

**NGO Comments on the Initial Israeli State Report on
Implementing the UN Convention on the Rights of the
Child**

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**A Mixed Bag:  
Lawmaking to Promote Children's Rights, Ongoing  
Discrimination, and Many Serious Violations**

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**Prepared for the Pre-sessional Working Group
UN Committee on the Rights of the Child – 31st Session
by
Defense for Children International – Israel Section
in consultation with members of
The Israeli Children's Rights Coalition**

April 2002

This NGO Report was prepared by Defense for Children International – Israel in consultation with members of the Israeli Children's Rights Coalition. However, this report represents the views of DCI – Israel alone. Members of the Israel Children's Rights Coalition do not necessarily support all aspects of the Report.

A preliminary draft report written by Hephzibah Levine was circulated among coalition members. The contributions and comments by members of the Israel Children's Rights Coalition have been integrated into the report by Dr. Philip Veerman, who also did a systematic analysis of the implementation of all of the articles of the CRC, further research and rewriting.

Radda Barnen (Swedish Save the Children) and the Haella Foundation in the Netherlands contributed financial support for the production of this report by DCI – Israel in cooperation with the NGO's.

ISBN 965-90445-0-X

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EXECUTIVE SUMMARY

The Israeli section of Defense for Children International (DCI-Israel), in consultation with members of the Israeli Children's Rights Coalition which includes more than 60 NGOs, herewith submits an NGO ('alternative') report in accordance with Article 45 of the CRC.

The essential context of this report, for which DCI-Israel takes responsibility, is the period of ongoing violence in which the State of Israel is presently engaged and the consequent preference afforded to security as against other aspects of life in the country. The issue of children's rights is particularly sensitive to the priority afforded to security needs: unfortunately, the demands of security tend to hold back progress in the fulfillment of children's rights since resources are inevitably directed primarily toward the military effort. Without a peaceful resolution of the conflict, it is the children who will tragically be among the main victims of the situation.

DCI-Israel and the Coalition believe that the Initial State Report was over-focused on legislation, with too little emphasis put on enforcement. In the area of lawmaking many positive steps as regards children's rights are being taken in Israel (for example the progressive legislation which allows a social worker to appear before a court instead of an abused child, so that the latter does not have to face his/her attacker). However, the unfortunate reality in Israel is that the impact of progressive lawmaking is presently blunted because much of the legislation is passed but never implemented. Moreover, much important legislation is still lacking. There is lack of constitutional social rights within Israel and in particular, the State lacks constitutional protection of its Arab minority.

The Coalition welcomes the establishment of the Roth-Levy Committee, established in 1997 in order to harmonize the relevant Israeli legislation, examine the fundamental principles of relevant legislation concerning children, and the implementation of such legislation in light of the CRC.

In its totality, the CRC has not yet been made into the law of the land. The minimum standards that it lays down must be implemented before a detailed Children's Rights Law will be presented by the Roth Levy Committee. Regardless of the current security situation, many important issues have been neglected, for example therapy for sexually and physically abused children, for which quite inadequate budgets are available.

The Initial State report recognizes that there exists discrimination against children of the Arab Israeli minority. The steps taken to remedy the situation have so far been far from satisfactory. More radical steps must be taken by the government if this discrimination, expressed in education, health care, social services, etc. is to be eradicated. This applies to the whole Arab sector, whose population is growing rapidly, and in particular to the 'unrecognized' Bedouin villages.

It must be noted that the Initial State Report devotes almost no attention to the situation of Palestinian children living in the occupied territories. Here there are reports by both Palestinian and Israeli human rights organizations of serious violations of the CRC. The NGO Report discusses many such violations including the lethal use by the Israeli authorities of rubber-coated bullets or live ammunition against civilian populations,

conditions of interrogation, house demolition, impeded access to health care and hospitals due to closure and roadblocks, etc.

Although the Palestinian Authority is not under review, since Israel is the state which is party to the CRC the Committee should bear in mind that there are many armed Palestinian groups who deliberately and indiscriminately attack civilians, including children, within Israel proper. Terror attacks and suicide bombing are gross violations of international, humanitarian and human rights laws, creating an atmosphere of fear and insecurity among children and adults alike. In our experience, they are also likely to cause a deterioration in areas like the interrogation by the authorities of minors.

The growing gap between rich and poor in Israeli society intensifies serious economic problems that directly affect children. While poverty denies children the chance to enjoy equal opportunities in life, in the year 2,000, one out of every four children in Israel were living under the poverty line. This growing problem has the gravest possible implications for these children in every aspect of life.

In spite of facing the possibility of an escalating armed conflict, with the resultant tension in the everyday lives of its citizens, Israel must focus consistently on promoting both human rights and children's rights. DCI-Israel is conscious of the obstacles to upholding the values of the CRC in the difficult conditions now pertaining in Israel. However, recent weeks have witnessed increasing examples of deterioration in the position of children as budgets relating to their welfare as cut in order to pay for the massive security needs.

The NGO Report can contribute to upholding international human rights standards. Indeed it can serve as a practical guide for Israeli implementation of the CRC in spite of the exigencies of the present situation.

Dr. Philip Veerman, Director of DCI-Israel and Coordinator of the Israeli Children's Rights Coalition.

Jerusalem, April, 2002.

Acknowledgements

Some DCI-Israel board members (Advocate Eliyahu Abram, Chair, Professor Charles Greenbaum, Deputy Chair, Professor Ruth Butler, Mr. Hillel Bardien, and advocate Helen Motro) together with DCI-Israel advisory board member, Professor Leon Sheleff, formed the “think tank” of the NGO Report. In addition, the input of Professor Leslie Sebba of DCI -Israel’s advisory board, and Rabbi Yehiel Greneman of the organization “Rabbis for Human Rights” and Dr. Hannah Niedorf of the Jerusalem Council for Children and youth are appreciated. Advocate Jamil Dalcwar of Adalah gave very valuable comments.

On March 17, the conclusions on the report were discussed by the DCI –Israel board, and on March 18 the conclusions were further discussed with MK Tamar Gozansky, Dr. Eyal Gross, Shuli Dichter of Sikkuy, and Dr. Na’ama Carmi of ACRI, advocate Stefanie Raker of Israel Women’s Network, Maja Goldman of Keshet, DCI - Israel lawyers Vivvy Rechnitz, Gal Torres, and Jonathan Weingarten. DCI-Israel intern from the Rothberg School for Overseas Students of the Hebrew University in Jerusalem, Ella Rosenberg helped to finish the manuscript. Yael Mendlinger, intern from the Minerva Institute for Human Rights of the Hebrew University in Jerusalem wrote a draft for the introduction chapter. Several years ago Sarah Gundle wrote a first draft. Chapter VIII was rewritten by Dr. Ruth Firer, Director of Peace Education Projects of the Harry S. Truman Institute for the Advancement of Peace, of the Hebrew University in Jerusalem and Board member of DCI- Israel.

Advocate Einat Hurvitz of the Israel Religious Action Center rewrote several sections of the report (Article 7 and Article 14). Nihaya Daoud, MPH, RN, MED of the school of Public Health of Hadassah and the Hebrew University of Jerusalem contributed to the part on health and health services (Article 24). Curt Arnson of Hamoked (the Center for the Defense of the Individual) wrote the sections on children in East Jerusalem. Professor Rachel Zeva and Professor Arza Churchman of the Faculty of Architecture and Urban Planning of the Israel Technological Institute (Technion) in Haifa wrote a background paper for us to better understand Article 31 (Play and Leisure) in the Israeli Context.

Attorney at law of DCI-Israel, Vivvi Rechnitz wrote the part on psychiatric hospitalization (Article 40), attorney at law Mahmoud Rabah (lawyer for DCI -Israel in East Jerusalem) contributed to the section on torture, degrading treatment and deprivation of liberty (Article 37) of Palestinian children in East Jerusalem. We are grateful that we could use affidavits obtained by the Public Committee Against Torture in Israel (PCATI).

Linda Livni edited the first two chapters, and Dan Leon rewrote the executive summary. Shalom Kweller designed the cover of this publication. Photos used for the cover are were taken by photojournalists of “Flash-Ninety” in Jerusalem and show respectively, MK Tamar Gozansky, a child in East Jerusalem, and Deputy Attorney General Judith Karp (also member of the CRC Committee.) The book was printed by InstiPrint. Jean-Luc Range of |DCI-France translated the Executive Summary into French.

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Index of Terms Used

Aliya – The immigration of Jews to Israel.

Arab-Bedouins – Originally nomadic indigenous Arab people of the region.

Arab-Druze – A religious minority within Israel that is part of the Arab minority.

Area A – Those areas of the occupied territories where the Palestinian Authority is responsible for civil and security matters.

Area B – Those areas of the occupied territories where Israel controls security arrangement and the Palestinian Authority handles civil issues.

Area C – Those areas of the occupied territories solely under Israel's control.

Note: Under the Oslo Agreements the occupied territories were divided into three areas with various autonomous arrangements as described above.

Ashkenazim – Jews whose culture originated and developed in Europe.

CRC – UN Convention on the Rights of the Child.

Green Line – The borders of Israel prior to June 1967.

GSS – General Security Service of Israel (Shabak).

Halacha – Jewish religious law.

IDF – The Israeli Defense Forces, the Israeli Army.

Intifada – Violent Palestinian uprising initiated by Palestinian leaders against prolonged Israeli occupation.

Israel Proper – The State of Israel within the "green line" borders recognized by the United Nations (i.e. excluding territories acquired in the 1967 war.)

Kibbutz – An Israeli commune in which responsibilities for labor, welfare, and child-rearing are performed collectively, originally based on agriculture but now also engaging in industry.

Knesset – The Israeli Parliament.

MK – Member of Knesset.

PA – Palestinian National Authority.

Palestinian Citizens – An Arab¹ who is a citizen of Israel (residing within Israel proper). While recognizing that members of this group refer to themselves by various names including Arab, Palestinian-Israeli, Palestinian, and Israeli-Arab, this report uses the term "Arab- Israeli" to make it easier for the reader to distinguish between Arabs living inside Israel proper, and Palestinians of the Palestinian Authority territories in West Bank and Gaza Strip. In this report we use the terms Arab-Israeli and Palestinian Citizen interchangeably

Sephardim – Jews whose culture originated and developed in Spain, Portugal, North Africa as well as Arab countries in the Middle East.

Settlements – Jewish Colonies in the West Bank and Gaza. According to the Israeli Central Bureau of Statistics' data² in December 2001, 204,900 Jews lived in settlements in 2001.

Sha'ria – Muslim law

Ultra-orthodox – Jews following the strictest versions of Judaism

Yeshiva – Ultra-orthodox educational institution for the study of *Torah*.

¹ The Arab population living within the Green Line today numbers approximately 1,127,500 comprising 18.6% of all Israeli citizens.

² Motti Bassok and Nadav Shragai, "Settlement Population Grows, but at Decade's Slowest Pace." Ha'aretz, 19 December, 2001.

I. Introduction

A. The Initial State Report

On February 20, 2001 the State of Israel submitted its Initial State Report¹ to the UN Committee on the Rights of the Child (CRC) which was its responsibility under article 44 of the CRC, which describes the reporting obligations of States parties:

1. States Parties undertake to submit to the Committee, through the Secretary General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights. (...)

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

Law-making vs. Law-enforcement

The government Report emphasizes one of the State of Israel's strong points, lawmaking. The Initial State Response is an elaborate description of many laws; it mentions so many laws concerning children, it is hard to see the larger picture of the conditions under which children live.² If we emphasize the legal aspects when examining certain aspects of children's rights, it gives a distorted picture of reality. A good example is the section of the State Report on Article 33 (State parties shall take appropriate measures...to protect children from illicit use of narcotic drugs... pp.385-386). First of all, it is striking that in a 400-page report, just one page is dedicated to this rapidly growing problem among Israeli youth.³ The State Report mentions the Dangerous Drugs Ordinance of 1973. Although this is a good law, the situation has changed enormously in the thirty years since it was adopted, so discussing the ordinance has little bearing on the social reality of drug use today, or, for that matter, what the Government is doing to improve conditions. Furthermore there is a worrisome trend in Israeli political culture to legislate "good" laws without providing the funds necessary to implement the laws.⁴

In 1984 the Compulsory Education Law was amended providing free preschool education for children ages three to five. However, this amendment was never implemented because already in 1985 the Knesset accepted a proposal to freeze implementation for 3 years, and this was prolonged after the three years. In 1999, after the Compulsory Education (Implementation in Nursery Schools) Ordinance 1999 was adopted, the law was implemented in some disadvantaged neighborhoods.

¹ A First Periodic State Report was due on January 11, 1998, but has not yet been submitted.

² Ministry of Justice and Ministry of Foreign Affairs. "Initial Report of the State of Israel Concerning the Implementation of the Convention of the Child (CRC)" February, 2001. CRC/C/3/Add. 65.

To be fair, our NGO report suffers a bit from the same phenomenon. It is also caused by the desire to deal with the many articles of the CRC equally.

³ We thank Hila Yaniv of the Jerusalem Anti-Drugs Association for pointing this out to us.

⁴ Gozansky, Tamar, Member of the Knesset. Interview, December 31, 2001.

However, full implementation of the 1984 amendment that the Knesset accepted is not yet in sight. The Rehabilitative Day-care Centers Law 2000, the purpose of which is to ensure proper care, rehabilitation, and educational facilities for children ages one to three with mental retardation and disabilities, has been frozen since March 2001.

Therefore, it is not surprising that while the *existence* of laws is emphasized in the State Report, the critical matters of *implementation* is largely avoided.⁵ Of course, the first step towards implementing a Convention is through enacting laws, and DCI – Israel is pleased that the State of Israel has some progressive lawmaking (although we will show in this report that there is a scarcity of laws on certain major issues). The problem is the wide gap between law making and implementation or enforcement. If one looks at the lack of facilities for minors using drugs, the long waiting periods for certain child correction institutions, and the recent budget cuts affecting children, a depressing picture of the Government's priorities emerges. Another example is the *Transportation for Invalid Children Law*, 1959 (mentioned in the Initial State Report on page 207), which states among other issues that seatbelts should be installed in transportation vehicles taking children to and from special education facilities. This law is barely enforced, and children's rights organizations have received complaints about children with disabilities who have been injured during their rides.⁶

The great attention in the Initial State Report on legislation is not only an attempt to claim the high ground, since its lawmaking is generally quite progressive, but it also reflects that Israel is a very legalistic society. In our NGO Comments we often refer to the Supreme Court. Access to this highest court of the land is relatively simple, and this option has been used by many NGO's to remedy injustices.

The tradition of having laws but not implementing and/or enforcing them also extends to recommendations by State Committees. For instance, the recommendations of the Kremnitzer Committee on teaching civic education/ human rights were also not implemented.

The State Report gives the impression that we are dealing with a peaceful, legally progressive country like Luxembourg – not that the country in question is in the Middle East in the midst of a violent conflict.

Children's Rights in the Occupied Territories

Article 2 of the CRC states that it applies to States Parties for all children "within their jurisdiction." Our interpretation of 'jurisdiction' is *under the States Party's effective control*, a definition which corresponds to State responsibility.⁷

⁵ Grass, Jutta. Monitoring the Convention on the Rights of the Child, Helsinki, 2001. Faculty of the University of Helsinki and the Eric Castren Institute, p. 113.

⁶ Interview with Maya Goldman, director of "Keshet", Jerusalem. Since these rules are not well supervised the drivers do not always adhere to the rules of fastening seatbelts or wheelchairs.

⁷ Benvenisti, E. "Applicability of Human Rights Conventions to Israel and the Occupied territories," Israel Law Review, 25 (1992) pp.25-35 and Benvenisti, E. "The Influence of International Human Rights Law on the Israeli Legal System: Present and Future," Israel Law Review 28 (1994) pp. 136-151. See also Veerman, Philip and Gross, Barbara, "Implementation of the United Nations Convention on the Rights of the Child in Israel, the West Bank and Gaza", in: International Journal of Children's Rights, vol. 3, 1995, pp. 295-332

Thus, in our opinion, the Israeli government should have reported on the implementation of the Convention in the occupied territories, which are under its effective control. The Association for Civil Rights in Israel (ACRI) had the same critique on Israel's Combined Initial and First Periodic Report concerning the Implementation of the International Covenant of Civil and Political Rights. ACRI's report, submitted to the Human Rights Committee in July 1998, states:

Israel's report to the Human Rights Committee completely ignores the occupied territories. This in spite of the clear applicability of the ICCPR...Israel's most egregious violations of the Covenant have taken place in the occupied territories. The conspicuous absence of an account on the extent to which Israel has implemented the substantive obligations of the Covenant in the occupied territories constitutes a serious breach of Israel's duty to report to this committee.

This is particularly striking because as ACRI states: "Israel holds power over residents of the autonomous areas. These powers are, for all intents and purposes, those of an occupying power."⁸

Israel's Initial State Report on the implementation of the CRC provides no information about Palestinian children and implementation of the Convention in the occupied territories, except for a few paragraphs dealing with East Jerusalem. We empathize with the difficulties faced by the JDC – Brookdale Research Institute and Haifa University Faculty of Law (to which the Report was commissioned) for the lack of data available on Palestinian children. The Government should have supplemented the Report with data on the occupied territories.

Despite this, it is important to note that although there is a clear Israeli responsibility to uphold the CRC in the occupied territories, the Palestinian National Authority (PA) is not exempt from upholding the CRC as well. The PNA has "ratified" the CRC,⁹ and is also acting as if it accepted the responsibility of implementing the CRC (for example, it created a Children's Secretariat of the Ministry of Development and International Cooperation as a coordinating body). Therefore, giving children military training in some summer camps under responsibility of the Palestinian National Authority can be considered a violation of its responsibility under the CRC.

The status of the PA is different than non-state institutions reporting to the CRC Committee, such as the Sudan People's Liberation Army. The PA has an upgraded status in the UN General Assembly and in many UN institutions; it is received as if it were a State.

⁸ Association for Civil Rights in Israel (ACRI), Comments on the Combined Initial and Second Periodic Report of the State of Israel Concerning the Implementation of the UN Covenant on Economic, Social and Cultural Rights, Jerusalem, 1998.

⁹ Message of Yasser Arafat, President of the Executive Committee of the Palestine Liberation Organization. May 1, 1991 "...You hold in your hands the documents on which our modern world bases its defenses and protection of children, the Convention on the Rights of the Child, and the historic document issued at the World Summit for Children in September of last year at the United Nations in New York. It is the right of Palestinian children to have applied to them the principles contained in this document, and it is their right to benefit from the provisions of these second article of the Convention on the Rights of the Child, the right to have a nationality and an identity, and the right to a nation."

However, Israel remains the only State Party and it would be unfair to place complete responsibility on the PA because it is not yet a sovereign and independent state, because the Israeli government neglected the needs of the Palestinian population for many years. In addition, there are now almost daily incursions by the Israeli army into Palestinian areas. This, the closures and sieges, often prevent sick Palestinian children from reaching the hospital in the next town, and the situation has an enormous impact upon implementing rights of Palestinian children.

In March/April 2002 several Palestinian towns and refugee camps saw incursions by the IDF and destruction of the Palestinian Security Organization. On April 8, 2002, Israeli journalist Danny Rubinstein of "Haaretz" wrote: "Government is the entity that has a monopoly on the use of force; this is what is learned in the first lesson in political science courses. In other words, without the security mechanisms-the entire PA is not worth much."

Rubinstein predicted: "With all due respect to the large quantities of weapons and explosive materials that the IDF has succeeded in seizing this time, several times as much still remains in the hands of the Palestinians. That is, the terror attacks will start again immediately- and everyone will ask: What was the point of this campaign? Therefore, the essence of the whole 'Protective Shield of March/April 2002' is the return of Israel to rule the territories."

He believes that with all of the American and international pressure to withdraw from Area A, the IDF will try to keep in its own hands the security responsibility for all of the territories. In other words, it will try to transform Area A, which will be left without any Palestinian Security mechanisms, into area B, in which the responsibility for security is in Israel's hands."

The Israeli Government Report does not discuss child casualties from the recent violence in the occupied territories, however it is discussed in this report under Article 6, the Right to Life. (See also Appendix 4)

We must register our extreme displeasure at the Government Report's exclusion of all issues pertaining to Palestinian children from its discussion, despite the fact that the CRC's Article 2 explicitly places responsibility on the State to report about *all* children under its jurisdiction.

The government also does not report on a growing number of children of Palestinians in the West Bank and Gaza who collaborated with Israeli authorities and were then relocated with their families to Israel, often in Arab towns against the will of towns' citizens. These children are often not accepted by their Arab classmates. The Initial State Report ignores them. Their families are often ostracized or driven out of Arab towns in which the government tried to relocate them.¹⁰

NGOs and the Government

Another criticism of the State Report regards the government's relationship with NGOs. A lot of work on behalf of children is carried out by NGO's. The government report mentions NGOs' work in the field, which complements the work of the

¹⁰ Haj-Yahia, Y.M., et al, Alleged Palestinian Collaborators with Israel and their Families. A Study of victims of Internal Political Violence, Peace Papers, no.12, Truman Institute for the Advancement of Peace, The Hebrew University, 1999, Jerusalem.

government but does not reflect the important role NGOs play.¹¹ Maybe it is also not surprising:

The influence of NGO's on youth policy is not very extensive.¹² The NGO's are consulted mainly when there are particular issues that need addressing. DCI -Israel believes the reason is that the government fears threats from the outside; the centrality of the government in Israeli life has dominated the society for many years, and this sharing of responsibility is perceived as a threat to its authority.

A Mixed Bag of Omissions, Confusions and Neglect in Reporting

One of the reasons the forest is lost in the trees of the Initial State Report maybe also be because there is no overall youth policy. The government tries to solve problems in a compartmentalized way, rarely considering how they are linked, leading to a "split system"¹³ of services for young people. If a young person has problems in different fields, the comprehensive approach is sorely missed. Dr. Mike Naphtali, the director of Association ELEM (Youth in Distress) is of the opinion that this leads to a high rate of dropouts than would otherwise be the case.

A good overall picture is also hard to get because there is a lot of duplication – parallel government or municipal departments with similar programs aimed at the same populations. This fragmentation is not an efficient way to provide effective services.¹⁴

Article 12 of the Convention declares that States Parties should take into account opinions of the child in all matters affecting the child. This is missing in their report. Government representatives should have consulted with children when preparing the report.

The State Report has a blind spot regarding previous identities of immigrant children and almost completely ignores cultural issues. This is not surprising, because the educational system and much of the absorption policy is based on the denial of the roots.¹⁵ There is not a lot of empathy for the cultural backgrounds of immigrant children, and the lack of attention to that issue in the Government Report confirms the attitude.

A major problem with the State Report is that it does not do enough to describe the changes in Israeli society, the effects these changes have had on children, and its own efforts to ensure an ethical response to these changes. The State of Israel has existed for fifty-three years, and the character of Israeli society has changed over that time. Religious parties (such as the Shas ultra-orthodox party of Jews from Middle Eastern countries) have gained popularity. Other new elements include the large number of immigrants that arrived in the last decade from the former Soviet Union and Ethiopia, who have changed the demographic composition of the State. Economic polarization is becoming increasingly drastic, with the gap between the

¹¹ In the year 1998 there were 224 organizations working for children listed by the Israeli Section for the Association of Third-Sector Research of the Ben-Gurion University of the Negev. See also: Korazim- Korasy, Yossi, "Towards a new Balance between Governmental and Non Governmental Community Work: The Case of Israel" in Community Development Journal, 2000, vol 35, no. 3, pp. 276

¹² Interview with Dr. Mike Naphtali, Director of Elem, (Youth in Distress). January, 2002. Tel Aviv.

¹³ Idem

¹⁴ Idem

¹⁵ We would like to thank Dr. Julia Mirsky, from the department of social work, Ben-Gurion University of the Negev for her input.

nation's richest and poorest citizens widening. The prolonged occupation of the territories influences every citizen, especially children.

Despite all the changes one can see that the kind of services the government provides to young people has basically stayed the same for the last thirty years even though the population tripled and many serious problems emerged.¹⁶ The most recent government service initiative was the one for girls in distress in 1968. Although the problems have changed, the government treats them with a system developed in the seventies.

The ministries in Israel dealing with children and youth are headed by politicians from various political parties (coalition governments are assembled from a number of parties). The old adage "he who has the youth has the future" guides many politicians. For example, when most of the Ethiopian Jews were brought to Israel it was decided that they would go to religious boarding schools. This served the interests of the National Religious Party. On one hand, politicians have a real interest in young people, but on the other, the interest is intended to serve needs of their own parties' agenda.

Finally, a major difficulty in evaluating the implementation of the CRC is that statistics sometimes give different pictures. For instance, the enrollment figures listed by ultra-orthodox high school associations differ from those of the Ministry of Education.

Formulating the NGO Assessment

In general, we offer the following points to keep in mind when evaluating Israel's implementation of the CRC; these themes will recur in most chapters of our NGO Report:

1. There are many reasonable, good laws in Israel concerning children. A major problem arises from the lack of implementation and enforcement.
2. Discrimination exists between different groups of children, resulting in the laws being unequally enforced mainly towards Palestinian citizens.
3. One-third of the Israeli Population is children (33.8% in the year 2000) and 25.2% of them live under the poverty line; the percentage increases in the Arab-Israeli sector where half the children live in poverty. The gap between "haves" and "have-nots" is growing, and poverty is a subject ripe for analysis.¹⁷ The Palestinian population residing in the West Bank and Gaza was 2.8 million in 1997 and more than 50% are children. The overall incidence of poverty among Palestinians in 1997 was 25%. 54% of the Palestinian children are living in poverty.¹⁸
4. Israel continues to ignore its responsibility towards Palestinian children who are under Israel's effective control.

In chapter V, in our discussion of article 2 (non-discrimination), we will explain that a basic law delineating the rights of the Arab minority is lacking, and in chapter III

¹⁶ Dr. Mike Naphtali, director of (Elem) Interview

¹⁷ Israel National Council for the Child, et al. "The State of the Child in Israel 2001, A Statistical Abstract"

¹⁸ UNICEF and Palestinian Authority Ministry of Planning and International Cooperation. The Situation Analysis of Palestinian Children, Young People, and Women in the West Bank and Gaza Strip, Ramallah and East Jerusalem, 2000.

(Basic Health and Welfare) we note that a basic law on social rights is missing because the government is afraid of budgetary consequences.

The focus of the Palestinian NGO report, coordinated by our Palestinian colleagues of DCI – Palestine, is on Palestinian children within Israel's jurisdiction; we are sure that the many human rights violations of Palestinian children will be brought to your attention in that report. However, in areas where clear Israeli responsibility according to the Convention can be established, we also relate to Palestinian children. Thus, for example, we discuss the problem of Palestinian women about to give birth being held up at checkpoints by the Israeli Defense Forces (IDF), which has led to the death of babies.

We are aware that the Israeli Initial State Report is a politically sensitive document, and many will look for politically burning issues. Some might try to paint a black and white picture, but the reality is very complex. Our NGO Report, attempts to strike a balance – it does not avoid highly politically charged issues, but also focuses on other matters in children's lives which should not be forgotten in these passionate times. We recommend that this report be read in conjunction with the Initial State Report, and not as a freestanding document. We also recommend reading the Alternative Report prepared by DCI-Palestine endorsed by the Palestinian Children's Rights Coalition. Due to institutional discrimination in Israel, it appears that even civil society suffers from a division. We have included, at the request of Adalah and appendix on discrimination with a focus of the educational rights of the Palestinian citizens of Israel.

The major point of the NGO comments is that the State of Israel has accomplished a good deal in terms of legislation but far less in fair enforcement of this legislation. The chair of the Knesset Constitution, Law and Justice Committee MK, Ophir Pines-Paz said: "The rule of law has been undermined in a way that endangers the democratic authorities in Israel. People who have been granted authority by law whether they are elected officials or civil servants do not carry out the law, compromise it, and even violate it blatantly."¹⁹ In addition, more legislation is needed. The situation is especially acute for the Arab-Israeli minority because Arab-Israelis are not protected constitutionally. Respect for the principles of the CRC vis-à-vis Palestinian children in East Jerusalem, the West Bank and the Gaza Strip provide special reason for concern. These points are not emphasized enough in the Initial State Report.

In the Israeli NGO report, we have tried not only to look at the immediate violations but also where progress can be reported and what can be underlying causes for not implementing the CRC. We also attempted to look at all articles of the CRC.

Preparing the Report: DCI – Israel and the Israel Children's Rights Coalition

This NGO report was the initiative of the Israel Section of Defense for Children International (DCI – Israel). In 1995, when we thought that the State Report would be forthcoming, we organized a hearing at Haifa University for other NGOs to gather ideas on preparing the NGO report. In 1996 DCI – Israel took the initiative of forming a network, the Israel Children's Rights Coalition, and over the years informed Coalition members of its reminders to the government about its non-

¹⁹ Eldar, Akiva "Trampling the Law has become a way of life." In: Haaretz, April 18, 2002

reporting to the CRC committee. DCI-Israel also updated Coalition members on new issues (i.e. the optional protocol on the Involvement of Children in Armed Conflicts). The Coalition was activated when the State finally presented its draft Initial State Report in December 2000. We encouraged all members to give critical comments, and provide background material about articles of the Convention of specific interest to the various NGOs. When the government finally sent its Initial State Report in February 2001 we organized three meetings at which NGOs could discuss their priorities and how they evaluated the Initial State Report. During the year 2001 we came to realize that getting consensus on a text from more than 60 different groups would be an impossible mission, so we concentrated on getting input on the issues relating to the articles in the Convention. That input has enriched this NGO Report and, although DCI – Israeli is responsible for the text of the Report, we have made the maximum effort to include the opinions of our colleagues in the NGO community. Several members of the Coalition have submitted written comments, which we tried to include (and we have put up on our web site in full).

In one respect we are not completely fair to the government. While the Initial Report deals with data until the end of the year 2000, in this Report we also relate to more recent research and events, which the government Initial Report could not have taken into account. We use these data in order to clarify the trends that we see in the government report and state of the child in Israel and in areas under its jurisdiction. We collected material until the middle of April. We found that the 2002 State Budget adopted only in February 2002, gives important information about trends.

In this report, to the best of our abilities, we attempt to provide an objective portrayal of the human rights situation and living conditions of children in Israel and in the occupied territories to complement the Initial State Report. Our standards and expectations for the proper implementation of the Convention on the Rights of the Child are high, and we criticize the government's efforts and intentions with severity – not out of semantic stringency, but out of deep concern for all children of the region.

We are pleased that MK Tamar Gozansky, the Chair of the Status of Children Committee has promised us to call for a meeting in the Knesset, in the autumn of 2002 to discuss the Initial Report to the CRC committee, this NGO Report, and the concluding observations of the CRC Committee. We tried to look at law, policy and practice and how all of the articles of the CRC are implemented. We closely followed the guidelines for NGO's.

Positive Measures already Adopted

In some areas progress has been made in recent years, although large gaps remain between what should be and what is, what is promised and what is delivered.

The Country Reports on Human Rights Practices for 1995 of the U.S. House of Representatives and U.S. Senate says of Israel:

The Government has a strong commitment to the rights and welfare of children, including in the areas of education and healthcare...Government ministries, children's rights groups, and members of legislature often cooperate on children's rights issues.

The Government has legislated against sexual, physical, and psychological abuse of children and has mandated comprehensive reporting requirements...

*Privately funded children's rights information centers have been established in some communities, and the Government is assisting in funding additional centers in other cities.*²⁰

In 1999, the 15th Knesset (Parliament) established the Committee for the Advancement of the Status of the Child. Previously, children's rights issues were dispersed in various committees, but currently MK Tamar Gozansky, who heads the new Committee, gets issues concerning children on the Knesset agenda quickly. In the last decade, she and a few other Israeli politicians have significantly advanced children's issues. (See also: Chapter II, General Measures of Implementation, under F.)

We will also examine children's rights' measures initiated by the government and members of the Knesset throughout the report.

The Context within which Children's Rights must be Implemented

In our view the Initial State Report, does not provide sufficient background information for the Committee to get a comprehensive understanding of the implementation of the CRC. It is important to understand that since the State of Israel ratified the CRC in 1991, some significant events took place:

- 1991: During the Persian Gulf War numerous missiles landed in residential areas.
- 1993: There was a political breakthrough in the Arab-Israeli conflict.
 - ❖ The Declaration of Principles between Israel and the Palestinian Liberation Organization (PLO) was signed in Oslo.
 - ❖ The Palestinian Authority was established.
- 1995: A right wing religious extremist, Yigal Amir, assassinated Prime Minister Yitzhak Rabin at a mass rally in support for the peace process with the Palestinians.
- October 2000 the Al Aqsa Intifada began.

We realize that children's rights have to be implemented in what Professor Simha Landau, a criminologist at the Hebrew University of Jerusalem called "an ideal natural laboratory for the study of the effects of stress on human beings...in addition to the usual types of stress experienced in all modern societies, Israelis are exposed to a number of additional stressors which, in their particular combination are quite unique."²¹

He continues: "The foremost of these stressors is the continuous concern of Israelis with security, both on a national and individual level. Since the establishment in 1948, Israel has been involved in five major wars and in endless hostilities with its neighboring Arab countries, as well as with the Palestinian inhabitants of the territories occupied in the 1967 Six Day War (West Bank and Gaza Strip). The need to take precautions and to be on guard keeps men, women, and children aware of the constant threat to their daily routines. The permanence of the threat of war for so many years, and the lifetime commitment of Israeli men to national service in the military, have had a considerable effect on Israeli society. It would not be an

²⁰ Country Reports on Human Rights Practices 1995, submitted to the Committee on International Relations Department of State, Washington D.C., April, 1996, pp.1177-8.

²¹ Landau, Simha F., "Violence in Israeli Society: Its Relation to Social Stress," Chapter in a book on Jews and Violence, Vol.18 of Studies of Contemporary Jewry, Oxford University Press (forthcoming).

overstatement to say that belligerence has been the most stable aspect of the history of the State of Israel, and that Israel has come to regard itself as a society at war, if not as a society of warriors.”

“No wonder that Israeli children are aggressive, super assertive and often impolite. The socialization has to produce individuals who need traits to survive in this tough society of warriors. Aggressive behavior has to be reinforced and there are plenty of aggressive role models to observe”²² Landau mentions two other important sources of stress in Israel: economic hardship (recession and unemployment) and extreme social and demographic changes that have taken place over a relatively short period. One million immigrants arrived from the former Soviet Union during the 1990s. As the political situation becomes more uncertain, Palestinian despair and violence increases. Years of humiliation, fear, and inability to retain their dignity have led to desperate and violent acts. Psychoanalyst Ira Brenner²³ sees parallels between a person with a split personality and the traumatized and re-traumatized people of Israel.

It may have been too obvious to the drafters of the CRC that security was a prerequisite to implement children’s rights. That may be the reason why the word does not appear in the CRC.

The Language of Human Rights

The Israeli expert, who was elected as a member of the CRC Committee, Judith Karp, concluded that “reporting should be judged mainly for its impact on promoting human rights as a living and spoken language, to be used in the every day life of governments, NGOs and individuals alike.”²⁴

Mrs. Karp has contributed greatly to the use and understanding of the language of children’s rights in Israel proper, and it has had a beneficial effect. However, it is not of much help in the occupied territories. An occupation power, by its very nature acts against the values of that language. Problems also exist with Palestinian citizens of the Negev area. There is no humane occupation possible.

If in Israel the use of rights language has helped develop a culture of rights, it is meaningless in the occupied territories. There is a clear danger that the occupation will, like a tumor, destroy the human rights culture in Israel.

The Reality of Conflict vs. the Ideals of Human Rights

Were it not for the occupation, Israel would be viewed like other countries where policies of the World Bank and IMF influence economic priorities of the government. There are growing gaps between rich and poor in many other countries, but in Israel it is profoundly affected by the cost of occupation. The country is not unique in making budget-cuts, which affect the weakest groups in society, such as

²² Landau, Simha. Op.cit., see also: Samet, G., “Israel is a Tough Neighborhood.” *Ha’aretz* July 28, 1999, p.5.

²³ Brenner, Ira. “A Psychoanalytic View of Israel’s “Split Personality” in: Mind and Human Interaction, Vol. 7, No. 1; February (1956), pp.44-51.

²⁴ Karp, Judith. In: Bayefsky, Anne, The UN Human Rights Treaty System in the 21st Century, Dordrecht/ The Hague, Boston/London, Kluwer Law International, 2001.

children and minorities, and if that were the only problem, Israel would rank very high, alongside those countries trying to implement the CRC. Certainly the impression that one gets upon reading the initial report is that Israel is an island of good law making and is taking the first steps in the right direction. It would be a blessing if there would be a political resolution for a just peace with the Palestinians. Then, indeed, the Israeli context of children's rights would be more like many other "normal" countries.

In a recent survey,²⁵ 61 percent of the Israeli citizens (Jews and Arabs-Israelis) blamed the deteriorating economic situation on the collapse of the peace process and the outbreak of the Intifada. The economic situation was a greater cause of fear than the threat of violence. The economic difficulties may also contribute to the anger of parents as does the occupation (which means annual reserve duty for decades after most men finish their regular army service) and some men take anger out on their wives and children.

The right to life (art.6), prevention from torture (art.37), adequate standard of living (art.27) and protection from all forms of violence (art. 19) are closely connected with the occupation. Thus we are observing the phenomenon: a society that is becoming both poorer and more violent. Jutta Gras writes "there exists no El-dorado on earth for children;"²⁶ Israel is certainly not.

The ongoing violent conflict makes Israel a difficult country in which to live, as demonstrated by its serious internal problems; its society remains very violent, intolerant, and anxiety-ridden. Police files show an increase in child violence and delinquency in recent years. The number of battered women in Israel, according to the Inter-Ministerial Committee on Violence in the Family, has tripled since the mid-1970's. While these alarming statistics may be partially explained by an increase in crime reporting, it is clear that Israeli society, and children in particular, are suffering from the aggressive environment. In 2000, the International Science Report ranked Israel number one in a multi-state study for verbal violence and humiliation by schoolmates in the schoolyard. Israel ranked fourth for verbal abuse by teachers and faculty, and second in school vandalism.²⁷

In Palestinian society the greatest detriment to the well being of children at the moment are the closures imposed by the Israeli government. The closures and curfews have draconian effects on the economy and on family life, as attested to by UN special coordinator for the Middle East Process (UNSCO), Terje Larsen.²⁸ For instance in Hebron thousands of children, except for a few hours, are inside all day, thus their liberty and personal freedom are severely harmed. Such confinements have profound effects on children's lives.²⁹

²⁵ Lazaroff, Tovah. Poll: 61% Concerned by Secular-Religious Tension, in *The Jerusalem Post*, December 10, 2001.

²⁶ Gras, Jutta. Monitoring the Convention on the Rights. Helsinki, 2001, The Faculty of Law, University of Helsinki.

²⁷ Third International Science Report, TIMSS 1999, Findings from IEA's Repeat of the Third International Mathematics and Science Study at the Eighth Grade, Michael O. Martin, et. all. The International Study Center, Boston College, The International Association for the evaluation of Educational Achievement. December 2000.

²⁸ Terje Roed Larsen in a press statement, Jerusalem: March 13, 2002 Gaza office UNSCO see also: Lamia Lahoud, "UN envoy sees glimpse of hope" in: *Jerusalem Post*, December 21, 2001

²⁹ Idem, see also Arie O' Sullivan, UN Envoy Larsen: "Closure devastated PA economy: Draconian Measures didn't Increase Israel's Security Either" in: The *Jerusalem Post* September 7, 2001

Reliable foreign journalists of the BBC observed that:³⁰ “In Israel and the Palestinian territories the cycle of attack and response, response and attack, has gained full momentum... Israelis have been bracing themselves for such attacks. The Chief of Israeli military intelligence, General Ahron Ze’evi Farkash, warned: ‘This coming period will see more serious terror attacks than we have been used to up to now in cities throughout Israel.’”

The BBC observed that: “With neither Israel, the PA or the terrorist Palestinian factions showing any sign of stepping back from the violence, the cycle is intensifying. It is difficult to see what advantage the violence brings to either side.”

According to UN Special Coordinator Terje Roed-Larsen:

“Today Israeli-Palestinian relations are at their lowest point. We have fallen off the edge, we are in the abyss. The situation is the worst it has been in years... The current crisis has made life even more precarious for Palestinian civilians who are already subject to severe physical and economic hardship. Total losses to the Palestinian economy since October 2000 have been estimated at \$2.7 and \$4.1 billion. Total physical damage in the West Bank and Gaza stands at more than \$300 million.

Up to 50% of the population is now living below the poverty line, more than double the poverty rate prior to the crisis. The immediate cause of the economic collapse has been the policy of closures which is resulting in major economic and social insecurity for millions of people, creating flashpoints of resentment and violence.”

The Need for Peace

The human rights situation has deteriorated enormously since September 2000 – the physical and mental well being of children in almost every area are being threatened. The daily phenomena of the violent Palestinian-Israeli conflict leave many children troubled and traumatized. If there is no forthcoming peaceful resolution of this conflict, generations of children will suffer from the fear and danger of suicide bombings and drive-by shooting of civilians by one side, and shooting at young people with rubber bullets and live ammunition by the other. The international community must be fully aware of this fact, and hopefully will help Israel and its neighbors reach a just and lasting peace.

Israeli Ambassador-at-large David Kimche said recently: “without the resumption of the peace process, Israel will be the continued victim of low-intensity violence and there will be more Palestinian suicide-bomber... the result will be catastrophic and signify its failure for the Jewish people to live in a normal existence in its own state”.³¹

We have reached a situation where by the time the Committee, in its 32nd session, enters a dialogue with the State Party, the situation will have deteriorated even further. The UN representative said in January, 2002 that we are on the “brink of the brink”. However, soon after the situation deteriorated further into a war-like

³⁰ BBC News, Friday, January 25, 2002, 15:54 GMT

³¹ Kimche, David. “Peace Process Failure would be Disaster for Israel,” *The Jerusalem Post*, January 6, 2002.

situation with daily Palestinian suicide bombers in Israeli cities and IDF military action in Palestinian towns and cities.

The context in which the rights of children have to be implemented is an ongoing and intensifying conflict. Whoever the “winners” are, the losers are definitely the children of both sides. The present deterioration of the situation will have devastating long-term effects on children. They will look upon the other with suspicion and negative stereotypes will be in their minds. We fear that there may be a loss of ability to see the perspective of the “other.”

