of fourteen" and to replace it by a category: "programs inappropriate for children under the age of fifteen".

213. Furthermore, the Council recommended adding categories of description according to the characteristics classifying the broadcasts: "sex and pornography", "violence and cruelty", "fear of encouraging violence" or "using dangerous drugs".

214. According to a 2002 amendment to the *Communication Law (Broadcasting and Television)* 5742-1982, a company licensed to transmit television broadcasts, shall not broadcast profanities including the screening of sexual intercourse that involves violence, abuse, humiliation, contempt or exploitation. Moreover, it is prohibited to broadcast sexual intercourse with a minor or a person impersonating a minor.

215. The *Consumer Protection Regulations (Commercial and Marketing Directed at Minors)* 5751-1991 (the: *"Consumer Law*") creates principles for commercials and marketing directed at minors under the age of eighteen. The content of the commercials and marketing of a product must be appropriate to the understanding and level of maturity of the intended audience. The message transmitted ought to

accord with moral values such as justice, equality, non-violent behavior, integrity and tolerance. Moreover, the information broadcasts must contain accurate and valid information (Section 2 to the *Consumer Law*). Section 3 prohibits the making of commercials and any marketing that involves the abuse of children's imagination and innocence, violent descriptions, nudity or sexual innuendos. Such content may result in a feeling of deprivation and inferiority among minors. Section 4 prohibits the making of commercials and marketing techniques that encourage minors to act carelessly, risk their health and/or safety and use dangerous accessories. Section 5 forbids commercials and marketing techniques that encourage minors to consume alcohol and/or tobacco, participate in gambling and games of chance, with the exception of lottery games entered for non-commercial purposes. The *Consumer Law* also prohibits the encouragement of any illegal act (Section 7). The Law further bans the publication of a minor's personal details, directly or indirectly, without the consent of her/his parents or custodian (Section 7(a)).

Children's Television Programs

216. These prohibitions are also stipulated in the *Second Authority for Television and Radio Regulations (Broadcasting of Television Programs by a Concessionaire)* 5762-2002. Moreover, according to these regulations, a television program that is intended for adults should not be broadcast before 22:00 p.m. whereas a television program that is intended for adults and has blunt sexual scenes, severe violence, or foul language should not be broadcast before 24:00 p.m. In addition, the concessionaire is obligated to provide a diverse and balanced broadcasting program. The concessionaire broadcasts at least eighteen hours a day, and such broadcast includes programs for the family. Programs intended for children up to the age of twelve or programs for youth between the age of twelve and fifteen must be broadcast at least during 90% of the time between 16:00-24:00 p.m.

217. *The Second Authority for Television and Radio Regulations (Insertion of Commercials in Television Broadcasts)* 5752-1992 controls the transmission of commercials during children's programs. According to the regulation, programs designated and/or that might be popular among minors ought not to include commercials for drinks that contain alcohol, elements that may start a fire or easily

catch fire. It is also prohibited to air commercials concerned with medications, vitamin additives, sedatives and adult films before 22:00 p.m.

218. *The Second Authority for Television and Radio Regulations (Ethics in Television Commercial)* 5754-1994, prohibits the transmission of commercials that may encourage inappropriate acts. It is also prohibited to broadcast a commercial that tolerates the appearance of minor in an improper manner or transmit commercials that offend the dignity of minors.

219. In accordance with recommendation No. 26 to the concluding observations of the Committee on the Rights of the Child, the right to non-discrimination must carry out comprehensive public education campaigns. Hence, the Israeli Broadcasting Authority devotes considerable efforts to encouraging tolerance and equality among children and youth. The Authority emphasizes the importance of impartiality and equivalence between dissimilar races, diverse skin color, different ethnicities, origins and nationalities. The Broadcasting Authority - television and radio - transmits varied programs on the subject of religious pluralism, co-existence between the Arab and the Jewish population, children and children with disabilities, children of immigrants, children of foreign workers and so on. These programs aim to educate children, teach them about the various populations in the society and how to accept diverseness.

220. Attention is paid to fighting racism and communal segregation among youth. Daily news covers social and legal racial discrimination and struggles in order to raise awareness of the issue among adults and children.

221. "Kol Israel" – is a part of the Israeli Israel Broadcasting Authority (IBA) and is required by law to air artists of different styles, and broadcast programs in Amharic, Russian and other languages on a regular basis. It is also committed to objectivity and to raising the awareness among people by discussing matters of controversy online. For instance, recent debate concerning a dispute between certain private schools in the central region of Israel and the Ethiopian community was broadcast broadly by the majority of networks.

Protection Against the Publication of Children in the Media

222. In 2004, Section 24(a) (2) to the *Youth (Care and Supervision) Law* was amended. The amendment stipulates that photographs of minors aged five (rather than nine,

as it was previously) without their cloth, which photographs can result in the identification of the minor cannot be published. Thus, whomever advertises such pictures is liable and can be imprisoned for a period of up to one year.

K. Article 37 (a) of the Convention

Prohibition against Torture and Cruel Treatment

223. This issue was discussed in Israel's Initial Report. No change has occurred in this regard since Israel’s Initial Report.

Corporal Punishment of Children - Remedies for Parental Cruelty

Case Law

224. On July 4, 2006, the Tel-Aviv District Court sentenced a defendant to seven years' imprisonment and two years' suspended imprisonment. The defendant was convicted of multiple accounts of violence and abuse of a minor, which he performed against his two children over a period of several years.

The Court stressed that children should not be subject to corporal punishment, nor to strict discipline from their parents, but rather to parental care and warmth. Instead, the children in the case, were systematically abused, insulted, isolated from peers, and terrorized, all of which resulted in the children's need for psychiatric treatment including medication. The defendant had been residing in Israel for over fifteen years and was well aware of the legal situation in Israel in this regard. The fact that the defendant himself was also brought up in a similar manner, does not warrant leniency by the Court. The defendant pleaded guilty from the commencement of the investigation, which spared the need for the children to testify. The defendant also expressed remorse for his actions. Nonetheless, due to the severity of the offences, and the impact on the children, the Court did not find reason to impose a light sentence (Cr.C 40362/05 *The State of Israel v. Onimaya Theodor* (04.07.2006)).

225. On February 12, 2003, the Be'er-Sheva District Court accepted the State's appeal regarding the leniency of the punishment imposed on a defendant. According to the appeal, the defendant was convicted following a plea bargain reached with respect

to two charges of abuse against minors and two charges of violence against minors. The Court stipulated that these offences were committed on numerous occasions.

The defendant, a father of seven children, abused them physically and mentally, and whipped them using a belt. The Ashkelon Magistrate Court sentenced him to 25 months' imprisonment, of which seven months was to be served as suspended imprisonment. The Be'er-Sheva District Court held that due to the severity of the offences, and due to the fact that the defendant did not demonstrate genuine remorse, the defendant should be subject to 36 months' imprisonment and one year of conditional imprisonment for the duration of three years following his release from prison, and provided he does assault family members or injure minors and defenseless persons. The District Court held that violence towards children cannot be accepted as a method of education. Furthermore, the Court stipulated that a minor is a person, as underscored by the *Basic Law: Human Dignity and Liberty*, and therefore, beating him violates his basic human rights; and the parent is not entitled to violate the minor's rights this way. (Cr.A (Be'er-Sheva) 7161/02 *The State of Israel v. Z.Y.* (12.2.2003)).

226. On September 9, 2007, The Ashkelon Magistrate's Court sentenced the defendant to a period of two years' imprisonment and one year suspended imprisonment, after he again attacked three of his children during 2006. The Court also activated the one year of conditional imprisonment which was included in the defendants' previous conviction. The court stated that parents must protect, love and educate their children, rather than serve as source of violence, fear and terror. (Cr.C (Ashkelon) 1414/06 *The State of Israel v. Zur Yehoshua* (9.9.2007)).

227. On July 17, 2008 the Tel-Aviv District Court sentenced a father who was found guilty of committing an indecent act against his child during a period of two years, to eight years' imprisonment and two years' suspended imprisonment. Furthermore, the Court ordered the father to compensate his daughter with the sum of 50,000 NIS (13,500$) *(*S.Cr.C. 1043/06 (Tel-Aviv) *The State of Israel v. Anonymous* (17.07.2008)).

228. On March 27, 2008 the Tel-Aviv District Court sentenced a father who was found guilty of committing multiple acts of incest against his daughter, to twelve years' imprisonment and two years' suspended imprisonment. Furthermore, the Court determined that due to the severity and frequency of these acts, the father should

compensate his daughter with the maximum compensation stipulated in the law in

District Attorney (Criminal) v. Anonymous (27.03.3008)).

The Obligation to Report

229. This issue was discussed in Israel's Initial Report. Certain changes have occurred with respect to the obligation to report since Israel's Initial Report. In accordance with recommendation No. 37 to the concluding observation of the Committee on the Rights of the Child, a state party ought to establish a national and comprehensive strategy violence and abuse within the family, in schools and other institutions carrying for children. Such strategy is now implemented by means of the *Compulsory Education (Physical Violence Reporting Rules) Regulations* 5770-2009. A recent enactment that obligate Principals of educational institutions to report in writing to the supervisor of such institution regarding any occurrence of physical violence between an educator and a pupil (additional details provided below).

Minors in Need of Protection

230. In a groundbreaking decision reached by the Jerusalem Magistrate Court, the Court ordered the Municipality of Tel-Aviv to pay **200,000 NIS ($54,000)** as compensation to the plaintiff. This was awarded as a result of the Municipality's failure to remove the plaintiff from his home, when he was 10 years old, despite the existence of evidence available to the Department of Welfare, regarding abuse and neglect inflicted by the plaintiff's father. When the municipality finally acted based on the information before it, after severe emotional damage was inflicted upon the plaintiff, it failed to provide an appropriate out-of home placement, therefore the plaintiff ended up in the youth wing of a psychiatric hospital where he stayed for over a year, despite the fact that he did not exhibit any symptoms of psychiatric illness, other than distress that would be expected under the circumstances. As a result of the inappropriate hospitalization, the plaintiff suffered from several difficulties in his adult life, including the reluctance of the Israeli Defense Force to draft him, reluctance of the authorities to issue him a driving license and a permit to carry a weapon, all of which resulted from the stigma associated with mental instability. The Court agreed with the plaintiff that an evaluation conducted by a psychiatric hospital of the condition of a child removed

from his home should last several weeks at most, and thereafter, the child should have been placed in a out-of home facility according to his needs and according to the options available to the relevant authorities. The Court determined that the primary harm was the failure to remove the plaintiff from his home in due time, which resulted in extensive hospitalization, and was part of the pain and suffering caused by the municipality, therefore entitling him to compensation for non-

*(*14.01.2007)).

Children Suspected of a Criminal Offense

231. The *Mentally Ill Patients Treatment Law* was amended by Amendment No. 14 to the *Youth Law.* According to the Amendment, psychiatric examinations, treatment orders etc, can only be issued by psychiatrists and professionals in child psychiatry.

Capital Punishment

232. This issue was discussed in Israel's Initial Report. No change has occurred on this subject since Israel’s Initial Report.

Life Imprisonment

233. On January 18, 2006 the Supreme Court rejected an appeal filed against a sentence of 25 years' imprisonment imposed on a minor. The minor was 17 and three months at the time he murdered his own father. The rationale of the appeal was anchored in Section 25(b) to the *Youth Law* that stipulates that there is no obligation to impose life imprisonment, mandatory imprisonment or a minimum penalty on a minor. The appellant claimed that the District Court that sentenced him to 25 years' imprisonment was not authorized to sentence him to more than twenty years. The Court affirmed prior decisions determining that Section 25 of the *Youth Law* allowed courts discretion as to whether or not to impose severe punishment on minors and under what circumstances. The Court stressed that the legislator's purpose in enacting Section 25 of the *Youth Law* was to broaden the scope of punishments that can be imposed on minors, excluding capital punishment which cannot be imposed under any circumstances. Therefore, the Court rejected the appeal and the punishment remained (Cr.A. 4379/02 *Anonymous v. The State of Israel* (18.01.2006)).

234. In another case, the Supreme Court rejected an appeal lodged by two defendants who were convicted of the joint perpetration of a murder when they were seventeen and a half years old. The convictions were passed down in separate trials, and the first defendant was sentenced to life imprisonment while the second was sentenced to 24 years' imprisonment. The appeals were heard together. The first appellant appealed his sentence of life imprisonment on the basis of the fact that he was a minor at the time he committed the crime. This outcome, he claimed, violated Section 25(b) of the *Youth Law* and the *Basic Law*: *Human Dignity and Liberty*. According to the appellant, his rights were violated.

The Court held that the legislator was aware of the sensitive issue of minors' sentencing, namely that extra caution is required. Therefore, even though there is a mandatory sentence imposed on those who have committed murder, the court has the discretion regarding the punishment in cases of unusual circumstances, even if it results in a deviation from the mandatory sentence.

In Israel, a life sentence does not entail life-long imprisonment with no option of early parole. Therefore, it does not contradict or refute the provisions of the Convention that prohibits an imposition of life sentence in its literal meaning on a minor. This way, the proper balance is struck between the need to be lenient with minors, even if they committed the most severe offenses, with the need to respect the rights of the victim. Thus, the practice in this matter is consistent with the *Basic Law*. The Court determined that the judgment should remain and the sentence should not be reduced.

The second appellant contested the severity of her punishment; while the State appealed to impose the same punishment on Sigalit Haimovich of life imprisonment as imposed on the first appellant, as they committed the crime together and should serve the same sentence. The Court held that even when the offense was jointly performed, there is space to consider each perpetrator's specific circumstances. Therefore, the Court denied both appeals. (Cr.A 9937/01 *Roei Horev et. al. v. The State of Israel* (09.08.2004)).

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

The Definition of the Term "Family" under Israeli Law

235. Both the Rotlevi Committee (2003) and it Sub-Committees recommended several changes to the Israeli legal definition of a family. Some of the recommendations were implemented by Amendment No. 14. It is worthwhile noting that in addition to the changes that this Amendment rendered, it had several implications for related legislation in particular the *Criminal Procedure Law*.

    A recent amendment was made to the definition of a "Family Unit." The amendment adds extended family members to the list of individuals who constitute immediate family. The addition includes grandparents. As a result of the amendment, less direct family members may hold rights with respect to minors. Moreover, a 2007 Amendment to the *Limitation Law* 5718-1958 (the*: "Limitation Law")* includes the parent's partner (even if they are not married), foster parents (and their partners, even if they are not married), as well as grandparents in the definition of immediate family members. The term family member was also amended to include persons over the age of 15, who are either biological or foster siblings, as well as their spouses, uncles or aunts including their spouses, and siblings' in-law. This definition is also incorporated into the *Penal Law* following recent amendments.

236. A similar definition can be found in the *Criminal Procedure Law, (Enforcement Powers – Physical Search and Obtaining Means of Identification)* 5756-1996 (the:" *Criminal Procedure Law (Enforcement Powers) Law"*). This definition includes the parents, grandparents, their spouses (even if they are not married), siblings (including step-siblings), and their off-spring, aunts or uncles and their off-spring, and siblings-in-law.

Family Structure

237. Israel's population is relatively young. In 2008, 34.85% of Israel's population was classified as children, aged between newborn and the age of eighteen. In the same year, 43.3% of Israeli households were families with children under the age of seventeen. More recent numbers are detailed below.

Family Size

238. As indicated in Table No. 3 below, in 2008 the average number of children per family was 2.38, which is similar to the average reported in Israel's Initial Report. Large families with four or more children comprise 16.43% of all families, while approximately one-third of all families have only one child. The number of children in families varies greatly according to sub-population: Jewish families have an average of 2.24 children, while Arab families have an average of 2.95 children. Large families with four children or more comprise 12.7% of Jewish families and 30.8 % of Arab families. The ultra-orthodox Jewish population is also characterized by large families.

239. New immigrant families that came to Israel during the 1990's tend to be smaller: In 2005, 50% of these families had one child, compared with 33% of the general population (in 2006). Between 1996 and 2008, the population of Jewish children decreased from 35.84 % to 33.11%, while simultaneously, the number of Arab children decreased from 50.8% to 49.63%.

Table 3 - Number of Children Per Family, by Sub-Population (average and percentage)

2001		**2008**	
Number of children	Total population	Number of children	Total population
Average	2.35	Average	2.38
Percentage	-	Percentage	-
1 child	34.2	1 child	31.4
2 children	29.9	2 children	32.23
3 children	18.9	3 children	19.95
4 or more children	16.8	4 or more children	16.43

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

Family Composition

240. In Israel, most families (90%) with children are headed by two parents; the remainder (10%) are single-parent families. There are fewer single-parent families in the Arab population (5.5 %), and significantly more such families among the new immigrant population (29.56%). Most (57.6%) single parents are divorced, 13.2% of single parents are married but live separately, 18.8% are widowed and 10.4% were never married.

In 2008, 3,943 children were born to girls age nineteen and younger. These births amount to 2.51 % of all births that occurred in Israel in 2008. Births to single

minors are rather uncommon in Israel. In 2006, 581 children were born to girls under the age of seventeen, of which 432 were Muslim and 107 were Jewish, 10 % of these girls had given birth previously. In 2007, 2,811 girls aged nineteen and younger approached the State Termination of Pregnancy Committees. 84% of these girls were Jewish, 10.9% had no religious affiliation and only 2.85% were Muslim. Nearly all of these girls (96.8 %) were single. The majority of the abortion requests were granted.

241. Directive 4/08 of the General Director of the Ministry of Health Directives deals with an expansion of services provided in the State medical basket of services for the year 2008. Prior to this expansion, female minors below the age of eighteen were entitled to undergo a free abortion. However, as of March 3, 2008, all women below the age of nineteen are entitled to a free abortion.

Same-Sex Couples

242. Civil marriages are not recognized under Israeli law. Marriages are conducted in accordance with the couple's religious law; therefore marriages between two persons of the same-sex are not possible. Nevertheless, in recent years two alternatives to the traditional institution of marriage were developed. The first is the recognition of Reputed Couples (common-law partners). Such a relationship is legally binding, and enjoys similar legal rights and duties as do couples who were legally married. Gradually, the legal status of same-sex couples has been encompassed within the legal concept of Reputed Couples. The second alternative for same-sex couples is the registration of a marriage which took place abroad with the Israeli Population Registration. According to a ruling of the Israeli High Court ruling in November 2006, same-sex couples who were married abroad can be registered with the Israeli Population Registration. This registration renders the civil (legal) status of reputed and/or same-sex couples equal to that of legally married couples, including with respect to National Insurance and tax benefits (the above relates to all religious groups in Israel).

243. Another leading case concerning same-sex couples was heard by the Supreme Court of Israel, residing as a Civil Court of Appeals. The Court accepted an appeal submitted by two unmarried woman, mothers to minor children, who were living together as a couple. The couple applied to adopt each other's children. The Supreme Court emphasized that there are various aspects to the concept of the

child’s wellbeing, some of which are personal and individual to each child and some of which are environmental. In order to reach a decision, a court is required to consider all potential aspects that may impact upon the child’s wellbeing as a result of her/his adoption; such as the future relationship between the child and her/his parent, difficulties that may arise within the immediate (and remote) family and with friends, and even the response of the child's community to the adoption. The A*doption Law* is formulated in a flexible manner (both in terms of its wording and its interpretation) as cases and circumstances vary. And thus, the Supreme Court revoked the lower court's decision and remanded the case to the Family Matters Court in order for that court to re-evaluate the matter. The Supreme Court ordered that the re-evaluation must include consideration of the children’s wellbeing *(*C.A. 10280/01 *Yaros-Hakak v. The Attorney General* (10.01.05)).

Marriage and Birth Among Minors

244. Please see Chapter III, above.

A. Articles 5, 9 and 18 of the Convention

Parental Guidance and Responsibilities

245. The Rotlevi Sub-Committee, which engaged with issues related to the child and her/his family, presented a conceptual basis for legislation addressing the issue of childrearing. The traditional legal presumption is that parents ought to be granted wide-ranging legal rights with respect to their minor children. In 2003, the Sub-Committee recommended principles that the Israeli legislator should adopt in this regard. By 2009, the majority of the recommendations had either been approved by the Israeli legislator or were in the process of enactment, as stated in this Report.

It is worth mentioning that in recent years there has been a change of perception with respect to children's rights throughout the western democratic world. The previous legal, social and educational notions have evolved, and are now governed by a child-central perception. This perception acknowledges the value of the child’s autonomy and encourages the participation of children in decisions affecting them and their interests. The legal, welfare and educational systems respectively examine the child’s best interest in every proceeding, whether or not these accord with the parent's points of view and/or their wishes.

246. The rights and the duties related to raising a child are granted legal recognition and are governed by diverse legal duties, including the acknowledgement of the importance of the extended family's involvement in childrearing. The committee also suggested the adoption of new terminology, and the replacement of the phrase the "Rights and Duties" of parents, with the phrase "Parental Responsibility." The novelty inherent in this conception lies in the aspect of “equivalency.” Parents no longer have the sole rights over their children’s lives; children now enjoy rights of their own over their lives.

    Albeit, children still enjoy the right that an adult will bear parental responsibility for them. A child's right to be cared for stems from, among other things, well-founded “child development psychology,” which recognizes that children need a stable home and a nurturing environment to ensure their healthy development.

    Children enjoy a number of rights with respect to family and childrearing, for example:

    246.1. The right of a child to live, grow, and develop with her/his parents.

    246.2. The right of a child to dignity and security, and the right to be cared for by her/his own (not necessarily biological) parents.

    246.3. The right of a child to an intimate, steady, and continual relationship with her/his parents.

    246.4. The right of a child to guidance and consultation from her/his parents.

247. Few laws can shield children from emotionally neglected childhoods; nevertheless, the essence of the Sub-Committee's recommendations is already regulated by the *Legal Capacity Law* and effected by the Social Welfare Department in her/his region.

Parents’ Legal Responsibilities

248. Section 361 of the *Penal Law* distinguishes between different types of neglect. The Section stipulates that leaving a child under the age of six without proper care, while subjecting the child to the danger of actual harm to her/his health or wellbeing, can result in three years' imprisonment. If the act is done negligently, the offender may be sentenced to one years' imprisonment. However, if the act was

committed in order to abandon the child, the offender may be sentenced to up to five years' imprisonment.

The Amendment also modified Section 323 of the *Penal Law*, stipulating that a parent or a legal guardian is obliged to provide the minor with all her/his substantial needs, such as providing healthcare, preventing them from being abused, and bodily or emotionally harmed. The guardian shall be liable for failing to satisfy her/his legal obligations, and if the guardian endangers the child's life, she/he may be sentenced to up to three years' imprisonment.

Parents' Tortuous Wrong

249. On August 31, 2005 the Jerusalem Family Matters Court determined that a father, convicted of performing an indecent act against his child when she was three years old, could also be seen as violating other sections of the *Penal Law*, including violating the obligation to care for a child, committing assault, and committing abuse; and could be seen as violating his parental obligations to care for his child as stipulated under the *Legal Capacity Law*. Accordingly, these violations constitute a breach of statutory duties and assaults under the *Civil Wrongs (Tort) Ordinance*, 5728-1968 which establishes a right to compensation.

The Court held that this kind of harm, inflicted on a small child, would continue to affect the child at different stages of her/his life, thus qualifying as mental harm which would necessitate psychological assistance. The Court also found that this harm created a permanent mental disability of 20%. Due to the breach of the obligation to care for the child in question, both under the *Penal Law* and the *Legal Capacity Law*, as well as a violation of Articles 16 and 19 of the Convention, the Court determined that the father should reimburse his child for the mental treatment she had already received. In addition, the Court ordered the father to compensate his child for future mental treatment, and for the infliction of misery and pain, in the total sum of 480,000 NIS (129,000 $). (F.M.C 2160/99 *Anonymous v. Anonymous* (31.08.2005)).

250. In another case, the Rishon-Lezion Family Matters Court ordered a father who was convicted of committing an indecent act against his child, when she was 14 years old, to compensate her in the amount of 160,000 NIS (43,000$). The child was forced to change schools and move to a private school, as a result of the change in

her behavior caused by the trauma. Furthermore, the child dropped out of social work studies at university after only two months, after being asked to write a paper on sexual abuse. Therefore, the Court ordered the child's compensation, which included compensation for the infliction of misery and pain, for past and future medical treatment, and for the costs of changing schools and dropping out of University. (F.M.C 10970/04 *Anonymous v. Anonymous* (29.10.2006)).

Income Support for Families

251. The National Insurance Institute (NII) is responsible for the payment of income support benefits. In 2006, the NII paid income support benefits to approximately 130,341 families, which did not earn the minimum level of income as determined by the *Income Support Law* 5740-1980, and were not covered by any other income maintenance programs.

252. As of January 1, 2006, women who are unable to work owing to their high-risk pregnancies are to receive a "maternity allowance" for a period of at least 30 days. The amount which is to be received per day is the lower of the following two amounts: the basic amount divided by 30 - 259 NIS, (70$); or the woman's average salary, as determined based on her income in the previous three months, divided by 90 (starting from 1.1.2009). Following the Emergency Economic Plan and the Recovery Plan for the years 2002-2006, the sum of the maternity allowance was reduced by 4%, effective as of June 2002 and up until December 2007. The 4% reduction was annulled as of January 1, 2008.

253. As of January 1, 2005, the NII of Israel makes payments of maternity grants, which are provided to post-natal new mothers in order to help cover the cost of a layette for the newborn child, directly into the mother's bank account approximately one month after the date on which she gave birth. The maternity grant was previously paid by means of a check given to the mothers in the hospital in which the birth took place.

Table 4 - Maternity Allowance and Birth Grants, 1990 - 2008

Year	Recipients of maternity allowance (thousands)	Annual increase (%)	Recipients of birth grant (thousands)	Annual increase (%)
1990	43.7	0.5 (1986-1990)	103.6	0.5 (1986-1990)
1995	55.2	4.8 (1991-1995)	113.1	1.8 (1991-1995)

2001	71.2	0.8	127.1	-3.6
2003	73.9	3.5	136.4	6.1
2004	77.5	4.9	141.2	3.5
2005	77.0	-0.6	142.9	-
2006	82.7	7.3	143.6	0.5
2007	86.0	4.1	147.2	2.5
2008	93.6	8.8	152.0	3.3

Source: The National Insurance Institute, 2008

254. **Maternity Hospitalization Grant** – this grant is paid by the NII and is intended to cover the cost of childbirth and the cost of hospitalization for the mother and child, and is conveyed directly to the hospital. Women who enter labor prematurely are provided with a higher fee. Women who give birth overseas receive payment directly if they submit a claim therefore. Since April 2005, the amount paid for a premature delivery was increased by 50% and by January 2007 it climbed a further 12.1%. The added percentage amounts to 151.6 million NIS ($40 million) per annum. These grants are funded by the Ministry of Finance. In 2008, 2,500 grants were paid for premature childbirths, an increase of 5% as compared to 2007.

255. As of January 1, 2009, a “maternity grant” given to a new mother upon the birth of her first baby, or to adoptive parents upon adoption, was 1,556 NIS, (420$). The maternity grant for a second child was 700 NIS, (175$), and for every third and additional child to the family was 467 NIS, (126$).

256. The NII grants a benefit to a mother who has given birth to three or more children in one birth, and again at the end of a 30-day period after the date of the birth, if at least three of those children have survived. The childbirth allowance is paid, in addition to the maternity grant, for the period from the first day of the month following the birth, up until twenty months from that date.

257. In 2006 and 2007, a number of significant Amendments were made to the *Women’s Employment Law* 5714-1954 (the: *"Women’s Employment Law").* These changes prohibit the employment of women during their maternity leave; prolong the period of leave permitted after hospitalization; prolong the period during which an employer is prohibited from dismissing an employee returning from maternity leave to 60 days; prolong the period during which dismissal of a female employee staying in a battered women's shelter is prohibited to 90 days (also requiring the consent of the Minister of Social Affairs and Social Services); extends maternity leave from twelve to fourteen weeks; and notably alters the pre-existing conditions

so that after six weeks' maternity leave, should a new mother decide to return to work, or otherwise waive her remaining leave, the father will be permitted permanent, (previously temporary), leave in her stead, for the duration of the maternity leave. Another significant Amendment was legislated in 2008 (Amendment No. 44), and stipulated that a female employee who worked for at least twelve months under the same employer up until the beginning of her maternity leave, is entitled to a leave of absence for a period of one fourth of all her employment period, but no more than twelve months (before the Amendment, the requirement was that the woman work for the same employer for at least 24 months).

258. Amendment No. 5 to the *Sick Day Payment (Absence from Work due to Child's Illness) Law* 5753-1993 (the: "*Sick Day Payment Law*") issued on March 26, 2001, increased the number of paid leave per year for a child's illness from six to eight days.

259. Amendment No. 6 issued on July 15, 2002, supplemented Section 1(b) to the *Sick Day Payment Law*, stipulating that if the child in question is in the sole custody of a working or single parent, she/he is entitled to up to twelve days of paid leave per year on account of her/his child's illness. Amendment No. 8 issued on March 3, 2008 further extended this to sixteen days.

260. Amendment No. 7 issued on June 18, 2007 supplemented Section 1B(a) stipulating that if a parent of a child with a disability works for the same employer or in the same workplace for one year, she/he is entitled to fifteen days leave per year. These may correspond with regular vacation time or sick days, so long as the assistance provided to the disabled child requires absence (including treatment, supervision, accompaniment, or other necessary assistance). Furthermore, the parent is entitled to fifteen additional days leave per year if she/he is a single parent, has sole custody of the disabled child, or if her/his spouse was not absent from her/his workplace under this amendment. The above Amendment supplements Section 1C, stipulating that the right accorded in Sections 1A and 1B will apply to foster parents if the biological parent or the adoptive parent did not take advantage of the right.

261. If the parent worked for one year in the same workplace or for the same employer, she/he is entitled to leave for up to 30 days per year (which may correspond to

regular vacation time or with sick days) in the event of a child suffering from a terminal disease. If the second parent was not absent from her/his workplace or if the parent is a single parent, or the child is under her/his sole custody, then the parent is entitled to 60 days leave per year in the event that the child suffers from a terminal disease (Amendment No. 3, dated April 2, 1997). Many work places grant additional privileges such as shorter work days for mothers or employers' participation in day care expenses.

Social Insurance and Entitlements

262. As detailed in Israel's Initial Report, all families residing legally in Israel, regardless of income, are entitled to receive a "child allowance," a monthly grant which increases with the number of children in a family. The Government policy of instituting drastic cuts in the amount provided in child allowances – the first stage of which was carried out in 2002-2004 – was set to continue in subsequent years up until the year 2009. The policy was partially implemented by means of temporary orders, and partially as permanent legislation. By the end of the legislative process in 2009, the allowance was a set amount for every child in all families, regardless of the child's position in the family. Beginning January 2006, for children who were born as of May 31, 2003, a family with one child received 159 NIS (42$) per month; a family with two children received 318 NIS (85$) per month; a family with three children received 509 NIS (127$) per month; a family with four children received 862 NIS (232$) per month; and a family with five children received 1,215 NIS (303$) per month. The amount per child born after June 1, 2003, is 159 NIS (42$) constantly. In 2005, 956,294 families received child allowances, amounting to 19% of the total benefits paid by the NII. In 2006, 968,282 families received child allowances, amounting to 17.6% of the total benefits paid by the NII. (For further details see the section on Child Allowances, below).

Social Services Support

Social Welfare Departments

263. Social welfare departments assist with the placement of children in day care centers so as to assist working mothers. In some cases, particularly in families that are unable to adequately care for their children, the Social Welfare Departments

will refer the children to a center and finance their care. As of May 2009, 14,000 children were placed in day care centers or family day care by the Social Welfare Department. Six various day care facilities operate within municipalities with an Arab majority, among them are 280 infants and 250 children that were placed in day-care facilities by the Social Welfare Departments.

After-school frameworks provide older children with supervision, hot meals, recreational activities, informal education and some therapeutic services. As of May 2009, approximately 10,000 children were placed in such frameworks by Social Welfare Departments - a dramatic increase from the 4,000 children who were placed in such frameworks in 1989. This increase was the result of cooperation between the Ministry of Labor and Social Affairs and the Ministry of Education, which worked together towards the increasing the number of after-school frameworks. (For more information on the after-school frameworks provided by the Ministry of Education, see Chapter IX.).

The Counseling and Psychological Services Department

264. The Counseling and Psychological Services ("Shefi") Department is a department within the Ministry of Education responsible for providing Counseling and Psychological Services, as well as educational counseling for pupils, parents and educators.

Resource distribution is as follows: "Shefi" currently allocates a total of 1,302 educational psychologists to kindergartens and schools in every local authority in Israel. 1,023 psychologists are allocated to the Jewish population and 159 are assigned to the Arab population. Among these, 71 are specialized in educational Counseling and Psychological Services, fourteen are allocated to work with the Bedouin population and five are assigned to work with the Druze population.

With respect to kindergartens, "Shefi" operates an educational advisory service for kindergartners composed of children aged three to six. The guidance is given by M.A. graduate educational advisors who are trained to deal with infants.

265. With respect to schools, "Shefi" currently allocates approximately 4,300 educational advisors to all official educational institutions (440 of which work with the Arab population, 70 with the Druze population and 37 with the Bedouin population).

266. Shefi plays a major role in the process of assimilation and implementation of the new Directive 5770/1(A) (September 2009) of the Director General of the Ministry of Education, which was concerned with the creation of a safe environment, and treatment against violence in educational institutions. The Directive comprises policy for the prevention of violence and the creation of a safe environment. The scope of the policy includes the advancement of schools' cultural environments, inter-personal communications, emotional and social studies, environmental studies, the importance of accepting children with disabilities and cooperation with parents. The Directive includes specific rules regarding violent behavior while presenting a positive model of behavioral norms in accordance with the recommendations of the State Comptroller.

    Since 2005, "Shefi" annually updates its website regarding the HIV virus and the Ministry of Education's website (prior to World AIDS Day). The websites includes theoretical and preventive information, surveys, and educational job offers for HIV infected youth.

Separation of Children from Their Parents

Out of Home Placements

267. Out of home placements refer to all kinds of child residences outside the nuclear family home that stem from the order of a court or welfare authorities. The Rotlevi Sub-Committee, which addressed the issue of the child and her/his family, examined out-of-home-placements while these were partially regulated by legislation. Below are the Sub-Committee's recommendations with respect to out-of-home placements. Most of the recommendations were accepted and implemented by 2008, through Amendment No.14 to the *Youth Law*.

The Sub-Committee's Recommendations Regarding Out-of-Home Placement of Children:

268. **Equality** – the Sub-Committee recommended applying the principles of equality in a manner suitable to an out-of-home placement environment. One of the important factors emphasized by the Sub-Committee was adherence to children’s civil, political, social and cultural rights despite the change of environment. The child’s wellbeing is maintained by allowing her/him to obtain information relevant to her/him, to be protected, to be heard, to enjoy respect of her/his privacy, to ensure

responses to the child's claims, to obtain education, to enjoy leisure and to encourage the development of the child's own personality. The Sub-Committee gave special attention to the rights of children with disabilities. Those taking part in out-of-home placement - parents, foster parents and the entire group home personnel - must adjust their care in accordance with the child's abilities, potential and changing needs.

269. **The Decision-Making Process** – the Sub-Committee's premise is that a child is better off raised by her/his parents. Thus, a decision to place a child in an out-of-home placement ought to be seriously considered and based on the belief that such a placement is in the best interest of the child. The decision is subject to the receipt of permission from the child's parents. The decision must be made by a group of professionals, specializing in child care.

270. When a child is placed out of home, the State is responsible for her/his wellbeing throughout her/his stay. The Minister of Social Affairs and Social services is bound (by regulations) to provide an appropriate and sufficient framework. All children must be placed in a framework suitable to their individual needs. Out-of-home placement is subject to periodical inspection and every child is accompanied by a person responsible for her/him during their residence.

271. **Ending of Placement** – the Sub-Committee recommended establishing a mechanism to ensure continuous examination, designated to assist children return to their natural environment, namely their parents. The Sub-Committee paid special attention to the importance of particular guidance being given to children who reached maturity during their stay at their out-of-home residence (ages eighteen to 21).

272. **Qualitative out-of-home Placement Treatment** – the Sub-Committee emphasized the importance of the presence of professional supervision at the facilities and accommodation of the placement concerned. Additional weight is put on the processes of training, guidance, documentation and research.

Divorced or Separated Parents

273. This issue was discussed in Israel's Initial Reports. Few changes have occurred in this area since the submission of Israel's Initial Report.

Case Law

principle of the best interest of the child required granting custody to the father of two minor girls (ages nine and seven). The court-appointed expert, after evaluating both parents and their spouses, determined that both couples were qualified to be awarded custody of the girls. However, since the girls' mother intended to immigrate to the United States, where her new spouse resided, a decision had to be made. The Court determined that according to the CRC several of the girls' interests needed to be considered when a custody dispute involves emigration, such as: the right to maximum survival and development of the child (Article 6), the right to grow in a family environment (Articles 18 and 20) the right to education (Article 28), the right of the child to preserve her/his identity (Article 8) and the right of a child to form her/his own views and to express those views freely in all matters affecting him (Article 12).

The Court heard the girls unaided and together with each of their parents, and determined that the girls understood the situation and the desire of both parents to include them in their new family. The Court held that although the girls did not express a specific desire to live with one of the parents, mainly due to their desire not to take sides in the conflict, they indirectly expressed their desire to remain in Israel, by the emphasis they placed on their relationship with relatives and friends in Israel. In the eyes of the Court, fulfillment of the right to identity as well as the right to grow with family members meant that the best interest of the girls was to stay with their father, therefore the Court awarded the custody to the girls' father. (F.A (Tel-Aviv) 1152/04 *Anonymous v. Anonymous* (27.9.2004)).

275. In another case regarding custody and emigration, the Tel-Aviv District Court determined that the children in question may immigrate to the U.K. with their mother subsequent to granting her custody. A year later the mother petitioned the Family Matters Court, requesting to be allowed to immigrate to the U.K since her parents and brother resided there, and provided the Court with detailed information regarding the relocation plan (such as place of residence and intended school for the children). While the motion was in process the mother revised her petition, informing the Court that she and the girls would reside with her new spouse in the U.K. The father objected to both of the plans suggested.

The Family Matters Court held that the mother may immigrate to the U.K., as she and the children were British citizens, and determined that this option would cause the least damage to the children, and it was in their best interest, since the father was not qualified to have sole custody, and forcing the mother to remain in Israel would harm the children psychologically. The father then appealed to the District Court and claimed that the children's independent will was not determined nor was their voice heard in court proceedings. The Court determined that the children were interviewed by the court-appointed expert who determined that they did not want to express a preference for either one of their parents, and would be traumatized if forced to appear before the court.

Therefore, the District Court affirmed the decision rendered by the Family Matters Court, allowing them to immigrate with their mother. (F.A (Tel-Aviv) 1287/05 *Anonymous v. Anonymous* (26.12.05)).

276. The father requested permission to appeal to the Supreme Court, which was granted. Thus the Supreme Court served as a third instance in this matter. The Supreme Court reaffirmed the decision made by the District Court. The Court held that hearing a minor according to Article 12 to the Convention, does not need to be done directly, and as the court-appointed expert ascertained that the children wished to avoid appearing before the court, it was sufficient to hear their wishes through the evaluation of the court-appointed expert. Furthermore, it held that the right of the child to express his will does not necessarily accord with the best interest of the child, which the court must determine in any given case. Moreover, the fact that the court proceedings regarding the immigration of the children lasted more than three years, did not comply with the best interest of the children either. (F.M.A. 27/06 *Anonymous v. Anonymous* (1.5.06)).

Maintaining Contact with Both Parents

277. Please see the Introductory Chapter, above.

Tax Deduction for Childcare Services

278. On April 3, 2008 the Tel-Aviv District Court determined that expenses paid for childcare services, such as nursery and after–school programs are expenses made for the purpose of generating an income, and can therefore be deducted from the taxable income of a mother each tax year. The Court determined that these costs

are essential in allowing the integration of mothers with young children into the labor market. In the case at hand, the Court determined that a mother of two children, a lawyer with a private practice, who was required to work long hours in order to succeed in her work, was required to find a solution for the care and supervision of her children during her working hours. However, the tax authorities did not agree to deduct the expenses paid for childcare from the mother's taxable income. The Court determined that a distinction should be drawn between the component of care and supervision (including the amount of money necessary to operate a childcare institution) and the component of education and enrichment the children receive while in those childcare institutions.

