



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Concluding observations on the report submitted by Israel under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography\***

1. The Committee considered the initial report of Israel (CRC/C/OPSC/ISR/1) at its 2007th meeting (see CRC/C/SR.2007), held on 28 May 2015, and adopted at its 2024th meeting, held on 5 June 2015, the following concluding observations.

#### **I. Introduction**

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/ISR/Q/1/Add.1). The Committee appreciates the constructive dialogue held with the multisectoral State party delegation.

3. The Committee reiterates its previous concern that the State party did not provide information and data on children living in the Occupied Palestinian Territory (hereafter OPT), including East Jerusalem, and in the Occupied Syrian Golan Heights, which affects the State's accountability for the implementation of the Protocol. The Committee urges the State party to comply with the advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the OPT (I.C.J report 2004, para. 163 (3) A.) and to abide by its obligations to ensure the full application of the Optional Protocol in Israel and in the OPT, including the West Bank, the Gaza Strip as well as in the Occupied Syrian Golan Heights.

4. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined second to fourth periodic report under the Convention on the Rights of the Child (CRC/C/ISR/CO/2-4), adopted on 14 June 2013, and those on its initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPSC/ISR/CO/1), adopted on 29 January 2010.

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\* Adopted by the Committee at its sixty-ninth session (18 May-5 June 2015).

## II. General observations

### Positive aspects

5. The Committee welcomes the various legislative measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including:

(a) Amendment to Section 214(b3) of the Penal Law (Amendment No. 118, 2014) - Accessing obscene publication;

(b) Amendment to the Prevention of Sexual Harassment Law 5758-1998 (Amendment No. 10, 2013 - Section 3(a)(5A));

(c) Deputy Attorney General for Criminal Affairs' Guideline of December 11, 2014 entitled "Treatment of cases regarding publication, possession and accessing obscene materials that includes the image of a minor";

(d) The amendment in October 2010 to the International Legal Assistance Law with regard to the conditions for assistance in confiscation and forfeiture;

(e) The Assistance to Sex Violence Minor Crime Victims' Law No. 5769-2008;

(f) The adoption in October 2006 of the Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766-2006 (the "Anti-Trafficking Law") and incorporation of most of its provisions into the Penal Law.

6. The Committee notes with appreciation the State party's ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in July 2008.

7. The Committee welcomes the various institutional and policy measures that facilitate the implementation of the Optional Protocol, including:

(a) The establishment in 2013 of a Police Cyber Division and its special team for investigating cyber sex crimes among minors;

(b) The establishment in 2012 of the Special Inter-Ministerial Team to Develop a Collaborative Action-Plan to Improve Ways to Tackle Child Prostitution;

(c) The Ministry of Social Affairs and Social Services' Plan of Proactive Detection as well as "The Street Search" and "The Open Space" programmes initiated by the Ministry of Social Affairs and Social Services, designed to facilitate identification of minors involved in prostitution and their rehabilitation;

(d) The National Insurance Institute and the Rashi Foundation free psychological treatment program for child victims of sex crimes, operated by the Ministry of Social Affairs and Social Services since 2008.

## III. Data

### Data collection

8. The Committee is concerned at the absence of a comprehensive system for disaggregated data collection covering all offences under the Optional Protocol.

9. **The Committee recommends that the State party develop and implement a comprehensive and systematic mechanism of data collection, analysis, monitoring and impact assessment of all the areas covered by the Optional Protocol. The data should be disaggregated, inter alia, by sex, age, nationality, ethnic origin, socio-economic**

background and urban and rural residence, with particular attention to children in the most vulnerable situations. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence.

## **IV. General measures of implementation**

### **National plan of action**

10. The Committee regrets the absence of a comprehensive policy and strategy on children that includes all issues covered by the Optional Protocol.

11. **With reference to its concluding observations under the Convention (CRC/C/ISR/CO/2-4, para. 10), the Committee reiterates that the State party adopt a comprehensive policy and strategy that includes comprehensive measures in all areas covered by the Optional Protocol and that is supported by adequate human, technical and financial resources for its implementation. Particular focus should be placed on the prevention, protection, physical and psychological recovery and social reintegration of child victims. The Committee also encourages the State party to ensure that such policy and strategy be regularly evaluated.**

### **Coordination and evaluation**

12. The Committee notes the information provided by the State party that many governmental agencies are involved in the implementation of the Protocol. The Committee is, however, concerned at the absence of an overall coordination mechanism ensuring coordination among the various governmental agencies on the implementation of the Protocol.

13. **The Committee recommends that the State party designate a coordinating body capable of providing leadership and effective general oversight for the monitoring and evaluation of activities on children's rights under the Convention and its Optional Protocols. The State party should ensure that the coordinating body is provided with the human, technical and financial resources necessary for its effective operation.**

### **Dissemination and awareness-raising and training**

14. The Committee welcomes the various efforts to disseminate information and provide training, including for investigators for children, police juvenile investigators, pedagogical psychologists, and through prevention programmes at elementary and middle schools. However, the Committee is concerned that there is no overall plan for awareness-raising among the general public and that these efforts do not cover all areas of the Optional Protocol.