The Mitchell Committee reported:

“During our last visit to the region, we met with the families of Palestinian and Israeli victims. These individual accounts of grief were heart-rending and indescribably sad. Israeli and Palestinian families used virtually the same words to describe their grief.

When the widow of a murdered Israeli physician- a man of peace whose practice included the treatment of Arab patients, tells us that it seems that Palestinians are interested in killing Jews for the sake of killing Jews, Palestinians should take notice. When the parents of a Palestinian child killed while in his bed by an errant .50 caliber bullet draw similar conclusions about the respect accorded by Israelis to Palestinian lives, Israelis need to listen. When we see the shattered bodies of children we know it is time for adults to stop the violence.”³²

³² Sharm El-Sheikh Fact Finding Committee (Suleyman Demirel, Thorbjørn Jagland, Warren B. Rudman, Javier Solana, Senator George Mitchell) April 30, 2001

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. Can the Government explain its difficulties with implementing the laws mentioned in the Initial Report in pages 28-30?
2. **Why did the Report fail to include information on Palestinian children?** Article 2 of the CRC requires information on “all children under the jurisdiction of the State Party.” Can the State provide additional information³³ about Palestinian minors arrested for illegal entry and Palestinian minors who are deprived of their liberty in Israeli jails and prisons, particularly regarding how Israel’s Military Orders for the Occupied territories relate to children and adolescents?

³³ Article 44.3 “the committee may request from State Parties further information relevant to the implementation of the Convention.”

II. General Measures of Implementation

The Israeli government can ratify conventions, but they will not have the force of law until the Knesset enacts legislation that would incorporate them into the law of the land. There have been many proposals to enact legislation requiring incorporation but, unfortunately, these attempts have not had wide-scale support – a disappointment to those concerned with implementation. However some progress has been made in introducing the concept of children’s rights and protection into legislation on both national and local levels.

We must commend the Government for having ratified the Convention without reservations. According to many Alternative Reports of colleagues from other countries, a considerable amount of their efforts are dedicated to convincing governments to withdraw their reservations. At least we do not have this problem.¹

A. ARTICLE 4 – IMPLEMENTATION OBLIGATIONS OF THE STATE

Since 1995 several proposals were made to introduce a “Law of Implementation”, which would make the Convention on the Rights of the Child the first human rights convention fully incorporated into Israeli law.² The then Minister of Justice, David Libai, approved the proposal and promised to bring it to the Knesset. It was, however, “frozen” soon after.

In June 1997, a subsequent Minister of Justice, Tzachi Hanegbi appointed a “Committee to Examine Fundamental Principles Concerning Children and the Law and their Implementation in Legislation” thereafter the Rotlevy Committee, named after its chairperson Judge Saviona Rotlevy. The Committee’s task was to oversee possibilities for harmonizing existing laws with the Convention into a Children’s Rights Law, which would also include amendments of existing laws and additional legislation-proposals. However, four different privately initiated Knesset Members’ proposals to raise the status of the Convention to the law of the land did not get approval from the Government Committee for Legislation.

We ask the UN Committee on the Rights of the Child to appeal to the Israeli delegation to incorporate the full Convention as State law, which will guarantee minimum standards, and then to expand it with an issue-specific Children’s Rights Law. This will ensure that one can turn to the Supreme Court on issues pertaining to the Convention, and that the Court can interpret a problem in light of the Convention as the law of the land.

Structurally, the Committee is composed of several sub-committees that deal with different topics, making the overall work pace very slow; it may be years before a Children’s Rights Law and related proposals are implemented.

¹ O’Donnell, Dan, “The Convention on the Rights of the Child, the Reservation Generation,” *The International Children’s Rights Monitor*, vol. 9(1) 1992: pp. 8-14.

² Law proposals were made by DCI—Israel, The Association of Civil Rights in Israel, and The National Council for the Child. See also: Reali, S. “The rights of the child will be implemented in Israeli law,” *Ha’aretz*, April 19, 1995.

Perhaps because of the slow pace of the Rotlevy Committee, certain private member bills, initiated independently, have been passed, while the Committee itself has not produced new legislation. Nevertheless, the seriousness of the effort and the investment of the government in its work will help to advance children's rights in Israel.

In addition, Yehudit Karp's Committee on Legislation for Children in the Ministry of Justice has been extremely influential in Israel's lawmaking.

MK Silvan Shalom, currently Minister of Finance, introduced the *Pupil's Rights Law*, which was adopted in the year 2000; it takes the opinion of the child into account in certain matters pertaining to his/her education. While the law is a step forward, it does not cover all of the educational systems in the country. At the request of ultra-orthodox Members of Knesset, it excludes all private schools, including the private religious educational system, and some Arab and municipal schools. Such narrowly focused, independent legislation cannot compensate for the incapacity of the Rotlevy Committee to bring about a comprehensive incorporation of the Convention into Israeli law.

If there is political will, there is no political problem to incorporate international treaties into Israeli Law. In the year 2000, the Knesset adopted a Hebrew translation of the Hague Treaty on the sales of goods into Israel: law by a special law. Such a course of action could also be taken to incorporate the whole CRC but, apparently the political will does not fully exist.

Children's issues can easily be put on the Knesset's agenda, but few Members of Knesset are interested in this. In 2001, MK Tamar Gozansky, the Chairperson of the Knesset Committee for the Status of the Child, introduced a private member bill for mandatory child impact statements to be added to new laws. Child impact statements, which are already in force in various countries (Norway, for example) to anticipate the consequences of development on children, could help Israel maintain the spirit of the Convention by avoiding or modifying projects harmful to children. Yet a majority of the Knesset rejected the bill.

Hats off to MK Gozansky who in 2002 tried again, and in the preliminary reading, the proposal was accepted. (In order for the proposal to pass, she had to delete the word "statement," because the Government did not want lengthy statements of fifty pages on every issue's impact on children.)

Sometimes, even if there is a Supreme Court decision, rights are implemented inappropriately. For example the Regional Council for Unrecognized Negev Arab Villages won a case making the installation of electricity mandatory in schools for Bedouin children in unrecognized villages. The Ministry of Education indeed "installed" electricity, but with generators, which make a lot of noise (creating problems for students in understanding the teacher) and emit an unpleasant smell; additionally, this minimal compliance with the court's decision exceeded the time frame called for by the Supreme Court.³

³ Interview with Mr. Abu Kafi, the chairman of the Regional Council for Palestinian Bedouin Unrecognized Villages in the Negev, in Beersheba on January 6, 2002

The Noar Ha'oved Ve'halomed organization (General Federation of Students and Young Workers in Israel), gives another example of how the government is not actively implementing the rights of children who are school dropouts and are neither in an educational framework nor employed. These children can be traced by truant officers or other government officials, but are largely ignored. The government should find solutions in order to bring them back to a normative framework.

4

The same organization notes that the lack of information is a serious obstacle to implementation. While the organization tries to provide children with information on their rights, it is actually the responsibility of the government. Young workers do not know when they can take a break during work, or when they need to buy uniforms, (McDonald's tried to oblige workers to buy uniforms until No'ar Ha'oved Vehalomed intervened). Children are not aware of the fact that the employer is required to provide rides home at the end of evening work-hours nor of the minimum wage law, nor what tasks are illegal for young workers (i.e. work with chemicals or overly-taxing physical work). There is a need for the government to be more active in providing information so that young people will know their rights.

Moving Backwards: Why?

Our colleague, Yitzhak Kadman, from the National Council for the Child writes:

*Were someone to compare the condition of children's rights in Israel in the late 50's and 60's with that of other countries of the world, he could point to Israel as one of the most advanced and progressive countries in the field. However, since the 1960's a very interesting phenomenon has occurred: in certain ways we are moving backwards, while other countries continue to develop.*⁵

The "movement backward" can be seen by the widening gap between rich and poor, and the general deterioration of human rights.

Defense budget: A major priority

One of the main problems is budgeting for children's rights. Article 4 calls for "translating the rights in the Convention into reality to the maximum extent of available resources." Since the establishment of Israel, it has been under varying degrees of security threats. Thus defense expenditures have generally composed an exceptionally high percentage of the budget; in certain years Israel's *per capita* defense expenditures have been among the highest in the world.⁶ In the last twenty years, however, the defense expenditures decreased from 22% of the GDP to 10% of the GDP in 2000, while, at the same time, social services, including education,

⁴ Interview with Ephraim Cohen, Manager of Manpower for No'ar Ha'oved Vehalomed, Tel Aviv, December 25, 2001.

⁵ Kadman, Y. "Children's Rights: Their Historical Development and Enactment into Law in Israel" in Children's Rights in Israel: A Collection of Articles and Sources, p.13.

⁶ Schiff, Z. "A Reserve of Discontent," *Ha'aretz*, November 10, 2000.

increased from 16% to 19%.⁷ The education and health budgets are relatively high. The education budget, for instance, “went up the first half of the decade and became the second-largest item in the overall budget, after defense.”⁸

It must be noted that the relative decline in the defense budget throughout the 1980’s and 90’s resulted from changing regional geo-politics, beginning with the peace agreement with Egypt in 1979 and expanding during the Oslo peace process that started in 1991. However, in light of the stagnating peace process and the new intifada, the defense budget has gone up once again.

The effects of this most significant problem – the lack of budgets to implement laws and court orders – is felt across the spectrum of children’s rights issues.⁹ In many fields, the laws are good but the budgets simply do not exist to carry them out. For example, there is a lack of space in special education and long waiting lists for certain residential institutions for at-risk children, so children sent to such institutions by the courts are not admitted in practice and sometimes sent to prison instead.

Recent budget cuts are extremely worrying and will have a very negative effect on children’s lives. Without major funding for children in all sectors, their future is in serious jeopardy. A major change in priorities is needed, including a major investment in children and youth. To evaluate if the government is spending “to the maximum extent of their available resources,” we examined the growing gap between the rich and the poor and the growing number of children living under the poverty line.

The recent deterioration of the political situation has led to calling up IDF reservists. This has taken place in April 2002 and led to changes in the national budget. According to Amnon Barzilai:

“The defense budget for 2002 will reach about NIS 40.9 billion, compared to NIS 37.3 billion in 2001, an increase of almost 10 percent. That sum represents about 20 percent of the national budget and about 8.6 percent of the GNP (an increase of 0.5 percent). The increase in the defense budget is a reflection of the closing of the diplomatic window of opportunity, the escalation in terror and the reinforcement of preparedness in the Israel Defense Forces. However, according to figures from the Defense Ministry’s budgets section, due to this budget erosion, about NIS 1.5 billion is still missing from the defense budget’s basic needs (besides the NIS 2.5 billion required immediately.)

The recruitment of the reservists triggered an immediate surge in the army’s expenses. The main budget item, in addition to the payment of reserve days, is activation of the logistic infrastructure, especially in the armored corps. On the eve of the approval of the national budget, the defense minister said the national budget should be cut back for the sake of social welfare and the economy. The situation

⁷ The Center for Social Policy Studies in Israel, 2000. Pp. 13-14. We thank Dr. Yaacov Kop of the Center for meeting with us

⁸ Aaron Gafny, “Summary of Findings and Policy Alternatives” in: Yaakov Kop, ed., Israel’s Social Services, Jerusalem, 1999. The Center for Social Policy Studies in Israel, p.19.

⁹ Interview with Member of Knesset Tamar Gozansky, Chairperson of the Knesset Committee for the Advancement of the Status of the Child, July 31, 2001

now, however, is just the opposite. It is now necessary to cut back social welfare expenses to strengthen Israel's defense system."¹⁰

Competing for limited financial resources

Since 1996, the beginning of an economic decline, government budgets have been cut. Children had to compete with the growing budget for the elderly. "The economic downturn has also been reflected in a change in the composition of social expenditure, an increase in the weight of expenditure for income maintenance (mainly because of a significant increase in [demand for] unemployment compensation) and a decrease in the proportion of spending for in-kind services."¹¹

The world markets and other influences which increased the budget deficit downturn also have left their marks. Israel is "infected" by the new economic approach. Even the Labor Government, when it was in power, took the stance that there must not be a big deficit, which led to constant cuts in social services budgets. Only Late Prime Minister Yitzhak Rabin agreed for the first time in the eighties to cut the defense budget.

Even though a new National Health Insurance Law provides universal health coverage, in 1998, the health funds started to collect fees for visits to specialists and require participation in paying the costs of medication. Although the health budget has stayed stable, the population has increased, and in fact, more expenditure is needed to maintain previous standards.

Article 4 deals only with the issue of the State undertaking measures (such as budget allocation) to the maximum extent of its available resources, but does not relate to whether the money is *efficiently* or *justly* spent.

The issue of Arab-Israeli schools receiving fewer resources than Jewish-Israeli schools (despite the fact that there is an enormous amount of school-dropouts in that community), is dealt with under Article 2 (non-discrimination).

Growing social gaps

The Adva Center, a research center studying equality and social justice in Israel, concluded that the short period of growth in the first half of the 1990's, "did not benefit all Israelis."¹²

"Those in the highest income quintile gained the most, increasing their share of the pie, while the share of most other Israelis declined. At the same time that a thin stratum of Israelis received large salary increases, the number of Israelis whose wages placed them at or below the poverty line grew."

They concluded that:

¹⁰ Barzilai, Amnon "Cutbacks in Welfare for the Sake of Defense." In Haaretz, April 10, 2002

¹¹ Gafny, Arnon, "Summary of Findings on Policy Alternatives," in *Israel's Social Services*, Kop., Yaakov, ed., The Center for Social Policy Studies in Israel, p. 19

¹² Konar, Etti; Swirski, Shlomo; Yechezkel, Yaron. Israel: A Social Report, Adva Center, Tel Aviv, 1999.

*"The past two decades have seen a change in the economic and social policies of Israel. While in the 1970s and early 1980s, the State was still perceived as the locomotive of economic and social development, this perception has since been superseded by an ideology whose main precept is that the State ought to turn its helm over to the private sector. This ideology is behind the budget cuts of recent years: it threatens the capability of the education, health, housing and social insurance systems to provide high-quality, equitable services to all citizens of Israel."*¹³

In a time when more and more children are living under the poverty line, it is incredible that some municipalities pay their top civil servants astronomical salaries. The salary of the Director of Education of the Education Department of the Jerusalem Municipality is unethically high. The Adva Center notes:

*"The ideology of downsizing the state took hold after the economic stabilization program of 1985. The budget cuts are already having an adverse effect on the main public services in Israel: the school system, the health system, government housing assistance and social security payments. If the military budget were to shrink to the Western European Level-say around 7%, as in Holland – the state budget of Israel would be 40-41% of the GDP, a proportion similar to that of most of the countries of Western Europe."*¹⁴

The Adva Center revealed in a recent study that support per capita per settler is higher than that of those who live in other developing towns in Israel proper. Support for them is higher than for any other group, not including subsidized housing.

US Ambassador, Dan Kurtzer¹⁵ raised the issue that money spent on settlements in the West Bank and Gaza contributes to the budget problems (causing problems in paying decent benefits to the country's handicapped). Ambassador Kurtzer pointed out that these people do not have to compete with other priorities (such as more money to people with disabilities). He believes that over the last decade there has been little discussion about allocation of money for settlers, from whom support has never been withheld.

The ultra-orthodox Sephardi education system, aimed at people who often live in poor neighborhoods and development towns, has to be seen against the background of the growing gap between the rich and the poor. The ultra-orthodox education system provides long school days, hot meals, and greater per pupil teaching hours.¹⁶ A similar development is taking place in the Arab-Israeli population,¹⁷ where the Islamic fundamentalists provide an inexpensive and attractive alternative, although they aren't subsidized by the State of Israel as the Jewish ultra-orthodox schools are.

Ninety percent of the Israeli budget is fixed (defense, which will again go up, redemption of debts, and expenses fixed by statute such as welfare payments).¹⁸ Only ten percent of the budget is, to a degree, flexible.

¹³ Swirski, et.al., op.cit.

¹⁴ idem

¹⁵ CNN (TV). Item by correspondent Gerald Kessel, January 16, 2002.

¹⁶ Shifer, Varda. *Ha'aretz*, March 5, 1998.

¹⁷ Interesting that a parallel development takes place in the West Bank and Gaza

¹⁸ Information by Economist Professor Yitzack Galnoor of The Hebrew University of Jerusalem

A problem with budget issues in the Government Report is that there are no calculations of the total portion of the State Budget spent on children because these allocations are divided among several ministries. But to a certain extent we can derive which funds go to child-related causes from an analysis of the social services budget, i.e. education, health, social welfare, and personal social services.¹⁹ Although this budget has increased both empirically and relatively in most sectors, it has not necessarily brought about an improvement in quality of life for children in Israel for three main reasons: 1) In the first half of the 1990's, Israel absorbed 163,000 child immigrants.²⁰ Of a total population of 5.5 million, such a number is certainly consequential; 2) The relatively large increase in the Social Services budget served to compensate for its very low proportion in previous years; 3) The number of children increased during these years, so that an increase in spending does not ensure that more was spent per child.

The need for equal allocations

In the last decade, the social welfare budget increased by 100%, (currently at NIS 35 billion). The personal social services budget, which includes payments for child allowances, has almost tripled during these years to NIS 4.1 billion. But an actual increase in spending on social causes is not enough; they also must be used wisely if they are to influence children's well being. Since the ratification of the Convention, this has not always been the case in Israel.

In 1994-96, the education budget increased significantly, but most of the increase was designated to upgrade teachers' salaries, with no demonstrated effect on children themselves. In 1996, a new *National Health Insurance Law* was passed, which cut back on government involvement in health insurance by NIS14 billion and increased the public's share in funding health services. As part of the recent privatization trend in Israel, this law enlarged the gap between services available to the rich and the poor by strengthening the link between individual financial resources and quality of health services. (It must be noted, however, that the *National Health Insurance Law* also provided for the insurance of all children in Israel – a drastic improvement over the previous system. This will be discussed in the section on Health and Welfare.)

Swirski *et al.* claim that during the late 1990's, while Israel was undergoing privatization, the budget cuts have had adverse effects on the main public services in Israel. In 2001, the Israeli economy took its most drastic downturn since the 1960's, plunging the State into severe recession. In planning the budget for 2002, the Knesset has had to make further cuts in its expenditures, often at the expense of children. Cuts in social spending during a time of sharp recession may have been easier to understand had the Knesset not increased its own budget just a month before announcing draconian funding cuts. Also, the government does not tax capital gains on the stock market or raise the taxes of the rich, instead, it cuts or freezes only the benefits of the poor.

¹⁹ *Ibid.*

²⁰ The National Council for the Child, *The State of the Child in Israel—Statistical Abstract 2000*, p.29.

MK Tamar Gozansky presents the following list of the spending cuts most harmful to children:²¹

1) Education:

- a) The construction of new classrooms: The Ministry of Education announced that it will allot funds to build 500 schoolrooms in the Arab sector in 2002. But in the budget proposal for 2002 only NIS 175 million was allocated for this purpose, which will suffice for only 350 new classes.
- b) The Government is delaying its planned expansion of the *Free Education Law* for ages 3-4 (i.e. pre-kindergarten). Free education for these ages has already been granted to the populations on the very lowest of Israel's socio-economic scale and extension of the law was supposed to cover the next lowest group this year, but the Government budget did not provide for this expansion.
- c) Likewise, the Government committed itself to improving educational social services for the 11th and 12th grade, and to strengthening the branch working to prevent children from weak socio-economic backgrounds from dropping out. However, the special budget for this action remained exactly the same as the previous year, while the educational social services budget was reduced by 17% over two years.

2) Delay in Implementation of Laws Pertaining to Children

- a) *Law of Schoolbook Loans* (2001): This law, which would provide poor school children with free textbooks on loan, was postponed for a second time while the number of poor school children rose.
- b) *Free Education Law for Sick Children* (2001) – This law, providing for the complete financial support of school children with severe diseases, was also delayed in implementation for a second year.

3) Socio-Economic Welfare

- a) Lack of child support funding when the non-paying father is not a resident of Israel: Many children, who were provided for in the past by the NII when their father didn't pay his share, will now remain desolate.
- b) Deterioration in the conditions of children in families living off income support: Unemployed parents until recently received 49.5% of the average salary. This year, they will receive only 42%.

The February 5, 2002 meeting of the Committee for the Advancement of the Status of the Child was dedicated to the repercussions of the budget cuts presented by Lea Agdud, head of the research department of the National Insurance Institute. The following data was discussed:

-The most drastic cuts in the 2002 budget related to the allowances for children up to age 18. All of the sudden, 13.4% of the money allotted to children, making up 1.1 billion shekels.

²¹ MK Tamar Gozansky, *Effects of the Government Budget for the Year 2002 on the Situation of Children in Israel: Position Paper*. November 13, 2001.

-The budget cuts affected all, but hit children from poor families especially hard. Families in the lower four tenths with respects to income will pay 60% of the cuts whereas families in the top two tenths with respects to income will pay only 10% of the budget cuts.

According to the National Insurance Institute, the cuts in child allowances will lower another eleven thousand families under the poverty line in which means approximately forty thousand more children living in poverty. The disheartening effects of the recession are falling sharply and disproportionately on children.

The Arab- Israeli population is especially lacking in funding, and a huge gap persists between what the Government spends on Jewish-Israeli and Arab-Israeli children, as will be discussed in greater detail in the appropriate sections. Some governments, like the Rabin Government, took steps to narrow this gap. But in this field, the action was too little and too late. For example, according to the spokesman for the Monitoring Committee of the Arab Israeli Leadership, there is a shortage of more than 1,600 classrooms in the Arab sector, in addition to a shortage of teachers and facilities to deal with children with learning difficulties. In addition, the Government promised to insert NIS 4 billion into the Arab sector over a four-year period, but then abandoned its plan.²²

In May 1997, Adalah filed a petition to the Supreme Court against the Ministry of Education on behalf of the Follow-Up Committee for Arab Education to provide academic enrichment programs equally for Arab and Jewish children. Since the 1970s only Jewish students have benefited from this flagship program. Adalah argued that the Ministry of Education intentionally discriminated against Arab students by writing and implementing program guidelines purposely designed to exclude them, and demanded that objective criteria, based on low socio-economic status, be used to decide upon program beneficiaries. One month after the petition was filed the Ministry of Education admitted to historical intentional discrimination, and declared that equality between Jewish and Arab students would be reached within 5 years. Adalah rejected the Ministry of Education's proposal on the grounds that any delay would effectively sanction the discrimination, and asked for immediate remedy including the establishment and implementation of affirmative action programs. The case was dismissed in July 2000 after pending for 3 years. According to the Supreme Court, the Ministry's promise to allocate 20% of its budget for these programs for Arab schools was a sufficient remedy. (Follow-Up Committee on Arab Education, et. al., v. Minister of Education, et. al., H.C. 2814/97 filed 5/97)

The need for coordination

Another issue concerning the evaluation of the budget spent on children is the degree of cooperation and coordination between different government ministries that affect children. The overlap and competition between government ministries in certain fields leads to bureaucratic competition that results in the fact that children often "fall between the cracks," because there are many government departments dealing with various aspects of their problems. Given that there are many ministries dealing with the same issues, it would be appropriate to establish in Israel a centralizing

²² Rudge, D. *The Jerusalem Post*, August 31, 2001.

authority to increase efficiency in this area, such as the position of Minister for Children, which exists in Ireland. DCI – Israel. Some MK's have proposed a Deputy Minister for Children in the Prime Minister's Office, which would coordinate all ministries involving children's issues, but the Government failed to create a coordinating function at a high level, so ministries continue to compete, rather than cooperate, with one another for funds. National planning for children is also missing.

B. ARTICLE 42 – THE DUTY TO PUBLICIZE THE PROVISIONS OF THE CONVENTION

The Government Report, we note with concern, does not mention how the State will make its Report available to the public as is required under Article 44(6) of the Convention.

The Advancement for Peace and Democracy reports that the children are unaware of the ramifications of the Covenant and do not know where to turn when the Covenant is breached. The Ministry of Education does have the Open Line for Students to handle complaints but, although posters have been distributed to schools, many pupils are still unaware of this service. People from the Open Line also gives lectures in schools, but more should be done to make this excellent service of the ministry known and to make the Open Line more effective. In addition, since schools do not maintain a democratic culture, pupils, and occasionally teachers, fear complaining to the authorities. The most important point that should be mentioned in this context is that the pupils who do not take the matriculation exams (close to 50%) do not study Principles of Democracy, since the subject is mainly taught for the matriculation exam. It is important for the Ministry to begin teaching about democracy from an early age.

The State of Israel has not yet fulfilled its obligations under Article 42 of the Convention. DCI – Israel has distributed copies of the Convention to schools, institutions, and individual children, with minimum financial help from the government. Financial restrictions limited the number of copies it circulated. Some other NGOs (The Israel Section of Amnesty International, the National Council for the Child, the Adam Institute, and the Association of Civil Rights in Israel, The Arab Association for Human Rights) have also disseminated information about the Convention. All these efforts received little financial support from the Government.

It should, however, be mentioned that the Government printed and distributed the text of its Initial State Report in English and Hebrew, and has made it available to libraries, schools and children's rights organizations. We hope that the Government will distribute the report in Arabic in a timely manner. It should be noted that Arabic is one of the official languages in Israel, yet the report is not printed in Arabic. Furthermore, the Government should take more responsibility for educating people about the Convention – particularly those in education or appropriate institutions (including government ministries and schools). This requires a financial commitment.

C. ARTICLE 44 – REPORTING OBLIGATIONS OF THE STATE AND THE DUTY TO MAKE THE REPORT WIDELY AVAILABLE

The Israeli Children's Rights Coalition has been waiting for nine years for the preparation of the Initial State Report to the UN Committee on the Rights of the Child.²³ The coordinator of the Coalition, Defense for Children International (DCI) – Israel, nearly petitioned the Israeli Supreme Court to force the Israeli government to submit the State Report to the UN Committee on the Rights of the Child.²⁴ Fortunately, the case never reached the courts; the Israeli Ministry of Justice agreed that before the end of the year 2000 the Government Report would be submitted.

On December 6, 2000 the Israeli Government (the Ministry of Justice and the Ministry of Foreign Affairs) presented a draft Report to NGOs and obtained feedback from them at a hearing. The members of the Coalition stated that the meeting seemed *pro formi*, especially since the government had sent the Report to the NGOs only a few days before the hearing and many were unable to read it and respond. The Coalition requested more time, and the government approved our request to consider our comments for the final text of its report. The Coalition then submitted comments from various Coalition members to the authors of the Initial State Report.

The Initial State Report was privatized and commissioned to the JDC – Brookdale Applied Research Institute and the Faculty of Law of Haifa University. Without the work of these two institutions, the State Report would probably not have been concluded, even after nine years. Although the government was responsible, we still question the wisdom of delegating a State responsibility to the private sector, and note that under Article 44 of the Convention the State is required to take care of this obligation.

DCI – Israel has serious concerns about the low priority the State of Israel has given to reporting to the different UN Treaty Bodies. We are especially disturbed about the possibility that the Report to the CRC was the lowest priority on the list of State reports to the UN, since it was submitted last. Proposals have been formulated to appoint a Human Rights Commissioner in Israel. We hope that such a high level functionary would take over the task of overseeing Ministry of Justice staff members who prepare State Reports to UN Treaty Bodies, thereby upgrading the reporting priority in Israel.

The Initial State Report covers the period from 1991, when there was no doubt that Israel was fully responsible for all areas of life in the Palestinian population, since Israel had not yet set them up with the Palestinian Authority.

D. THE NEED FOR AN NATIONAL OMBUDSMAN FOR CHILDREN

²³ The Coalition is a group of almost 70 Israeli NGO's working together to present its Alternative Report to the UN Committee on the Rights of the child (see appendix for list of all organizations involved).

²⁴ DCI—Israel and Tel Aviv University's Center for Legal Aid in Human Rights was in correspondence with the Ministry of Justice about a possible petition to the Supreme Court between the months of May 2000 and July 2000. The Ministry of Justice claims that they had been working on a draft of the Report since 1995. DCI—Israel and the Ministry of Justice agreed that a Report would be submitted by the end of 2000, thereby avoiding a petition.

The Coalition expresses its gratitude for the work of the Ministry of Education's Open Line for Students. Their Ombudswork is significant. For instance, in 2001 they dealt with 6,564 calls. We regret that the Initial State Report did not give more prominence to this important work which strengthens children's rights.

However, there is no Knesset-appointed Ombudsman for children, with not only "moral power" but also the ability to provide services which now fall to NGO's (i.e. National Council for the Child and Council for the Child in Placement) and the Ministry of Education's Open Line for Pupils.

In 1987, Knesset Member Dedi Zucker²⁵ proposed to establish a Spokesman for Children with the power to investigate, whose position would be parallel to the Ombudsman for Children in other countries. However, the move was not widely enough supported, and the proposal never materialized. We repeatedly propose establishing this position, appointed by the Knesset and thus independent of all ministries. While these proposals have not been accepted, there has been a significant change in the last decade; municipalities around the country have established local Status of Children committees. These are extremely important because of the increasing role local authorities play in the nature and quality of service provided to citizens.

Our proposal is to create an Ombudsman for Children appointed by the Knesset (and thus not dependent on a ministry)

E. COMMISSIONER FOR FUTURE GENERATIONS

Israel has par excellence been a country which is good in improvising and responding to emergencies, while long term planning, taking into account the needs of future generations is lacking. It was therefore a pleasant surprise to learn that the Knesset has appointed a commissioner for Future Generations, Judge Shlomo Shoham. The law, proposed by Tommy Lapid (March 2001) is: "compelling parliament to consider the interests of future generations before passing new legislation. According to the new law, the commissioner's job will be to ensure that the needs of the future are taken into account by the legislators before they enact primary or secondary legislation. The commissioner will be concerned with fields such as the environment, science, development, education, health and demography and his/her practical duties include reviewing pending legislation and, where relevant, submitting a professional opinion on the anticipated impact of a proposed law on future generations."²⁶

We welcome this initiative and the NGO's would like to be more involved in the mandate of the new commissioner. This mandate is in our opinion a more difficult one than the Ombudsman for children. A delegation of DCI-Israel met the new commissioner who expressed a wish to play a role in child impact statements, if MK Gozansky's proposal will be accepted by the Knesset.

²⁵ Parliamentary Question by Dedi Zucker, MK no. 03/0976/A/024 November 23, 1987, the Knesset

²⁶ Shlomo Shoham "Commissioner for Future Generations, Destination and Ways of Action", Jerusalem, The Knesset, February 13, 2002.

F. THE KNESSET COMMITTEE FOR THE ADVANCEMENT OF THE STATUS OF CHILDREN

The Knesset Committee for the Advancement of the Status of Children status has made a good start in fulfilling its central role as defender of the rights of children and adolescents, in the spirit of the CRC, under the chairmanship of MK Tamar Gozansky. In its meetings and field visits, the committee has been dealing with “children’s needs and with the helplessness of the governmental and municipal systems to defend children’s lives, their health and their right for education, for civilization, and for a voice of their own.” MK Tamar Gozansky wrote in a report on the work of the Committee: “The services for children fell victims to cuttings in the budgets for education, welfare and health, but also to paternalistic approaches which disregard the child’s respect and opinion.”

G. LOCAL STATUS OF CHILDREN COMMITTEES

The local committees have become important because the status of “local authorities as important actors who affect the nature and quality of service to citizens is gaining strength. Such local involvement is reflected in their provision of more than twenty five percent of the funding for local services (...) in hiring of additional staff and independent development of various services.”²⁷

We appreciate the efforts of the Status of Children Committee of the Knesset, headed by MK Tamar Gozansky, in legislating an original law to implement children’s rights on a local level. She and MK Danni Nave amended the Municipalities Act (Amendment 72 from April 4, 2000) and created statutory committees promoting children’s rights in every municipality (though not in villages and towns).

These local committees can have an important role in enabling children to be heard on a municipal level. In coordinating between the different agencies and organizations working in the municipality.

We think that the city Kiryat Bialik (near Haifa) sets an appropriate standard, functioning as a coordinating body, and promoting important children’s rights issues. Because it is a new effort, it is seen as a beginning of a process wherein each municipality experiments on how to take the opinions of children into account.

However, DCI – Israel monitors these committees and the data we collected showed that only a few municipalities actually started these committees. We concluded that there is another problem: most of the municipalities do not understand the new law. The purpose of the local committees is to facilitate youth issues, prioritize them and promote cooperation of different partners. The fact that the committee does not have an independent budget is often interpreted by city council members to mean that the committee lacks power. In a meeting of the Knesset Status of Children Committee held on December 18, 2001, municipal representatives complained of not having received enough information and guidance about the functions of the municipal

²⁷ Weinblatt, Jimmy, et.al. ‘Social Services and their Development’ in: Kop, Yaakov, ed., Israel’s Social Services, Jerusalem, 1999. P. 128.

committee. There is a need for training and opening up channels of information exchange for committee members.

Different national projects for coordination, like the “Kadima” project of the Ministry of Labor and Social Affairs for children in distress, should be incorporated into this effort, but above all, it is essential that the Knesset Committee for the Advancement of the Status of the Child guide the local committees, so that they do not operate in a vacuum.²⁸

²⁸ DCI- Israel has on the Hebrew part of www.dci.org.il a list of many local committees and their members

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

- 1) Will the government now support private member's bills incorporating the CRC into Israeli law as a minimum standard for developing policies and objectives, later to be improved by a higher standard of a Children's Rights Bill currently being formulated by the Roth-Levy Committee? Or, alternatively, can the government create a law proposal to incorporate the CRC as Israeli law as the government did previously the Hague Convention on Civil Aspects of Child Abduction?
- 2) Can the Government speed up the Roth-Levy Committee?
- 3) Does the government agree with the Israeli Children's Rights Coalition that a much higher level of coordination is needed to review the Convention's implementation among relevant government ministries, such as a Deputy Minister for Children at the Prime Minister's Office?
- 4) Will the government increase its efforts to make the Convention widely disseminated in both Hebrew and Arabic, especially in schools, as it is obliged to do under Article 42 of the Convention? Is the Government ready to extend its financial support to organizations such as DCI- Israel, the Israel section of Amnesty International, the National Council for the Child, the Adam Institute, the Association of Civil Rights in Israel, the Arab Association for Human Rights and others, which distribute the CRC and explanations for both children and adults in the State?
- 5) Will the government consider mapping what is spent on children by all the different ministries?
- 6) Will the government supply guidance and financial support for the local Committees for the Advancement of the Status of Children to keep the momentum of the new initiative?
- 7) Since the gap between the rich and the poor in Israel is increasing and since resources are scarce now, can the government take care that the allocation of resources to all categories of poor children is prioritized?

III. Definition of the Child

ARTICLE 1—A CHILD MEANS EVERY HUMAN BEING BELOW THE AGE OF 18, UNLESS UNDER THE LAW APPLICABLE TO THE CHILD’S MAJORITY IS ATTAINED EARLIER

The definition of a child in Israel is generally in line with Article 1 of the Convention, which defines a minor as a person under the age of 18, “unless under the law applicable to the child, majority is attained earlier.”¹ In 1998 there were 2,061,600 children in Israel. Of these, 1,510,000 were Jewish, 439,600 Muslim, 42,300 Christian, and 42,600 Druze.² Within the Palestinian National Authority, there are 1,400,000 children under age 18.

The Initial State Report includes all of the laws regarding this issue, but they are not categorized by age.³ At the end of this chapter, we include the overview of the age at which children are granted rights and incur responsibilities.⁴ There is no one uniform legal age that grants children all rights and all obligations, but different laws concerning rights and limitations according to age. The Coalition for Children’s Rights proposes to combine guidelines around an arbitrary age below which the State must respect the person’s status as a child, with the possibility to make such guidelines more fluid after the use of professional assessment in individual cases. Essential to this approach is Israel’s responsibility to adopt Article 12 on participation rights, of the CRC (see Article 12 in “General Principles”).

There is a rigid bureaucracy concerning regulations in the State about children. For example, a regulation of the Director General of the Ministry of Education does not allow children below the 10th grade level to take the high-school matriculation exams. This past year an exceptional 9th-grade mathematics student already wished to take three final tests, one of which was the mathematics test. The Education Ministry refused to grant her access to only part of the test (she could do either all five portions of the test, or nothing). DCI—Israel took on her case, and through the intervention of its lawyer, was able to get the Ministry to grant her request. We agree that rules should be followed, but the educational system should apply these rules more liberally on an individual basis.

We welcome the Israeli Government’s decision to sign the Optional Protocol on the Involvement of Children in Armed Conflict (signed in September 2001). Just recently, after intervention from DCI—Israel and the Coalition to Stop the Use of Child Soldiers, has the Israeli office of the Military Judge Advocate General announced that it will change its policy of having drafts begin for citizens who are seventeen and a half. Also, volunteers (still possible from age seventeen) will not be put only in training and not in combat situations. With this announcement and the signing of the Optional Protocol, the road is paved for the State to sign ILO Convention 182 on extreme forms of child labor. The Israeli Children’s Rights Coalition is extremely pleased with this development. The Office of the Military Judge Advocate General informed us that within two months, it will be presented to

¹ Section 3 of the *Guardianship and Legal Capacity Law* (1962).

² The National Council for the Child, *Ibid*, p.5.

³ Table X in the *Initial State Report*

⁴ The table with laws pertaining to children and adolescents which we adapted from a document from the National Council for the Child.

the Knesset Foreign Affairs and Defense Committee. We are now eagerly waiting to see the Government ratify the Optional Protocol in the near future. (Discussed further in Chapter IX, Special Protection Measures, under Article 38.)

Although the CRC does not forbid the marriage of minors⁵, we find it problematic. We see that when it is legally possible (marriage is allowed at age 17) young girls are married off. In 1997, 1,259 Muslim girls and 350 Jewish girls got married.⁶

The State Report mentions immigrant communities from the Southern Republics of the Former Soviet Union, in which child marriages are common and parents betroth their girls before an age in which the child's judgment has been independently formed.⁷ The problem is perhaps more widespread than the State Report indicates. The marriage of minors takes place in Israel within the Bedouin, Arab and Druze communities as well. Although in decline, marriage of minors remains a problem for us. The State itself reports rather extensively on this issue in the Combined Initial and Second Report of the State of Israel Concerning the Implementation of the United Nations Covenant on Economic, Social and Cultural Rights (CESCR), 1997.⁸ In the CESCR Report, the State provides statistics indicating that in 1996 there were ten Jewish grooms and sixteen Muslim grooms up to seventeen years of age. In that year, there were 1,558 Muslim brides, 397 Jewish brides and 157 Druze brides aged seventeen.

The statistics fail to account for such arrangements of people younger than sixteen years old, because the official registration cannot take place. We believe that it is the responsibility of the government to campaign more against the marriage of minors, and to involve the religious authorities in this.

It should also be noted that abortions for people under age 18 are covered by national health insurance. The Israel Family Planning Association lobbied effectively two years ago to have abortion of 17-18 year olds included in the basket of services which are provided and paid for by National Health Care. This change came into effect in 2001, which we think changed the assumption that if one gets married at 17, an abortion is not necessary.

Like in every other society, we see the different images of childhood, and parent-child relationships that characterize them, to be reflected in legal measures that effect adolescence. In addition to being a period of emotional turmoil, confusion, and accelerated development, adolescence is also a stage of legal perplexity in Israel. For instance, a girl can get married at seventeen, but in the case of contraceptives, a seventeen-year-old must officially have the permission of a parent or guardian to have contraceptives prescribed. The thinking behind this is that the prescription of

⁵ Detrick, Sharon. A Commentary on the United Nations Convention on the Rights of the Child, The Hague, "Kluusen Law International," pp. 58-59, 1999.

⁶ Israeli National Council for the Child. 'The State of the Child in Israel, A Statistical Abstract 2000' Jerusalem, 2001, p.73.

⁷ Initial Periodic Report of the State of Israel Concerning the Implementation of the Convention on the Rights of the Child, *Ibid*, p.130.

⁸ Combined Initial and Second Report of the State of Israel Concerning the Implementation of the United Nations Covenant on Economic, Social and Cultural Rights (CESCR), 1997, p.84. see also Pinhas Shifman, State Recognition of Religious Marriage: Symbols and Content. in: Israel Law Review. Vol. 21, Summer-Autumn (1986) pp.501-521

contraceptives is a medical intervention, an area in which a minor, according to the law, is still a minor and in need of permission from his/her parents. Of course, one would like a young woman who used contraceptives to be examined properly by a doctor. What has recently changed is that in beginning in January 2002, the sale of the "abortion pill" (R4 486) is done over the counter.

Another example of a law which is not enforced is Clause 19A of the Penal Code, which prohibits the sale of alcohol to those under 18. Some 16 and 17-year-old members of "Noar HaOved VehoLomed" ("Working and Studying Youth") in cooperation with *Ha'aretz* newspaper had no problems buying alcohol in pubs and discotheques.⁹ According to a survey carried out by the Anti-Drug Authority in 1998, around 60 percent of those between 12 and 18 have consume alcohol outside of religious ceremonies or family celebrations. Thirty percent of 11 to 15 year olds drink alcohol at least once a month.

Contrary to expectation, help seeking does not seem to be directly related to levels of subjective distress.¹⁰ Nadler has presented a model of help seeking that can be used to understand adolescents' behavior. In this model, the process of help seeking is described as an interaction between the characteristics of the person seeking help (self image, achievement motivation shyness, self-awareness, and locus of control) and the type of help sought and the identity of the helper. The act of seeking help is an instrumental, target-oriented behavior, like other coping behaviors. However, it entails psychological "costs," such as feeling dependent, inferior, and that one's self-esteem is threatened. The final decision as to whether or not to seek help is a function of all these factors¹¹. In adolescence--when conflicts regarding dependence and self-esteem are central--the costs of help seeking may be too high.

Although only adolescents whose parents can afford it go to psychotherapy (see Article 24), Israeli authorities are supporting some age-specific ways to seek non-stigmatic help. Some examples include a walk-in center in Jerusalem (MA'ANÉ Therapeutic Cafe), MIGBATZ, the Ministry of Education's Youth Advancement Department, the Ashdod Youth Advice and Information Center¹² (a project of the Municipality of Ashdod and DCI-Israel), and the "Hafuch al Hafuch" network of fifteen new walk-in centers (initiated and coordinated by the ELEM organization). A first such center for Arab adolescents has been initiated by DCI-Israel in the Al-Tira municipality and with the financial help of the Special Projects Progress office of the National Insurance Institute. However, the continuation of all these centers after their initial period is not guaranteed which is indicative of a need for age-specific facilities to be in existence free of the pressure of a constant struggle for survival.