The Court emphasized the fact that the premise for its decision is the right of the two spouses to fulfill their career aspirations, their right to practice their occupation and create a livelihood for themselves and their family members. The placement of children who need adult supervision in childcare institutions is done for the purpose of allowing both parents to leave for work and to perform their labor. Therefore, the Court ordered that the tax authorities deduct two-thirds of the expenses paid in the years in dispute from the mother's taxable income. (I.T.A (Tel-Aviv) 1213/04 *Vered Peri v. The Income Tax Assessor of the Dan Metropolitan Area* (03.04.2008)).

279. Following the judgment, a State appeal was submitted to the Supreme Court on May 12, 2008. On April 30, 2009 the Supreme Court rejected the appeal and determined that child care during the time as a parent was at work is a deductible expense (C.A. 4243/08 *The Income Tax Assessor of the Dan Metropolitan Area v. Vered Peri*).

B. Article 10 of the Convention - Family Reunification

Permanent Residence in Israel

280. The *Law of Return* 5710-1950 (the" *Law of Return")* and the *Law of Citizenship* 5712-1952 (the" *Law of Citizenship* ") entitle people of the Jewish faith, their spouses and their children (including adopted children) as well as grandchildren, to Israeli citizenship. Thus, family reunification is automatic if children and parents are both Jewish; the Minister of Interior is authorized to grant Israeli citizenship

even to those who do not meet these requirements. For instance, if the person is a spouse of an Israeli citizen who is not Jewish (subject to the *Citizenship (Temporary Order) Law*) or if the person, usually a great-grandson of a person of the Jewish faith or a child from the first marriage of the spouse of a Jewish person, has served in the Israel Defense Forces (IDF). The entitlement of Israeli citizenship is not limited to family reunion matters or subject only to the provisions of the *Law of Return*. A person is entitled to apply for citizenship based on several rationales, such as settlement, birth, adoption and more (Sections 1-5 to the *Law of Citizenship*).

However, once a person becomes a citizen, together with her/his minor children, in the course of a single procedure, citizenship is granted to her/his minor children – provided that they reside in Israel - and that the parent holding the citizenship has custody over the children. If the minor is a foreign citizen and both her/his parents share her/his custody, the minor will not be granted Israeli citizenship if one of the parents declares that she/he does not wish that the child acquire such citizenship. Parents of citizens and permanent residents of Israel are not entitled to family reunification, but the Minister of Interior may grant them citizenship or permanent residency at her/his discretion (See: *Citizenship (Temporary Order) Law,* detailed above).

C. Article 11 of the Convention - Illicit Transfer and Non-Return

281. Israel is a party to the *Hague Convention on the Civil Aspect of International Child Abduction and* has enacted the *Hague Convention Law*. Section 4 of the *Hague Convention Law* stipulates that the Attorney General is the sole executor of this Convention. She/he may appoint a Child Protection Officer who is subject to the supervision of the chief of the Child Protection Officer. The Child Protection Officer is empowered by the *Youth (Care and Supervision) Law*.

The Attorney General is authorized by Section 5 of the *Hague Convention Law* to transmit information to persons and/or an organization in Israel and/or abroad in order to execute the Convention's Directives. Such information must remain confidential. A Child Protection Officer is authorized to convey information on behalf of the Attorney General, subject to her/his consent.

282. Family Matters Courts are authorized to issue an order that prevents abducted children and/or the person holding them from leaving the country. The Court can also instruct the Police to investigate the abduction, locate the abducted children and assist the Child Protection Officer in bringing the children to court. Injunctions that can prevent injury to the children, infringement of their rights, and ensure their return are advisable. *Regulation* 295/9(5) of the 1995 Amendment to the *Civil Law Procedures* 5744-1984 (the: *"Civil Law Procedures ")* stipulates that if the child's age and level of maturity enables it, the court shall not make a decision prior to hearing the child's opinion, unless there is a special reason not to do so (such reason must be documented). *Regulation* 295/9(5) of the 1995 Amendment to the *Civil Law Procedures* also allows the court to consider the child's opinion in an indirect manner, namely via a professional in child care, in accordance with the Convention on the Right of the Child. The Israeli Courts formulated basic conditions to consider the weight given to a child's opinion: a) age and level of maturity; b) free will; c) rationality.

Table Five below indicates the total number of child related cases handled by the Central Authority under the *Hague Convention* between the years 1993 and 1996. Among the 139 cases of children abducted to Israel in the above years, 52 were children abducted from the United States, fifteen from France and fifteen from the U.K. Of the 215 cases of abducted children from Israel, 60 were children taken to the United States and twelve to the U.K.

283. As another means of preventing the illicit transfer of children in situations of parental disagreement, in addition to the fact that both parents are the child's guardian, the Ministry of Interior issues passports to children only with the consent of both of their parents. If a parent fears that the other parent may attempt to illicitly transfer the child to another country, she/he may request an injunction against the child leaving the country.

Table 5 - Cases of Abducted Children Handled by the Attorney General under the Hague Convention.

Case resolution	Children brought to Israel *	Children abducted from Israel *
Total	**139**	**215**
Children returned following court ruling	47	60
Children not returned following court ruling	13	40
Waiting for appeal	2	7

Petition withdrawn	11	18
Re-abducted to the State of origin	12	2
Refusal by State authorities	1	7
State not party to Convention	2	8
Case not active	17	38
Child not located / never entered the country	7	1
Visitation arrangement (child remained by agreement in country to which abducted)	5	9
Voluntary return	18	21
Pending	4	4

** These statistics reflect the number of cases, not the number of children. Each case may contain more than one child.*

Source: The Public Defenders Office Data, 2009

Case Law

284. The Tel-Aviv District Court held that two girls taken by their mother to Israel should return to their father in the United States. The couple married in the United Stated in 1996 and were divorced in 2000. The father filed suit with the New York Civil Court and the Court ordered that the children remain in the U.S until the following hearing; nevertheless, the mother took the girls to Israel while the proceedings were still pending. In addition, the father was granted custody over the children, therefore, by taking the children out of the U.S. the mother violated the father's custodial prerogative. The Israeli District Court held that Section 3 of the *Convention on the Civil Aspects of International Child Abduction* was breached. Thus, the Court did not grant the girls the opportunity to express their wishes, although it emphasized the significance of such proceedings in order to fulfill the rights as set out in Section 13 to the aforementioned Convention, and Article 12 to the Convention on the Right of the Child. *(*F.A 1085/01 *Anonymous v. Anonymous* (8.8.2001)

285. In another case, the Israeli Supreme Court ordered the return of two children to their state of origin in accordance with the *Convention on the Civil Aspects of International Child Abduction*. The mother had legal custody over her minor children and they were living with her in Italy. During one of the father's regular visits to Italy to meet with his children, he took them with him to Israel without the knowledge and/or permission of the children's mother. The mother filed a suit with the Israeli District Court - demanding the return of the children according to the *Hague Convention*. The father claimed that the children's wish was to stay in Israel

and therefore (according to Section 13 of the *Hague Convention*) they should stay in Israel.

The court held that under Section 13 of the Convention there is no duty to return the children to the State of origin, if the children explicitly object to the idea. The premise is that the best interest of the child is fulfilled by the child's returning to the State of origin, and the exception cited in Section 13 must be limited to extreme cases, in order to accord with the Convention's goal. In this case it was held that the children's determination to stay in Israel was not established, therefore they should return to Italy and to the custody of their custodian parent. *(*F.M.A 672/06 *Taufik Abu Arar v. Paula Ragozo* (15.10.2006). (For a similar decision see, F.M.A 902/07 *Anonymous v. Anonymous* (26.4.2007)).

286. In another case, an Israeli citizen (the mother) and a Belgian resident (the father) were divorced in 2004. The couple had one child. In 2004, the mother applied to the Court for permission to leave with the child to France. The Belgium Court held that the mother could leave with the child (permanently) to reside in France. However, the Belgium Court of Appeals decided in 2005 that the child must return to Belgium to his father's custody. In 2006 the mother took the child to Israel without the father's permission. The Israeli Supreme Court examined the weight of Section 13 of the *Convention on the Civil Aspects of International Child Abduction*. The Supreme Court held that the best interest of the child outweighed the exception cited in Section 13 of the Convention in rare circumstances only. Such circumstances did not present themselves in this case; the return of the child to the State of origin was not proven to cause serious physical or mental harm to the child. Therefore the Court ordered the return of the child to Belgium. (F.M.A 1855/08 *Anonymous v. Anonymous* (8.4.2008)).

D. Article 27 (4) of the Convention - Recovery of Maintenance for the Child

287. *The Maintenance (Assurance of Payment) Law* 5732-1972 (the: *"Maintenance Law"*) states that the NII shall grant a Child Support Allowance to any person whom the court has awarded child support, but who is not receiving these payments from the person who by law is obliged to make them.

288. The 2002 Amendment No. 4 to The *Maintenance Law* broadened the scope of payments of Child Support Allowances by the NII, not only to decisions by Israeli courts, but also to foreign judgments, foreign interlocutory sentences or interim orders that were determined to be enforceable according to the *Enforcement of Foreign Judgment Law* 5718-1958 (the: *"Enforcement of Foreign Judgment Law"*). The Amendment also amended Section 2 of *The Maintenance Law*, stipulating that a person who is an Israeli resident and who received a court decision in her/his favor for the payment of child support, is entitled to request the NII for a monthly allowance if the person who was found liable to pay child support was an Israeli resident on the day the court gave its decision or is that person was an Israeli resident for at least 24 out of the 48 months prior to the court's issuing the decision for child support. With regard to foreign judgments, foreign interlocutory sentences or interim orders, the court's decision date is the day the decision was announced as being enforceable under the *Enforcement of Foreign Judgment Law*.

Case Law

289. See Chapter C. Article 3 of the Convention - The Best Interest of the Child, a father's claim to reduce payments and the determination of the Court to allow such reduction subject to the keeping the welfare of the child *(*F.A 785/05 *Anonymous v. Anonymous et. al.* (03.01.2006)), was discussed above.

290. In another case, the Supreme Court accepted an appeal submitted by a mother on behalf of two minors regarding their child support allowances. The suit, which was filed by the children four years after the divorce of their parents, requested the determination of the amount of child support payments. The Supreme Court held that the Rabbinical Court did not consider the children's best interest, and therefore remanded the case to the Family Matters Court in order for it to determine the claim as if it was an original claim coming before it. (F.M.A 7916/03 *Anonymous et. al. v. Anonymous* (28.02.05)). (See Chapter C. The Best Interest of the Child, above).

291. In a different case, the National Labor Court discussed the meaning of a child's entitlement to alimony. According to the *Maintenance Law*, The National Insurance Institute pays alimony when the debtor fails to pay and the person entitled to the alimony is an Israeli resident. The NII argued that the parent is the

lawful creditor of such alimony, and since the mother was not an Israeli resident she was not entitled to the payments. The court rejected the NII's claim and held that the child herself/himself is the rightful person to whom alimony payments should be made. The judgment indicated that alimony is a part of the child's legal rights to dignity and property. The parent is only the child's means of fulfilling her/his rights. The child in question was an Israeli resident, and thus entitled to the NII alimony. (La.A 592/07 *The National Insurance Institute of Israel v. Gaya Assi* (1.6.2009)).

E. Articles 20 and 25 of the Convention - Children Deprived of a Family Environment

The Alternative Care System in Israel

292. Out-of-home placement of children and youth can be divided into several groups. The majority, 61,726 (ages fourteen to eighteen) reside at boarding schools (mostly out of personal choice). A smaller group (9,599) of children and youth are placed in residential facilities and foster homes by social services. A yet smaller number of youth are placed in Youth Protection Authority facilities equipped to handle juvenile offenders and youth with severe behavioral problems.

Children Placed Outside Their Home by Social Services.

293. In 2009, a total of 8,500 children, newborn to age eighteen, resided in an out-of-home facility arranged by the Ministry of Social Affairs and Social Services. Contrary to the situation in most western countries, the majority of children placed in out-of-home facilities are the older ones. 6,500 of them are placed in boarding schools and 1,950 live with foster families (1,830 in standard foster families and 120 in special care foster families). 35% of the children are placed out-of-home by court order and 65% agree to out-of-home placement as a result of parental dysfunction or as a result of serious behavioral problems (such as acts of violence, involvement in sexual offences or post-hospitalization difficulties).

Residential Facilities

Residential Settings and Boarding Schools

294. In recent years the State has accelerated the development of new residential-care models. For instance, community-based residential settings and group homes have been established in collaboration with Non-Government organizations. The residences located in the child's home community encourage her/his parents to participate in her/his daily activities and in decisions concerning her/him. In addition, family units are being built for twelve to fourteen member families. Some of the units are part of larger residential settings whereas others function as individual Group Homes scattered throughout the community. Some residential facilities provide a "Day-Care" program where the children arrive in the morning and return to their family homes mid- afternoon.

Children and Youth in Residential Facilities

Table 6 - Presents status of Placement in Boarding Schools by Social Services

Distribution by age	**Number of children**
(iii) 0-5	(iv) 62 (0.9%)
(v) 6-12	(vi) 2,400 (36.6%)
(vii) 13-18	(viii) 3,899 (59.5%)
(ix) 19 +	(x) 196 (3%)
Distribution by educational population	**Children (in %)**
(xiii) Arab and Druze	(xiv) 14%
(xv) State	(xvi) 45%
(xvii) State-religious	(xviii) 18.6%
(xix) Orthodox	(xx) 22.4%

Source*: Welfare department the pedagogy clerkship – Welfare supervision department 2009*

Protecting the Rights of Children in Out-of-Home Placements

Laws Protecting Children in Out-of-Home Placements

295. Sections 368A-368F of the *Penal Law* addresses injuries to minors and defenseless persons. Amendment No. 94 to the *Penal Law* issued on May 30, 2007, added certain individuals to the definition of a family member (Section 368A(2)) including foster parents, their spouses, their parents or offspring, their siblings and the spouse of each of these.

296. Observation No. 37c to the Committee on the Rights of the Child concluding observations suggests a mechanism that investigates and monitors complaints and suspicion for abuse. This Amendment added Section 368D (c1), which creates a duty to report to the Police or to the Child Protection Authority any grounds that

give rise to a suspicion of sexual offenses performed against a minor or a defenseless person, by a family member who has not reached the age of eighteen years. Failure to report such abuse is a criminal offense, which carries a term of three months' imprisonment. This Amendment also imposes a sentence of six months' imprisonment on professionals who fail to report the abuse of a minor to the police or Child Protection Authority (e.g. physicians, nurses, educators, social workers, police officers, psychologists, criminologists, and school principals and staff; (Section 368D(c2)). The Amendment also imposes a sentence of six months' imprisonment on the person responsible for a minor or a defenseless person who, despite having had reasonable ground to believe that a sexual offense was committed against the minor or defenseless person by a family member who had not reached the age of 18 years, failed to report the abuse to the Police or Child Protection Authority (Section 368D (c3)).

297. On July 28, 2000, the Knesset enacted the *Infants at Risk (Entitlement to Day Care) Law* 5760-2000 (The: "*Infants at Risk Law*"). This law was amended in 2002. According to Section 2 of the Law, infants at risk are infants who are less than three years old, and whose development is believed to be in jeopardy. A decision to this effect is made by a professional committee, which will order the stay of the infant in daycare to avoid her/his removal from home.

298. According to Section 3 of the *Infants at Risk Law*, perilous situations applicable under the Law are:

298.1. According to the evaluation of a social worker and a medical opinion given by a physician, the infant is either physically abused or her/his developmental needs are continually ignored.

298.2. One of the parents does not function properly as a result of domestic violence, a mental illness, alcoholism, drug addiction, severe disability, retardation, prostitution, criminal behavior or a chronic disease of one of the family members.

298.3. The infant is evaluated and found to be able to develop normally. This determination must be made either by a pediatrician, who is an expert in child development, or a developmental psychologist. Moreover, the

decision is to be accompanied by severe family circumstances which give rise to developmental problems or which actually cause them.

298.4. Section 4 of the *Infants at Risk Law* specifies the conditions that must be met, after an infant is found to be at risk, in order for the infant to stay in daycare near her/his place of residence. The Minister of Social Affairs and Social Services, in conjunction with the Minister of Finance, determines the participation rate for the person obligated to pay child support, calculated based upon their income. The operator of the daycare center is responsible for 5% of the total cost of the infants' stay in daycare. The local municipality will fund 25% of the cost of the infant's stay in daycare, after deducting the amount funded by the daycare operator and the payments of the person obliged to provide child support. This funding will not apply to infants at risk whose participation in daycare is provided for by the Ministry of Social Affairs and Social Services according to laws other than the *Infants at Risk Law*.

Case Law

299. The Israeli Supreme Court residing as the High Court of Justice held that visitation arrangements agreed to by a divorced couple regarding their children, did not bind the children in question. As a rule, the Court stated that when an agreement regarding a minor's welfare (such as a place of residence) is reached without considering the minor's opinion, it might not be binding. The High Court of Justice clarified that a lower instance decision, which stated that a divorce agreement concerning alimony payable for a child does not bind the children involved, could be extended and applied to child visitation rights. The Convention on the Rights of the Child and the *Basic Law: Human Dignity and Liberty* both strengthen the recognition of the child as an independent entity who holds separate rights from those of her/his parents. (H.C.J 2898/03 *Anonymous et. al. v. The High Rabbinical Court et. al.* (21.1.2004)).

F. Article 21 of the Convention - Adoption

Circumstances of Adoption

300. Amendment No. 6 to the *Children Adoption Law*, (issued on July 20, 2004), stipulates that a court's ruling that a child should be taken from her/his parents for adoption shall be given within twelve months of receiving the request for such a proclamation unless the court postponed its decision in view of reasons specified (Section 13(b)).

Case Law

301. The Supreme Court recently ruled that an adoption should be a 'closed adoption'- therefore, from the date the adoption was approved, there should be no further contact between the biological parents and the adopted child.

302. The Court debated whether to allow contact between the biological mother and the child, as she had had supervised visitation rights for three years prior to the court hearings, thus rendering the adoption as an 'open adoption' (where some contact remains between the parties). The Court, after examining psychological reports admitted in earlier proceedings, as well as the report of a court-appointed psychologist, determined that it was in the child's best interest to approve the adoption as a 'closed adoption' and, to deny further visitation with the biological mother. The Court found that further visitation would require the approval of the adoptive parents in order to avoid further confusion for the child and to prevent forcing him to take sides between the adoptive parents and the biological mother; and would also require the biological mother's expressing opinions concerning the raising of the child. Such an opinion, assuming it would be a negative one, would significantly harm the child. The Court further determined that according to reports submitted by the adoptive parents, visitation with the biological mother was harmful to the emotional stability of the child, causing him to fear being detached from the family, to suffer sleep disorders, etc. The Court decided to approve the adoption as a 'closed adoption' and denied the biological mother's appeal. (F.M.A 366/06 *Anonymous v. The Attorney General* (14.02.2007)).

Adoption in Practice

303. In a recent case, the Supreme Court accepted an appeal submitted by a father who requested the cancellation of a decision which declared that his minor child was adoptable, since he had not been aware of the proceedings. The Court noted that the declaration of a minor as adoptable would not be reversed if it would cause the

minor significant harm. The court would only revoke such a decision after having examined the child's wellbeing. The Court considered the rights of the biological parent and the interest of the adoptive parents. (F.M.A 778/09 *The Attorney General v. Anonymous et. al.* (29.11.09)).

304. On April 21, 2005 the Supreme Court decided to revoke a decision handed down by the District Court, and determined that the child in question was eligible for adoption, despite the fact that the child's biological father did not know of his existence nor of the decision to give him up for adoption. The mother, who gave the child up immediately after giving birth, refused to reveal details of the child's father; and therefore the welfare authorities could not locate him, and determined that the child was eligible for adoption with regard to both biological parents. The father learned that he fathered a child only after the mother changed her mind, and began legal proceedings in order to regain custody of the child. Upon learning of the existence of the child, the father made efforts to have the decision regarding the child's status revoked.

305. The legal proceedings were conducted over a period of two years, during which the child was raised by a foster care family that intended to adopt him. The potential adoptive parents appealed to participate in the legal proceedings as they believed that they represented the child's best interest.

306. The Supreme Court held that the father did not express his desire to raise the child immediately upon receiving information regarding his existence, but rather hesitated for a few months, and that this period of time was crucial for the child.

307. The Court emphasized that the first period of time in a child's life is the most significant with regard to the relationship formed with the primary caregivers. The Court stressed that continuity and stability in the relationship was extremely important for a child's development. The longer the child stays with the potential adoptive parents, the graver the damage to the child if her/his is removed and therefore the greater the weight of the interest of the potential adoptive parents. Moreover, removing the minor from the custody of the individuals he views as "psychological parents" could result in damage to the minor, and may render him a minor at risk, who needs parents with special parental skills, the kind of skills that his biological parents lacked. The Supreme Court held that the child in question would therefore stay with the adoptive parents, as he should not have to pay a

heavy price solely to ease the pain of his biological parents. (F.M.A 377/05 *Anonymous and Anonymous v. Anonymous et. al.* (21.4.2005)).

308. In another case, the Supreme Court debated whether a minor could be declared eligible for adoption, after the mother put him up for adoption and refused to reveal the identity of the father but did provide several details about him in the event that the child would need the information at a later point in life.

The Court considered the right of the biological father to know his child, the right of the biological mother to give her child up for adoption, and her interest in not providing details of the biological father, and the right of the child to know his parents and be raised by them, as well as the public interest in encouraging adoptions that might be endangered if the biological mother was forced to reveal the identity of the biological father, and the public interest to know the identity of one's biological parents. The Court determined that a child can be declared as being eligible for adoption despite the fact that the biological father is unknown and that forcing disclosure of the father's identity might reduce the number of adoptions and harm the relevant children's best interest. (F.M.A 5082/05 *The Attorney General v. Anonymous et. al.* (26.10.05)).

Inter-Country Adoption

309. Section 28 of the *Child Adoption Law* is the primary section stipulating the conditions for inter-country adoption. Amendment No. 5 dated July 5, 2004 modified several provisions. The amendment also modified several provisions regarding inter-country adoption

310. In Section 28G that defines the eligibility of an Israeli person to request inter-country adoption, the Amendment replaces the words 'permanent resident' with "an Israeli citizen, or a person holding a "Teudat Ole" (provided by the Ministry of Immigrant Absorption), a document stating that a person is a "New Immigrant" (to Israel)". In addition, a permanent resident is eligible to adopt from abroad provided she/he resides in Israel for a period of three out of the last five years prior to the submission of the adoption request or twelve out of the eighteen months prior to the submission of the request. The Amendment also stipulates that the request should be submitted with additional information from a social worker regarding the competence of the person to be an adoptive parent.

311. The Amendment also amended Section 28H that requires the prospective parents to hand over an evaluation by the social workers to the adoption agency of information received from the prospective parents which attests to their competence as parents.

Further, the Amendment amended Sections 28-33 of the *Child Adoption Law*, which sections stipulate that an adoption agency shall not request, charge or receive, directly or indirectly, payments in return for inter-country adoption, in Israel or abroad, save for authentic expenses paid by the agency towards the adoption.

Sections 28-36(a) were amended to stipulate that if the competent authorities in the relevant foreign country affirmed the issuance of an adoption decree or the granting of a judgment, in terms of which the adoption is made final, the legal status of the adoption in Israel will be the same as intra-country adoption, provided that the relevant authorities have determined that the adoption is in the best interest of the child and does not offend public morality.

312. According to the Central Authority for Inter-Country Adoptions in the Department of Personal and Societal Services in the Ministry of Social Affairs and Social Services, between 1999 and 2007, a total of 2,059 children were adopted abroad and brought to Israel. Most of these children arrived from the Ukraine, Romania, and Russia. The following tables demonstrate the number of children arriving per year and the total number of children adopted in each country.

Table 7- Countries of Adoption, 1999-2007 (in absolute numbers)

The Country	Number of children
Ukraine	692
Russia	629
Romania	381
Guatemala	115
Belarus	79
Georgia	39
Moldova	39
Kazakhstan	25
Azerbaijan	19
Kirgizstan	17
Bulgaria	17
Other	7

Source: The Ministry of Social Affairs and Social Services, 2008

G. Articles 19 and 39 of the Convention - Abuse and Neglect, Recovery and Reintegration

Legislation

313. Amendment No. 6 to the *Special Education Law* was issued on July 24, 2002. This Amendment obligates the Minister of Education to promulgate regulation regarding the placement of children with disabilities in educational institutions. The idea is to allocate placement based on requests made by parents, in addition to the receipt of a professional opinion affirming that the child has a severe disability which requires her/his placement in the educational institution and that her/his integration in a regular educational institution is not feasible. Furthermore, the regulations promulgated should include information for parents with reference to the rights of children with disabilities and alternative educational institutions which are available to them.

314. Amendment No. 7 to the *Special Education Law* supplemented the Law to define disability as including physical, mental, intellectual, emotional-behavioral, cognitive, linguistic or any other developmental problem. The Amendment supplements regulation regarding the integration of a child with disabilities in the regular education system.

315. The purpose of the Amendment was to ensure that services of the same quality were provided to children integrated in regular schools as those provided to children in special educational institutions. The Amendment further obligates the inclusion of children with disabilities within the regular education system while increasing the annual budget designated for this purpose (See recommendations of the Dorner Committee, above). The *Compulsory Education Law* was amended in 2007 (Amendment No. 29). The *Compulsory Education Law* applies to children aged three years and older. (See also under: "*The Right to Life, Survival and Development of Children with Disabilities*" Chapter A, above).

316. A 2002 Amendment to the *Rehabilitative Day-care Centers Law* 5760-2000 (the: *"Rehabilitative Day-care Centers Law")*, expanded the basket of services provided to infants with disabilities to include not only treatment and educational services

available in rehabilitation day-care centers, but also the infants' transportation from their private residence to day-care and back. When transported, the child is accompanied by an adult, other than the driver, who is available to assist the child when necessary.

317. According to a 2005 Amendment to the *Rehabilitative Day-care Centers Law*, a rehabilitation day-care center provides treatment and education throughout the day to a minimum of ten infants with disabilities, either through the central rehabilitation day-care center or through one of its smaller branches. A Rehabilitative Day-care extension is considered to be one which provides treatment to a minimum of six infants with autism, hearing deficiency, sight deficiency or other recognized deficiency, or an infant whose place of residence is located over 25 kilometers outside the area of the original rehabilitation day-care center.

318. According to a 2008 Amendment, an infant with a disability is a child between six months to three years of age, who is entitled to the NII pension; or is a child between one and three years of age with respect to whom it was determined, by a Diagnosis Committee, that the child suffers from a developmental disability. The 2008 Amendment stipulated that a recognized child development institute is qualified to determine the immediate placement of such an infant in a rehabilitation day-care center under certain circumstances in order to prevent significant damage to the child. This Amendment entered into force in February 2009.

The Penal Law

319. Amendment No. 59 to the *Penal La*w, enacted on March 29, 2001, replaces Section 361 of the Law (See under *Parents' legal responsibilities*, above). If an act was performed negligently, the offender may be sentenced to one years' imprisonment. However, if an act was committed in order to abandon the child, the offender may be sentenced to five years' imprisonment.

***The Prevention of Stalking Law* 5762-2001** *(*the: *"Stalking Law")*

320. The *Stalking Law*, enacted on October 16, 2001 amended the *Prevention of Domestic Violence Law* 5751-1991 (the: *"Prevention of Domestic Violence Law")* to include subsection 2(h1) which stipulates that when a court considers an appeal for a protective order according to the *Prevention of Domestic Violence Law*, it may also issue an order to prevent stalking the *Prevention of Stalking Law*.

321. Amendment No. 15 to the *Youth (Supervision and Care) Law* issued on October 30, 2001 stipulates that a court considering the interests of a minor, may issue a restraining order against stalking, according to the *Stalking Law* (Section 3A).

The Prevention of Domestic Violence Law

322. Amendment No. 9 to the *Prevention of Domestic Violence Law* was enacted on March 21, 2007. The Amendment supplements Section 3A which states that a request for a protection order against a minor shall only be submitted to the Family Matters Court (Section 3A(a)). The following orders will apply to the request presented by a family member (Section 3A (b)):

322.1. The court will refer the applicant and the minor to the 'Assistance Unit' within the court. (Section 3A(b)(1))

322.2. The Assistance Unit shall inform the court if the parties were able to find a solution to the conflict and the recommendation of the Assistance Unit on the issue. (Section 3A(b)(2))

322.3. If the parties were unable to find a solution, the Assistance Unit will inform the minor of her/his right to be represented by a lawyer in a court hearing according to the *Legal Aid Law* 5732-1972 (the *"Legal Aid Law)*, unless the minor chooses to be represented by a lawyer of her/his choice. (Section 3A(b)(3))

323. The court will consider the circumstances of the matter and the best interest of the minor, against which the protective order is requested. The aim of the protective order against a minor is to defend a family member (or particular persons) that the minor constitutes a threat to. If the court finds that there is a need to issue a protective order, it may issue such an order subsequent to granting the minor the opportunity to appear before the court. However, the court shall not issue a protective order according to Section 2(a)(1) to the Law, stipulating a prohibition against entering the home of her/his family member, unless an appropriate out of home arrangement was reached for the minor and only after receiving the evaluation of a social worker (Section 3A(b)(4)).

324. Amendment No. 9 also amended the *Legal Aid Law* regarding the availability of legal assistance which is granted to a minor whose family member applied for a protective order against her/him. Such an order is available in terms of Section 3 of

the *Prevention of Domestic Violence Law*, in a hearing under Section 3A (b) (4) or an appeal on a decision reached under this section. The representation is not subject to a written request for assistance and cannot be terminated according to Sections 3 and 4 of the *Legal Aid Law*. However, an appeal regarding a decision reached by a court regarding a minor may be subject to termination according to Section 4 of the *Legal Aid Law*.

325. Amendment No. 11 issued on March 4, 2008 supplements Section 4 to include subsection (d), which stipulates that the court can deny a request for a protection order only after granting the applicant or her/his attorney an opportunity to present their claims verbally, unless the court finds that there are irregular circumstances and for reasons that will be recorded. This section is inclusive to minors and adults.

326. According to the *Compulsory Education (Physical Violence Reporting Rules) Regulations* 5770-2009, the Principal of an educational institution will report in writing to the supervisor of such institution any occurrence of physical violence between an educator and a pupil (Section 2(a) (1)). In addition, incidents of physical violence that take place within the educational institute or during school hours that resulted in injury must be reported (Section 2(a) (2)). Such a report is submitted immediately, as well as conveyed to the district supervisor of the school in question (Section 3).

Case Law

327. The Israeli High Court of Justice struggled with the legal presumption that parents enjoy a legal and moral right over their minor children, which is to be free from State interference. The High Court of Justice held that childrearing is not absolute and it is subject to the child's best interest and her/his right to a good life as a separate entity. Thus, the State is entitled to intervene in the parent's prerogative when circumstances present themselves - that is if the child's welfare or wellbeing is placed at stake. According to the principle legal presumption, parents are the sole legal guardians of their minor children; though, the State has discretion to act when necessary. In the case at hand, the Supreme Court held that the parent's lack of desire to keep in contact with their minor children despite the children's continuous need, indicated a lack of competence on behalf of the parents. The parents petition to "subordinate" their children to their authority was therefore denied. **(**H.C.J

927/05 *Anonymous et. al. v. The Social Welfare Departments – Municipality of Bnei-Brak et. al.* (15.5.2006).

328. A mentally ill mother appealed to the Supreme Court after her children were declared to be "needy minors." These children had no father involved in their lives and their mother was ill. The Family Matters Court revoked the mother's custody and ordered the Netanya Welfare Authority to serve as primary custodian. The mother submitted an appeal to the District Court, but it was rejected. A second appeal was submitted to the Supreme Court. The Supreme Court rejected the appeal since the lower instance court had already examined the wellbeing of the children, and thus there was no reason to interfere with its decision. Moreover, the Supreme Court held that since the mother was not capable of raising the minors and there were no other family members responsible for the kids, the Welfare Authorities were required to care for the children, afford them a good life and end their deterioration. (C.M.A 369/08 *Anonymous v. The Welfare Authority of Natanya* (10.4.08))

329. In another Case, the Supreme Court discussed the implementation of Section 12 of the *Youth (Care and Supervision) Law*. This Section enables the court to use its discretion with respect to temporary custody orders. The court acknowledged the parents right to childrearing, but it also established the boundaries. Such limitations include the child's right to a good life and to a minimum standard of living. When the parents do not fulfill their parental duties and responsibilities, the State may take over. The Supreme Court emphasized that Section 12 is feasible only when the child is legally defined as a "needy minor" or in immediate need of assistance. Under such circumstances, such assistance is necessary for the child's wellbeing. Significant consideration must be given to the harm that can be caused to a child by her/his neglectful or unfit parents as well as the harm that can be caused by revoking parental custody. Revocation of parental rights may only occur as an act of last resort, in exceptional cases and in order to maintain the child's wellbeing. (6041/02 *Anonymous et. al. v. Anonymous et. al.* (12.7.2004))

Non-Governmental Organizations

330. The ***Beit Lynn Center*** is a child protection center based in Jerusalem, which serves minors who have been victims of sexual, physical and psychological abuse. In order to provide holistic care, Beit Lynn employs a team of professionals from

several sectors of the work force, including a child protection officer, a child investigator, a youth investigator, a housemother, a pediatrician, and an attorney. This team works jointly so as to ensure sensitive and holistic treatment is provided in each case of abuse. Beit Lynn serves several of the minor's most immediate needs, and for example provides immediate intervention when necessary and offers children and youth a safe environment in which to seek shelter. Beit Lynn also provides medical check-ups and initial urgent treatment; as well as referrals and recommendations for further treatment. In addition, Beit Lynn aims to prevent further trauma to the youth by shortening and centralizing the interview and diagnosis process which follows reports of abuse.

331. The ***Haruv Institute*** is dedicated toward the development of a capable and skillful professional community able to ensure the welfare and wellbeing of children who have suffered from various types of abuse and/or neglect. In pursuit of this end, Haruv provides high-level study and training programs for professionals working in the field of child abuse and neglect, and has developed a range of advanced approaches and methodologies in the prevention of abuse, and the care of children who have been abused and/or neglected. Professionals who attend the seminars and programs offered by Haruv are drawn from diverse sectors of the workforce, including welfare, education, health, judiciary, local authorities, and academia. In addition to its work with individual professionals, Haruv works with both governmental and non-governmental agencies which operate in the field of child welfare. Through this interaction, Haruv has contributed to the formation and influence of Israeli public opinion and social policies. Finally, Haruv brings together local and international experts working in the field of child care, and thereby ensures a fruitful exchange of information and ideas.

VI. BASIC HEALTH AND WELFARE

A. Article 23 of the Convention - Children with Disabilities

Table 8 - Pupils with Special Needs in Primary and Post-Primary Education According to the Type of Disability and Type of Setting, 2006-2007

Type of disability *	Type of setting			Total	Type of setting			Total
	Integrated	Special	Special		Integrated	Special	Special	

		classes	schools			classes	schools	
	Percentages				Absolute numbers			
Total **	**100**	**100**	**100**	**100**	**65,728**	**23,687**	**16,829**	**106,244**
Developmental delay	6.5	0.5	0.6	3.9	3,405	129	109	3,643
Language disorders	3.7	0.6	0.1	2.2	1,930	135	9	2,074
Learning disability	67.1	72	18.3	59.5	34,963	17,051	3,066	55,080
Behavioral disturbance	10.2	5.1	16.6	10	5,286	1,207	2,792	9,285
Borderline IQ	4.2	11.8	-	5.4	2,177	2,785	-	4,962
Suspicion of mild retardation	-	0.5	0	0.1	-	115	6	121
Mild retardation	0.5	1.2	12.1	2.8	276	278	2,023	2,577
Moderate retardation	0.1	0.7	12.8	2.6	48	176	2,146	2,370
Multiple diagnosis moderate retardation	-	0.1	9.5	1.7	-	18	1,599	1,617
Severe/profound retardation	-	-	12	2.2	-	-	2,019	2,019
Cerebral palsy / severe physical handicaps	1.1	0.4	4.5	1.5	553	101	762	1,416
Autism	0.6	4	5.5	2.4	323	946	918	2,187
Psychiatric disorders	0.4	0.2	5.5	1.3	223	36	916	1,175
Rare diseases	0.5	-	-	0.3	257	-	-	257
Deafness/hearing impairment	3.5	3	2.1	3.1	1,813	710	351	2,874
Blindness/vision impairment	1.6	-	0.4	1	818	-	67	885

** Type of disability is determined by the type of class in which the pupil is enrolled, except for pupils in integrated classes, for whom the source of the data is based on the main disability assessed by the integration committee*

*** Including pupils in special schools who have not been characterized by type of class, as well as pupils in integrated classes who have not been characterized by type of disability*

Source: Statistical Abstract of Israel, CBS, Central Bureau of Statistic. 2009

Table 9 - The Number of Children who Received Prostheses, Medical Devices for Rehabilitation and Mobility, All Funded by the Ministry of Health in Accordance With Age and Diagnosis (2008)

Diagnosis	Total	Age			
		0-4	5-9	10-14	15-17
Prosthesis					

Total	65	18	23	13	11
Congenital Malf.	63	18	22	12	11
Tumor	2	0	1	1	3
Device for rehabilitation or mobility					
Total	1,282	306	564	326	86
Cerebral palsy	911	217	402	242	50
Spina Bifida	122	32	49	31	10
Polio	10	1	3	5	1
Cong. Malf.	94	29	36	21	8
Muscular Dystrophy	33	2	18	8	5
Hemiplegia	112	25	56	19	12
Medical shoes					
Total	232	12	48	94	78
Cong. Malf.	132	11	37	46	38
Cerebral palsy	63	0	1	35	27
Polio	6	0	2	1	3
Other	31	1	8	12	10

Source: The Ministry of Health, Lewis Institute, Tel Hashomer, 2008.

Table 10 - Provision of Hearing Aids between the Ages of 0 and 18, according to Year and Type of Device

Year	Referrals	FM*	Bilateral	Unilateral
2006	1436	176	585	266
2007	-	174	610	356
2008	-	135	567	235

Source: The Ministry of Health, Department of Mother, Child and Adolescent Health, 2009.

"Aleh Negev" ("The Southern Israel leaf")

332. Aleh is an organization that provides services to children with severe cognitive and physical disabilities, as well as making employment available to the adult residents. These services consist of high-quality medical care. Aleh Negev is a modern communal Rehabilitative Village situated in the city of Ofakim. It is home to over 500 residential adults with disabilities and each year serves approximately 12,000 children and young people with disabilities based on an outpatient treatment method. The village also provides vocational training, occupational therapy and medical facilities. Approximately 650 severely disabled children receive the best possible care, educational and rehabilitative treatments. Aleh cares for children with serious medical conditions such as Autism, Cerebral Palsy, Down syndrome and genetic disorders. Many of the children learn how to overcome their handicaps and conduct themselves in the same manner as other children. Many of Aleh's

children come from families lacking the financial resources or time to adequately care for their children.

“Mechina L’Chaim”

333. The "Mechina L’Chaim" (“Readiness for Life”) program was established in 2005. To date, “Readiness for Life” has enrolled 68 physically disabled, blind and visually disabled young people in two regions – Bustan Hagalil in the north, and Sderot and Netivot in the south. The program is operated by JDC-Ashalim, associated with the Ministry of Social Affairs and Social Services, the NII and the “Kivunim” and “Gvanim” associations. This project is a two-year residential program designed to assist young adults with disabilities who are between the ages of eighteen and twenty with the transition to an autonomous, independent and productive adult life. It offers these young adults an alternative to other frameworks for people their age, such as IDF service, National Service and higher education common among young adults. In the course of the program the young adults share their lives with peers who also face challenges with their own disabilities and volunteer for the National Service program. This program assists its graduates to settle in life, find group apartments and become accustomed to their independence.

Rates of Disability and Handicap among Children in Israel

334. In 2007, 300,000 disabled or chronically ill children resided in Israel, comprising 12.8% of the total child population of the country. Approximately 190,000 children (out of the 293,000) were disabled or suffered from a chronic illness that affected their daily functioning and had persisted for more than one year. These children comprised 7.7% of the total child population. (See Chapter IV General Principles, above).

335. In accordance with the 2008 report of the Commission for Equal Rights of Persons with Disabilities, most disabled people living in Israel are not born with the disabilities but rather become disabled at some point during their life.

The System of Services Available for Disabled Children in Israel

The Health System

336. When developmental problems are suspected, or when they are discovered by a primary care physician or nurse at a family health center, the child is usually referred to a center for child development. There are 29 such centers in Israel:

largest health fund) five by the Maccabi Health Fund, two by the Meuhedet Health Fund and two by the kibbutz movement and the Sisters of Mercy in Nazareth.