15. **The Committee recommends that the State party:**

(a) **Further strengthen its efforts to systematically make the provisions of the Optional Protocol known to the public at large, including to children in a child-friendly manner, their families and communities;**

(b) **Develop, in close cooperation with relevant government agencies, civil society organizations, the media, the private sector, communities and children, awareness-raising programmes on all issues covered by the Optional Protocol and protection measures provided against such practices in domestic laws;**

(c) **Ensure that its training activities are systematic and multidisciplinary and that they include all areas covered by the Optional Protocol and that they are provided to all relevant professionals working with and for children, especially judges,**

prosecutors, social workers, law enforcement and immigration officials at all levels throughout the State party's territory.

#### Allocation of resources

16. The Committee is concerned that the State party has not provided adequate information on the budget specifically allocated for activities under the Optional Protocol, the lack of which presents an obstacle to assessing the implementation of the Protocol.

**17. The Committee recommends that the State party allocate sufficient and targeted resources for the effective implementation of the Optional Protocol.**

#### Independent monitoring

18. While acknowledging the role of the various institutions for protection and promotion of human rights, the Committee expresses concern that limited progress has been made by the State party since its previous recommendations (CRC/C/15/Add.195, para. 17 and CRC/C/ISR/CO/2-4, para. 16) to establish an independent mechanism with the mandate to regularly monitor and evaluate progress under the Convention and the Optional Protocols.

**19. The Committee draws the attention of the State party to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child and recommends that the State party accelerate the process for the establishment of an Ombudsperson for children in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) to monitor and evaluate progress in the implementation of the Convention and the Optional Protocols at the national and local levels and to deal with complaints from children in a child-sensitive and expeditious manner.**

## V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

#### Measures adopted to prevent offences prohibited under the Protocol

20. While noting the efforts of the State party to prevent offences prohibited under the Protocol, the Committee is concerned that these measures do not cover all areas of the Protocol. In particular, the Committee is concerned that:

(a) The State party has insufficient programmes specifically targeting children in vulnerable and marginalized situations;

(b) There are not sufficient mechanisms in place to identify and monitor children at risk of becoming victims to the offences under the Optional Protocol; and

(c) There is insufficient information on the scale of sexual exploitation of children, in particular child prostitution and child pornography, including over the Internet.

**21. The Committee recommends that the State party expand and strengthen its preventive measures to cover all areas of the Optional Protocol and in particular:**

(a) **Establish special prevention programmes targeting children throughout the State party's territory, including children in vulnerable and marginalized situations, such as girls victims of sexual and domestic violence; children in street situations; children living in institutions; Bedouin, Palestinian and Arab Israeli children; as well as children of migrant workers and asylum seekers;**

(b) Establish mechanisms and procedures for the identification of children at risk of becoming victims of the offences under the Optional Protocol, in particular those in vulnerable situations, as well as provide them with psycho-social support and awareness-raising programmes; and

(c) Carry out studies with a view to assessing the scale of sexual exploitation of children, in particular the sale of children, child prostitution and pornography, including over the Internet.

#### **Child sex tourism**

22. The Committee welcomes the measures taken by the State party to prevent child sex tourism, including the efforts of the Ministry of Tourism leading to the adoption of the World Tourism Organization Global Code for Ethics in Tourism by the Israeli Tourist and Travel Agents Association. The Committee, however, is concerned that an effective regulatory framework is lacking and measures taken to effectively prevent and combat child sex tourism abroad are insufficient.

23. The Committee recommends the State party to:

(a) Establish and implement an effective regulatory framework and take all necessary legislative, administrative, social and other measures to prevent and address any cases of child sex tourism;

(b) Further strengthen its international cooperation through multilateral, regional and bilateral arrangements for the prevention and elimination of child sex tourism;

(c) Continue advocacy with the tourism industry on the harmful effects of child sex tourism and dissemination of the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies; and

(d) Encourage all stakeholders to become signatories to and comply with the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

#### **Birth registration**

24. The Committee is concerned that the lack of birth certificates, in particular for migrant, asylum-seeking and refugee children, may present an obstacle to ascertaining the age of victims in investigating offences under the Optional Protocol and in their accessing medical and rehabilitation services.

25. The Committee recommends that the State party takes urgent measures to ensure that all children within the State party's territory have access to birth certificates.