⁹ Lutzk, Daphna. "Proof Positive, Under 18-Youth Find Purchasing Alcohol in Pubs and Kiosks 'As Easy as Buying a Coke,' " in: *Ha'aretz*, February 25, 2002.

¹⁰ Tishby, Orya, et all. "Help-seeking Attitudes among Israeli Adolescents," in: *Adolescence*, v10. 36, no. 146, summer 2001.

¹¹ Nadler, R. "Help Seeking Behavior as Coping Resources," in: M. Rosenbaum (ed.), *Learned Resource on Coping Skills, Self-Control, and Adaptive Behavior*, New York, 1991, quoted by Tishby, et all.

¹² Terech, Gideon and Keidan, Dina. *The Child and Youth Center- Ashdod*: Jerusalem, 1999. National Insurance Institute, Research and Planning Administration.

The *Fidel Organization* (Association for Education and Social Integration of Ethiopian Jews in Israel) operates a walk-in consultation center for Ethiopian adolescents in Tel Aviv's central bus station.¹³ In the year 2001 almost 1,000 adolescents are recorded as having come made use of their services, not only from Tel Aviv, but from around the entire country as well. Of course this presents a problem for the Tel Aviv municipality, which does not want to be funding a project for adolescents around the country. The Youth Advancement Department operates a walk-in advisement center in Eilat, a city on the Red Sea coast, called "Shilan." The Ministry of Education's Youth Advancement Department also operates walk-in centers. However, adolescent medicine is not sufficiently developed. Only a few medical centers and doctors specialize in adolescent medicine and, as a result, many adolescent specific problems do not receive appropriate treatment. Many adolescents remain without suitable therapy, as they do not consider as they do not consider a pediatrician to be the right address for their problems. In a similar manner, for example, there is no unit specializing in adolescent medicine within the Soroka hospital, which serves most of the country's south part, and only two psychiatrists and a single gynecologist who specialize in adolescent problems operate within the entire southern area.¹⁴

New rules are now being made in regard to children's television programming on cable television. The Law for Classification and Making of TV Programs was adopted by the Knesset in 2001. The law states that every broadcasting agency includes age-group symbols on its programs.¹⁵ If a program is not suitable for children, it will thus be noted. The Council for Cable and Satellite Broadcasting did a comparative research study and came to some conclusions. They adopted the Canadian and British method for categorizing programs: For the whole family, Age 8-11 (parental accompaniment recommended), age 12-14, age 15-17, age 18 and up. The movie channel (channel 4) still marks 17+ instead of 18+ on films for adults. Criteria for deciding appropriate age category included content issues, violence, language, and sex. The new system is very general and the Council is still working on the secondary rules. The Council has also established general rules that dictate that only programs suitable for children can be broadcast before 22:00. When the council gives permission to a channel to broadcast, it also explains its criteria to them, meaning that the channel has to comply with its specified standards, including defining the audience for which the program aims, and putting the appropriate age-group symbols on the screen. The new rules are expected to take full effect in the spring of 2002. However, the rules for educational television are still being formulated by the Ministry of Education, while the rules for the First Television Network (Channel One) are made by the Israel Broadcasting Authority. Cable TV provides customers with an access code with which they can buy a particular film or program. Broadcasting pornography is illegal in Israel.

¹³ The Information/walk-in center for Ethiopian adolescents was initiated by the Israel Association for Ethiopian Jews. See: Philip Veerman and Hephzibah Levine, Implementing Children's Rights on a Local Level: Narrowing the Gap Between Geneva and the Grassroots, in: International Journal of Children's Rights, (2001), vol.8, no. 4, pp. 373-384.

¹⁴ Lang, Getit; Freud, Amir; Zohar, Odelia; Sapir, Hadar. A preparatory document for conference session: "Children Between Health and Sickness" February 19, 2002: The National Council for the Child

¹⁵ Interview with Hanny Comaneshter and others of the Ministry of Communications, Broadcasting, and Regulatory Authority, Tel Aviv, January 20, 2002.

The above is based on new legislation, replacing the old legislation of the Film Censorship Board which dates back to British Mandate times. The Board used to also include Theatre Censorship, but a few years ago, theatre censorship was stopped. The Film Censorship Board has four age categories: 12, 14, 16, and 18 years old. The Board used to be under the Ministry of the Interior, but in April of 2001, it came under the Ministry of Science, Culture, and Sport.

To us, all of the rules regarding this matter seem outdated and, regardless, difficult to enforce. A girl aged sixteen can easily pass for 18, and identity cards are rarely requested at Cinema entrances. In an age when children can turn on the computer and view horrific material on the internet, the age categories seem out of another world. Education in displaying self-control in deciding what to watch seems now to be the key.

A girl of 17, who according to the law has the right to decide on an abortion without consulting her parents, or to get married without informing her parents, is not however allowed to independently start psychotherapy without parental consent.

There is no systematic research on how the Israeli laws reflect the demand to take into account the enduring capacities of the child and the opinion of the child.

A major omission in the Government Report is the Military Laws affecting Palestinian children. The Military Order in the Occupied Territories in Matters of Judging Young Criminals (no. 132, 1967), for instance, defines a child as “a person not yet 12 years old,” a youth as “a person 12 years old but not yet 14,” and a young adult/adolescent as “someone who is 14 but not yet 16.” Children in the Occupied Territories above the age of 16 are considered adults in criminal proceedings. It is time to revise these military laws in light of the CRC. The military orders are also a basis for putting 16-18 year old Palestinian offenders in prisons with adults.¹⁶

Sixteen-eighteen year-old Palestinian minors are considered adults and placed with adults in cells or tents, leaving them vulnerable to mental and physical abuse. (Most of the inmates in the Meggido military prison are young, in their early twenties, and the younger inmates—the teenagers—feel protected by the older ones. None of them expressed any wish for separation, and feel protected by older inmates against attempts by prison authorities to recruit informers.)

Israeli Military Order 132 stipulates that children aged twelve to sixteen must be detained separately from older prisoners, though exceptions can be authorized by military commanders. On December 31, 1995, DCI-Israel wrote to the Military Judge Advocate General:

At this time when the UN Convention on the Rights of the Child has been ratified by the State of Israel and might soon be the law of the land (Justice Minister David Libai is about to table a bill for this in the parliament, The Knesset), we are aware that minors under the age of eighteen are still incarcerated in prison facilities

¹⁶ Samaan, George and Veerman, Philip. “Children’s Right to Legal Representation, A Review of DCI- Israel’s Legal Aid Project; In: Israel Children’s Rights Monitor, vol. 3, November 1992, pp. 35-43.

together with adult prisoners, with no separation. We emphasize this fact especially in light of Regulation (6a) of the Emergency Regulations (Judea, Samaria and the Gaza Region—Criminal Justice and Legal Assistance), 5727-1967, which states: “Anyone convicted and sentenced in a military court may have his sentence served in Israel in the manner that Israel carries out the sentence meted out by the court...” By virtue of this regulation, it is the right of anyone under the age of 18 to be treated in accordance with the rights of a minor under Israeli law.

DCI-Israel has, on several occasions, visited the Meggido military prison, where Palestinian minors (16-18, the definition by the CRC and not military law) are held together with adult Palestinians. In 1988 we found 62 minors under age 16 out of 620 detainees. “The minors ages 14-16 reside in the same sections as the adults, but in separate tents, located at a higher elevation point, a few meters away from the adults. However, they are free to mix with the adults during the day.” In June 1999 we reported:

“There are currently 645 prisoners including those from the age of 16-18 held at Meggido. According to Israeli law, the age of majority for security offenders is 16. Consequently, there is no separation by age in Meggido (unlike in jails and prisons for non-security offenses) since 16 and 17 year olds are not classified as minors. Nonetheless, DCI Israel considers these youth to be “minors” according to the UN Convention on the Rights of the Child and within its mandate to monitor conditions in Israeli prisons and jails.

The DCI- Israel delegation obtained by the Military judge Advocate general on April 18, 2002, statistics stating that at present there are 45 Palestinian minors (age 16-18) in Meggido and 41 in the reopened Ketziot detention facility in the Negev.

Although in the past, Palestinian colleagues have found advantages in detaining security-offending minors with adults¹⁷, our colleagues from the Physicians for Human Rights found evidence of sexual abuse, which strengthens the argument for separation.¹⁸ If the CRC were applied here as well, as it should be minors, even if they are ages 16-18 would be separated from adults.

Every side in the conflict has a different working definition of the child. For example, the Israeli Foreign Ministry website includes only children under the age of 12 years in its statistics, whereas many Palestinian organizations include children up to age 19.

Table 1:

Israeli Laws Pertaining to Children and Adolescents, Arranged by Age Categories:
Age 5
-Parents are obliged to register the child at the local education authority (section 3 of the Compulsory Education Law, 1949).

¹⁷ Veerman, Philip and Waldman, Adir. In: International Journal of Children's Rights, vol 4/ issue 2, (1996) pp.147-160 And: Immanuel, John. “Palestinian Teens imprisoned with adults, In: The Jerusalem Post, January 2, 1996.

¹⁸ Physicians for Human Rights (PHR), In Hostile Hands: Palestinian Prisoners at Megiddo Compound, Tel Aviv: December, 2001

-The Compulsory Education Law becomes applicable from the age of 5 (section 1 of the Compulsory Education Law, 1949).
Age 6
-Parents are obliged to register the child in an educational institution or at the local education authority (section 3 of the Compulsory Education Law, 1949)
Age 9
-A Court shall not make an adoption order unless it is satisfied that the adoptee is heard expressing that he/she wishes to be adopted (section 7 of the Adoption of Children Law, 1981)
Age 10
-A child's religion shall not be changed unless [in addition to the consent of his/her parents or the approval of the Court under subsection (a) translator's addition, based on the wording of the law], he/she too has given his/her prior written consent (section 13A (b) of the Capacity and Guardianship Law 1962)
-A Court must consider the desires of a child involved when determining custody law (case law)
Age 12
-Liability in tort (section 9 of the Civil Wrongs Ordinance [New Version].
-Now completely criminally responsible. Also, Palestinian Children are criminally responsible for their activities, (Military Order 223, West Bank). Nevertheless, a parent or guardian or a Palestinian child under 12 years of age who is alleged to have committed a criminal offense can be required to enter into an understanding guaranteeing the minor's good behavior, (Military Order 1235,1256).
-He/she may be arrested for twelve hours and subsequently for twelve for an additional twelve hours with the approval of a commissioned officer of the police (section 10 of the Youth Trial, Punishment and Modes of Treatment Law, 1971).
-Palestinian children aged 12-14 can be sentenced by a Military court for up to a six month sentence.
Age 14
-A private complaint may be filed against him/her under Article Two of Chapter Four of the Criminal Procedure Law, 5725-1965, for an offense committed after reaching this age, (section 15 of the Youth Trial, Punishment and Modes of Treatment Law, 1971).
-Permitted to be employed during the school vacation (section 2A of the Youth Labor Law, 1953).
-A child may now be detained without a court order for up to twenty-four hours.
-May not be arrested for more than an additional twenty-four hours after the first hours of arrest have been authorized by the commissioned police officer, (section 10A of the Youth Trial, Punishment and Modes of Treatment Law, 1971)
-It is now possible to impose imprisonment. Children 14-16 may be sentenced up to a period of one year in prison; There is no limit on the Military court regarding Palestinian Children, (section 10A of the Youth Trial, Punishment and Modes of Treatment Law, 1971).
-The arrangements specified in the Law wit respect to his/her testimony in sexual offenses within the family no longer apply, (Evidence [Amendment] [Protection of Minors], 1955)
-The weight of his/her evidence in civil trial is equivalent to that of an adult, (section 54 of the Evidence Ordinance [New Version], 1971).
Age 15
-Unless subject to the provisions of the Compulsory Education Law, 5709-1949, is

permitted to work (section 2 of the Youth Labor Law, 1953).
-May be accredited for sports diving (section 2 of the Sports Diving Law, 1979).
-He/she can oppose admission to a psychiatric hospital even when his/her guardian has consented to it, (Youth [care and supervision] Law, 1960); has the right to legal representation.
Age 16
No longer subject to compulsory education law 5709-1949 (section 4 of the Compulsory Education Law, 1949).
-May be employed according to the hours and types of work permitted to adolescents (section 2 of the Youth Labor Law, 1953).
-From 16-18, the adolescent is exempt from income tax.
-Retrieval of their genetic information (conditional upon their consent) is now possible, (Protection of Genetic Information Law, 1968).
-Under certain condition he/she may have consensual sexual relations, (14-15 already married, if special permission for the marriage is obtained).
-May receive a driver's license for a tractor or a motorcycle (with an engine up to 50 cc) with consent from his/her parent or guardian (age 16-17).
-May receive a separate passport, (Passports Law 1952).
-Obligated to carry an identity card (section 2 of the Identity Card [Possession and Presentation] Law, 1982).
-A girl under marriageable age may, under special circumstances, receive permission to marry, (section 5 of the Marriage Age Law, 1950).
Age 17
He/she is now allowed to be married without a permit, (sections 1,2 of the Marriage Age Law, 1950).
Can now watch films rated 17+ on the film channel (channel 4).
-Permitted to be single-handedly in control of an aircraft, subject to the specified provisions of the Law and to the request for an apprentice pilot's license, (section 10B of the aviation Law, 1927).
-Right to vote in local and municipal elections.
-Right to be a member of a political party, (section 20 of the political parties law, 1992).
-Permitted to volunteer for the IDF, with the consent of his/her parents.
-Still permitted to be drafted into the IDF, however the military judge advocate general announced a change in the policy, coming into effect soon (resulting in drafting beginning not before age 18).
-Permitted to receive a driver's license at 17.5 years of age, (section 12 of the Traffic Ordinance [New Version] and the Traffic Regulations, 1993).
Age 18
-The period of minority ends at age 18.
-One is fully capable of performing legal acts unless this capacity has been rescinded or restricted by law. His/her legal actions no longer require the consent of his/her representative (sections 2 and 4 of the Guardianship and Legal Capacity Law 5722-1962, 1962).
-Termination of the minor's duty to obey his/her parents or guardians in all matters within the scope of their guardianship, (section 16 of the Guardianship and Legal Capacity Law 5722-1962, 1962).
-Generally speaking, the termination of the rights and duties of the parent with respect to taking care of the minor's needs, as well as the termination of custodial rights and the right to determine his/her place of residence (section 15 of the Guardianship and Legal

Capacity Law 5722-1962, 1962, section 323 of the Penal Law 5737-1977).
-A person causing damage to, or mistreating a minor up to this age is liable to a particularly severe punishment, (section 368A, 368B, 368C of the Penal Law 5737-1977).
-Any adult having reasonable grounds for supposing that an offense has been committed against a minor up to this age is obliged to notify a welfare officer or the police as soon as possible, (section 368D of the Penal Law 5737-1977).
-The minor's civil claims begin to be subject to prescription, (section 10 of the Prescription Law 5718-1958), with the exception of the "abortion p.11" (new since 2002).
-It is now possible for him/her to sue a person, (Civil Wrongs Ordinance, [New Version]).
-He/she can become bankrupt, (section 2 of the Bankruptcy Ordinance [New Version] 5740-1980).
-He/she can be either a plaintiff or a defendant with respect to a tort he/she committed after the age of 12 (section 9 of the Civil Wrongs Ordinance [New Version]).
-He/she is entitled to be employed at all hours of the day, (section 24 of the Youth Labor Law 5713-1953).
-An adoptee has the right to apply to get information from the adoption register entry relating to him/her, (section 30 (b) of the Adoption of Children Law, 1981).
-He/she may now write his/her will, (succession law, 1965).
-He/she has the right to vote for the Knesset,(section 5 of the Basic Law: The Knesset).
-It is permitted to sell him/her alcoholic beverages (section 193A Of the Penal Law, 1977).
-He/she can now buy tobacco products.
Age 21
-Entitled to be voted into the Knesset, (section 6 of the Basic Law: The Knesset) and entitled to be elected to a local or municipal authority.
-May drive a heavy and/or public vehicle.

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. In light of Article 12 of the CRC, could the Law of Association not be amended so as to allow some young people to be part of an organization's board as youth representatives, for instance?
2. **Can the State of Israel bring its military order in compliance with Article 1 of the CRC and with mainstream Israeli law, and define a child as a person under the age of 18 for all purposes?**
3. Can the Government commission a research project if the laws mentioned in table 1 are reflecting adequately the demand for taking into account the evolving capacities of the child (article 5) and to take the opinion of the child into account (article 12)?

IV. General Principles

ARTICLE 2—NON-DISCRIMINATION AND EQUAL OPPORTUNITY

A problem in Israel is that there is no statutory requirement for equal treatment. Non-discrimination is not given anchoring in the basic laws, and when the Supreme Court enforces equality it does so on judicial principles. There is a lack of constitutional basis for equality. The main problem is unequal allocations and treatment of Arab-Israelis and Jewish children. Also contributing to the problem is lack of funding of existing rights and unequal allocations to different groups of society.

The Combined Initial and First Periodic Report Concerning the Implementation of the International Covenant on Civil and Political Rights, compiled by the Israeli Ministry of Justice and the Ministry of Foreign Affairs and submitted to the United Nations Human Rights Commission in 1998, attempts to explain (and excuse) the lack of legislation regarding equality:

While the right to equality is not expressly enshrined in the language of the Basic Laws, it has long been considered an 'unwritten fundamental right' in Israel's constitutional order by members of the Supreme Court...The trend of opinion among members of the Court appears to be that the basic right human dignity includes various unremunerated rights, such as the right to equality.

One of the stumbling blocks in entrenching a specific right to equality is the "prerogative [Israel] has granted to religious law in various areas of public and private life".¹

The principle of equality is not covered by a Basic Law and is not included in the two Basic laws (*Basic Law: Human Dignity and Liberty* and the *Basic Law: Freedom of Occupation*), which were passed in 1992 and gives constitutional protection for some civil liberties and human rights. While these Basic Laws contain no clear authorization for judicial review of statutes, they have given rise to a constitutional review approach that maintains this judicial authority.² Equality was not included especially in the *Basic Law: Human Dignity and Liberty*, as can be clearly concluded from an article by Deputy-Attorney-General (and member of the UN Committee on the Rights of the Child) Judith Karp.³ Karp writes that Israel's political reality, in which the religious parties play a major role, is one of the main reasons for not including equality in the *Basic Law: Human Dignity and Liberty*. She concludes that there is also no constitutional guarantee of equality under Israeli law and no clear, special legislative protection to assure equality for the Arab-Israeli minority. Ukki Merushak Clarman, the Educational Director of the Adam Institute

¹ *Combined Initial and First Periodic Report Concerning the Implementation of the International Covenant on Civil and Political Rights*, p.37.

² Justice Aharon Barak (President of the Supreme Court), "The Constitutional Revolution: Protected Fundamental Rights," *Law and Government*, 1:1, (August) 1992.

³ Karp, Judith, "The Basic Law: Human Dignity and Liberty, Biography and Power Struggle," 1(2) *Mishpat Umimshal* 323 (1993).

for Peace and Tolerance pointed out to us that the opposition to equality as a Basic Law may also be found among the nationalistic sector; occasionally, even by those who possess moderate nationalistic beliefs. The secular camp could, she argues, take political advantage of the fact that it is the majority in the public and push for legislation of such a law. It has, however, chosen not to do so. The Legal Center for the Arab Minority Rights in Israel, Adalah, notes that there is also no law which grants the Arab-Israeli population special protection as a distinct national minority group, whereas the State's majority ethnic and religious identity is assured.⁴ The lack of a special status (like in a Basic Law), makes protection of the equality rights of children of the Arab-Israeli minority difficult in fields spanning from Article 27 of the CRC (adequate standard of living and housing), to Article 30 of the CRC (the right to enjoy his or her culture and the right to use his or her language), to the right to access public services.⁵

The Arab Association for Human Rights, whose office is in Nazareth, writes: "Since its enactment, the Israeli Supreme Court has held in a number of decisions that the right to human dignity does include the right to equality. However, none of these cases has involved discrimination against Arabs, and the principle is still subject to debate and not well-rooted."⁶ They are of the opinion that given "that most discrimination against Palestinians in Israel is indirect, resulting from the adoption of criteria or policies which lead to distinctions, rather than as the result of overt distinctions, it is difficult to establish a case of discrimination even where the facts show a clear pattern of discriminatory effect. The Israeli courts have been particularly reluctant to intervene in decisions made by branches of the government where anything perceived as relating to security considerations or linked to the national issue, such as land questions, are involved. Nevertheless, the number of petitions to the Supreme Court challenging policies which are alleged to be discriminatory is increasing."⁷

In the 48th report of the Israeli State Comptroller, the State Comptroller concludes that the decisions on special budgets for municipalities and schools are not made according to clear and publicly known criteria, and there is nobody responsible for ensuring that the allocation of the budget is made in an equitable manner. The State Comptroller's report states that the disparity between the educational positions required by the regulations of the Ministry of Education, and the educational positions that, in fact, exist is particularly large in the Arab towns and villages. For example, in the Arab sector, the Ministry of Education funds only 35% of the budget for psychologists, as opposed to 70% funding in the Jewish sector. Another example is that in spite of the fact that dropout rates among Arabs are much higher than among Jews, the Ministry of Education has funded only 30% of the budget needed for the positions of School Attendance Officers (who are in charge of preventing school drop-out) in the Arab sector, as opposed to 46% in the Jewish sector.

⁴ Dakwar, Jamil, of Adalah: The Legal Center for Arab Minority Rights in Israel, in interview, January 6 2002, Shfaram.

⁵ Dakwar, Jamil, *Ibid.*

⁶ The Arab Association for Human Rights, Economic, Social and Cultural Rights. A report presented by the Arab Association for Human Rights to the UN CESCR Committee on Israel's Implementation on the International Covenant on Economic, Social and Cultural Rights, Nazareth, 1998

⁷ idem

ACRI concluded⁸ that in light of the State's recognition of the historical disparities between the Jewish system and the Arab system, the Ministry of Education should have instituted an affirmative action program for Arab education for the purpose of achieving qualitative equity. However, even today the Ministry of Education continues to discriminate against the Arab educational system in many areas.

Individual court rulings indicate that the courts will recognize a certain amount of protection against discrimination in the private domain, particularly concerning access to places open to the general public. A clear example is a ruling handed down by the Jerusalem Magistrate's Court to an Arab family, which was awarded a modest compensation of NIS 10,000 after they were refused entry to a water park. The Court ruled that the water park's discriminatory practice violated its contractual obligation of good faith and fair dealings.

In order to bypass a previous ruling of the Supreme Court, which ruled that, the principle of good faith does not obligate equal treatment during the course of negotiations.⁹ The court ruled that media advertisements to visit the park were directed at the general public and constituted a good faith offer by the water park. The cancellation of this invitation at the last minute, specifically to the Arab family, violated the principle of good faith implicit in all contractual offers. The Court also ruled that such behavior also violates the obligation of the private sector to uphold the rights to human dignity, including the right not to be humiliated on the basis of national origin.¹⁰

Our colleagues from ACRI concluded that from all angles there are no clear rulings in this field, and certainly there is no suitable protection against discrimination in the existing legal situation, where there is growing discrimination, particularly against the Arab minority¹¹

1. Discrimination on a National Basis

The Law of Return (1948) grants every Jew throughout the world the right to immigrate and acquire Israeli citizenship. Registry of a person being Jewish or Arab in all official State identity cards is often a mechanism for maintaining discriminatory distinction between those who belong to the "Jewish people" and those who do not.

A disturbing manifestation of discrimination in the Israeli government concerns Arab villages that have been erased off the maps, written out of "official" history, and denied social services. There are about 100,000 citizens, mostly Bedouin, living in hundreds of unrecognized villages throughout the State and concentrated mainly in the Southern Negev desert region and in the North.¹² Sixty thousand of these

⁸ ACRI, The Association for Civil Rights in Israel, Comments on the Combined Initial and First Periodic Reports Concerning the Implementation of the International Covenant of Civil and Political Rights (ICCPR). Submitted to the United Nations Human Rights Committee, July 1998.

⁹ *Beit Yles ruling* 22/82 P.D. 43(1) 441.

¹⁰ C.A. (Jerusalem) 11258/93 Na'ama vs. Kibbutz Kalya.

¹¹ ACRI. Idem. P.130.

¹² Memorandum of the Association of Forty, The Association for Recognition of the Unrecognized

villagers are children. Most of the unrecognized villages are denied basic services and infrastructure such as water, electricity, education, transportation, and healthcare. Some houses are built out of concrete or stone, but most are shanties and tents. The average number of people per household is ten in a “two room” unit. There are only ten primary schools in the approximately forty such villages—one in the North and the rest in the South. Most pupils travel dozens of kilometers daily to reach their classes. According to Mr. Abu Kaf, the chairman of the Regional Council for Palestinian Bedouin Unrecognized Villages, are no primary schools in many villages (for instance Al Lgara, Bir Al Mashash, Tal Almaleth, Azarura, Bir Al Chamam, Wadi Alsash.) Transportation is provided if the distance to school is more than 3 kilometers, many children have to walk this through the fields in the heat and mud in the winter. It is especially problematic for small children of kindergarten age. A decision by the Minister of Education to open two new schools was implemented by the Bedouin Education Office in such a way that they were to be built 100 meters from each other and not in different parts of the Negev. There is only one kindergarten run by the government and seven others established by the Association of Forty Unrecognized Villages¹³ in the unrecognized villages. Most children have no preschool education.

Unrecognized villages were described well by the Regional Council for the Palestinian Bedouin of the Unrecognized Villages in Beersheba:

“While walking along a bumpy, open field, you sight an obstacle, a barrier, an open sewage system and soon you come upon a wire fence several meters high. There is no sign that points to the village; there isn’t a road that leads into the village. Once you have navigated the obstacles you are staring at corrugated zinc, metal shacks and tents used as houses in the middle of the Negev dessert or Galilee. Children in these villages do not enjoy even minimum services (public infrastructure), such as water, sewage, electricity, access roads and transportation, health services, communication, education, welfare, or municipal infrastructure among others. Residents of unrecognized villages are the only population in Israel that is systematically denied municipal representation and basic municipal services.”

Bedouin children are also discriminated against in issues of healthcare, education, and permanence of home. Today, many Bedouin children travel by bus, foot, donkey or camel long distances through sweltering heat to reach under-equipped, understaffed schools. Others simply do not attend school. All schools in the Bedouin sector lack well-equipped modern libraries and laboratories. There are 69 councilors employed in Jewish schools in Israel’s Southern district, and none employed in the Bedouin schools of that district.¹⁴

Some Arab-Bedouin settlements in the Negev, which have been constructed illegally on Government land, have been demolished with very little consideration for the effects on children. In November 2001, the Interior Ministry ordered the demolition of 6 Bedouin homes. The Ministry maintained that the Bedouins have been offered alternative locations for over a year, and that staying on the land they were on was a

Arab Villages

¹³ *Ibid.*

¹⁴ The Center for Bedouin Studies and Development, Ben Gurion University of the Negev, *Newsletter*, Vol. 1, August, 1998: p.1.

danger to children since the army has been performing exercises using live ammunition. In the West Bank, in the government displaced, in 1998 the Jahelin tribe from the land they lived on in order to expand the settlement of Maale Adomim. Through the government's closure of their water system, the tribe was forcibly relocated to a plot of land near the main waste management plant away from where they used to live. At a hearing on February 15, 2000 the Supreme court issues an order nisi in Adalah's case concerning the provision of welfare services to the unrecognized villages in the Negev. The Arab-Bedouin who live in the unrecognized villages receive limited welfare services. In addition Adalah petitioned against the Ministry of Infrastructure etc. demanding supply of drinking water to the unrecognized villages.

It is amazing that a senior public official, Moshe Shochat, (head of the Authority for Bedouin Education) could stay so long in his position after having expressed discriminatory remarks about Bedouins. He was forced to step down in March, 2002.¹⁵ Adalah brought the case to the Supreme Court. (H.C. 7383/01, Megel el-Hawashleh, et. al. v. Minister of Education, et. al)

All schools in the Bedouin sector lack a modern, well-equipped libraries and/or laboratories. There are 69 counselors in Jewish elementary schools in Israel's southern district, but none in Bedouin schools.^{15a} Although prescribed by law many unrecognized villages lack kindergartens, well-baby clinics. In the village Ein Hod near Haifa (where 250 people live), there is no kindergarten.¹⁶

Arab-Israelis minors arrested in similar situations as their Jewish-Israeli counterparts are held until the end of the proceeding and not released on bail. This policy is discriminatory and against the idea that detention should only be used as a last resort.¹⁷

Adalah petitioned the Supreme Court in December 1999 to compel the government appointed local council in Segev Shalom, one of the seven governed planned towns, and the Ministry of Education to establish kindergartens for 400 Arab-Bedouin children. Following the issuance of an order nisi by the Court, the respondents re-opened the preschools for 200 children. (H.C. 8534/99, The Parents Committee in Segev Shalom, et. al. v. The government appointed Council in Segev Shalom, et al.)

The Education Ministry funds only one-fifth the amount of remedial education for needy Arab students than it does for needy Jewish students. According to the Association for Civil Rights in Israel¹⁸, the ministry has two different standards of eligibility for remedial education classes-one for Arab students, and one for Jewish students.

¹⁵ Berman, Robby. "Israeli Official Slurs Bedouins" in *The Jewish Week*, July, 19, 2001 see also Reinfeld, Moshe. "Bedouin Education Unit head dismissed" in *Haaretz*, March 26, 2002.

^{15a} The Center for Bedouin Studies and Development. Ben-Gurion University of the Negev, *Newsletter, vol. 1, Autumn*, 1998, p.1.

¹⁶ Information provided by the Association of Fourty (unrecognized villages).

¹⁷ Dayan, Aryeh. 'Two Laws for Two Peoples, Three Arab Teens and Three Jewish Youngsters were Arrested for Taking Part in Recent Ethnic Clashes in Nazareth and Afula. While the Arabs are Still in Jail, the Jews were Released to Gauge Arrest' In: *Ha'aretz*, November 7, 2000.

¹⁸ Sa'ar, Relly. "Study: Less Remedial Schooling Available for Arabs than Jews," in: *Ha'aretz*, May 8, 2001.

This conclusion rests on research done by two Hebrew University professors, who found that Arab elementary schools receive 18 percent of the ministry's remedial education budget for these grades, while Arab-Israeli middle schools get 19 percent of the budget for their grades. But since the Arab-Israeli students overall come from considerably weaker socioeconomic backgrounds, the study said, the result of this funding allocation is that the average Jewish student in need of remedial education receives 0.2 hours per week of additional class time, while his Arab counterpart receives 0.04 hours per week of such instruction.

In order for the per-student allocations to be equalized, the study continued, Arab schools should actually receive 50% of the remedial education budget (even though they comprise a much smaller percentage than that).

In an interview for this report Dr. Haled Abu Asme of the Brookdale Research Institute explained that:

"The circumstances are derived from the education's goals. The phrasing of these goals that appears in the state education legislature does not bring into account the need of the Arab education and even ignores its uniqueness. An examination of the goals and the study hours dedicated for various subjects shows a lack in equality towards the goals of the Arab education in comparison with the Jewish education in Israel.

In history studies, the outstanding fact is that the Israeli-Jewish student is educated in accordance with Jewish national values and with the contribution of his people to the human culture, while the Arab-Israeli student is prevented from engaging in the identity issue. In both sectors an equal amount of time is dedicated for the study of general history; in contrast, the amount of time dedicated for the study of Arab history in the Arab sector is not equal to the time dedicated for the study of Jewish history in the Jewish sector.

In the study of grammar and literature, again the gap between the two sectors is outstanding in regard to national education and collective identity. The goals of Arabic teaching are essentially technical, while the Hebrew that the Arab student learns, is used to impart the Israeli culture and heritage.

Things are much the same in the area of religious studies. An Arab-Israeli student is compelled to study the bible as part of studying Hebrew and accordingly he is compelled to undertake an Israeli matriculation exam that includes Jewish religion. At the same time an Jewish student is not compelled to study for the Israeli matriculation exam that includes Islamic or Christian religions."

The newspaper *Ma'ariv*²⁰ published an article in October 2001 saying that government expenditure on education for Arab pupils is lower than that in the Jewish sector. As the scale of the Arab pupil population rises within the total pupil population in Israel, the scale of expenditure drops. *Ma'ariv* reported on a joint investigation by Yossi Za'ira of the Hebrew University in Jerusalem, and Michel Stravetzinsky from The Bank of Israel. The research showed that expenditure on education did not depend on the party in power or composition of the Knesset, except in one survey – an obvious increase in education budget during the Rabin

²⁰ Garinstein, Yossi. "Research: Government Expenditure on Education for Arabs is lower than for Jews," in *Ma'ariv*, October 4, 2001.

government of '93-'96. During this period, the expenditure for education increased significantly to 9% of the budget. This came about from a government decision at the time to make education a top national priority.

In the field of education, more female pupils at high schools receive matriculation certificates – 57 percent as opposed to 47 percent of males, among Jews; and 51 percent, as opposed to 39 percent, among the Arabs.^{20a}

The Initial State Report recognizes that there are severe problems with discrimination especially regarding the Arab-Israeli populations. These problems will remain with us for many years if effective remedies are not put in place.

On April 16, 2002 Prime Minister Ariel Sharon was interviewed on CNN by Wolf Blitzer. He said that he was the “Prime Minister of the Jewish people”. This may have many Arab-Israelis wonder if they are, in the opinion of the Prime Minister, not his citizens and, it may worry Jews living abroad who do not see Mr. Sharon as their Prime Minister. It sends out the wrong message to young Arab-Israelis who will be more concerned that discrimination against them will not stop soon.

2. Discrimination Against Children of Foreign Workers

According to estimate of Mesila, the Aid and Information Center for the Foreign Community in Tel Aviv-Jaffa, the number of both illegal and legal foreign workers in the city is 60,000-80,000; most of the children of foreigners in Israel are concentrated there. In July, 2001, the number of children up to age 18 was estimated at more than 2,000; of them, approximately 1,200 were babies and children under the age of six. We estimate, however, that the number of children from foreign workers can be as high as 6,000.

The organization SHATIL (Support Project of Voluntary Organizations)²¹ noted that Ministry of Education policy discriminates against the Arab sector. The percentage of Arab children and Jewish children who attend mandatory kindergartens is identical. There is a large gap, however, between the percentages of Jewish and Arab children who attend pre-school programs.

All kindergartens in the Arab sector are operated by the local Arab authorities. The investment of these authorities in the education of pre-school children is extremely limited, however, compared with the investment of the local Jewish authorities. The main reason for this, according to Shatil, is the sparse resources of the local Arab authorities, both because of discrimination in budget allocations from the government ministries and because of low revenues from local taxes.

Until recently, children of foreign workers without resident status did not have any health coverage. On February 14, 2001, the General Administrator of the Ministry of Health announced that the Ministry would begin immediately to provide health insurance for all non-resident children in Israel who are not residents.

^{20a} Bassok, Motti. “It’s Not a Man’s World in Israel,” in: *Ha’aretz*, March 7, 2002.

²¹ Ghada Abu Jaber. Early Childhood Education in the Arab Sector in Israel: Policy and Reality, Jerusalem, 1992, Shatil.

Physicians for Human Rights-Israel (PHR), which lobbied for the change, informed us²² that according to the agreement, the range of services provided to these children shall be equal to the range provided Israeli children. Any child living in Israel for a period of six months or more can be registered for this arrangement, and receive full coverage of healthcare for payment. Children born in Israel (whose mother has lived in Israel for over six months) can be registered immediately and receive the full range of services.

PHR-Israel reported that since February 2001, “we have followed the application of this agreement” and found that the Health Fund implementing the agreement, Me’uchedet, is investing considerable efforts in facilitating registration and provision of services. The health fund even cancelled the waiting period for children not born in Israel (which should have included emergency care only for the six months), and it provides these children with full services from the moment of registration. Dozens of children and babies, who have chronic and other illnesses, with whom we are acquainted, have registered and now receive full services. Nonetheless, the number of applicants is disappointing and includes only some three hundred children, out of several thousand living in Israel today. The reasons for this are not clear, but we estimate that they are related to basic problems inherent in the agreement:

It is a voluntary agreement, i.e., parents can decide whether or not to register their children, and the services are dependent on registration and payment. Israeli children, since the application of the National Health Insurance Law, are entitled to services irrespective of registration and payment (although they can’t receive them unless they are registered).

The payment is apparently a real obstacle. Parents are requested to pay between 185 and 370 NIS (\$40-85) each month. It would seem that people who make their living from temporary jobs find it difficult to pay this sum on a regular basis for long periods of time, or else that they do not believe that they will be able to do so. In many respects, a permanent regular payment for insurance contradicts their life condition.

The arrangement is not a law, but a pilot project running for two years.

The new arrangements are voluntary and expensive. That’s why only a minority of the children of foreign workers are registered by their parent(s) for it. Many parents do not get a paycheck at the end of the month and the conditions of foreign workers are such that it will remain uncertain whether parents will register their children, unless the government better adapts the rules to the outlook and conditions parents. The result is that in the meantime, as long the arrangement is not compulsory, that the majority of the children of foreign workers remain uninsured. The situation is now that parents of children of foreign workers who need treatment in a hospital need to first give a guarantee, if they are uninsured. This leads many foreign parents to try to find lesser alternatives that could result in damage to the health of their children.²³

3. Ethnic Discrimination within the Jewish-Israeli Sector

²² Physicians for Human Rights-Israel, January 8, 2001 in Tel Aviv. Interview by Philip Veerman with Hadas Ziv, January 2, 2002. 210.

²³ Algazy, Joseph, “Suffer the Children,” In: Ha’aretz, February 1, 2002.

DCI—Israel has filed several cases in the last few years in an attempt to protect children from discrimination. Among them, in 2001 DCI—Israel filed a complaint against a State religious school in Ashdod for keeping Ethiopian pupils on a separate floor from all other pupils and giving these students breaks at different times so the students cannot associate with each other. The school claims that the children have different religious levels. We believe it is simply discrimination. Since much is done for Ethiopian Jews and a lot of resources are invested in their development, and there is no lack of good ideas for how Ethiopians can be better integrated, we will deal with their problems in this report under article 8 (the right to identity), also because the IAEJ, the Israeli Association Ethiopian Jews, the FIDEL organization, The Association for Education and Social Integration of Ethiopian Jews in Israel advised us to deal with their problems there and not under art.2.

DCI -Israel took up the case of Ethiopian girls in the Yad Ora boarding school outside the town of Afula. Students learned in over-crowded classrooms with mainly Ethiopian girls. All of the 170 girls at the school in 1994 were Ethiopian. There were hardly any recreational facilities. Students wanted to integrate into Israeli society and saw the substandard conditions of the residential school as a handicap. After the complaints of DCI- Israel, the quality of education improved, although DCI wanted the school closed.

The issue of discrimination is unfortunately still with us. DCI-Israel, and the coordinator of Youth Information and Advice Center, (which is a joint project with the municipality) David Gradovitz, are concerned about a State Religious School in Ashdod in 2001 for placing Ethiopian pupils on a separate floor than other pupils and scheduling breaks for other times so that the pupils did not intermingle. The school claims that the children have different religious levels; we believe that it is simply discrimination. (

It should be noted that many immigrant youths suffered from Anti-Semitism in the countries they left for Israel.

Ultra-Orthodox independent schools can select their pupils as they see fit, in ways that would be forbidden in other sectors. Parents who have a television at home or a daughter who became non-religious can be reasons for an administration to decide that a pupil would not fit in well at their independent school.

Dr. Yossi Yona at the Hebrew University School of Education has pointed out to us²⁴ that there is a “soft discrimination” against Jewish-Israeli children from Sephardic backgrounds. He thinks that educational opportunities for them are not as good as they are for children of Ashkenazi backgrounds. He pointed out that this has led to proletarianization of Sephardic Jews in Israel. Built into the education system are sophisticated ways of discrimination. Dr. Yona says that the inequality does not fit well with the Israeli self-image.

4. Discrimination According to Geographic Distribution

²⁴ Interview with Dr. Yossi Yona in 1995.

The pre-State policy was to settle Jewish Immigrants in rural settlements.²⁵ The urban centers were left to market forces. According to Lipshitz,²⁶ the rest was a periphery with a large number of small rural locations, and the center with a small number of large urban centers. For the newly established State, this presented a grave geo-political and defense problem. Early Israeli governments therefore viewed population distribution as a national goal of the highest priority, to be achieved by mass immigration in the 1950's. Approximately one million Jews came back to Israel during that decade, mostly from North Africa and Asia. Some 700,000 arrived between 1948 and 1953 alone, doubling Israel's population. As a result, some 90 kibbutzim, 200 moshavim, and 40 urban localities grew into fruition—some defined as “development towns”.

Most development towns were built on the periphery; from the Galilee in the North, to the Negev in the South. It was relatively easy for the government to direct immigrants to these undesirable areas, because most newcomers left for Israel, leaving all their material wealth behind, and were now at the mercy of the government. “The *similarity* among the development towns in the 1950s and 1960s was not limited to housing and employment; it also manifested itself in the ethnic, social, cultural, economic and political spheres. Since most of the population in development towns had little formal schooling and no technological skills, they became low-income laborers.” Lipshitz believes that “there is no official and uniform definition of a ‘development town.’” Each government ministry has its own interpretation of the term. He concludes that:

- The socio-economic profiles of several localities not defined as development towns were lower than those of some development towns.

- If the meaning of “development town” were confined to the sense of “town to be developed,” i.e., a town in need of government assistance for the improvement of its population's socio-economic profile, many development towns in the center of the country (the control group in this study), would deserve substantial aid.

Geographic discrimination, manifest in the number of medical and educational facilities, exists, at the expense of children living in the periphery, especially the Negev desert and the far North. In the entire Negev region, for example, only one major hospital exists to serve inhabitants from a radius of hundreds of kilometers. The same is true of both libraries and academic institutions. The Negev Law, a private members bill, will give benefits to residents of this region as from this budgetary year.

In the Northern region, lawyers of the office of the Public Defender did not represent minors, despite the 1998 regulations requiring state funded legal representation for children in criminal cases. The lack of public defense for children in the North exists only for budgetary reasons. (In April 2002, the clock was turned back for all children: see article 40)

All minors arrested in Israel can get legal representation from the Office of the Public Defender. However, when a child commits an offense in the Haifa region

²⁵ Yona, Yossi. “Cultural Pluralism and Education: The Israeli Case.” In: Interchange, 25/4, (1994), pp. 349-365.