337. The needs of children with non-physical disabilities who require care beyond the age of six years old (when their eligibility for care under the *National Health Insurance Law* ends) are not being met. If deemed eligible by a Placement Committee, these children receive care from the special education system. Most children with non-physical disabilities who receive care at a child development center are ineligible for special education and have been included within the regular educational system. The children receive assistance through the "Reinforcement Basket," which only partially covers their needs. Other needs are met by ongoing programs, offered in other frameworks.

338. Section 7 of the second appendix of Amendment No. 43 to the *National Health Insurance Law* stipulated what Paramedical Services included when it came to Child Development. For children aged seven to eighteen who are diagnosed as Autistic - children whose diagnosis is located on the Autistic spectrum by the DSM-4 (the leading guidance book accepted by the international medical community) are entitled to multi-professional medical team treatment. Such services are granted subject to an observation by a neurologist of an Israeli Health Fund or subject to a medical opinion provided by a Pediatrician who is specialized in Child Development.

339. A further problem relates to the implementation of the *National Health Insurance Law*, which rendered the Health Funds responsible for financing developmental services for children under the age of eight. According to this law, these services are conditional upon a co-payment being made by the parents of the child; however, co-payments cover only a small proportion of the cost of service - which may be substantial, if a child requires more than one type of service, or if a family has a limited income. In the past, parents could petition a special committee to be exempted from having to make the co-payment.

Mental Health Services for Children and Adolescents

340. Services for children whose mental health problems require them to be hospitalized are provided in the in-patient departments of hospitals for the mentally ill. There are a total of thirteen in-patient departments for minors under the age of eighteen located in general and mental hospitals.

Table 11 - The Number of Minors Admitted to Mental Health Facilities According to Religious-National Denominations Between the Years 2006 and 2008

Religious Affiliation	2006	2007	2008 (January-June)
Jewish	861	775	391
Muslim	71	78	44
Christian	11	6	5
Druze	2	6	6
Other	78	72	28
Total	**1023**	**937**	**474**

Source: The Ministry of Health, 2008

341. According to the above data there are approximately 1,000 hospitalizations of minors under eighteen per annum, of which 83%-84% are Jewish, 9%-11% are Muslim, Christian and Druze, and 6%-7% are of another affiliation.

342. As of 2008, there are 65 out-patient clinics for children and adolescents. During 2007, 11,300 minors were treated in out-patient clinics, with 147,400 individual sessions.

343. The in-patient hospitalization of minors is regulated by two laws – the *Treatment of Mentally Ill Law* and the *Youth (Care and Supervision) Law*. In recent years, in accordance with these laws, hospitals do not report all hospitalizations of minors, but only hospitalizations of those who have suffered from a mental illness and posed a violent threat. According to the *Treatment of Mentally Ill Law*, an expert psychiatrist reviews all hospitalizations of minors (Section 3). A minor's custodian can request the admission of the minor to a psychiatric hospital as well as consent on her/his behalf to treatments received during the hospitalization (Section 4a (b)). However, if a minor who has reached the age of fifteen refuses to be admitted, a court order is necessary in order to admit the minor. Such order is issued based on regular causes cited in cases of the compulsory hospitalization of minors (Section 4a(c)). If the minor has not yet reached the age of fifteen and her /his caregivers understand that, she/he does not consent to the hospitalization; a District

Psychiatric Committee shall make the relevant decision. The Committee is comprised of professionals: a psychiatrist specializing in children and adolescents, a clinical child psychologist, an educational psychologist and a social worker (Section 4a (d)). A minor who has reached the age of fifteen may request of her/his own free will to be admitted to a psychiatric ward; if the custodian refuses, court approval is necessary (Section 4b). The District Psychiatric Committee for Children and Youth also functions as consultant to the court and has the authority to decide whether or not to continue the hospitalization of an individual minor.

344. The *Mentally Ill Law* was amended by Amendment No. 14 to the *Youth Law.* According to the Amendment, psychiatric examination, treatment orders etc. can only be issued by psychiatrists who have specialized in child psychiatry.

345. In 2008, the Ministry of Health sponsored an annual meeting to discuss mental health issues that was open to the public. Over 1,000 people participated in the meeting, including mental health professionals, non-profit associations and families. Emphasis was placed on attempts to de-stigmatize and rehabilitate disabled individuals in the community.

346. In order to promote children's rights to health care in general, and mental health care in particular, the Mental Health Services of the Ministry of Health, along with other institutions, carried out a nation-wide study: "The prevalence of mental disorders among adolescents in Israel." The purpose of this research was to identify the relevant areas of need and to recognize groups at high risk for mental disorders, in order to plan appropriate services to cope with the needs The research included 1,000 adolescents (together with their mothers), aged fourteen to seventeen, who were from different population groups. Preliminary analyses revealed that the prevalence of mental disorders among adolescents in Israel is 11.7%, similar to the prevalence in other western countries. No significant differences in prevalence of mental disorders were found between Jewish and Arab adolescents, but it was found that there was higher risk of having a mental disorder for children of divorced parents, dysfunctional families, children who have a learning disability or children who suffer from a chronic disease. The study also provided important data regarding geographic regions that may not have access to treatment. The study will help to facilitate plans for the treatment of mentally ill children and adolescents that most require such treatment.

The Social Welfare System

The National Insurance Institute

347. **Children with Disabilities** The NII pays a special benefit on behalf of disabled children, defined as follows: children under eighteen (including an adopted or step-child) of an insured person, or of an insured person who died as an Israeli resident, who is of the following:

347.1. a child (from age three) dependent on the help of others for the performance of everyday functions (dressing, eating, washing, mobility in the home, and requires the permanent presence of another, as defined in the regulations) to a degree significantly greater than is normal for her/his age group;

347.2. a child (over 91 days) in need of constant supervision;

347.3. a child with a special impairment, that is: (from birth) Down's syndrome or a deterioration in hearing, or (over 91 days) a vision impairment, Autism, psychosis or severe developmental disabilities (the latter till the age of three);

347.4. a child (over 91 days) in need of special medical treatment as defined in the regulations, due to a severe chronic disease.

Table 12 - Children Receiving National Insurance Institute Disability Benefits in 2008 by Age (in absolute numbers).

Year	Total number of recipients (thousands)	Aged 0-3	Aged 3-8	Aged 8-18	Annual increase (%)
1990	5.8	-	-	-	7.7 (1986-1990)
1995	10.3	-	-	-	12.2 (1991-1995)
2001	16.4	-	-	-	7.2
2003	18.36	1.46	4.57	12.67	5.1
2004	19.54	1.58	4.86	13.09	6.0
2005	21.09	1.7	5.2	14.04	7.2
2006	22.2	1.81	5.47	14.91	6.0
2007	23.81	1.89	5.84	16.06	7.2
2008	25.25	1.97	6.17	17.11	6.3

Source: The National Insurance Institute, Publications, Statistical Quarterly, 2008.

348. In 2008 (monthly average) the number of benefit recipients (on behalf of children with disabilities) increased by 6.1%. That is 25,255 recipients as compared with 23,810 recipients during 2007.

349. As noted, the social welfare department has primary responsibility for providing out-of-home care. At present, 1,500 children with developmental problems and a small number of children with other disabilities, reside in various frameworks. A small number of children currently reside in several community-housing frameworks. One is for children with mental disorders and the other is for children with physical disorders. While most of the community-housing frameworks serve children with mild disabilities, four new facilities are geared for severely mentally disabled children. In recent years, after-school and holiday activities are operated for mentally disabled children as well as for children residing at rehabilitation centers. Autistic children are provided with out-of-home activities like all children. The services are financed by the Ministry of Social Affairs and Social Services.

The Education System

350. In Israel, there are approximately 46,000 pupils in the special education system; which incorporates special kindergartens, special schools and special classrooms in regular schools. Between the years 2002-2005, the rate of school pupils in special schools and special classrooms in regular schools grew by approximately 16%. In that time period, the number of kindergarten-aged children in special kindergartens grew by approximately 26%. In 2005, approximately 72,164 children with disabilities were integrated within the regular education system.

351. Among the special education children, the number of children with learning disorders makes up 38% of the total number of children with disabilities. Most of the children in this group studied in special classrooms in regular schools. A significant group of children who study in the special education system is comprised of children with mental disabilities, who constitute roughly 20 % of all the children in the system (for more details regarding learning disabilities see: "Personal Assistance" and for special education in the minority populations see Chapter VI).

Two groups of disabled children in the special education system are of special interest: those who are blind or have impaired vision, and those who are deaf or have impaired hearing. Although these children are portrayed as being part of the special education system, most have been mainstreamed into the regular system

and attend regular classes, receive special education assistance and assistive devices that enable them to function like other pupils. These two groups, along with children who have learning disabilities, are the only ones mainstreamed into the regular education system as a group.

Children with Disabilities Attending Regular Schools

(integration hours) for mainstreamed pupils. Each local authority is allocated a quota of teaching hours based on the number of pupils in its jurisdiction, the school's "development index," and the percentage of pupils with minor disabilities who are referred to Placement Committees in an effort to encourage their mainstreaming. A Local Resource Center for Special Education Services is the operational organizational division of the inclusive education; it provides educational services dependent on the regulation of the special education in every municipality.

The Ministry of Education allocates 350 positions for full-time assistants to pupils with severe physical disabilities who have been mainstreamed into regular schools and require assistance. The Dorner Committee recommended that placement and assistance, as well as the characterization of the children's needs, should be performed based on the children's specific functioning abilities rather than the type of deficiency. The current resources appear limited, and are provided mainly to children with severe disabilities. As a result, the Dorner Committee concluded that the current budgeting method is too rigid and does not always enable appropriate treatment to be provided to children with disabilities. Thus, the Committee recommended budgeting be performed on the basis of a model called: "Funding according to needs – system," namely that the budget is determined by the characteristics of every child. These recommendations are already in effect.

The Involvement of Parents and Children in Determining Placement and a Program of Care

Case Law

353. The Nazareth District Court, residing as an Administrative Court, was asked to address a decision of the Ministry of Education to close a school for children with disabilities in the village of Al-Dihi. The school's closure was the result of a

decline in the number of pupils from 32 (which is the minimum according to the Ministry's regulations) to eighteen. Such a decrease in the number of pupils required the placement of seven different age groups in one classroom (a maximum difference of three age groups is allowed in unique circumstances according to the regulations). This situation caused financial cutbacks within the local authority and

Education. The decision was annulled by the District Court, which stated that the District Director's approval was issued in contradiction to the principles of proper governance. In the school year following the court order, only nineteen pupils attended; therefore, in accordance with the Ministry's regulations, a reduction was made in the number of classrooms.

354. During the re-examination of the above mentioned decision, consideration was given to the opinions of parents, the suitability of alternative placements for the pupils in light of their disabilities, the opinions of relevant Ministry personnel, etc. Nevertheless, the decision to close the school was once again reached.

355. The parents petitioned the decision again, questioning the sincerity of the reasoning given in the decision to close down the school. The Court determined that the Ministry of Education's decision was reached after proper examination and consideration of the best interests of the pupils. Moreover, the decision allowed the parents to choose from three different schools and promised the full cooperation of the Ministry's personnel in registration and integration into these schools. Therefore, the Court rejected the petition and the decision to close the school was finalized. (Ad.P 1114/07 *The Board of Parents for the School of Bustan-Almargh et. al v. The Ministry of Education, et. al.* (30.07.07)).

Discounts and Tax Breaks

356. The parents of disabled children receive tax breaks and discounts on fees as compensation for having to invest financial and other resources in the care of their children. These include:

356.1. Parents with a physically disabled, blind or autistic child, or a child with an emotional disorder or chronic illness, are eligible for an income tax credit; they are also eligible for these credits if the child resides in an out-of-home framework.

356.2. Parents of a child with disabilities may receive a discount of up to 25% on their municipal taxes, at the discretion of the local authority.

356.3. Parents of a child who receives a full disability benefit, and parents of a blind child or a child undergoing dialysis, are eligible for discounted telephone services. The discounts include a 50% reduction on regular monthly charges; 60 free telephone units per month for a disabled child and 300 units for a blind child; and a 50% reduction on the cost of the installation or transfer of telephone lines. Parents with two children who each receive a full disability benefit are eligible for double discounts.

The Accessibility of Public Areas and Services

357. In September 2008, new regulations were promulgated, requiring the modification of various public sites to accord with the needs of persons with disabilities. The *Equal Rights for People with Disabilities (Site Accessibility Adjustments) Regulations* 5768-2008, laid down the accessibility requirements for archeological sites, national parks and nature reserves, as well as other areas, mainly forests, managed by the Jewish National Fund or on its behalf. According to these Regulations, new sites are not to open for public use unless the accessibility requirements are met (Section 5). Existing sites are compelled to gradually meet the requirements within ten years (Section 7).

358. Recently, a number of resort sites have been made accessible for the disabled with the help of funds from the National Insurance Institute. The duty of the Commission for Equal Rights of Persons with Disabilities, among other things, is to enforce the law, and thus the Commission insists on the implementation of any law or regulation that concerns persons with disabilities.

359. On August 1, 2009, a new Directive dealing with accessibility entered into force. This Directive enforced accessibility for people with a disability in public places, and was added to the *Planning and Construction (Permit Application Conditions and Fees) Regulations* 5730-1970. The new accessibility Directive applies to all public structures as opposed to limited developments (public buildings and other forms of construction) that are legally obligated to make public areas accessible as required by the Directive. The scope of the new Amendment is extensive and

details modification, accommodation and accessibility for persons with disabilities. Moreover, these Directives are applicable to different kind of disabilities, considerably more than the previous directives, including blindness, hearing deficiencies, physical disabilities and so on.

360. In addition, a number of dispensations included for the families of disabled children are meant to ease access. For example, special parking permits are given to the parents of children who have lower limb motor disorders or who need a respirator. These permits allow them to park in spaces designated for disabled drivers, as well as to park free of charge in areas where parking is available for a fee. The parents of children with mobility problems (i.e., who have been declared to be at a 60% degree of disability by the District Health Bureau or have been designated by a physician as having a disability that requires a motor vehicle for purposes of mobility) are exempt from annual motor vehicle registration fees.

For children, access to schools is particularly important. According to the *Planning and Building Law* 5725-1965 (the: "*Planning and Building Law*") and the *Planning and Building Regulations (Permit Application-Permit Terms and Fees)* 5730-1970, a permit will be denied for the construction of a public building that does not comply with regulations concerning access for the disabled. According to these Regulations, in schools and other public structures, only one storey need be accessible to the disabled. As such, even when the Law is implemented, it is difficult for disabled children to become integrated into schools - a fact often cited as the primary difficulty with mainstreaming disabled children.

Case Law

361. An NGO, together with parents of children with disabilities, petitioned the Supreme Court to order the State to finance the integration of children with disabilities (who are deemed fit) into ordinary schools. Such integration would require the State to finance personal assistance for the children. The petitioners claimed that the right to education is a fundamental one, and therefore, should not be confined to financing the children's education in special schools, but rather their integration into ordinary schools. In this way, equality would be achieved for children who study in special education schools. If the State did not cover the costs, it would compel parents without means to send their children to special schools despite the fact that they were found fit to be integrated into the ordinary

system. The Court determined that the right to education is a fundamental one, which is enshrined both in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and in Articles 28 and 29 of the CRC. The Court stipulated that the right to special education derives from the right to education, even if it was yet to be determined whether the right to education was part of the right to human dignity. Moreover, the Court referred to Article 23(2) of the Convention, which stipulates that the States recognize the rights of disabled children.

In light of the Supreme Court ruling that both customary and treaty law affect Israeli law, since Israeli law operates under the presumption of compatibility between the domestic law and international norms Israel has undertaken to uphold; human rights treaties constitute an important tool for the interpretation of national legislation, and serve to further enhance and entrench international human rights norms in the domestic sphere.

Therefore, the Court determined that the purposive interpretation of the *Special Education Law* obligates the State to execute the law in an equal manner, which means changing the budgetary policy to enable allocation of budget to both the special schools, and children with disabilities in ordinary schools. (H.C.J. 2599/00 *Yated – Non-Profit Organization for Parents of Children with Down Syndrome v. The Ministry of Education* (14.8.02)). For that reason the Dorner Committee was established and its recommendations, as cited above, have since been implemented.

B. Articles 6 and 24 of the Convention - Health and Health Services

A Right to a Dignified Death

362. On December 6, 2005, the Knesset enacted the *Terminally Ill Law* in response to the medical-ethical dilemma presented by the treatment of terminally ill patients. The Law is based on the recommendations of a public committee appointed by the Minister of Health in 2000.

The Law presumes that every person has the will to continue living, unless proven otherwise. Furthermore, in the event of doubt, the will to live shall be presumed (Section 4). One shall not avoid granting medical treatment to a terminally ill

patient unless it is clear, according to specific conditions, that the patient has no will to continue living (Section 5). If the terminally ill patient has "capacity," meaning that she/he is older than seventeen years old, can express her/his will, and was not declared incapacitated, or excluded from this status as a result of a documented, justified medical decision, then any decision concerning her/his medical treatment shall be subject to her/his implicit will (Section 5(a)). If the terminally ill patient does not have "capacity", any decision concerning her/his medical treatment shall accord with her/his preliminary instructions, the instructions of an empowered person, or the decision of an "institutional committee" as defined below (Section 5(b)). If no such instructions or decisions exist, then the responsible physician, in consultation with the patient's relatives or guardian (only in the absence of a relative), will determine the appropriateness of withholding medical treatment (Section 5(c)).

The Law states that a terminally ill patient's desire to forego treatment to extend her/his life shall be respected, and medical treatment shall not be provided, for so long as she/he has "capacity" (Section 15(a)). However, the Law does not allow for an act to be committed, including a medical act, that is intentionally directed at causing the terminally ill patient's death or which will result in certain death, even if motivated by grace and compassion (section 19). In addition, assisting the patient to commit suicide or the cessation of continuous medical treatment are both prohibited (Sections 20 and 21 respectively). However, it is permitted to cease the renewal of continual and/or cyclic medical treatment that has been terminated unintentionally as long as it was not against orders (Section 21).

363. The *Terminally Ill Law* contains different provisions as to the manner and procedure in which a person can express, in advance, her/his will with respect to medical treatment she/he will receive in the event of being diagnosed as terminally ill. In addition, the Law states that every medical institution will appoint, in consultation with a state committee, institutional committees which are to determine treatment in cases of conflict or in the event of doubt as to the course of treatment. These committees will consist of three physicians, a nurse, a social worker or a clinical psychologist, an academic specializing in philosophy or ethics, a jurist qualified to be appointed as a district judge, and a public representative or religious persona.

364. The *Terminally Ill Law* contains different provisions regarding the applicability of the Law to minors, and defines a minor as any person who has not reached the age of seventeen. The parent of a minor is authorized to represent her/him with regard to medical treatment and may choose to decline treatment. A legal guardian, who is a related person,[3] may express her/his opinion regarding the treatment, and the physician in charge may act accordingly. If the minor is parentless, or if the legal guardianship of the parents was negated and there has not been a determination of a new guardian, or if the guardian is not a related person (as defined above), the medical institution's commission shall make the decision regarding the minor (Section 24).

The Law stipulates that a terminally ill minor shall have the right to participate in decisions concerning her/his medical treatment if she/he understands her/his condition, requests to participate in decisions regarding her/his treatment, and if the physician in charge determines that her/his mental capability and maturity allows her/him to participate (Section 25(1) and (2)). The Law also states that the physician in charge shall provide the minor with information regarding her/his medical condition or treatment so long as the physician determines that her/his mental capability and maturity enables her/him to fully grasp the meaning of such information and that it will not harm her/his physical or mental health or pose a risk to her/his life (Section 26(1) and (2)).

The Law states that the decisions as to whether to inform the minor of her/his medical condition (Section 26) and as to the minor's ability to participate in decisions as to her/his treatment (Section 25) shall be made after consulting with the minor's parents, the legal guardian if one has been appointed, caregivers, relevant physicians and specialists, as well as with her/his personal physician if possible (Section 27).

Discrimination

365. In accordance with the *Patient's Rights Law* 5756-1996 (the: *"Patient's Rights Law")*, detailed in Israel's Initial Report, every member of the health system is

[3] A person who, according to the opinion of the physician in charge, is either a dedicated family member or a dedicated person with an emotional relationship to the minor, who has intimate knowledge of the terminally ill minor, due to continuous contact before or during the medical treatment

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committed to refrain from all forms of discrimination and maintain the patient's privacy, in the spirit of the Law. The *Patient's Rights Law* was amended in 2004, and Sections 4 and 28(a) prohibit discrimination on grounds of gender inclination. The Law and its provisions are an integral part of the basic training of the personnel working in the Health System with respect to the health of children and youth in Israel.

Maternal Mortality, Infant Mortality and Underweight Births

366. The maternal mortality rate for Israel has declined steeply over the past 50 years. At present, it equals the rates found in the most developed nations: 0.04-0.12 per 1,000 births, with no variance among sub-populations between the years: 1990-2000.

367. Maternal mortality in Israel is relatively rare and in recent years the rate of maternal mortality remained generally low. The following table displays the number of maternal deaths in Israel in recent years.

Table 13 - Maternal mortality, 1999-2006

Year	Number of Maternal deaths
1999	10
2000	3
2001	8
2002	6
2003	7
2004	9
2005	7
2006	9

Source: Ministry of Health, 2008

368. Progress in medical knowledge and technologies and changes in lifestyle and behavior have resulted in infant mortality rates dropping significantly. Throughout the 1970's, Israel's infant mortality rate was 21.9 deaths for every 1,000 live births. By 2007, Israel's infant mortality rate was 3.9 deaths for every 1,000 live births. However, there remains variance among population sub-groups: 2.9 deaths for every 1,000 live births among Jews, 2.8 among Christians, 6.0 among Druze, and 7.2 among Muslims. According to data from the Ministry of Health, there was an 11% decrease in the infant mortality in the Arab population in 2005 compared to infant mortality in 2004.

369. In 2007, the infant mortality rate of Bedouins decreased to 11.5 deaths for every 1,000 live births and the Government is continuing to open Mother and Child Health clinics in unauthorized villages and Mother and Child Health clinics to better serve the population.

Table 14 – Causes of Infant Death by Population Group, 2005 – 2007 (rate per 1,000 live births)

Causes of death	Jews	Others
Congenital malformations	0.8	2.5
Causes of prenatal mortality	1.5	2.4
All other unspecified causes	0.6	1.9
External causes	0	0.2
Infectious diseases	0.1	0.1
Total	3.0	7.2

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2009

370. The Arab infant mortality rate is higher than the infant mortality rate in the Jewish population (7.2 versus 3.0). The higher Arab infant mortality rate is due in large part to a higher rate of deaths from congenital malformations. This is related to the high rate of consanguineous marriages in the Arab population, particularly among the Bedouin population.

Table 15 - Contagious and Infectious Illnesses Among Children, Newborn to 14 years of Age, By Age and Population Group, 2008 (per 100,000 in each age group)

Illness	Population group	Age group (years)			
		Newborns	1-4	5-9	10-14
Rubella	Jews	0.0	0.0	0.0	0.0
	Arabs	0.0	0.0	0.0	0.0
Measles	Jews	98.7	47.5	26.5	23.4
	Arabs	22.9	4.3	0.9	0.0
Salmonellosis	Jews	178.1	94.4	19.3	12.7
	Arabs	150.1	48.2	7.9	3.0
Campylobacteriosis	Jews	301.1	228.1	89.7	65.6
	Arabs	885.5	176.6	19.6	9.1

Source: The Ministry of Health, October 2008

Table 16 - Infant Mortality Rates, by Selected Causes, Religion and Age (rates per 1,000 live births)

Cause of Death	2000-2004			2005
	0-27 days	28-364 days (1-11 month)	Total	Total
Grand Total	**3.3**	**1.8**	**5.1**	**4.4**

Intestinal infectious diseases	(0.0)	(0.0)	(0.0)	-
All others infectious and parasitic diseases	-	0.1	0.1	(0.0)
Pneumonia	(0.0)	-	(0.0)	-
Congenital anomalies	0.9	0.4	1.3	1.4
External causes	(0.0)	0.1	0.1	(0.1)
Causes of per natal mortality	2.2	0.3	2.5	1.9
All others and unspecified causes	0.2	0.9	1.1	0.9
Jews-total	2.7	1.1	3.8	3.1
Intestinal infectious diseases	. .	-	(0.0)	-
All others infectious and parasitic diseases	(0.0)	-	(0.0)	-
Pneumonia	(0.0)	-	(0.0)	-
Congenital anomalies	0.5	0.3	0.8	0.9
External causes	(0.0)	0.1	0.1	. .
Causes of pernatal mortality	2.0	0.2	2.3	1.6
All others and unspecified causes	0.1	0.4	0.6	0.6
Other religions-total	**4.9**	**3.5**	**8.4**	**7.7**
Intestinal infectious diseases	0.0	(0.1)	(0.1)	-
All others infectious and parasitic diseases	-	0.1	0.1	-
Pneumonia	-	(0.0)	(0.0)	-
Congenital anomalies	1.9	0.8	2.6	2.9
External causes	-	0.2	0.2	(0.3)
Causes of pernatal mortality	2.5	0.5	3.1	2.6
All others and unspecified causes	0.4	1.8	2.3	1.8

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2008

Infant Mortality Rate in Israel

371. In 2007, the overall infant mortality rate in Israel was 4.1 per 1,000 births (compared to 5.5 in 2001). Among the Jewish population the rate was 3.0, and among the Arab population the rate was 7.2. The trend in the rate of infant mortalities per 1,000 live births has been as follows:

Table 17 - Infant Mortality, 2004-2007

Druze		**Christians**		**Muslims**		**Jews**		**Total population**		**Year**
Rates	**Absolute numbers**	**Rates**	**Absolute numbers**	**Rates**	**Absolute numbers**	**Rates**	**Absolute numbers**	**Rates**	**Absolute numbers**	
4.3	11	3.3	8	8.8	319	3.1	315	4.6	670	2004
5.9	15	3.2	8	8.1	277	3.1	313	4.4	628	2005
5.0	13	-	4	7.3	252	3.0	312	4.0	594	2006
6.0	15	2.8	7	7.2	250	3.0	309	4.1	586	2007

Source: The Ministry of Health and the Israel Central Bureau of Statistics, Abstract of Israel2008.

372. In 2007, there was a 2% decline in infant mortality among the Jewish population and a 22.7% decline among the Arab population, compared to 2003. A large part of

the decrease in infant mortality rates is attributed to the decrease in mortality caused by infectious diseases, a decrease in prenatal mortality and a decrease in infant mortality as a result of the contraction of pneumonia. Death from congenital disorders also indicates a downward trend.

373. In 2008 infant mortality rates decreased further to 2.9 infant mortality cases per 1,000 live births among the Jewish population and 6.5 cases among the Arab population (compared to 7.2 cases in 2007). The infant mortality rate among the Arab population is still relatively high despite the continuing decrease in the rate. The difference in the rates between the populations stems from a number of factors, among them the high rate of consanguineous marriage - approximately 35% among the Arab population and approximately 60% among the Bedouin population, a religious prohibition against abortion among the Arab population, even in medically recommended cases, as well as socio-economic differences.

374. According to a report issued by the Ministry of Health, and published in February 2009, the infant mortality rate of Bedouin infants in 2008 was 11.5:1000, representing a decline from the rate in 2005 (15:1000). The high rate is mostly attributed to high rates of congenital anomalies and hereditary illnesses due to the high rate of consanguineous marriages. Another element impacting upon mortality rates is the religious prohibition against abortion among Muslims even in medically recommended cases, as well as the high rate of births among elderly women. It should be noted that the infant mortality rate among Bedouin infants living in unauthorized villages was actually lower than that among Bedouin infants living in established towns. The Government is continuing to open Mather and Child Health Clinics in unauthorized villages and new Clinics are being built to serve the population.

375. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouin living in unauthorized villages. One of these programs is a special long-term intervention program to decrease infant mortality among the Bedouin. The program is community-based, and boasts a wide-consortium of participants, including representatives from the Bedouin community leadership and the educational system, along with providers of curative and preventative health care services, the

Department of Health in the Community and the Epidemiology Department of the Faculty of Health Sciences at Ben-Gurion University of the Negev.

376. Free genetic testing is also funded by the Government, along with genetic consulting, for any member of a Bedouin tribe in which the prevalence of a serious inherited disease is above 1:1000, and has an available genetic test.

377. The Ministry continues to work intensively to reduce the Israeli Muslim Arab infant mortality rate through a Health education/information project. The central aims are to discourage marriage among close relatives, attempt to encourage pregnant women to make more use of diagnostic procedures during pregnancies, and encourage mothers to make more use of the Mother and Child Care Services available throughout the country.

378. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin fetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of consanguineous marriage (approximately 60%), as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

379. According to the Central Bureau of Statistics, in the last decade the infant mortality rate has decreased by nearly 40%, from 6.0% to 3.9% per 1,000 live births. The largest decrease was among the Jewish population – a decrease of 38% (from 4.7% to 2.9% per 1,000 live births), and among the Arab population a decrease of 26% (from 8.8% to 6.5% per 1,000 live births).

Preventive Care and Control of Epidemics

380. The Ministry of Education Director General's Directive dated September 1, 2004, forbade the collection of fees from parents in order to finance medical services in schools. This issue arose due to financial cutbacks that reduced funding for school nurses from levels allowing a nurse's full-time presence to levels only allowing a nurse's presence once a week. Some parents were willing to pay to fill the budgetary gap.

381. Following the filing of a petition with the Supreme Court, on November 21, 2005,

situation. The latest suggestion was dated January 2007, and included the publishing of a tender to create regional motorized centers, manned by professionals. The petitioners did not agree to this suggestion, arguing that the arrival of paramedics would be delayed if several calls were received simultaneously, and that such a delay could lead to harmful consequences.

382. On June 7, 2007, the Ministry of Education decided that in order to best prepare the timetables for the following school year (commencing on September 1st), it was best to postpone the tender. Therefore, the Ministry contracted with MDA (the provider of emergency medical services in Israel) so that it would provide the services. The State emphasized before the Court that this was a temporary solution until the end of 2008, and that during this period; lessons would be learned.

The Supreme Court held that the State has an obligation to provide first aid care to pupils in the education system and that the prohibition on collecting fees from parents was meant to maintain equality between children. The Court found that the contract with MDA was a reasonable solution, primarily because of the convening of a follow-up committee to examine the results of this solution. However, the Court held that the petitioners may petition again if they feel that the solution is not satisfactory and if the State fails to provide a proper solution. (HCJ 10794/05 *Dudy Landoi et. al. v. The State of Israel* (26.08.2007)).

AIDS

383. In the years 1981–2007, 5,358 new cases of HIV/AIDS were notified in Israel. Taking account of fatalities and those who left Israel, 4,239 people registered as living with HIV/AIDS remain in Israel. Approximately 5,940 HIV/AIDS carriers presently reside in Israel. Between the years 2003–2007, an annual average of 333 individuals were notified of their being HIV carriers.

384. An assessment of the HIV/AIDS epidemic in Israel incorporates several tools, both qualitative and quantitative, which are meant to promote and evaluate the National Evidence-Based Policy. A National multidisciplinary Steering Committee (NAC) advises the Minister of Health and its Director General on the overall national HIV prevention and treatment efforts. This NAC includes representatives from several

Ministries, directors of AIDS treatment centers, academic professionals and representatives from two NGOs (Israel AIDS Task Force and Physicians for

of Tuberculosis and AIDS) promotes and evaluates both prevention and treatment programs, in coordination with several other departments, within and outside the

385. National HIV/AIDS registration has been available since the beginning of the epidemic in 1981. HIV testing is systematic amongst blood donors and amongst certain selected groups. In addition, HIV testing is available at all community clinics around the country, confidential and free of charge for any person requesting the service. Each year, approximately 5% of the adult Israeli population is tested voluntarily. Health education programs are developed for both the general population and groups at high-risk, usually in conjunction with NGOs. Medical treatment and follow-up counseling is provided by seven specialized regional AIDS centers that offer comprehensive treatment (including HAART, and highly effective medicine) to all patients. The financial burden is placed on the Health Fund to which the patient belongs, with minimal or no financial contribution being required on behalf of the patient. Since 2005, HIV drug resistance testing became part of the standard care in Israel.

386. From 1996-2006, 35 HIV+ women gave birth to 45 infants. 31 (88%) of these women were of Ethiopian origin and gave birth to 39 infants. Of the 35 HIV positive women, 30 were aware of being HIV positive. They gave birth to 40 infants. Another five women (14%) were not aware of being HIV positive at the time of delivery. They gave birth to five infants. Of the group of women who knew of their HIV positive status, 26 (87%) were Ethiopian immigrants who delivered 34 infants and four were non-Ethiopians who delivered six infants. In the group of five women who were not aware of their HIV positive status, all were Ethiopians.

A program launched by an Israeli medical infectious disease specialist has succeeded in decreasing the fatalities among Ethiopian children infected with the HIV/AIDS virus. The program involves treating the children with anti-retroviral therapy. Since the anti-retroviral therapy began, the number of children who have died from the virus and related diseases has been reduced to three. Treatment has been given to 130 children, who are all doing very well.

HIV Education

and educational institution's personnel regarding illnesses, the rights of ill persons, and ways to include them in educational institutions and within the community. Children with an immunodeficiency virus are included in kindergartens and schools and participate in every school activity (unless there is a specific medical condition that prohibits their participation). Children receive all the support possible without breaching their right to privacy. According to the law, children are entitled to check whether they carry the HIV virus without their parents' knowledge. Principals must circulate information on the HIV virus among pupils in the ninth to twelfth grades.

Encouraging Breastfeeding

388. The Ministry of Health is presently establishing a Breastfeeding Committee in order to advise the Head of Public Health Services on the implementation of the International Code of Marketing of Breast-Milk Substitutes in Israel. The promotion of breastfeeding has been included as an objective of the guidebook for the "Healthy Israel 2020" initiative. The guidebook was created by the Ministry of Health to lay out the Israeli policy of disease prevention and health promotion.

Table 18 - The Objectives Defined Specifically for the Promotion of Breastfeeding

	2000	**Objective for 2020**
Breastfeeding initiation rate	85%	90%
BF rate at 3 months	56%	75%
BF rate at 6 months	38%	55%
BF rate at one year	14%	25%
Exclusive BF rate at 3 months	25%	40%

Source: The Ministry of Health, National Health and Nutrition Survey, 2000

389. A Breastfeeding Promotion Committee was established in 2001 with the purpose of further advancing the Ministry of Health's activities. The objective of the Committee is to continue encouraging breastfeeding. The Committee is composed of several representatives of different Departments in the Ministry of Health. The Committee has been successful in accomplishing the following:

389.1. Provision of professional breastfeeding training programs for nurses and delivery-room teams.

389.2. Professional training programs for nurses and dieticians in the Public Health Services.

389.3. Organizing discussion forums for graduates of the above mentioned breastfeeding programs.

389.4. Publication of informational bulletins on the subject of breastfeeding for the general population.

389.5. Provision of breastfeeding information for hospital staff conveyed by the World Public Health Organization.

389.6. Setting up breastfeeding spaces in public places as a part of public service.

389.7. Publication of a guide for Mother and Child Health Clinics and information on breastfeeding.

389.8. Participation in various parliamentary committees engaged in encouraging breastfeeding.

389.9. Encouraging public health services' personnel to attend an International Breastfeeding Course for Lactation Consultants (IBCLC) and obtain certification.

389.10. Encouraging workers of the health and hospital services to support breastfeeding.

389.11. Organizing a public campaign that promotes breastfeeding in the workplace (associated with Israeli Health Funds).

389.12. Advertisements on the Ministry of Health website of: the "Baby-Friendly Work Place."

389.13. Including the promotion of breastfeeding in the objectives of the Ministry of Health for the year 2020.

389.14. Encouraging cooperation between the Civil Service Commission and the chairperson of the Authority for the Advancement of the Status of Women in the Ministry of Health.

Road Safety

390. In recent years, various Amendments concerning the safety of children were passed:

390.1. Amendment No. 80 to the *Transportation Ordinance (New Version)* issued on February 8, 2007, supplemented Section 65C. The Section stipulates that a person may not ride a bicycle and/or carry another person, unless they wear a safety helmet with a strap to prevent from loosening during the ride. A parent, a legal guardian, or the adult in charge, must prevent the minor from riding a bike with no helmet on her/his head while in their care.

390.2. An owner of a bicycle business must place a noticeable sign in her/his shop regarding the obligation to wear a helmet. For the purpose of this section, the term bicycle includes skateboards, roller-skates, rollerblades, and a motor scooter, while excluding a tricycle.

390.3. According to Section 83 to the *Transportation Regulations* only an authorized vehicle is allowed to transport children. Furthermore, children must sit down inside the vehicle: they can no longer remain standing while moving. The permission that once existed to seat three children in a seat designated for two children was abolished.

390.4. The duty to fasten children into a safety seat while in a vehicle has been expanded. A child under the age of three must be fastened into a baby seat. A child between the ages of three and eight must be fastened into an elevated seat which fits her/his height and weight. Above the age of eight, there is a general duty to fasten a safety belt (Section 83A to the *Transportation Regulations*).

390.5. In order to prevent the transportation of young children on motorbikes, it is prohibited to carry a person on a motorbike if her/his legs cannot reach the side pedals (Section 119 to the *Transportation Regulations*).

390.6. The legal Directives dealing with driving under the influence of alcohol and/or drugs have been expanded. The requirement of an exhalation test to determine if a driver is a drunk driver is legitimate even when there is no valid suspicion of drunkenness. The police officer at the scene has the discretion regarding whether to demand that the driver undergo an exhalation test. The saliva-test that determines intoxication is performed at the police station subject to the consent of the person.

390.7. In 2008, the Minister of Transportation approved a comprehensive reform for the qualification of drivers. This reform will enter into force in May 2010, and improves the level of driving schools and prolongs any probationary periods. For instance, the requirement that a mature driver accompany a new driver for her/his initial three months of driving following her/his receipt of a license shall be extended by three more months and a further three months with respect to driving at night.

390.8. The National Road Safety Authority was re-established in 2007 under new standards. It is a statutory corporation that was established due to temporary order, for a limited number of years. This authority practices road safety and acts to promote awareness among educational frameworks. These standards accord with the *National Road Safety Authority (Temporary Order) Law* 5766-2006 (the: "*National Road Safety Law*"). According to Section 6 of the Law, one of the duties of the Authority is to advise and assist the educational system as well as conduct research in the field of road safety.

390.9. The National Road Safety Authority carries out activities for the protection of children, as delineated below:

390.10. Involvement in determining the curriculum of the educational system – the Authority, together with the Road Safety Division in the Ministry of Education, develops, manages, and finances studies on the issue of road safety in kindergartens, elementary schools and high schools. Representatives of the Authority and the Ministry of Education lead committees that approve activities and presentations on road safety within educational settings. In 2008, the Authority succeeded in receiving the consent of approximately 98% of high school principals to assimilate a grading system on the issue of road safety as a condition for receipt of a matriculation certificate. The Authority also boasts approximately twenty guidance centers for guidance regarding safe cycling. The centers are intended for fourth and fifth grade children across the country.

390.11. Coordinating with youth movements – the Authority conducts national campaigns on the issue of road safety by youth movements in coordination with the Council of Youth Movement in Israel.

390.12. “At High risk” – the Road Safety Authority Information Centers undertakes explanatory activities for the Bedouin population. Such activities raise the awareness concerning accidents 'around the home', the importance of fastening safety belts and wearing bicycle helmets while riding.

390.13. Media – the Road Safety Authority produces explanatory activities for children's television programs, in playgrounds, and in locations where children frequently gather.

390.14. General research – the Road Safety Authority researches road accidents that involve children. The Authority studies the cause of these accidents and then seeks solutions to avoid their recurrence.

