

EXECUTIVE SUMMARY

ISRAEL*



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INTRODUCTION

A centrally governed parliamentary democracy, Israel is a Middle Eastern State, declared so in 1948. It has a population of roughly 8 million of which children ages 0-18 make up 35.96%.¹

The Israeli definition of a child is not all encompassing, but in relation to an offence a minor is a person not yet 18.²

Reports indicate 4,000 **child marriages** occur per year in Israel, in ultra-Orthodox Jewish households as well as Arab ones.³ Despite Arabs making up 20% of the population, segregated school systems with lower investment in Arabic children have yielded substandard conditions and subsequently lower academic results.⁴ Other vulnerable groups include children of asylum seekers, migrant workers and unaccompanied children.⁵ Children who do not have Israeli citizenship cannot access the social welfare system to the same extent, consequently their full rights are not fulfilled.⁶ In the Occupied Palestinian Territories (OPT), children have difficulties ensuring their rights under the Convention on the Rights of the Child (CRC). Following reports of such, Israel has denied responsibility for the implementation of the CRC in Gaza Strip and West Bank,⁷ subsequently Israel is not undertaking any data collection as to incidents of commercial sexual exploitation of children (CSEC) in those areas.

Reportedly, the average age of entering prostitution in Israel is 12-14 years old, with 75% of those children exploited in prostitution being girls.⁸ 70 cases of exploitation of children in prostitution were investigated between 2012-2015.⁹ While prostitution is not illegal in Israel, various offences relating to prostitution fall under Penal Law, including increased liability when minors are involved.

A destination country for individuals subjected to **trafficking for sexual purposes**, Israel has also been a source country, stemming mostly from criminal activity in Egypt. While the increased security along the Egyptian-Israel border has reduced trafficking, the 53,000 migrants already in Israel remain vulnerable to sex-trafficking.¹⁰

Israel recently joined the Global Alliance against Child Sexual Abuse Online.¹¹ Between 2012-2015, 341 **child sexual abuse materials** related cases were investigated.¹² Israeli law prohibits obscene publications featuring the likeness of a minor and additional offences include possessing and advertising such publications.¹³

Israel has argued that cases of sex tourism are very rare with its 2012 report to the Committee on the Rights of the Child stating that there is no indication of Israeli citizens involved in international or domestic **sexual exploitation of children in the context of travel and tourism**;¹⁴ contrarily Trafficking in Persons report on Moldova in 2014 listed Israeli nationals among perpetrators.¹⁵ Israeli jurisdiction extends to Israeli nationals or citizens who commit CSEC related crimes abroad.¹⁶

NATIONAL PLANS OF ACTION

No National Plan of Action exists in Israel specifically targeting CSEC. However, a relevant plan is the National Plan for Countering Trafficking in Persons for the Purpose of Prostitution (August 2007).¹⁷ Its five highest priorities include: (i) raising awareness; (ii) improving the Israeli-Egyptian border; (iii) creating a toolkit for the identification of victims; (iv) supporting the safe return of trafficked victims to their countries; (v) and the medical treatment of Israeli victims.¹⁸ It was adopted by government resolutions.¹⁹

In 2014, a Special Inter-Ministerial team recommended a national action plan to eradicate the prostitution of minors; goals include increasing public awareness and rehabilitation of minors exploited in prostitution.²⁰

COORDINATION AND COOPERATION

Local and National Levels

The duties of the National Anti-Trafficking Coordination Office include ensuring Israel complies with international standards as well as advising government agencies on trafficking issues. Additional tasks include developing and sustaining cooperation between ministries and other organizations as well as research.²¹

The Crime Victims Unit is a body of expert that promotes guidelines and provides guidance to attorneys; additionally the body creates databases and newsletters in regard to crime victims.²² The Israeli Police's computerized information system informs victims about their case via the internet or a recorded message.²³

Israeli goals as to the improvement of management of current and future challenges in cyberspace lead to the establishment of the Israel National Cyber Bureau, positioned directly under the Prime Minister and in coordination with various branches of government: the Bureau implements the National Cyber Policy.²⁴

The not for profit membership organisation Israel Internet Association has cooperated with the police, providing them with information on websites suspected of containing child sexual abuse material.²⁵

Regional and International Levels

Bilateral agreements for civil and criminal legal assistance exist with various countries located in North America, South America, Europe, and Asia.²⁶ Israel is also a party to the European Convention on Extradition²⁷ as well as several bilateral extradition agreements with States not party to the Council of Europe such as the United States, Fiji and Swaziland.²⁸ Israel has also ratified a number of mutual legal assistance treaties including European Convention on Mutual Assistance in Criminal Matters.²⁹

INTERPOL Jerusalem facilitates information exchange between the Israeli police and all INTERPOL countries in relation to criminal activity including trafficking of human beings and other serious crimes.³⁰ Israeli involvement in the "24/7 network", established by the G8 in 1999, is an additional tool for point of contact when urgent assistance (concerning electronic evidence) is required for criminal investigations.³¹