²⁶ Lipshitz, Gabriel “Development Town, A New Basis for Policy Planning,” In: Israel Studies, (1992), pp.3-11

(Haifa, Acco, Hadera), no lawyer will come from the office of the public defender (unless he/she has committed so grave a crime that the prosecution asks for more than ten years imprisonment or if the prosecution asks that he/she stay in Israel until the end of the trial, called in Hebrew *Atom Aligim*). For budget reasons, children in the Haifa region are discriminated against. Haifa was supposed to be the last region of the country where the work of the public defender still had to extend itself over. However, in April the clock was turned back by the Minister of Justice after a letter by DCI-Israel, the Minister of Justice Meir Shitreet wrote Dr. Philip Veerman of DCI-Israel that since money had come from the finance ministry, lawyers could again be found for children. Also he stated that in the Haifa area children could soon get lawyers from the Public Defender's Office. (see article 40)

The army also discriminates against youth who have been tried in the juvenile court. They get a letter when they are seventeen, that the IDF thinks that they he/she "is not qualified". In a society where army service is important for Jewish men and women to find good jobs later on, and when the children who get the stamp of "not qualified" are mostly from poor neighborhoods, we wonder if an element of discrimination does not also play a role here.

According to Yulia Glepman's conference paper of 2002, (National Council of the Child)

"There is a high correlation of placement of children with special needs with place of residence and the available services, affecting the child's ability to realize his right for appropriate services. The correlation shows a "preference" of the children residing in the central area of the country as opposed to their peripheral peers."

5. East Jerusalem

Children in East Jerusalem lack an equal status with other children in Israel and suffer discrimination in equality in education and quality of schooling, housing and social services.

On August 29, 2001, the Supreme Court denied an appeal to compel the Jerusalem Municipality and the Ministry of Education to provide free education to thousands of Arab primary school children in East Jerusalem.²⁷ The Court also refused to discuss a petition by parents of some 1,000 children to instruct the ministry of finance private schooling for their children in view of the lack of public schooling facilities. The court said that it was not expressing an opinion on the issue of whether the children were entitled to demand state funding because their rights to free education had been infringed²⁸ "There is nothing in our judgment to bring about the opinion concerning the question of whether the law upholds the entitlement of East Jerusalem children who have been prevented from taking up the rights to which they are entitled by the Law for Compulsory Education, to claim their rights according to

²⁷ Reinfeld, Moshe. 'Court won't Order City to Uphold Free Schooling for Jerusalem Arabs,' in: *Ha'aretz*, August 30, 2001.

²⁸ The Supreme Court in Jerusalem, Sitting of the High Court of Justice, The Petitioners: Minor Faddi Badria, through her parents and guardian, of Shufat, Jerusalem. 904 additional minors through their parents, et al. v. The Jerusalem Municipality and the Ministry of Education, case 5185/01 and 3834/01.

the said law.” It said that it could not issue a sweeping order to compel the authorities to cover the costs of all the children’s education. Instead, it issued a partial order to the ministry and municipality to enroll those children who wanted state education in the coming years, but the court did oblige the authorities to give them buildings and schooling. “The central head of the petition revolves around the commitment of the authorities to accept, de facto, the petitioners and others to study at educational institutes under the compulsory education law. On this issue, some limited arrangements were made for absorbing some of the children during the present year, and the respondents declared that they are adopting a multi-year program (for 4 years) that will include the building of 245 new classrooms. Without limiting the consideration of the authorities to build, when necessary additional rooms.”

6. Discrimination by Gender and Sexual Orientation

Advocate Stephanie Raker of the Israel Woman’s Network wrote us: “ In its discussion of the Article 2 requirement for respect of each child without discrimination, the State Report lacks any discussion of discrimination on the basis of gender. Similarly, in the State Report’s discussion of the child’s right to education and the aims of education under Article 28 and 29, the State Report makes no mention of any discrimination on the basis of gender in the educational system. In addition, the State Report makes no mention of the fact that gender bias in the schools hinders the ability of the school system to enable students to develop their personalities and talents to their fullest potential, as required by Article 29 of the Convention.

The educational system in Israel ascribes to equality between the sexes. However, in practice, the educational system is trapped in stereotypical gender concepts that strengthen the gaps in achievements between boys and girls, especially in science studies. The achievements of girls in these areas do not reflect their abilities and talents and negatively affect their advancement in these fields in the workplace.²⁹ As early as 1983, the Dvoretzky Committee reported on gender differences in the study of mathematics: in the 12th grade, only 15% of female students sat for matriculation examinations in high-level mathematics, while 30% of the male students did so.³⁰”

Research by the Chief Scientist of the Ministry of Education shows that despite the fact that more girls than boys complete high school and receive matriculation certificates, significant gender differences in educational achievements continue to exist in certain selected subjects. For example, in 1999, while 60% of the high school girls and 52% of high school boys took three units of mathematics matriculation exams, only 14% of girls took the more advanced level of 5 units whereas 22% of the boys did so. These differences occur also in physics, computer science, electronics and computers. In physics, for example, twice as many boys as

²⁹ Women in Israel: A Data And Information Compilation, 1999-2000, The Israel Women’s Network, Resource and Policy Research Center, p.4, citing R. Shahar, 1999, “Equal Opportunities between the Sexes in the Education System- Between Reality and Vision”, The Jubilee Book of Education, ed. Elad Peled, Ministry of Defense and Ministry of Education, Culture and Sport, Israel.

³⁰ “ORT Young Women Prepare for the 21st Century, 1997-2001; A Revolution in Expectations and Achievements”, Y. Rom, p.1 (report on file with the Israel Women’s Network), citing The Committee for Science and Technology Education, Prof. A. Dvoretzky, July 1983, Jerusalem, Israel.

girls took 5 units of physics matriculation exams. Conversely, 5 times more girls than boys took 5 units of literature matriculation exams.³¹

The report by the Chief Scientist of the Ministry of Education discusses many studies that examine why such great gender differences continue to exist, such as (i) teachers and advisors who encourage boys to select math, science and technology and encourage girls to select the humanities, and (ii) personality and psychological differences between boys and girls that result in their selecting certain subjects because of how they are taught rather than the content. The Chief Scientist of the Ministry of Education reports that there are programs that have been successful in other countries to reduce or even eliminate the gender gaps in specific educational fields. The report emphasizes the Ministry of Education must undertake concrete measures to create an educational environment in which all pupils can develop to their full potentials.

It is quite surprising that the State Report makes no mention of the fact that such significant gender differences in educational achievements continue to exist. We believe that the Government should be encouraged to view these gender differences in educational achievements as the result of unofficial and implicit discrimination in the educational framework which it is obligated to address and pursuant to its obligations under Article 2 of the CRC.

In certain religious communities of both the Jewish and Muslim sectors, families deny girls adequate access to education in certain fields (both religious and secular). Another worrisome indicator of gender discrimination is the absence, in some areas, of educational opportunities for girls in technological and scientific fields and higher Torah learning, although there has been some progress in the State Religious framework.

A group that does not get any attention in the Initial State Report is homosexual youth.

The Association of Homosexuals, lesbians, Bisexuals, and transgenders, in Israel³² has pointed out to us that the professionals, who work with teenagers in Israel, lack the knowledge and the tools to handle teenagers that address them, due to difficulty, distress, or struggle concerning their sexual inclination. There is no problem in Israel that compels the educational consultants and the welfare people to study the subject, both in their professional training in the university and their work with teenagers in the field.

Yet drastic improvements are being made in assistance for homosexual youth. The Association of Homosexuals, Lesbians, Bisexuals and Transsexuals in Israel holds support groups for homosexual and bisexual youth.³³ While 4 years ago the youngest members arriving were 16 years old, the group now has participants who are 12 and 13 years old, demonstrating an earlier awareness. And while social workers and psychologists in Israel are overall lacking in information on homosexual youth, there

³¹ Mevarech, Zamira, Chief scientist, Ministry of Education "Gender Gaps in Educational Achievements" September 10, 2000, Office of the Chief Scientist, Ministry of Education, Israel, pp. 1-5

³² Information provided to DCI Israel by Guy Ghilo, social worker, youth sector supervisor, The Homosexuals, Lesbians, Bisexuals and Transgender Association.

³³ Shilo, Guy, *Homosexual Youth in Israel*, Position Paper of the Association of Homosexuals, Lesbians, Bisexuals and Transgenders in Israel.

is a keen interest and effort to help such children. Homosexual/Bisexual support organizations such as the Jerusalem Open House and the Haifa Forum provide services for youth, including groups work such as support groups, hotlines, professional and career counseling, a hostel for homosexual youth in distress, and a support group for youth employed in prostitution. We commend the increasing participation of local authorities in services for homosexual youth.

7. Children With Disabilities

Even today, society's regard of the disabled in general and of children with special requirements in particular is still far from being an assisting factor for social integration. This regard comes into effect in terms of a nonexistent physical accessibility and even more so in terms of considering and accepting the different child as equal. A need exists for a serious and planned investment in the education and information fields regarding this issue of accepting the different other, already from an early age.^{34a}

ARTICLE 3—THE BEST INTERESTS OF THE CHILD

Traditionally, what is in the best interest of children has been decided by parents or experts.³⁵ Our main problem is that with respect to Article 3, the best is not enough, linked with Art. 12 (taking the opinion of the child into account). Also, in Israel, the best interests of the child concept has undergone an evaluation into a legal principle.

Israeli authorities have generally exhibited a caring, if paternalistic attitude towards the concept of the best interests of the child. The rights of the child were discussed in detail in the Israeli Supreme Court after ratification of the Convention was in *Anonymous v. Anonymous*³⁶ (1993). The court gave an extensive discussion on the concept of the best interests of the child, and recognized, for the first time, the importance of the child's rights within the concept of the child's best interests, finding the two ideas intricately linked.

One of the main problems with Article 3 is that it is still implemented in a paternalistic way, and the link with Article 12 (to take the opinion of the child into account) is not made. DCI-Israel lawyer, Gal Torres, who works in the family courts, reports that sometimes the judge in her region invites the child for a talk in the judge's chambers, says what he thinks should be done, and then writes down that the child agrees with the arrangement. In family law however, a child (either him/herself or via a friend and not necessarily via his/her parents) can petition the judge. In other areas of Israeli law this is not yet possible.

^{34a} Yulia Glepman, Raja Jiris, Shani Bolcova, Adi Lesri. "A preparatory Document for the Session: Difficult but equal children- Responses to special requirements." Conference paper, National Council for the Child, February 19, 2002.

³⁵ Casas, Ferran. Quality of Life and the Life Experience of Children, In: Coby de Graaf, (ed.) The Right of the Child to Privacy. Amsterdam, 1999, p. 12.

³⁶ C.A. 2266/1993, 22.02.95. This case deals with a divorced Jewish woman who converted to Jehova's Witness and took her children against their will to religious missionary activities with the aim of converting them. The majority of the Court was of the opinion that the rights of the child in this case are equivalent to the best interest of the child. The Court repealed the woman's guardianship over the children and placed it in the hands of their father.

Claiming that we hold a legal system where the child is protected from threats to his welfare, with the benefit of the child as the critical consideration of the child as the critical consideration-has a very weak significance/validity, since this protection is exposed to the ideological biasing of the 'best interests of the child' principle, by the decision-makers. Therefore, it seems reasonable that a society that is truly interested in protecting the benefits of the child will provide him the opportunity to express his personal preferences and priorities. And it is reasonable that there should be positive correlation between the weight given to these priorities and the true competency of the child for making decisions on questions concerning him.

We propose a change in the law that specifies when not to consult children. For instance, when parents are divorcing and when it can be expected that when the child expresses a preference to live with one parent, the other will break off relations with the child.

The State also only thinks about the best interest of the State and not of the best interest of the child when it recruits minors as informers. We are especially concerned that when discovered, the life of a Palestinian child collaborator is in danger. Danny Rubinstein wrote:

"There is an extensive network in the West Bank and Gaza Strip that hunts down collaborators. The Israeli targeted assassinations against terrorists, since the start of the intifada, have given rise to waves of suspicion and rumors among Palestinians that collaborators must be working on behalf of the Israeli intelligence. The rumors gained in strength as the targeting became more accurate. A few weeks ago, for example, a youth in Ramallah was caught spraying the car of a Hamas activist with a chemical substance. According to the rumors, this substance made it possible for Israeli helicopters to target the vehicle and blow it up."^{37,}

In April 2002, a Palestinian Military Court sentenced the 15 year old Abdel Khalim Hamdan from Khan Yunis to death for collaboration with the Israelis, but the sentence was converted to 15 years of hard labor because of his age.^{37a}

Another problem with Article 3 in Israel, is that Rabbinical Court Judges gives ("in the best interest of the child") preference to a religious parent. A good example was provided by the Na'amat women's organization's branch in Haifa. A man with a history of violence (who had thrown his baby out of a window, although the baby survived) and had a history of beating his wife as well, claimed in the Rabbinical Court that his wife had become Christian. Both man and wife were Ethiopian. This accusation (we think an attempt by the husband to prevent guardianship being given to the woman) shocked the Rabbinical Court judges, who asked the woman to place her children in a religious Jewish school, to prove that she was Jewish (which she did). The Rabbinical Court would have given guardianship to the father if she had refused, although they realized that he was not really fit to have guardianship (in that case he had to place them in a boarding school). Such cases will, when brought to the Supreme Court, be corrected by them, but it causes hardship for many years.

³⁷ Hass, Amira and Harel, Amos. "Twelve Suspected Collaborators are Killed in the West Bank, in: Haaretz, April 2, 2002 and Rubinstein, Danny "Before the IDF Set Them Free" in Haaretz, April 2, 2002

^{37a} Associated Press, Six Palestinians face death for collaboration in: Haaretz, April 8, 2002

A case on which DCI-Israel gave advice is that of a secular man whose religious wife has not agreed to a divorce. The couple has a three-year-old child who lives with his mother in a religious neighborhood. The mother turned to the Rabbinical Court requesting that visitation by the child not be on Shabbat or on Jewish holidays, because the father does not observe them. The Rabbinical Court agreed that, in the best interests of the child, “in order not to harm the child with double messages that can harm his internal development...in the meantime the father shall take the child on Thursdays.” A similar case appealed in the Supreme Court resulted in an opposite decision.³⁸

The Rabbinate has a list of “mamzerim,” a term in the Torah for a person born out of an adulterous relationship, who, according to Jewish law can only marry another “mamzer” or a convert. This principle applies for ten generations. They also have a list of “*safek mamzerim*” or “possible *mamzerim*,” Jewish people of these categories can only be married by Jewish law if they are of the same categories.

The *New Family* organization has pointed out to us that many people are forced to cheat to get themselves or their children out of this classification, “in the best interests of the child.”

The *New Family* Organization gave an example of their cases: a woman decided in agreement with her husband after two weeks that they should go their own ways. It was a mutual decision that they didn’t want to continue with the marriage. Only after a year, did the woman decide to file for divorce, when she found another man. During the six-month long divorce process, she got pregnant with her new boyfriend. The Ministry of the Interior (headed by Ultra-Orthodox Jews) said they could avoid that the child would be classified as a *mamzer*, (or as having come out of his mother’s relationship with another man while she was married). The baby was born only one month after the divorce, and not the permitted three months. The woman’s ex-husband could, in that case register the child as his, and then be adopted by the boyfriend/father.

In a non-related topic, the *New Family* organization has raised concern that there is another common practice which they find not in the best interests of the child. The Jewish Agency and the Ministry of Immigrant Absorption bring children (mostly teenagers) to Israel from countries such as Ethiopia and the Former Soviet Union, and place them in residential boarding schools. The *New Family* Organization is concerned that this is not always in the best interests of the child because often the non-Jewish parent is not allowed to live in Israel.

DCI- Israel Advisory Board Member Professor Leon Sheleff (of the Faculty of Law of Tel Aviv University) raised the issue that it is not in the best interests of the child to live in settlements where there is great danger of being attacked by Palestinians, in the Knesset Advancement of the Status of Children Committee.³⁹ He pleaded that these children be placed by their families and in foster families, kibbutzim, or

³⁸ Supreme Court, *Anonymous v. Anonymous*, case number 451/89, August 28, 1990.

³⁹ Status of Children Committee, The Knesset, November 29, 2000, minutes no. 78.

boarding schools or families living in a safer place. It should be noted, however, that this not an issue of debate in Israeli society.

Expenses related to women cannot be deducted from taxes. We support the efforts of Women's organization, Na'amat to change this, because such a proposed change (for which there is not yet government support) in the rules of taxes will be in the best interests of children. As things now stand, parents might take cheaper daycare by unrestricted crèches for their children because they cannot deduct the expense from taxes. In these cheaper daycare facilities, the provider does not provide receipts and there is no supervision by the Ministry of Labor and Social Affairs. We believe that it is in the best interests of children that the best daycare available, with the highest standards can be chosen by the parents, and daycare should become tax-deductible.⁴⁰

ARTICLE 6—THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT

The leading cause of death in Israel is car accidents.⁴¹ The cause of death for children aged one through four, is car accidents 19.6% of the time, and for children between the ages of five and fourteen, 21.3%. One of the areas in which the State's duty to consider the best interest of the child is most notably not being heeded, is expressed in the Government's failure to create a plan to address the rising level of road traffic and the astonishingly high level of car accidents. In 1993, for example, 6,427 child pedestrians were injured in car accidents, yet since then, no massive re-planning of the traffic system has taken place. The new cross-country highway currently under construction is a positive step. However, it remains to be seen whether the highway will be safe for its passengers, and to what extent the environmental damage the road is creating mitigates some of the benefits the road is intended to bring.

Professor Elihu Richter (Medical School/Hebrew University of Jerusalem, environmental and occupational health department, Ein Karem, Jerusalem, interview 2.2.2002) said "children should not be at risk because they are road users. Reducing speed limits, introducing more roundabouts and making bicycle paths has proven in other countries to be effective in reducing deaths and injuries. In the Neve-Yaakov neighborhood in Jerusalem there are experiments currently underway, and we wish that more cities would try to become more child-friendly. Israeli governments are mainly interested in road building. It is time to reorient policies. This, in order to protect the young, who are more at risk." A road safety expert, Dr. Moshe Becker, is quoted in *Ha'aretz* newspaper as saying; "...as a society, we are willing to pay NIS 7 billion a year to insure ourselves against car accidents, but we are not yet willing to invest far less in preventing them."⁴²

One thing that can explain the high mortality rate of child deaths following accidents is that in many Arab neighborhoods, there are no safe playgrounds and wherever they can spend their recreation time is not safe. Therefore they are often found

⁴⁰ suggestion given to the coalition by advocate Gali Etzion, of the legal department of Na'amat in Tel Aviv.

⁴¹ The Israeli National Council for the Child, The State of the Child in Israel, A Statistical Abstract 2000, Jerusalem, 2001, p. 214.

⁴² The Israeli National Council for the Child, The State of the Child in Israel 2000, op.cit., p. 218.

playing in the streets or in other dangerous places, and this causes greater danger for accidents to happen. In addition, in Arab society the burden of raising children and running the households falls completely upon the women in the family, and therefore the spouse is not involved with watching over the children (even if he is close by) and is likely to increase their risks of accidents. As such, the data about the education and awareness of the mother (also if she is married young) can be an influence. Of course all these are assumptions that require deeper investigation. In the chapter on health, infant mortality, particularly that of Arab-Bedouin children in the Negev will be discussed further.

Palestinian children participating in violent demonstrations have been injured and killed in numbers that, we believe, the Israeli government cannot justify under any legitimate terms of crowd control. In the period of time under review, the IDF has a policy of using what we consider excessive force, even if the soldier's life is not definitely being threatened.⁴³ DCI—Israel recommends several procedures in order to minimize harm to such children:

The Israel Defense Forces (IDF) should revise its rules of engagement. As early as 1993, B'tselem called on the IDF to permit open fire only in two situations:

"A situation of actual and immediate mortal danger which cannot be averted by any other means" or,

"At suspects, only when their escape poses actual and imminent life-danger.

Shooting in this situation will be executed only after a warning in order to apprehend—not to kill—the person in flight, and only when it has been assured that the shooting will not endanger others."⁴⁴

A 13 year old Palestinian citizen of Israel was killed by the Israeli police which could have been prevented had they used non-lethal force. The government has appointed an official commission of inquiry headed by Justice Theodore Or. The Arab community has provided evidence to the commission of use of live ammunition by the police.

In all other events, only non-lethal ammunition should be used: water cannons, tear gas, etc. **Non-Lethal Force**⁴⁵, and better protecting soldiers with riot gear, is the main way to avoid endangering the lives of both soldiers and child rioters. There is an urgent need to invest in non-lethal force as a means of maintaining order in violent demonstrations. This is not a new recommendation. The need was brought up in October 1990, by the Clarification Committee on the events of the Temple Mount after several Palestinians were killed by Israeli police in a stone-throwing disturbance. The committee recommended "the immediate need for developing technological alternatives [to live fire] whose effectiveness is greater than gas or live

⁴³ B'tselem, The Killing of Palestinian Children and Open-Fire Regulations, Jerusalem, 1993. See also: DCI-Israel and IMUT (Mental Health Workers for Peace) A Situation Analysis of Palestinian Children In the West Bank and Gaza. June 1992-May 1993, Jerusalem, June 1, 1993.

⁴⁴ B'tselem, Op. Cit., p.17.

⁴⁵ However, Robin Coupland wrote in the British Medical Journal, vol. 315. "non-lethal" weapons: precipitating a new arms race warns that the public might be seduced by the term, a weapon is still designed to cause bodily harm. July 12, 1997. Clearly all aspects should be studied.

bullets."⁴⁶ The technology exists.⁴⁷ To further this decision, Professor Charles Greenbaum of the Hebrew University has taken the initiative to establish a working group on children in the prevention of injury and death of children participating in demonstrations, now administered by DCI—Israel. The goal is to reduce child deaths through dialogue with high-ranking IDF officers, in order to promote and discuss the only scenario: tear gas, rubber bullets, live ammunition.

The IDF should withdraw checkpoints and command posts close to schools, which are sometimes provocative and therefore a risk for children who act passionately and attack such posts. DCI—Palestine has arranged child demonstrations in Area A—a section of the West Bank and Gaza Strip under immediate Palestinian control. Such demonstrations should be welcomed, as they are more likely to be peaceful since there is no presence of IDF forces.

The open-fire regulations prohibit the use of firearms against children. The Initial State Report makes no mention of the Open-Fire Regulations regarding rubber bullets. Unlike rubber bullets used in other parts of the world, those used by the IDF, when they are attacked by live fire and bombs, are actually a metal pellet covered by a layer of rubber. The IDF Open-Fire Regulations in the Territories permit the use of this ammunition to disperse both violent and non-violent demonstrations. These Regulations prohibit the firing of rubber bullets at a range of closer than 40 meters and prohibit firing rubber bullets at children. Only in very few cases were responsible soldiers tried.

Cees de Rover, in a study of human rights and humanitarian law for police and security forces noted that⁴⁸ “Neither the Basic Principles on the Use of Force and Firearms nor the Code of Conduct for Law Enforcement Officials (or any other international instruments for that matter) provide guidance on the use of such measures against children. It is safe to conclude that the same rules and provisions applicable to adults apply equally to children or young persons. However, in view of the vulnerable position of the child – and the requirements for special protection and treatment – it is reasonable to conclude that utmost restraint must be exercised in the use of force and firearms against children. Because of their young age and their immaturity, children are very unlikely to pose the kind of threat that would justify the use of such extreme measures. At the same time the impact of their use against children is likely to be more severe than in the case of adult, mature persons. Law enforcement officials therefore must be urged to seriously weigh such consequences against the importance of the legitimate objective to be achieved. They must also be encouraged to search for adequate alternatives to the use of force and firearms against persons, especially children.”

The ICRC (International Committee of the Red Cross)⁴⁹ has reminded all those taking part in the violence that whatever force is “used the choice of means and

⁴⁶ Quoted from the Committee's report in Ha'aretz newspaper, 28 October, 1990.

⁴⁷ Jane's Information Group, "Non-Lethal Weapons," London, 2000. see also: Philip Veerman and Hephzibah Levine, Protecting Palestinian Intifada Children, Peaceful Demonstrators, Child Soldiers or Child Martyrs, in International Journal of Children's Rights, No. 4 2001.

⁴⁸ Cees de Rover, To Serve and to Protect. Human Rights and Humanitarian Law for Police and Security Forces, Geneva, ICRC, 1998, p.325.

⁴⁹ Statement by the International Committee of the Red Cross, Geneva, December 5, 2001,

methods is not unlimited. Today, in view of the sharp increase in armed confrontations, the ICRC has to stress that Palestinian armed groups operating within or outside of the occupied territories are also bound by the principles of international humanitarian law. Apart from the Fourth Geneva Convention, which relates to the protection of the civilian population, there are other universally accepted rules and principles of international humanitarian law that deal with the conduct of military operations. They stipulate in particular that only military objectives may be attacked. Thus indiscriminate attacks, such as bomb attacks by Palestinian individuals or armed groups against Israeli civilians, and acts intended to spread terror among the civilian population are absolutely and unconditionally prohibited. The same applies to targeted attacks on and the killing of Palestinian individuals by the Israeli authorities while those individuals are not directly taking part in the hostilities or immediately endangering human life. Reprisals against civilians and their property are also prohibited. When a military objective is targeted, all feasible precautions must be taken to minimize civilian casualties and damage to civilian property. To avoid endangering the civilian population, those bearing weapons and those taking part in armed violence must distinguish themselves from civilians.”

Delegates from Amnesty International (according to AI press release of February 5, 2002) said that the Israeli use of weapons that cause massive destruction of property, laser-guided bombs dropped by F-16 aircraft and Apache helicopter-launched Air to Ground Hellfire missiles, have made Palestinians in towns constantly watch the sky in fear.

We recommend the CRC committee to discuss with the Israeli delegation that the government should seek technical cooperation to move to less use of excessive force.⁵⁰

Israeli children as well have been targeted, injured and killed by Palestinians since the start of the Intifada. During the last week of May, 2001 there were two suicide bombings of teenage pubs and gathering spots in Jerusalem. On Friday, June 1st, 2001, a suicide bomber blew himself up in line outside a busy discotheque in Tel Aviv. The attack killed 23 adolescents and wounded over 60 children and adults. On December 1, 2001 two Palestinian suicide bombers and a car bomb exploded right in the center of an area with cafes for young people in Jerusalem, killing more children, to name just a few of too many such incidents to recount here. As an example, on February 16, 2002, two Israeli children (ages 15 and 16) were killed by a suicide bomber in a pizza shop in Karnei Shomron, and tens of others seriously wounded.⁵¹ Although the Israeli government is the one being reviewed by the CRC Committee, we, nevertheless, want to mention that targeting children for murder seems to be a major part of the Palestinian strategy. Civilians, and children in particular, are under every circumstance, a protected population under the Geneva Conventions.

Conference of High Contracting Parties to the Fourth Geneva Convention.

⁵⁰ The Commission on Human Rights, Sub-commission on prevention of Discrimination and Protection of minorities (E/CN.4/sub.2/1907/21, 11 June 1987) decided that the Seventh UN Congress on Prevention of Crime and Treatment of Offenders and Study Way, to promote restraint on the case of force by law enforcement officials and military personnel.

⁵¹ Dudkevitch, Margot. “2 Teens Killed by Mall Suicide Bomber,” in: *The Jerusalem Post*, February 17, 2002.

A dangerous escalation and frightening indication took place on March 6, 2002, when Palestinians fired a kassam rocket at a neighborhood in the town of Sderot, wounding a ten-year-old child.

On March 3, 2002 a Palestinian suicide bomber blew himself up standing right next to a group of women with baby carriages in Jerusalem.⁵² Lee Hockstader of the *International Herald Tribune* and *Washington Post* reported about an earlier suicide bombing:

*“ABU DIS, West Bank – Before they set out to blow themselves to pieces and take as many Israeli kids with them as possible, Osama Bahar and Nabil Halabiyeh played it cool. Mr. Bahar reported for work as usual, prayed in his neighborhood mosque as usual, practiced karate as usual (...) their friends detected nothing amiss before they departed from this little town just outside Jerusalem, went into the heart of the city Saturday night, mingled with the throngs of partying Jewish teenagers, and died in an inferno of fire and blood. They triggered their bombs practically in tandem, about 45 meters (145 feet) and a few seconds apart, transforming a pedestrian mall buzzing with cafés and sandwich joints into a slaughterhouse. The explosives, packed with nails, screws, nuts and bolts, ripped flesh as easily as paper. Ten Israelis died; the oldest was 21, the youngest 14. Dozens were horribly wounded.”*⁵³

We are concerned as well about the increasing incidence of Jewish settler youth participating in unrest against Palestinians. The government must do all within its power to ensure that Jewish children in Hebron, for instance, will not engage in kicking civilians or destroying property of theirs.

A very delicate matter connected to the child's right to life and the responsibility of the Israeli Government concerns the children of the Jewish community in the city of Hebron. We welcome the fact that the defense establishment has begun to provide bulletproof school buses for their children. According to the *Ha'aretz* newspaper⁵⁴, residents had been opposed to taking this special security precaution against Palestinian attacks, reinforcing their ideological beliefs that they should feel at home and free to live without being killed on their own land. Palestinians have shot at school busses, and the Government has repeatedly attempted to convince the residents to allow it to use special bulletproof school busses. While we commend the Government on its efforts to include the citizens in decisions regarding their protection, we are concerned that it has not taken a completely firm stance on this matter. The child's right to life and security is of superior importance to any other considerations, and we demand that the Israeli Government utilize all means it has at its disposal to ensure its children's safety.

According to a survey released on February 14, 2002, by the Union of Local Authorities in Israel, 47% of the country's high schools and 44% of secondary schools lack bomb shelter space for pupils. 18% of high schools and 24% of middle

⁵² *Ha'aretz*, “Nine Dead, 51 Wounded in Jerusalem Bombing-Four Children Among Those Killed in Ultra-Orthodox Neighborhood,” March 3, 2002.

⁵³ Hockstader, Lee. “Suicide Bombers Gave No Hint of Grim Mission,” in: *The International Herald Tribune*, December 6, 2001.

⁵⁴ Harel, Amos. “Hebron Settler Agree to Bullet-Proof Buses” In: *Ha'aretz*.

schools do not have shelters at all.⁵⁵ The Union demanded that the Ministry of Education address these problems immediately.

Another problem concerning basic safety and education recently arose with the beginning of the Intifada. Jewish children traveling in school buses in the Occupied Territories have become targets for shootings and bombings. The Government's responsibility to protect its children from such dangers can be answered to a large extent by providing bulletproof vehicles for school transport in these regions. The Ministry of Education maintains that it is placing pressure on the Treasury to provide funding for such vehicles, but as of August 2001, such funds were not yet provided.⁵⁶

The Jewish Agency has bought twenty new bulletproof vehicles to transport children in the West Bank and Gaza Strip. At the beginning of the school year thirteen additional bulletproof buses were donated to communities who are at constant danger of being attacked.⁵⁷

A worrying phenomenon is that security arrangements to protect all school children in Israel have not been drastically upgraded (unless parents and school teachers have gotten together and paid for it). If Chairman of the Knesset Education Committee MK Zevulun Orlev and the National Parents Organization had not pressed this issue of security in schools, it would have remained in the same format decided by the government in 1995 stipulating that an armed guard is to be posted at institutions where more than 100 students are enrolled, and two armed guards are to be deployed at facilities with student enrollments exceeding 1,000. The National Parents Organization is pressing for school security, including additional hours for guards at schools and deployment of guards at pre-school facilities, have yet to be answered. According to data compiled by the Knesset panel, carrying out various security improvements for educational institutions by the end of the school year would require NIS 20 million in state funds.

The chairman of the National Parents Organization, Erez Frankel accused the government claiming that some affluent areas will finance private security protection for their children, which is unacceptable and aggravates inequality, while other areas cannot do this.

The head of the Petah Tikva parents' committee, Naftali Cohen said he didn't expect all parents to be able to take time off from their jobs and volunteer to help with securing the schools and kindergartens. "This is a national task and the state must bear the burden of securing the schools. The army has sufficient forces and it must send soldiers to patrol near the schools." He also added that the police should also increase its presence around the schools. "Today, you cannot rely on private security companies; they do not have sufficient manpower."⁵⁸

The Palestinian Authority does not do nearly enough to prevent armed Palestinian groups from attacking civilians, including children. (This is here only very slightly

⁵⁵ Lazaroff, Tova. "Nearly Half of Schools Lack Shelters," in: *The Jerusalem Post*, February 15, 2002.

⁵⁶ Letter to DCI--Israel from Shai Linsky, Assistant to the Minister of Education, July 11 2001.

⁵⁷ Shapiro, Haim. "Jewish Agency Donating Bulletproof Vehicles for Territories," in *The Jerusalem Post*, December 14, 2001.

⁵⁸ Relly Sa'ar, "Police Mounts 2-day Operation to Guard Schools, Kindergartens" in *Haaretz*, April 7, 2002

addressed, because the PA is not the State party under review in this report.) Palestinian Prime Minister Yasser Arafat's wife Suha Tawil Arafat told an Arabic-language magazine that she endorsed suicide attacks as legitimate resistance against Israeli occupation. On April 12, 2002, in Al Majalla, a London based Saudi owned weekly, Suha Arafat said that if she had a son, there would be "no greater honor" than to sacrifice him for the Palestinian cause.

There have also been cases of Israeli civilians attacking Palestinian civilians, which the Palestinian Human Rights Monitoring Group⁵⁹ in East Jerusalem shared with us: On a July 12, 2001, a Hebron Palestinian Child was walking home when a Jewish settler hit him on the head, the Israeli police took the boy's testimony when he was released from the hospital and took photos of his wounds; On July 19, 2001 an infant was killed and two children were injured when civilians opened fire on a Palestinian vehicle in Hebron; On July 20, 2001, stones were thrown at a Palestinian car in Nablus; On November 8, 2001, a child was run over by a car in Bethlehem, which Palestinians in the area believed was intentional.

The policy of internal closures⁶⁰ (preventing travel within the West Bank and Gaza in addition to closures which prevent Palestinians, from entering Israel), and blockades (unmanned barriers constructed of IDF bulldozers) lead already to several deaths of children and has a devastating effect on accessibility to health services. The birth of premature babies, who normally have a good chance of surviving, is now a much more risky affair. Physicians for Human Rights documented such a case.⁶¹

"The patient Rawida Naji El-Rashid from the village of Walajeh was hospitalized at the Holy Family Hospital in Bethlehem on 22.10.01. We met her there on our visit on the 23rd. Her husband, Nasser Mustafa Muhammed Abed- Rabo, with whom we spoke, told us how they had lost a child they had been awaiting for five and a half years. Rawida became pregnant after treatment. In her 7th month, she went into labor, after which the couple tried to reach the hospital. At first they tried to drive via the Wallajeh army checkpoint, at 9.30 am, in a private car. For 10 minutes Nasser tried to persuade the soldiers that his wife was in labor. They laughed at him and forbade him passage. The couple returned to their village and changed car. This time they set out with Nasser's mother to the same checkpoint, manned by Israeli Border Guards. Again, 20 minutes of arguments were to no avail. Nasser decided to bypass the checkpoint through dirt tracks. The journey took an hour and a half; on the way, Rawida gave birth to a premature baby, who weighed 1416 grams – a weight that has good chances for survival, given proper care. But the baby arrived at the hospital too late, in severe condition, with low body temperature. The doctors' attempts to save it were futile, and it died seven hours after admittance."⁶²

⁵⁹ We thank the PHRM and its director Bassem Eid for their cooperation.

⁶⁰ During 1996 and again from September 2000 until the present in effect.

⁶¹ The government still needs to respond after which the High Court will hear PHR's case. Source: Physicians for Human Rights, Annual Report 2000, Tel Aviv, 2001, p.12.

⁶² Physicians for Human Rights filed a petition to the High Court on Dec. 10, 2000 against the internal closure on the west Bank and Gaza Strip. The petition insisted that the Israeli government remove all physical barriers preventing the Palestinians from obtaining food supplies, medicines, and other basic necessities (and, incidentally from entering Israel and blowing themselves up) and access to clinics and hospitals located in town centers. Gideon Levy also reported on such cases: Levy, Gideon, "The War Against the Unborn; How did we Get to the Point Where Israeli Soldiers are Preventing Women in

Unfortunately, these stories are not only connected with the recent intifada, but occurred previously as well. At least ten sick infants died during the years 1996-1998. B'tselem⁶³ obtained testimony of a Palestinian woman from Hebron:

“ On Saturday, August 22, 1998, at about 2:00 p.m., I was changing the diapers of the triplets who were born to me on May 12, 1998. I finished changing Luai and Narmeen, and I turned to Qussai, the third baby, and I saw that he had thrown up and his face was covered with vomit. I called an older woman, my neighbor Um Abed, to look at the baby who looked ill and his responses were not alert. He was breathing and moving, but he was weak. Um Abed suggested that I take the baby to the hospital. I immediately rushed out of the house with the child. Opposite our house there were two Israeli army jeeps full of soldiers. I went over to them and told them that my son was ill and that I wanted to take him to the hospital. The soldiers told me they had no orders to let me through, and that I couldn't go out because there was a curfew in our neighborhood. The soldiers told me to go back into the house because there was a curfew and I was not allowed to go out. They said: Ruhi al-beit- “Go home.” I stayed outside and waited for them to let me pass. After I waited for about an hour, I left the soldiers, went around behind them to another street where I stopped a local car that was passing by. The driver stopped and took me and my son to the Alia Hospital. At the hospital, my son Qussai was pronounced dead. He was three months and ten days old. In the death certificate, they wrote that the cause of death was acute pneumonia. We went home to wash the baby and put him in a shroud.”

The army's way of investigating itself is often not very serious. B'tselem reported, for instance, on an eleven year old Palestinian killed and two children injured without justification. B'tselem: “The army failed to open any investigation against the soldiers responsible even though all the army officials involved in the review of the incident clearly knew that the soldiers had used lethal weapons when their lives were not in jeopardy and had violated army regulations.”⁶⁴

On December 31st 2001, three teenagers (ages fifteen (2) and seventeen) were killed by an anti-personnel shell fired from a tank in the Gaza Strip.⁶⁵ There was difficulty in identifying the bodies, due to the intensity of the wounds. An IDF spokesman declared that the three had acted suspiciously. Two children also were killed, as bystanders, when the IDF fired missiles from a helicopter, targeting a car with an Islamic Jihad terrorist.⁶⁶

Labor from Reaching a Hospital?” In: Ha'aretz, Jan. 18, 2002.

⁶³ B'tselem, 50th Anniversary of the Universal Declaration of Human Rights, Quarterly for Human Rights, December, 1998, no. 1, vol. 1.

⁶⁴ B'tselem, Whitewash, The Office of the Judge Advocate General's Examination of the Death of Khalil al-Mughrabi, 11, on 7 July 2001, Jerusalem, 2001.

⁶⁵ Gilbert, Nina. “IDF: Three Palestinians Killed were Hit by Shell,” In: The Jerusalem Post, January 25, 2002.

See also: Hass, Amira. “Palestinians: IDF did not check the identity of the children that were killed,” in: Ha'aretz, January 4, 2002.

⁶⁶ Harel, Amos and Hass, Amira. “Two Palestinian Children Killed in Failed Hebron Act,” In: Ha'aretz, December 11, 2001.

Gideon Levy wrote in *Ha'aretz*,⁶⁷ that “when the IDF wanted to prevent immoral and illegal actions, it was able to do so. There are two offenses that IDF soldiers have rarely committed during the years of the occupation-sexual harassment and looting. The main reason for this is that the IDF fought with determination against both types of deplorable behavior. Soldiers knew that they faced severe punishment if they engaged in looting or rape. This is not the case with soldiers who open fire with such intolerable ease against children, prevent the ill from passing through roadblocks or abuse residents of the territories. These offenses are no less grave than rape or looting, but they are considered less grave by the IDF. In the perception of IDF senior officers the killing of unarmed children-an act that former Shin Bet security service chief Ami Ayalon has called ‘flagrantly illegal’ – does not merit investigation, denunciation or contrition, it is no wonder that a soldier who was manning the Kalanya road-block a week ago Saturday opened fire, in the midst of a conversation with his buddies, at a group of children who were throwing stones from a distance at which the soldiers were out of range. This time no children were killed.” Others were not so lucky. The IDF has not even investigated the circumstances of the deaths.⁶⁸

The IDF only launches investigations in cases of gross misconduct. The IDF has claimed that it has conducted 100 investigations since the beginning of the intifada, of these, 21 have involved allegedly illegal use of weapons.⁶⁹ International procedures permit the use of lethal force only in cases of clear, immediate moral threat, when there is no possibility of using less potent force. Such a lucid, limited definition of “mortal threat” has not been applied by the IDF during the intifada, charged B’Tselem, the Israel Information Center for Human Rights in the Occupied Territories.

The Military Judge Advocate General spelled out conditions that must be met before the IDF carries out a selective assassination of a terror suspect. One such condition is that there must be well-supported information showing the terrorist will plan or carry out a terror attack in the near future. The fact that innocent children can be among the victims (for example traveling in the same car as the suspect) shows how problematic the extra-judicial executions (which are forbidden by international law) really are. At the same time, those in the car may not be at all innocent and on the way with explosives to blow themselves up inside Israel.

Another important issue that gets little attention is that of landmines and munitions remnants. On March 15, 2002 for instance, a Palestinian mother and her children were killed by an explosion. The Palestinian Center for Human Rights believes⁷⁰ that they were killed by an Israeli mine. Every week a Palestinian child gets hurt either by a mine or munitions remnants⁷¹.

“The munitions remnants (material left in the field from IDF exercises) often look like Coca-Cola bottles and kids pick them up and they explode. Some of the mines were not laid by Israel but by Egypt or Jordan, yet it remains Israeli responsibility to clear mines in areas under Israeli jurisdiction. It is

⁶⁷ Levy, Gideon. “The Message from the High Command,” in *Ha'aretz*, February 10, 2002.

⁶⁸ This was also the case in the case of the article by Harel, Amos. “No Probe in Slaying of Rafeh Child,” in: *Ha'aretz*, February 8, 2002.

⁶⁹ Harel, Amos “B’tselem Raps IDF Rules of Engagement in the Territories” in *Haaretz*, March 21, 2002

⁷⁰ Hass, Amira “Rights Group Seeks UN Probe in Fatal Blast” in *Haaretz*, March 4, 2002.