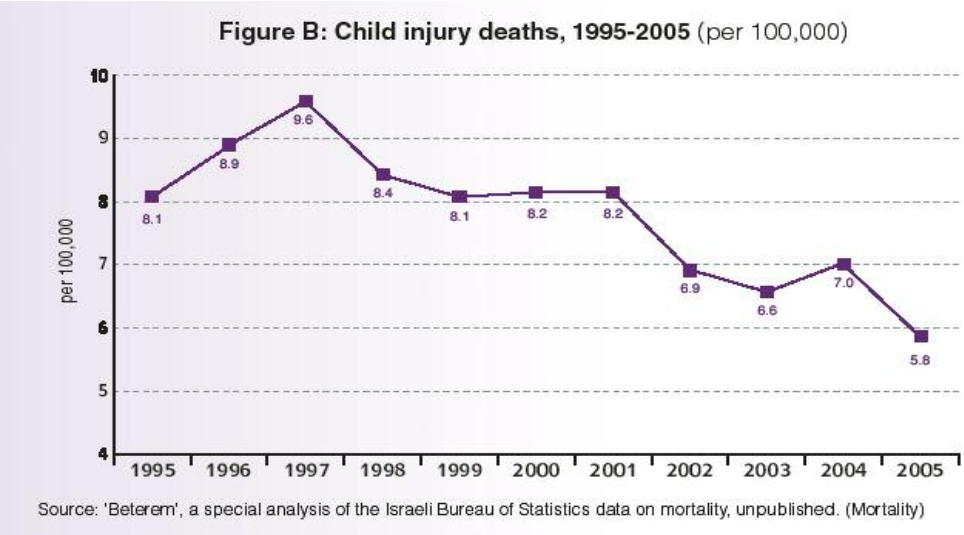
Accidents

391. Approximately 2.3 million children between the ages of 0-17 currently reside in Israel. Child injuries result in approximately 150 deaths per year, 25,000 hospitalizations and 180,000 visits to emergency rooms. Half of Israeli children sustain injuries that require medical care. Such care is available within the community medical services.

Child Injury Trends in Israel

392. Over the past decade, injury-related mortality rates in children between the ages of 0-17 have decreased by 28%, from 8.1 deaths per 100,000 children in 1995 to 5.8 deaths per 100,000 children in 2005.

Chart 1 – Child Injury Deaths, 1995-2005



Source: 'Beterem', a special analysis of the Israeli Bureau of Statistic Data on Mortality, Unpublished (Mortality). 2005.

Causes of Childhood Injury

393. During the years 2003 and 2005, the leading cause of injury-related death in children aged one to seventeen was road accidents. As for infant's aged up till one years old, half of the injury-related deaths occurred in domestic and playground environments, with the leading cause of death being choking/strangulation. The primary causes of injury-related death among children aged one to seventeen are: drowning, suffocation, falls, poisoning, fire/burns and firearm related injuries.

Injury by Population Groups

394. Between the years 1999 and 2005, injury-related mortality rates decreased in both Arab and Jewish children. In 1999, there were 12.3 and 6.7 injury-related deaths per 100,000 Arab and Jewish children respectively. In 2005, the injury-related mortality rate was 9.3 and 4.4 in Arab and Jewish children respectively (a 34 and 24% decrease respectively). Injury-related mortality among Arab children is still higher when compared to injury-related mortality among Jewish children.

395. A report published by the Israel Medical Association Journal (IMAJ) in 2007, indicated that road accidents constituted the most frequent causes of mortality among children older than one year, and were second in causes of hospitalization. A secondary cause was found to be falls from high altitudes.

Sexual Behavior and Birth Control

Table 19 - Live Births among Minors by Age and Religion in 2007

Religion	Total	Age			
		14	15	16	17
Total		20	137	747	2,177
Jews	530	31		105	394
Muslims	2,371	12	102	602	1,655
Christians	23	-	-	23	
Druze	22	-	-	-	22
No religion stated	134	10		38	86

Source: CBS, Central Bureau of Statistics, 2008.

Table 20 - Unmarried Girls up to the Age of Nineteen Who Requested Authorization for Pregnancy Termination, by Religion and Number of Previous Induced Abortions, 2006

Religion	All ages	Up to age 19		
		Absolute numbers	Percentage	Rate per 1000 for age group
Jews	14,818	2,215	79.5	11.3
Muslims	1,619	92	3.3	1.7
Christians	496	44	1.6	7.4
Druze	204	11	0.4	(2.0)
No religion stated	1,893	355	12.7	32.8
Number of previous induced abortions				
0	-	2,229	80.0	-
1-2	-	412	14.8	-
3+	-	8	0.3	-

Source: The Central Bureau of Statistics, 2008. (Data based on estimates)

Emotional Well Being

396. Suicide ranks as the second most common cause of death among children and youth in Israel, similar to other developed Western countries. The extent of the phenomenon of suicide and the attempts at suicide are not precisely known.

397. In order to understand and deal with the phenomenon of suicide among youth at the national level, the Inter-Ministerial Committee for the Prevention of Suicide among Youth has made great efforts with children and youth under the age of 24. The Committee includes representatives from various bodies and has prepared a suicide prevention kit for personnel working with children.

Table 21 - Number of Suicide Attempts among Children and Youth in Emergency Departments, by Age and Gender, 1999-2007

Year	Total	Boys				Girls			
		Total	Up to 9	10-14	15-17	Total	Up to 9	10-14	15-17
1999	469	124	5	24	95	345	1	59	285
2000	525	110	8	20	82	415	0	82	333
2001	484	99	3	12	84	385	4	108	273
2002	535	97	4	19	74	438	0	109	329
2003	621	135	3	32	100	486	1	133	352
2004	691	117	6	28	83	574	4	154	416
2005	694	148	5	34	109	546	1	147	398
2006	638	133	1	31	101	505	1	147	357
2007	685	128	7	40	81	557	0	158	399

Source: The Ministry of Health, Department of Health Information, 2008.

398. In 2007 there were 685 reported suicide attempts among children that resulted in their being brought to emergency rooms. Since 1996, there has been an increase of approximately 30% in suicide attempts. This can be attributed to an improvement

of the data collection system, rather than an increase in the number of suicide attempts. The rate of suicide attempts among girls is much higher than that among boys.

Dental Health

399. Following a petition submitted to the Israeli High Court of Justice by the NGO

announced on June 7, 2009 that dental checks for every pupil in Israel between the ages of five and eighteen would be financed by the Government. The Ministry also declared that it would triple the budget of Dental Health Services by up to 30 million NIS (8,100,000$) per year. Pending this solution, dental checks were partially financed by local authorities (depending on their financial situation). The treatments that are funded by the Ministry of Health include routine checks, preventive treatments and guidance. It does not include dental treatments (the *National Health Insurance Law*). On December 14 2009, the Israeli Government decided to include children's dental treatments within the State Medical Basket that is covered by the National Health Insurance.[4]

Traditional Customs that May Effect a Child's Health

400. Recent data indicates that over the last few years there were no reports of women who underwent female genital mutilation in Israel.

Preventive Services for Young Children

Mother and Child Health Services (MCH)

401. In recent decades, the proportion of pregnant women making use of the MCH services as their principal source of prenatal care has declined dramatically – from close to 100% in the mid-1980s to approximately 20% of Jewish women and 50% of Arab women as of 2002. Women opt to receive their prenatal care through State health insurance coverage, namely through their Health Funds or from their private doctors.

402. The MCH services remain essentially the sole source of Mother and Child Health Clinics. In 2006, approximately 145,000 infants received care at over 1,200 clinics that belong to the Ministry of Health, the Israeli Health Funds and two localities

[4] The Health and Welfare Committee gathered on December 15, 2009 to discuss the Government resolution, see Protocol No. 158 and 166 dated December 15 and 22, 2009, respectively.

cared for approximately two-thirds of the infants. The Israeli Health Funds operated 50% of the clinics, including many relatively small clinics in rural areas and cared for 20% of the infants. All of the services operate under the supervision

Ministry.

403. In 2004, the Government of Israel approved an experimental plan for the responsibility of MCH services to be transferred from the Ministry of Health and municipalities to the Israeli Health Funds that are funded by the Government. In 2007, the Prime Minister decided to halt the pilot project and his decision was confirmed by the Government.

404. A new service was added to the Israeli Health Funds on January 1, 2009, a Metabolic Disease Screening for 11 diseases, which is performed for all newborns. This service is funded by the Ministry of Health and expands the former service that detected only Congenital Hypothyroidism and Phenylketonuria (hereditary disease PKU).

Vaccinations

405. New vaccinations were added to the childhood vaccinations schedule. Two doses of Varicella, an additional two doses of Pertussis and 2+1 Pneumococcal are scheduled in 2009.

Table 22 - Children at Age Two Who Received Inoculations, by Population Group and Type of Inoculation for the years 2003, 2005, 2006 (Percentages)

Pop. group	DTP 4 doses			Polio IPV			MMR			Hep B			Hep A		Hib	
	2003	2005	2006	2003	2005	2006	2003	2005	2006	2003	2005	2006	2005	2006	2005	2006
Total	93	93	95	93	95	94	96	94	96	98	96	98	90	84	93	94
Arab	97	98		97	97		98	98		100	96		96		98	
Jews	91	91		91	94		95	93		97	96		88		91	

Source: The Ministry of Health, Lewis Institute, Tel Hashomer Hospital, 2008, Source: The Central Bureau of Statistics, 2009.

Table 23 - The Percentage of Children in 1st, 2nd and 3rd Grades Who Received Routine Vaccinations from the Association of Public Health, 2008

	1st grade		2nd grade		3rd grade	
	MMR		IPV + dTaP		dT	
	Abs.	%	Abs.	%	Abs.	%
Candidates	136,199	100.0	138,206	100.0	117,158	100.0
Vaccinated	124,236	91.2	123,684	89.5	99,250	84.7
No need*	3,220	2.5	4,142	3.2	6,618	6.2
Refusal	1,306	1.0	1,376	1.0	1,130	1.0

** Children who did not need the vaccine or were already vaccinated.*

Preventive Programs for Special Populations

The Ethiopian Community

406. In 2006, there were approximately 27,000 Ethiopian-Israeli youth between the ages of ten to nineteen in Israel. 12,000 were born in Israel to immigrant parents and 15,000 were born in Ethiopia.

Israeli national data indicate that there are significant gaps in the educational results of Ethiopian-Israeli youth compared to the general population.

407. However, the country's 115,000 Ethiopian-Israelis are a particular priority and JDC's (American Jewish Joint Distribution Committee) chief PACT (Parents and Children Together) operate a program designed to facilitate Ethiopian-Israelis' inclusion within the Israeli educational system. This program tackles critical educational and social gaps between Ethiopian-Israeli children under the age of six and their veteran Israeli peers by promoting inclusion of every Ethiopian-Israeli child into a pre-school framework. The program thereby, provides culturally sensitive support, and PACT assists the children to acquire social and cognitive skills that Ethiopian-Israeli parents who were in most cases raised in a rural society, cannot provide. This, in accordance with recommendation No. 20 of the concluding observations of the Committee on the Rights of the Child concerning Israel's Previous Periodic Report, recommending that cooperation with NGOs and international organizations should be strengthened.

408. Since 1998, the city of Be'er-Sheva together with the Jewish Community PACT (Parents and Children Together) operates in fourteen locations. In 2007, over 11,000 Ethiopian-Israeli children and their parents benefited from PACT and the city's assistance to the community.

Science and Technology

409. In recommendation No. 53 of the concluding observations of the Committee on the Rights of the Child it was recommended to increase the budget allocated for

Technology operates regional Research and Development Centers in Arab localities. Between the years 2003 and 2008, 4,307,984 million NIS (1,164,320$) were conveyed to the Galilee region and another 5,086,680 million NIS (1,374,778$) was transferred to a center in the "Meshulash" (Triangle) region in the north of Israel. In addition, since 2005, 948,200 NIS (256,270$) have been transmitted to the regional center for the Bedouins in the Negev.

410. The Ministry of Science and Technology also supports projects that promote Arab student's academic achievements. During the 2006/7 school year, 500 financial grants were awarded to Arab students. In 2007/8, an addition of 300 scholarships were granted, 50% of which were to Arab students. During the 2008/9 school year, 700 scholarships were granted, 480 of which were to Arab students.

411. The Ministry of Science and Technology also allocated an exceptional budget in 2008/9 in order to establish two new centers for the teaching of science in the "Meshulash" region in the north of Israel. In the Galilee, the budget for the 2008 fiscal year was 1.5 million NIS 405,000$) per center in addition to a new National Research Center which was opened for the Druze population and which was funded in the amount of 400,000 NIS (108,000$).

Table 24 - Financial Aid Granted by the Ministry of Science and Technology between the Years 2001-2008 (by million NIS)

Project	2001	2002	2003	2004	2005	2006	2007	2008
Studies in regional research and development centers	0.699	0.317	0.093	0.441	2.548	0.495	1.95	1.258
Operating Arab-population research and development centers		0.67	0.536	0.536	0.536	-	-	-
Support for regional research and development centers	0.536	0.707	0.552	0.505	0.591	0.827	0.548	0.654
Support for Bedouin regional research and development centers	-	-	-	-	0.3	0.3	0.3	0.15
Supplying for regional research and development centers	-	-	-	-	-	-	-	0.94
Minorities scholarships	1.415	1.637	0.48	0.4	0.48	0.09	0.33	0.15
Inauguration scholarships	-	-	-	-	-	-	2.52	2.8
Psychometric test scholarships	-	-	-	-	-	-	-	0.5

Source: The Ministry of Science and Technology, 2008.

The Budget for Culture, Entertainment and Sports

aid to 850 artistic and cultural institutions, including children's theaters, dance schools and choirs. Moreover, museums are recognized by law as beneficial and qualitative enrichment institutions for children. The State accepted the Holon Children's Museum as such an establishment. The State encourages the conservation of Arab, Druze and Circassian traditions.

Table 25 - The Budget for Arab, Druze and Circassia Culture 2001-2008

	2001	2002	2003	2004	2005	2006	2007	2008
Arab culture	7,500	7,175	6,919	6,017	6,703	7,106	10,362	12,453
Druze and Circassian culture	2,026 NIS (547$)	1,919 NIS (518$)	1,874 NIS (506$)	1,653 NIS (446$)	1,593 NIS (430$)	1,638 NIS (442$)	2,075 NIS (560$)	1,866 NIS (504$)

Source: The Ministry of Culture and Sports, 2008

Preventive Services for School Children

413. Preventive services for pupils are no longer provided directly by the Ministry of Health. This responsibility was outsourced in 2006 when the Ministry was replaced by a Non-Governmental Organization. Dissatisfaction with the level of services led to the advertising of a public tender for the next five years, beginning in the summer of 2009. At this date, the provider of the service has not yet been chosen. (See: Preventive care and control of epidemics Chapter B, above).

Psychiatric Services

414. The Israeli child and adolescent mental health services are available in both inpatient and outpatient settings. These services aim to prevent developmental difficulties as a result of emotional problems. The services enable young people with mental disabilities to return rapidly to their daily lives.

415. Recent technological developments have introduced new drugs available as part of the National Health Insurance. The availability of treatment in the community environment contributes to the care of children and youth, as it allows young patients to remain in a familiar environment.

The psychiatric hospitalization system includes fourteen psychiatric hospitals. Eight of these are governmental, two belong to the Clalit Health Services Health Fund (the leading Israeli HMO), one is owned by a public non-profit organization

and the remaining three are privately owned. There are also twelve psychiatric wards in the general hospitals. These wards specialize in treating all age groups.

Table 26: Children and Youth Admitted Hospitalized, by Gender, Age and Diagnosis (2005)

Diagnosis	Gender	Age		
		Up to 11	12-17	Total
Total	Total	155	856	1,011
	Males	129	454	583
	Females	26	402	428
Schizophrenia and delusional disorders	Total	9	123	132
	Males	8	76	84
	Females	1	47	43
Acute psychotic disorders	Total	10	99	109
	Males	8	67	75
	Females	2	32	34
Affective disorders	Total	4	149	153
	Males	4	55	59
	Females	0	94	94
Organic disorders	Total	3	11	14
	Males	2	9	11
	Females	1	2	3
Neurotic disorders	Total	15	95	110
	Males	10	32	42
	Females	5	63	68
Personality disorders	Total	2	51	53
	Males	2	10	12
	Females	0	41	41
Childhood disorders	Total	99	202	301
	Males	83	127	210
	Females	16	75	91
Drug and alcohol use	Total	1	15	61
	Males	1	11	12
	Females	0	4	4
Mental retardation	Total	8	17	25
	Males	7	9	16
	Females	1	8	9
Other	Total	4	94	98
	Males	4	58	62
	Females	0	36	36

Source: The Ministry of Health, Department of Information and Evaluation.

Education, Health Care and Welfare in Jerusalem

416. There are 28 Mother and Child Health Clinics located in the Jerusalem municipal area. Among these clinics, there are four situated in the eastern neighborhoods and 24 located in the western neighborhoods. Since 2001, no additional centers have been opened. Additionally, according to the Jerusalem municipality's data, 407

social workers are currently employed in Jerusalem. 343 are allocated to facilities in the western neighborhoods and 64 to facilities in the eastern neighborhoods. Over the course of eleven years (1997 – 2008), fourteen kindergartens and 340 schoolrooms were added for the benefit of the residents of the eastern neighborhoods of Jerusalem.

The Bedouin Population

Environmental Factors that Affect Health

Medical Care and Infrastructure

417. The medical facilities in the vicinity of Bedouin villages are fully equipped, Mother and Child Health Clinics are computerized, air conditioned and maintained in good condition.

The Ministry of Health operates special health services and Health Clinics for the Bedouin population in the Negev. The service includes an ambulance, run by the Bedouin population that resides in the Negev. The purpose of this service is to ensure an open gateway between the nearest hospital and the Bedouin community. This enables professional workers from nearby residencies to evaluate the living arrangements of patient's subsequent to their release from hospital. Such personnel can view the patient's sanitary living conditions prior to their release and provide recommendations accordingly. The cost of a visit to the Health Clinic is identical throughout the State.

There are 42,400 Bedouin Israeli children under the age of 6 (53%) who live in Bedouin towns, whereas 47% of Bedouin children live in unauthorized villages. In 2007, the Ministry of Health operated 27 Family Health Centers providing services to the Bedouin population in the Negev, in addition to 51 clinics operated by the various Health Funds.

There are eighteen Mother and Child Health Clinics located in Bedouin villages. In addition six Mother and Child Health Clinics have been established within the illegal clusters. There are 32 Medical Clinics run by the various Health Funds located in Bedouin communities; nine of which provide services to the unauthorized Bedouin villages.

418. According to a large-scale study conducted by the Myers-JDC-Brookdale Institute during 2003-2005 in association with the Ben-Gurion University, the "Shatil" organization and the Council for Unauthorized Villages in the Negev, approximately 9% of all Bedouin children in the Negev suffer from functional disabilities or chronic illnesses that require ongoing medical treatment and/or monitoring. This percentage is slightly higher than among the general Arab and Jewish populations in Israel (8.3% and 7.6% respectively).

    For most types of disabilities, the proportion of children in the Bedouin population who suffer from the disability is higher than that among the Jewish population. The number of children in need of continual medical and paramedical treatment is higher in the Bedouin population than in the general Arab and Jewish populations (4.9%, 2.8%, and 2.1% respectively). Furthermore, the percentage of sensory disability among Bedouin and Arab children is twice as great as that found among the Jewish population (2.0% 2.2% and 0.8% respectively).

419. In March 2009, the Israeli NGO, Physicians for Human Rights, published a report regarding the absence of pediatricians in the unauthorized Bedouin villages. Since most of the Bedouin villages are unrecognized by the State, health services are not available to the inhabitants. Although eleven villages were recognized by the State in 1999, it was claimed that they were not yet receiving the services they are entitled to by law. Twelve clinics and eight Mother and Child Health stations are located in unauthorized villages, yet their working hours are limited. However, no pediatrician, gynecologist or pharmacy was found within a reasonable radius of the area. According to the PHR report, based on data provided by Soroka Hospital, when compared to Jewish children, more Bedouin children approach emergency rooms, are admitted to the hospital and intensive care units, and die from disease. Consequently, many inhabitants turn to private health services or the Health Care clinics available in the large cities.

420. Some of the major improvements in the past decade in the field include improved immunization coverage of Bedouin infants in the Negev. Thus, there has been a significant decrease in vaccine-preventable infectious diseases; with the 2006 figures indicating that 90%-95% of Bedouin children have completed all necessary vaccinations by age three – a sizeable improvement compared to a rate of 27% in 1981. Two mobile immunization teams managed by the Ministry of Health also

provide home immunizations to infants in unauthorized Bedouin communities, whose families do not bring the infants to one of the Mother and Child Health

Health to identify infants who are behind on their immunization schedule and to send one of the mobile immunization teams to immunize them.

421. There has also been an important improvement in the growth of Bedouin infants and toddlers over the past two decades, indicating improved nutrition. Moreover, there has been increased compliance with recommendations for supplemental folic acid among Bedouin women in their fertile years, and a decrease in the incidence of open neural tube defects (NTD's) among Bedouin fetuses and infants. Unfortunately there are still high rates of congenital malformations and inherited diseases among Bedouin infants, due to multiple factors including the tradition of first-cousin marriages, as well as cultural-religious-social barriers to pre-marital and pre-natal screening for inherited diseases.

422. In 2007, the infant mortality rate among Bedouins decreased to 11.5 deaths for every 1,000 live births. The Government is continuing to open Mother and Child Health clinics in unauthorized villages and MCH centers to better serve the population.

423. Furthermore, the Government has been funding several special projects to improve the health and expand the health-care services provided to Bedouins living in unauthorized villages. One of these programs is a special long-term intervention program aimed at decreasing infant mortality among Bedouins. The program is community-based and boasts a wide-consortium of participants, including representatives from the Bedouin community leadership and the educational system, along with providers of curative and preventative health care services, the Department of Health in the Community and the Department of Epidemiology in the Faculty of Health Sciences at Ben-Gurion University of the Negev.

424. The Government funds genetic testing and counseling for members of tribes which have a prevalence of serious inherited diseases. The diseases included in the funding scatter among the population in a 1:1000 relation.

425. There has been a sustainable decline in the incidence of infectious disease among Bedouin infants over the past decades. There is, however, generally a higher rate of

infectious disease among Bedouin infants than among Jewish infants of the same age. Bedouin infants and children have lower rates of Pertussis, Tuberculosis and HIV infection. Furthermore, due to high immunization coverage among Bedouin infants, indicating improved access and utilization of preventive health care services, there have been no cases of measles since 1994 and no cases of poliomyelitis, diphtheria, congenital rubella, neonatal tetanus or tetanus in Bedouin children in the Negev since 1990. During the period 2000-2003, no cases of mumps were reported. Additionally only one to two cases of Homophiles influenza disease was reported in 2000-2002, and none in 2003.

426. Specialty physician services are provided to the Bedouin community in the Negev, including: Pediatrics, General Internal Medicine, Neurology, Family Medicine, Dermatology, Gynecology and Obstetrics, Ear, Nose and Throat, Ophthalmology, Orthopedics, Gastroenterology, Cardiology, Surgery and Trauma, Pediatric Surgery and Pediatric Pulmonary Medicine. In addition, every resident has equal access to all the specialty clinics at the Soroka University Medical Center, with no discrimination made between Bedouin or Jewish patients.

427. The Government, as well as the main HMO serving the Bedouin population, has made substantial efforts to train and recruit Bedouin physicians and nurses. The Government provided all the funding required for three classes of Bedouin students to complete their training as registered nurses, including funding their transportation to nursing school, a meal allowance during their studies, and special remedial lessons to assist those who needed it. The Government has similarly provided special funding to hire Arab physicians and nurses.

428. A course for qualified Bedouin nurses opened in 1994. It should be noted that students who participate in the course are committed to serving their first three years of practice after graduation wherever the Ministry of Health decides their services are needed. This will guarantee that the trained nurses serve the target population: the Bedouins. In addition, the first female Bedouin physician in Israel, Rania al-Oqbi, recently completed her degree. She was part of the special "Cultivating Medicine in the Desert" program, which is aimed at incorporating more Bedouin into the health services. Currently, six Bedouin women are studying medicine; 35 Bedouin women have completed degrees in various health professions; and 45 additional women are studying health sciences.

429. 70% of Bedouins live in planned, urban towns, with municipal infrastructure, including running water in every home (with the water in question meeting the Israeli standards for drinking water quality). The percentage of bacterially contaminated drinking water samples followed previous downward trends reaching 0.25 % in 2007 (7.6% in 1990 and 1.9 in 2001).

430. Nearly 62,000 Bedouin live in illegal clusters throughout the Negev; these villages cause difficulties in terms of supplying the residents with necessary services, especially the provision of water. While the Government does not question its duty to supply its inhabitants with services such as water, it is practically impossible to supply it to sporadic destinations which disregard the national construction and planning programs.

431. Nevertheless, until the completion of the establishment of permanent Bedouin towns and the regulation of water supply systems, the Ministerial Committee for the Arab Population has decided to build "Water Centers."

432. Following this decision, instructions were given concerning the planning of water supply systems to several "Water Centers." The Water Centers are part of the Government's understanding of the needs and current realities of the Bedouin population and its efforts to improve their living conditions. The planning of the centers takes into account an amount of water suitable for the magnitude of the population expected in 2020, and the establishment of the centers is very costly.

433. These systems will enable the supply of water to a significantly larger portion of the Bedouin population, than the portion receiving a water supply today through individual connections. There are currently 5 Water Centers, which are located in the most populated areas of the Bedouin Diaspora, compatible with the Government's plans for the establishment of permanent towns.

434. An additional method employed, is through direct water connections to the main water pipeline, granted to a minimum of ten families. Due to the problematic nature of these connections, which require the transfer of water to unauthorized villages, this method is less frequently used than in the past. The Water Committee, which evaluates requests for connections to pipelines, approves the connection to such a pipeline, as well as negotiates agreements in cases of disputes between residents of the Diaspora over ownership of such connections.

In addition, according to "Mekorot," the Israel National Water Corporation, numerous pirated connections to pipelines are being made without the authorization of the Water Committee.

Case Law

435. On September 13, 2006, the Haifa District Court (sitting in its capacity as a Water Tribunal) rejected an appeal filed by Adalah-the Legal Center for Arab Minority Rights in Israel (“Adalah”) on behalf of 767 Israeli-Bedouin living in the Negev's Diaspora, demanding access to sources of water (D.C.H. Appeal 609/05, *Abdallah Abu Msaed, et. al. v. The Water Commissioner).* The appeal was submitted against prior decisions of the Water Commissioner, who had also denied these requests.

In its decision, the President of the Haifa District Court emphasized that while the case deals with connections to the primary water pipe, behind it lies the complex issue of the organization of "unauthorized villages." The Court added that it is not disregarding the fact that all citizens possess the basic human right to water and health, which must be granted by the State in order to guarantee the right to dignity, but explained that, in its opinion, providing connections to the water mains is not the way in which to resolve the problem of unauthorized villages. According to the Court's decision, the right to water is not absolute, but can be made conditional upon a "clear" public interest "not to encourage cases of additional illegal unauthorized villages."

436. On November 18, 2006, Adalah submitted an appeal to the Supreme Court against the ruling delivered by the Haifa District Court.

In the appeal, Adalah argued that the Water Commissioner’s decisions to deny the petitioners the right to water were based upon improper and arbitrary considerations. Adalah asked the Supreme Court to overturn the decision of the Water Tribunal, and to order the provision of water access points via the existing main water distribution network.

Adalah further argued in the appeal that in reaching its decisions, the Water Commissioner relied entirely on the recommendations of the Water Committee, which is administered by the Bedouin Development Authority. To date, the appeal is still pending. (C.A. 9535/06, *Abdullah Abu Musa’ed, et. al. v. The Water Commissioner and the Israel Lands Administration).*

Air pollution

437. On July 22, 2008, the Knesset enacted the *Clean Air Law*, 5768- 2008, which will enter into force on January 1, 2011 (the: *"Air Law*"). The purpose of this law is to prevent and treat air pollution by establishing an arrangement which enables the imposition of greater responsibility and obligation on the Government, local municipalities and factories.

Government Ministries are compelled, by this law, to establish a national monitoring station and to allow access to data. Each local authority is obligated to act in favor of reducing sources of air pollution in their municipality and facilities. A detailed course of action must precede any such operation. Instructions as mentioned are consistent with standard air pollution provisions in other developed countries. These provisions also accord with international organizations and the European Union recommendations and directives. (Section 19(c) to the *Air Law*).

438. Infecting and polluting factories listed in the *Air Law*'s third Appendix must ensure that they hold a valid emissions license. Factories that are not listed in the Appendix are subject to the conditions of the environmental protection legal terms described in their working license – operating contrary to the provisions of these Directives constitutes an illegal act. Factories that produce toxic waste are sources for air pollution, and hence must obtain authorization from the Minister of the Environmental Protection in order to operate.

439. The new *Air Law* grants the Ministry of Environmental Protection the authority to initiate Directives to prevent and reduce sources of air pollution. Sources of air pollution particles may also be discharged by vehicles, aircraft and fuel machinery. The *Air Law* empowers local authorities to act against pollution by imposing penal sanctions, and warrants, as well as seeking the assistance of the court. The Ministry of Environmental Protection has the power to take legal measures against corporations that violate the Directives. The *Air Law* determines that air pollution may carry criminal responsibility and liability for damages.

C. Article 26 of the Convention - Social Security

Case Law

440. On January 7, 2009 the Supreme Court handed down its ruling in a petition submitted by the Association of Defense for Children International (DCI) (Israel) against the National Insurance Institute (NII). The DCI requested the translation of the NII forms into Arabic, which would enable the population living in the eastern neighborhoods of Jerusalem to submit forms to the NII in Arabic, and for the NII to send letters and notices to the population of the eastern neighborhoods of Jerusalem in Arabic.

The purpose of this petition was to enable the population residing in the eastern neighborhoods of Jerusalem access to the social rights granted by the NII, as the majority of the population does not know Hebrew. The petition was submitted in 2001, at which point the NII committed to translate all of its forms. However, this commitment was not fulfilled, and in May of 2007, the Court issued a conditional order against the NII. In July 2008, the Court criticized the NII and ordered the NII to present, within 90 days, a concrete plan of action, together with a detailed schedule, regarding the translation of its forms. On December 1, 2008, a time schedule in which to translate the forms was presented to the Court. Furthermore, the NII confirmed that they would accept forms submitted in Arabic. Thus, the Court issued an order according to which the NII was required to complete the translation of the forms into Arabic, and to accept forms which were submitted to it in Arabic. However, the Court held that the demand that the NII send letters and notices in Arabic to the population of the eastern neighborhoods of Jerusalem should not be granted, as translators were available in the offices of the NII should clarification be sought. *(*HCJ 2203/01 *The Association of Defense for Children International (DCI) v The National Insurance Institute* (07.01.2009))

Child Allowance

441. In addition to the Child Allowance payments paid to families with minor children, school funding is granted by the NII to single-parent families with four or more children, in accordance with NII criteria for social security pensions. This funding is provided to children between the ages of six and fourteen, for the purpose of facilitating the purchase of annual school supplies. In 2008, approximately 145,500 children received a school funding grant, compared with 141,000 children in 2007. The grant comprises 18% of the basic cost (1,323 NIS/ 357$ in 2008) for children between the ages of six and eleven, and 10% of the basic cost for children between

the ages of twelve and fourteen (735 NIS 198$). The cost of the grant in 2008 amounted to 147 million NIS ($ 39 million). (See also Chapter A, Articles 5, 9 and 18 of the Convention, above).

442. **Maternity Leave Payments** (for further details on Maternity Allowances see Chapter A, above).

443. In 2007 (the monthly average) the number of women who received maternity leave payments was 86,285. In 2008, (the monthly average) the number of women who received maternity leave payments was 93,630, constituting an increase of 8.8%.

444. In 2008 (the monthly average) the number of woman who received childbirth grants increased by 3.3% to a total of 152,319 recipients compared to 147,245 recipients in 2007.

Table 27 - Number of Woman who Received Maternity Leave Grants and Childbirth Grants (Monthly Average) Between the Years 1990-2008

Year	Recipients of maternity allowance (thousands)	Annual increase (%)	Recipients of birth grant (thousands)	Annual increase (%)
1990	43.7	0.5 (1986-1990)	103.6	0.5 (1986-1990)
1995	55.2	4.8 (1991-1995)	113.1	1.8 (1991-1995)
2001	71.2	0.8	127.1	-3.6
2003	73.9	3.5	136.4	6.1
2004	77.5	4.9	141.2	3.5
2005	77.0	-0.6	142.9	-
2006	82.7	7.3	143.6	0.5
2007	86.0	4.1	147.2	2.5
2008	93.6	8.8	152.0	3.3

Source: The National Insurance Institute, Annual Survey 2008

Dependence Allowance

445. Section 135 of the *National Insurance Law* stipulates that once a widow remarries she is entitled to receive two benefit payments, but forfeits her claim to the monthly dependence allowance. It should be noted that the Law defines the term "wife" (and therefore someone who marries) as including a women who cohabitates with a man and who is jointly responsible for the household.

Case Law

D. Article 27(1)-(3) of the Convention - Standard of Living

446. As mentioned in Israel's Initial Report, the right to enjoy an adequate standard of living is well recognized in Israeli society and under the Israeli legal system, under which the Judiciary, Executive and Legislative branches are all committed to pursuing the fulfillment of this right.

447. A prominent example of the State's adherence to provide people with an adequate standard of living can be found with respect to the NII and its activities, which are designed to guarantee that forsaken segments of the population and needy families, who find themselves facing temporary or long-term difficulties, will have a financial basis which will ensure an adequate level of existence. The NII services, described in further detail above, are equally accessible to the various populations in Israeli society.

448. The courts in Israel continue to play a pivotal role in the protection of the right to enjoy an adequate standard of living. The issue of minimum standards of living was addressed by the Supreme Court, residing as the High Court of Justice, in a petition filed by the Commitment to Peace and Social Justice Association- (HCJ 366/03, The *Commitment to Peace and Social Justice Association v. The Minister of Finance* (12.12.2005)). In its ruling, the Court emphasized that while the *Basic Law*: *Human Dignity and Liberty* does create an obligation for the State to ensure human dignity, it does not guarantee an absolute guarantee of social rights. In this regard, however, the State is obligated to maintain a 'safety net,' which is designed to ensure that the condition of the underprivileged does not deteriorate to one of existential deprivation, in the sense that they would suffer from a shortage in food, or a lack of shelter, sanitation, health care services and such.

449. On March 14, 2008, the Jerusalem District Court determined that in order to ensure the receipt of child support payments, a parent may take action to receive a stay of exit order against the second parent when there is evidence which suggests that the second parent intends to violate their obligation to pay child support.

In the relevant case, the Court determined that the right of a child to receive child support derives from two separate rights- the right to dignity and the right to property. These rights override the right of the father, who is obligated to pay child support, to travel abroad even when he is a permanent resident elsewhere. The

Court stressed that when dealing with a child, the opinion of the Supreme Court, as reflected in its rulings, is that the right of the child to fulfill his physical and material needs is a fundamental right deriving from the right to human dignity which is enshrined in the *Basic Law*: *Human Dignity and Liberty*.

According to the Court, the right of the child to receive child support is stipulated in Article 27 of the CRC, according to which the State is required to recognize the right of a child to enjoy a standard of living that is adequate for the child's physical, mental, spiritual, moral and social development. The Court emphasized Article 27(2) of the Convention, as imposing the primary obligation of care for the child on the child's parents.

The Convention, although not anchored in internal legislation, constitutes an important interpretative instrument, which can be used in balancing the constitutional right of the father to travel abroad with his obligation to provide for his children tilts the aforementioned balancing act in favor of the obligation to provide for one's children. (M.A 3284/07 *Merav Pelman et. al. v. Erez Pelman* (14.03.2008)).

Poverty

450. The year 2000 witnessed a slight decline in the incidence of poverty in Israel. The percentage of families, whose net income (after transfer payments and the payment of direct taxes) was below the poverty line, fell from 17.8% in 1999 to 17.6% in 2000. In 2002, there was no change in the incidence of poverty. In 2003, following reductions in several Social Security Benefits and a tax reform, the scope of poverty in Israel increased. A further increase occurred in 2004. The figures for 2006, as well as the results of a survey conducted in 2007, indicate a slight decline in the rate of poor families in Israel (20% in 2006 and 19.9% in 2007). As of June 2008, 20% of households in Israel were considered to be living below the "poverty line." The poverty rate among individuals and among children has declined - in 2007, 23.8% of individuals were considered to be poor, in comparison with 24.5% in 2006. With respect to children – as of June 2008, 34.1% were considered to be below the "poverty line" compared to 34.2% in 2007, and 35.8% in 2006.

451. As of June 2008, the rate of poverty among large families (households with at least four children) increased to 58.1%, in comparison with 56.5% in 2007, and 60% in

2006. A similar reduction also occurred among Arab families who comprise a significant proportion of the families with four children or more – 51.4% in 2007, in comparison with 54% in 2006. However, gaps remain in the incidence of poverty among the Jewish and the Arab populations.

452. In 2007, 24.8% of families with children lived under the poverty line, a decline in comparison with the rate of 25.5% in 2006. As of June 2008 the rate had declined to 24.7%.

The Extent of Poverty Among Different Groups

Table 28 - The Incidence of Poverty in Different Groups in 2007 (percents)

Group	Incidence of poverty among children
Total population of children	34.2
Families with 1-3 children	18.4
Families with four or more children	56.5
Families with five or more children	66.7
Single-parent families	29.8
Immigrant families	18.8
Arab families	51.4

Source: The National Insurance Institute, Annual Survey 2008

Table 29 - The Incidence of Poverty among Children, 2004-2007 (Percentages)

	After transfer payments and direct taxes		After transfer payments only		Before transfer payments and direct taxes	
Year		Incidence of poverty (%)		Incidence of poverty (%)		Incidence of poverty (%)
2004	713,600	33.2	632,100	29.4	881,600	41.0
2005	768,800	35.2	686,500	31.4	899,600	41.1
2006	796,100	35.9	718,600	32.3	921,900	41.5
2007	773,900	34.2	697,700	-	901,000	39.9

Source: The National Insurance Institute, Annual Survey 2007

Table 30 - Children in Different Groups Living Below the Poverty Line or Removed from Poverty by Transfer Payments and Taxes in 2006 (Percentages)

Children in:	After transfer payments and direct taxes	After transfer payments only	Before transfer payments and direct taxes
Total Population	**796,100**	**718,600**	**921,900**
Incidence of poverty (%)	35.9	32.3	41.5
Single-Parent Families	74,400	71,400	113,400
Incidence of poverty (%)	37.9	36.3	57.7
Immigrant Families	73,300	65,900	98,500
Incidence of poverty (%)	27.3	24.6	36.8
Large Families	501,400	457,000	546,500

Incidence of poverty (%)	62.3	56.8	67.9
Small Families	294,700	261,600	375,400
Incidence of poverty (%)	20.9	18.5	26.5

Source: The National Insurance Institute, Annual Survey 2007

The Right to Adequate Housing

453. The 2006 survey of household expenditure indicated that 69.5% of the heads of households owned their place of residence, while approximately one-quarter of them rented their place of residence.

454. There has been a consistent improvement in housing conditions over time, with the percentage of three or more people per room declining steadily. Arab households are more crowded than Jewish ones. In 2007, approximately 6.1% of Arab households lived with over three persons per room, compared to 0.4% of Jewish households. This is in part due to differences in family size.

The Bedouin Population

455. There are more than 170,000 Bedouins living in the Negev desert area. Most of those live in urban and suburban towns, which have been legally planned and constructed. All existing towns have approved plans and include infrastructure such as schools, clinics, running water, electricity, etc.

456. There are several existing Bedouin towns in the Negev: Laqiya, Hura, Kseife, Arara, Tel-Sheva and Segev Shalom, in addition to the city of Rahat. Although the seven existing towns can effectively provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided that a further nine new towns should be established for Bedouins. The first additional town to be constructed is "Tarabin," situated in the Bney-Shimon District Council area and designated for the members of the Tarabin El-Sana tribe. The first stage of this town's development has been finalized, with most of the lots having been distributed and hundreds of residents already populating the town. Each of the families received developed land for construction and an agricultural piece of property. The new town was planned jointly with its inhabitants, as a modern town offering educational services, underground infrastructure, and health services. The town extends over a territory of 1,132 dunams, designated to be home to approximately 3,500 people by 2020.

457. Additional towns that are in the process of planning and development include: Abu Krinat - located on 7,320 dunams, which is intended to accommodate around 15,000 people by 2020; and currently (in its first stage of construction) consists of 1,300 lots and an industrial center. Bir Hadaj- an agricultural town located in an area of 6,550 dunams, and which is designated to accommodate approximately 12,500 people by 2020. Kasar a-sir- located in an area of 5,000 dunams and which is intended to accommodate approximately 8,000 people by 2020. The other towns to be established are Makchul-Marit – for which a detailed plan of 2 neighborhoods was approved in September 2005, and a detailed plan for a third neighborhood is currently being prepared and which is intended to cover an area of 6,300 dunams, and to accommodate approximately 12,000 people by 2020; Um Betin – for which a master plan was approved in March 2005, and which is located on 6,700 dunams, and is designated to accommodate approximately 8,000 people by 2020; Moleda - for which a master plan was approved in March 2005, and which is located on 11,000 dunams; and Darijat. The names of these towns were chosen by the Bedouin population. In addition, the Government is in the process of expanding thousands of units in the existing towns.