PREVENTION

Awareness raising campaigns targeting children include the Children's Mobile unit, designed by the National Council for the Child's Ombudsman for Children and Youth (NCC), which teaches children concepts such as their own rights as well as respect for themselves; the unit's reach counts hundreds of thousands of Jewish and Arab children.³² Using YouTube, the Ministry of Education has also enrolled more than 5000 parents into a programme on children's exposure to pornography. Additional awareness raising schemes targeted at adults include the Ministry's Psychological Services' intensive training on the prevention of internet sexual abuse. The training is provided to school teachers and counsellors, in 2014 over 500 counsellors had been trained.³³

Training is also afforded to the investigators of the Cyber Sex Crimes Unit, who are adept at identifying the relevant elements of cybersex crimes among minors.³⁴ Specialised training is also provided to the child-investigators who handle cases involving child prostitution and obscenity offences for those under 14.³⁵ For investigations of minors under 18, the Police have jurisdiction and are given special qualification courses regarding procedures and laws applicable to minors.³⁶ Regarding training of the judiciary, the Haruv Institute has targeted lawyers with lectures on child sex offences. Judges have been offered lectures and seminars on child sex offences by the Institute of Advanced Legal Studies. Additionally, the State Attorney's Office has conducted seminars aimed at attorneys, on the topic of juveniles who commit sex offences against minors via the web.³⁷

Deterrence measures include the Law for the Prevention of Employment of Sex Offenders in Certain Institutions 5761-2011 which prohibits employment of sex offenders in roles that feature regular or permanent contact with minors.³⁸ The Public Protection from Sexual Offences Law 5766-2006 provides additional measures such as evaluation and assessments during the criminal procedure; supervision programmes upon release; as well as rehabilitation of sex offenders.³⁹

Research is conducted by among others the Anti-Trafficking Unit, an inter-ministerial committee;⁴⁰ though it is noted that not all of the panel's recommendations have been accepted or implemented.⁴¹ The report "The State of the Child in Israel" is published annually in collaboration with the Haruv Institute and provides data and trends on the state of the child in Israel. Extensive media coverage follows publication of the report and it is used to plan policy, legislation and services.⁴²

PROTECTION

International Instruments

The CRC has not been granted domestic law status, but is used in Israeli courts to form decisions and interpret national laws.⁴³ Israel has also ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)⁴⁴ as well as the ILO Convention on the Worst Forms of Child Labour.⁴⁵

National Legislation

There is no comprehensive Children's code in Israeli law, but rather amendments to the Penal Law have increased protection for children. Due to the lack of specific laws on CSEC offences, as well as the inapplicability of retroactive penalties, non-CSEC-specific legislation may be required to address CSEC's manifestations not yet prohibited by legislation. Several existing offences may apply to **sexual intercourse with a minor**. Section 345(a) of the Penal Law defines 'rape' as intercourse with a woman "without her freely given consent... (or) when the woman is a minor below the age of 14, even with her consent..." The gendered definition of rape has negated the possibility of a male rape victim and Section 345(c) on 'sodomy' fails to cover the possibility of a penile-vaginal rape with a female offender. This particular gap is pivotal as the National Male Hotline, operated by the Association of Rape Crisis Centres in Israel, reported that one in six men is molested during his lifetime. The Israel

Association for Child Protection reported that of 7200 calls a month regarding sexual assault, half pertained to the molestation of boys.⁴⁶

Prostitution is not an offence in Israel but various related offences such as pimping are proscribed by the Penal Law; the Israeli definition of prostitution is compliant with the OPSC mandate criminalising use of children in sexual activities for remuneration or any other form of consideration. If perpetrated against a minor, Section 203C increases liability for the offences *Inducement to act of prostitution* (Section 201) as well as *inducement to engage in prostitution* (Section 202). Section 205A criminalises publications advertising prostitution of a minor. Section 203 states that accepting the sexual services from a minor is liable for three years imprisonment. Under Section 203D the burden of proof is placed on the defendant if they argue they did not know the age of the minor; judgments from Israeli courts have included factors such as the defendant verifying the age of the woman by documentation.⁴⁷

While no specific offence of **trafficking** or sale of children exists, various offences in the Penal Law are applicable and fulfil the OPSC elements of sale of children. Offering, delivering and accepting can be found in Section 377: Commerce in human beings is criminalised as the selling or buying of a person or performance of some other transaction whether or not for consideration, the latter creating a broader scope than in the OPSC, found in Article 2(a). Article 3(1)(i)a of the OPSC requires States to criminalise the offering, delivering or accepting a child for purposes of sexual exploitation, Section 377 also criminalises commerce in human beings for purposes of engaging them in prostitution, participation in an obscene publication or subjecting them to a sex offence.