## **VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)**

#### **Existing criminal or penal laws and regulations**

26. While noting the relevant provisions of the Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766–2006 (the “Anti-Trafficking Law”) and the Penal Code, the Committee is concerned that the Penal Code does not adequately specify all offences under the Optional Protocol. In particular, the Committee is concerned that:

(a) Not all forms of the sale of children covered by article 2 (a) and article 3, paragraph 1 (a) (i), of the Optional Protocol have been classified as distinct offences from human trafficking;

(b) Forced labour by children has not been criminalized as a form of sale of children; and

(c) Offences related to child prostitution committed under Sections 199, 201, 202 or 203 of the Penal Code carry double penalties only if the victim is less than 14 years old, or if he/she is a minor who is 14 years old or older and is under the care and responsibility of the offender.

**27. The Committee recommends that the State party continue to revise and bring its Penal Code and other relevant legislation into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should:**

(a) **Define, regulate and criminalize the sale of children in accordance with article 3 of the Protocol, including criminalizing forced labour of children explicitly as a form of sale of children, — a concept that is similar to, but not identical with, trafficking in persons;**

(b) **Ensure that all children under the age of 18 are fully and equally protected by the Penal Code.**

28. While noting the efforts of the State party to regulate international surrogacy arrangements, the Committee is concerned that there is no appropriate screening procedure for prospective parent/s of children born by surrogate mothers abroad, aimed at preventing hidden sale of children and/or possible sexual abuse.

**29. The Committee recommends that the State party put in place more stringent policies to secure protection of children born through international surrogacy arrangements.**

#### **Prosecution of perpetrators**

30. The Committee is concerned that the number of investigated cases is low, only a small percentage of these cases lead to prosecution, and penalties for offences related to child prostitution and child pornography are not always commensurate to the gravity of the crime.

**31. The Committee recommends that the State party:**

(a) **Ensure that perpetrators are fully investigated and prosecuted; and**

(b) **Ensure that penalties for offences related to child prostitution and child pornography are commensurate to the gravity of the crime, and in particular increase the penalty for accepting sexual services from a minor.**

#### **Extraterritorial jurisdiction**

32. The Committee is concerned about the lack of a specific legal basis on which extraterritorial jurisdiction for crimes under the Optional Protocol could be exercised.

**33. The Committee recommends that the State party review its legislation in order to establish extraterritorial jurisdiction over the offences referred to in article 3, paragraph 1, of the Optional Protocol, especially when the alleged offender is a national of the State party or a person who has his habitual residence in its territory or when the victim is a national of the State party.**

## **VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)**

### **Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol**

34. While welcoming the wide array of measures aiming at protecting child victims and child witnesses through criminal procedures, including the adoption of the Law of Evidence Revision (Protection of Children) 5715-1955 (the “Protection of Children Law”) and the establishment of the Crisis Centers, the Committee is concerned that provisions of the “Protection of Children Law” apply only to children below the age of 14 years.

35. **The Committee recommends that the State party:**

(a) **Strengthen measures to protect the rights and interests of child victims of all offences under the Optional Protocol and, in particular, ensure that all children below the age of 18 benefit from full protection from offences under the Optional Protocol, including through bringing the Law of Evidence Revision (Protection of Children) 5715-1955 into full compliance with the Optional Protocol and other applicable international law;**

(b) **Ensure the mandatory application of special protection measures in criminal proceedings to all child victims and witnesses up to the age of 18;**

(c) **Ensure through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes under the Optional Protocol are provided with the protection required by the Convention and the Optional Protocol; and**

(d) **Take fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20).**

### **Recovery and reintegration of victims**

36. The Committee welcomes the measures that the State Party has undertaken to ensure the recovery and reintegration of child victims of all offences under the Optional Protocol. The Committee is however of the view that these measures can be improved.

37. **The Committee recommends that the State party take all necessary measures to ensure that child victims of the offences covered in the Optional Protocol throughout the State party are provided with appropriate assistance, including for their physical and psychological recovery and full social reintegration, by, inter alia:**

(a) **Developing programmes to provide short-, medium- and long-term support for all child victims of offences under the Optional Protocol;**

(b) **Further strengthening, directly or through service providers, the specialized services and adequate assistance required for children who have been trafficked, sold for sexual or economic exploitation or otherwise are victims of crimes under the Optional Protocol throughout its territory and ensure the allocation of adequate human, technical and financial resources; and**

(c) **Taking the necessary measures to facilitate and increase access to appropriate accommodation for child victims of offences, particularly for children in the most vulnerable situations, and ensure that such infrastructure is sufficiently and adequately available and well equipped.**

## **VIII. International assistance and cooperation (art. 10)**

### **Multilateral, bilateral and regional agreements**

38. In the light of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.

## **IX. Ratification of the Optional Protocol on a Communications Procedure**

39. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC).

## **X. Follow-up and dissemination**

### **Follow-up**

40. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the relevant Government ministries, the Parliament, and to national and local authorities, for appropriate consideration and further action.

### **Dissemination of concluding observations**

41. The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

## **X. Next report**

42. In accordance with article 12, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.