458. As such there are nine new towns planned. Of those Tarabin is currently populated and 100 new houses have been built; Abu Krinat and Bir Hadaj are under construction; and Kasar A-Sir, Marit (Makhol), Darjat, Um Batin, Mulada and El Seid are all in the planning stages. A further three towns - Ovdat, Abu Tlul, and El-Foraa - are in the process of receiving statutory approval: A regional council has been established for five of the new towns. It is called "Abu Basma," and was officially founded on February 3, 2004.

459. Moreover, in two different resolutions adopted in April and September of 2003, the Government formulated a comprehensive plan for the advancement of the Bedouin population, including investments of 1.1 Billion NIS ($0.29 Billion) in the improvement of infrastructure, and the establishment of public institutions over the next six years.

460. Following lessons learned from past planning committees, the planning authorities carried out this task while in constant consultation with Bedouin representatives, who provided input as to their vision of every towns' desired character depending on such characteristics as whether the town was to be built for an agrarian or an

urban population and whether the town was planned for a group who requires a strict separation to be maintained between the various tribes who will populate it.

461. On July 15, 2007, the Government adopted a resolution concerning the

intended to deal entirely with development in the Bedouin Population, including the expansion of towns, and the provision of housing solutions for all Bedouins.

462. Despite the establishment of a number of permanent towns for the Bedouins, approximately 70,000 Bedouins still choose to live in illegal clusters of buildings throughout the Negev, and ignore the planning procedure of Israel's planning authorities. This illegal building is carried out without any plans, as required by the *Planning and Building Law*, and with no pre-approval from the planning authorities. In addition, it causes many difficulties in terms of the provision of services to residents.

463. The Government encourages the movement of those living in unauthorized villages to permanent towns by providing unique financial benefits to all the residents of the Bedouin Diaspora who seek to move to permanent towns, regardless of their economic condition or of any entitlement test. These benefits include, *inter alia*, provision of land plots for free or at a very low cost, and compensation for the demolition of illegal structures.

464. An Advisory Committee for the Policy regarding unauthorized villages was established on October 28, 2007 by Government Resolution No. 2491.

465. The Committee's task, as set forth by the Government in the aforementioned Resolution, is to present recommendations regarding a comprehensive, feasible and broad-spectrum plan which will establish the policy for regulating unauthorized villages in the Negev, including establishing rules for compensation, mechanisms for the allotment of land, civil enforcement, a timetable for the plan's execution, and proposed legislative Amendments, where needed.

The Committee submitted its final recommendations to the Government, which began to enforce them through Government Resolution No. 4411 dated January 18, 2009.

466. On January 18, 2009, the Government confirmed Resolution No. 4411 after a full examination of the committee's report. The government accepted the committee's

recommendations as a basis for arranging the housing situation of the Bedouins in the Negev, and appointed a professional cadre comprised of representatives of Government Ministries, the Israel Land Administration, and the Attorney General. The cadre is intended to submit a detailed and implement-able outline for the fulfillment of the Government Resolution.

467. In addition, in 2007, the proper authorities began the planning procedures for the Beer-Sheva Metropolis district plan (No. 23/14/4). The plan seeks to regulate the planning of the entire Negev area, with consideration being afforded to the needs of the population, any relevant restrictions, environmental concerns etc. Several objections have been submitted to the Courts regarding the abovementioned plan, none of which have yet been ruled upon by the Court.

468. Currently, the implementation team is in the final stages of completing the detailed governmental plan for the regulation of unauthorized villages in the Negev. The Plan is based on the recommendations of the Goldberg Committee for the Regularization of the Bedouin Housing Situation in the Negev (the: "the Goldberg Committee") and on intensive work that was conducted in the past year and included consultations with representatives of various segments of the Bedouin community and the consideration of remarks made by civilian organizations with respect to the Committee's report.

469. Note, that in its current work, the team attempted to formulate an extensive regulatory shift in the law with respect to land ownership and the development of physical and social infrastructures. To that end, the necessary systems (both legal and implementing) for the establishment of new localities, for the development of existing localities and for the settlement of law suits, are now being created.

VII. EDUCATION, RECREATION AND CULTURAL ACTIVITIES

A. Articles 28 and 29 of the Convention - Education

470. On June 27, 1997, the former Minister of Justice appointed the Rotlevi Committee. One of its six Sub-Committees, which was engaged in education, focused on two aspects:

A) Pupil's rights; and

B) Equality and the right to an education.

471. The Rotlevi Sub-Committee examined the *Pupil's Rights Law* and found that the existing law did not fully accord with the rights established in the Convention. Thus, the Sub-Committee formulated a bill that extended the rights of pupils, in order to render them compatible with the spirit of the Convention. The Bill was implemented through the adoption of two supplementary Amendments to the *Pupil's Rights Law* (both Amendments are detailed throughout this Report).

The intention of the Sub-Committee was to promote reciprocal respect between pupils and teachers. In addition, the Sub-Committee's recommendations encouraged the non-violent resolution of conflicts. The Sub-Committee emphasized the importance of equal opportunity for access to qualitative education. One can only guarantee such equal opportunity if a right to this effect is framed as part of the law, and includes rights unique to children, such as the right to maintain personal relationships with parents, the right to individuality, and the right to an education.

The following are the central aspects of the right to education recommended by the Sub-Committee:

472. The premise of the Convention is that a child is considered to be an autonomous being, with rights and responsibilities. This contrasts with the paternalistic outlook accepted until such time as the Convention was adopted, and which focused on the protection of children and on responsibilities borne towards them, rather than on the protection of their rights. The basis for the right to education is grounded in a child-centered approach which views various issues from the child's perspective, while focusing on her/his future and her/his best interests. Investing in qualitative education for all children enhances the sense of equality among pupils.

473. Each local municipality ought to guarantee the well being, health, security and safety of its pupils. Pursuing this objective requires the taking of active measures to protect children, thereby ensuring their right to the best possible education and personal growth.

The Sub-Committee emphasized the benefit derived for children who are involved in the decision-making process in matters affecting their school life. In this context,

Section 8 of the Sub-Committee's recommendations determined that a child's welfare must be the first and foremost consideration in all actions or decisions taken regarding pupils. The Committee underlined the importance of pupils' participating in proceedings that jeopardize their rights. The Committee also recommended that certain rights are taught to pupils at school, including:

1) The right of pupils to freedom of expression and opinion, within school activities and in any disciplinary proceeding involving the minor.

2) The right of access to information.

3) The right to privacy.

4) The right to associate and assemble, for instance in legitimate demonstrations and pupils' gathering.

5) The right to individuality - pupils are entitled to develop and demonstrate their independent way of thinking in school activities and after hour frameworks.

6) The right to freedom of religion and conscience – pupils have the right to practice their religious beliefs, so long as the practice involved is compatible with their school schedule.

474. The Committee also recommended establishing the following mechanisms within every educational institute:

1) Formal mechanisms that examine the infringements of pupil’s rights; and

2) Disciplinary committees.

475. The Sub-Committee's recommendations regarding equality in education are as follows: The Sub-Committee discussed the inequality in the education of children, problems in education, problems stemming from gaps in the provision of education to Arab children and poor children, paying special attention to the issue of violence against children and among youth, the importance of early childhood education and the rights of children in the education system. The Sub-Committee noted that placing all pupils in educational institutions is not nearly enough; hence the Government, through its municipal authorities, must assure that every institution provides qualitative education, allocated equally to all children living in Israel.

476. According to the Sub-Committee, qualitative education is based on four measures: accessibility (physical and economic), availability (of educational resources), correlation (between the education and its aims) and compatibility (pupils and community needs).The Sub-Committee recommended that the Minister of Education formulate a policy of 'Reverse Discrimination.' This policy would give precedence to pupils as individuals and as members of minority groups. The intention of the policy was to rectify a continual state of deprivation, inequality and deficiency in pupil's rights.

477. The Sub-Committee recommended various actions which should be taken so as to eliminate discrimination among pupils. The absence of an equal measure of educational opportunity for children is perhaps the major problem; the Sub-Committee emphasized the importance of striving for the best interest of the child, respect for children's views, and the right of the child to develop to the maximum extent possible, preferably as part of a heterogenic group of children. Such a heterogenic group of children is a feature of equality that facilitates and promotes non-discrimination.

478. In the recommendation No. 53 of the concluding observations of the Committee on the Rights of the Child it was recommended to strengthen its affirmative action programs in the Arab population. Whereat, the Sub-Committee recommended reinforcing and furthering the involvement of the Arab population in the educational system by determining a quote of impartial and proper representation of the Arab population within the Ministry of Education.

Education in Arab Localities

479. The Ministry of Education is constantly investing great efforts in the promotion of education in Arab localities, in order to bridge the gaps which currently exist between the Jewish and the Arab populations. During the 2009/2010 school year, the Ministry took additional measures in pursuit of this purpose:

- Operating new programs for the Arab kindergarten and elementary school population, in order to improve the children's fluency in their native tongue.
- In order to promote pupil's achievements in international and national subjects, the Ministry of Education added three school hours per day to every elementary school located in Arab localities and eight hours to every seventh grade

Education allocated an additional 195 days and 5,236 school hours for lessons in Arabic, mathematics and science.

- The program “Ofek Hadash” (New Horizon) has been gradually implemented in all Israeli schools since 2008, and is currently implemented fully in 216 of the 390 (55%) Arab elementary and junior high schools. In addition, 210,000 supplementary school hours are allocated to the Arab educational system in the course of this program.
- During the 2007/8 school year, nine schools in the north and 31 in the south were included in the "New Horizon" reform, followed by six schools in the north and seventeen in the south in the 2008/9 school year. This reform is intended to provide pupils with poor performance levels an opportunity to improve their performance and to fulfill their potential.
- Approximately 140,000 Arab and Bedouin pupils benefit from the “Karev Program” for Educational Involvement, a joint initiative of the Ministry of Education and the “Karev Foundation.” This foundation aims towards achieving an educational-social change within Israeli society by means of enrichment activities and reinforcement of the education system.
- The State financed warm meals for approximately 122,000 pupils who study for extended hours (see: *Government Resolution No.* 2342 *of August* 1, 2004).
- 400 new teachers were added to the Arab Educational System.
- A five year plan for the promotion of the education of the Arab population added hundreds of thousands of school hours to schools including kindergartens, amongst which 25,000 hours are dedicated to studies for matriculation exams only. Professionals were trained and placed at 200 schools, along with 150 educational advisors, and learning centers for psychometric tests (the equivalent of the scholastic aptitude test (SAT)) were established for 500 pupils.

Case Law

480. On August 20, 2007 the Be'er-Sheva District Court residing as an Administrative Court, held that the taking of tests in order to determine the placement of first-

graders in special schools (such as art schools, etc.) for the school year 2007-2008,

General's specific Directives prohibit the affording of unequal opportunities to children of the same age group. Furthermore, since the petition to disqualify the tests in question was received in close proximity to the beginning of the school year, accepting the petition would result in harm to the children who took the tests and passed. Therefore, the Court stressed the prohibition against taking these tests. However, the Court determined that until the Ministry of Education determined guidelines clarifying the criterion for first-graders to qualify for special schools, the results of the testing, namely those who passed and had been accepted, would remain unchanged. Annulling the results would cause greater harm to the children who were already accepted to the schools in question for the 2007-2008 school-year, and the petitioner's son would have to study in a regular school near his place of residence. (Ad. P. 327/07 *Gordon Michal et. al. v. The Municipality of Ashkelon et. al.* (20.08.2007)).

Education in Bedouin Localities in the South

481. The Bedouin population in the Negev consists of eight local authorities: Abu-Basma, Hura, Lakia, Kseifa, Arara, Rahat, Segev Shalom and Tel-Sheva. In 2009, there were 72,460 pupils in the education institutions of the Bedouin population in the Negev, in comparison with 45,117 pupils in 2001. Since 2001 there has been an increase of approximately 70% in the number of educational institutions established in Bedouin localities in the Negev. During that time there was a decrease of 4% in the number of Jewish educational institutions established.

482. Table 31 - Number of Pupils and Education Institutions in the Southern Bedouin Population, 2009

Local authority	Kinder-gardens	Pupils	Elementary schools	Pupils	High schools	Pupils	Special education schools	Pupils	Total institutions per authority	Total pupils per authority
Abu-Basma	132	3,854	26	14,432	4	837	-	-	162	19,114
Hura	45	1,337	5	2,557	3	1,977	1	92	54	5,963
Lakia	33	910	4	2,339	2	1,642			39	4,891
Kssaife	35	1,004	5	3,230	2	2,464	1	65	43	6,763
Arara	39	1,131	6	2,798	2	1,865	1	58	48	5,852
Rahat	102	2,898	16	10,920	4	4,455	1	126	123	18,399
Segev	29	715	4	2,488	2	2,083	-	-	35	5,286

Shalom										
Tel-Sheva	49	1,343	4	3,075	3	1,775	-	-	56	6,193
Total	464	13,192	70	41,830	22	17,097	4	341	560	72,460

483.

Table 32 - Number of Educational Institutions in the Southern District between the Years 2000-2009

Population	**Education phase**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**
Jewish	**Kindergarten**	**1130**	**1148 (+18)**	**1128 (-20)**	**1132 (+4)**	**1114 (-18)**	**1094 (-20)**	**1084 (-10)**	**1093 (+9)**	**1129 (+36)**	**1130 (+1)**
	Elementary school	**274**	**277 (+3)**	**271 (-6)**	**271 (0)**	**269 (-2)**	**267 (-2)**	**261 (-6)**	**260 (-1)**	**260 (0)**	**263 (+3)**
	High school	**113**	**122 (+9)**	**122 (0)**	**95 (-27)**	**100 (+5)**	**94 (-6)**	**93 (-1)**	**97 (+4)**	**95 (-2)**	**99 (+4)**
Total		**1517**	**1547 (+30)**	**1521 (-26)**	**1498 (-23)**	**1483 (-15)**	**1455 (-28)**	**1438 (-17)**	**1450 (+12)**	**1484 (+34)**	**1492 (+8)**
Arab	**Kindergarten**	**198**	**263 (+65)**	**317 (+54)**	**365 (+48)**	**398 (+33)**	**413 (+15)**	**445 (+32)**	**461 (+16)**	**452 (-9)**	**459 (+7)**
	Elementary school	**51**	**53 (+2)**	**55 (+2)**	**55 (0)**	**56 (+1)**	**66 (+10)**	**70 (+4)**	**73 (+3)**	**76 (+3)**	**79 (+3)**
	High school	**13**	**15 (+2)**	**18 (+3)**	**20 (+2)**	**21 (+1)**	**20 (-1)**	**20 (0)**	**22 (+2)**	**22 (0)**	**23 (+1)**
Total		**262**	**331 (+69)**	**390 (+59)**	**440 (50+)**	**475 (+35)**	**499 (+24)**	**535 (+36)**	**556 (+21)**	**550 (-6)**	**561 (+11)**

Source: The Ministry of Education Southern region, 2009

484. In 2000, the Southern Department in the Ministry of Education began to implement a five-year plan for promoting the education system in the Bedouin population. The plan includes bridging gaps between the Bedouin population and the Jewish population. The purpose of the plan is to achieve better results in school, improve school environments and prevent violence. The plan also trains educators; extends teaching hours, improves learning techniques, improves the quality of construction, and provides missing technological equipment

Table 33 - The Plan for Promoting the Education in Bedouin Localities in the South – Activities and Budget (NIS) during 2007-2009

Subject	**Activity**	**2007 budget**	**2008 budget**	**2009 budget**	**Total budget**
Promoting pupils' achievements	Supervising pupils' achievements	1,038,000	151,204	-	1,189,204
	Reinforcing core studying subjects	4,300,300	3,086,500	3,770,000	11,156,500
	Developing teleprocessing skills	840,000	-	-	840,000
Training	Educators' professional	540,000	400,000	570,000	1,510,000

educators	development				
	Localities accompanists	-	-	90,720	90,720
	In-service trainings	450,000	189,000	254,700	893,700
	Training and qualifying educational advisors	1,400,000	-	-	1,400,000
Supplying	Reading books for 1th-2th grades	821,100	-	-	821,100
	Upgrading science labs and technology	856,000	759,500	-	1,615,500
Total sum		**10,245,100**	**4,586,204**	**4,685,420**	**19,516,724**

Source: The Ministry of Education Southern region, 2009

485. In recent years, the Ministry of Education carried out various activities for children of all ages. These activities included the promotion of Arabic, Hebrew, English, mathematics and sciences learning skills as well as computerizing the school learning environment.

486. In addition to the expended five-year plan, the Ministry of Education is involved in a serious effort in order to prevent Bedouin children from dropping out of school. The Ministry of Education operates several educational treatment centers for youth at risk or minors outside the education framework. These services locate potential drop-outs, conduct workshops for parents, and insist on the use of teaching methods that accord with the pupils' needs. The drop-out rate in the Bedouin population in the Negev has decreased from 9.4% in 2004 to 6.7% in 2008.

Training for Professional Personnel

487. Guidance Counselors - Between 2004 and 2008, three training courses for Guidance Counselors were opened: two in the North and one in the South.

488. In addition, two classes of Learning Functions Diagnosticians were opened, one in Sakhnin College (north), and the other in Be'er-Sheva (south) - both within the framework of the Open University.

489. Psychologists - additional positions for psychologists were allocated, yet a shortage of positions per pupils and of educational psychologists persists.

Special Education Frameworks

490. Four special education schools and 25 kindergartens currently serve the Bedouin population in the South, as well as three Regional Support Centers. In 2008, two additional regional support centers were opened, as well as ten classes in primary

schools. In addition, all primary and intermediate schools received additional reinforcement teaching hours.

491. In the North - a new school for severe intellectual disabilities was established, as well as six special education kindergartens. In addition, four classes in secondary schools were added, as well as 3,000 hours of integration.

Table 34 - Dropout Rates in the Southern Bedouin Population Between the Years 2003-2008 (Percentages)

School year	National	South District	The Bedouin population in the South	Bedouin boys	Bedouin girls
2003-2004	4.3	4.5	9.4	9.4	9.4
2004-2005	3.6	3.8	8.3	9.3	7.2
2005-2006	4.4	4.8	8.4	9.6	7.0
2006-2007	3.6	3.6	6.7	7.5	5.9
2007-2008	3.1	2.8	6.7	8.3	5.1

Source: The Ministry of Education Southern region, 2009

Table 35 - The Budget for Establishing Classrooms between the Years 2002-2007

Year	Total classrooms	Classrooms in the Bedouin population in the South	Rate of Bedouin pupils out of the total pupils
2002	3,265	182 (5.6%)	2.79%
2003	455	6 (1.3%)	2.98%
2004	778	110 (14.1%)	3.1%
2005	1,283	35 (2.7%)	3.27%
2006	1,312	119 (9.1%)	3.41%
2007	1,573	183 (11.6%)	3.57%
Total	8,666	635 (7.3%)	-

Source: The Ministry of Education Southern region, 2009

Elementary and Secondary Education

492. Since the submission of Israel's Initial Report, there has been a slight decrease in attendance rates in the Arab population, from 78.9% to 77.6%. There has also been a decrease in attendance rates among the Jewish population, from 94.5% to 85.6%.

Table 36 - Attendance Rates of Pupils Aged 14-17 at High Schools under the Surveillance of the Ministry of Education by Population (Percentages)

Year	Jewish population	Arab population
2001/2-2002/3	85.0	76.1
2002/3-2003/4	84.8	76.0
2003/4-2004/5	85.2	75.8

2004/5-2005/6	85.4	76.7
2005/6-2006/7	85.6	77.6
2006/7-2007/8	85.6	77.6

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2003-2008

Legislation

Compulsory Education

493. During the reporting period, the *Compulsory Education Law* was amended several times.

494. A 2001 Amendment issued on August 7, 2001 stipulated that the principal of an educational institution shall inform the director of the education department in the local authority and the relevant Ministry of Education personnel, with respect to a pupil registered in an educational institution who does not regularly attend, or with respect to a pupil who was enrolled in the institution in a given school year, and did not enroll in the same institution the following year. Furthermore, a pupil may be removed from school permanently on account of scholastic achievements only in accordance with the regulations stipulated by the Minister of Education.

495. A 2002 Amendment, issued on July 2, 2002 stipulated that a local authority (the "sending authority") should fund the schooling of a child or adolescent residing in its territory, in an education facility in another local authority (the "receiving authority"), provided that the intended educational facility does not exist within the sending authority's territory. The Amendment further stipulated that the sending authority must locate the nearest educational institute to the child's place of residence, unless determined otherwise by the Minister of Education, and must decide having taken into consideration public transportation arrangements.

496. The Rotlevi Educational Sub-Committee recommended the funding of preparatory courses for the psychometric test for pupils from the lower echelons as part of the compulsory education program.

497. The Rotlevi Educational Sub-Committee also recommended a right to school transportation under the following conditions(as previously mentioned, most of the Rotlevi recommendations have already been implemented):

    1. The distance for which the authority is obliged to provide transportation must be reduced with respect to localities where there is no public transportation.

2. Safe service and bus-stations for transportation on expressways must be established.

3. The obligation to provide transportation for 11^{th}-12^{th} grade pupils who study outside their localities should be extended.

498. An Amendment issued on December 19, 2005, stipulates that a principal of an

Education, regarding any incident of physical violence either between a teacher and a pupil, or between pupils, which caused physical damage. The principal shall report the incident immediately after it has occurred, together with the consequences of the incident, including disciplinary measures taken.

499. In 2007, *The Compulsory Education Law*, was amended in order to broaden its scope and extend compulsory education to youth between the ages of fifteen and seventeen (inclusive) - the 11^{th} - 12^{th} grades. Prior to the Amendment, education in the 11^{th} - 12^{th} grades was free, but not compulsory. With the aim of protecting youth during this vulnerable stage in life from negative influences, and in order to prepare them and provide better tools to them for their successful integration as productive adults in society in the future, the Government decided to make the 11^{th} and 12^{th} grades compulsory. Another desired effect of the Law, is a decrease in drop-out rates and removal of pupils, by requiring the provision of solutions within the education system for all pupils falling within this age group. The Law is to be fully implemented by 2009 for pupils attending the 11^{th} grade and by 2010 for those attending the 12^{th} grade. This Amendment shall enter into force in a gradual manner, by the year 2011 it is expected to be fully implemented.

500. Amendment No. 28 to th*e Compulsory Education Law*, issued on June 5, 2007 supplemented Section 12d of the Law. This Section stipulates that in a recognized educational institution, the teaching of basic skills to first and second grade classes should take up at least ten hours of weekly teaching time, and should be conducted in a framework where the number of pupils per teacher does not exceed twenty. These basic skills include basic reading, writing and mathematics. This provision is to be gradually implemented over a period of four years.

Free Education

Case Law

501. The National Parent Association petitioned the Supreme Court to address the issue of parental school payments (see the Introduction Chapter, above). Parental payments are divided into four different categories: compulsory payments, non-compulsory payments, voluntary purchase payments, and payments for additional educational programs. The *Compulsory Education Law* mandates free education for all between the ages of three and fifteen. Section 6 of the Law creates exceptions to the right to free education, and qualifies the imposition of compulsory and non-compulsory payments. Over the years, several compulsory payments have been transferred into the category of non-compulsory payments. Additional educational programs include aid in problematic subjects during afternoon hours, and are subject to the approval of the district supervisor. These programs are optional - parents who lack the means for such programs or do not wish for their child to participate in them are not obliged to make the relevant payment. HCJ 6914/06 *The National Parents Association v. The Ministry of Education, Culture and Sports, et. al.* (14.08.2007)

Payments for additional educational programs are regulated by Section 8 of the *National Education Law* 5713-1953, but are not subject to the approval of the Knesset Education, Culture and Sports Committee. Voluntary purchase payments are intended to save money by centralizing the purchase of products or services (including school-books, school uniforms, etc.) and require the approval of the school supervisor as well as the parents of all pupils in need of the service.

The Ministry of Education determines the rate of all four of these payments for each school year through a process of consultation with several bodies, including the Union of Local Authorities in Israel (ULAI). After the rate of these payments is determined, the Knesset Education, Culture and Sports Committee must approve them. The Ministry then publishes the rates of payments and schools are prohibited from collecting payments exceeding these rates.

The petitioner requested that all four categories of payments be subject to the approval of the Knesset Education, Culture and Sports Committee. The State argued that in past years, the payments were not properly divided into their different categories, thus complicating the Committee's approval process. However, the State confirmed that the Knesset Education Committee approved the payments required by law (i.e., the compulsory and the non-compulsory payments)

and received reports regarding the two other categories of payments, in keeping

The Court declared that the law regarding free education is crucial for the actual realization of the right to education for every child. Free education reflects the value of equality in education and aims to provide all children with equal educational opportunities. It also decreases the financial burden imposed on parents as well as serving to restrict extra curriculum programs and services parents are financially obliged to bear.

The Court held that the Ministry acted in accordance with the law, which does not require it to present the voluntary purchasing payments and payments for additional educational program to the Committee for approval. The Court acknowledged the tension between non-compulsory payments on the one hand, and the difficulty facing the educational system when parents wish to invest more in their children's education (especially with regards to extra-curricular programs), on the other.

502. The Tel-Aviv District Court, while residing as an Administrative Court, ordered the Municipality of Holon to fully subsidize the cost of school books and school transportation for a child whose father had passed away and whose mother was mentally ill and deeply in debt. The municipality did not contest the unfortunate financial status of the mother, but rather contested the order on the basis of its inability to fully subsidize the child's needs due to the existing obligations of its municipal welfare department. Although the Court found no deviation from the law or procedures relevant to the issue at hand, it declared that it is within its power to issue a remedy in the interest of justice because of the importance of the principle of free education. Thus, the fact that a remedy was not provided for anywhere in the relevant statutes did not prevent the Court from fashioning an adequate judicial remedy. The Court determined that the right to education is essential for every child in order to fully realize their skills and abilities, and emphasized that the parents' financial difficulties should not preclude the child from receiving an education. *(*Ad.P (Tel-Aviv) 2402/05 *Anonymous v. The Ministry of Education et. al.* (13.06.2006)).

Extended School Day and Enrichment Programs

503. Due to budgetary constraints, the gradual implementation of the *Long School Day and Enrichment Studies Law* 5757-1997 (the: *"Long School Day and Enrichment Studies Law"*), detailed in Israel's Initial Report, is to be completed only in 2014.

504. Section 3 of the *Daily Meal for the Pupil Law* 5765-2005 (the: *"Daily Meal for the Pupil Law")* stipulates that each pupil will receive one warm meal per day, which meal will accord with a well–balanced and varied menu which will be determined

pupils.

505. The *Daily Meal for the Pupil Law* is to be gradually implemented. The Minister of Education, in conjunction with the Minister of Finance, will determine the population of pupils regarding which the Law will be implemented each year (Section 4).

506. The Ministry of Education and the local municipalities fund the nutrition service. The *Daily Meal for the Pupil Law* permits the local municipality to collect participation payments from parents, yet it requires the Minister of Education's consent to do so. The parental participation payment will be determined by the Minister, according to socio- economic standards and in the framework of payments stipulated under the *Compulsory Education Law*.

Special Education

Regional Support Centers

507. The *Special Education Law* is implemented in the same manner with respect to every Israeli child between the ages of three and 21. There are 68 regional support centers in the educational system, 53 dispersed throughout Jewish localities, eight scattered in Arab localities, four in Bedouin localities and three in Druze localities. However, every center provides services to all populations living within its region. The centers are responsible for supporting children with disabilities in both official and unofficial institutes. The centers are also used as sources of information.

Table 37 - Average Number of Students per Class, by Population

Year	Total	Average students per class	
		Jewish population	Arab population
2001/2	26	26	29
2002/3	26	26	29

2003/4	27	26	30
2004/5	27	26	30
2005/6	27	26	30
2006/7	27	26	30
2007/8	27	26	30

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2002-2008

508. The accelerated development in the number of classes has not matched the increase in the number of pupils; consequently, the average number of pupils per class has risen slightly, from 26 in 2001-2003, to 27 since 2003. Although the average number of pupils is higher in Arab localities, the average number of pupils (29-30) per class in Arab localities has remained stable during the past decade.

Table 38 - Level of Education among Teachers, By Education Systems (Percentages)

Education framework	**Jewish education system**	**Arab education system**
Elementary schools		
University degree	56.7	52.9
Senior	19.4	19.9
Certified	4.2	4.7
Uncertified	4.0	3.9
Secondary schools	-	-
University degree	46.7	62.6
Senior	8.7	4.7
Certified	3.7	3.6
Uncertified	2.5	3.0

Source: The Central Bureau of Statistics Statistical Abstract of Israel 2008

509. During the 2008-09 school years, 73.0% of the elementary school teachers and 84.4% of the secondary school teachers in the Hebrew education system were university graduates, compared to 77.4% and 86.4%, respectively, of their colleagues in the Arab education system.

510. **Work Force in the Education System** - In 2007/8, 83% of all of the teachers in the Arab education system had an academic degree, compared with 86% of their Jewish colleagues. Breaking these figures down, 73% of elementary school teachers and 87% of secondary school teachers (including intermediate schools) in the Arab education system had an academic degree, compared with 70.5% and 86%, respectively, of the elementary and secondary school teachers (including intermediate schools) in the Jewish education system.

511. **Training for Educators** – there are 61 colleges in Israel for training educators, not including Universities. There are twelve State colleges, thirteen Religious State colleges, eight Arab designated colleges and 28 ultra-orthodox designated colleges. The eligibility requirements for educator's training in the field of special education are the same for all population groups. The minimum requirement needed to enter a special education course is a matriculation certificate and a psychometric score.

512. **Boarding Schools -** There are approximately 600 boarding schools in Israel. There are 280 educational boarding schools supervised by the Ministry of Education, 60 State boarding schools, 120 Religious-State boarding schools and 100 ultra-orthodox boarding schools. There are 40,000 teenagers between the ages of twelve and eighteen who reside in educational boarding schools, a third are girls and two-thirds are boys. A little more than half (22,000) are financed by the Ministry of Education. There are approximately 150 Bedouin teenagers in educational boarding schools, in addition to the 50 youth that arrived over the course of the last year from Sudan and were placed in those schools.

513. **Health Services for Pupils -** the Ministry of Health and the State Association for Public Health, with the cooperation of the Ministry of Education, provide health services for pupils. These services are consistent with Section 21A of the *National Health Insurance Law* and Directive 5768/1 (September 2007) of the Director General of the Ministry of Education. The health services include routine checks, vaccinations, preventive treatments, guidance and supervision by physicians and nurses.

Table 39 - The Distribution of Health Services for Pupils

Population	Allotted days/manpower	% of pupils of the population group
Jewish	57%	56.8%
Arab	22.07%	19.7%
ultra-orthodox	13.4%	15.66%
Bedouin	4.88%	5.49%
Druze	2.58%	2.31%

Source: The Ministry of Education, the pedagogy – Health supervision department, 2009.

Education for Infancy

514. The *Compulsory Education Law* applies to children from the age of three years old. The Law is implemented in accordance with the State's budget. In 2009, the rate of children aged three to four who studied in kindergartens which are Stated-financed

was 49% (39% in the Jewish population, 80% in the Arab and Bedouin population, and 62% in the Druze population).

Table 40 - Rate of Participation of Children aged Three to Six in Institutions of the Ministry in 2009

Age	Jewish	Arab-Bedouin	Druze	Total
3	66%	56%	95%	64%
4	87%	64%	97%	81%
5	94%	86%	97%	92%
6	13%	2%	3%	10%

Source: The Ministry of Education, the pedagogy – elementary education department 2009.

Table 41 -Distribution of Pupils by Classrooms and Populations, 2009

Population Group	Elementary school (pupils)	Elementary school (classrooms)	Junior high school (pupils)	Junior high school (classrooms)	High school (pupils)	High school (classrooms)
Jewish	577,747	23,032	264,597	10,205	253,661	10,077
Arab	160,306	5,541	72,597	2,459	55,272	1,956
Druze	18,132	688	8,450	297	7,203	265
Bedouin	47,942	1,694	18,678	624	11,592	417
Circassian	-	-	142	8	-	-
Total	804,127	30,995	364,464	13,593	327,728	12,715

Source: The Ministry of Education the pedagogy – elementary education department 2009

Prevention of Drop-Out

515. During the 2008-2009 school year, the rate of high school pupils who dropped out of school (9^{th}-12^{th} grades) was 4.3% (19,333 out of a total of 444,843 pupils). The total dropout rate of pupils between the first and twelfth grades was 2% (28,947 out of a total of 1,454,777 pupils).The Ministry of Education operates an internal unit of officers who regularly visit schools in order to prevent children from dropping-out of school. The Ministry of Education has a special department aimed at maintaining school attendance and preventing children from dropping out of school. This department works in accordance with the *Compulsory Education Law* (Section 4) and as part of the policy of the Ministry of Education. Currently, there are 498 attendance officers, of which 369 operate in Jewish localities (including 37 within the Ultra-Orthodox population), 96 in Arab localities, seventeen in Bedouin localities and sixteen in the Druze localities.

Table 42 - Dropout Rates between 7th-12th Grades in School Year 2008-2009

Population Group	Total pupils	Number of dropouts	In %

Jewish	515,414	16,039	3.1
Arab	122,201	5,738	4.7
Bedouin	28,209	2,110	7.5
Druze	15,238	434	2.8
Circassian	134	2	1.5
Total	**681,196**	**24,323**	**3.6**

Source: The Central Bureau of Statistics, 2009.

Table 43 - Preschool Attendance Rates among Different Age Groups, by Population Groups in the 2006-2007 School Year (Percentages)

Age	Jews	Arabs
Total	**84.4**	**68.0**
2	54.5	12.3
3	89.8	74.3
4	95.5	83.3
5	99.6	99.7

Source: The Central Bureau of Statistics, 2008.

High School Dropout Rates

516. In 2007, a total of 20,085 (4.5%) of the pupils in grades 9-12 dropped out of the education system. 12,958 (3.7%) of the pupils in grades 9-12 dropped out of the Jewish education system compared with 7,127 (7.2%) of the pupils in the Arab education system.

Table 44 - Percentage of Seventeen Year Old Pupils Eligible for a Matriculation Certificate, by Population and Selected Demographic Characteristics, 2001-2006

Characteristic	2001	2003	2005	2006
Total population	**55.1**	**56.4**	**53.8**	**53.4**
Jewish Population				
Total	55.6	57.4	55.1	54.9
Gender: Boys	49.3	51.2	49.9	49.5
Girls	61.9	63.3	61	61.0
Ethnic Origin (Parents' Birthplace)				
Israel	57.2	58.2	56.1	56.2
Asia-Africa	51.0	54.3	51.4	50.9
Europe-America	57.1	61.8	59.7	59.3
Arab Population				
Total	52.2	50.7	47.2	46.3
Gender: Boys	44.3	41.8	39.2	36.5
Girls	58.8	58.3	54.2	55.3
Religion:				
Muslims	50.3	49.2	44.9	43.7
Christians	68.5	63.9	63.9	60.9
Druze	50.2	48.8	50.3	54.6

Source: The Central Bureau of Statistics, Statistical Abstract of Israel, 2003-2008.

517. The percentage of Jewish pupils aged seventeen who were eligible for a matriculation certificate decreased from 55.6% in 2001 to 54.9% in 2006. The percentage of Arab pupils aged seventeen who were eligible for a matriculation certificate decreased from 52.2% in 2001 to 46.3% in 2006.

518. The matriculation rate of girls is significantly higher than that of boys: 61 % of girls in the Jewish population and 55.3% of girls in the Arab population received a matriculation certificate, compared to only 49.5% and 36.5 % of the boys, respectively according to 2009 Statistic Abstract Report of Israel, 2009 (issued by the Central Bureau of Statistics).

519. According to data collected in 2007, and based on a division of the towns in Israel into ten socio-economic clusters: 9.2 % of 12th grade pupils in clusters 1-2 (towns with the lowest socio-economic status) were eligible for a matriculation certificate; compared to 74.6% of those in clusters 9-10 (towns with the highest socio-economic status) in Jewish localities. 43.8% of 12th grade pupils in clusters 1-2 were eligible for a matriculation certificate compared to 52.5% in clusters 7-8 (the highest status) in Arab localities.

Programs that Help Pupils Matriculate Fully

520. The Ministry of Education implements many programs to assist weaker pupils and increase their chances of completing all matriculation examinations. To increase the proportion of pupils eligible for a matriculation certificate, the Ministry of Education acts in four ways: it encourages pupils to take matriculation examinations; it provides intensive assistance to pupils who need it; it creates post-secondary continuing education frameworks; and it pays for pupils, who lack only one or two examinations, to study to complete their matriculation. The Ministry has earmarked resources to be allocated to schools, which take an initiative in this regard, to use at their own discretion.

Alternative Education Frameworks for Weaker Pupils and Pupils with Adjustment Difficulties

521. Over 68 vocational schools are scattered throughout the country. Most of the schools provide three or four years of education (from the 9th or 10th grade through the 12th grade). Approximately 13,000 students, or 3% of all youth, aged fourteen to seventeen attend such schools.

Special and Therapeutic Alternative Frameworks

522. Youth Centers and Education Centers, operated by the Department of Education have dropped-out of the regular education system. Youth Centers combine academic study and vocational training in a relatively intimate framework. At present, 44 centers serve approximately 8,000 youth.

523. The HILA Program (Learning Together Programs for Youth At-Risk and Dropout Prevention) is a structured learning program developed by the Youth Advancement Department of the Ministry of Education. The Ministry of Education grants a formal certificate to pupils who complete eight, nine, or ten years of education in this framework. Some 2,500 youth participate in this program at 60 centers.

Children's Rights in the Education System

(See: Chapter D, above)

Commercial Activities

524. On December 31, 2007, the Knesset enacted the *Prohibition on Commercial Activity in Educational Institutions Law* 5767-2007. According to this Law, a principal of an educational institute (including kindergartens, special education institutions, and schools) shall not allow the carrying out of the following activities by publishers and service providers, including manufacturers who operate in the school area:

    1. Entrance for advertising purposes, sale promotion and marketing, exposure of products or providing commercial services, for any reason whatsoever, during the operating hours of the education institution.
    2. Presentation of commercials in any manner.
    3. Distributing commercial publications or gifts, arranging raffles or making pupils sign papers, during the operating hours of the educational institution.
    4. Using learning aids for publication or sales promotion.
    5. Receiving identifying details about pupils or their families from pupils.

525. Furthermore, according to the Law, whoever received information on pupils or their family members, in the course of fulfilling her/his duty or in the course of

working in an educational institute, shall not transfer these to an advertiser or to a service provider. This section does not detract from the confidentiality obligations established by law.

principal of an educational institute, may authorize an abovementioned activity, for reasons that must be recorded. The authorization may be for a specific matter or for a general period.

The Integration of the "Ole Hadash" (new immigrants) and Youth Into the Education System - Special Efforts Taken by the Education System

526. Awareness of the educational, social, economic and other, unique difficulties that confront new immigrants has led the education system to make special efforts to integrate this population. Specifically, the education system has taken the following steps:

- It has opened additional classes in schools that the children attend until they are ready to be integrated into regular classes;
- Weekly teaching hours have been added, including extra hours of Hebrew language dependent subjects;
- Dispensation has been granted to make matriculation examinations easier and more accessible, for example by allowing new immigrants to be examined in their native language;
- It has also allowed immigrants to choose the language of their country of origin as their second language of study;
- It offers immigrant pupils special seminars and summer sessions that include Hebrew learning by means of learning concepts in the Israeli culture, Judaism and Jewish heritage;
- It has instituted programs that ease the absorption process.

527. In addition, the Ministries of Education and the Department of Immigrants Absorption finance the cost of education - e.g., schoolbooks, field trips, cultural activities - which are usually covered by parents.

The steps taken further include additional remedial teaching hours; tutorial assistance during the school day and in the afternoon, provided by IDF soldiers/teachers and programs that combine studying and socializing, such as the Shalhevet Project (integration of immigrants through social activity) and Project 75 (a system-wide project for absorbing immigrants).

528. Recognizing the unique difficulties that face children whose parents came from

allocating further resources for their absorption than for that of other new immigrants. The primary pre-requisites for Ethiopian pupils are the extension of the period of eligibility for remedial study hours (an additional 1.75 hours of teaching per week) allocated to the school that has absorbed the pupils, and a financial grant to purchase schoolbooks and other school aids. Children whose parents originate from Ethiopia receive more hours of education than new immigrant children from other countries do, and also receive subsidies for school supplies and expenditures for a longer period of time.