Criminalising **child sexual abuse materials**, Section 214 of the Penal Law prohibits obscene publication and display but does not define “obscene” nor does it elaborate on the element “representation or a drawing of a minor”. Subsequently, the degree of discretion afforded to the Israeli judiciary makes it difficult to determine if the OPSC mandate is met. Section 214(b3) criminalising possession of obscene publication does however expand the OPSC mandate in that it requires only “likeness of a minor” and does not require the possessor to have the purpose of sexually exploiting a child.

Israel is not a party to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)⁴⁸ or the Council of Europe Convention on Cybercrime (Budapest Convention),⁴⁹ nor is there any specific law pertaining to offences such as **grooming or sexting**. However, the abovementioned Section 214 prohibiting obscene publication is applicable. Amendments in reaction to technological advancements made streaming such publications an offence.⁵⁰ Additional protection includes the Prevention of Sexual Harassment (Amendment No. 6) Law 5770- 2010 which criminalises the publication of material that focuses on a person’s sexuality and is likely to humiliate them.⁵¹

Though no specific provisions exist relating to **sexual exploitation of children in travel and tourism**, under Section 205A of the Penal Law the advertisement of minors in prostitution becomes relevant, particularly as its concerns services offered in Israel and abroad.

Israeli Penal Law is applicable to **offences committed abroad** provided the offender was or became an Israeli citizen or resident. The applicability requires double criminality, but Section 15b of the Penal Law lists exceptions such as in cases of prostitution and obscenity offences; taking one beyond the borders of the state against his liberty; causing a person to leave the State for prostitution or slavery, and commerce in human beings. Section 29 of the Penal Law criminalises acts committed both on an individual and organised basis, in compliance with Article 3(1) of the OPSC.

Support Services for Children

Israeli law guarantees the rights of child victims in the spirit of the CRC by allowing victims of grave sexual or violent crimes to express their views to a prosecutor prior to a plea bargain.⁵² Additional protection requires testimonies of minors under 14 to be conducted by special social workers (child-investigators) behind closed doors; contrarily such an isolated environment with close proximity between the minor and defendant does risk retraumatizing the victim.⁵³ Free legal support is provided to child victims by the NCC programme and organisations such as ELEM⁵⁴ and Shanti House work with children at the risk of prostitution, crime or violence.⁵⁵

CHILD AND YOUTH PARTICIPATION

Youth for UNICEF was established by the Israeli fund for UNICEF to inform youth about the CRC; in partnership with the Ministry of Education, the programme is implemented in various Israeli municipalities.⁵⁶

The Beersheba Conference on Children's Wellbeing, initiated in 2002 as a joint project of the NCC and Ben-Gurion University, is influential as demonstrated by subsequent policy changes following each conference.⁵⁷

The Child Friendly Cities Initiative (CFCI), formed in response to urbanisation, was enacted by UNICEF in areas of the OPT, however this project is no longer active.⁵⁸ A CFCI project was also undertaken for the city of Ashdod, but limited data exists pertaining to the results.⁵⁹

The Langerman Conference is an annual event organised by the NCC.⁶⁰ In 2014 it focused on children in courts.

PRIORITY ACTIONS REQUIRED

- Israel needs to assess what practical and realistic steps can be taken to assess the current CSEC situation in the OPT in order to ensure the protection of Palestinian children from commercial sexual exploitation; suggestions include NGOs facilitating contact between requisite parties.
- It is recommended that any suspicions of child marriages be referred to the Ministry of Public Security; additional measures include early sex education to reach children who are removed from school at a later stage as well as educating adults on the dangers of child marriage.
- The development and implementation of a national action plan should specifically address the four manifestations of CSEC: 1) Exploitation of Children in Prostitution, 2) Trafficking of Children for Sexual Purposes, 3) Sexual Exploitation of Children Online, and 4) Sexual Exploitation of Children in Travel and Tourism.
- Under Section 203C, accepting sexual services from a minor carries a liability to three years imprisonment (six if the minor is under 14 years of age). Presupposing no child chooses to be a prostitute, the act described in Section 203C constitutes not an acceptance of sexual services but rather a harmful sexual crime. Following this it is suggested that the judiciary should have the discretion to impose higher sentences for Section 203C offences.
- Amend the definition of rape using a gender neutral language to ensure that male victims of rape, particularly penile-vaginal intercourse between a boy and an older woman, are covered by the law.

- Remove the wording ‘even with her consent’ in the definition of rape as it implies that a minor below the age of 14 has the ability to consent to sexual relations.
- Amend the section on publishing an obscene publication by providing a definition of “obscene” as it relates to child pornography to ensure its compliance with the OPSC definition.
- Despite Israeli reports as to the rarity of cases of sex tourism it is recommended that a more detailed overview of the sexual exploitation of children in travel and tourism, in relation to Israel, is provided.
- Israel’s Ministry of Tourism should encourage companies involved in Israel’s travel and tourism industry to join the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.
- To facilitate the recovery of minor victims it is recommended that measures, such as live-link technology, take place to ensure they need not be in the same room as the defendant.

Endnotes

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