⁷¹ Veerman, Philip “Beware, Mines!”, In: *The Jerusalem Post*, August 16, 2000.

not enough to put up signs saying ‘beware mines!’ First of all, young children have often not yet learned to read, and moreover, sometimes signs disappear. The Military Judge Advocacy General told us that sometimes Bedouin remove signs and take them to their homes. This situation, unknown to most Israelis necessitates urgent cooperation by all (Israeli, Egyptian, Jordanian and Palestinian authorities) to take the old maps of mine fields from the shelves and to locate and clear the mines.”

A step forward was taken by the Israeli government to participate in the Protocols II and IV of the International Convention on the Prohibition and Restriction on certain Conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects such as land mines and lasers respectively.⁷² However, Israel’s responsibility under articles 2 and 6 of the CRC requires more concrete action to prevent unnecessary deaths.

We are also concerned that places like the Holy Family Hospital, a maternity hospital in Bethlehem took a hit from IDF fire on March 15, 2002.⁷³ According to Professor Jami Adwan of Bethlehem University, a woman, Halima Al Atrash was forced to give birth at the checkpoint in Bethlehem because she was not allowed to reach the Al Hussein Maternity Hospital. The baby, Masir died there. B’tselem has expressed concern⁷⁴ that the IDF is allowed to open fire in cases where there is insufficient cause to warrant shooting. In December 2000 it was announced that the Attorney General would meet with senior police, army and Shin Bet security services officials to examine current guidelines governing the use of rubber (coated) bullets by IDF soldiers and policemen.⁷⁵ The rubber coated steel bullets can be lethal when used in crowd control.

“It would not be fair to judge the IDF according to the standards of the past. There is a war going on in the territories today and the lives of the soldiers are at a much greater risk than in the past. There are shooting incidents throughout the territories on a daily basis; and virtually no regular soldier has not come under fire. From the soldiers’ point of view, gunfire is liable to erupt from any passing Palestinian car; alternatively, and such car could be en route to a planned attack elsewhere.”⁷⁶

A result of the recent incursions is that many unexploded ammunition will be in the streets and the fields. There is a risk that children could pick this up. The IDF has to assist the PA in cleaning up this dangerous material that puts children at risk.

The dust from the incursion in the Jenin Refugee Camp, (Mid –April 2002) has not yet settled and thus we won’t have very much reliable information at the time when this report goes to press. Here, according to Amira Hass of Haaretz newspaper, (April 15 and 19, 2002) tanks, bulldozers and heavy equipment entered the camp of 13,000 people of which 42% are children. The preliminary information available from UNICEF, Adallah, B’tselem, PHRMG and DCI-Palestine indicate that in the fighting between IDF against armed Palestinians, in the Jenin Refugee camp many

⁷² Benn, Aluf. “Israel Joins International Convention” in Haaretz, October 4, 2000.

⁷³ Information provided to DCI-Israel from Professor Sami Adwan, of Education, Bethlehem.

⁷⁴ Harel, Amos “B’tselem raps IDF rules of engagement in the territories, in Haaretz, March 21, 2002.

⁷⁵ Alon, Gideon. “A-6 Security officials to Examine the use of Rubber Bullets” in Haaretz, December 20, 2001.

⁷⁶ Harel, Amos. “Analysis/Pure Aims, Deadly Results” in Haaretz, October 2, 2001

children were killed and when Israeli bulldozers moved in, several families were buried under the rubble. DCI- Israel calls for an independent investigation to find out what really happened.

ARTICLE 12—RESPECT FOR THE VIEWS OF THE CHILD

The Coalition is pleased to note changes in Israeli legislation moving away from the paternalistic approach to children to a more inclusive approach of involving children in decisions concerning their own best interest. Especially progressive new legislation worth mentioning is: section 149g of the *Municipalities Ordinance* amended in 2000, which stipulates that the representatives of student and youth movements serve on local municipal committees for the advancement of children; and the *Pupil's Rights Law* (2000) demanding the same.

In general, we have observed some change in Israel in the years since the ratification of the CRC. School principals are more willing to invite problematic children in to speak with them (maybe because they are conscious of the fact that if they do not observe the rules, the Open Line for Students of the Ministry of Education can be consulted). Many principals might still act out of fear and not conviction, but it is a beginning. We were surprised to see that the State Report did not mention that the *No'ar Ha'oved Ve'halomed* Organization (The General Federation of Students and Young Workers in Israel) is the legal representation of working youth vis á vis the Association of Hotel Owners or the Association of Garagists) and vis á vis the lawmakers (where they lobby in the Knesset for working youth for necessary changes in the law).

At the level of lawmaking, in the Ministry of Education there can also be progress reported, (although the problem here as well is that of the filtering down to the actual level of schools). The regulations of the Director General of the Ministry of Education (Hozer Mankal), does mention how to deal with violence in this rule of article 12 of the CRC. It says that children and parents have the right to participate in creating the nature of the school. In school statutes, children and parents have a place, as do teachers.

There are some excellent examples of schools that serve as model for further development. The *Democratic School* in Kfar Saba, for instance, has a questionnaire and asks pupils how they want to build the program for matriculation. Dr. Nathan Gover of the Hebrew University School of Education told a hearing on the CRC, organized by DCI in 1995: "The education system in Israel is very hierarchical, while at the bottom there is the child, above him – the teachers and the majority of the significant decisions as for the child's education come from the higher levels, the teacher being the executor, and the child being the object of these decisions."

Nathan Grover propose, in line with educator Paulo Freire's thinking, an educational process that is not fixed and planned completely in advance, but established in an open dialogue with the pupils. In this model, the educator does not determine all results of the educational process, as is done now. More research should be undertaken to learn the opinions of minors.⁷⁸

⁷⁸ Eisikovits, R. 1995 "I'll tell you what school should do for us: How immigrant youth from the

Kobi Tzoref, the Chairman of the *National Youth Student Council* (which represents many teenagers from 7th-12th grade), and a pupil from the ORT school in Kiryat Motzkin near Haifa, believes that more opinions of minors are now heard because of the Student Councils in schools, cities, on the regional level, and in the National Student Council. Teenagers are now often in committees of the Knesset, and when we met Kobi in Jerusalem for the interview, he was there to meet the Director General of the Ministry of Education. He has a room in the Ministry of Education in Tel Aviv. Kobi Tzoref is a strong advocate for the child impact statement idea and hopes that the government will soon see the importance of it. If a child is in danger of expelled from school, student representatives in school can help, also because they get information from the Ministry of Education. He thinks that he could often correct some stereotypical opinions of politicians in regard to youth. Many students involved in the Councils are active in their communities, youth movements, contrary to the some politicians view of youth as drug users, etc. The Student Councils represents Jews and Arabs, secular, and religious pupils; almost half a million students are represented by Kobi. There are elections every April for new pupil representatives.

As the Initial State Report pointed out, “*There is no law or consistent policy requiring that the opinions of children be heard and considered in decisions that concern them.*”⁷⁸ Israeli legislation contains strict laws and policy requiring the judicial system to respect the views of children from a certain age in matters which concern them, but these different laws give different seemingly arbitrary age limits with no logical system connecting them. For instance, the court is obligated to hear a child’s opinion about his/her adoption from the age of 9 or under if the child understands the situation,⁷⁹ but a child does not have a say in arguments over his/her subjection to psychiatric hospitalization until age 15.⁸⁰ In 1990, a teenager with cancer was forced, against his will to continue chemotherapy treatment. He was forced into a closed psychiatric ward and underwent chemotherapy treatment against his will, with no say in the matter.⁸¹ The lack of a uniform age limit or criteria that determines a child’s right to be heard in court hurts Israeli children.

TZACHI, an organization of the consumers of special education (parents of students with special needs), maintains that the special education Placement Committees do not adequately take into account the desires and views of the child. Although some children appear in front of their own to the Placement Committee, not all of the Placement Committees allow children to participate. None of the Placement Committees invite the children. Only one of the six regional Repeals Committees (Tel Aviv) invites children to their own hearing. According to *TZACHI*, it is often very enlightening when children participate in this process, and can be a great help for the Committee in reaching a fair decision. *TZACHI* is pushing for the right of

former USSR view their high school experience in Israel.” *Youth and Society*, 27(2): 230-255.

⁷⁸ Initial Periodic Report of the State of Israel Concerning the Implementation of the Convention on the Rights of the Child, *Ibid*, p.98.

⁷⁹ *Adoption of Children Law*, 1981.

⁸⁰ 1995 ammendment to section 8 of the *Youth (Care and Supervision) Law* 1960.

⁸¹ *Ha'aretz*, May 22, 1991.

children to participate in both the Placement and Appeals Committees, taking into consideration that some children will be considered too “disabled” to participate.⁸²

It is very necessary for children to be involved in the decision committees which assist in discussing whether or not to place a child in an out-of-home facility. A recent study⁸³ found “that the percentage of children taking part in the decision committee meeting concerning them, is significantly lower than that of the parents. Only five percent of the decision committees said that children of appropriate ages are always invited to attend the meetings and thirty-eight percent said that the older children are invited very often or often. Over half reported that the children are invited rarely, or less. Among the children whose files were examined in the study, only twenty percent had participated in the discussions; this percentage rose to twenty five percent among children aged 12-18. The findings indicate that the decision committees are ambivalent and have many reservations concerning inviting children to the meetings and relating to their abilities to contribute and benefit from them.”

As already mentioned in chapter III, the National Insurance Institute funded a project of DCI-Israel and the Municipality of Ashdod⁸⁴ for a period of three years which had the aim to empower adolescents with information about their rights.

In the Arab-Israeli education system, teaching methods are still “frontal teaching”. Dr. Majid Al Haj of the *Insan* organization for educational services to the Arab population, is of the opinion⁸⁵ that what is badly needed is a new worldview, “new blood”, and new curriculums. In the Arab sector, emphasis has long been placed on the structural aspects of the education; namely, teaching hours, buildings, services, etc., while these things are actually secondary. The effort has to be directed toward the most important things—the curricula, the processes by which education is managed in the schools—which are creativity-destroying. A democratization of the system also needs to be induced, which is currently extremely hierarchical system, strict, and preventative of personal development. As I have found throughout my research, there is a very prevalent, high erosion/weariness that is felt by Arab teachers. The question is, how can a person give out of what he himself misses? When the teacher feels that he cannot give what he has to give, and cannot do his job properly, due to the suppressing atmosphere in which he works, it might have direct influence on the student.

It is true that we address these concerns to the Ministry of Education; however, local Arab authorities play a growing role in this situation. What has changed in the period under consideration is NGO involvement in Arab society, which has become more active in adapting the school system to society, which is more advanced than the school system reality.

⁸² TZACHI—Consumers of Special Education in Israel, *Report on Special Education for DCI—Israel’s NGO Report*, written by Chaya Jagoda, 2001.

⁸³ Benbenishty, Nomi; Dolev, Talal; Timar, Amnon. Decision Committees in Israel: Their Organization, Work Processes and Outcome, Jerusalem, 2001, JDC-Brookdale Institute.

⁸⁴ Keidar, Dina and Telfch, Gideon. The Child and Youth Aid Center-Ashdod, Jerusalem, National Insurance Institute Research and Planning Administration, 1999.

⁸⁵ at a hearing in 1995 at Haifa University, organize by DCI Israel.

In our opinion, the government should encourage initiatives which strengthen mechanisms that would encourage all family members to be involved in the decision-making in family life.⁸⁶

We need to include children in the analysis of the situation more, as adult-derived conclusions and reactions to the current security situation are only useful to a certain degree.⁸⁷

Where juvenile justice is concerned, the law (in particular the Youth Trial, Punishment and Modes of Treatment of 1971) is not in compliance with the CRC. The law states that the authorities can, after two years, if the treatment program of the child is not yet finished, take the case back to court and extend the minor's time in a treatment facility. Firstly, the law is not in compliance with Art. 40.4 ("...and proportionate both to their circumstances and the offense"), or with Art. 12 which states that the child's opinion must be taken into account.

The Israeli Janusz Korczak Association, which promotes the knowledge of the Jewish-Polish educator Janusz Korczak (who operated a progressive Jewish orphanage between 1912 and 1992 in Warsaw), contributed to preparing the ground for the acceptance of Article 12, in Israel.

Dr. Ronny Aviram of Ben Gurion University of the Negev argues that the change in social reality mandates a radical change in educational thinking, because the education system's **target audience** in postmodernity is not the same as it was in modernity. The modern education system, he says, is essentially designed for children as defined by modernity, i.e., their being incomplete creatures in comparison with adults. The system's aim is to provide them with what they lack in order to attain the status of adulthood. Therefore children in the framework of the system are the educational process's passive subjects. This conception was possible in a world in which "children" were clearly differentiated from "adults," a world in which there were clear-cut and valid distinctions between "childhood" and "adulthood." Indeed, this was true of the modern world in which the current education system was shaped. But at present, all the definitions of the basic social roles are being undermined, while no clear-cut system of alternative definitions is being created. This is also true of the definition of the roles of "children" and "adults" For many, young people and adults alike, the perception of the differences between these two categories has been rapidly eroding over the last two decades, when children are becoming more similar to adults and adults to children."⁸⁸

⁸⁶ United Nations, Department for Policy Coordination and Sustainable Development, Secretariat for the International Year of the Family, Indicative Guide for Action and Family Issues, Vienna, 1995, U.N.

⁸⁷ Jensen, Peter S. and Straw, John. "Children as Victims of War: Current Knowledge and Future Research Needs." In: Hertzog, Margaret E. and Faber, Ellen A. Annual Progress in Child Psychiatry and Child Development, New York, Brunner/Mazel, 1994.

⁸⁸ Dr. Ronny Aviram shared with us a draft of the manuscript.

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. Can the Government initiate the establishment of an Equality Commission, overlooking the implementation of the right of the child to equality?
2. Has the government mapped the needs of the Arab-Israeli population in Israel in order to plan where services (such as well baby clinics, mother and child clinics, and schools, etc.) have to be opened?
3. Is the Government doing all within its means to promote higher Torah learning and study of technology among girls?
4. To what extent does the government compensate development towns/lower income areas to make sure that education can be compared with cities like Tel Aviv where educational services are quite good?
5. **Why is the government not investigating every case of a Palestinian minor who is killed by the IDF?** What steps is the IDF taking to improve training in the use of non-lethal means for riot dispersal?
6. Can the government notify pupils' parents of the fact if their schools have no bomb shelters or if they can only be used by part of the pupils, if that is the case?
7. How can the State stimulate children to influence the curriculum?

V. *Civil Rights and Freedoms*

Some members of the Israeli legal community frequently attribute the fundamental difficulty in enacting human rights regulation to the lack of a constitution.¹ Instead of a constitution, Israeli law revolves around Basic Laws. Dr. Eyal Gross:²

“The 1992 legislation of Basic Laws concerning human rights (Basic Laws: Human Dignity & Liberty and the Basic Laws and Freedom of Occupation) were enacted after many years of attempts to legislate a comprehensive human rights document.”

Law professor (and later Minister of Education) steered, according to Dr. Gross,

“the idea of duplicating the compromise reached with Harari’s ruling, and splitting the Human Rights Basic Laws entity into individual Basic Laws dealing with those specific laws that are less controversial. Against this background, important human rights Basic Rights Laws, specifically those concerning equality, were not included.”

Dr. Eyal Gross has analyzed the President of the Supreme Court, Aharon Barak’s writings.

“Barak calls his model of interpretation of the rights to “Human Dignity” the “Intermediate Model.” What distinguishes it from the “Broad Model,” in which “Human Dignity and Liberty” is the basis for all human, civil, political, social and economic rights, and from the “Reduced Model,” which states that “dignity” and “liberty” are interpreted as extending thinly across the explicit and classic affronts to dignity and liberty inherent in human nature such as physical and mental injuries, humiliation, etc.”

Civil rights in Israel are very much in development, (progress has been made for instance in the area of freedom of speech³). Interpretation is still, however, controversial, because not everything is entrenched in constitutional law; that obviously also affects children’s rights. Dr. Eyal Gross of Tel Aviv University Faculty of Law describes Israel’s Constitutional structure as half-baked and as a “hodgepodge”. In 1992 two basic laws were adapted. But judicial review of statutes can only be done if they are after 1992.

A proposal for a “Basic Law: Human Rights” was introduced by Justice Minister David Liba’i in 1992 as a more comprehensive approach to human rights legislation. It would include freedom from religious coercion and rights for Palestinians against security forces. But, like previous attempts at human rights statutes, the “Basic Law: Human Rights” still awaits the support of, or at least removal of opposition from the Orthodox religious parties on which government coalitions depend—an unlikely event.

¹ Sharfman, D. *Living Without a Constitution: Civil Rights in Israel*. M.E. Sharpe, Inc. New York: 1993.

² Gross, Eyal. *Tsedek Halukati BeYisra’el*, (Distributed Justice in Israel), in: Moutner (ed.) 2000.

³ We thank Dr. Eyal M. Gross of the Buchman Faculty of Law at Tel Aviv University for pointing this out to us in an interview.

In Israel, it is easier⁴ to speak about political rights for adults, than their social rights and obligations that go with it (as the right to housing for instance). Free market tendencies contribute to that. However, for children it is the opposite: social rights are less controversial when we speak about children, but rights such as freedom of expression, right to privacy, etc. are still seen in many instances as a direct attack on paternalistic ideas about children.

Generally, the human rights situation is deteriorating. Recently, several well-known Israeli jurists urged the government to “uphold human rights even in the midst of the current violent conflict with the Palestinians. ‘We tend to focus on the heavy price we are paying and ignore the harm we are doing to the other,’ the jurists said in a letter to Prime Minister Ariel Sharon, Defense Minister Binyamin Ben-Eliezer, Justice Minister Meir Sheetrit, Attorney General Elyakim Rubinstein and the IDF’s judge advocate general. ‘There is a fear that our hearts have become hardened to severe violations of human rights, whose preservation is supposed to be the basis of our existence.’”⁵

ARTICLE 7—THE CHILD’S RIGHT TO BE REGISTERED IMMEDIATELY AFTER BIRTH AND ACQUIRE A NATIONALITY

Children who are stepchildren of Jews who did receive citizenship upon arrival in Israel face difficulties.⁶ On their 18th birthdays, they are allowed to apply for citizenship. However, under the citizenship law, the Interior Ministry has the option to demand that the applicant give up his/her previous citizenship. Although this demand is not obligatory under the law, the Interior Ministry refuses all requests not accompanied by such a notification. Many youngsters from the Former Soviet Union lost their citizenship when coming to Israel, but the embassies (Russian and other FSU countries) refuse to certify this fact or to grant a request for giving up citizenship. The result is a deadlock, but despite the lack of citizenship, these young people are called for compulsory army service! To make matters even worse, if they haven’t lost their former citizenship, serving in a foreign army is often considered a criminal offense in their former countries. The Interior Ministry is only prepared to waive the demand of forfeiting former citizenship after the person has served a full term in the Israeli army.

The Ministry of Interior sometimes does not register children as Israeli and have only one Israeli parent, if the parent’s status is questioned. In one such case, two babies were not registered in the population registry at all because the Ministry of Interior wanted their Israeli mother to give up her citizenship in exchange for permanent residency, because she was not eligible for citizenship. There are other cases where the a child’s status is not recorded for month’s because the Ministry has demands of similar nature from the parent. Apart from infringing upon the child’s right to legal status (whether as citizen or resident), this practice means that in the first months and

⁴ idem

⁵ Letter signed by former deputy Supreme Court president Dr. Haim Cohn (also Chair of DCI-Israel’s advisory board) and law professors Ruth Gavison, Mordechai Kremnitzer, Israel Gilead, Menachem Mautner, Joseph Edrey, Ron Shapira and David Kretzmer. Those who signed are deans of the Tel Aviv, Haifa, Bar-Ilan and Hebrew University law schools. In: *Ha'aretz*, December 26, 2001.

⁶ The first two areas of our comments on the implementation of article 7 have been written by advocate Einat Hurvitz of the Israel Religious Action Center, Jerusalem.

years of their lives, these children are deprived of national health care and other (mostly financial) benefits that are granted to families with children.

Bedouins in the Negev are related to tribes in the West Bank and Gaza, and Bedouin men sometimes marry women from those areas; often the marriages are polygamous, which is not legal in Israel. The Ministry of the Interior is thus uncooperative, which causes, according to some,⁷ Arab women to live in Israel physically for many years, but go unregistered. Registration of their children as Israeli citizens is not something that takes place promptly after birth. Eventually, the father usually manages to evade the law and register the child under his identity card, but it often takes time for them to get around to doing this. In the meantime, the child does not have his healthcare paid for by the Israeli government, which demands that his parents pay for hospitalization and the like which they often cannot or do not.

There is a serious problem with the registration immediately after birth and with acquiring a nationality. The problem occurs when neither parent is an Israeli citizen; if either mother or father is an Israeli citizen, the child automatically acquires citizenship and will, normally, be registered in the population registry of the Ministry of the Interior, while still in the hospital. Registration means he/she will be registered for health insurance, have a child allowance, and will be able to live in Israel. If neither parent is a citizen, the child will not acquire Israeli citizenship. Citizenship is especially a problem for Palestinian Jerusalem residents who did not want to be naturalized and are, therefore, considered by the Israeli government, to have Jordanian citizenship. However, since 1989, Jordan does not recognize West Bank residents, or Jerusalem to be Jordanian citizens. In addition, Israel opposes recognition of Jerusalem residents as quasi-citizens of the Palestinian Authority. Israel has made it difficult for a tiny minority of East-Jerusalem residents to acquire Israeli citizenship firstly, by requiring a command of Hebrew, and secondly, since the establishment of the diplomatic relations with Jordan, by requiring an official Jordanian document, stating that the person gives up his Jordanian citizenship; a document which the Jordanians are not willing to supply. The results of which is that an infant of parents in East Jerusalem who don't have citizenship, or even quasi-citizenship of the Palestinian Authority, doesn't have citizenship passed on to him. Israeli citizenship law states that any person who is Stateless can acquire Israeli citizenship when he/she reaches the age of majority (18). However, this provision is not applied to children in East Jerusalem, part of the Israeli assumption that such children have Jordanian citizenship, and are therefore not Stateless. To a less severe extent, the problem of Statelessness applies to children of Bedouins, who themselves never acquired Israeli citizenship, and also in polygamous Bedouin marriages with Arabs from Gaza or the West Bank where the Bedouin from Israel will illegally marry another woman from within the Palestinian Authority, all the while concealing the marriage, and leaving the children of the marriage unregistered. According to family therapist and social worker, Dr. Alean Al Krenawi⁸ the problem is acute in Bedouin women who became the second or third, etc. wife of a Bedouin man in the Negev. Since polygamy is an illegal practice in Israel, she will obviously not be registered as his wife.

⁷ Information provided by advocate Yunis Al-Krenawi in Beer Sheba.

⁸ Information provided by Dr. Alean Al Krenawi, School of Social Work, Ben Gurion University of the Negev, Beer Sheba.

Tens of thousands of children born in Israel to non-citizen parents are denied the right to registration promptly after birth. The result of this is severe infringement of the child's social and economic rights, including health and social security benefits, and de facto, the right to education. If the father is not himself registered in the population registry as a permanent resident of Israel, or if the father is in prison, a child born to him will not be registered promptly after birth. The mother must submit a request to the Ministry of the Interior, to have her new-born child recognized as a permanent resident of Israel, and she will have to supply extensive documentary proof, including rental contracts, affidavits, utility bills, and employment documentation in order to prove that the family's center of life is in Israel, including in East Jerusalem. The handling of such requests can take years, although during the period of consideration of our report, the time of waiting has decreased (provided that the father and mother supply all documentation necessary). The result is that many children, particularly in East Jerusalem, are not registered anywhere, and have no official recognition as a living being during their infancy. Human Rights organizations, including *Hamoked* (The Center for the Rights of the Individual), DCI Israel, and others, had cases of older children, and even young people approaching majority who have not been registered. During the period of consideration, many parents did not even try to register their children, because any contact with the Ministry of Interior, risks their entire families registered status. A non-resident's child, not only lacks an entry card for most benefits, but also his/her very presence within Israel (including east Jerusalem) is illegal. A child must lead an "underground" existence, trying to avoid contact with the Police and other Authorities. During the end of the period being considered in this report, litigation by Human Rights organizations (*Hamoked*, *Physicians for Human Rights*, *The Association for Human Rights in Israel*, *The El Quds Center for Human Rights*) in the High Court of Justice led to some improvements. In particular, non-resident children are now entitled to immediate health benefits, provided that at least one parent is a resident and insures his child under the national health insurance. Furthermore, the threat of revocation of residency from East Jerusalem residents has been substantially narrowed under the High Court of Justice.⁹ If the child is born outside of Israel parents who are not residents of Israel, the Ministry of the Interior will only grant the child temporary resident status for a period of at least two years, according to internal, unpublished policies.

A disturbing fact is that a registration fee has been introduced in East Jerusalem. N.A. is single Arab woman with seven children. She did not work and lived in extreme poverty and appalling conditions in her brother's house in East Jerusalem. In 1998, after years of her not establishing a home in the city, the Ministry of the Interior revoked her status as a resident. Without any formal status in Israel, N.A. did not receive benefits from the National Insurance Institute and she and her children were not given national health care. After the Ministry of the Interior changed its policy on the revocation of residency rights, (and after receiving

⁹ Case 2227/98 (*Hamoked*, *Physicians for Human Rights*, *DCI Israel*, *The Alternative Information Center v. The Ministry of the Interior*). Supreme Court also see Veerman, Philip. "The United Nations and Rights of the Child; Every Newborn Must be Recognized by the Responsible Authorities", in *Palestine-Israel Journal*, vol IV, no.1, 1997, pp. 49-54. See also Usama Halabi, *Revocation of Permanent Residency Status: Israeli Jurisprudence*, in: Maha Abu Dayyeh et. all, *Jerusalem Residency Rights in the Israeli Palestinian Peace Process*, Utrecht, SIM- Netherlands Institute for Human Rights, pp. 137-147.

direction and help from Israeli organization HaMoked), N.A. regained her status as a resident of Jerusalem in 2000. Some three months later, she was informed that all of her seven children had been registered in the Population Registry. However, the notification regarding the registration of her children also stated that she would be required to pay a service fee of NIS 535 (\$115) for each of her five children who were not Israeli and not born in Israel. She had been living off of her brother's money from the Israel government, (which supported a family of 18), and decided not to register her children for a period of four months. HaMoked, then submitted an application to the Ministry of the Interior to exempt N.A. from paying this fee. After denying an exemption twice, the Ministry of the Interior explained that exemptions were only granted in extreme humanitarian cases, and that after reviewing the case, decided that N.A. did not meet this definition. HaMoked decided to pay the fee for her, and to file a petition against this decision. In April, 2000 N.A.'s seven children (including the five not born in Israel) were registered in the Population Ministry and in mid-2001, HaMoked petitioned the Supreme Court, asking that criteria be established providing a full or partial exemption from fees for all services relating to the status of minor children, in cases when the parents' income was below a given level. The petition specifically asked that the refusal to give N.A. free registration be overturned. The hearing on the case has been arraigned for November this year.

Quite a few children are denied a birth certificate because her/his mother married a "foreigner." The Identification card of the mother is suddenly "under clarification" and hospitals can then not provide a birth certificate anymore.¹⁰

ARTICLE 8—THE RIGHT TO THE PRESERVATION OF IDENTITY

The element in Article 8, "the right to preserve his or her identity including...family relations..." has a strong link with Article 7 ("the right to be cared for by his/her parents").¹¹ In the Supreme Court case Enkin Vera v. Ministry of the Interior¹² dealt with an adult (just over 18 years of age) who was not allowed residency although this person's mother lived here. A similar case (Plaviola v. the Ministry of the Interior)¹³ shows that in many cases rights have to be obtained by legal battle, many years of sorrow and often not achieving the goal.

The mass return of Jews to Israel beginning in the late 1800's entailed Jews scattered amongst eighty different nations coming back. Naturally, the unifying factor was their Judaism and the idea was to become a melting pot of Jews. However, we believe that a price was paid for this in that people lost their connection to their history in the countries where they lived in the Diaspora. The cultural differences that had developed were not celebrated, and "sameness" was stressed.¹⁴ To help a child or adolescent form a full personality as a Jew who identifies him or herself with the heritage and destiny of his/her nation is well accepted by everybody, only in

¹⁰ Mualem, Mazel "Newborn Left with no ID is in a Legal Limbo" in *Haaretz*, February 4, 2002

¹¹ We thank Dr. Ayal M. Gross of the Buchman Faculty of Law at Tel Aviv University for pointing this out to us.

¹² Enkin Vera v. the Ministry of the Interior, The Supreme Court, 3403/97.

¹³ Plaviola v. The Ministry of the Interior, The Supreme Court, 979/99.

¹⁴ interview with Dr. Zvi Beckerman of the Meltiz organization for Jewish Education, by Philip Veerman, Jerusalem, June, 1995.

debate is how much religious aspects should belong to the identity.¹⁵ A Jewish child is aware of his/her uniqueness as a Jew and is taught about the ties between the People of Israel and the Land of Israel, between the People of Israel and their State and the Jewish People in the Diaspora. He or she learns a sense of common fate and responsibility for his/her nation.

According to Sergio Della Pergola, Chairman of the Harman Institute of Contemporary Jewry of the Hebrew University of Jerusalem, “there are 13.2 million Jews in the world, and that number is expected to reach 15.6 million by 2080. Sometime after 2030, Israel will be home to the majority of world Jewry (37% of all Jews now live in Israel) – not just because of immigration to Israel, but primarily because of the shrinking size of Jewish communities in the Diaspora due to intermarriage and low birth rates. Further research by Professor Della Pergola in 1995, showed that 27% of Israel’s Jewish youth population is aged 0-14, compared with 17.6% of Diaspora Jewry. Only 11.5% of the country’s Jewish population was over 65, compared to 18.5% in the rest of the world. In 2080, 81% of Jewish children under 14 are predicted to live in Israel. According to *Ha’aretz* newspaper, this research also includes significant information on the future of Judaism within Israel itself. Pergola’s research left 78% of Israel’s population Jewish, dropping to 65-69% by 2050. However, if Israel is defined as “between the Jordan River and the Sea”, the Jewish population is only 53%, falling to 26-35% by 2050.¹⁶ According to Dr. Asher Cohen of Bar Ilan University’s Political Science Department, “In the last two years, an average of 150 people a day immigrated to Israel. Of these immigrants, 80 are not Jewish. Only sex or seven underwent a conversion process. In other words, every day, more than 70 non-Jewish immigrants join Israeli society.” In 2000, 26,800 non-Jews immigrated to Israel, as opposed to only 26,000 Jews. In addition, there were 7,000 immigrants whose religious identity was “Not registered” –meaning that their Jewishness is doubtful, because they could not prove they were Jewish. Many of those immigrants are from the Former Soviet Union.

MK Limor Livnat, Minister of Education, maintained in 2001 that Israel must strengthen nationalistic values in schools. Minister Livnat recently withdrew the use of a history textbook for the ninth grade on the history of the twentieth century, on the grounds that it fails to allow for a “national viewpoint.” The needs of a country facing constant threats of war to teach some kind of belonging in their own country in its schools must be cautiously balanced with the aims of democratic education being to instill a sense of belonging to the international community. While children must learn the value of solidarity, it is especially important that Israeli children acquire a sense of responsibility toward global issues. It is our impression that teachings in Israeli State schools over-stress the importance of the Israeli State, and the Jewish connection to the Land of Israel, thus shifting the delicate educational balance towards etatism.

The Adam Institute for Peace and Democracy remarked that the Ministry of Education curricula introduce the narrative of one limited group in the population (white, Ashkenazi Jews who lived in Western countries). A marvelous example of a

¹⁵ Beckerman, Zvi. “Celebrating the Other: Educating Toward Dialogue and Celebration of Identity,” *Meltiz*, Jerusalem, 1995.

¹⁶ Sheleg, Yair. “Intermarriage, Low Birth Rates Threaten Diaspora Jewry,” in: *Ha’aretz*, February 13, 2002.

project, which we view positively, is that of an educational program developed by CET in which children learn Ethiopian literature in a textbook in which one side is in Hebrew and the other in Amharic. Single culture educational institutions that are established mainly for immigrants from the Former Soviet Union (The Shevach-Mofet School in Tel Aviv, the Immigrant Children's school in Carmiel, etc.) are part of the department and face numerous difficulties in obtaining sufficient funding.

Article 8 of the Convention grants the child the right to know the parents' identity, to the fullest extent possible. The Implementation Handbook for the Convention maintains, "Where parentage is in doubt, children [should be] able to have it established by genetic testing (free of charge if necessary)."¹⁷ While Israeli law incorporates this right, in cases where there is a contradiction between religious family law and this right, religious law has the final weight. In cases where discovering that the father is not the mother's husband is likely, which would place the child in the unmarriageable category of *mamzer* under Jewish *halacha*, the child is in fact barred from using DNA tests to discover the true identity of his/her father. At times when Muslim *shari'a* prohibits the true identity of a child's parents from being revealed, they are not. While recognizing the importance of protecting the child from a discovery of identity that would make him or her unmarriageable under religious law, we would like the desires of the mature child to be taken into account in making such decisions.

Many of the Russian youngsters are, if one compares it with groups who came in the past (from Morocco, Yemen) and now Ethiopians are more doubtful about being in Israel.

A program has been developed by Jewish Philanthropists and activists ("Birthright Israel") which enables every Jewish person between the approximate ages of 18-24 to visit Israel on an all-expenses paid trip. In the winter of 2001, 6,500 young people arrived, despite the current security situation.¹⁸

The values of Jewish culture are included by the practical and academic acquisition of the child's culture.¹⁹ What kind of identity to reinforce in the Arab-Israeli population was a dilemma for the educational system and the authorities. Israel's Declaration of Independence (1948) ensured that all citizens would be guaranteed "freedom of religion, conscience, language, education and culture". Although the separate Arab-speaking school system, in place a British Mandate times, was continued, criticism from Arab Israelis (among them the National Committee of Arab Mayors and the Follow-up Committee on Arab Education)²⁰ stressed that developing the Arab-Palestinian identity was neglected (or deliberately played down out of fear to strengthen a fifth column or potential activists for surrounding enemies).²¹ Policy was driven most and for all by the perception of Arabs as a

¹⁷ *Ibid*, p.117.

¹⁸ Shapiro, Haim. "20% Fewer Participating in Birthright Israel," in: The Jerusalem Post, December 25, 2001.

¹⁹ Smootha, Sammy. Arabs and Jews in Israel. Conflicting and Shared Attitudes in a Divided Society. Boulder, 1989, Westview Press.

²⁰ The National Committee of Arab Mayors and the Follow up Committee on Arab Education, Education for the Arab Minority in Israel: Issues, Problems, and Demands, Nazareth, 1991.

²¹ Debon, D. Prime Minister's Advisor for Arab Affairs, Statement in a Meeting on October 22, 1957, State Archives, 145/1292/62.

security risk and a source of instability.²² The history of the Golden Age of Islam and other aspects of Arab Culture are taught, but none of the modern culture is taught (Palestinian poetry, like Mahmud Darwish) and discussion of the Palestinian problem is avoided.

Many Ethiopian adolescent immigrants look for segregated experiences with other Ethiopian adolescents (like Ethiopian discotheques),²³ which reflects an integration and sense of belonging crisis. The fact that their spiritual leaders (Kessim) are not considered the same as Rabbis, and that there is not yet much intermarriage, has, according to anthropologist Malka Shaptai contributed to Ethiopian youngsters wanting to spend leisure time with each other. Until now, Ethiopian Jews do not have their own national heritage center, or a memorial for those who died on their way to Israel (mostly through Sudan).²⁴ Finally, these important places are under development. Programs are also being developed which examine their cultural heritage and past (through the internet, for instance).²⁵ Many Ethiopian adolescents have internalized the pattern of segregation, considering the fact that they tend to live in specific neighborhoods, (such as Jud-Aleph in Be'er Sheva). Many programs aim to give these youngsters more integrated experiences, these efforts being instrumental in deciding whether the next generation of Ethiopians will live as a minority-segregated underclass, or as an integrated group, proud of their heritage, and with a new sense of belonging.

Another major issue of concern relating to Israeli children's right to the preservation of identity is the still unsolved case of the 1,033 Yemenite children who disappeared from their families during the early years of the State.

The most tragic question on the minds of the Israelis Yemenite community (250,000) is what really happened with a group of Yemenite children who disappeared in the 1950's. The State originally claimed that they had all died, however the community (and in particular the International Organization for the Rescue of Jews in Distress and the Unification of Yemenite Families) feared that they were illegally given to American Jewish families for adoption.²⁶ Several unsuccessful attempts of Inquiry Committees have been made in the past to answer these burning questions once and for all. A new National Commission of Inquiry into the Disappearance of Yemenite Children²⁷ (with the power to subpoena witnesses and documents), tried to come up with satisfying answers to what happened with the children, whose immigrant parents left them in a nursery in the tent camp of newly arrived immigrants or saw them being taken away to hospitals. All these years, they believed that the children did not die, because no corpses were ever produced. It all happened in the beginning of the State of Israel, who housed the Yemenite immigrants in camps called "ma'abarot" where immigrants stayed for up to two years. The new immigrants had

²² Al Haj, Majid. Education and Social Change Among the Arabs in Israel, Tel Aviv, 1991, International Center for Peace in the Middle East. And Al Haj, Majid. Education, Empowerment and Control: The Case of Arabs in Israel, 1993.

²³ Information provided by Dr. Malka Shaptai, anthropologist.

²⁴ Both are under development in Jerusalem.

²⁵ Gordon, Evelyn. "Fake Graves Built for Missing Yemenites," in: *The Jerusalem Post*, June 16, 1995.

²⁶ The Cohen-Kedmi Commission

²⁷ Sheleg, Yair "Panel on Yemenite Children Rejects Conspiracy Theory," in: *Ha'aetz*, November 5, 2001.

to deal with bureaucracy in a language (modern Hebrew) which they had not mastered. If the truth is not exposed, albeit possibly painful to some, it is conceivable that it could lead to violence (such as in 1994 when a group headed by Uzi Mushalam held a crusade over the Yemenite Children which led to a shootout with the police).

The Cohen-Kedmi National Commission of Inquiry into the disappearance of the Yemenite children unequivocally rejected claims of “an all-inclusive establishment plot” to take children away from Yemenite immigrants and hand them over to childless families for adoption. The Commission’s report, published on November 4, 2001, after almost seven years of work, determined that documents exist for 972 of the 1,033 missing children whose cases were investigated by three commissions (the current one and two previous). Five additional missing babies were found to be alive. The commission was unable to discover what happened in another 56 cases. Yair Sheleg reported in *Ha’aretz* newspaper that “the commission deemed it possible that the children were handed over for adoption following decisions made by ‘individual’ local social workers-but not as part of an official Israeli establishment policy. There are also 20 cases of babies who disappeared from the Hashed transition camp in Aden, Yemen, before their families immigrated to Israel. In seven of these cases, there is documentation showing that they died, while 13 cases are unclear. The commission believes that these children were lost to their families in the camp, and brought to Israel on their own, where they were treated as foundling. The commission was established by the government of Yitzchak Rabin in 1995, after years of public criticism, including attacks on the work of two previous commissions (the Minkovski-Bahlul Commission in the late 1960s and the Shalgi Commission, which submitted its findings in 1994). The commission was first headed by retired Judge Yehuda Cohen, who was forced to step down for health reasons and was replaced in March 1999 by Supreme Court Justice (now also retired) Yaacov Kedmi. That is why the commission is called the Cohen-Kedmi commission. The other members of the commission were retired Judge Dalia Kobel and Major General David Maimon, a member of the Yemenite community. The commission heard testimony from some 900 family members of missing children, plus another 150 witnesses, professionals or public figures that believe in the abduction conspiracy theory. It had two investigating teams; one headed by attorney Yossi Yossifov, and the other by a Jerusalem investigative firm. The commission received authorization to examine relevant adoption files from those years. It sought to provide individual answers in each of the 800 cases it examined. The commission’s 300 page report also has a 1,500 page appendix, containing the letters sent to each of the families detailing the commission’s conclusions on the fate of each child.”²⁸

Most disappearances occurred between 1948-1951. Despite the work of the commission, many questions remain, and there are parents who suffer daily as a result.²⁹ Even Israeli President, Moshe Katsav is convinced that “there was a phenomenon of baby-stealing and selling them.” As long as the truth is not uncovered, there are parents who will suffer, and society will carry along a harmful secret.³⁰ It is no wonder that there are calls for a new probe-it seems that the Cohen-

²⁸ idem. See also: Lori, Aviva. “We were the Children,” in: *Ha’aretz*, December 7, 2001.

²⁹ Sinai, Ruth. “The Families Don’t Want to Believe the Report,” in: *The Jerusalem Post*, November 5, 2001.

³⁰ *Ha’aretz*, December 14, 2001, “The Yemenite Babies-A Mystery that Defies Solution.” And:

Kedmi Commission re-opened the issue instead of closing it. Yigal Yosef, Mayor of Rosh Ha'ayin, and also Chair of the Public Committee on the Dissappeared Yemenite Children, says that it is amazing that the government has not taken any responsibility for what happened.

Dr. Abu Haled Abu Asbe of the Brookdale Research Institute pointed out that:

"The tension between national identity and civil identity undoubtedly causes contradictions of values, tensions and conflicts of values within the Arab community in Israel. One of the outstanding contradictions addresses the socio-national identity of the Arabs in Israel. Many studies point to the existence of two identities: a national identity (Palestinian) which differs from the civil identity (Israeli) (Ben-Dov, 1995; Heider, 1994). Undoubtedly, these two opposed and contradicting identities create a certain confusion, which does not contribute to the definition of identity but rather creates a state of incoherence where several identities attempt to coexist. Some scholars add further components and the religious component. The Arabs in Israel experience identity difficulties, as Israeli Arabs on the one hand and as Palestinians on the other (see Benzamin and Manzur, 1992).

Arab schools do not address education in terms of being inclusive of core values.