Social Integration

The Arab Education System

529. In 2006, there were approximately 656,000 Arab children up to the age of seventeen (specifically 570,000 Muslims, 46,000 Druze and 39,000 Christians) constituting 27.7% of all of the children in the State of Israel. In 2006, children in the Arab population represented 28% of all elementary school children and 23.3% of all secondary school children.

The Structure of the Education System

Early Childhood Education

530. In 2007, 68% of Arab children aged two to five attended early childhood education frameworks, compared to 84.4% of Jewish children of similar ages. The difference in attendance rates is evident in all age groups (see table below). While nearly 55% of Jewish children age two attended preschools, only 12% of Arab children aged two do so. There is a decrease in this gap as the children get older, and at age five, the attendance rate is nearly the same in both Jewish and Arab localities.

The Education System in Bedouin Localities

531. As aforementioned, in concluding observation No. 53 of the Committee on the Rights of the Child it was recommended to increase the budget allocated for education in the Arab population. According to the multi-year plan, a special budget was allocated towards establishing additional educational facilities in

Education's plan to advance the educational framework in Bedouin localities, funding was allocated towards establishing and upgrading science and computer laboratories. Educational counsels providing assistance to school principals in preparing the school's work plan and funding allocated reinforcement hours for pupils in need at all levels of education, in order to reduce academic gaps, including raising the rate of entitlement to matriculation certificates.

532. In addition, a program for training Bedouin teachers and assisting them in the first stages of their employment was initiated in order to reinforce the teachers' status and to improve their pupils' achievements. To date, 165 teachers have participated in the program. An additional training program for the improvement of the teaching staff in secondary education was also initiated in cooperation with the Ben-Gurion University.

The Bedouin Population in the South

533. Since 2004, three High Schools have been established in unauthorized villages in the Negev - Abu-Krinat, Al-Huashlla and Bir-Hadge. The schools contributed greatly to the significant reduction in dropout rates, especially among Bedouin girls, whose parents previously prohibited them from attending school, due to the distance of the school from the village and religious and cultural barriers. Construction of new High School classes in Kasar-a-Sar is in final stages.

534. **The 'Daroma' (South) Program** - in 2004, the Ministry of Education commenced a program to improve educational achievements among exceptional pupils in the 10^{th} -12^{th} grades. The "Daroma" program now operates in five Bedouin High-Schools (approximately 300 pupils). The purpose of the program is to advance these pupils in Mathematics and English, develop their learning skills and prepare them for the psychometric test required for enrollment in higher education institutions. The pupils participate in courses in academic institutions such as the Ben-Gurion University. The program also focuses on self-empowerment and activities within the community and for its benefit. A similar program commenced

in 2009, in the Abu-Basma municipality and in Tel-Sheva in the South. A comparable program entitled "Heznek Atidim," is also operated in the North.

535. An extra-curriculum activities program is also operated in the Bedouin localities in the Negev, in conjunction with the Ministry for the Development of the Negev and the Galilee, and the Israel Association of Community Centers. The program provides scholarships for extra-curricular activities for children in the 4th to 6th grades in the Negev.

Higher Education

536. In 2008, the Ministry of Education announced its intention to grant Bedouin students studying engineering, technology and science with tuition grants and scholarships in the amount of 5,000 NIS each, for the upcoming academic year. The scholarships were intended to further encourage Bedouin students to enroll in and complete higher education.

537. In accordance with Government Resolutions No. 412 and No. 413 dated August 2006, the Authority for the Advancement of the Status of Women grants scholarships for female Bedouin students in the north, as well as for Druze and Circassian female students. In 2007/8, 75 scholarships were granted. The Authority recently published an announcement calling upon Bedouin, Druze and Circassian women to submit applications for the upcoming year.

The Status of the Arabic Language and Culture

538. See Chapter C - Article 26 of the Convention - Social security and HCJ 2203/01 *The Association of Defense for Children International (DCI) v The National Insurance Institute* (07.01.2009), above.

539. In 2006, a proposal for the establishment of an Academy of the Arabic language was submitted to the Knesset. In the first meeting held by the Knesset Education, Culture and Sports Committee on the matter, it was acknowledged that in order to give proper expression to Arabic as a formal language of the State of Israel, an Academy of the Arabic language was necessary. It was also thought that other academic institutions in Israel would benefit from the establishment of this Academy, and the new institution would improve Arabic education and the teaching of Arabic in Israel.

540. The *High Institute for the Arabic Language Law* 5767-2007, was the basis for the establishment of the Arabic Language Academy in December 2007. The Arabic Language Academy's functions include the publishing reports of its activities,

Education and the Institute of Higher Learning regarding Arabic Language issues. The Arabic Language Academy is also in charge of researching Arabic and its cultural and historic resources, promoting the study of terminology, grammar, vocabulary, pronunciation and transcription. The Academy also addresses the current linguistic computerized reality. According to the Law, the Institution's activities are State-funded.

Informal Education in Schools

541. This issue was discussed in Israel's Initial Report. No change has occurred in this area since the submission of Israel's Initial Report.

542. According to the *Gym Regulations (License and Supervision) (Training Minors in a Gym)* 5765-2005, a trainer qualified to train minors ("trainer"), will not train minors under the age of six in a gym. Furthermore, a gym shall not allow a minor under the age of six to train in a gym, unless undergoing physiotherapy with a physiotherapist.

543. In addition, the number of minors a trainer can train simultaneously is eight trainees between the ages of six and fourteen or fifteen trainees between the ages of fourteen and eighteen when teaching aerobics or using instruments; and five trainees between the ages of six and fourteen and ten trainees between the ages of fourteen and eighteen when training with free weights.

The trainer must maintain eye contact with all of the trainees during the entire duration of the training session. The gym must also comply with safety standards.

The Budget for Culture, Entertainment and Sports

544. In 2007, the national expenditure on culture, entertainment and sports was 5.5% of the Gross National Product. Households paid for 84.4% of this expenditure. 60.7% of the expenses were for cultural services – theatre, movies, concerts, sports events, internet, gambling, etc. The remainder was used to purchase products.

545. In 2007, of the total national expenditure on culture, recreation and sports, 9.4 % was spent on cultural heritage, literature and visual arts. 21.5% was spent on music and performing arts, 22.6% on radio, television, cinema and photography, 10.2% on socio-cultural activities. 23.7% was spent on sports, games, computers and internet, 5.8% on gambling nature and environment, and 4.9% was spent on "fixed capital," which is a business or personal capital that can be used repeatedly without changing form or ownership.

546. The Ministry of Education and the Ministry of Culture and Sports financially assisted 300 artistic and cultural institutions, projects, and initiatives in culture and the arts, as well as initiated activities country-wide and helped ethnic groups preserve their culture. The Ministry of Foreign Affairs and the Ministry of Culture and Sports also promoted cultural relations and exchanges between Israel and other countries.

Cultural Institutions that Hold Activities for Children

547. The *Public Libraries Law* 1975-5735 (the*":Public Libraries Law")* requires the State to establish public libraries, and sets criteria for recognizing a library as a public library. There are presently 950 public libraries in Israel, as well as school and other libraries. Subsequent to several Amendments from the years 2002, 2003 and 2007, Section 5 to *The Public Libraries Law* now obligates the Ministry of Finance to partake in the maintenance and the administration of the public libraries, with an inclusive rate of 50%, according to the conditions and criterions set by the Minister of Finance. Such funding is progressive and will be completed by 2013.

548. The above-mentioned Amendments were enacted as a response to the Supreme Court's decision regarding the interpretation of the *Public Libraries Law* in H.C.J 2376/01 *The Union of Local Authorities in Israel v. The Minister of Science, Culture and Sport* (21.10.2002). The Court held that the services offered by public libraries must be provided by the State for free to the public at large on the basis of equal opportunity for all citizens of all ages to gain knowledge and education regardless of their economic background. The Court emphasized the public library's special role in shaping the younger generation and exposing it to culture. The Court also highlighted the implication of the UNESCO Public Library Manifesto of 1994, which emphasized the importance of public library services, including the encouragement of reading habits among children. Therefore, the

Court held that there is a close connection between free library services and the State's obligation to assist the local authorities in funding and establishing library services.

The Role of the Media in the Promotion of Children in an Educational Life

Television

Television (hereinafter: IETV). The IETV teaches a variety of topics, including arts, culture, sciences and variety of topics. It increases children's involvement in schooling, interest in fine arts and bringing children up-to-date on intellectual matters. Its curriculum includes spreading the Jewish culture and the Jewish tradition. IETV broadcasts “learning programs” throughout morning hours, intended for school children spending time outside a school framework. IETV televises enrichment curriculum programs, family programs, current events and other educational series. IETV, in collaboration with the Counseling and Psychological Services of the Ministry of Education (Shefi), dedicates a week each year to raising awareness of the prevention of sexual violence. During that week, a daily program regarding the prevention of sexual violence is aired. IETV refers annually to International Children's Day by broadcasting programs that emphasize the importance of a child's right to wellbeing - such as short movies directed by UNICEF.

550. The Israeli television curriculum provides a daily News Edition appropriate for children and youth (entitled: "The Edition"). The program enables children to actively participate as hosts, interviewers and field reporters. This program is engaged in cultural affairs, entertainment, national and international reports, environmental issues, nature and science, sports, internet, press and the like. The purpose is to provide the youth with important information which will attract them to partake in social activism.

551. Private Cable television companies also air channels for children, which air programs for children, such as scientific, cultural and educational programs produced by assorted countries. Furthermore, the Open University in Israel broadcasts educational programs on the radio and television. The Second Authority for the Television and Radio, in cooperation with the Ministry of Education, makes

an effort to expand children's learning skills. To this end, particular learning materials are prepared for elementary schools, and teachers are trained as to how to promote over-achievement among pupils. Documentaries are filmed at high-schools and summer camps for gifted pupils. Israeli television and radio programs are broadcast in five languages: Hebrew, Arabic, English, Russian and Amharic.

Radio

552. The Israeli Broadcasting Authority initiates special projects to promote the participation of children in cities' cultural life. Radio "Kol Israel" - a leading radio station - undertook a project involving 48 radio stations that broadcast in different educational institutions, colleges and Universities. This project has functioned for fifteen years, and has engaged the youth in the promotion of human rights issues, freedom of expression and freedom of the press. The project also assists with the integration of youth into society, as well as the admission of children into child protected employment. Radio network "A" allocates a daily hour to the live broadcasting of youth, thereby enabling them to choose the content in accordance with the relevant law. These Radio programs are aimed at educating and interviewing youth of different backgrounds. Radio network "B" widely covers any event of violence against children and discusses matters regarding children's rights.

The Institutional Infrastructure of Cultural Life in Israel

553. **The National Council for Culture and Art**. On November 12, 2002, the Knesset enacted the *Culture and Arts Law* 5763-2002, which created the National Council for Culture and Art as an advisory body assisting the Minister of Culture and Sports, as well as other Government bodies, in issues relating to arts, culture and the financing of cultural institutions. The role of the National Council is to promote and initiate policies and programs encouraging art and culture, ensuring freedom of creation and the expression of the cultural variety of Israeli society. The National Council is required to suggest multi-year policy plans in the fields of art and culture, including the financing of institutions in these fields. The council was established in 2004.

554. **National Library**. On November 26, 2007, the Knesset enacted the *National Library Law* 5768-2007, declaring a library at the Hebrew University as the National Library. Prior to the Law, the library in question at the Hebrew University

performed as a *de-facto* national library but was not legally recognized as such. According to the Law, the National Library is intended to accumulate, preserve, nurture and bequeath knowledge, heritage and cultural resources, in general, and particular.

555. **Film.** In 2000, the Israeli Film Council was established. The Council was founded in accordance with the *Film Law* 5759-1999, which was legislated on January 10, 1999. The Council's aim is to encourage the Israeli film industry, promoting freedom of creation and expression of the cultural variety in Israeli society. The council's role includes advising the Minister of Culture and Sports on all relevant issues regarding the film industry, including defining criteria for financial support to public institutions dedicated to encouraging and promoting creation, production and distribution of Israeli films as well as international cooperation.

Jewish Heritage

556. In January 2007, the Knesset approved the creation of two national heritage authorities for the heritage of the Jewish community of Bukhara and for the heritage of the Jewish community of Libya. Each of these authorities is mandated to preserve the cultural heritage of its community, and to research and document it (*The National Authority for the Cultural Heritage of the Bukhara Jewish Community Law* 5767-2007, and the *National Authority for the Cultural Heritage of the Libyan Jewish Community Law* 5767-2007).

557. The *Council for Commemoration of the Spain and Eastern Heritage Law* 5763-2002 was enacted on November 13, 2002. According to this Law, the Minister of Culture and Sports, and the Minister of Religious Affairs will appoint a Council for Commemoration of Sephardic and Eastern Heritage, to advise the Ministers regarding the promotion, assistance, and encouragement of activity relating to the heritage of Spanish Jewry.

558. On December 6, 2005, the Knesset enacted the *Diaspora Museum Law* 5766-2005. This Law recognizes the Diaspora Museum in Tel-Aviv as the national center for Israeli communities in Israel and abroad. According to the Law, the responsibilities of the Diaspora Museum are to present items relating to the Israeli communities and to the history of the Jewish people, to conduct research, and to accumulate

knowledge on issues relating to the Jewish people. In addition, the Museum is to create a reservoir of genealogical trees and family names of Jewish families in the world, as well as a database of Jewish communities in the world and their history.

will participate in the funding of the Diaspora Museum.

Druze Heritage

559. On June 4, 2007, the Knesset enacted the *Druze Cultural Heritage Center Law* 5767-2007. Its purpose was to facilitate the establishment of a Druze Cultural Heritage Center in Israel. According to the Law, the Government is required to designate the necessary budget for the establishment, operation and maintenance of the Center. The Center includes a research institute, a museum and an archive on Druze heritage, culture and history. The Center is required to develop and promote research activities, as well as educational programs, including tours, lectures, conferences and exhibitions geared towards developing, enriching and promoting knowledge related to the different aspects of Druze culture, history and heritage.

VIII. SPECIAL PROTECTION MEASURES

A. Articles 37, 39 and 40 of the Convention - Children in the Juvenile Justice System

560. One of the Rotlevi Sub-Committees was engaged with the issue of children involved in criminal proceedings. This Sub-Committee examined the present criminal proceedings regulations, and whether or not they accorded with the central principles of the Convention on the Rights of the Child.

The premise of the Sub-Committee was that minors in criminal proceeding are entitled to rights encompassed by law, in addition to 'special rights' as a result of the fact that they were minors. The following are the central recommendations of the Sub-Committee.

General

561. The *Youth Law* and Criminal laws which apply to minors must be amended.

562. There is a need to insert an introductory section to the *Youth Law* which stipulates the purpose of the Law, the principles behind its implementation, and a description of the rights granted to minors in criminal proceedings. These modifications have already been adopted and entered into force in July, 2009.

Particular

563. The Sub-Committee recommended that children accused and/or convicted of committing a crime be subject to rehabilitation treatment rather than punishment. Amendment No. 14 to the *Youth Law* implemented this recommendation.

564. The Sub-Committee indicated in its report that the rehabilitation of minors cannot, by itself, justify an infringement of a minor's rights. The Sub-Committee also recommended the revocation of Section 10(2) of the *Youth Law* since it allows for minors under the age of fourteen to be detained without a court order and/or the existence of legal grounds for an arrest. Section 10 of the *Youth Law* was amended by Amendment No. 14.

A 2008 Amendment Establishing the Principles of Criminal Proceedings

Detention and/or Child Custody

565. In accordance with recommendation No. 61b to the concluding observations of the Committee on the Rights of the Child which requires that the deprivation of liberty only be used as a measure of last resort against a minor who finds her/himself involved in the juvenile justice system, a child suspected of committing a crime shall not be detained if there is an equivalent alternative. Thus, children are placed in a secured group home if they are closely monitored and receive treatment. This 2008 amendment was in accordance with the recommendations of the Rotlevi Sub-Committee regarding alternative custody arrangements for children, so as to ensure that the law was compatible with Article 40(3) (b) of the Convention on the Rights of the Child.

566. If a request to arrest a minor is filed in court, a Probation Officer is certified to take the initiative and submit her/his report or express her/his professional opinion regarding the matter at hand. If the minor is being indicted, the court is authorized to instruct the submission of such a report or agree to an oral presentation of the Probation Officer’s opinion (Section 10(G) (b) of Amendment No. 14). When a

detained minor resides and/or is being held in a secured group home, the Group Home Officer is permitted to submit her/his professional opinion regarding the minor's arrest (Section 10(G) (c) to Amendment No. 14). Non-submission of a Probation Officer Report may not, in itself, establish grounds for the continuance of the minor's arrest (Section10 (G) (d) to Amendment No. 14).

Notification of a Child Hearing in Court

567. When a hearing is conducted, the youth investigator and/or the prosecutor in the minor's pre-trail or arrest hearing must notify the minor's parent or a close relative of the hearing. The minor's parent or a close relative is invited to appear before the court and state their opinion regarding the relevance of their presence at the hearing (Section 10(H) (a) to Amendment No. 14).

Exceptions to the Obligation of Parental Notification in Legal Proceedings:

1) **Reasoned objection made by the minor** - The Youth investigator or the prosecutor acting in the case can prohibit the notification and revoke a family member's privilege to be present during the investigation or court proceedings, in accordance with the minor's request.

2) Parents or a close relative may also be excluded if the investigator and/or the prosecutor in the case believe that such presence endangers the minor's well-being. The minor's parent or a close relative will not be summoned to a pre-trail arrest hearing, if by doing so, it may thwart the purpose of the arrest or if it is a matter of national security. However, a decision not to inform the parents is subject to the court's approval.

   In the event that a minor's parents are absent, the following exceptions will apply:

   - The court can order detention of up to 24 hours in certain circumstances. In such circumstances, the minor's parents or a close relative who were absent from the hearing shall be summoned to the next hearing regarding the child's arrest. The next hearing will be scheduled for the end of the detention period.

   - If the court concludes that the minor's parents or a close relative do not intend to appear in court despite the summons, it will instruct the involvement of a social worker or a Probation Officer in the next hearing to be held.

- If a parent and/or a relative and/or a social worker and/or a Probation Officer have not appeared in court on behalf of the minor, the judge is authorized to conduct the hearing without their presence. The non-appearance of the above-mentioned legal guardians or extended family members at the hearing, shall not, in itself, establish grounds for the minor's arrest.

Detention

568. Recommendation No. 61b to the concluding observations of the Committee on the Rights of the Child also addresses child detention as a measure of last resort used for the shortest possible time. Therefore the *Youth Law* and the *Criminal Procedure (Arrests) Law* establish restrictions for the detention of minors. Amendment No. 14 reflects a new approach to this issue, which approach is in accordance with the spirit of the UN Convention on the Rights of the Child. The Amendment to the *Youth Law* also applies to the *Criminal Procedure (Arrests) Law*. For example, due to the Amendment the detention of a minor prior to the filing of an indictment is limited- under Section 17 of the *Criminal Procedure (Arrests) Law*, Juvenile Courts are allowed to order a minor's detention for a period not to exceed ten days (fifteen days for an adult). A minor suspected of committing a crime may not be detained continuously for a period in excess of twenty days (30 days for an adult).

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

570. In the case of a minor, Section 21 to the *Youth Law* applies subject to the following modifications:

Detention until the termination of proceedings shall not apply to a minor who is under fourteen years of age. A minor may not be detained continuously for a period in excess of twenty days (30 days for an adult). Under Sections 59-61 of the

Criminal Procedure (Arrests) Law, a suspect must be released if an indictment has not been filed against her/him within 75 days of the beginning of the arrest. According to Amendment No. 14, a minor in such circumstances may not be detained for a period in excess of 40 days. If there is no verdict, minors may not be detained for a period in excess of six months (nine months for an adult). The maximum period of detention for an accused minor is 45 days instead of the 90 days allowed for an adult (Section 62 of the *Criminal Procedure (Arrests) Law*). Amendment No. 14 has significantly shortened the period a minor can be detained and serves to distinguish a minor from an adult in similar circumstances.

When considering an alternative to imprisonment, a closed residence is an adequate substitute for incarceration. Release on condition of bail (according to Section 48(a) (9) of the *Criminal Procedure (Arrests) Law*) is for a period not to exceed nine months. Nevertheless, the court may issue an order if necessary to extend the leave on bail for an additional period, not to exceed 90 days each time. If the court has issued an order for house arrest on condition of bail for more than sixteen hours per day, it shall order a hearing once every three months throughout that time in order to review its order. Amendment No. 14 implements the Rotlevi Sub-Committee's recommendations calling for a minimum of time in prison and the greatest degree of possibilities for alternative incarceration for minors.

Orders of Supervision and Observation Orders

571. Following the filing of an indictment, a Juvenile Court is authorized to order temporary supervision of a minor by a Probation Officer. The order applies until the court submits its ruling. The court decision is subject to the Probation Officer's Report and its conviction that a temporary custody order is in the best interest of the child. The court must also ensure that there is no other, less harmful way to achieve this objective.

Supervision by a Probation Officer includes the followings:

- Maintaining a relationship with the child (through daily phone conversations).
- Assessments made by professionals: psychological and psychiatric diagnosis (in accordance with *Mentally Ill Law*); employment, educational, social, developmental and clinical diagnosis as well as a prognosis for drug abuse and alcohol.

- The evaluation of the child's functioning within the family and community environment.

572. A Juvenile Court is authorized, at the minor's or the Probation Officer's request, to order an out-of-home-placement for the minor while a temporary supervision order is in effect. Such an order must accord with the best interest of the child and be reviewed once every three months.

A temporary supervision order shall not exceed a period of six months without a court order. The court order must accord with the best interests of the child. Although responsibility for a child's subsistence falls first and foremost on her/his family, the State is responsible for helping the family ensure a child's existence and development by providing social services.

A court's decision concerning a child's welfare is based on the opinion of professionals. The court orders child care experts to review the case, make factual findings and present recommendations. Such findings will not be used as evidence against minors in criminal proceedings; but will only be used for the sake of the future care and treatment of the minor.

Once an indictment has been filed, the court may issue an order, based on the best interests of the child and a request submitted by the Probation Officer, an order for observation and diagnosis for a period not to exceed 70 days (Section 20(a) (1) of the *Youth Law).*

The observation order must be made in co-ordination with the Superintendent of Residences and the Probation Officer, in order to ensure that a suitable residence is located for the minor and that the residence has room to admit her/him. Although observation is an alternative to detention, professionals agree that it should be used in exceptional circumstances only, and that a special framework designed particularly for detention must be established. However, the court will not issue an order for observation unless the following conditions are met:

572.1. A lawyer who represents her/him directly, without the intercession of the court or the legal guardian, legally represents the minor. An unrepresented minor who is above fourteen years of age shall be protected by the court, thus the minor's right to due process is guaranteed by law. When a minor is

not represented, the court is required to ensure that the order for observation is justified and does not cause harm to the child.

572.2. Either the minor grants her /his consent to be sent to a closed residence for observation or legal counsel represents her/him. When an observation order is enforced against the minor's wishes, representation is required.

573. An alternative judge to the one deciding the case will issue a temporary supervision order (Section 20 to the *Youth Law*). Such order must be either: a) Subject to a statement that there is substantial evidence against the minor b) A request to arrest the minor has been filed (under Section 21 to the *Criminal Procedure (Arrests) Law*, and the court is assured of the existence of convicting evidence or, c) the minor has confessed in court to the existence of the evidence. A temporary supervision order granted by a court at the request of the minor (provided that she/he has legal counsel) will render the above conditions redundant.

Revoking Temporary Supervision and/or an Observation Order

574. According to Amendment No. 14 to the *Youth Law*, a Juvenile Court is authorized to cancel or extend the temporary supervision and/or observation order at the request of a Probation Officer. The extension cannot exceed 30 days. This decision may be appealed twice,

It is the task of the court that decided to send the child to a closed residence, to explain to the child in a manner understood by her/him and compatible with her/his age and level of maturity, under what circumstances the closed residence can be replaced with incarceration. Furthermore, the court must inform the minor of the possibility that imprisonment can have a serious effect on her/his life. Ruling or making a decision to place a child at a closed residence instead of in detention is reversible. The court can later reconsider and send the minor back to imprisonment. Incarceration as an inverse alternative to the closed residence is subject to the evaluation of the Superintendent of Residences. However, imprisonment shall not exceed the time remaining in the original order.

575. The court may send a minor from the closed residence back to detention if it is convinced of one of the following:

575.1. The child is in danger or endangers others.

575.2. The child is causing damage to property.

575.3. The child’s behavior while in closed residence prevents the maintenance of the order.

576. The court is allowed to initiate a hearing during the minor's imprisonment for discussing alternatives to detention. Section No 25(a) of the *Youth Law* determines that the court must ensure the right of the minor to express her/his opinion and argue her/his case. A legal counsel will be appointed to represent the minor in such proceedings.

577. It is also noteworthy that under Amendment No. 14, there are procedures concerning methods of treatment or the duration of treatment for which it is mandatory to obtain the approval of the minor. For example, a court decision to extend an order of treatment beyond the period originally set is subject to the minor's consent (Section 32). A Juvenile Court's decision to extend the order is appealable.

578. A Juvenile Court is entitled, at the request of the Probation Officer - subject to the minor's consent - to extend the period of a minor's treatment as set by a court order, for up to one year.

The Superintendent of Residences is entitled to transfer a minor from an open residence to a closed residence without court approval. However, a minor must be allowed to express her/his opinion prior to the superintendent reaching a final decision. Moreover, the holding of a minor in a closed residence pursuant to the Superintendent's order shall not exceed seven days.

The conditions for such relocation are as follows:

578.1. The minor endangers her/him-self or others; or causes serious continual damage to property.

578.2. Relocation of the minor from an open to a closed residence was an act of last resort.

579. A Superintendent’s order to transfer a minor can be appealed to the Juvenile Court. The Juvenile Court, who ordered the holding of a minor in a closed residence, is entitled, at the request of the Superintendent, and subsequent to hearing arguments

by both parties; to extend the temporary supervision order for an additional period not to exceed 30 days.

580. Section 32 of the *Youth law* stipulates that the Superintendent of Residences may alter the order that placed the minor in a closed residence, or an order issued for its implementation, to an order placing the minor in a foster home. (Amendment No.14 states that the minor's opinion on the matter of her/his placement within a foster home shall be considered).

581. Moreover, the court is authorized (at the request of the Superintendent of the Residence) to add a period, not to exceed one year, during which the minor will be held in a closed residence. However, according to Amendment, No. 14, such extension is subject to the minor's consent or based upon her/his personal request. If the court extended the period of stay, it may cancel its order at the request of the minor. The court is also authorized, at the request of the Superintendent and subject to the discretion of the court to cancel the additional period determined.

582. Section 34 of the *Youth Law* determines that a person shall not be held in a closed residence nor be obliged to report daily to any residence when she/he reaches the age of twenty-one.

However, once minors are settled in a residence, the supervisor of the residence must inform them of their rights. The Superintendent of the Residence must also inform the minor at a reasonable time prior to the end of the first year of residence, that they can bring their matter before a Parole Board.

Age of Criminal Responsibility

583. This issue was discussed in Israel's Initial Report. No changes have occurred in this area since the submission of Israel's Initial Report.

Data on Minor Suspects

584. In 2007, 7,390 police investigation cases involving minors and youth were filed. In 2002, there were 7,776 cases. Among the cases filed in 2007, 7,227 were filed with the Magistrate Courts and 163 cases were filed with the District Courts (comparably, in 2002, 7,572 were filed with Magistrate Courts and 204 with District Courts). In 2007, 8,285 cases involving minors were closed compared to 7,282 cases closed in 2002.

585. Table 45, below, specifies the kind of registered offenses that minors were involved in during 2007 in comparison with offenses they were involved in during 2002. In 2007, 32% of the minors were primarily suspected of having committed property related offenses, 25% of the minors were suspected of having committed offenses against the person and 11% were suspected of involvement in drug-related offenses.

Table 45 – Minors' Registered Offenses, 2002 and 2007

Type of Offense	2002	2007
Total	**6,535**	**6,875**
Security Offenses	103	29
Public order offenses.	246	266
Offenses against the administration of rule and justice	315	581
Offenses against the person	1,423	1,756
Sex offenses	157	223
Assault causing actual harm	24	193
Drug-related offenses	899	737
Property and trespassing	1,941	2,173
Other criminal offenses	666	280
Transportation- general	82	83
Transportation- tickets total	640	519
Transportation- car accidents with/without casualties	39	35

Source: The Court's Administration System, 2008

Principles for Dealing with Children in the Criminal Justice System

586. Note that the majority of the provisions relevant to this chapter were amended in Amendment No. 14 to the *Youth Law* and are detailed throughout this report.

Defense Against Self-Incrimination

587. Suspects in a criminal investigation and a defendant on trial have the right to remain silent. *The Criminal Procedure (Witnesses) Ordinance* 1927 determines that "a person interrogated [at a police station] … is required to respond correctly to all questions posed to them during the investigation by the police officer in question, or any other authorized officer, with the exception of questions the answer to which may put them in danger of incriminating themselves." During trial, the court is obligated to notify the defendant that she/he has the right to testify or not to testify. If they choose to testify, she/he may be cross-examined (Section 161 of The *Criminal Procedure* Law *[Consolidated Version*] 5742-1982 (the "*Criminal Procedure [Consolidated Version*] *Law").* The court is also obligated to

explain to the defendant that a decision not to testify is likely to be considered as supporting any other incriminating evidence (Section 162). Failure to explain her/his rights to a suspect or defendant may, under certain circumstances, constitute cause to disqualify an admission that the suspect made during an investigation.

Special Protection of Minors in Criminal Proceedings

588. For the Rotlevi Sub-Committee's recommendations regarding minors in criminal proceedings see: "2008 Amendment that established the principles of Criminal Proceedings," as detailed below.

589. Many of the rules governing the police's handling of minors are not defined by statute, but may be found in the *Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives).* The Police's handling of minors rests mainly with youth investigators. According to Section 3(a) of the *Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives),* only a police youth-expert (who is a specially trained police officer) may interrogate a minor suspect. An exception to the rule is a minor under the age of fourteen who is a suspect, witness or a victim of a sexual or violent offense, including trafficking in persons and abduction. In such a case, a youth investigator (a social worker from the Youth Probation Service of the Ministry of Social affairs and Social Services) interrogates the minor.

Many sections of the *Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives)* are designed to protect a minor’s privacy and prevent her/him from being labeled as a criminal. For example, a police youth-expert must wear civilian clothing and travel in unmarked vehicles, rather than in police vehicles (Sections 2(e) and 2(g) of the Directives). Police youth-experts are prohibited (except in urgent cases) from interrogating or arresting a minor at night or in public places such as her/his place of study or work (Sections 2(d) and 3(c) (2) (a) of the Directives). If this is nevertheless imperative, the investigation must be coordinated with the school principal and measures should be taken to avert unnecessary attention (Section 3(c) (2) (b) to the Directives). Investigation at a police station is conducted in a separate room specially designed for the investigation of minors. The room must prevent all forms of contact between minors and adults who are suspects or detainees. In most police stations, there is a

separate entrance for this investigation room, in order to prevent contact or exposure of minors to adult suspects or detainees.

590. The investigation of a minor must be conducted during daytime, however not inside an educational or employment place or a gathering place for youth (Sections 3(c) (2) (a) to the Directives). An exception is made if a delay may lead to a failure of the investigation or when the investigation is necessary for the minor's welfare and safety. The investigation can only transpire subject to the cooperation of the school principal or employer. Amendment No. 14 to the *Youth Law* regulated a time-schedule that is suitable for interrogating a minor. According to the Amendment, a minor aged fourteen and above must not be interrogated between 22:00 PM and 07:00 AM. A minor under the age of fourteen must not be interrogated between 20:00 PM and 07:00 AM. An exception can be made when a minor is a witness to a crime that she/he is not suspected of committing; or if the minor voluntarily came to the police station; or if the crime was committed nearby and an officer accompanies the minor to the police station.

591. In some cases, a minor suspected of committing a crime may be investigated during the night (subject to a written and detailed decision submitted by a police officer). The relevant circumstances are as follows:

591.1. The crime was committed near the place of arrest.

591.2. If the crime is a specific type determined by law and a delay in the investigation could cause physical or mental harm to the minor, her/himself or others.

591.3. If an interference with the investigation may prevent the release of the minor, another suspect, thwart the exposure of evidence, or other related objects and/or interfere with the fight against crime, a minor may be investigated during the night.

592. It is prohibited to shackle a minor except for in exceptional cases (Section 4(c) to the Directives). According to the *Police Directives – Shackling a Detainee in Public Place,* a minor under the age of twelve must never be shackled. A minor detainee between the ages twelve and fourteen can be shackled by the hands only with the prior consent of a police officer. Such shackling is allowed without prior consent if a police officer believes that the delay might detract from the purpose of

the shackling. Other considerations are that the detainee may damage or conceal evidence or that she/he may receive or deliver an object that may be used to commit a crime (Section 8 of the Directives). A minor detainee between the ages twelve and fourteen can be shackled by the legs only with the prior consent of a police officer. Such shackling is permitted with no prior consent when a delay may detract from the purpose of the shackling and the detainee caused corporal or property damage by trying to escape or assist others to escape (Section 9 of the Directives).

593. Amendment No. 14 2008 to the *Youth Law* determines that a minor must not be arrested if the purpose of the arrest can be achieved using less harmful measures. The arrest of a minor shall be for the shortest period possible. A decision regarding an arrest must consider the minor's age and the affect that an arrest may have on her/his physical and mental wellbeing.

594. A minor under the age of fourteen cannot be examined by use of a polygraph. A minor between the ages of fourteen and sixteen can be examined by use of a polygraph subject to the minor's, her/his parents and authoritative police officer's consent. Polygraphs can be used only with regard to severe crimes or a crime which involves a major public interest (Section 3(e) of the Directives).

595. There are limitations on photographing and finger printing of a minor suspected of committing an offense. A minor under the age of fourteen will not be photographed and finger prints will not be taken from a minor under the age of twelve (Section 3(g) of the Directives).

Table 46- Minor's Polygraph Examinations in the Year 2008, by Year of Birth

Year of birth	Polygraph examinations
1990	15
1991	12
1992	4
1993	2
Total	**33**

Source: The Ministry of Public Security, 2009.

596. The *Youth (Care and Supervision) Law* and the *Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives)*, also establish strict rules regarding the prohibition on the publication of details of convicted minors or minors declared by the law as "needy minors." Thus, the Police do not publish the

identity of a suspected minor in the media, except for limited circumstances determined by law. In publicized cases, the minor is generally described as "missing" and not as suspected of committing a crime. Police Directives also strictly limit the transfer of information concerning a minor's criminal record between official bodies.

Special Protection of Minors in Criminal Proceedings: Implementation

597. The Amendment to the *Youth Law* addresses this issue and improves its provisions comprehensively, as detailed below.

Representation of Minors in Criminal Proceedings

Court Appointment of Defense Counsel

598. Recommendation No. 61c to the concluding observations of the Committee on the Rights of the Child requires to ensure that children have access to legal aid (that includes legal representation). Amendment No. 14 to the *Youth Law* amended *The Public Defenders Office Law* on July 30, 2008. According to the Amendment, a minor is entitled to legal representation in criminal proceedings.

599. The Public Defender's Office (PDO) is responsible for representing minors in legal proceedings, especially criminal proceedings. According to data provided by the PDO in 2007, legal assistance was granted in 11,944 cases that year, from which 11,325 were held in Juvenile Courts and 619 were held in District Courts residing as Juvenile District Courts. These cases demonstrate the degree of assistance provided with respect to criminal charges, different hearings, requests for arrests and criminal appeals. The PDO operates in five districts and in 2007 the distribution of cases among them was as follows: in Nazareth and the northern district – assistance was provided in 857 cases, in the Haifa district – assistance was provided in 1,875 cases, in the southern district- assistance was provided in 2,833 cases, in Jerusalem – assistance was provided in 1,809 cases and in the Tel-Aviv district- assistance was provided in 4,570 cases.

Representation by a Parent or Guardian

600. Under Section 15 of the *Guardianship and Legal Capacity Law* "parental guardianship [over a child] includes … the authority to represent her/him." According to Police Directives, a parent or guardian is allowed to be present at the

investigation of a minor under the age of fourteen (Section 3(c) (c) of the Directives). This rule may be disregarded if it is suspected that the parent's presence may cause the minor harm or interfere with the investigation (Section 3(c) (d) of the Directives). If a minor is over the age of fourteen, a parent or guardian has no right to be present at the investigation, unless the Police decide otherwise, or when the minor or the parent ask to be present at the investigation and such presence does not interfere with the investigation (section 3(c)(c) of the Directives).

601. Amendment No. 14 changes the proceedings as it determines that a minor suspect under the age of eighteen who is summoned for an investigation is entitled to the presence of a parent or a relative during the investigation. The minor is also entitled to a consultation prior to the investigation.

The minor can object to the presence of her/his family member in the investigation room. However, she/he should offer a reasonable argument against the presence of a family member. Another objection to parental presence can be raised when the minor is under arrest.

602. A police officer in charge can prevent parental presence if she/he is convinced that their presence may cause physical or mental harm to the minor or to other persons; or the officer is certain that such presence interferes with the investigation, harms state security (when the minor is suspected of having committed a security offense), prevents the release of the minor (or other suspects) from being arrested, prevents the finding of evidence or objects related to the minor's suspected offense or interferes with the prevention of other offenses. This prevention of the minor's right can only go on for so long as the aforementioned circumstances continue to exist.

Opening a Criminal File and Filing an Indictment

603. According to Amendment No. 14, an individual committing a crime will not be prosecuted if the crime was committed while the individual was a minor (Section 14 to the *Youth Law*).

Section 3(c) (b) (d) to the *Internal Police Regulations (Israel Police Force, Minors/Youth Department Directives)* states "a decision … to use a no-prosecution proceeding be made in light of the minor's former police record and the

recommendation of the police youth-expert handling the case." This proceeding is designated to prevent the labeling of minors as offenders after having committed their first offence and assist in their removal from the criminal path. The Police Directives instruct using the "no-prosecution proceeding" (since 2007 this is known as "contingent treatment") for a first and petty offense of a minor who admits her/his actions, expresses regret and seems to be a candidate for rehabilitation. This will not appear in the minor's police record. The decision to use the no-prosecution proceeding is subject to a warning form completed by the minor and her/his parents, in which the minor undertakes to cooperate with the Youth Probation Officer. The minor also undertakes not to commit additional offenses in the next six months.

Police Considerations for Opening a Criminal File

604. The use of no-prosecution proceedings has decreased. The no-prosecution proceeding was utilized in approximately 60% of cases involving minors and has decreased to being used in approximately 40% of the cases. In most of these cases the offense for which the no-prosecution proceeding was invoked was classified as a felony or misdemeanor, for which penalties are statutory and relatively mild (up to three months' imprisonment and up to three years' imprisonment, respectively).

Special instructions laid down by the Attorney General apply to drug offenses: In an investigation of a minor suspected of using or possessing a dangerous drug for the purpose of self-use (not including acts of injecting or sniffing drugs), the Police will weigh initiating criminal proceedings against invoking the no-prosecution proceeding. According to these instructions, the Police will refrain from initiating criminal proceedings against a minor suspected of such offenses, provided that the following conditions are met: there is no indication of previous drug use, the minor admits to having committed the offense and agrees to undergo treatment, the minor does not use drugs on a regular basis, did not initiate the purchase or distribution of the drugs, and did not solicit other minors to use drugs. In addition, the minor must disclose the source of the drugs to the investigator. A no-prosecution proceeding may also be invoked if the chief investigating officer is convinced that the minor is either unaware of or afraid to reveal the source of the drugs.

The above instructions were distributed to schools in an effort to encourage the report of drug use among pupils. The idea is to promote the involvement of minors,

in rehabilitation programs accompanied by "Shefi," the Educational Counseling and Psychological Services.

Table 47 - Data on Youth Investigation Files Opened in 2008

Type of file	Number of investigation files
No-prosecution proceeding – general	12,062
Criminal investigation file – general	20,570
Total	32,632
No-prosecution proceeding – drugs	2,179
Criminal investigation file – drugs	2,822
Total	**5,001**

Source: The Courts Administration System, 2008.