Dr. Abu Asbe:

"...on one hand the preservation of national, religious, cultural and social uniqueness, and on the other hand – the monitoring that this uniqueness would not impair the chances for individual mobility in the modern technological world. There will be those who claim: (a) that the Israeli society in general copes with this issue, and it is not exclusive to the Arab population; and (b) that you cannot enjoy both worlds simultaneously. Preserving the collective in a unique form as well as developing and changing towards a modern technological society. They will base their opinion on the notion that these two worlds contradict each other and that either one must come at the expense of the other. These two claims are undoubtedly founded, but they are not valid enough in the context of the Arab educational system as a result of at least two facts: (1) The lacking of a purposeful policy on the subject, an area in which no attempt has been made until this very day; (2) The Arab educational system is separate from the Hebrew one, so that the social and cultural homogeneity levels in the Arab school are higher than those in the Hebrew educational system, which is more heterogeneous... Values can be divided into three levels: universal values, unique collective values and individual values. There is no objection to the universal values; they are viewed in the same manner by each and every human being. But there exists a tension between individual values and collective values. I claim that the necessary collective value system should focus on the minimum of individual values that identify the specific collective. These unique values have been based upon the national identity and upon the collective's cultural heritage alongside a constantly developing socio-nationalistic aspect. The acquirement of core values that also takes into account the three levels of value (the universal, collective and individual) necessitates a number of preliminary conditions on the school level, without which core values are unattainable. These conditions

Gilbert, Nona. "Yemenite Community Backs DNA Bank to Solve Missing Infants Mystery," in: *The Jerusalem Post*, February 13, 2002.

include the school's (including all its components) willingness to seriously address in its work the area of values and to dedicate increases attention to the behavioral, stands and values areas. This necessitates: (1) A structural-organizational alteration on the educational institute level, which has ramifications for the educational act itself, as it impossible, for example, to educate for the value of 'democracy' without a prior democratization of the educational framework (Duey, 1916); (2) Community (the parents) involvement in the educational process; (3) A change in contents on the study agenda level; (4) A change in government policy towards the Arab educational system."

He also adds "The tension between national identity and civil identity undoubtedly causes contradictions of values, tensions and conflicts of value within the Arab community in Israel. One of the outstanding contradictions addresses the socio-national identity of the Arabs in Israel." He points to the existence of two identities: a national identity (Palestinian), which differs from the civil identity, (Israeli)

Dr. Eyad El Sarraj, a psychiatrist and human rights activist in Gaza is concerned about the shifts in role models for Palestinian children. When he was young it was the film star or boxer with whom children identified, then it became the guerilla fighter and the stone thrower and now it has become the suicide bomber.

According to Nadem Nashef of the Association for Arab Youth (Baladna) in Haifa, there are not enough frameworks for Arab youth, where Arab youth feel that their identity is respected and the work is not serving a Jewish agenda or the agenda of the Arab political leaders. Youth work is needed because the educational system also does not deal with identity problems. His organization works on empowerment and looking critically at issues that exist in the Arab community (such as those regarding gender).

ARTICLE 13—THE RIGHT TO FREEDOM OF EXPRESSION

Except for some mention about the importance for culture in school newspapers written and produced by pupils do not have special regulations by the Ministry of Education's Director General (Hozer Mankal) and this leaves them vulnerable not to have an experience with freedom of expression but with censorship.

It is our observation that school children can express often express their opinion, but that teachers and administrators do not know what to do with these opinions; especially if it concerns the curriculum, the school program, etc. Therefore children get the impression that nobody is interested in these opinions.

The incitement against the late Prime Minister Yitzchak Rabin by some people, made it clear that freedom of expression has its down-side and needed to be reviewed in light of his assassination. On November 28, 1995 ACRI (The Association for Civil Rights in Israel) wrote to the then Attorney general, Mr. Michael Ben Yair, warning:

"From your remarks in recent weeks, it has become clear to us that we have no disagreement as to fundamental enlightened principles – that freedom of expression

is a basic and indispensable right in democratic society; that this freedom extends even to radical, provocative and inflammatory opinions, held by only marginal minority elements; that with all its importance, it is not an absolute right, and there is justification for restricting freedom of express if there is a high degree of certainty that the remarks in question constitute incitement to acts of violence or disruptions to public order.”

ACRI agreed that the assassination of the late Prime Minister, Rabin, had “underscored the fact that the danger of actual acts of violence is more real than we had imagined. This situation justifies adapting to this new reality the traditional policy of attorneys-general – which has been your policy as well—to manifest maximal restraint before invoking criminal legislation against speech. At the same time, we do not believe that every expression of severe criticism against the prime minister, or even of support for the assassination, is liable to constitute a threat of further violence; It is constantly necessary to examine whether there exists a high degree of certainty that a certain expression is tantamount to inciting others to engage in violence. The zealous activity of the police in investigating verbal remarks raises serious suspicions that the delicate balance between legitimate and illegitimate expression is being upset. This activity creates an atmosphere of delegitimization of criticism of the government, and it is liable to stifle and silence public dialogue.”

In their letter, ACRI mentioned the case of two minors who were arrested on the suspicion of producing and distributing posters depicting the late Prime Minister wearing an SS uniform, which they stated is not a crime. They quoted the president of the Supreme Court, Justice Barak, “We live in a democratic country where rending the heart is the heart of the democracy.” They added: “There is no justification for conducting the investigation of these minors while holding them in detention; moreover, inviting television crews to film one of them from behind while he is pacing the prison corridor – in a manner in which it is possible to identify him – is the cause for condemnation as an insult to the dignity of the detainee and illegal. We are aware of the need to wage unconditional warfare first and foremost against perpetrators of acts of violence, and even against those who incite to and encourage violence. At the same time, the cases cited above, as well as other cases, raise the serious suspicion that the legitimate boundaries of freedom of expression have been blurred, and that there exists a real threat that many people will be deterred from expressing critical sentiments. We must not reach the stage where anyone seeking to express a minority opinion will feel that criminal prosecution hangs over his head like the sword of Damocles.” ACRI continued: ‘Free and open public debate is especially important when it comes to government policy and actions by elected representatives. It cannot be permitted that such debate, even when accompanied by harsh and offensive criticism be silenced.”

ACRI’s letter illustrates well the heated climate in which freedom of expression has to be maintained.

According to the Adam Institute for Peace and Democracy, a review of school newspapers is sufficient to see that children cannot express critical opinions toward the institution in which they are learning.

In 1995, in Teibeh, 7,000 Arab-Israelis held a one-day warning strike protesting the grave state of education in that city. Students and their parents protested on the basis that the schools were not sufficiently protected or insured, and that there was a shortage of classrooms, libraries, laboratories, infirmaries, and furniture³¹.

In Israel, concerns of pupils nowadays are related to their fears about their safety and security in light of all the Arab terror. Kfar Saba high school students, for instance, refused to come to school on December 24, 2001, as part of a series of protests regarding the level of security in local schools. It was the first time that the Knesset Education Committee supported a student strike.

Adalah staff attorney Marwan Dalal sent a letter to the Ministry of Education complaining that they had forbidden ceremonies where Palestinian citizens who were killed during riots were remembered.

MK Zahava Golan has protested against the decision by the director general of the Ministry of Education not to allow an officer who refuses to serve in the territories speak at a school about his position. The director general explained that she could not allow somebody who committed a criminal offense to explain it in front of pupils.

What Palestinian children concerns at least one expression of feeling of belonging to the Palestinian national identity, waving and flying the flag was forbidden until 1993 (when the PA came into existence) but became accepted in 1993. In the words of Dr. Eyad El Sarraj, the Palestinian psychiatrist, "In September 1993 the Declaration of Principles between the Palestine Liberation Organization and the State of Israel was signed while Arafat and Rabin were reluctantly shaking hands in the White House garden, we joined the jubilant crowds in the streets of Gaza. As if by magic Gaza underwent a sudden transformation. The Palestinian flag, banned for twenty seven years by the Israeli military occupation, flew from every roof in the overcrowded Gaza strip."³²

A recent study by Save the Children, UK and Save the Children, Sweden showed Palestinian children "feel that they are living in politically momentous times, and they want to express their political views, although they have limited opportunities to do so."³³

ARTICLE 14—THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Conversions

In 1988 the Supreme Court ordered the Interior Ministry to register all conversions performed outside of Israel, be they with the framework of the Reform, Conservative or Orthodox streams of Judaism. This allowed families who did not want to undergo

³¹ Algazi, Yossef. "Teibeh's 7000 Pupils Held a Warning Strike Protesting the State of Education in the City," in: *Ha'aretz*, June 19, 1995.

³² El Sarraj, Eyad. "Peace and States of Mind," Gaza, Gaza Mental Health Program, 1994.

³³ Save the Children UK and Save the Children Sweden, Education Under Occupation: Palestinian Children Talk About Life and School. London/ Stockholm, March, 2002

the stringent conversion process demanded by the Rabbinical courts in Israel to convert their adopted children overseas and then register them as Jewish in Israel.

In 1993, the Reform movement in Israel petitioned the Supreme Court demanding that the rationale for registering conversions performed overseas be implemented in Israel as well. The Interior Ministry opposed the petition claiming that under existing law, the Population registrar may only register conversions performed in Israel that are accompanied by a “conversion” certificate issued by the Rabbinate. The Supreme Court handed down its judgment in 1995 (High Court Petition 1031/93; Goldstein v Minister of the Interior), and although it rejected the Interior Ministry’s position, it did not give a positive order to register non-Orthodox conversions performed in Israel. As a result, the Interior Ministry continued in its refusal to recognize non-Orthodox conversions performed in Israel and more petitions were served to the Supreme Court. In the meantime, many Israeli couples succeeded in converting their adopted children in non-Orthodox communities overseas (the conversion of an infant being primarily a short and formal procedure) and having their children’s Judaism registered.

In 1996-7 the Interior Ministry realized that the non-Orthodox movements were managing to circumvent its policy of not registering non-Orthodox conversions performed in Israel, by sending candidates overseas to finalized their conversion procedure. In response, it initiated a new policy under which it would only recognize conversions performed abroad if the convert studied within the framework of the overseas community and lived in the community for a reasonable period after the conversion. This, irrespective of the fact that an infant’s conversion, as mentioned above, does not require any period of “formal study”! Thus the Interior Ministry refused to register the conversion of anyone studying in Israel and completing the process overseas, or any infant living in Israel and going overseas solely for the purpose of conversion. This policy claimed to embrace Orthodox conversions performed overseas as well, but in practice, if the Israeli Rabbinic Courts recognize the Orthodox conversion performed overseas, regardless of the period of stay there, then the Interior Ministry will too. Numerous petitions were served in response to this policy, and lately a decision was given by the Supreme Court (panel of 11 judges).

The ridiculous result of this policy as regarding adopted children is that although the child is not registered as Jew in the population registry, his/her parents are registered as Jews and he/she is brought up as a Jew. This is a difficulty in a country where each person’s religion is a factor in the public’s eye and is considered part of their identity.

Until the Supreme Court handed down its judgment regarding the registration of non-Orthodox conversions, the only conversion recognized by the Ministry of the Interior is through the orthodox religious establishment – The Rabbinical Courts. This body subjects adoptive families to rigorous scrutiny before allowing the child to convert. They require that the child be sent to an Orthodox religious school, that the house be kept in a Kosher manner, and that other Orthodox-based criteria be satisfied. In fact, they try to make the family adopt a more religious lifestyle in order to have their child recognized as a Jew, and thus force the parents and the child to

abandon their own beliefs and their own personal practice of Judaism. This results in a serious breach of both parents' and children's rights to freedom of religion.

The demands of the orthodox religious authorities also harm, at times, other aspects of children's lives, such as their right to education. Such was the experience of an Ethiopian immigrant woman and her children. The children were studying at a prestigious High School, which is an affiliate of the Reform Movement. The mother was told that she would not be able to convert to Judaism (obviously an Orthodox conversion for the reasons mentioned above) unless she transferred her children to an Orthodox boarding school. Although the transfer of her children from the school's outstanding educational program was contrary to her wishes, the woman felt forced to comply with this request so that the family's Jewish status would be approved.

In addition, NGOs that deal with these issues are getting a steady stream of complaints from young adults who underwent conversion as children. Jewish couples wishing to marry legally in Israel must first register with the Rabbinate. As a result, Jewish Law is applied when determining if the couple is actually allowed to marry. The Rabbinate will demand proof as to the couple's Jewish status. According to the complaints, the Rabbinate questions and sometimes disregards the conversion of these youngsters because, growing up, they did not follow the orthodox religious rules of behavior and/or did not study in a religious school. This limits their ability to marry legally in Israel.

In February 2002, the Supreme Court handed down its decision regarding registration of non-orthodox Jewish conversions (Supreme Court 2901/97 Magen v. Minister of Interior, Appeal 392/99 Joslin Gigi v. Minister of Interior). It ordered the Interior Ministry to register as Jews in the population registry 24 petitioners who converted under the auspices of the non-Orthodox movements (Reform and Conservative) in Israel and overseas. Two of the cases were claims of parents whose adopted children were converted by the Reform and Conservative movements in Israel and overseas and the Interior Ministry refused to recognize the conversions.

The court ruled that for the purpose of registration under the Population Registry Law, the clerk's discretion is limited to verifying that there is no blatant lie in the information provided by the applicant. The court stated that a conversion certificate issued by one of the non-orthodox movements is prima-facie proof of conversion.

Chief justice Barak, in the Majority decision, ruled that the clerk must register a conversion so long as it is recognized by the Jewish community that issued the certificate. Questions of Israeli citizenship, place of conversion or proximity to the converting community are irrelevant. He ruled that Israel is not one Jewish community but the home of the Jewish people. As such, the Chief Rabbinate is not the singular head of the Jews living in Israel. There is more than one stream of Judaism functioning within and without of Israel. Each stream functions according to its beliefs and outlooks. Every Jew in Israel has the freedom of choice regarding religion and can decide whether and to which stream of Judaism s/he belongs.

The outcome of the verdict is that adopted children can now convert according to their parent's choice of religious belief. They will then be recorded as Jews in the population registry. The verdict was not carried out in full by the Minister of Interior,

who is an orthodox Jew and it is not clear if other families who's children converted in non-orthodox institutions will be recorded as Jews in the future.

Following the verdict, some ultra orthodox Knesset members are trying to change the law so that the State of Israel will not recognize the non-orthodox conversions.

Freedom of Religion

In December 2001, a teacher and principal at a State Religious school in Beit Shemesh were suspended after burning a copy of the New Testament in the school's courtyard, which a student had been given by Christian missionaries and brought into school³⁴.

According to former Chief Justice Shamgar (AA2296/93 Ploni v. Ploni Ruling 11, 221, 233): "It is widely accepted that a parent's motivation to teach his/her beliefs and education of their children of their religion hinders the child's freedom of religion (as it hinders the use of the realization of the natural right of the parent)". Living in an ultra-orthodox family is on the one side the right of the parents to educate the child as they see fit (without television, co-education, etc.) and, on the other hand, limits, in our opinion the informed choice of the child to lead this lifestyle because he/she is prevented from being exposed to other lifestyles. Even if we accept that freedom of religion of children is more than that of adults (which is logical if we link this with article 5: evolving capacities of the child), the question is to what extreme this right should be carried (i.e. in the case of Torah observing groups, to what extent the child wants to live in this environment). Should children from these families not also learn about the "modern" world, in order to make an informed choice to be in this environment or not? We will discuss this further under "the right to education" and "the right to access appropriate information".

The problems of Druze children are very much neglected in the Initial State Report. Within their society, if they do not marry amongst Druze only, they are basically outcast.³⁶ According to Druze religious law, when a divorce takes place, the husband and wife can no longer live in the same place or even speak to each other. The custody of children whose parents divorce is given automatically to the father. We believe that the Israeli authorities should do more to stop these cruel practices.

An interesting problem is that is a child is born from a Jewish mother and a Muslim father, the child is, under Jewish law Jewish and under Muslim law, a Muslim.

ARTICLE 15—THE RIGHT TO FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY

Article 15 guarantees freedom of association and peaceful assembly. Child participation in civil society in Israel is quite high; through youth movements and youth wings of political parties, children are encouraged to express opinions publicly and initiate and participate in peaceful political demonstrations. The Coalition is

³⁴ Kordova, Shoshana. "Educators Suspended over Burning of New Testament," in: *The Jerusalem Post*, December 28, 2001. And, Kordova, Shoshana. "Beit Shemesh School Apologies for Burning New Testament," in: *The Jerusalem Post*, December 25, 2001.

³⁶ We thank Fadel Ali, social worker, writer and poet from Usfyah for having discussed the fate of Druze children with us.

concerned, however, that under section 15 of the *Amutot (Non-Profit Societies) Law* (1980), children (under 18) cannot be members of boards of associations, even if the associations are for young people. We believe that there are boards of certain associations, which would benefit immensely from the membership of children, especially those involving youth movements, child-centered NGOs, educational institutions, and even some Knesset committees. Israeli legislation should pave the way for children to participate to the maximum extent possible, rather than discriminating against them for certain positions.

ARTICLE 16—THE RIGHT TO PROTECTION OF PRIVACY

When giving birth in hospitals, women get all kinds of gifts and when they sign on to receive material about life insurance, encyclopedias for children, baby formula etc. they continue to receive this information for many months. This interferes with the privacy of the mother of the child.

Article 16 demands that the Government protect the child's privacy. While children in Israel (contrary to many other countries where trials are on TV and names of the accused appear in the papers), are extremely well protected in the media and guarded against identification in cases where it is against the best interest of the child, during criminal proceedings a child's privacy is protected inconsistently. During the trial proceedings the court is closed to the public and the child's privacy is protected. However, in district courts, lawyers and others arriving at courthouses for their cases can enter a courtroom where a child is on trial, without a problem. They come for their own cases, but in the meantime, hear information about children on the docket. This is against the idea that the district court judge sits as a juvenile court judge and the idea of having such cases seen only on camera.

The concept of privacy in high schools needs to be considered in greater depth. For instance, *Tafnit*³⁷ (The Jerusalem Institute for Adolescents) pointed out to us that many adolescents do not want to go to educational counselors in their schools with their problems. Firstly, because they are not sure that the information they share will remain confidential, and secondly, because of the fear of being seen by other students. Another privacy issue for adolescents exists in hospitals, where there are often no separate rooms provided for them and can end up in rooms with much smaller children.

In other spheres of life, children's right to privacy have also been infringed. Children under the age of 18 are required to receive parental permission for prescription contraceptives. This not only violates their privacy and ability to make choices for themselves, but also is slightly ironic in light of the Law on Abortion, which allows a minor under the age of 18 to receive an abortion without parental knowledge.

Privacy rights within the school setting can easily be infringed these days, through the use of video monitoring. And in fact, with more violence in schools and the treat of more and more drugs, there is a dilemma for headmasters of schools that begins to show and where this already led often to abuses of the right to privacy. On December 31, 2001 the Israeli TV (Channel One news, by Ketti Dor) showed the Ort Adivi

³⁷ Interview with Miriam Turel, Associate Director of Tafnit in Jerusalem, March 1, 2002.

School in Ashkelon, where the headmaster, Mrs. Aliko Alkobi, had installed with the help of the Ministry of Internal Security a closed circuit TV so that the headmaster could look into all classes and rooms. This "big brother is watching you" project is supposedly to have a preventative effect on drug abuse and on violence. The pupils interviewed on TV complained that it expresses distrust and that their rights to privacy are offended. We support these pupils and are concerned about this new trend.

The Regulations of Israeli Broadcasting (Article 16 Aleph, *Klalei Sidurim*, and Article 24 of the Youth Law) allow for a child to appear on television without first getting parental consent. He/she is not allowed to be embarrassed by the television station, if he s/he shown eagerness to reveal things about his/her family, s/he must be discouraged. We support such regulations.

The Regional Council for Arab Bedouin Unrecognized Villages in the Negev pointed out to us that almost 60,000 Bedouin children have hardly any privacy due to their long-standing lifestyle of living in tents and temporary structures, a fact which some want to change. Children have many other children and brothers and sisters and their parents usually are not overly encouraging in terms of allowing their children to do homework and study. The fact that these Bedouin in the unrecognized villages do not receive permits to build makes the life of many children difficult.

After a terror attack the cameras roll and film not only body parts of people who have been blown up, but young people who are wounded or in shock. The cameras now even are allowed in hospitals, which is a breach of privacy and the doctor-patient relationship.

In the Territories, illegal searches and seizures are a widespread problem. Searches, usually conducted at night, are a routine procedure of the IDF, especially now, during the Intifada. No search warrant is required for authorities to enter and search a home and confiscate property. Only the order of an IDF officer is necessary to legitimate a search. Such searches are often violent, sometimes including adults being roughed up in front of children. Many Israeli human rights organizations, including B'tzelem, and Rabbis for Human Rights, continuously protest such practices of the IDF—but their objections are generally unheeded, due to the serious human rights violations which cessation of such searches would cause to the dozens of Israeli civilians blown up every week.

ARTICLE 17—THE RIGHT TO ACCESS TO APPROPRIATE INFORMATION

The State Report did not mention the relatively new *Freedom of Information Act* (1998).³⁸ In 1999, this law requiring transparency in many fields of Governmental information had to be implemented. Yet quite a few Ministries did have not yet adopted to the new requirements, and young people still often face difficult bureaucracy in getting the information they need. Implementation of the *Freedom of*

³⁸ The law was drafted, proposed and lobbied for by NGOs. The effort has been coordinated by SHATIL (a project of the New Israel Fund in support of change-oriented NGOs). Ishai Minuhin of SHATIL provided us with the material for this paragraph.

Information Act by the Ministries of Education, Health, and Labor and Social Welfare are most important for young people. The lack of efforts made to speed up the Government's own implementation of this law, in addition to the omission of this law from the State Report, demonstrates once again that the presence of "good laws" is not enough to ensure civil rights in Israel.

Additionally, Article 17 of the CRC requests that States Parties protect the identities of vulnerable children. Since the ratification of the CRC, Israeli journalists have become more aware that, according to the law, children's identities (names, faces, etc.) have to be protected when they are accused of having committed a crime, are suspected of having AIDS, are undergoing psychological or psychiatric treatment, or have committed suicide. Advocate Mibi Moser, who appears often for journalists in court, is of the opinion that editors are very much aware now of the requirements.

Information and emotional baggage that a person absorbs during his/her childhood greatly influences his/her make-up as an adult, and then his choices and decisions. The drafters of the CRC based themselves upon their understanding of what is beneficial and correct for educating children from an early age about human rights.

That a person is willing to participate in war and/or other violent events (murder, oppression, humiliation, prevention of food supply and medical aid, etc.), during which he/she is likely to injure others or himself, or in other words: a person's willingness to harm someone else's human rights is influenced by the way in which he/she is educated. The values he acquired, the information received and the emotions that have developed within him. The Halonot (Windows) organization wants children to take informed decisions about their lives. This organization which produces a magazine for children in both Hebrew and Arabic provides important information to children.

What particularly stands out⁴⁰ is the use of presenting a one-sided picture of the situation in order to convince the child that he/she belongs to the only justifiable group, and in the name of justice it is permitted to behave as he/she sees fit, and thus harm the human rights of some other group. The conflicts in our world are much more complex, and one side is not wholly justified, and the other side is not entirely mistaken. Acceptance of the Ratification of the CRC, calls for its member states to ensure that a child will have access to information from a wide range of sources, that will enable him/her in his/her youth and then afterwards as an adult to make independent decisions after having critically examined the range of information. Whether he is ready to sacrifice his life and place impositions on the lives of others (or harm their human rights in any other way), in order to solve the conflict for his/her side, or whether he prefers to operate in humane ways to the benefit of both sides. The most suited resources are as wide a range of information as possible that can allow him/her to get to know and understand both sides of the conflict.

Hillel,⁴¹ A self-help group of adults who come from Haredi, "Ultra Orthodox" families, believes that Haredi families don't provide information to their children in order to keep them sheltered and assure that they continue on in the same lifestyle.

⁴⁰ based on information provided by Halonot/Windows.

⁴¹ Hillel Association, Ms. Ofra Leit, Tel Aviv.

According to them, in these families (where watching TV or reading secular newspapers is taboo), children instead read mathematics books on the toilet. The lack of information about the “modern world” hampers the chances that they will “make it” in such a setting or lifestyle. A representative from the Hillel organization told us that “Haredi families produce children who, in a certain aspect, are handicapped, and insecure in the outside world”.

The magazine “Halonot” (“Windows”) is an Israeli magazine published in both Hebrew and Arabic that is written by and for Jewish and Palestinian children, and proposes an alternative to these violations of human rights. It brings children from both peoples face to face to talk about themselves – their lives, their feelings, ambitions, etc., to ask each other questions, and discuss the topics closest to their hearts. It is seen to encourage a more composite view of the situation and helps in understanding the “other”, and strengthens the hope and faith in the possibility of living in peace. The hypothesis of “Halonot” is that despair and frustration encourage violence. The hope is for a better future, which will result in a decreased level of violence and encouragement in a search for non-violent solutions. It should be reasonable to assume that a magazine as such would be accepted with open arms by the education system at every level and would be financially backed and distributed to schools. They have approached the education system and presented the topic to people at the top, with the idea of having them pay for a combined magazine for pupils of both peoples, and until today, we are having great difficulty in accomplishing this. Letters sent to Windows from children who live in the West Bank and Gaza describing their day-to-day life were defined by senior personnel as dabbling in politics. Many managers and teachers ignored the requests with claims of no time or not interested, which we think is just apprehension of parents reactions and a fear of the Ministry of Education. At a meeting that took place recently with the Ministry of Education inspectors, it was put forward that bringing the magazine into schools at this time would be considered subversive.

At the present time, the Windows Association for the Development of Study Programs has become active in combining education with values formulated in article 29 of the CRC, with children’s letters published in the magazine. An official request last December was made to the publications committee of the Ministry of Education asking them to authorize distribution of the magazine in schools has not yet received any response.

Since the ratification of the CRC, Israeli journalists have become more aware that, according to the law, children’s identities (name, face, etc.) have to be protected when they are accused of having committed a crime, are suspected of having AIDS, are undergoing psychological or psychiatric treatment, or have committed suicide. Advocate Mibi Moser, who often represents journalists in Court, is of the opinion that editors are very much aware of the rules.

NGOs, such as the National Council for the Child and DCI-Israel contributed to this by making complaints in the past to the Council on ethics of the Israeli Journalists Association, even occasionally leading to the suspension of journalists.

Since the CRC was ratified in 1991 a “media revolution” has taken place in Israel. The situation changed from one TV station (Channel One) with no commercials,

which shared its time of Public Television with educational TV. According to Dr. Daphna Lemish⁴² research showed elsewhere in the world that public television is more tuned to the needs of children, is less racist and sexist than commercial television. Educational television has produced good programs for children. In the early nineties, Channel Two (commercial), Cable TV, and satellite TV was introduced to the Israeli public. With these changes came “Americanization” (more buying of American programs for children), more focus on ratings than on the needs of children and on commercial elements. Even though there are now more available programs for children, it does not necessarily make the situation better.

Television is the media front which is most invested in by children, followed by the internet. The general trend, according to Dr. Lemish⁴³ is that children spend more time indoors, in their bedrooms in front of a computer or public, indoor places. The security situation contributed also to this change, because parents are afraid (with suicide bombers and terrorist attacks) to have their children in outdoor places. The growing gap between the rich and the poor is also to be seen here: as in most places in the world, children from rich families have more access to internet than poor children, despite the election promise of former prime Minister Binyamin Netanyahu that all children will have a computer.

With globalization also affecting Israel, tension became apparent between local and general programs. With this came the interest of children in the English language (which is the language of video games, TV, the internet, etc.). The trends of consumerism (interest of children in products with name tags for instance), privatization, individualization, commercialism fits well with a weakened feeling of collective commitment. A few years ago, media literacy programs were introduced in schools, teaching children how to be critical viewers. However it is optional, and not part of the curriculum.

After the Oslo Accords, an Israeli-Palestinian co-production of Sesame Street for Israeli and Palestinian children was created. It was aired for two years and had been developed for five. Roberta Fahn, consultant in Jerusalem told us that, now, an Israeli-Palestinian –Jordanian production is in development (with a lot of animation instead of joint-interaction).

Arab children in Northern Israel watch a lot of Lebanese and Saudi Arabian television via satellite and, in general, Arab children do not watch Israeli television programming. Parents often watch the Al-Jazeera satellite channel. In general, the voice of children is hardly ever heard on TV.

In Israel, the dilemma arises for many parents between protecting their children from seeing the horrible pictures of the results of terrorist attacks, and also giving their children the feeling that they are informed citizens, because part of the collective identity is being informed.

When terrorist attacks are carried out, Israeli TV obviously covers the situation with live broadcasting. Sometimes, a viewer can see body parts being scraped off the

⁴² interview by Dr. Philip Veerman with Dr. Daphna Lemish, Chair, Department of Communications Tel Aviv University, January 16, 2002.

⁴³ Idem.

streets and people shouting and crying. This scary type of news coverage is unfortunately real news and part of the Israeli consciousness, but is on the other hand, very frightening for children. A balance is not easy. Dr. Lemish: "Children in Israel have been exposed, while viewing television to the most terrifying sights of the consequences of human violence – an assassination, terror attacks, bombings, suicide-explosions. The horror of these sights include mutilated bodies, body parts, blood, the cries and trauma of the injured, the heart-breaking sight of those mourning the victims...The special threat to the well-being of children has yet to be studied."⁴⁴ Israel lacks a news-program for children as is introduced in some countries with success.

Israel is a country where new technologies penetrate quickly. Cable TV, videos, mobile telephones, etc. have been introduced on a large scale. Young people often buy video and watch them together at parties. Video stores are booming. There is hardly any control of what children buy. Israelis are eager to get new technology, because it decreases their sense of isolation in the world, and can give them an escape from daily life of the conflict.

According to Dr. Lemish⁴⁵ the spread of mobile phones is one of the highest in the world. Parents are more prepared to give their children mobile phones so they can constantly hear if they are safe and if something happens, be in touch with them immediately. There is, in addition, a whole youth culture of using the mobile phone amongst themselves.

The parents of children with disabilities are in great need for information, because the services are so fragmented. The JDC-Brookdale Institute (Disabilities research Unit) and the JDC-Israel⁴⁶ noticed "little information is available to the disabled and their families regarding their rights. Consequently, many disabled people who need

⁴⁴ Idem.

⁴⁵ Lemish, Daphna. "Fighting Against Television Violence, An Israeli Case Study," in: Carlsson, Ujlla and Von Feilitzen, Cecilia, 'Children and Media Violence,' Goteborg, 1998, Yearbook for the UNESCO International Clearinghouse on Children and Violence on the Screen, pp.125-138. See also: Katz, E., Haas, H., and Gurevitch, M., "Twenty years of television in Israel: Are there long run effects on values, social connectedness, and cultural practices" in: Journal of Communication, 47:2, pp. 3-20 (1997). See also: Lemish, D. and Lemish P., "A much debated consensus: Media Literacy in Israel, in: Kubey, R., "media literacy in the information age: current perspectives," New Brunswick, NJ: Transaction Publishers. See also: Weimann, G. Zapping in "The Holy Land: Coping with multi channel TV in Israel," In: Journal of Communication, 1995, 45:1, pp. 97-103, Weiman, G.T., "Cable Comes to the Holy Land: The impact of cable TV on Israeli Viewers," Journal of Broadcasting and Electronic Media, 1996, 40:2, p.243-257.

⁴⁶ JDC-Brookdale Institute (Disabilities research unit) and JDC-Israel (Unit for Disabilities and Rehabilitation)" People with Disabilities in Israel: Facts and Figures", Jerusalem, 2000, p.6. & Florian, V. and Dengor, S., "Selected issues in Israel's System of Rehabilitation, In: Society and welfare, 1999, 19(2) pp 193-214 (Hebrew) & Naon, D., Morgenstern, B., Shimmel, M. and Rivlis, G. Children with Special needs . Stage I and Stage II: An Assessment of needs and Coverage of Services, JDC-Brookdale Institute, Jerusalem, 2000 (Hebrew). & Stasberg, N., Sandler-Loeff, A., and Naon, D., The Basket of Developmental Services for Children with handicaps: Adaptation to Needs and Means of Provision Following Implementation of the National Health Insurance Law, Jerusalem, 2000, JDC-Brookdale Institute (Hebrew). M. Margalit, Report (to the Minister of Education and Culture and the Minister of Science) of the Commission to maximize the Ability of Students with Learning Disabilities, Jerusalem, 1997.

services are unable to take advantage of them. For example, about two-thirds of the parents of children with disabilities would like to see more information about eligibility of services. In addition, about 50% of the blind do not know about services to which they are entitled.”

A NGO “Kesher” is doing pioneering work to provide information to parents and disabled themselves about their rights and they have established several information centers in the country with Hebrew, Arabic, and Russian speakers providing this service.

The organization, “Hila” has reported that parents of children referred to special education are not given any precise explanation concerning the special institution that child is being transferred to. Too many parents are unaware of the significance of the term “special education”; they do not know for what kind of children it is intended and they are unaware of their rights under the Law and the provisions form the Education. In most cases, it is explained to parents only that the small special education institution would contribute to advancing and improving their child’s achievements. Some parents come before the Placement Committee without documents, in spite of the provisions ordering that all documents (Student’s Referral Questionnaire, Psychological Diagnosis and any other document) available to the Committee be handed over tot he student’s parent prior to the Committee. The order to hand over the documents to parents is not strictly observed and parents mostly do not receive the documents, unless they so request.

More reliable information is needed in sexually related matters (contraceptives, for instance). It is in relation to such matters that the *Open Door* centers of the Israeli Family Planning Association and the youth clinics of the Clinic Health Fund are essential, because there is a great need to “decode” the information.

Hila found that in most instances, parents need to demand the documents and find themselves going back and forth between the various institutions: the school, the Educational Department at the Municipality, and such. In conformance with the provisions, parents are supposed to receive notification to appear before the Committee at least 16 days in advance, by registered mail. In most cases, this is not observed and the lapse of time between the notification and the appointment is shorter, which does not allow the parents to prepare themselves before appearing before the Committee and protect their children.

Although Israel is the State Party under review, we have to remark that the official Palestinian Authority television and radio station glorifies suicide bombers who kill Israeli civilians and often children, and encourages these acts.

What we think is lacking in the Juvenile Justice System is a language is good information in a language which children understand. During interrogation, young people do not know that they have a right to be silent, and the police take advantage of it. Most young people who are arrested and interrogated are experiencing it for the first time and are, as such, easily intimidated. Young people end up confessing not only for what they did but for other crimes as well. We recommend that an advice session between the young person and the lawyer take place before an interrogation.

Dr. Abu Asbe of the Brookdale Institute discussed with us⁴⁷ his take on the situation in Arab-Israeli schools:

“Arab headmasters and teachers alike, attempt to refrain (within the limits of their control) from the discussion of current affairs relevant to the Israeli citizen’s life, this also applies to those issues that occasionally stir the Arab population. Even when teachers are instructed to do so in light of a certain social or political event they avoid it, and when they have no choice, the discussion is carried out in a hasty manner in order to get it over with. This avoidance of the discussion of current affairs, political ones in particular, is not incidental but rather reflects the Arab school’s self and role perception, a role that focuses upon the imparting of knowledge, and which does not gladly adopt an additional natural role of the educational institute – which is not solely based upon the imparting of knowledge and the acquisition of skills but rather is an institute that discusses the issues concerning the society in which it functions and to which it is supposed to provide services.

This state of affairs, which is characterized by the reduction of the school’s engagements to the imparting of knowledge and skills, robs, in my opinion, the Arab school of its contents as an educational institute, and leaves it with only the one “easy” task of teaching and imparting knowledge, a task that cannot be the sole reason for the school’s existence.

The reduction of the school’s engagements exclusively to the instructive field, turns the educators into teachers who judge themselves and who are judged by their superiors in accordance with the extent of their conveyance of the study material to their students and with the latter’s amount of success in examinations – and not in accordance with the amount of values imparted by them to their students.

The Ministry of Education’s point of view on the subject dealing with current affairs within the school framework is clear; and does not differentiate between Arab and Jewish schools. This stance has been expressed more than once in the ministry’s general directors’ circulars. During as early as 1983 the mg/9 circular stated: ‘Educators should encourage discussions of the issues fascinating the teenagers, and should invest efforts to fairly express all of the different viewpoints regarding the debated question. The student should be provided with the opportunity to hear and get acquainted with various and contradicting perspectives, without any coercion of the teacher’s own opinions.’ And in the year 1988, a special circular by the general director stated: ‘The school may not remain indifferent to today’s current affairs. It is the school’s duty to assist his teachers and students in coping with the moral, legal and existential aspects of these events,’

If this is the ministry’s official stand, the question arises – why does the Arab school not engage in topics that are relevant on the country’s level in general and on that of the Arab population in Israel in particular? And why do the teachers exhibit indifference, lack of caring and a fear of discussing educational topics, especially in

⁴⁷ Interview with Dr. Haled Abu Asbe, January 14, 2002 at the Brookdale Institute. See also his publication, *About Education to Values and About Bureaucracy*, 2001.

light of these issues being addressed in the general director's instructions regarding the matter? The answer undoubtedly rests upon several factors:

A feeling of threat from external supervision: the Arab teacher feels that he is not free from an external supervision (real or seeming) that threatens him, and fears the reactions of his superiors and the authorities: this as a result of the Arab society's status as a minority population whose people are struggling with the Israeli state. The teacher also fears his own society's reaction when the discussion touches upon controversial issues.

The perception of the teacher role: the teacher views himself more as a professional teacher than as an educator (especially in the high schools) and therefore is exempt from discussing current affairs, or from engaging in the field of values.

Lack of pressure: a lack of pressure on the students' behalf towards teachers to discuss current affairs and a lack of similar pressure on the parents' behalf. Tzartzur (1960) states, that a gentleman's contract exists between students and teachers that maintains that teachers will not bring into class discussions emotionally charged issues and current affairs while the students on their part will also refrain from raising such topics. The students have learned from past experience with other teachers, who have avoided the provision of clear answers or even from discussing the issues in class, and therefore do not recognize the use of pressuring them. Major events such as a general strike commemorating the day of the earth, hardly receive any reference from neither teachers nor students.

Lack of knowledge, tools and skills at the disposal of the teacher in dealing with current affairs: during his training, the importance of discussing current affairs has not been emphasized to the Arab teacher (it is important to note, that teacher training colleges for the Arab schools refrain from discussing current affairs, politics, and moral dilemmas), and as a result the trainee does not receive the skills necessary for discussing current affairs with his students during his training.

In addition, the Arab teacher views the school as a workplace and a source of livelihood, and does not perceive his role as one of social and public significance. Most Arab teachers did not arrive at their profession after making a choice, but rather as a result of lacking one, due to the shortage and the barrier placed between them and the occupation of other professions (approximately 40% of the Arab university graduates engage in teaching as opposed to only 15% of the Jewish university graduates). A discussion of current affairs and fields of value demands a self and personal exposition from the teacher: he must be prepared to hear various and different approaches that often contradict his own, a situation for which he was neither trained nor prepared. Therefore he would prefer to discuss neutral topics on which his students will not challenge him. An additional statement that can be made lies within the Arab teacher's personality, in which influences of the authoritarian and conservative values may still be witnessed, resulting in little tolerance when his student's disagree with his opinion (Rapoport, 1978).

The Bedouins in the Negev have a growing sense of "having lost their way, expressed in the rapidly rising crime statistics, drug use and unemployment among

Bedouin youth, as well as rising figures in the rapidly growing support for the Islamic Movement.”⁴⁸

A discussion of current affairs necessitates an environment that encourages openness and equality between teacher and student, and for this the Arab teacher has yet to be prepared.”

ARTICLE 37—THE RIGHT NOT TO BE SUBJECTED TO TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

After five years of deliberation, a nine-justice panel of the High Court of Justice decided in 1999, that the General Security Service's violent interrogation methods are illegal. Violent interrogations became forbidden, not on the basis of a law, but on the basis of the Supreme Court decision. A law is lacking making the UN Convention Against Torture the Law of the Land. Such a proposal by MK Tamar Gozansky has been on the Knesset table for several years, also submitted by then Justice Minister Yossi Beilin, but it appears that the proposals were shelved. The Supreme Court decision lists twelve kinds of torture that cannot be used. However, a loophole in the decision, saying that if it is needed for the defense of the State (such as if has knowledge of a bomb about to explode somewhere amongst the civilian population), the investigator can use force in his interrogation. He then has to report it to the Attorney General, who will decide if he used it in a proper way. Recently, a new law regarding the General Security Services (Shabak) passed in the Knesset, defining the service authority and supervision of the service, but does not include an interrogation article that can be interpreted as impunity.⁴⁹

Since 1992, complaints are filed in a criminal process of investigations by police officers via a new civilian board in the Ministry of Justice's (not the Ministry of Internal Security) department of investigations of complaints against police officers (Machash). However, the experience of human rights organizations is that it hardly ever leads to bringing an abuser to justice.⁵⁰ The situation after the “Machash” started to work is a bit better than in the past. The level of proof “Machash” needs in order to prosecute police officers seems to be to high to us and, therefore, the percentage of convictions is too low.

⁴⁸ Nir, Ori. “There's a link even to Bedouin patience, fewer Bedouin are joining the IDF, and more are supporting the Islamic Movement.” In *Haaretz*, march 20, 2002

⁴⁹ Alon, Gideon. “Shin Bet Law Moves Forward, without Interrogation Clause,” in: *Ha'aretz*, January 30, 2002.

⁵⁰ Personal communication by Dr. Sergio Herzog of Haifa University.

Dr. Sergio Herzog of the University of Haifa ⁵¹ is of the opinion that research results on the extent to which the objectives of complaints systems have been attained by Machash are not encouraging:

“...despite some improvement (especially in comparison to the pre-Machash period), the deterrent capability of Machash is limited;
· complaints (and police officers) remain dissatisfied with the investigations;
· the public at large does not know about the existence of Machash, its functions, or how to register complaints.
· police managers find it difficult to access Machash complaints material for internal police purposes due to the separate civilian status of Machash.”

Herzog concludes ⁵² that the mandate of Machash is too limited to investigation of potentially guilty police officers in relation to specific complaints. The mandate does not extend itself to deal with the “warrior policy” of the police force.

“Hence it is almost as if external control systems which concentrate only on the individual level of suspect police officers are “doomed” to fail despite their independent civilian status (...) In order to improve the general functioning of these boards and also to reduce the dimensions of police violence, the police force and the external bodies involved in the complaints process have to address not only the “rotten apples” but also the basket carrying them. In other words, wide-reaching organizational preventive action is needed involving joint civilian-police cooperation, acting on all levels of police work, both at the individual and organizational level.”