Youth Probation Services Data

605. In 2008, out of 33,965 offences committed by youth, the Youth Probation Services treated 20,472 adolescents. Presently there are 210 Youth Probation Officers. The Youth Probation Services treat an average of 4,700 children from minority populations annually.

Table 48- Youth Referred to the Probation Service in 2008:

Gender	Number of youngsters directed	In %
Males	19,991	87.9
Females	2,481	12.1
Total	20,472	100
Age	**Number of youngsters directed**	**In %**
12-14	4,326	21.1
15-16	8,059	39.4
17-18	8,087	39.5
Total	20,472	100
Population	**Number of youngsters directed**	**In %**
Jewish	15,765	77.1
Arabs	4,707	22.9
Total	**20,472**	**100**

Source: The Courts Administration System, 2008

Table 49 - Youth Directed to the Probation Service in 2008 According to the Type of Offence

Type of offence	Number of youngsters directed	In %
Offences against public order	2,426	11.9
Violence	7,768	37.9
Drug-related offences	3,281	16.0
Sex and morale offences	580	2.8
Property offences	4,687	22.9
Transportation and car accidents	1,116	5.5
Other offences	614	3.0
Total	**20,472**	**100**

Source: The Courts Administration System, 2008.

Table 50 - Court's Decisions Regarding Minors in 2008

Court's decision	Still minors after decision	Number of decisions
Imprisonment	417	1,419
Conditional imprisonment	619	1,378
Community service	94	257
Secured institution	13	63
Institution	30	76
Supervision in residence conditions	89	256
Supervision	489	1,219
Treatment by appropriate person	3	8
Any other order – contribution in community	302	535
Any other order – restrictions	3	5
Any other order – contribution	36	44
Any other order	12	16
Fine	319	496
Victim's compensation	120	179
Deprivation of license	162	235
Conditional deprivation of license	71	90
Minor's bail	1191	1,770
Total	**3970**	**8,046**

Source: The Courts Administration System, 2008

Children in Administrative Proceedings

606. Recently, the Haifa District Court held that the removal of two sixteen year old foreign minors was invalid. Moreover, since the minors were held in custody for over 60 days, the Border Commissioner was required to examine within fifteen days the possibility of their release under the terms of the *Entry into Israel Law*. The State was obligated to make sure that a social worker examined the minors and determined whether they were "minors in need" as stipulated in the *Youth (Supervision and Care) Law* and act accordingly.

    The Court explained in its ruling that the State did not follow the legal principle regarding an unaccompanied minor. The minors' refusal to leave Israel on the basis of the fact that their lives were endangered while they were applying for asylum or their refusal to be transferred to an asylum country, cannot be considered as a lack of cooperation that would justify a dismissal of a request for bail. (A.A 000222/08 *Anonymous et. al. v. The Ministry of Interior et. al.* (10.06.2008)).

Sentencing, Punishment and Modes of Treatment - General Principles

Court Considerations and Verdicts

607. The Courts take into consideration the age in cases involving minors, which is evident in the low rates of prison sentences imposed on minors. Only 13% of the cases in 2007, compared to 12.1% in 2002, resulted in sentence of imprisonment. According to Amendment No. 14 to the *Youth Law*, an individual committing a crime shall not be prosecuted if the crime was committed while the individual was a minor. When sentencing, ruling, or reaching a decision in matters affecting minors, Amendment No. 14 determines that the presence of the minor is imperative, that the minor is represented and her/his best interest is well thought out (Section 17 to the *Youth Law*). (see the Rotlevi Committee recommendations and implementation, below)

Children Deprived of Their Liberty, Including Arrest, Imprisonment and Placement in a Residence.

Considerations in Court Decisions to Deprive a Minor of Her/His Liberty

608. The Tel Aviv District Court held that due to the severe sexual offenses inflicted by the defendant, a fourteen-year old minor at the time he committed the crimes, against a six-year old girl, the Court was obligated to impose an actual imprisonment term. This, despite the fact that there is a need to balance between the general rules of punishment, according to which consideration is given to the severity of the crime, its essence, the need for deterrence and the offender's personal circumstances; and between the fact that the offender was a minor at the time of committing the offenses in question.

The Court stressed that there is a difference between the conviction and punishment of a minor to that of an adult. The Court acknowledged the fact that in sentencing a minor, the rehabilitation aspect should be considered more favorably. However, at times, considerations of deterrence, prevention and punishment outweigh the consideration of rehabilitation even when dealing with a minor. Therefore, the minor was convicted of committing sodomy in rape circumstances, and indecent acts in aggravated circumstances according to Section 347(b) together with Section 345(a)(3), and Section 348 together with Section 345(a)(3) of the *Penal Law*. The minor was sentenced to two years' imprisonment of which six months could be served by Community Service if a positive evaluation was

submitted by the Supervisor of the community service. In addition, the minor was sentenced to eighteen months' suspended imprisonment on the condition that he did not commit sexual offenses for a period of three years. (S.Cr.C 204/02 *The State of Israel v. Anonymous (Minor)* (10.04.2003)).

609. In another case, the defendant, a minor who was thirteen/fourteen years old when committing the sexual offenses in question against four minor boys, was himself a victim of sexual misconduct when he was nine years old. The Nazareth Juvenile Court weighed the option of imposing a period of imprisonment on the minor as opposed to rehabilitating him. The Court stressed that the minor underwent a lengthy period of rehabilitation and was determined to make positive progress. The Court determined that on the one hand, sending the defendant to prison would compromise the rehabilitation process, which is the main purpose of the sentencing of youth - prevention of recidivism. On the other hand, since the offenses that were committed were severe in nature, they demanded the imposition of a prison sentence.

    The Court decided to sentence the minor to three years' suspended imprisonment for all sexual offenses committed and eighteen months' suspended imprisonment for the rest of the offenses of which he was convicted. In addition, the Court issued a two and a half year probation order for the participation of the minor in youth treatment programs for sexual offenders and for his supervision and residency in a youth facility. Furthermore, the minor and his family were required to compensate each of the victims in the amount of 15,000 NIS (4,054$), half of which was to be paid by the minor himself and half of which was to be paid by his family. (S.Cr.C 108/06 *The State of Israel v. Anonymous* (15.05.2008)).

Arrest Until Termination of Proceedings

Case Law

610. On November 21, 2001, the Tel-Aviv District Court sentenced a defendant to six years' imprisonment twelve months of which would run simultaneously to the prison term he was serving at the time of the sentence. In addition, the Court sentenced the defendant to eighteen months of conditional imprisonment subject to the condition that he did not commit sexual offenses for a period of three years after his release. This ruling was made in accordance with a plea bargain.

The defendant was a minor prisoner in the juvenile ward of the "Hasharon" prison facility, where he sexually assaulted a fellow minor inmate. He was charged with committing sodomy and indecent acts against a minor under the age of sixteen, constituting an offense similar to rape according to the *Penal Law*.

The Court stressed that the minor's actions were grave and that he had already been charged with similar offenses, as well as with charges of violence. The Court also emphasized that it was its duty to protect not only the public, but also the population of prisoners and detainees, as all are entitled to protection from sexual and physical abuse. This is true especially when dealing with minor prisoners. The defendant should have realized that the body and dignity of a fellow prisoner are not negated, even if the inmate was himself convicted for similar acts. (S.Cr.C. 1071/01 *The State of Israel v. Mishady-Moshe Naga'fob* (21.11.2001)).

Terms of Arrest and Placement in Closed or Open Residence

611. Some of the criticism surrounding the protection of the rights of children involved in criminal proceedings concerned the conditions of arrest. It had been claimed that there was overcapacity in detention facilities and that their physical structure was inappropriate. Amendment No. 14 to the *Youth Law* has remedied some of these faults.

Some of the adjustments made by the Amendment are:

1. An on-duty officer may transfer a detainee to a private cell in order to keep her/him safe. Such a safety measure will occur when a detainee endangers her/him-self and others or if her/his best interest requires it.
2. A minor detainee shall be held in adequate conditions appropriate to her/his age and personal needs, subject to supervision that is compatible with her/his physical and mental wellbeing.
3. The detainee is granted educational services and free time. The Ministers of Public Security, Social Affairs and Social Services and Education determined the contents of the services. This is done to relieve the physical and psychological difficulties associated with incarceration of minors in detention facilities.

Although the provisions of the *Criminal Procedure (Arrests) Law* create different structures with regard to adults, a minor detainee not yet indicted, is entitled to visitation by immediate family members and telephone communication. The minor also has the right to send and receive mail. A decision to hold minors together in a detention facility is dependent on the minor's wellbeing, the age difference between the minors, the offences each minor is suspected of having committed, their criminal record and potential violence between the detainees.

612. Recommendation No. 61b to the concluding observations of the Committee on the Rights of the Child requires that persons under the age of eighteen shall not be detained with adults. Under Section 25(e) of the *Youth Law*: "a minor on whom imprisonment has been imposed may not be held in prison together with a person who is not a minor." Minors are detained in only one prison in Israel, in a special wing, which is located away from the other prison wings. Section 13 of the *Youth Law* requires the separation of minors and adult detainees.

613. A minor on whom imprisonment has been imposed may not be held in prison together with a person who is not a minor. The authorities must ensure that minor's wings are separate from adult wings and are fully secure. In cases of fully occupied prison cells, minors must at least be held in a different wing. Minors' wings are designed in such a way that no access and visual contact between adults and minor detainees is possible. A minor detainee who reaches the age of eighteen, yet not the age of 21 throughout her/his detention time, can be held together with a minor detainee as long as the other minor has reached the age of seventeen. Placement of an adult detainee (under the age of 21) together with a seventeen year old detainee is weighed against the best interest of the child. The minor is entitled to express her/his opinion on the matter prior to the decision of placement with an adult.

614. A minor can be held together with an adult detainee for the period during which she/he awaits a court hearing, not to exceed 24 hours. Prisons authorities that hold the minor under these circumstances shall uphold the rule of no access between and/or maintaining visual contact between an adult and a child detainee to the extent that it is possible. A minor detainee can be held for up to 72 hours if the court hearing is set for Saturday/holiday or the decision regarding the minor's arrest and/or indictment is still pending.

615. According to Section 42 of the *Youth law*, a minor remanded to an open or closed residence who escapes therefrom or whose release therefrom has been canceled, or whose leave therefrom has expired, may be arrested by a police officer without a warrant as she/he escaped from lawful custody, which is grounds for arrest without a warrant. The minor may be kept under arrest until she/he has been returned to the residence. The Police must immediately notify the Superintendent of Residences of the arrest and act to ensure the swift return of the minor to the residence.

Concurrently, a minor remanded to an open or closed residence who escapes therefrom, or whose leave therefrom has been canceled or expired – is regarded as a minor who escaped from lawful custody (unless the minor is arrested and placed in detention). In such a case, the court may instruct, at the request of the Superintendent of Residences or the minor her/himself, to include the missing period as time served (Section 42(c) to the *Youth Law*). Leave from lawful custody at a closed or opened residence is granted to minors when interlacement in an educational or employment framework is required. Leave of custody may also be considered for reintegration into society. Section 37 of the *Youth Law* prescribes a maximum of 30 days for leave under special circumstances. Amendment No. 14 extends the period a minor may remain on special leave by an additional 30 days, if the chairperson of the Parole Board deems this to be in the minor’s best interest. The chairperson may also grant leave based on the continuance of the minor's treatment or vocational training. A further 30 days can be granted at the discretion of the Parole Board

Means of Restraint

616. Amendment No. 14 stipulates the means of restraint that can be used against minors remanded to an open or closed residence. A primary caregiver is permitted to take reasonable restraining actions against minors in order to prevent their escape there from, or their causing physical damage to her/himself; to property or to others (handcuffing is forbidden). Restraining methods are available to a limited extent, namely the minimum necessary for achieving the result. Means of restraint used against minors must be reported to the Superintendent of Residences immediately.

617. One of the methods used to restrain and/or prevent the escape of a minor is the placing of a minor in a separate room for a maximum period of twenty minutes per

time. Such a method is part of a comprehensive treatment plan for misbehavior. The regulations emphasize that this educational technique must be limited to a maximum duration of two hours.

618. The youth instructor and the person in charge of educational programs in the residence are both responsible for implementing the restraining practices. During this period, minors remanded to the closed area are closely monitored; and any response, difficulty or change in behavior is reported. Separate placement as an educational practice can be implemented only when there are no other, less restrictive, measures available. The Minister of Social Affairs and Social Services, following consultation with the Minister of Justice and the Knesset Constitution, Law and Justice Committee established guidelines for the above restraining practices. These guidelines prescribe terms of reporting and documentation requirements.

619. **Sentencing of Children and Life Imprisonment** - The *Criminal Procedure [Consolidated Version*] *Law and the Penal Law* applies to every legal hearing concerning minors, unless there is an express provision to the contrary in the *Youth Law*. Under Section 25(d) of the *Youth Law*, a court may not impose a prison sentence on a minor who is under the age of fourteen at the time of sentencing. It is not obligatory to impose a life prison sentence, a mandatory prison sentence or a minimum penalty on a minor.

620. **Capital Punishment** - A death penalty cannot be imposed on a minor who committed the offense while she/he was a minor.

621. **Bed to Every Prisoner** - On February 12, 2007, the Supreme Court declared that the State must provide a bed to every prisoner held in an Israeli prison. The Court ordered full implementation of this obligation by July 1 of that year. In its decision, the Court stated that the right to sleep on a bed is a minimum standard of living and dignity, based on the right to dignity enshrined in the *Basic Law*: *Human Dignity and Liberty.*

The Public Defenders Office claimed that the deterioration of the security situation in Israel as of October 2000, resulted in an increased number of detainees and prisoners held in Israeli prisons, thus Israel Prisons Service (IPS) failed to provide a bed to every prisoner. Instead, only mattresses on the floor were provided due to

a serious lack of incarceration facilities. Nevertheless, the State did not object to the petitioners' claim that a prisoner's right to sleep on a bed is an integral part of her/his basic right to dignity, but requested that the Court recognize possible limitations which might prevent full implementation of the principle of affording a "bed to every prisoner," especially in unforeseen times of emergency. The Court stated: "when on the one side of the balance equation rests the right of a person to minimum standards of living when held in prison, a contradictory value with a special significance is necessary in order to justify damage to this fundamental right". (HCJ 4634/04 *Physicians for Human Rights et.al. v. The Minister of Public Security, et.al.).*

Data on the Arrest of Minors

622. 6,705 minors were arrested in 2008, of them 1,068 were sentenced to house arrests. 60% of the arrests were for no more than several days, 16% of the arrests were house arrests and 10% of the arrests were extended until the termination of proceedings. In two-thirds of these cases, the minors arrested were ages sixteen to seventeen.

Table 51 - Arrest of Minors and Type of Arrest in 2008, by Age (in numbers)

Age	Type of arrest				
	Days	Until another decision	Until the completion of proceedings	House arrest	Total
12	44	11	5	9	69
13	104	39	12	40	195
14	400	119	68	140	727
15	832	177	140	218	1,367
16	1,156	257	225	301	1,939
17	1,518	273	246	360	2,397
Total	**4,054**	**876**	**696**	**1,068**	**6,705**

Source: The Courts Administration System, 2008.

Open and Closed Residences

Case Law

623. On December 2, 2007, the Haifa District Court, sitting as a Juvenile Court convicted a thirteen year old defendant of committing sodomy, indecent acts, abuse and violence against a minor, who was only four years old when the offense was committed.

The Court held that in sentencing a minor, the Court faces three possibilities; the first, sending him to an open facility where the minor participates in the activities within the facility and may enjoy vacations. The second, a closed facility, where the minor is placed in a more strict educational facility, where supervision and security is amplified and the Court can also determine additional limitations regarding vacations. The third option is sending the minor to prison, where he will be held in a separate wing for minors. The Court stressed that in general, in cases where it is appropriate to impose a sentence that includes imprisonment on a minor, it is preferable to send her/him to a closed facility. However, if the minor refuses to accept treatment in the closed facility or if the Probation Officer did not recommend integrating the minor into a closed facility, there is no alternative but to send her/him to prison. However, this cannot be the case when dealing with imprisonment according to Section 24(1) together with Section 25(1) of the Law. That is to say that Court-imposed imprisonment cannot be an alternative to a closed facility, but rather a closed facility is an alternative to the imprisonment period.

The Court held, in a majority vote of 2-1, that due to the defendant's minority status, the possibility of his rehabilitation and the severity of the offenses, the minor would be placed in a closed facility for a period of three years and be subject to eighteen months of conditional imprisonment. (S.Cr.C (Haifa) 306/06 *The State of Israel v. Anonymous* (02.12.2007)).

624. However, in another case dealing in a similar context, the Supreme Court held that due to the severity of the offense the minor defendant had to be subject to imprisonment. However, since the possibility of his rehabilitation continued to exist, and considering the young age of the defendant at the time that he committed the offense, it was found to be proper to leave open the possibility of placing the minor in a closed facility, at a later date. In this sense, the sentence was not peremptory and the defendant could petition the Court, provided it was with the agreement of the State and the Probation Office. (Cr.A 9828/06 *Anonymous et. al. v. The State of Israel* (10.06.2007)).

Conditions and Rights of Minors in Residences

Case Law

625. On January 18, 2006, the Supreme Court rejected an appeal filed against a 25 year sentence of imprisonment imposed on a minor who was seventeen and three months old at the time he murdered his own father. The appeal was based on Section 25(b) of the *Youth Law* that stipulates that there is no obligation to impose a sentence of life imprisonment, mandatory imprisonment or a minimum penalty on a minor. It was also based on Section 41 of the *Penal Law* that stipulates that when sentencing for an offense which bears a sentence of life imprisonment that is not legally mandated, the court-imposed sentence should not exceed twenty years.

The appellant claimed that the District Court that sentenced him to 25 years imprisonment was not authorized to sentence him to more than twenty years according to the abovementioned sections.

The Court affirmed prior decisions holding that the purpose of Section 25 to the *Youth Law* is to allow the court discretion in determining the judgment imposed on minor offenders. The Court stressed that the legislator's purpose in enacting Section 25 of the *Youth Law* was to broaden the scope of punishments a court may impose on minors, excluding capital punishment that cannot be imposed on minors. Hence, the Court rejected the appeal and the 25 years' imprisonment remained (Cr.A. 4379/02 *Anonymous v. The State of Israel* (18.01.2006)). Also see: Cr.A 9937/01 *Roei Horev et. al. v. The State of Israel (09.08.2004)* Chapter IV, above.

B. Articles 32-36 of the Convention - Children in Situations of Exploitation, Including Physical and Psychological Recovery and Reintegration into Society

International Conventions

626. Since the submission of Israel's Initial Report, Israel became a party to several major international instruments concerning children. On March 15, 2005, Israel became a party to the *ILO Convention 182 on the Worst Forms of Child Labor* (1999). In addition, on December 14, 2006, Israel became a party to the *UN Convention on Transnational Organized Crime*, (2000). On July 23, 2008 Israel became a party to the *Optional Protocol to the Convention on the Rights of the*

Child on the Sale of children, Child Prostitution and Child Pornography (2002) and to the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (2000).

The Legal Situation

627. **Hours of work and Rest -** Section 25 of the *Youth Employment Law* stipulates that the Minister of Industry, Trade and Labor may allow the employment of a youth until 23:00 pm in a workplace in which the work is shift work (See the Introduction, above).

According to Amendment No. 11 of the *Youth Employment Law* issued on February 6, 2007, if a state of emergency was declared, the Minister could allow for the employment of youth after 23:00 PM. This is provided that the relevant workplace operates in shifts or that the minor is in need of employment due to the state of emergency. The Minister must receive guarantees that conditions are maintained to preserve the health and wellbeing of the youth. The Minister's authorization shall terminate once the state of emergency is over. The state of emergency may include the proclamation of a special situation in the civil population according to Section 9C of the *Civil Defense Law* 5711-1951, recruitment of military reservists according to Section 8 of the *Defense Service Law,* 5746-1986, (The: "*Defense Service Law*") or a proclamation of a mass disaster according to Section 90B of the *Police Ordinance (New Version)* 5731-1971.

628. The National Labor Court rejected the appeal of Alonail, the company operating McDonald's branches in Israel and its acting manager and shareholder, against their conviction. The company and its manager were convicted of employing Jewish youth on Sabbath, which is considered their day of rest, contrary to Section 21 of the *Youth Employment Law*. The company and the manager were fined 30,000 NIS (8,108$) and 50,000 NIS (13,513$) respectively (Cr.A 1004/00 *Alonail v. The State of Israel* (09.02.2003)).

629. **Minimum Wage** - in a case brought before the Haifa District Labor Court, the Court ordered the compensation of three female employees who were fired from their positions in a sewing workshop. These employees started to work in the

workshop as minors; one of them was employed as a minor for a period of five years. These employees did not receive the minimum wage they were entitled to; did not receive payment for overtime work; their wage was delayed on a monthly basis and they were fired without receiving proper notice and without receiving severance payment.

The Court determined that these employees had been employed full-time, contrary to the workshop's claim; and that therefore they were entitled to receive a supplement to the minimum wage and to receive severance payments. In sum, the Court ordered the compensation of the three employees in the following manner: the first complainant was to be paid 20,500 NIS (5,540$), the second was to be paid 13,356 NIS (3,609$) and the third was to be paid 22,738 NIS (6,145$) (La.C 5595/98 *Lobna Hassan et. al v. Crown Jolies Textile Inc.* (19.07.2002)).

630. A**dministrative Offences -** According to a 2002 Amendment of the *Administrative Offences Regulations (Administrative Fine Youth Employment)* 5754-1994, a violation of Sections 33, 33A-33D, 33H of the *Youth Employment Law* constitutes an administrative offence. These sections include the prohibition against employing youth under fifteen years of age, the prohibition/restriction against employing youth in dangerous work, the prohibition against employing youth on the weekly day of rest or over time, the prohibition against employing youth without requiring a medical examination, etc. An administrative fine of 1,500-5,000 NIS (4,055,405$) is to be imposed in the event of a violation of these sections.

631. **Sexual Harassment** - According to the *Prevention of Sexual Harassment Law,* 5758-1998 (the: *"Sexual Harassment Law"),* repeated suggestions of a sexual character made towards a person, or repeated references concerning the sexuality of a person who has expressed to the harasser her/his lack of interest in the suggestions or references, as well as sexual extortion and indecent acts are forms of sexual harassment.

According to a 2007 Amendment to the Law, the abovementioned suggestions and references will be considered sexual harassment when committed towards a minor or a helpless person, by exploiting a relationship of authority, dependency, education, or treatment, even if the minor did not express her/his lack of interest in the suggestions or references. If the minor was below the age of fifteen, these

suggestions and references will be considered sexual harassment even if the harasser was not exploiting their relationship with the minor, provided that the harasser is not a minor her/himself.

632. **Record Keeping** - According to a 2004 Amendment of the *Youth Employment Law,* an employer shall record the following details in a notebook which is kept in the workplace: the names of a minor employee's parents, the minor's date of birth, identity number, residential address, date of the beginning of her/his employment, dates of annual vacation and sick days, detailed information regarding the workday and week, including actual work hours and breaks. If the recording of hours in the notebook is performed manually, then the employee who is assigned the task of recording the hours is required to sign the number of hours recorded. .

633. The Jerusalem Labor District Court ordered Pizza Hut (Israel) Inc. to compensate a minor employee in the sum of 3,043 NIS (822$) for extra hours worked, as well as 842 NIS (210$) in lieu of vacation , and 215 NIS (58$) for recuperation pay. The Court stressed that the defendant systematically deprived its employees of their rights, and openly violated the provisions of the labor laws. Also, since many of its employees were youth, who are not familiar with their rights under the law, it could be assumed that only a small percentage of them filed claims against the company following the termination of their employment. The seriousness of the situation was aggravated by the fact that the company has many branches throughout Israel with many employees, and that the company unlawfully accumulated a substantial amount of money as a result of its failure to pay its employees all the amounts that they were legally entitled to. Therefore, the Court ordered the defendant to pay the full amount of overdue payment from the time that the employment relationship was terminated until the actual date of payment. (Su.P. 1588/01 *Ze'ev Shalman v. Pizza Hut (Israel) Inc*. (04.04.02)).

634. According to the *Tax Ordinance*, a minor is obligated to file a tax report and to pay income tax, provided that he earned an income of at least 59,900 NIS (16,189$) in 2007 (compared to 44,460 NIS (12,016$) in 2001).

Youth Protection

635. As detailed in Israel's Initial Report, the *Youth Employment Law* prohibits the employment of persons under the age of fifteen. Under the Law, an executive (as

defined by the Law) in a corporation has a duty to supervise and adopt all necessary measures in order to prevent violations of the Law by the corporation or one or more of its employees. A 2000 Amendment to the Law broadened this duty so as to include the responsibility of executives in public bodies to ensure that contractors hired by the public body do not violate the Law. The Amendment also enumerates the different measures that a public executive must adopt in order to fulfill her/his duty.

636. **Tobacco** - A 2001 Amendment to the *Youth Employment Regulations (Prohibited Employment and Restricted Employment)* 5756-1995 expands the prohibition against the employment of youth in the manufacturing of cigarettes and cigars, and the handling of tobacco leaves, to include employment which involves the employee's dealing with formaldehyde, ethylene oxide and other such substances.

637. In addition, there is also a prohibition against selling cigarettes and tobacco products to minors following a 2004 Amendment of the *Restriction of Advertisement of Tobacco Products for Smoking Law* 5743-1983. This Amendment, issued on August 4, 2004, augments Section 8A so as to prohibit the selling of tobacco products to minors. A business owner who sells tobacco products may request identification from a person who requests to purchase tobacco, in order to verify her/his age, and is obligated to place a sign in a noticeable place regarding the prohibition against selling cigarettes and tobacco products to minors and stipulating her/his authority to request identification (Sections 8A(b)–(c) to the Law). In addition to the prohibition against selling cigarettes and tobacco products, the prohibition scope has been modified so that selling, renting or borrowing products designate for smoking as water pipes, etc. are illicit for minor use (2008 Amendment).

638. **Eating Disorders** - a project opened a hostel in northern Israel for teenage girls who suffer from eating disorders and are in the intermediate stages of the disease. This project was initiated by the director of the clinic for eating disorders at the Rambam hospital in Haifa, in cooperation with the Department for Special Enterprises in the National Insurance Institute (NII), which will also fund most of the project, and with authorization from the Ministry of Social Affairs and Social Services.

The project will be guided and supported by the staff of the eating disorders' clinic and will be operated by a non-profit organization. The project's cost is estimated at 3.5 million NIS (900,000$) over the next three years, during which time, its

funding of some of the treatments depending on the numbers of girls who receive treatment.

The purpose of this project is to create an intermediate stage, to help young women who are in the recovery process to maintain their recovery, and to support them in their reintegration to every-day life. It should be mentioned that in 2007, the NII established a hostel in Herzliya, intended for girls whose rehabilitation was complete, whereas the hostel to be established in the north is intended for girls who have not completed their rehabilitation process and are still at risk of reverting to their eating disorder.

639. **Performances and Commercials -** according to a 2001 Amendment to the *Youth Employment Regulations (Mediation for Employment of Youth in a Performance or Commercial)* 5759-1999, the mediation fee payable on account of a child's participation in a performance or commercial shall not exceed 20% of the payments received from the person permitted to employ a child under the age of fifteen.

In addition, a request to receive a mediation permit should include a commitment by the person requesting the permit to adhere to the relevant laws and regulations, as well as the conditions of the permit. Furthermore, the person requesting a permit authorizes the Minister of Industry Trade and Labor to receive information from the Criminal Registry regarding her/him, as stipulated by the *Criminal Registry and the Rehabilitation Law* 5741-1981, as well as information regarding open cases in which indictments were filed against her/him. The request should also include the opinion of the child, if she/he is capable of forming her/his own opinion and the consent of the child's parents.

640. **Data on Working Minors -** Table 52 (below) reveals that 6.9% of minors aged fifteen to seventeen are employed (7.6% of these minors are boys and 6.1% of these minors are girls). The percentage of Jewish boys who are employed is greater than that of Arab boys. However, in the Arab population, particularly rural communities, minors engage in work which is usually not reported, such as

agriculture and housework. Given this fact, and the high rates of illiteracy in the Arab population, it is possible that more youth work in Arab localities than is reported. This may be particularly true regarding girls.

Table 52 - Population Aged 15-17 by Work, Studies, Gender and Population Group 2001 – 2007

	2001			2006			2007		
	Arabs	**Jews**	**Total**	**Arabs**	**Jews**	**Total**	**Arabs**	**Jews**	**Total**
Grand total									
Thousands	**77.9**	**258.4**	**336.3**	**85.2**	**254.4**	**346.3**	**89.7**	**255.8**	**350.6**
Percentage	100	100	100	100	100	100	100	100	100
Work	3.2	9	7.6	3.5	8	7	2.5	8.3	6.9
Thereof: Study	1.2	7.6	6.1	-	6.9	5.3	-	7.2	5.5
Do not study	2.2	1.4	1.6	3.3	1.1	1.7	2.2	1.1	1.4
Do not work	96.8	91	92.4	96.5	92	93	97.5	91.7	93.1
Thereof: Study	82.1	85.6	84.8	82.6	86.2	85.2	85.1	86.3	85.9
Do not study	14.7	5.4	7.6	13.8	5.8	7.8	12.4	5.5	7.2
Men									
Thousands	**38.9**	**134**	**172.9**	**43.7**	**130.8**	**177.7**	**45.8**	**130.9**	**179.4**
Percentage	100	100	100	100	100	100	100	100	100
Work	5.6	9.4	8.6	6.6	8.8	8.3	4.3	8.6	7.6
Thereof : Study	-	7.8	6.4	-	7.6	5.8	-	7.7	5.8
Do not study	4.1	1.6	2.1	6.2	1.3	2.5	3.9	0.9	1.8
Do not work	94.4	90.6	91.4	93.6	91.1	91.7	95.7	91.4	92.4
Thereof : Study	77.7	84.9	83.3	79.9	85.2	83.9	82.9	85.9	85
Do not study	16.4	5.6	8.1	13.7	6	7.8	12.8	5.5	7.4
Women									
Thousands	**38.9**	**124.4**	**163.3**	**41.5**	**123.7**	**168.6**	**43.9**	**124.8**	**171.2**
Percentage	100	100	100	100	100	100	100	100	100
Work	-	8.4	6.7	-	7.1	5.5	-	8	6.1
Thereof : Study	-	7.2	5.8	-	6.2	4.7	-	6.8	5.1
Do not study	0.3	1.2	0.9	-	1	0.8	-	1.2	1
Do not work	99	91.6	93.3	99.5	92.8	94.4	99.4	92	93.9
Thereof : Study	86.2	86.4	86.4	85.5	87.1	86.7	87.3	86.6	86.8
Do not study	12.8	5.1	7	14.0	5.7	7.8	12.1	5.4	7.1

Source: The Central Bureau of Statistics, 2002, 2007, 2008, 2009.

Table 53 - Youth Labor: Files Opened and Fines Imposed During 2005-2008

	2005	**2006**	**2007**	**2008**	**Total**
Files opened	412	89	453	682	1,636
Fines imposed	162	85	67	576	890
Amounts(NIS)	704,500	447,900	448,000	4,725,250	6,325,650

Source: The Central Bureau of Statistics, 2002, 2007, 2008, 2009.

Table 54 - Minimum Wage for Youth (in accordance with the *Minimum Wage Regulations (Working Youth and Apprentices)* 5747-1987))

Age	% of the minimum wage of an adult	Minimum wage per month	Minimum wage per hour
Under 16	70%	2695.13 NIS	15.58 NIS
Under 17	75%	2887.63 NIS	16.69 NIS
Under 18	83%	3195.65 NIS	18.47 NIS
Apprentice	60%	2310.11 NIS	13.35 NIS

C. Article 34 - Sexual Exploitation and Sexual Abuse

The Legal Situation: Definition of Offences

641. Amendment No. 61 to the *Penal Law*, issued on June 12, 2001 supplements Section 348 regarding the performance of indecent acts. According to Section 348(a), a person committing an indecent act against a person in one of the circumstances enumerated in Section 345(a)(2) to (5), is liable to seven years' imprisonment. The acts are as follows: when receiving consent as a result of the use of deceit in respect of her/his identity or the nature of the act; when the act is committed against a minor below the age of fourteen, regardless of her/his consent; when exploiting the state of unconsciousness or other condition that prevents the giving of consent freely or by exploiting the fact that the person is mentally ill or deficient. Exploitation of this kind does not constitute free consent. According to Section 348(b), if a person committed an indecent act against a person in one of the circumstances specified in Section 345(b)(1) to (5), then that person will be liable to ten years' imprisonment. The circumstances specified in Section 345(b)(1) to (5) are as follows: a person commits an act against a minor below the age of sixteen, and in the circumstances specified in Section 345(a)(1), (2),(4) or (5); while threatening the minor with a firearm or other weapon; while causing bodily or mental injury, or pregnancy; together with the abuse of the person before, during or after the act; in the presence of one or several others, who came together to commit an indecent act by one or several of them.

642. According to Section 348*(c), if a* person committed an indecent act against a person without her/his consent, but not under the circumstances stipulated in Subsections 348(a), (b) or (c1) – that person will be liable to three years' imprisonment. According to Section 348(c1), an indecent act committed against a person without her/his consent, which is achieved as a result of the use of force or other coercive measures, or as a result of the threat to use force or other coercive

measures- whether towards the person or towards anybody else, will render the person liable to seven years' imprisonment.

643. Section 351 of the *Penal Law* is concerned with sexual offences committed within the family, and prescribes harsher punishments than those prescribed for offences committed by someone who is not related to the victim (See Chapter V, above).

644. According to Section 203B(a) of the *Penal Law*, if a person induces another to engage in prostitution, and there are aggravating circumstances with respect to the prostitution (Sections 199, 201, 202, 203), the person who committed the offence will be liable to a longer term of imprisonment. That is, with respect to offences for which a penalty is of five years' imprisonment, the person committing the act against a minor will be liable to seven years' imprisonment due to the aggravating circumstances. Accordingly, a sentence of seven years' imprisonment will be extended to ten years; a sentence of ten years' imprisonment - will be extended to fifteen years, and a sentence of sixteen years' imprisonment - will be extended to twenty years.

Furthermore, if an offence was committed under these sections against a minor below the age of fourteen by a person responsible for the minor, then the perpetrator shall be liable to double the penalty, but no more than twenty years' imprisonment.

645. The *Penal Law* was amended in 2006 (Amendment No 91), so that Section 15 now applies the principle of extraterritoriality to the offences of pornography and prostitution when committed against minors. It is currently possible to try offenders in Israel for such offences, even though the act might not constitute a criminal offence in the country in which it was performed (no double criminality is required).

646. *Limitations on the Return of a Sex Offender to the Surroundings of the Victim of the Offence Law* 5765-2004 was enacted in order to protect the victim of the offence and to prevent additional harm that might occur as a result of frequent encounters with the sexual offender. The Law is not intended to impinge - proportionally upon the rights of the sex offender.

647. *According to Section 3 of the Limitations on the Return of a Sex Offender to the Surroundings of the Victim of the Offence Law* 5765-2004 (the" *Victim of the*

Offence Law"), a Court may issue an order that imposes limitations on the places of residence or employment of a sexual offender. The court will order this in cases where the offender's place of residence or employment *is in the vicinity of the* victim's place *of residence or employmen*t, provided that the court is convinced, after holding a hearing, that it is necessary to impose such limitations as a failure to do so may cause the victim to suffer serious mental harm. The Court in its decision should consider the implication of such limitations on the sexual offender's rights.

648. Section 3 further states that the court will hold a hearing regarding the imposition of limitations on a sexual offender, following a request submitted by one of the following: the victim (or a person on her/his behalf), the Attorney General, a police or military prosecutor or a Social worker . However, the Court may decide not to hold a hearing even if requested to do so, if the victim or the person on her/his behalf requested that such a hearing not be held.

The hearing should be held after sentencing, or if the offender has been sentenced to imprisonment or a period of hospitalization, before or at the time of the release from these institutions. However, in special circumstances, which must be recorded, the Court may hold the hearing up to three months following the release.

649. The decision to impose restrictions shall not exceed a period of three years. The Court may extend the period from time to time for additional periods that shall not exceed three years if the circumstances that originally justified the order still hold.

650. According to Section 4, a Court deciding to issue such an order may appoint an expert who shall submit a written opinion as to the state of the victim. This opinion shall include an evaluation of the mental harm that may be caused to the victim, as a result of residing or working near the offender. Section 5 of the Law stipulates that the approval of the victim is required for such an evaluation by a court-appointed expert. Furthermore, upon receipt of the consent of a victim over the age of fourteen, there shall be no need to obtain the further authorization of her/his legal guardian in order to perform the evaluation.

The court may agree to the evaluation of a minor under the age of fourteen who cannot express her /his consent, even if the legal guardian refused to give consent to the evaluation. The court will only do so if it is convinced that the evaluation is

in the best interest of the minor, and after hearing the opinions of the minor's guardian and the Social Welfare Department that is responsible for the minor's case.

651. On August 7, 2001 the Knesset enacted the *Prevention of Employment of Sex Offenders in Certain Institutions Law* 5761-2001, which has since been amended several times. The Law defines institutions as schools attended by minors, educational institutions for minors, minors' day-care centers and nurseries. In addition, sports and cultural centers for youth, gyms and sport clubs attended by minors, kindergartens, zoos, amusement-parks, youth movements, swimming pools open to minors, summer camps, boarding schools, clubs, clinics, children's hospitals, or pediatric wards, transportation services that transport groups of minors, or a business that organizes trips for minors or provides security services for minors on their trips. In addition, these institutions include, minors' residence, day-care centers or treatment centers, employment rehabilitation centers, a club and/or businesses providing tourism services and transportation services for mentally or developmentally disabled persons; as well as hospitals and health clinics as defined by the *Mentally Ill Patients Treatment Law*.

652. Section 2 of the Law stipulates that an employer in such institutions shall not employ an adult convicted as an adult of committing sexual offences. Furthermore, an adult convicted of committing sexual offenses shall not undertake employment involved with children. These rules as of the date of conviction and for a period of twenty years thereafter.

Furthermore, Section 3 of the Law stipulates that an employer shall not accept an adult for work in such an institution, prior to receiving the Police's confirmation that there is no legal hindrance according to this law to hiring the individual in question.

Section 5 of the Law prescribes a fine of 67,300 NIS ($18,189) for an employer who hired a convicted sexual offender, or hired the offender prior to receiving the abovementioned police confirmation, and prescribes a year's imprisonment for the offender.

These provisions apply to a direct employer as well as to employment through manpower companies.

653. The Haifa District Court sentenced a defendant to a sentence of ten months' imprisonment and fourteen months' suspended imprisonment, on the condition that he does not commit any related offenses for three years following his release. In addition, the defendant was fined the amount of 3,000 NIS (810$). The defendant was convicted under Sections 214 (b), and 214(b3) of the *Penal Law*, for the possession of obscene publications, including the likeness of a minor.

The Court stressed that the protection of minors from abuse for pornographic purposes is a universal interest that is reflected in Article 34 of the CRC. The State of Israel shares this concern and has enacted legislation prescribing a significant penalty for those who violate the rights of minors. (Cr.C 1780/06 *The State of Israel v. Aharon Ofer* (23.09.2007)).

Sexual Exploitation

654. Amendment No. 77 of the *Penal Law*, issued in November 2003, supplements Section 346 to include sexual intercourse between a therapist and a female minor between the ages of sixteen and eighteen as a form of exploitation of a relationship of dependency, unless the sexual intercourse commenced before the beginning of the therapy and within the course of an intimate relationship (Section 346(2)). The same is true of sodomy committed by a therapist against a minor between the ages of sixteen and eighteen, unless the sodomy commenced before the beginning of the therapy and within the course of an intimate relationship (Section 347(a)(2)).

The Amendment supplements Section 347 of the *Penal Law* and inserts the definition of sexual intercourse with a therapist. Section 347A(a) defines therapy as any diagnosis, evaluation, consultation, treatment, rehabilitation, or conversations performed over a long period of time through personal meetings, in order to aid a person suffering from distress, disturbance, illness, or a different problem, stemming from a mental or emotional basis. A therapist is defined as a person who engages professionally in providing therapy as an occupation or a profession, and is a psychologist, psychiatrist or social worker, or a person masquerading as one of these professionals. Section 347A(b) stipulates that a therapist who engages in sexual intercourse with a women or commits sodomy against a person, who reached the age of eighteen, during the course of treatment or in the three years following the treatment, while obtaining consent by exploiting the actual mental dependency that existed as a result of the treatment given, is subject to four years'

imprisonment. For the purpose of this Section, acts committed during the period of treatment, will be regarded as exploiting the relationship of dependency. This will not apply if the acts were committed prior to the commencement of the therapy.