The investigators of Machash are former police officers. Herzog also looked at the advantages and disadvantages of that:

“According to the present findings, general criticism of the Israeli system, namely alleged occupational proximity, and consequent solidarity, between the former police officers employed by Israel’s civilian board for the investigation of complaints against police officers and those very officers, seems to be unfounded. That is, the risk of a possible general cover-up due to the common police background of Machash investigators and suspect police officers was not indicated by the findings of this study. Nevertheless, the limitations of the data collected by survey methods in general, and particularly written questionnaires sent by mail caution against taking these research finding and conclusions as definitive.” ⁵³

The proven experience in public investigations, wide knowledge of police work and a high level of professional discretion might help the investigators of Machash to do a good, thorough job, to investigate complaints. However, if at the same time a “violent” policeman gets a promotion for a being a good police officer, the message

⁵¹ Herzog, Sergio. Evaluating the New Civilian Complaints Boards in Israel, in: Goldsmith, Andrew J. and Lewis, Colleen, editor, Civilian Oversight of Policies: Governance, Democracy, and Human Rights, Oxford and Portland, Oregon, 2000, Hart Publishing, p. 145.

⁵² Idem, p. 145.

⁵³ Herzog, Sergio. Suspect Police Officers Investigated by Former Police Officers: Good Idea, Bad Idea? in: Law and Policy, (2002) in press.

sent effectively counters the effects which a conviction against a police officer for acting violently might have.⁵⁴ Appeals to the Attorney General take a long time.

Complaints against the GSS can be filed with the Ministry of Justice (and not the Prime Minister's office, under whose jurisdiction is the GSS). However, former GSS officers man the department of complaints against the GSS (similar to the former police officers referred to above). It seems to us that the department is just administratively under the wings of the Justice Ministry. In Israel there is no Police Commissioner, and few public organizations are connected to the police.⁵⁵

In Court it is possible to have a criminal process stopped, and have a "court in the court" begun (mispat zuta), where a defendant has to prove that evidence was obtained under pressure, which is often hard to prove, and it is often the word of the client against the word of the interrogator. The "mispat zuta" hardly ever leads to an interrogator being brought to justice. Also, the prosecutor often works with classified files, which the defense cannot see in cases of security. Monitoring is done by the State Comptroller and by NGOs (Public Committee against Torture in Israel, the Association for Civil Rights in Israel, DCI Israel and Palestinian Human Rights Organizations). Of course, the International Committee of the Red Cross does intervene with the government, but cannot, because of its mandate, go public. The Association for Civil Rights in Israel used to hold human rights education courses with GSS officers, they, however, stopped two years ago; they do continue to give workshops to the police, and "torture" has come up many times.

Indeed, in the aftermath of that decision, the situation appeared for a while to have changed, with the General Security Services seeming to use less torturous methods of investigation (often of terrorists). Practices such as shaking suspects during questioning, sleep deprivation, interrogating suspects in contorted "banana" positions, putting sacks over their heads, keeping cells very cold, and beating them, seemed to no longer be used. However, in a breach of the High Court decision, torture is again on the rise, and children are also victims of these practices. Amnesty International reported in its briefing to your colleagues of the UN Committee Against Torture that the above described methods are again being used again terrorists.⁵⁶

Many Palestinian citizens of Israel were arrested in the October 2000 riots and some were not even allowed to see their lawyer, and almost all were not allowed to be released on bail.

Violent searches of homes and properties, usually conducted at night, are routine in Palestinian villages around Jerusalem throughout the Intifada. The interrogation of Palestinian minors often takes place at night, depriving them of sleep.

⁵⁴ Kremnitzer Committee, The Treatment of Police Violence, Ministry of Internal Security, Jerusalem, (1994).

⁵⁵ See the research of Dr. Sergio Herzog, Police Violence in Israel: The Police Complaints System on Use of Force Complaints, (1998), the Hebrew University of Jerusalem, Doctoral Dissertation. & Treatment of Illegal Use of Force Complaints Against Police Officers in Israel: The Beleaguered Path to Civilian Involvement, (1999) in: Police Quarterly, vol. 2, no.4, December, p. 482.

⁵⁶ Amnesty International: "Israel/Occupied Territories: Israel has to address Increasing Use of Torture." MDE 15/103/2001.

A report published in November, 2001 by LAW - the Palestinian Society for the Protection of Human Rights and the Environment, the Public Committee Against Torture in Israel (PCATI), and the World Organization Against Torture (OMCT), maintains that Palestinian child prisoners in Israel are not treated according to international norms.⁵⁷

in examining the treatment accorded to children in detention by the Israeli authorities, the Convention against Torture should be interpreted, when relevant, in the light of other applicable international norms and standards. These norms and standards establish that child detainees are to be treated with humanity and respect for their dignity, taking into consideration the special needs and vulnerability of their age. In those exceptional cases where children are deprived of their liberty, the provisions of the law should be scrupulously respected.

We believe it to be Israel's responsibility to take these charges and Article 37 of the CRC seriously.

NGOs (Israeli and Palestinian) have documented numerous cases of minors from East Jerusalem, the West Bank and Gaza who have been subjected to cruel, inhumane or degrading punishment, and torture. One of the cases, documented by the Public Committee Against Torture in Israel, Muhammad⁵⁸ (from which affidavit we also quote in discussion of Article 40) said:

"He blindfolded me again and I felt that two people had bashed my head to the wall, they kicked me, and they beat me harshly all over my body, while fiercely cursing my mother. I felt I was broken, helpless, I fell down and I could not get up. They lifted me up and sat me on a chair.

Because of the beatings I got, the blindfolds fell off a bit and I could see a little. I noticed that the interrogator brought a plastic gun and he started to fire small plastic bullets all over my body (my nose, my ears, and my back) and also at intimate places in my body. Most of the firing I got were at my face. The pain was sharp and then I said to him: "OK, I want to confess" he took my blindfold off, made me sit down and I told him that "I went only four time to throw stones, and I threw a total of 15 stones."

DCI- Israel has looked at a sample of files that have been recently opened at the Jerusalem district court. They include cases of minors in East Jerusalem who were arrested on suspicion that they performed what may be termed "intifada offenses"- endangering the lives of passengers on public busses, throwing petrol bombs, and attacking the police. All the minors in these cases were arrested and questioned by the Jerusalem Special Operations Unit – which functions within the Jerusalem Police Department, and indictments were submitted to the Jerusalem District Court against the said minors. DCI -Israel studied thirty-two files of minors aged 12-17, arrested

⁵⁷ LAW - the Palestinian Society for the Protection of Human Rights and the Environment, the Public Committee Against Torture in Israel (PCATI), and the World Organisation Against Torture (OMCT), *The Treatment of Detained Palestinian Children by the Israeli Authorities*, November, 2001.

⁵⁸ Affidavit by the Public Committee Against Torture, by Mohammad, (name and ID number known to Dci-Israel).

in East Jerusalem and questioned for several hours at night. The files list the time of the arrest and time of beginning of questioning; *A 12 year old's interrogation started at 3:30am and a 13 and a half year old at 2:00am*. The fact is that the interrogations are against the rules of the police itself.

The way that the police arrest children, both Jewish-Israeli and Arab-Israeli, suspected of having committed a criminal act and have never been arrested before is greatly troubling. The police sometimes go to cases that are closed and convince children to admit to having committed crimes in order to appear to have worked effectively and boost their statistics. Often, children are not informed that they have the right to consult a lawyer. The child is many times only informed of this right after a full investigation has been conducted. They are also not informed of the right to remain silent. Juvenile judges often ignore this and do not institute police practices.

On a more positive note, we support the proposed change in the law where the police will be disqualified from questioning persons with brain damage however, interrogation of people with mental disorders remain with the police, unfortunately. These tasks will be preformed by specially trained investigators under the supervision of the Ministry of Labor and Social Affairs.⁵⁹

⁵⁹ Kra, Baruch "Bill Alters Questioning of Mentally Impaired People" in *Haaretz*, February 25, 2002.

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. What position will Israel take in order to ensure that Palestinian children in East Jerusalem will not be Stateless pending a final determination of the status of East Jerusalem?
2. We wonder if the government cannot find a more balanced approach in Jewish schools, while on the one hand teaching a sense of identity and belonging to the Jewish people and their country, and on the other hand equally teaching the importance of responsibility and tolerance, especially in regard to trying to establish good relations with neighbors.
3. Can the government include the element of education toward civic identity of the Arab-Israeli population in the five-year development plan which the government designed and started to implement? Is the Government willing to conform to its obligations under Article 37(a) of the CRC and work towards the elimination of all forms of inhuman and degrading treatment or torture of children, and especially Palestinian child prisoners?
4. The Cohen-Kedmi Commission has not solved the mystery of the many children that disappeared from the Yemenite Community. Since so many parents still suffer daily from this, and it is an obligation under Article 8 of the CRC, can the government not continue to take responsibility for finding the answers, and provide compensation to parents who have suffered?
5. **Is the Government willing to conform to its obligations under Article 37(a) of the CRC and work towards the elimination of all forms of inhuman and degrading treatment or torture of children, and especially Palestinian child prisoners? Can they immediately stop interrogations at night, stop using sleep deprivation and other means of pressuring minors under interrogation?**

6. Can the Government respond to the many documented cases of neglect of medical care to Palestinian children by the IDF by instructing IDF commanders in the field to allow children to go to doctors, hospitals and thus pass checkpoints for these reasons?
7. Can the government delegation inform the CRC committee of the outcome of the meeting between the Attorney General Elyakim Rubinstein and police, army and security services on the use of rubber-coated bullets by army and police?
8. Can the government restart human rights education courses with the GSS, especially to those officers having to interrogate offending minors?

VI. Family Environment and Alternative Care

According to Prof. Yochanan Peres of the Institute for Sociology of Tel Aviv University¹ the Israeli society is more familiar when compared with countries of the same size in Western Europe. The families are also stronger than in other industrialized countries. The marriage rates are here higher and divorce rates lower. Although, here a change could have been seen the decade. However, a recent rise in the Israeli divorce rate leveled off in the year 2001: 9,419 couples broke up as compared to 9,210 in the year 2000. This 2.3 percent increase last year is lower than the previous year. Over the last years, the internal diversity has grown: in the secular area Tel Aviv and the Northern coast divorce rates were as high as 33%. In the town Ra'anana in the center of the country it is 40%. In 2001 divorce rates in Tel Aviv and Jerusalem dropped by 3.8 and 4.7 percent. In the more oriental and religious parts of the country it is lower (15%) and in the Observant Jewish sector, divorce is a rare phenomenon.

¹ Interview by Philip Veerman with Professor Yochanan Peres, Institute of Sociology, Tel Aviv University on 28 January 2002.

See also: R. Katz and Y. Peres, "Marital Crisis and Therapy in the Social Context," in: Contemporary Family Therapy, Fall (1996);

Y. Peres and I. Brosh, "The Impact of Social and Economic Factors on the Size of the Israeli Jewish Families," in: Journal of Comparative Family Studies, Vol. 22 (3) 1991, pp. 367-378;

Y. Peres and R. Pasternack, "To What Extent Can the School Reduce Gaps Between Children Raised by Divorced and Intact families," in: Journal of Divorce and Remarriage, vol. 14, (1987), pp. 143-158;

R. Katz and Y. Peres, "The Sociology of the Family in Israel: An outline of development from the 1950s to the 1980s", in: European Sociological Review, Vol. 2(2), 1986, pp. 148-159;

Y. Peres and R. Katz, "Is the Israeli Family Losing its Character?" in: Israel Social Science Research, Vol. 2 (1), 1984. Itim News Service, "Divorce Rate Slows," in: Ha'aretz, February 1, 2002.

Uri Leviatan, Crisis in the Kibbutz.

Professor Peres explained the relative more familiar nature by the fact that the family has and has always had a central place in Judaism. The community stabilized families and the families supported the community. Social control was high. The security situation in Israel also pulls people together: people stick together when they feel they are under attack. One of the unifying factors of the Jewish People, in addition to living life according to the Torah, is the persecution that it has undergone throughout its stay in the Diaspora. In this respect, the divorce rates in Jewish settlements are interesting: there were 1,345 less divorces (64 percent drop considering the low rate to begin with) in respectively Ma'aleh Adomim near Jerusalem, Kiryat Arba near Hebron and Alfei Menashe.

The fact that there is no "l'etat civile" in Israel and that marriage and divorce is in the hands of Religious leaders (Rabbinical courts, Sharia courts and Druze Courts) makes it also harder to divorce if one of the partners does not want. In the past it was even more difficult. The Fertility rate is higher in Israel than in many industrialized countries, at 2.8 children per woman.

The figures of the Central Bureau of Statistics show² that in 2000, the average family had three children – 2.7 for Jewish women, 4.7 for Moslem women, 2.6 for Christian women and 3 for Druze women. In 1999, the figures show, there were 2,300 unmarried Jewish women who gave birth – almost twice as many as the number recorded during the previous decade.

The *New Family* organization has pointed out to us that during the last decade there has been an increase in one-parent households, with nine percent of the country's children being raised by a single parent. Some 132,000 children were part of a single parent household five years ago, compared to 171,000 in the year 2000. 12% of children live in one-parent households and amongst Russian immigrants 18%. Terrorist attacks contribute to this situation as well. The policy is, however, still based on the reality of ten years ago. The state admitted that "family" is not uniformly defined in Israeli law (see combined Initial and Second Report of the State of Israel concerning the implementation of the United Nations Covenant on Economic, Social and Cultural Rights 1997, page 79). Some laws define what is a family more broadly than others. Institutions such as Family Courts or Rabbinical Courts to decide what is the definition of the family. What a one-parent family receives in terms of benefits in terms of income tax and housing is disturbing to us.

However, the familiaristic attitude is declining. Globalization and modernization, leading to greater sexual promiscuity and gender "equality" is one reason. Birth control is easier and more reliable. Having children is now more a result of an agreement between the partners and not the husband being in control of the fertility of his wife. This trend can also be seen in Christian and Arab families who have now fewer children than Jewish families.

Another reason is secularization. There is a growing differentiation with the secular becoming more conscious of the secularity and the religious also becoming more drastic.

Still 2.4% of the population lives in communes (kibbutzim).

² Bassok, Motti. "It's not a Man's World in Israel," in: *Ha'aretz*, March 7, 2002.

In the 1990 Gulf War the kibbutzim which had not already changed arrangements and where children still lived with peers in a house with children of the same age, changed so that children could live with the parents.

Also children did not go to school in the kibbutz anymore but were from now on bussed to regional schools. The Initial State Report does not report on kibbutzim at all.

Israeli families need incomes from both parents. That means that one-parent families (mostly the result of divorce) are having trouble coping financially: 40% of them are living under the poverty line compared to 20% of families of two parent families. About 200.000 people are unemployed.

It is an achievement of the community of immigrants from the former Soviet Union³ that in the community there is not a higher percentage than in the rest of the population. However, financial reserves they do not have often. Many families from the former Soviet Union have one partner not being Jewish which often leads to complications.

Many families have been left traumatized as a result of a family member having been killed in a terror attack. Dr. Eva Eirat, chair of the Israeli Association for Marital and Family Therapy, and Family Education (a fellowship that includes therapists and family treatment guides who are psychiatrists, family physicians, psychologists, social workers, clinical criminologists, educational consultants and art therapists, as well as other members of the mental health, counseling and education areas, who are uncertified or are as yet uncertified.) wrote: "Various frameworks of family therapy, which today is in most cases an integrative, interdisciplinary treatment that includes the entire family, the intergenerational system as well as the environment. In addition, meetings are sometimes held with each side separately; children, husband/wife, relatives, teachers etc. within the treatment framework. The familial systemic approach has brought on many changes in the last decade, in regard to the perception of the treatment, among adults where the child is returned to the problematic family, which has not undergone a therapeutic procedure."

Israel is a country that, judging from its history, should serve as an example to other states on alternative care for youth displaced from their homes and families.

Residential care can be non-stigmatic—Israel's early years proved this.⁴ After World War II and the Holocaust, Israel found creative solutions for a large youth population without families. The Kibbutzim, communal settlements, were well equipped to take in youth without families and provide a full social and educational framework for these single minors. A child taken into a Kibbutz without parents was taken care of in the communal children's home and assigned official "parents" to look after his/her personal needs. In its early years, the State provided full support for the wellbeing of children in such frameworks, creating a model fitting of international emulation in the area of alternative care for children.

³ Sharlin, S.A. and Elshansky, I. (1997). Parental attitudes of Soviets in Israel to the immigration process and their impact on parental stress and tension. In S. Dreman (Ed.), *The Family on the threshold of the 21st century: Trends and implications*. Mahwah, NJ: Lawrence Erlbaum. And Sharlin, S.A., Katz R., and Lavee, Y. (1992). Families in Israel in the year 2000. *Society and Welfare* 12(2):167-187. And Sharlin, S. A. and Shamai, M. (1990). *Families in extreme distress (FED)—Identification and intervention*. Haifa, Israel: The Center for Research and Study of the Family, University of Haifa.

⁴ Wolins, M. and Wozner, Y, Revitalizing Residential Settings, Jossey-Bass, Inc. Publishers, California: 1982.

Foster care in Israel is not a well enough developed institution.⁵ Furthermore, we are concerned about the Government's collection of statistics on children in schools and alternative care. For example, the Government Report mentions that it is difficult to compose statistics on the number of ultra-Orthodox children in private religious schools. However, it is crucial that its statistics be accurate.

ARTICLE 5—PARENTAL GUIDANCE AND EVOLVING CAPACITIES

Differences in cognitive attainment between advantaged and disadvantaged groups already appears in early childhood calls for early intervention programs. However, there is not enough investment in early intervention programs, and improvement of pre-school education as well as education at later stages and implementation of the law extending compulsory education for early childhood (ages 3-4), in order to increase the chance for equality of groups.

With regard to the issue of evolving capacities, we refer the CRC Committee also to our discussion on Article 12 (to take into account the opinion of the child), which should be in harmony with the evolving capacities.

Environment and Cognitive Development

Studies reviewed by Charles Greenbaum and Sol Kugelmass⁶ show that cognitive achievement levels in children of middle-class backgrounds is higher than lower-class, Jewish children of Western backgrounds perform better than those of Middle-Eastern or North African backgrounds, and Jewish children higher than Arab children. There are recent indications, (in the Central Bureau of Statistics, Annual, 2000) that while these trends continue, the differences cited above may have narrowed in recent years, as indicated by attainment of high school matriculation certificates. The differences in achievement may be attributed to differences in environmental opportunities,⁷ including differences among groups in parental expectations for their lower-class children.⁸ Thus lower-class children, Jewish-Israeli children of Middle Eastern backgrounds and Arab-Israeli children are still disadvantaged. These differences are strong indicators of parents' varying

⁵ Since 1779 in the field of child-welfare, there has been a debate: boarding out or sending children to institutions. Israel's way went more to the one end of the continuum. Kruithof, B., Mous, T., and Veerman, P., Internaat of Pleeggezin, 200 Jaar Discussie, (The Institution of Foster Families, 200 Years of Discussion) Amsterdam, 1981.

Ziv, A. & Nevenhaus, S. (1973), Frequency of wishes for peace of children during different periods of war intensity. *Israeli J. Behav. Sci.*, 19:423-427.

Cohen, A. & Dotan, J. (1976), Communication in the family as a function of stress during war and peace. *J. Marriage Family*, 38:141-148.

de Shalit, N. (1970), Children in war. In: *Children and Families in Israel: Some Mental Health Perspectives*, eds. A. Jarus, J. Marcus, J. Oren & C. Rapoport. New York: Gordon and Breach.

⁶ Greenbaum, C.W. and Kugelmass, S. (1980). Human Development and socialization in cross-cultural perspective: Issues arising from research in Israel. In N. Warren (ed) Studies in Cross Cultural Psychology (pp.95-156). London: Academic Press.

⁷ Abu-Abeid, A (2001) Unpublished Master's Thesis, School of Education, Hebrew University, Jerusalem

⁸ Mansbach, I. And Greenbaum, C.W. (1999) "Developmental maturity expectations of Israeli fathers and mothers: Effects of Education, Ethnic Origin and Religiosity." In International Journal of Behavior Development, 23, pp.771-797.

perceptions and values in child rearing and child education, which ultimately affect the evolving capacities of the child developmentally.

Research shows that the better the parental guidance, the better the cognitive and emotional development of the child. The differences already appear in early childhood. This means that the government must provide economic and social support to the family so that parental guidance can be as effective as possible, so that he/she can develop his/her evolving capacities. Discrimination (lower class, Sephardim/Ashkenazim, Jewish/Arab) places children that have less support at a disadvantage.

Effects of Trauma on Development

The war-like situation in which both Israeli and Palestinian children find themselves will, no doubt, have an influence on how children develop. Peter Jensen and John Shaw wrote that "War usually represents a chronic, enduring condition, in which the entire context and social fabric may be dramatically altered. Entire nations and cultures may be disrupted, whereas most events leading to Post-Traumatic Stress Disorder (PTSD) occur under much more limited circumstances. The dramatic contextual changes of war may result in conditions in which the stressful events and circumstances seem normal, with the possibility that the child may become somewhat acclimated to these new surroundings. Thus, for many children, the context and climate of war may be the only environment they have experienced. In this sense, war may be a chronic form of privation, and there may be little opportunity for the child to feel "deprived" per se. Furthermore, the meanings of war's stressful events and processes often are embedded in a larger national context that is bound up with patriotism, heroism...Such considerations likely have less relevance for the construct of PTSD."⁹ The ongoing conflict situation has created a prolonged and sustained exposure to repeated stresses, a phenomenon which Terr,¹⁰ for instance, has described in children who have been physically and sexually abused. Jensen and Straw concluded that "whereas massive exposure to wartime trauma seems likely to overwhelm many children's defenses, more moderate degrees of exposure may result in self-protective, adaptive, cognitive styles that allow effective functioning. Minimal degrees of threat may not invoke these protective mechanisms for some children. Although these hypotheses may be plausible, more research will be needed to determine how age, developmental, family, and community factors may mediate the strength and nature of these effects."

The many terror attacks in which children themselves, their parents or siblings are getting injured may have an influence on the development of the child. We believe that the Ministry of Health should be taking a more active role¹¹ in investigating

⁹ Jensen, Peter and Straw, John. "Children as Victims of War: Current Knowledge and Future Research Needs," in" Hertzog, Margaret E. and Faber, Ellen A. Annual Progress in Child Psychiatry and Child Development, New York, Brunner/Mazel, (1994), p. 506.

¹⁰ Terr, L. "Childhood Traumas: an Outline and Overview," in: American Journal of Psychiatry, no. 148 (1991), pp. 10-19

¹¹ Palestinians are more active in this respect. See for instance Baker, A.M & Shalhoub- Kevorkian, N. (1999) The effects of political and military trauma on children: The Palestinian case Clinical Psychology Review, 19, 935-950 and Elbedour, S. Baker A.M., Shalhoub- kevorkian, N., & Belmaker, R. (1999). Psychological response in family members after the Hebron massacre. Depression and Anxiety, 9, 27-31. see also Elbedour, S. Baker, A.M & Charlesworth, W. (1997) Political Violence and Moral Reasoning in Children. Child Abuse and Neglect, 21(11), 1053-166.

these effects. The link between resilience and development in Israel should be studied more.¹² Expert for the practical programs (how to deal with death in the classroom¹³ for instance) there is hardly any research of hospitals with acute anxiety attacks. As we will also explain in the next chapter, not enough is done on work with children with traumas; while the everyday situation calls for this, coordination is lacking.

We see it as the responsibility of the government to intervene in situations where parents are not looking after their child in an appropriate manner and help parents to gain better skills in caring for their children. However, implementation of these policies are dependent upon the allocation of funding to execute appropriate programs; often the funding is not available. As a result, much needed family preservation programs are undermined, creating a vacuum of support options for parents lacking appropriate parenting skills. Often, shortsighted policy at this stage later translates into the high costs of imprisonment, psychiatric hospitalization, and other measures which are more expensive than preventative alternatives requiring greater long-term planning. Very few programs currently exist to foster such skills in families that are in difficult situations, and Government funding is not available for the initiation of such projects.

Sex Education

Dr. Ilana Ziegler of the Israeli Family Planning Association is of the opinion that in the education system, not enough attention is given to children to educate them in becoming a complete human being, (including becoming a sexual human being). A few hours of life-skills lessons is not enough. Sex education should become, according to her, an integrated part of education. It is now more important than ever (see Art. 17) because children often base their ideas on sex on television and end up quite confused. Dr. Ilana Ziegler says that it is important to learn how to control one's sexuality. This, in light of the fact that the average ages for receiving sexually transmitted diseases has gone down.

Sexual Orientation and Development

Due to the lack of research in Israel, concerning homosexual youth, we estimate the ration of teenagers that define themselves as homosexual, or are unsure about their sexual inclination, is 10%, similar to other western countries.¹⁴ According to reports by teenagers that attend social and support groups of the Homosexuals, Lesbians, Bisexuals and Transgender Association in Tel Aviv, these teenagers are submitted to distress and difficulties known in literature, including: feelings of loneliness, subjection to physical and literal violence, discrimination and ostracism – from the family and from the Homo group, intensive use of addictive substances and alcohol in order to relieve the emotional pain, high rates of male prostitution, and high rates

¹² Masten, S.A.; Bert, M.K.; Garnezy, N. "Resilience and Development: Contributions from the Study of Children who Overcome Adversity," in: Development and Psychopathology (1990), vol. 2, no. 4, p. 425-444.

¹³ O. Ayalon, prepared the school system for coping with stress in emerging situations, Studies in Education, (Hebrew), 15: pp. 149-166 1977 and O. Ayalon, "Is Death a Proper Subject for the Classroom?" in International Journal of Child Psychology, 25: pp252-257 1975.

¹⁴ Walzer, L. (1999), *Between Sodom and Eden: a gay journey through today changing Israel*. New York: Columbia University Press. & Perez, R.M., DeBord, K.A. & Biescke, K.J. (1999). *Handbook of counseling and psychotherapy with lesbian, gay and bisexual clients*. America Psychological Association, Washington, D.C.

of suicidal attempts. Guy Shilo of the Association says that the government does not pay enough attention to this group. The Initial State Report neglected this group in any case.

The Initial State Report did not devote enough attention to the evolving capabilities of the child in terms of increasing participation in family or institutional decisions concerning the child. It is our opinion that evolving capabilities should be taken up in the context of participation rights (article 12). We believe that if at an early age autonomy is strengthened this will have an effect on the evolving capabilities.

Given the large quantity of research on cognitive development¹⁵ of the child, the government should make a systematic review of laws (at least those mentioned in Table 1) to see if they should be changed in light of the new knowledge of cognitive development of the child or the demand for child participation.

ARTICLE 18-- PARENTS JOINT RESPONSIBILITIES ASSISTED BY THE STATE AND TO HAVE CHILDCARE

The Adler Institute,¹⁶ which operates a school for parents and has counseling centers, clinics, and various educational operations, is of the opinion that the State is not fulfilling its obligation to render assistance to parents and legal guardians in the performance of their child-rearing responsibilities (Art. 18.2). The government did not invest in strengthening the parents skills, as a way of preventing problems from occurring later. The government, for instance, subsidizes a course that the Adler Institute runs with prisoners¹⁷, (how they can still be parents, how they should keep in contact with their children, etc.) but hardly any subsidies go to parent education. The Adler Institute's experience is that many Israeli children are either on one side or the other of the following continua. On the one side of the continuum, children are neglected (sit in front of the TV because the parents are working) or on the other end, are very spoiled, (have a computer, mobile phone, rarely hear "no"). The other continuum shows children being humiliated by their parents and, on the other end, parents giving no limits at all. There, we see sibling violence without parent intervention. Many parents do not know how to live up to their responsibility, and that is why so many children are on either end of the continua described above. If more is not invested in parent education, the Adler Institute fears that a generation of selfish children will be raised. Orna Roberman of the Adler Institute maintains that too often, the government blames the security situation for inaction. However, during periods of relative quiet, the same problems occurred. There are still a lot of parents with good parenting skills though, nevertheless, we agree that prevention (mentioned in Art. 18 of the CRC) is very much neglected by the government.

According to the Equal Parenting Organization, Israeli law violates those articles of the CRC, dealing with the right of a child to a family and in particular the right not to

¹⁵ Alfchild Petren and Roger Hart, The Child's Right to Development, in: Akila Belembaogo, et al, Children's Rights, Turning Principles into Practice, Stockholm and Bangkok, 2000, Swedish Save the Children and UNICEF, pp. 43-60

¹⁶ Interview with the director, Orna Roberman, at the Adler Institute in Ramat Efal near Tel Aviv, February 25, 2002.

¹⁷ Amzalag-Bahr, Haya and Hacohen-Wolf, Hagit "Parental Training for Prisoners and Ex-Prisoners", Jerusalem. National Insurance Institute, Research and Planning Administration

be separated from his parents except when “such separation is necessary for the best interests of the child.” The Convention does not use or define the term so as to exclude fathers from “the child's best interests,” nor is its purpose to derogate from the right of a child, whose parents are separated, to see each parent with sufficient frequency so as to allow the child to maintain a close relationship with both. The State of Israel severely restricts the rights (CRC Articles 9 and 10) of children and parents to leave Israel for any reason including visiting family members abroad. This is achieved by easily obtainable injunctions that remain in effect until the child reaches the age of 18. In many cases no actual redress is possible.¹⁸

An area in which progress has been more apparent in the period under review is in residential facilities (children’s homes), where parents have been involved more and recognized as parents even though the child is not living at home.

Article 18.2 (“the State party shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children,” and Article 18.3 (“the State party shall take appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible,”) stress the State’s appropriate assistance and appropriate measures. One such appropriate measure is supervision, and it is an appropriate rule for the State to overview the development of the facilities and assure quality of care. In 1999, some 2,000 public day-care centers and about 2,000 public family-care centers for infants operated in Israel. An equal number of private family-care centers operate in residential premises and are not registered, and of course are not under any supervision. Said Danny Asher, a child-care expert: “The legal situation in Israel in effect allows any individual to open a day-care facility in his home, without any official body inspecting to see that the premises are suitable, that they are properly equipped or heated during the winter, for example.” In an interview with *Ha’aretz* newspaper¹⁹ Asher said:

“this is a wide-open market. If they are looking after fewer than ten children under the age of 2, day-care centers in the private sector are not obligated by law to get any supervision or training for the care-giver. There is not even any agency that is responsible for the inspection of the most elementary things, for example the care-giver’s mental health, or for seeing to it that the children are fed according to what is promised the parents. People in the field hear shocking stories of care-givers who go out shopping in the middle of the day and leave a group of 1-year-olds all by themselves for a considerable length of time.”²⁰

Your committee has a Theme-Day on the private sector on September 22nd and we recommend that supervision of daycare facilities in the private sector will be part of your discussions. For our purpose of the review of the State, we express our concern for the lack supervision of these private facilities. Jewish women’s organizations, such as WIZO or NA”AMAT encourage women to work and develop and operate

¹⁸ Equal Parenting Organization, *Position Paper*, 2001.

¹⁹ Levinsan, Aviva. “Parental Input in Lillipaut,” in: *Ha’aretz*, January 5, 2000.

²⁰ Idem.

daycare centers. The Arab sector is lagging behind, and the Israeli government has not overly involved itself with this.²¹

ARTICLE 9—THE RIGHT NOT TO BE SEPARATED FROM PARENTS

Children separated from their parents in Israel according to Article 9 are often placed in government boarding schools. These schools tend to be tough places, due to the difficult backgrounds of their students. The Coalition is concerned that the State boarding schools do not do enough to provide an alternative from criminality, and a disproportionate percentage of the children enrolled in them end up in detention or prison at a later point.

The Organization for Equal Parenting, *Horut Shava* has pointed out to us that the Israeli law refers to custody matters by implementing *The Tender Years Doctrine*, and by this, it is unique in the Western World. Under this doctrine, the custody of children under the age of 6 in divorce cases is awarded to the mother. Section 25 of the Capacity and Guardianship Law – 1962 provides, that in cases where the parents do not agree upon custody the court is authorized to rule in the matter “as may appear to it to be in the best interest of the minor”, but this is subject to the proviso “that children up to the age of six shall be with their mother unless there are special reasons for directing otherwise.”

Thus, the Israeli legislature has prevented the court from seriously deliberating the factors constituting “the child's best interests”. Only in those cases where the mother suffers from very severe problems will the court award custody of the child to the father. Apart from that, the Israeli law neglects custody matters. It fails to recognize the various possible types of custody arrangements; it does not acknowledge the possibility of “joint custody” nor has it developed a normative theory of a child's need for a close relationship with both parents.

Thus Israeli legal practice clearly violates those articles of the Convention dealing with the responsibilities of the State towards the child, according to which the State is required to respect the principle that both parents have common responsibilities for the upbringing and development of the child and a duty to encourage parents to raise their children.

Moreover, Israeli law violates those articles of the Convention dealing with the right of a child to a family and in particular the right not to be separated from his parents except when “such separation is necessary for the best interests of the child”. The Convention does not use or define the term so as to exclude fathers from “the child's best interests,” nor is its purpose to derogate from the right of a child whose parents are separated to see each parent with sufficient frequency, allowing the child to maintain a close relationship with both.

The State of Israel severely restricts the rights (Article 9, paragraph 1; Article 10, paragraph 2) of children and parents to leave Israel for any reason including visiting family members abroad. This is achieved by easily obtainable injunctions, which remain in effect until the child reaches the age of 18. In many cases no actual redress

²¹ Abu-Jaber, Ghada. Early Childhood Education in the Arab Sector in Israel: Policy and Reality, Jerusalem, 1992, SHATIL.

is possible. In the cases of fathers, the pretext for restricting travel abroad is that they "might" flee from child support payments. In these cases the only method available to exit the country is to have two unrelated individuals, with no outstanding debt, undertake full financial responsibility for the child including the injunction against leaving the country.

There is a strong need in Israel for far reaching legal reforms in all matters pertaining to separation and divorce in so far as these affect children's rights and their best interests. Israel has been discussing reforms for some time. However, the first and most immediate step must be the repeal of the inequitable and prejudicial *Tender Years Doctrine* that is currently in effect.

The economic aspect of Israeli law in this regard is also fundamentally different from the rest of Western law in that it places 100% of the financial responsibility for the child on the father. This raises a legal anomaly in that statutory law, a priori, states that the financial responsibilities for raising children shall be shared equally by both parents according to their financial means. However, the statute does not apply to Jews, Muslims or Christians. For these groups, their respective religious laws apply. Religious rulings are not a formal part of Israeli law for any of the above three religions. In all three cases, however, the father must fully support his children in all circumstances, even in those cases when the mother's financial means are similar to or greater than the fathers. This too violates the Convention provision that the State must ensure that "[t]he parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development."

The Equal Parenting Organization is a NGO, an organization of parents, men and women, whose common goal is to promote social change in Israel in the area of parental responsibilities towards children and equality of parental responsibilities and rights. At the core of The Equal Parenting Organization is the fundamental principle of the child's best interests and his/her right to two full parents even when the parents are separated. The child's interests require active parenting by both parents and their full involvement in all aspects of his or her life. Children are not entertainment nor are they burdens nor are they weapons. They are people with rights; The responsibility for these rights must be shouldered by both parents. The rights of the child to two parents is the most basic of his or her rights and is defined in the CRC. The rights of the child require that both parents share parental responsibilities and share in the task of raising the child and enjoying the relationship with him or her.

We support that the right of fathers should be taken more into account in custody cases. However, in some extreme cases, where fathers murdered mothers (sometimes in front of the children) the authorities have agreed that the fathers still hold custody or the right to visit the children.

The Soharei G.I.L.A.T. organization claims that the approach of the Ministry of Labor and Social Affairs is still very much paternalistic. They are of the opinion that welfare officers often rush to take a child out of a family, place him/her in a foster family and only then study the case and see if there is a good alternative, which is often lacking.

ARTICLE 10—THE RIGHT TO FAMILY REUNIFICATION

The Initial State Report barely goes into the issue of family reunification and stays on “safe ground” by simply stating respectively the Entrance to Israel Law of 1952, The Law of Return of 1950, The Law of Citizenship of 1952, and the Basic Law: Dignity and Liberty. Family reunification, however, is not anchored in Israeli law, with the exception of the reunification of first-degree relatives of persons covered by the Law of Return as well as children of citizens. Nothing in the State Report indicates that this is actually a very sensitive issue, and many families (Ethiopian, Arab) suffer daily from Israel’s severe violations to the right to family reunification.

The Law of Return allows Jews and certain non-Jewish close family members to immigrate to Israel (i.e., the son or daughter of a Jew and their spouses, the grandchild of a Jew and their spouses). The inability of other family members to immigrate under this law has caused numerous tragic situations of families forced to separate, and the Israel Religious Action Center for Human Equality, Social Justice and Religious Tolerance is handling many such cases. The Ministry of the Interior allows very limited categories of non-Jewish relatives to receive residence status in Israel on a humanitarian basis. This includes non-Jewish children from a first marriage of the non-Jewish spouse to a Jew. They will be granted permanent residency provided that they are minors, came with their parent when they immigrated and have been in the immigrant parent’s custody for two years prior to immigration. There are cases of children who come when they are near 18 years of age, and are refused status of citizen in Israel for various reasons. It is the experience of the Israel Religious Action Center that there are many cases of children whose other parent does not allow them to immigrate to Israel when the whole family immigrates. They are forced to stay behind. There are cases in which the parent later allows them to immigrate, but the Ministry of Interior did not allow them to receive citizen’s status since they don’t meet the criteria of coming with their family. This rigid enforcement of the criteria also means that a child that stayed behind in his home country to finish school and later joins his family in Israel is not granted citizenship status, again because they did not come with their family when it immigrated.

Many Ethiopian immigrants arrived in the country without their relatives, who couldn’t make the difficult journey by foot across kilometers of desert land to arrive at the stations from which immigration to Israel was taking place. Still today, after the immigration of 80,000 Ethiopian Jews to Israel, many Ethiopian children are suffering from separation from their families. The South Wing to Zion Association²² maintains that 18,600 children have applied for immigration at the Israeli Embassy in Addis Ababa and are still waiting for their application to be processed. The South Wing to Zion Association states that similar problems do not occur with Russian immigrants and that therefore there must be a discriminatory background to this.

Every month the Israeli government brings in a group of around 200 immigrants from Ethiopia. Six thousand children are currently in Addis Ababa and Gondar waiting in transit camps or other difficult conditions, without healthcare, food or education. In November 2001, the Committee in immigration and Absorption of Immigrants and the Diaspora of the Knesset called upon the government to set a goal

²² Neguise, Avraham, Director of the South Wing to Zion Association for the Ingathering and Absorption of Ethiopian Jewry, in interview, Jerusalem, January 1 2002.

to bring to Israel between 800 and 1,000 Ethiopian Jews. The government has proceeded to ignore this recommendation.

Any request for the Interior Ministry must approve request for family reunification. ACRI reported that there are no procedures regulating how these requests are handled, from the moment of their submission, until they are approved. Applicants for family reunification do not know how long it will be before their request is decided on, or according to which criteria. In many cases, the treatment of requests is held up for years without any reason or explanation regarding this delay. Article 10 of the CRC has turned family reunification from a privilege into a right, however bureaucracy must still be dealt with.

There are a variety of different cases concerning Palestinian families, cases of families in East Jerusalem who live there, as well as those families who live in the West Bank and request to be reunified with a family member who lives outside of the West Bank. The first category of cases is being dealt with by the Israeli Ministry of the Interior, while the later is the responsibility of the IDF/ Civil Administration.

Since annexing East Jerusalem in 1967, Israel has considered the area an integral part of its sovereign territory. Under international law, however, East Jerusalem is an occupied area with the same status as the West Bank. Israeli policy in East Jerusalem has been guided by one key principle: to create a demographic and geographical reality pre-empting any attempt to challenge Israel's sovereignty in the areas it annexed. In practical terms, this means increasing the number of Jews living in Jerusalem and decreasing the number of Palestinians in the city.

In no way does the State deal with family reunification in a positive, humane and expeditious manner as Article 10.1 of the CRC requires. The bureaucratic system makes arbitrary stumbling blocks. In pursuing this political and demographic objective, the Israeli authorities exploit planning and building laws, social security laws, laws relating to residency and citizenship, and allocations provided for infrastructures, education, culture, and municipal services. Instead of providing decent services for the population, the authorities make the lives of Palestinian families intolerable with the goal of encouraging them to leave the city.

In March 2000, in response to a petition filed by HaMoked against the "Quiet Deportation" policy adopted by the Ministry of Interior since 1995, the Minister of Internal Affairs at the time (M.K. Natan Sharansky) announced that the ministry was introduced a new policy in this respect. The Ministry of the Interior would no longer deny residency rights for residents of East Jerusalem who moved abroad or to other parts of the Palestinian Authority, provided their travel documents remained valid throughout their period outside the city. Those who residency had been denied following the change of policy in 1995 would be entitled to regain their rights after living in Israel for a period of at least two consecutive years. HaMoked's experience shows that those who meet these conditions are not always successful in securing residency rights; forceful intervention is often needed in order to restore their status as residents. Former residents who have since acquired permanent residency rights or citizenship in another country are excluded from the new arrangement, and their residency rights are denied. The basic requirement to achieve reunification of families is the need to prove that the "center of life" of the family is in Jerusalem.

However, “center of life” is an amorphous idea, arbitrarily imposed without defined standards.

Toward the end of 2001, a slight improvement was seen in the attitude of the Ministry of the Interior in dealings with residents of East Jerusalem, at least in terms of the bureaucratic procedures. Different types of requests (such as family reunification or registration of children) are now processed on different days, and the lines are separated. However, the registry clerks continue to demand evidence that the center of applicants’ lives is in Jerusalem; this entails bringing a long list of documents. For example, it is not sufficient for residents to present medical insurance cards or details relating to medical treatment undergone in Jerusalem: the clerks demand an updated printout from their medical insurance fund confirming that the applicant is eligible for treatment. Unemployed applicants (or those who do not receive a salary slip and cannot present a document relating to their work) are required to submit an affidavit verified by an attorney or by the court concerning their sources of income. Photocopies of documents sent to the Ministry of the Interior by HaMoked must be notarized as “faithful to the original.” These are just a few of the demands that prevent many residents from realizing their rights, unless they are able to afford expensive private legal representation, or can secure the assistance of human rights organizations, which cannot deal with the immense case load. The promise made by the Ministry of the Interior to the Supreme Court to move to new offices providing improved services for residents has not yet been fulfilled.