655. According to Section 348(d)(1) of the Law, a person committing an indecent act against a minor between the ages of fourteen and eighteen, exploiting a relationship of dependence, authority, education or supervision, is subject to four years' imprisonment. Amendment No. 77 supplements Section 348(d)(2) and stipulates that a therapist committing an indecent act against a minor between the ages of fourteen and eighteen, during therapy, will be regarded as an act committed by exploiting the relationship of dependence. This will not apply if the minor reached the age of sixteen, and the acts were commenced prior to the beginning of the therapy, while engaging in an intimate relationship.

The Ministry of Education's Treatment of Sexual Abuse

656. The Unit for the Prevention of Child and Youth Abuse (“*the Unit”*) in “Shefi,” which is the Counseling and Psychological Services within the Ministry of Education, has dealt with the issue of sexual abuse since 1989. Assistance is granted through development, prevention, and treatment programs and the training of professionals. The Unit includes 32 advisors and seven psychological coordinators, four of which are assigned to the Arab population. During 2008, the Unit dealt with approximately 750 cases of sexual abuse which took place in schools.

The Director General of the Ministry of Education Directives’ refers to the Ministry's policy of addressing sexual abuse. Directive No. 5760/2(a) 1999 includes guidance on how to stop the abuse, treat the victim and assist the criminal offender; and when necessary, report to the relevant authorities. Directive No. 5763/6(b) 2003 refers to the sexual abuse of pupils by their educators, and clarifies the manner in which an educator suspected of abusing pupils is to be treated -- that is the immediate separation between the educator and the victim, assisting the victim and reporting the incident to the Police.

657. The Directive also renders it possible to suspend an educator immediately. Directive No. 5769/3(b) 2008 relates to the duty to report on such incidents, by obliging every school principal to conduct annual workshops that raise awareness

to raise awareness of sexual abuse. The week is called the "Educational System Week - Against Sexual Violence." This week includes educational activities and workshops for pupils of all ages, which are conducted in every school.

Such training is achieved through the use of special programs designed for

Education has trained approximately 500 educational psychologists to treat pupils who are victims of sexual abuse and since 2009, the Ministry began training psychologists for short-term intervention with minors who exhibit harmful sexual behavior.

The Child-Victim

659. The *Crime Victims' Rights Law* was enacted in order to stipulate the rights of the victims of crime and to protect their dignity as human beings, without detracting from the rights of suspects, defendants, and accused individuals.

According to this law, when granting rights to victims, one is required to consider each victim and her/his needs, while protecting their dignity and privacy, and within a reasonable time. Section 4 of the Law determines that granting rights to victims who are minors shall be realized while making the necessary adjustments for the relevant circumstances, and while considering the maturity of the minor and the principles of the Convention on the Rights of the Child.

During the criminal proceedings, which include the court hearings, the victim is entitled to protection from the suspect, defendant or accused, as well as from their relatives and associates (Section 6).

The personal information of victims of severe violence or of a sexual offence, for which an investigation was launched or an indictment was filed, and which information was gathered by the authorities during the investigation or which forms part of the indictment, shall not be given to the defendant or her/his attorney. Furthermore, a prosecutor is permitted not to transfer material from the investigation to the defense when the offence is violent or sexual, even if the offence is not severe in nature, if it might cause damage to the wellbeing of the victim (Section 7).

660. The victim in a criminal proceeding is entitled to receive information regarding her/his rights as a victim and regarding the criminal proceeding provided that the receipt of such information is not prohibited by law. The victim is entitled, following her/his request or following the request of her/his attorney, to study the indictment filed and to receive a copy of it unless the Law prohibits it or if the District Attorney's Office or the head of the police prosecution unit determine it is inappropriate.

661. The victim of a violent or sexual offence, who so requested, is entitled to receive information from the relevant authorities regarding the imprisonment or other lawful custodial methods imposed upon the defendant. In addition, the victim is entitled to express her/his opinion in writing regarding the issue of early release and to submit it to the Parole Board; and regarding a request for pardon submitted to the President, and submit that to the Parole Department in the Ministry of Justice. In addition, victims of a violent or sexual offence are entitled to an opportunity to express their opinion, in writing, with regard to the foreseeable risk of releasing a sentenced offender who is about to be brought before the Parole Board (Section 19). Similarly, the victim of a violent or sexual offence is entitled to express her/his opinion regarding a request for amnesty applied for by a sentenced offender (Section 20).

Furthermore, the victim of an offence is entitled to receive information regarding assistance services available for victims, whether they are made available by the State or by private bodies.

662. The Law further stipulates that the proceedings relating to violent or sexual offenses shall be carried out within a reasonable time, in order to prevent the delay of justice.

Victims of a severe violent or sexual offence are entitled to be accompanied by a person of their choice during the investigation, unless such person damages or disrupts the investigation or the procedures involved in the investigation. Moreover, victims of a severe violent or sexual offence, who receive notice of the possibility of a plea bargain's being reached with the defendant are entitled to express their opinion before the prosecutor. The victim's opportunity to do so is to occur prior to the prosecutor's decision making, unless the District Attorney's Office or the head of the police prosecution unit determined that it would lead to a

disruption of the procedure. Similarly, a victim of a severe violent or sexual offense who received notification of the intention to stay the proceedings, is entitled to an opportunity to express her/his opinion in writing before the Attorney-General or before a person acting on her/his behalf.

Furthermore, these victims should not be investigated regarding their sexual past, except for necessary investigations regarding any sexual relationship with the suspect, unless the officer in charge determines that such an investigation is necessary in order to determine the truth. In addition, victims, together with a person of their choice who accompanies them, are entitled to be present in court sessions conducted behind closed doors.

663. Any victim may submit a statement to the investigating body or to the prosecutor, regarding any injury or damage caused as a result of the offence, including physical damage, emotional damage or damage to property. Victims who provided such statements are entitled to be heard by the court in the sentencing hearings.

Furthermore, the Law calls for the formation of assistance units in the District Attorney's Offices and in the State Attorney's Office which will be in charge of ensuring the fulfillment of the rights of the victims according to this law, as well as the appointment of officers within the Police who will be placed in charge of implementing the Law.

664. The Rotlevi Committee noted in its recommendations that minors, who are victims of a crime, are particularly vulnerable, and thus, ought to receive all legal information relevant to their situation. Such information must be conveyed in language which is clear and compatible to the minor's level of maturity. A minor's objection to the notification of her/his parents must be respected so long as it does not cause substantial harm. The Committee also concluded that a minor who is a victim should be able to participate in legal proceedings and be granted all treatment necessary, including rehabilitation services offered by the State. All of the above mentioned recommendations were incorporated into Amendment No. 14 to the *Youth Law*.

Protection of Minor Victims of Sexual Offenses in Criminal Proceedings

665. On April 10, 2008 the Knesset enacted the *Assistance to Minor Victims of Sexual or Violence Offences Law* 5768-2008 (The: "*Minor Victims of Sexual or Violence*

Offences Law"). The purpose of this law is to determine the right of a minor who is a victim of a sexual offence or a violent offence to receive initial assistance in a specially designated center.

According to Section 3 of the Law, each center shall facilitate initial assistance according to the minor's needs in the following areas: the provision of medical and mental diagnosis and treatment, and the provision of immediate physical needs including food and clothing. A session with a youth investigator, police investigator, social worker or other authorized personnel in order to begin the necessary treatment or the investigation, and referral to State or private entities, which provide assistance services, including legal assistance, emergency housing, company and long-term treatment.

Such assistance shall be provided without infringing upon the rights of the suspect, accused or defendant.

666. Due to budgetary constraints, the implementation of this law shall be gradual, so that each year at least one center shall be established and begin its operation, provided that within three years, at least eight centers deployed nationwide are established, allowing for the full realization of this law.

667. As part of the implementation of the *Minor Victims of Sexual or Violence Offences Law*, the Tel Ha'Shomer Protection Center opened in March 2009. This center is located next to the Emergency Room of the Children's Hospital that makes it possible to treat a child medically and for a Child Protection Officer to simultaneously collect medical evidence to conduct a criminal investigation. The Center responds to cases of minors (between the ages of three and eighteen years of age) suspected of suffering family abuse, reported by the hospital to the Social Welfare Department. The Center's personnel include a doctor trained to collect evidence from children, and a nurse.

Minor Victims of Sex Offenses or Offenses Committed Within the Family

668. Section 368A-368F of the *Penal Law* addresses injuries to minors and defenseless persons. Amendment No. 94 of the *Penal Law* issued on May 30, 2007, adds to the definition of a family member (Section 368A (2)) foster parents, their spouses, their parents or offspring, their siblings and the spouse of each. This Amendment also adds Section 368D (c1), which incorporates the requirement to report any

reasonable ground of suspicion that sexual offences have been committed against a minor or a defenseless person, by a family member who had not reached the age of eighteen years, to the Police or to the Child Protection Authority. Failure to report such abuse constitutes a criminal offence, which carries a sentence of three months' imprisonment. This Amendment also imposes a sentence of six months' imprisonment on professionals who fail to report such abuse to the police or Child Protection Authority, (e.g., physicians, nurses, educators, social workers, policemen, psychologists, criminologists, and school principals and staff members (Section 368D(c2)). The Amendment also imposes a sentence of six months' imprisonment on a person responsible for a minor or a defenseless person who had reasonable ground to believe that a sexual offence was committed against the minor or the defenseless person by a family member who had not reached the age of eighteen, and failed to report the abuse to the police or Child Protection Authority.

669. The Social Welfare Department in the Ministry of Health developed a course of study for the prevention of violence and sexual abuse within the family. The course is composed of 200 hours. It includes training professionals and volunteers such as hospital companions and Para-medical personnel. To date, eighteen physicians have already passed this course.

Investigation of Minor Victims or Witnesses to Offences of Sex or Violence

670. The provision regarding testimony of a minor who is testifying against her/his parent – who is accused of committing sexual offences, was revoked following the broadening of the *Penal Law* application. In a recent case, the Supreme Court reaffirmed its position regarding the unequivocal prohibition against a minor testifying without permission having been granted by a Youth Investigator. The Court stated that it holds no discretion in such matter, nor may it evade the prohibition. The Court may request a re- evaluation of the minor by the Youth Investigator closer to the date of the trial, if the proceeding are extended, according to Section 2(g)(2) to the *Evidence Procedure Revision (Protection of Children) Law*. Still, the decision of the Youth Investigator following a re-evaluation is final and absolute. *(*S.Cr.C 1149/05 *The State of Israel v. Anonymous* (27.5.2008)).

Data on Investigations of Offences Committed against Minors

671. In 2008, 34,641 files concerning general violent offences committed against minors were submitted. 2,509 files concerning violent offences against minors within the family were opened. 2,504 files relating to sexual offences against minors were opened.

Table 55 - Data on the Opening of Police Files Regarding Offences Committed Against Minors in 2008

Type of offense	Total	In the family	Outside the family
Violence offense against a minor	34,641	2,509	32,132
Sexual offenses against a minor	2,420	-	-

Source: Israeli Police, Crime Victims' Department – Violence Towards Children, 2008

672. Minors were exposed to the following sexual offenses: rape, unlawful sexual intercourse, sexual harassment, sodomy, indecent acts (forcefully, non- forcefully and in public).

Testimony of Victims in Court

673. A 2004 Amendment of the *Criminal Procedure Revision (Examination of Witnesses) Law* , supplements Section 2C and stipulates that a minor who is a witness in a criminal proceeding involving sexual offences, abuse and assault, prostitution and obscenity, murder, attempted murder, and manslaughter, shall have the same protection whether the defendant is a relative or not. Thus, the Court may direct that the testimony be given without the presence of the defendant. The same protection is provided to a minor testifying regarding harm caused with aggravated intent, grievous harm, and violence against a minor by a person in charge, when the minor is testifying against the person in charge, her/his sibling or the sibling's spouse or the descendent of one of these. In addition, the same protection applies when a minor testifies against her/his parent regarding sexual offences such as rape, sodomy, indecent acts, etc. Furthermore, this protection applies to offences for which the penalty is death, life imprisonment or over ten years' imprisonment, and when the trial is conducted in a District Court.

A New Police Program for the Assistance of Minor Victims and Suspects

674. **Restorative Justice and Mediation Groups** - This mechanism is an alternative to criminal proceedings. Minors who committed a crime meet with the victims of the crime to discuss the offence's impact and the damage the offence caused, and to discuss possible corrective actions which the minor can take. In addition, a

rehabilitation program was constructed especially for minor-offenders in order to assist them to leave the criminal path. If the process is successful, the Police can consider the repeal of the criminal charges against the minor. During 2008, 76 minors participated in such mediation groups, 25 meetings were completed, 29 meeting were halted and 22 meetings are still in progress.

675. **Project "Chances" -** Chances is a pre-rehabilitation program, designated for minors who committed a crime and wish to reform their ways with the assistance of a family member. The program provides an immediate answer for youth who were often required to wait for weeks before they were able to meet with a Probation Officer. The program operates in 22 population areas, and the majority of the participants are new immigrants ("Olim") (75%). In 2008, 914 minors were referred to the program and 474 actually participated in the program.

676. **A Program to Accompany Minor Victims and Witnesses** – this program offers minors who are victims and/or witnesses of crimes the opportunity to be accompanied by an adult companion and to receive professional support during criminal proceedings. The program starts with a Police investigation, and continues with the minor's testimony or giving of evidence in court. 330 children took part in this program during 2008, with the aid of the Council for (child) Social Welfare Department.

677. **National Program in Support of Children and Youth at Risk -** this program implements the recommendations of the Schmidt Committee, a Prime Minister Committee for Children and Youth at Risk. The Committee was established on November 16, 2003 by the Israeli Government (chaired by Professor Hillel Schmidt, head of the Hebrew University Social Work Department) in order to examine the condition of Israeli children and youth in distress and at risk. The Committee has published its recommendations in 2006, which included a series of measures aimed at improvements, including: a budget increase; affirmative action for the Arab population, the Ultra-Orthodox population and new immigrants. The program was initiated in 2008 in 56 municipalities and a budget of over 100 million NIS (27,000,000$) for the next five years, was allocated. According to Government Resolution No. 1007, dated November 16, 2003, Israel's former Prime Minister and former Minister of Social Affairs and Social Services, appointed a public Committee for the examination of the conditions of children and youth at

risk or in distress. On September 12, 2006, following a report submitted by the committee in March 2006, the Government accepted Resolution No. 477 for the gradual implementation of a plan recommended by the Committee. In 2007, the implementation of the plan began in the local authorities of several towns in Israel with a special annual budget of 200 million NIS (54,000,000$).

678. **Child Protection Centers** - These centers assemble experts involved in the process of investigation and medical diagnosis of minors who are victims of sexual and violent crimes. It aims to shorten and focus the questioning and diagnosis process, to provide emergency treatment if needed, facilitate the decision-making process and offer referrals and recommendations for further treatment. Moreover, the centers ensure sensitive and versatile professional guidance. The first center was established in Jerusalem in 2002 and treated 295 children during 2008. The second center was opened in March 2009 in Tel-Hashomer hospital and six additional centers will be opened over the next three years.

Legislation

679. In 2006, Section 2B of the *Criminal Procedure Revision (Examination of Witnesses) Law* was revised, adding a trafficking in person's offence to the previous provision regarding sexual offences. The Rotlevi Committee (2003) focused on the *Evidence Procedure Revision (Protection of Children) Law*. The Committee's recommendations were premised on the assumption that minors who are witnesses and part of the process of testimony have an independent status that requires separate attention. The Committee also suggested that child investigators include professionals such as psychologists, psychiatrics and clinical criminologists with at least five years of experience in their field.

680. The Committee recommended the reduction of the weight of evidence attached to a child's testimony by an investigator in order to strike an appropriate balance between the rights of defendants and the witnesses. The Committee recommended the creation of a more supportive environment for minor witnesses, in court and in the investigation rooms. Particular attention must be given to children with disabilities.

681. In 2006, a new law defending the public from sex offenders was enacted, the *Public Protection from Sex Offenders Law*, 5766-2006 (the: *"Protection from Sex*

Offenders Law"). The aim of this law is to defend the public from sex offences by repetitive sex offenders. The *Protection from Sex Offenders Law* enables courts to issue supervision orders against sex offenders, subsequent to experts' risk evaluation. A risk evaluation is an assessment of the possibility of harm of repetitive sex crimes and a recommendation on how to supervise her/him in order to prevent future sex crimes. Professionals specializing in the mental health field make the risk assessment. These professional will be trained accordingly and be responsible for the supervision and a follow-up plan of the Offenders.

682. The experts shall be appointed by the Minister of Health and the Minister of Social Affairs and Social Services from the following related fields: psychiatry, psychology, social work and clinical criminology in order to asses the dangerousness of the sex offenders and supervise their behaviour. Subsequent to a specialist evaluation conveyed to court, the sex offender who was found to be above minimum risk is subject to a supervision court order. A hearing will be scheduled in two cases: 1) based on the offender and/or the Attorney General initiative. 2) When the victim of the crime is a minor. Such order may imposes the following restrictions:

682.1. Alcohol and drugs consumption.

682.2. Possessing any kind of sexual arousing substance.

682.3. Driving.

682.4. Leaving a place of residence at certain hours.

682.5. Hanging out at certain places.

682.6. Socializing with other sex offenders.

682.7. Socializing with minors.

682.8. Possessing certain objects.

682.9. Meeting with the victim or passing by her/his place of residence.

682.10. Working or volunteering at certain places.

682.11. Living or working at certain locations.

682.12. Using an Internet connection.

The maximum period of a supervision order shall not exceed five years. After five years, a new order can be issued if the assessment of the sex offender remains of high risk. The total period of supervision shall not exceed 20 years.

683. The Minister of Public Security established a special Supervision Unit responsible for these assessments. Such assessments are made prior to court decisions regarding treatments, punishments and court orders that can be imposed on the sex offenders A supervision order is granted after the sex offender completed to serve her/his punishment or followed a conviction where no imprisonment is imposed.

684. The *Protection from Sex Offenders Law* currently applies to offenders who were sentenced to imprisonment and completed their punishment or those who their victims were children. By October 2, 2011 this law will apply to all sex offenders (Section 34 to the Law).

Minors Over the Age of Fourteen

Case Law

685. In a petition for an additional hearing submitted to the Supreme Court, a defendant convicted of committing indecent acts against, and rape of, his stepdaughter, claimed that a written expert opinion and the testimony of a youth investigator should not be regarded as evidence. The defendant argued that the minor herself is over fourteen and testified in the proceedings. Here, the minor was questioned by the youth investigator in the investigation stage, and turned fourteen, a month before the date set for the review of evidence in the trial. Therefore, she was called as a witness by the prosecution, testified and was confronted with her testimony before the youth investigator during the cross examination.

In its ruling, the District Court created a new rule, allowing the testimony of the youth investigator regarding the credibility of the minor's testimony; even after the *Evidence Procedure Revision (Protection of Children) Law* no longer applies.

The testimony and expert opinion of the youth investigator were needed to clarify the investigation stage, as the minor's credibility was questioned during the cross examination, due to the fact that her complaint against the actions of her father was made gradually during the investigation, and not in a complete and integral manner. The Court did not find that there were grounds for a further hearing, as the

defendants' claims did not give rise to new legal questions, and therefore rejected

Trafficking in Children

686. The *Anti Trafficking Law (Legislative Amendments)* 5767–2006 entered into force on October 29, 2006. The Law promulgates a broad crime of trafficking for a number of illegal purposes: prostitution, sexual crimes, slavery or forced labor, removal of organs, pornography, and using the body of a person to give birth to a baby who is then taken from her.

687. Offences involving minors are regarded severely, and specific sections were added regarding the abuse of minors:

687.1. The crime of trafficking in persons (Section 377A) - Anyone who carries on a transaction in a person for one of the above stipulated purposes or in so acting places the person in danger of one of the following, shall be liable to sixteen years' imprisonment and twenty years' imprisonment if the offence is committed against a minor.

687.2. The crime of holding a person under conditions of slavery (Section 375A) - Anyone holding a person under conditions of slavery for the purposes of work or services, including sexual services - is liable to sixteen years' imprisonment. Where the offence was committed against a minor, the offender is liable to twenty years' imprisonment.

687.3. The crime of causing a person to leave a state for purposes of prostitution or slavery (Section 376B) - Anyone who causes another person to leave the state in which she/he lives for purposes of engaging the person in prostitution or holding that person under conditions of slavery shall be liable to ten years' imprisonment. Where the offense was committed against a minor, the offender is liable to fifteen years' imprisonment.

688. An obligation to report suspected trafficking offenses committed against minors or those who cannot care for themselves by those who care for them, has been imposed upon certain professionals (doctors, nurses, educational workers, social workers, employees of the social welfare services, police officers, psychologists, criminologists, paramedics, staff members in shelters) who have a reasonable basis to believe that a trafficking offence has been committed (at any time). These

professionals are to report their suspicions as soon as possible to a welfare worker or the Police. Violation of this obligation is a criminal offence. In addition, it is incumbent upon a member of the general public to so report if she/he has a reasonable basis to believe that such a crime has just been committed (recently). Violation of this obligation is a criminal offence.

Case Law

689. On January 24, 2007 the Haifa District Court accepted the appeal of a fifteen year old foreign minor who had been a victim of trafficking in persons. The Court decided to release the minor after a period of eight and a half months in custody. This was the first decision by an Israeli court recognizing a person as a victim of trafficking in persons for purposes other than prostitution.

The District Court held that in cases where an illegal resident is a minor who does not speak the language, the Detention Review Tribunal must appoint a Public Defender to provide her/him with legal assistance. As the minor in question was not provided with legal representation, the Court held that he had been deprived of his procedural and fundamental rights to such a degree as to amount to a distortion of justice.

The Court stated that 'custody' as referred to in the *Entry into Israel Law* is defined as "custody until the completion of the proceedings." Subsequently, if proceedings cannot be completed, then custody based solely on this Law will be illegal. In this particular case, the proceedings could not be completed because they required the minor's removal from the country. The removal was prevented by a lack of diplomatic relations between Israel and the minor's country of origin, a situation which has yet to be resolved. Indefinite detention of the minor under these circumstances, based exclusively on the *Entry into Israel Law*, was found to be illegal. *(*A.A 000379/06 *Anonymous v. The Ministry of Interior*).

690. To date, trafficking in minors never constituted a major problem in Israel. In some cases victims were under the age of eighteen, yet even in these cases, adolescents rather than children were involved. These findings are reflected in intelligence data, as well as in the numbers of women removed from Israel, and those residing in the "Maagan" shelter for victims of trafficking.

Child Prostitution

691. Under Israeli law, the act of prostitution is itself not criminalized. Nevertheless, related activities of those who profit from acts of prostitution are criminalized, such as pandering for purposes of prostitution, purchasing the prostitution services of minors, and publicizing the prostitution services of minors.

The penalties are as follows:

691.1. Exploitation of a minor for prostitution – heightens penalties according to Section 203B of the *Penal Law*, thus:

- For an offence with a maximal penalty of five years – to seven years.
- For an offence with a maximal penalty of seven years – to ten years.
- For an offence with a maximal penalty of ten years – to fifteen years.
- For an offence with a maximal penalty of sixteen years - to twenty years.
- If the offence is committed against a minor who is less than fourteen years old or by a person who is responsible for the minor – the maximum penalty is double the penalty established by the relevant section, but no more than twenty years.

691.2. Liability of a minor's customer - (section 203C of the *Penal Law*) – maximal penalty of three years' imprisonment.

691.3. Prohibition of publicizing prostitution of a minor – (section 205A of the *Penal Law*) – maximum penalty of five years' imprisonment.

691.4. Prohibition of mentioning that a person is a minor in an advertisement for prostitution – (section 205B of the *Penal Law*) – maximum penalty of six months' imprisonment.

Drug Abuse

Israel Anti-Drug Authority (IADA)

692. In recent years, concern over the widespread use of drugs by Israeli youth has grown, and various agencies have increased their efforts to develop prevention and treatment programs for adolescent drug users. It is the policy of the Police and the

State Attorney's Office, in cooperation with the Education Systems, to allow minors involved in drug trafficking and abuse to be referred to treatment and rehabilitation programs, rather than to the criminal justice system.

The IADA coordinates policy, including information centers, in addition to treatment and rehabilitation services for minors subject to drug abuse. Together with the Civil Guard, the IADA have developed an experimental program that recruits adult citizens who volunteer to patrol the cities and locate dropouts susceptible to drug abuse. The "Al-Sam" Association activates treatments and counseling centers for youth addicted to drugs. Treatment is provided on an anonymous basis, although the minor may request that her/his parents or a member of the school personnel become involved in her/his treatment. The minor may also participate in group therapy. The Ministry of Education initiates drug prevention programs in schools, as part of the “preparation for life” programs designed for adolescents (some of which are operated in cooperation with the IADA and Al-Sam). Such programs aim to help adolescents cope with the changes they are going through, make independent decisions, and stand up to peer pressure; they also disseminate information about the ill effects of drugs. The Ministry of Education and the Ministry of Social Affairs and Social Services also operate drug prevention programs for youth who do not attend school. In addition, periodic advertising campaigns in the media, aimed at young people, inform them about the fatal risks of drug use.

693. In order to create a database that examines drug abuse among children, the IADA conducts surveys and research. The latest national survey was conducted in 2005. The survey examined ordinary pupils and detached youth between the ages of twelve and eighteen. This survey revealed that approximately 10% of ordinary pupils and 20% of detached youth consumed some kind of illegal drug during that year. Approximately 20% of ordinary pupils and 58% of detached youth smoked tobacco during that year, and approximately 50% of ordinary pupils and 60% of detached youth reported drinking alcohol. In 2004, surveys focusing on the Arab, Druze and Bedouin populations revealed that approximately 12% of Arab ordinary pupils and 14% of the Arab detached youth had used an illegal psychoactive drug in the course of that year. Approximately 10% of Druze standard pupils and 6% of Druze detached youth had used an illegal psychoactive drug in the course of that

year. Approximately 22% of Bedouin youth had used at least one kind of illegal drug throughout that year. In 2007, a survey of former Soviet Union immigrant youth between the ages of twelve and eighteen was conducted. The survey revealed that approximately 35% of the immigrant youth had used illegal drugs and 84% consumed alcohol in the course of that year. Such data facilitates the estimation of the effort needed to reduce the rates of drug abuse among minors, as well as assist in developing a unique aid plan for each population group.

694. Several youth projects are operated by the IADA and analyzed by scholars that examine their effect. Among these projects are plans for treatments and prevention of runaway youth, pupils and minor children, who are regarded as 'children at high risk.' In addition, studies on different subjects are currently being conducted, for example world terrorism and its affect on drug abuse among youth (2008); and Availability, sources of information and the extent of minor's seeking assistance (2008). There are also studies that examine the scope of minors living with their parents, yet consuming drugs (2005).

695. The programs developed by the IADA are intended for all ages – from infancy to maturity. Such programs are guiding and instructing teachers and pupils on how to abstain from dangerous chemical usage (common among youth). Other programs aimed towards the Jewish and the Arab populations are based on psycho-educational models, advanced technology and interactive workshops. The psycho-educational model of counseling, views the counselor as an instructor. It allows the counselor to consider aspects of therapy similar to instructional situations, therefore creating the opportunity for using an established, empirical research methodology.

696. The treatment and rehabilitation arm of IADA includes varied programs; all are subject to the supervision of the Ministry of Health. Each year, 1,500 youngsters are treated in ambulatory municipality welfare department clinics. There are four regional day-care centers designated for children that battle drug abuse. Each center admits fifteen to twenty youngsters for a period of one year. Although there is no emphasis on gender or population groups, the number of immigrants from Ethiopia and the former Soviet Union is relatively high. The IADA also operates a National Rehabilitation Unit, intended for sixteen youngsters, for a period of three months. Two more rehabilitation clinics are set to open during 2009 and 2010.

697. The IADA also operates youth hostels and community treatments centers (Malkishua - community treatment for 70 youngsters, Tirat Zvi - youth hostel for eight religious girls, Kfar Rupin - youth hostel for eight secular girls, Afulla - youth hostel for ten, Tiberius - youth hostel for fifteen boys, Returno - community treatment center for 25 religious youngsters) as well as in-school educational/treatment programs that operate simultaneously in approximately 60 schools.

698. The IADA developed many youth assistance programs. One of the programs focuses on field work; the program is called "Parents Patrols." This program supports youth during holidays and vacations, especially during night hours. The program involves patrol vehicles composed of students who provide emotional aid to youth at risk, group activities for the prevention of drugs and alcohol abuse and spread information against drunk driving.

    The IADA is responsible for vocational training; and instructs professionals who work with children and youth. Training regarding the prevention of drug and alcohol abuse is provided, among other things, to University professors, Ethiopian community mediators, scholars, MDs, pediatricians, parents, consultants at Mother and Child Health Clinics, special education professionals and the employees of the Probation officer and the services for youth in the Ministry for Social Affairs and Social Services.

699. Following a comprehensive 2007 Amendment to the *Prohibition of Smoking in Public Places and Exposure to Smoking Law* 5743-1983, it is now prohibited to smoke in public places including cinemas, shopping centers, hospitals, public transportation, restaurants, pubs, schools, kindergartens, etc. Furthermore, the owner of a public place must place signs in the public place regarding the prohibition against smoking, and is obligated to inspect and do all within her/his power to prevent smoking in the place she/he owns.

    Each local municipality shall empower inspectors to enforce this law, and these inspectors, as well as police officers, are authorized to enter public places to ensure their compliance with the Law.

700. A recent Amendment to this law, issued on February 4, 2008, expands the prohibition against selling tobacco products to minors, to include a prohibition

against selling products used to smoke tobacco to minors. Furthermore, the Amendment stipulates that a person shall not lease nor lend a product used to smoke tobacco to minors. According to Section 61(a)(1) to the *Penal Law* a fine shall be imposed on a person selling tobacco products or selling, lending, or leasing a product used to smoke tobacco to a minor.

Case Law

701. The parents of a minor submitted a request to the Ashqelon Magistrate Court to forcibly place the minor in a rehabilitation and treatment center. The request was submitted due to serious risk to the minor's life stemming from his addiction to drugs and alcohol. The social worker who dealt with the case supported the parents' request. The Court held that the *Youth (Care and Supervision) Law* authorizes the court to intervene in such matters and thereby force treatment on minors at risk. The court noted that even though there is no unanimity as to the efficiency of forced treatment with regard to addictions, there is no alternative treatment in this case that can save the minor's life. Since the Court could not find a facility suitable for the minor, it ordered the social worker to seek other ways of treatment. *(*C.M 378/07 *Welfare Agency v. Anonymous* (7.8.08)**)**

D. Articles 22, 38 and 39 of the Convention - Children in Emergency Situations

Children in Armed Conflict

702. The State of Israel signed the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* on November 14, 2001, and ratified it on July 18, 2005. In accordance with Article 10(2), the Protocol entered into force in Israel on August 18, 2005.

703. The Government of the State of Israel submitted its Initial Report concerning the implementation of the Optional Protocol in March 2008.

The Age of Military Draft

704. According to Section 13 of the Israeli *Defense Service Law*, the IDF may enlist a person of 'military age' for regular service at a certain time and place. A man,

found fit for service, will be of military age from 18 to 29 years. A woman, found fit for service, will be of military age from 18 to 26 years.

705. The above age is calculated, according to the amended Section 2 of the *Defense Service Law*, in the following manner:

Calculation of Age

706. For the purpose of this Law –

706.1. The calculation of age shall be in accordance with the Jewish calendar.

706.2. A person who attains a particular age in a particular year of the Jewish calendar shall be regarded as follows-

(a) if she/he attains that age after the 1st of Tishrei and before the 1st of Nissan of that year - as having attained that age on the 1st of Tishrei of that year;

(b) if she/he attains that age after the 1st of Nissan of that year - as having attained that age on the 1st of Nissan of that year;

706.3. (2a) paragraph (2) shall not apply to the calculation if the person attains or does not attain the age of 18 years, regarding -

(1) The definition of a person of military age in Section 1 and Sections 13, 15 and 16, except for service in the academic reserves track recognized in the army regulations and voluntary service according to its meaning in the said regulations.

(2) Sections 20(a) and (a1), 24 and 24a.

(3) The determination of age shall be governed by the provisions set out in the schedule."

707. According to the above Section 2, the age for enlistment is calculated according to the Gregorian calendar, with the exception of those enlisting to a one-day administrative induction for the academic reserves and the Hesder Yeshivas, a program which combines advanced Talmudic studies with military service in the IDF.

708. Note that the above criteria relating to determination of age is attributed to Amendment 13 of the *Israeli Defense Service Law* approved in the Knesset on

February 2, 2004, which concluded the extensive process conducive to ratification of the Optional Protocol.

709. The explanatory note to the above Amendment Bill states: "In the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, accepted in the United Nations General Assembly in New York on May 25, 2000, entered into force on February 12, 2002 and signed

putting an end to the phenomenon of children and youth under the age of 18 being recruited to the armed forces, that the minimum age for compulsory recruitment to armed forces and taking part of hostilities is the age of 18".

Children in Emergency Situations

The Affect of Rockets on the City of Sderot and Israeli Localities around the Gaza Strip

710. Over the last 10 years of endless rocket and mortar strikes, the impact on the Israeli population of the daily barrage of rockets has been debilitating. Studies have documented an entire generation of children traumatized by the terror of rocket strikes and the helplessness of adults to ensure their safety. Hamas increased the terror engendered by its attacks by timing them to coincide with the time when children were on their way to school in the morning or were returning in the afternoon.

711. There are over 2,200 primary and secondary schools within the range of the rockets. These institutions include over 1,700 kindergartens (with over 52,200 children) and nearly 500 schools (with over 196,000 children). There are over 248,000 pupils within rocket range. Had the onslaught of rocket attacks continued unabated, it was only a matter of time before a direct hit on a school, hospital or other public facility would have caused extensive loss of life. It was inevitable that civilian casualties, economic loss and the overall impact of these terrorist assaults would have mounted.

Data on Casualties Associated with Mental Disorder and Anxiety

712. According to official data, 18 Israeli citizens were killed and hundreds were physically injured (most of them civilians) due to the use of short range rockets against the civilian population of Israel. These figures do not include and do not

represent thousands of people who suffer from anxiety, stress and trauma following explosions of rockets and mortar shells.

713. According to data of the Mental Health Communal Center in the city of Sderot, in 2007 alone, more then 652 new cases of stress and trauma victims were reported in Sderot and the western Negev (an increase of more then 200% in comparison to 2006), and more then 4,860 persons received Psychiatric, psychological or mental treatment for symptoms of stress, anxiety and trauma following rockets explosions (an increase of more then 400% in comparison to 2006).

714. According to the Mental Health Communal Center in the city of Sderot, about 30% of the trauma victims are diagnosed as suffering from severe anxiety and trauma. The severe cases include uncontrolled crying, fainting, temporary lose of ability to speak, physical and other symptoms. In many cases the situation is so severe that medications are necessary as treatment. The number of anxiety, stress and trauma injuries is very difficult to assess and is considered to be even higher, since not all those suffering from it, turn to seek immediate medical help. Furthermore, the affects of anxiety, trauma and stress may appear in later stages (post-trauma) and not necessarily at the moment of the traumatic event. Therefore, the number of anxiety, stress and trauma victims is believed to be around several thousands people.

715. A study from 2006, found a significant increase in the rate of people living in the city of Sderot that suffer from the psychiatric syndrome of post-traumatic disorder (26%). In addition, 44% reported symptoms of Hyper Arousal syndrome and 30% reported symptoms of Intrusive symptoms. All of these symptoms cause difficulties in concentration, memory problems and high degrees of stress.

716. A study that was conducted in 2007 found that 28.4% of the adult population in the city of Sderot reported symptoms of post-traumatic syndrome. That is 3 times higher then that of the control group - a city outside the range of the rockets. Moreover, the frequency and severity of the psychiatric symptoms among Sderot residents are much higher then those who live in cities outside the range of the rockets.

717. According to another study that was conducted by NATAL - the mental and psychological help center for cases of stress and trauma, at least 75% of the

children living in Sderot (ages 4-18) suffer from post-traumatic symptoms of sleeping disorder and concentration difficulties. About 30% of Sderot children suffer from severe symptoms that disrupt their daily function.

Child Refugees and Asylum Seekers

718. Children of school age, weather asylum seekers, children of work migrants or infiltrators, regardless of the legality of their status in the country, are integrated in Israel's educational system, and are eligible for subsidized health insurance.

719. Israel is a party to the UN 1951 Convention on the Status of Refugees, and to its 1967 protocol. Any person may apply for a refugee status in Israel, regardless of his/her religion, and his claim will be assessed based on the convention's definitions.

720. Every asylum seeker has full and free access to the UNHCR, and may approach the Police and the Courts regarding any claim in his/her regards, and on many cases this right was exercised, either directly or through NGOs.

721. In 2002, a procedure for the processing of requests by asylum seekers in Israel was formed in coordination between the delegation of the UNHCR in Israel, the Ministry of Interior and the Ministry of Justice, and has been in force until June 2009.

722. In 2009, a special unit for the Treatment of Asylum Seekers was formed within the Ministry of Interior and received extensive training from the UNHCR Israeli branch.

723. The Refugee Status Determination (RSD) Unit in the Population, Immigration and Border Authority (PIBA) within the Ministry of Interior, was established in order to conduct thorough interviews for asylum seekers and provide written recommendations for further discussions in the Advisory Committee, composed of representatives of the ministries of Interior, Justice and Foreign Affairs. The Unit began its operation in July 2009.

724. Subsequently, every asylum seeker was referred to UNHCR until July 2009. Since July 1, 2009 the RSD Unit performs the initial and in-depth interviews. However, all asylum-seekers have full access to UNHCR, as well as to NGOs.

725. Naturally, as the authority and responsibility for the determination of a refugee status is a sovereign Israeli decision, Israel reserves the right not to grant a stay permit in Israel for citizens of hostile or enemy states.

726. A person recognized as entitled to asylum, and following an evaluation it was determined that his/her matter should be brought before the Advisory Committee, should be awarded with a six-month stay permit.

727. As of December 2009, there were over 20,000 infiltrators/asylum seekers residing in Israel, most of whom received temporary protection based on their country of origin. In 2009, 2,525 infiltrators applied for asylum and were interviewed by the RSD Unit of the Ministry of Interior, the Immigration Authority, and received temporary status. 948 infiltrators completed the questioning process but their case had not yet been referred to the inter-ministerial National Status Granting Body (NSGB). 520 infiltrators were considered by the inter-ministerial NSGB, and 5 are under appeal procedures regarding the committee's decision. 284 infiltrators turned to the courts after their appeal was rejected by the inter-ministerial NSGB.

Unaccompanied Foreign Minors

728. Some of the illegal foreign populations living in Israel are minors, several dozens to date. These minors require special treatment. The Ministry of Interior procedure No. 10.1.0016 (currently undergoing an amendment process): Unaccompanied Foreign Minors Treatment Procedure establishes modes of treatment, as follows: Placement in custody must be in a residence principally for minors; the removal of minors under eighteen years of age must be done following the primary consideration of the best interest of the child. An illegal minor who is under a temporary custody order shall be brought as soon as possible - no later than 24 hours - to a Passport Control Officer. The Passport Control Officer, after considering the minor's opinion regarding the custody order and the removal order, shall decide which order shall be given effect (that is consistent with the specific circumstances).

729. A minor under the age of fourteen shall not be held in custody, but rather in an appropriate facility or foster care pending removal. A minor must be informed of her/his right to counsel. Within 24 hours (48 hours in special circumstances and 72 hours if it is a holiday or a weekend) the minor will meet with a social worker. The

social worker shall submit her/his professional opinion to the Passport Control Officer within 48 hours, followed by a decision to keep the minor in custody or release the minor from custody. Notification as to the delay in removal shall be transmitted to the minor's state of origin, unless it endangers the minor's life, freedom or the lives or freedom of members of her/his family.

Education as the responsible authority, which shall take care of its medical insurance. A minor can be held for up to 60 days in custody and then be moved to an appropriate alternative facility or foster care, pending age confirmation and availability of a facility or foster care arrangements. Notification of the relocation is provided at least seven days prior to the final date set for relocation, and is coordinated as far as possible with the recipient state. A minor will not be removed if her/his life or liberty is in danger in her/his home land.

731. The Legal Aid Department in the Ministry of Justice provides legal aid for minors who arrived illegally to Israel, and claims the release of such minors from detention while transferring them to alternative custody, such as foster families and boarding schools.