Applicants for family reunification²³ are often accompanied by documents verifying the relationship in question, such as marriage certificates, letters and photographs. However, in the case of Arab citizens seeking family unification with non-citizens (usually residents of the PA), far more extensive documentation is required. The relevance of many of these documents is not clear.²⁴ In many cases, the request is not considered until all of the documents are presented. After all of the documentation is presented, the waiting period begins. During this waiting period, residents of the PA are not given an entry permit into Israel. This means that years may pass, and often do, during which the children are separated from a family member. The child’s sense of time is often not taken into account at all. Israel does not recognize the rights of Palestinian residents of the PA to family reunification. Instead, Israel views the granting of family reunification as an act of kindness on its part, not as a right formulated in Article 10 of the CRC. Given that marriages from Arabs in the PA and Arabs from all sorts of other places are common, Israel’s policy forces thousands of Palestinians to live apart from their spouses, and for their children to live apart from one of their parents.

Family visits require visitation permits from the Civil Administration, and are conditioned upon signing a guarantee to pay NIS 5,000 if the visitor remains in the

²³ This part was rewritten by advocate Eliahu Avram, Chairman of the Board of DCI-Israel.

²⁴ ACRI, The Association for Civil Rights in Israel and HAMOKED, The Center for the Rights of the Individual: They include “a residential lease for the previous seven years: water, electricity and telephone bills and municipal tax proof of national insurance payments, wedding photographs (with the bride, groom, and family members in them), certification of good character from the authorities of the applicants State, a valid entry visa to Israel, etc.

Occupied Territories after the permit expires. Family members refusing to comply with these terms are liable to deportation.²⁵

The High Court of Justice has accepted the State's position on "family reunification" in the territories in its entirety, concluding that their policy on "family reunification" is completely just.

Residency rights in the Palestinian Authority are clearly matter of human rights, but this has been prevented due to it becoming a bargaining chip in the negotiations between Israel and the Palestinian Authority. The registration of people born under the Palestinian Authority, but not registered for various reasons ("late registration"); the return of deported persons; the return to the area of people who lost their residency rights after their travel documents expired ("the extension departure cards"); the quotas for approval of family unification (the official quota is 4,000 applications – 2,400 for the West Bank and 1,600 for the Gaza Strip) – all these issues have been dealt with as a function of the political progress of the Oslo Accords, with no consideration for the needs or rights of the residents.

Since the signing of the Oslo Accords, processing of the above issues has been divided between the Palestinian Authority and Israel. Israel continues to make decisions in these areas, while the PA functions as a mediating agent, receiving applications, screening them, and forwarding them to Israel, if they see fit. Since the Intifada was begun by the Palestinian Authority, a serious deterioration has been seen in the handling of all matters relating to residency rights in the West Bank and Gaza; processing of various types of visiting permits, family reunification, late registration, the return of deported people and so on has been totally discontinued.

In October 2000, a military official involved in processing residency-related issues informed HaMoked that due to the events there was "almost no cooperation" between Israeli officials and the Palestinian Authority. Accordingly, residency issues would not be processed and HaMoked would not receive responses on these matters. Processing of applications relating to family reunification, entry permits and actual entry to the area, and residency was frozen. In response to this decision, HaMoked petitioned the Supreme Court, noting the absence of cooperation with the Palestinian Authority territory "cannot justify refraining from processing applications relating solely to Israeli actions and to data held by the Israeli authorities." Accordingly, "there is no place for the total freezing of processing all applications."

Cases that are processed entirely by the Israeli side include, in particular, those deported from the Palestinian Authority territory and whom Israel has recently permitted to re-enter the region, but have been unable to do so in practice; as well as applications for family reunification filed prior to the Intifada being started that still await decisions by the Israeli authorities. Most of these applications relate to the population addressed by the first Supreme Court petition addressed by the first Supreme Court petition on this matter. These are the partners of residents who were present in the Palestinian Authority territories, or who received permission to enter

²⁵ Ibid, p.17. See also: Halabi, Usama and Veerman, Philip. "Good for Families, Good for Peace," in: *The Jerusalem Post*, May 26, 1992.

the territories, during the period from 1989 through the end of August 1992, and who are therefore entitled to a Palestinian identity card immediately and separately from the matter of the quota (excluding cases that have been rejected for security reasons). An agreement with the State before the Supreme Court held that these people are lawfully entitled to live in the territories during the consideration of their application; permits are to be extended, and they are permitted to leave and enter the region without restriction. Other cases relate to the second Supreme Court decision which concerned the partners of residents who were present in the territories or received permits to enter the territories during the period from September 1, 1992 through August 31, 1993. Again, these individuals are entitled to a Palestinian identity card as part of family unification, without delay and without reference to the quotas, except in security-related cases. These individuals are entitled to the same conditions as summarized above regarding the first group.

In a reply sent to HaMoked in January 2001, three months after receiving our appeal, the State Attorney's office claimed that it was due to the Palestinian Authority official, responsible for the Ministry of Civilian Affairs, that no contacts were taking place between the sides. "In the circumstances, as a rule, no application on the subject of family reunification can be pertinent at the present stage." However, the State Attorney's office added that "it will be possible to clarify questions relating solely to the affiliation of a given individual to a population which the State formerly of the quotas established for this matter... Beyond the clarification of actual affiliation to such a population, the authorities will not, at present, address the issue of granting residency per se," since this issue was under the responsibility of the Palestinian Authority, with which, as noted, there were currently no contacts.

Following this reply, HaMoked once again contacted the Civil Administration, and asked to clarify what had become of various applications filed prior to the Intifada being started. These all complied with the State Attorney's conditions for providing information. After two months passed without any reply, HaMoked contacted the legal advisor of the West Bank, demanding a prompt response. HaMoked also raised the problem of former deportees whose return had been authorized by Israel, but who were in practice unable to enter the area. In its reply, the Judge Adjutant-General replied that, as a general rule, "due to the recent events, processing of applications for family reunification in Judea and Samaria has been discontinued." A further letter announcing that processing of several applications for family reunification submitted by HaMoked that had reached the Israeli side, and which relate to the population covered by the first Supreme Court petition, had been frozen due to the intifada. The intolerable delays in processing applications for family reunification prevent many couples from living together lawfully in the territories, since non-processing also leads to the non-issue of permits or extensions for individual to stay in the area.

As for the deported individuals, whose return has already been approved by Israel, HaMoked was informed in April that visiting permits are not currently being issued. This effectively prevents the former exiles from returning to the region. The processing of these applications has been forwarded to the relevant authorities in order to find a solution enabling their entry. In June, HaMoked was informed that families of exiles must file an application on their behalf; this will be approved, and they will then be able to enter and exercise their right to permanent residency.

HaMoked counseled the families accordingly, but in practice their applications for visiting permits was rejected.

Correspondence between HaMoked and the Israeli authorities reveals that the responsibility for the failure to process residency issues rests primarily with the Israeli side. The replies received from Israeli officials support the comments made in a letter to HaMoked by Mr. Tarifi, the Palestinian Minister for Civilian Affairs. Mr. Tarifi claimed that thousands of applications for family unification were submitted to the Israeli authorities prior to the starting of the intifada, but to date have not been processed. Since September 2000, the Palestinian side has also submitted a large number of applications for visiting permits, but the Israeli side has refused to accept them, claiming that the present situation does not allow this. Mr. Tarifi added that the decision to break off contacts was a purely Israeli one. He claimed that efforts by the Palestinian side to resume contacts relating to civilian affairs according to the model pertaining prior to when the intifada was begun have been rejected by the Israeli side. And, of course, considering how honest and straight the PA tends to be, we certainly believe all of this.

The Minister of the Interior has, in a recent decision (April 7, 2002) stopped the process of files already approved, including naturalization. The decision is likely not to stand when tested in the Supreme Court. Advocate Usama Halabi, in East Jerusalem wrote the Ministry of Justice on April 10, 2002 relating to cases from 1996 (Supreme Court 96/8447 and 9466/96).

ARTICLE 11—ILLICIT TRANSFER AND NON-RETURN

Prior to the ratification of the Hague Convention on Civil Aspects of Child Abduction, an advisor to the Attorney-General took the position that the Hague Convention would support the rights of one parent over the other. Israeli family law, however, regards the best interests of the child as being paramount in matters relating to their custody, and in many cases considers it in the best interests of a Jewish child to live in Israel. Therefore, she thought Israel could not ratify the Hague Convention.²⁶

Several organizations (the Israeli Section of Defense for Children International, the National Council for the Child) were actively involved in lobbying for ratification and argued that Israel should not become an island for child-abductors.²⁷

After the lobbying of NGOs, the Minister of Justice at the time (Dan Meridor) changed Israel's position and accepted the Hague Convention on the Civil Aspects of Child Abduction.

It is time that the government ratifies the Convention on Protection of Children as well, because it makes explicit what is implicit in the Hague Convention on the Civil Aspects of Child Abduction, (and also the Hague Convention on the Protection of

²⁶ Golan, Avraham. "Anti-Child Abduction Law," in: Ha'aretz, January 5, 1992.

²⁷ Miller, Yossi and Veerman, Philip. "Is Israel Becoming a Haven for Child-Abductors?" In: Israel Children's Rights Monitor; July 1991, vol. 2, pp. 51-53. See also: "Hague Convention Success in Israel," in: Reunite, (publication of the National Council for Abducted Children) London, March (1995) no. 26, p. 17.

Children and Cooperation in Respect of Inter-country Adoption, which Israel also ratified).

As in all countries with a common law system, a law of implementation was needed as well. Such a law was tabled and accepted by the Knesset in 1991. The Israeli Supreme Court, in its first ruling on the Hague Convention, stated that immediate return of the child was requested, as the Hague Convention prescribed. The three judges stipulated that the Convention was meant to provide immediate relief, to return the child to his surroundings as soon as possible, and to allow the custody question to be decided in the child's home country. The Central Authority, which implements the Convention in Israel is lodged in the Ministry of Justice,²⁸ and functions well with a staff and a budget.

Over the period from December 1991 to September 1994, eighty-three cases have been reported to the Central Authority of abducted children being brought to Israel from other countries, while 48 children have been reported as having been taken from Israel to other countries. Between 1998-1999, the Central Authority handled twenty-six cases of children kidnapped to Israel and 39 kidnapped from Israel. It is interesting that, even though the security situation in Israel is difficult right now, the child abduction phenomenon is not decreasing. Fortunately, voluntary settlements were reached in a number of cases, when one parent was convinced to accept the view of the other parent as being in the best interest of the child. However, there is a need to train judges on the matter of the Hague Convention,²⁹ and not to assign Hague cases to judges who did not receive training.

Although the Central Authority does not directly represent individuals, they do take responsibility of coordination in various cases, (such as is with Interpol or with parties involved in voluntary settlements). Unfortunately, Israel has expressed reservation in regard to Article 25 of the Hague Convention³⁰ with regard to the State being responsible to pay for legal representation. In addition to providing a list of lawyers who are known to specialize in child-abduction cases, the Central Authority, provides financial help for legal aid in cases of need, (based on the same criteria of the financial situation for somebody in Israel to be provided legal aid). Since Israel does often provide legal aid, we see no reason why the reservation to Article 25 has to be maintained. Legal aid abroad can be agreed upon on the basis of reciprocity (when country does provide legal aid in Israel, we could provide it there for needy cases).

The Hague Convention places a time constraint of six weeks for the submittal of an application. The question of expediency is of utmost importance, yet there are long delays in setting court dates. It is a well-known fact³¹ that there is a backlog of cases

²⁸ Information provided by advocates Ayelet Israeli and Edwin Friedman in Tel Aviv who have worked on many "Hague" cases.

²⁹ Harel, Zvi. "Kidnapper is Awarded Custody; the Haifa District Court Sets a Precedent as Kidnapped Son is Ordered to Remain with his Father in Israel," in: *Ha'aretz*, May 3, 1999.

³⁰ Article 25: "Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State."

³¹ see: The Jerusalem Report, Nov. 19, 1992 "Overloading Puts Crippling Pressure on Judges: Israeli Courts are only Now Hearing Complaints Filed as Long Ago as Four Years."

in Israeli courts. It is unfortunate that priority has not been given to child-abduction cases. The rules of procedure in Israel are very strict, however they are often not carried out. The Supreme Court is the biggest “offender”; it can take a year before a case is heard in the Supreme Court. We propose to the president of the Supreme Court that one or two judges be assigned to continually and rapidly hear these cases.

If a child is at risk staying with a parent, sometimes a safe, neutral place is needed until the courts decide how to proceed-- these places are not readily available. In regard to the PA, dozens and dozens of children are kidnapped to there yearly.³²

A recent example of a case which agreed with the Hague Convention was in a Haifa Family Court on March 12, 2002, where Judge Ya'acov Cohen ruled that five children ages 4-12 who were brought here illegally, had to be returned to France.

ARTICLE 27—THE RIGHT TO RECOVERY OF MAINTENANCE FOR THE CHILD

Article 27 of the Convention places responsibility for recovery of maintenance for the child. According to the *Family Law Amendment (Maintenance)* of 1959, the child has a right to be supported by his parents according to his/her needs. In cases where the parents are separated and one parent is not paying for the welfare of the child, the State will help pay for the child's welfare and then collect funds from the non-paying parent. Unfortunately, the monthly allowance that the State allocates for child support falls short of the appropriate levels. The difficult situation in which single parents (generally single mothers) find themselves in is not well enough compensated by the State. Furthermore, the 2002 State Budget eliminates eligibility for state funding in cases where a father who is not a resident of Israel does not pay his child support.

ARTICLE 20—CHILDREN DEPRIVED OF THEIR FAMILY ENVIRONMENT

The law on rights of children at risk sponsored by Knesset Member Tamar Gozansky has passed the first vote (two more votes are required in order to become law). Nevertheless, the State has the right to take children out of the family but not the legal duty to provide the child taken out of the family with a suitable place somewhere else.³³

In the first 40 years of the State, there was an expectation that children had to be different from their parents, who were often new immigrants. “The parents and the families were not considered the best agencies for considered the best agencies for introducing the children into the new society of which they were to become members. It was the State and its authorities which were charged with the task of socializing the immigrant children into the life of the new society.” This meant many children, especially adolescents, were educated away from home or in a *Kibbutz*, in

³² Alon, Gideon. “Dozens Kidnapped Annually to PA Annually,” in: *Ha'aretz*, May 9, 2000. And Hoffman, Gil. “Father who Kidnapped his Children to the PA Rewarded,” in: *Ha'aretz*, December 7, 2000.

³³ Interview with Professor Shimon Spiro, Chair of Yeladim, the Council for the Child in Placement, Tel Aviv, February 25, 2002.

residential schools. Much of the old ideology is gone but, nonetheless, many of the initial forms and patterns still operate. Therefore, compared with other countries, boarding schools and institutions have relatively little stigma associated with them.

The more the economic situation in Israel deteriorates with the present recession, the more stress in families increases and existing problems deepen. The combination of the average family salary decrease and the difficult security situation in the last few years contributed to a lot of domestic violence. Many families have been brought to crisis situations by the stressful conditions of the last period. In the last decade, demand for out-of-home placement drastically overcame the supply. There are 20 hostels for adolescents around the country, but if there were 200 all beds would likely be filled. It is therefore especially inappropriate that over the last years the budgets for out-of-home child placement facilities are actually decreasing. For example, Israel's unique traditional placement option of foster care in communal settings (*Kibbutz*) has almost become extinct in the last few years.³⁴

Foster care outside the *Kibbutz* framework has never been well developed in Israel. It is underdeveloped in its selection, support and inspection systems. In the last decade, however, family group home placement options have increased considerably. Families of children in distress were often not prepared to agree to out-of-home placement, and family group homes became a viable alternative to removing children from their families.

A new procedure involving out-of-home placement, which began in the last decade, brings parents of children placed in alternative homes into consideration and support groups. Cooperation between schools and group homes has also improved. This means that children who were once being placed in residential schools for special education are now able to continue living at home and receive special education in their own schools, under the guidance of residential special education institutions.

Researchers as Prof. Yitzhak Kashti of the School of Education of Tel Aviv University³⁵ is convinced that in the sixties and the seventies Israel was the country with the largest amount of adolescents in residential education (boarding schools). In these days there were 25% of the adolescents in residential care. Researchers believe that it is nowadays lower. However, how many exactly it is hard to say. The sector is so independent that they are not obliged to provide reliable statistics (even though money comes from the State-budget).

A large part of the children are in *yeshivot*, the religious learning institutions, and there are Jewish ultra-orthodox families outside Israel who send their children to the *yeshivot*. Since this sector is independent, there are no statistics that are reliable. Among the more modern, but national (read: also nationalistic) orthodox, the numbers are decreasing somewhat because also here now a preference is to keep children in the town where the parents are. Still, in this sector of the Jewish

³⁴ Nevo, Menachem, former Deputy Director of Hamifal Educational Boarding Homes, in interview, December 20, 2001.

³⁵ Yitzhak Kashti, The Socializing Community. Disadvantages Adolescents in Israeli Youth Villages, Tel Aviv University/University of Kiel and the University of California at Los Angeles, 1979, Studies in Educational Evaluation, Monograph No.1. also see Moshe Smilanski, Yitzhak Kasti and Mordechai Arieli, The Residential Education Alternative, Tel Aviv, 1982, Ach Publishing House.

population there will always be a need for residential schooling because parents want a more restricted environment for their children (note: in the religious boarding schools there is no co-education of boys and girls together). In high school, some girls choose to go to boarding schools, which was not done in the past (Ulpanot). In this sector there will also be a need because the national orthodox live scattered over the country and now many in settlements and they need junior high schools, which are not available in the small places.

In the non-religious sector of the population, the number of places in residential care is reduced every year now, even though the population is growing and the new Russian immigrant youths are not sent in large numbers to residential schooling (which was the case with the groups which came previously). Still, with the growing poverty, growing unemployment and the growing school-dropout phenomenon, it is hard to understand why, if this infrastructure is available, it cannot be used fully. The Israeli government could use this infrastructure more to reduce school dropout rates and crime. Most of the residential schools are well-established settings, and the ones which are not functioning well could be reorganized and the training, supervision and quality control could be increased and new management brought in to some. The investment in institutional improvement is relatively low, since the infrastructure is there already. However, it is difficult to request the same from the settings in the closed-community of the ultra-orthodox. It is difficult to interfere in the ideological and cultural preferences of the group, although when they get public money demands can, in our opinion, be made; one, for instance, of allowing inspectors in on a regular basis.

Since there is so much accumulated experience in Israel about building a non-stigmatic schooling system, that more should be done that the Israeli residential schooling professionals contribute more to the developing countries (art.28.3. "State parties shall promote and encourage cooperation in matters relating to education...").

In addition to the large network of residential settings for adolescents, as is discussed above, about 8,000 children at risk are in homes for children under 12 years of age. These settings, which are under the responsibility of the Ministry of Labor, have changed quite a bit during the period under review. One of the most important changes, which we welcome, is an attempt to become more community oriented, which better enables them to serve the children of the region. In the past, the philosophy was also able to place them as far away as possible from their parents, a method that has drastically changed. An organization that has helped and encouraged this and many other changes to take place is *Yeladim, the Council for the Child in Placement*³⁶. The Council also began artistic enrichment programs, expressive arts therapy, and sport in the children's homes. They also run summer camps which aim to strengthen contact between children and their parents and started educational enrichment centers for staff of children's homes, (including for staff of Arab children's homes, with material in Arabic) to give professional guidance and training.

³⁶ We thank Professor Shimon Spiro Mrs. Esther Lubochinski, Dr. Anita Weiner, and Mrs. Ruth Steinitz of the Board of Directors of "Yeladim" for their providing of information.

A review of the data³⁷ for September 2001 reveals that ninety out of 175 children at risk were waiting to be removed from their homes. A high-risk child from Holon will be forced to wait for about half a year before he/she can be accepted into treatment at the Mental Health Facility for Treatment of Children and Families. Young adolescent girls in distress will be forced to wait for about a year before they can be accepted into Tzofia, of the Youth Protection Authority, or similar rehabilitative institutes.

Placement in a children's home is not decided only by juvenile judge or a placement committee, but also through municipality-set limits, a practice which we consider to be against Article 20/1, which states: "a child temporarily or permanently deprived of his or her family environment, or in whose best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance by the State." In need of special protection and assistance, some children are denied a place in a suitable institution (art. 20/2) because the space limit of the municipality he/she is from is full. *Yeladim*, has indicated a law proposal³⁶ that only a juvenile judge or placement committee decide placement, and that quotas ("migzot") not play a role any longer. We support this proposal. In a country with so many residential settings, it is amazing that for those who need it most, there are not always enough spaces available. Treatment homes are hard to find, while the population of children who need residential settings, and who are psychopathic has increased. The reason for this is that with the new trend of community institutions only those children under age 12, who can be treated in the community, are placed in alternative care these days. The increased amount of violence, progressively larger amount of families hit by Arab terror, and the rising stress has increased the amount of children with psychopathology. In addition, a law initiated by former MK Benny Temkin, reduced placement of children who did not really need it in psychiatric hospitals, (but had serious enough psychopathology to need a residential setting). They are now also in children's homes.

The Israeli State Report describes the mechanism through which a court may declare a child to be a "minor in need" by order of the *Youth (Care and Supervision) Law* 1960, and may take measures as extreme as revoking parents' custody. The Report describes public institutions in which violent or severely emotionally disturbed children who do not fit into normal society are placed. However, there exists a severe problem of children who fall "between the cracks" of the system: children with emotional and behavioral problems, who are not disturbed enough to be placed in a psychiatric hospital or in a closed institution, but cannot continue in normal schools. These children, mainly adolescents, often end up quitting or being suspended from regular schools and finding themselves in jail. The problem of children at risk who fall "between the cracks" of the educational system leads to a serious problem.³⁹

There are not enough places for girls in residential settings, and most Arab children's homes are run by Christian organizations, (while the children are obviously mostly Muslim). The new security reality in the country calls for more security guards in residential settings, for which not enough funds are available.

³⁷ project for DCI-Israel by a student, Yaniv Ben-Arush, of Bar-Ilan University.

³⁶ Law proposal of Member of Knesset Ran Cohen, 2144/pé.

³⁹ Hasidim, Ganit., former lawyer of Defense for Children International in Ashdod and Ramla, in interview, July 23, 2001.

There are children who leave a children's home setting at age eighteen and have no family-support system. The staff of children's homes do not do enough in terms of long-term planning and helping to create a maximum support system for the child when he/she leaves.

ARTICLE 21—ADOPTION

The adoption of Israeli children has in general been approached professionally.⁴⁰ There are about 70 Israeli babies up for adoption per year. The Ministry of Labor and Social Services, which handles both placing the children and selecting the candidate adoptive parents, has obtained quite a bit of experience with placing all children, including older and handicapped children. If they match the ministry's criteria, candidate adoptive parents wait six years on the most part for the arrival of a baby. If a candidate is over 45 years of age, a local adoption becomes impossible. The Ministry's approach has been to provide the adopting parents a minimum amount of information about the baby's background (place of birth, birth-weight, medical problems if there are any), so as not to hamper with the new parents' natural attachment to the child. At the age of 18, a child can ask to have the full adoptive and background records read for him/her (see: the right to identity), and he or she must be granted such information under every circumstance. We agree with the assessment⁴¹ that the services provided to the child by the Ministry of Labor and Social Affairs are transitioning from an approach that views adoption as an alternative to parenting from birth, to an approach that views adoption as a special kind of parenting.

With this change, the Ministry of Labor and Social Affairs initiates progressively more adoption processes for older children in institutions, when the Government maintains the parents cannot raise the child. The *1981 Adoption Law* states that children whose parents fail to make use of the Government's "good services" in caring for their children, and the result is child abuse/neglect, can be put up for adoption. While some parents in this situation might argue that the Government did not help them enough in finding jobs or with difficult home situations, the government response is that "good services" (counseling, etc.) are available and that these parents did not make use of them. The criteria for both "good services" and "abuse" need to be sharpened. In the rare case of forced adoption, too much is left to the decision-making of judges and many children remain in limbo in institutions for too long a time, as a result of long battles over their custody.

Furthermore, since the Government is getting continually more experience with older children who need adoption, it is our impression that the resistance to open adoption is becoming less and less justifiable. Open adoption, especially for older children who can maintain a relationship with biological parents or siblings, has not been explored to a great enough extent in Israel. The Ministry of Labor and Social Affairs has, with the best of intentions, been trying to conceal the identity of the babies of

⁴⁰ Hoksberger, R.A.C. and Golchale, S.D. (Editors). Adoption in Worldwide Perspective: A Review of Programs, Policies and Legislation in 14 Countries. Berwyn, IL, 1986, Swets North America. And: Shifman, Pinhas. "Kinship by Adoption: Where Adoption Differs from Natural Affinity" In: Israel Law Review; vol.23, 1989, pp. 34-76.

⁴¹ Rivkin, Dori and Baumgold, Shoshana. Follow-up of Older Children who have Been Adopted. Jerusalem, JDC-Brookdale Institute, 2001.

women from Muslim families, where the shame of a child out of wedlock endangers the lives of both the girl and her baby. Muslim newspaper Kul Arab reported in an article from January 23, 1998, adoptions of such babies in Europe.⁴² While the fear of these “honor killings” may have guided the Ministry in its policy of utmost secrecy surrounding adoption procedures, the time has come to treat these adoption with more openness and involve Christian and Muslim Clerics who have expressed concerns about the Right to Identity (see under this paragraph).

Because of the long waiting period for local adoptions, many parents who wish to adopt have turned to inter-country adoption as an alternative.⁴³ There are no private inter-country adoptions possible in Israel through lawyers or doctors. The Knesset must be congratulated on having effectively enforced change in 1996, which provides formal status for NGOs working in the field of adoption. (There are no private inter-country adoptions possible in Israel by lawyers or doctors). Twelve inter-country adoption agencies have since then been licensed (and one had its license revoked), which lead to a more professional approach to inter-country adoptions and decriminalization, (prevention of people wanting to adopt falling into the hands of middlemen and criminals).⁴⁵ A licensing committee (comprised mostly of officials from the Ministries of Justice and Labor and Social Affairs)⁴⁶ will only recognize an adoption agency as legal if it follows the Hague Convention on the Protection of children and Cooperation in Respect to Inter-Country Adoption (1993). Israel was among the first eight states that signed the Convention, on November 2, 1993. The Israeli agencies work at present mainly with Former Soviet Union countries (Bulgaria, Romania, Russia), Latin America (for instance, Guatemala), and recently, China.

In December 2001, *Ha'aretz* newspaper reported⁴⁷ possible links of two agencies dealing with the adoption of Romanian children by Israeli parents, with international

⁴² *Kul Alarab*, “Israeli Governmental Agencies Give Away Children for Adoption in Europe,” Nazareth, January 23, 1998. And: Algazy, Joseph. “Arab Babies Shipped Abroad for Adoption,” in: *Ha'aretz*, January 23, 1998, P.1.

⁴³ Interview with Eliezer Jaffe, Professor Emeritus at the Baerwald School of Social Work at the Hebrew University of Jerusalem, December 14, 2001.

⁴⁴ Interview with Eliezer Jaffee, Emeritus Professor of Social Work at the Baerwald School for Social Work of the Hebrew University of Jerusalem, December 14 2001. See also: Jaffe, E.D., “Foreign Adoptions in Israel: Private Paths to Parenthood,” In: *Adoption: A Multinational Perspective*; Alstein H., and Simon, R., New York, 1991, pp. 161-183.

Jaffe, E.D. (ed.), *Intercountry Adoptions, Laws and Perspectives of “Serving” Countries*, Dordre , Boston, London, 1995, Martinus Nijhoff.

⁴⁵ In 1988, a British TV documentary staged a televised confrontation on the streets of the Israeli town of Lud, in which a two year old, Bruna Goncalves, her natural mother Rosilda from Brazil, and her adoptive mother Turgeman were brought together. It emerged that Bruna had been snatched from her mother by an international gang who passed her on for adoption. The Israeli courts decided that she was improperly adopted and Bruna was sent back to Brazil. See also: Horovitz, David. “Attack on Baby Bruna Documentary Leads to Lawsuit,” In: *The Jerusalem Post*, December 21, 1988. And: Landau, Felix. “Annuling a Brazilian Adoption,” In: *The Jerusalem Post*; June 3, 1991. And: *The New York Times*, “Israelis Hear About Bribery in Latin American Adoptions” July 18, 1988. And: Sawicki, Tom. “The Babies from Brazil” In: *The Jerusalem Post*, April 22, 1993; vol. 3, no.25, pp.16-18.

⁴⁶ Professor Eliezer D. Jaffe thinks that more independent psychology and social work professionals should be brought in.

⁴⁷ Rabinovich, Abraham. “Romanian Orphans find new in Israel,” In: *The Jerusalem Post*, January 17, 1990.

criminal activity such as organ trafficking. We insist that the Ministry of Labor and Social Affairs, the police, and the Interpol investigate these grave accusations thoroughly and report its findings to the Knesset. (If an inter-country adoption agency is involved, its license must be revoked and those responsible be brought to justice.) In 1991, the Romanian situation already gave DCI and International Social Services reason for concern⁴⁸, and recently the European Parliament looked into it as well. Criminals from many countries can take advantage of a country in transition, and if Israeli criminals are found they should be dealt with without exception.

In general, we are satisfied that the Israeli *Adoption Law of 1981* was amended in 1993 to grant additional security in the adoption process, thanks to the persistence of MKs Limor Livnat (Likud), Arat Ma'or (Meretz), and Sha'ul Yahalam (National Religious Party). We are of the opinion that the government should be more active in training, in helping create more reliable international partnerships, and in encouraging research through giving grants, even though there are now NGOs (Inter-country Adoption Agencies) working in the field. Since the change in the law was brought about in 1997, approximately 400 children have been brought into Israel for adoption from foreign countries.

The clinical and counseling services provided by the Mali Organization, locally and internationally, is important and should be strengthened.

The adoption process in Israel depends on several factors, including religious factors. The current state of the law in Israel is that adopting parents must share the same religion as their adopted child, regardless of the age of that child. Thus a Jewish family cannot adopt a Moslem or Christian child. This severely restricts successful adoption opportunities within Israel, rendering otherwise suitable adoptive children and parents incompatible. This limitation sometimes injures the needs of the family and ignores the upbringing available to the child. The best interests of the child, the communal norms and the obligation of the State to guarantee freedom of religion and freedom from religion to all its citizens are often put aside in favor of potentially irrelevant religious concerns.

Circumstances have also arisen where a child is born with no religion or one or both adoptive parents have no religion. One case which went to the Jerusalem District Court involved a Jewish woman married to a man with no religion, who wanted to adopt a child. The Court found that although the couple would not be allowed to adopt a Jewish child (due to the status of the man), they would be allowed to adopt a child who has no religion (District Court Ref. 428/97, Gefen-Galor v Minister of Justice). This provides no practical solution, however, as Child Welfare Services circumvents this court ruling by claiming that all children have a religion, and if none is apparent, they will "discover" one by applying to a religious court to declare the child's religion.

Due to the influx of immigrants from the Former Soviet Union and the increasing numbers of foreign workers in Israel, interfaith marriage is more common today

And: Reznick, Ron. "Romania Probes Israel: Adoption Agency Link in Organ Trafficking." In: Ha'aretz; December 12, 2001.

⁴⁸ Defense for Children International and International Social Services, Romania, The Adoption of Romanian Children by Foreigners. Geneva, April, 1991.

in Israel. The Children's Adoption Law mentioned above, denies spouses the possibility, in the case of an interfaith marriage, to legally adopt their stepchildren (i.e. their partner's children from a previous marriage) unless they can prove that either the adopting parent or the stepchild do not have any religion. If they cannot prove this, there is a real risk that they will be prevented from becoming a legally recognized family unit.

According to a 1998 amendment to the above-mentioned Children's Adoption Law, it is now possible for parents to adopt a child from another country. This requires a special legal process whereby the parents are first declared legal guardians of the child in his/her country of birth and later, after the child is brought to Israel, the adoption is completed by an Israeli Family Court. In these cases, and these cases only, parents may adopt children of a different religion. This poses a new set of problems, as most Jewish parents wish to convert their child to Judaism.

ARTICLE 25—PERIODIC REVIEW OF PLACEMENT

A severe overload in the caseload of social workers, and especially Child Protection Officers, creates a situation in which children in protective care cannot possibly be receiving the type of review they are entitled to. Since social workers must run from once urgent case to the next at a pace they cannot keep up with properly, cases that do not display a sense of emergency do not receive enough attention. The Government Report mentions that Child Protection Officers are overloaded with cases.⁴⁹ We wish to add to this that in East Jerusalem, the caseload of Child Protection Officers for Palestinian children is even higher, because the case-load is even higher..

In the last five years, there has been a movement to change this phenomenon, to which we offer our greatest support. Motti Winter, Director of the Service for Children and Youth of the Ministry of Labor and Social Affairs, has been especially active. Some of the recent advancements include the establishment of a Committee for Strategic Planning on Out-of-Home Placement, increased inspection of children's homes, and a home inspection service for foster care. The latter is especially important, since Israel lacks a system of monitoring for children in foster care. Foster parents are not trained in their work, not enough supervisors look after children in foster homes to ensure that they are satisfied with their placement, and periodic review, when it does take place, does not include the participation of the child or the parents.

The Ministry of Labor and Social Affairs regulations regarding out-of-home placement do not specify how periodic review has to be carried out, and significantly omit mention of how to obtain the child's point-of-view on the effectiveness of the placement. A qualitative increase of supervisors of children's homes is needed. Yet even if more review were to take place, the lack of placement options for difficult cases, especially adolescents, undermines the basic pretense for the review process; for even when review would show that a placement should be changed, the lack of

⁴⁹ Initial Periodic Report of the State of Israel Concerning the Implementation of the Convention on the Rights of the Child, *Ibid*, p.117.

options make the recommendation impossible to enact. However, a review should not encourage instability that children in care do not need.

A recent study⁵⁰ showed that systematic follow-up by the so-called decision committees (frameworks for diagnosis and decision-making regarding care plans for children in need of intensive intervention such as out-of-home placement) is carried out only in a small number of cases. The report also found that follow-up of children removed from their homes is carried out irregularly. The obligation under Art. 25 of the CRC gives the State the chance to institute these follow-ups on a regular basis. The study of Talal Dolev, et. all. Recommended that “follow-up procedures should be considered and reinforced.” The JDC-Brookdale Institute started to use a list of indicators which they developed in the field of nursing, which deals with the quality of life and at least provides a checklist to regularly measure the situation. Hopefully, this will act as an eye-opener.

The State Comptroller’s Report for the year 1993 reported:
“The Special Education Law states that the principal of a special education institution must bring the exceptional child’s case under review before the placement committee every three years. At the initiative of the principal, a public organization, or the parents, a review may be held at a shorter interval. The examination indicates that reviews initiated by the principal, regarding children who were referred to special education, were held in three towns, a review was held when children moved up from elementary to middle school (junior high school).”⁵¹

This shows that not only decision committees for placement in children’s homes, but also placement committees for special education should take Article 25 more seriously.

ARTICLE 19—ABUSE AND NEGLECT

A law-proposal brought to the Knesset by MK Yuval Steinitz has brought about a change that sex offenders can not work with children as teachers, tour guides, drivers, etc. Another law-proposal brought to the Knesset by the same MK (but which has not passed the Knesset) forbids sex offenders to live in the same neighborhood, close to the child victim. A law proposal brought to the Knesset by MK Zahava Galon and MK Yael Dayan giving minimum sentences to sex offenders. The same MKs are now trying to bring about a change that the convicted sex offenders serve actual time in prison. In the period under review, MKs have expressed unhappiness about what they consider overly lenient sentences handed down to offenders.

Corporal Punishment:

The State Report mentions the *Civil Wrongs Ordinance [New Version]*, which offered protection to parents and teachers for corporal punishment perpetrated to the “reasonable degree necessary” was recently abolished. However, in practice corporal punishment of children still occurs, especially in the ultra-Orthodox Jewish

⁵⁰ Dolev, Talal & Bebenishty, Rami & Timar, Amnon. Decision Committees in Israel: Their Organization, Work Processes and Outcomes: A Summary Report. Jerusalem, 2001. JDC-Brookdale Institute.

⁵¹ State Comptroller Report for 1993, Jerusalem, 1994, p. 307.

residential schools and Arab schools. Lack of governmental supervision in closed communities (ultra-Orthodox, Arab, and Bedouin, among others) may be responsible for underreporting of cases of corporal punishment of children.

In February 2001, the Israeli Supreme Court ruled harshly against corporal punishment of children, including even light spanking, maintaining that:

*In the judicial, social and educational circumstances in which we live, we must not make compromises that can endanger the welfare and physical well-being of minors. We must also take into account that we are living in a society where violence is spreading like a plague, and permission for light violence can deteriorate into more severe violence.*⁵²

In this decision, Supreme Court Justice Dorit Beinisch⁵³ extended the definition of abuse to include also minor episodes of slapping if they are continues. Justice Beinisch added *obiter dictum* that no form of corporal punishment is acceptable under any conditions.

B. Fighting Abuse:

A law making reporting of child abuse compulsory (the *Compulsory Reporting Law*) and not reporting a criminal offense, contributes greatly to the awareness of abuse. The law maintains a responsibility to report abuse only when there exists a "reasonable suspicion." The main problem, then, is what the State does when a case is reported.

In 2001, the police had to deal with 22,000 new cases of domestic violence. Only 11% of the files were closed while almost 90% of them warranted possible indictments.⁵⁴ Most of them did not receive the proper treatment that would help allocate their need to use violence. At most, the perpetrators were sent to prisons, where they joined workshops on treating violence.

There are 36 centers for treating domestic violence, most of which are run by local councils in conjunction with the Minister of Labor and Social Affairs. The Ministry was due to allocate 1.1 million NIS in 2002 for a live-in facility for treating violent men, following the success of the work of the NGO Beit Noam, a hostel for 12-14 violent men where the men receive intensive treatment.

The National Council for the Child's annual statistical report released in December, 2001, showed a rise in the number of reports to the welfare services about children at risk of physical or sexual abuse or neglect; an increase from 27,335 such reports in 1999, to 32,000 in 2000.⁵⁵

⁵² Supreme Court Justice Dorit Beinisch, majority opinion, quoted in *The Jerusalem Post*, February 4, 2001.

⁵³ Criminal Appeal no. 4596/98, *Jane Doe v. State of Israel*, Supreme Court, non dalet (1) p. 145.

⁵⁴ Sinai, Ruth "Police Opened 22,000 Cases of Domestic Violence in 2002" in *Haaretz*, March 21, 2002

⁵⁵ Sinai, Ruth. *Ha'aretz*, December 26, 2001.

Although the mandatory reporting has helped to introduce awareness about child abuse, DCI-Israel is aware of several cases of children in psychotherapy in which the child was not yet ready to have his/her case reported, but the law obliged the therapist to report it immediately.⁵⁶

A serious problem exists in Israel with child abuse and children at risk. While NGOs around the country are running facilities to keep at-risk children off the streets, the Government is not doing enough on its part to help fund such projects and to integrate their efforts into the mainstream educational system. In Jerusalem alone there were, in September, 2001, 175 children at different levels of risk waiting for immediate welfare solutions outside the family. Of the 175, 90 are waiting for welfare agencies to remove them from the homes, after the decision to do so has already been undertaken. However, funding remains a major problem for the care of such children, and therefore even though their cases have been reported they remain stuck with no solution. In an article in *Ha'aretz* newspaper, Zippy Leffler, head of the Jerusalem Municipality's Children, Youth and Family division, says that the average monthly cost of caring for a child at risk is between NIS 4,000 and NIS 4,200. NIS 10 million per year is necessary to care for all the children awaiting placement.⁵⁷ The Ministry of Labor and Social Affairs is supposed to provide for 75% of the sum and the municipality for the rest. But delays in transferring funds leave such children stranded.

Furthermore, in cases of child abuse, the Government does not regularly enforce protective orders requiring an abusive parent not to have contact with a child and requiring the parent to go into counseling. And on the victim's side, there is a serious lack of funding for battered women and children's shelters. For Arab women and children, there exist a meager amount of such shelters throughout the country—certainly not enough to fill the demand.

There has been a rise in abuse of children, possibly caused, according to the Israeli Association for Child Protection—ELI⁵⁸, by the additional measure of stress in the country pushing some people over the limits of reasonability. In 2000, 40% of the cases ELI dealt with were sexual abuse cases, and sexual abuse is increasingly becoming a predominant portion of the abuse forms in the country. In cases of sexual abuse, the public is encouraged to call ELI's hotline that receives several reports every week. One major problem in this field is that there is often a long waiting period between the child's disclosure or police complaint, and the implementation of the police investigation. The wait between the complaint and the investigation makes it more difficult for children to come out in public as a victim of child abuse.

The welfare agencies in the last 10 years or so have tried and succeeded to get more awareness that child sexual abuse takes place. There is currently more of an effort, as well as more professional tools, to diagnose abuse. Additionally, awareness and complaints have increased dramatically in recent years. However, once a case is diagnosed, there still lack some of the treatment options, such as ongoing therapy and other extensive emotional and mental work. The social welfare agencies and

⁵⁶ See: Doueck, Howard J. and Levine, Murray. The Impact of Mandated reporting on the Therapeutic Process. London, Thousand Oaks, New Delhi, Sage Publications.

⁵⁷ "Risky Future." *Ha'aretz*, September 14, 2001, p. B5.

⁵⁸ Reicher, Barbera of ELI (Tel Aviv). Interview with Veerman, Philip, September 12, 2001.

municipalities lack the ability to give treatment other than the most basic. Even programs aimed at family violence focus mostly on adults, often excluding children. Social welfare offices of municipalities also have treatment for abuse, but they are more focused on spouse abuse than on child abuse. ELI can provide private therapy sessions for NIS 140 per session—in the private sector psychologists charge at least NIS 200 per session. ELI, not the government, provides the subsidy. Still, such prices are well beyond the means of many Israeli families, and a willingness to pay such fees for an abused child's therapy rarely exists within families in which abuse takes place.

According to Barbra Reicher, Director of Clinical Services of ELI, the main problem is that the welfare officers dealing with cases of child abuse suffer from an enormous overload of cases, rendering them largely inefficient in providing assistance for children.⁵⁹ Each social worker in Jerusalem handles 200 children at risk. In comparison, a welfare worker in a small town in America handles an average of 30 children.⁶⁰

Furthermore, the Government is not fulfilling its obligation to children who are sexually abused. There is an extreme shortage of shelters for such children, and the issue of the sexual abuse of children is still not being dealt with in an open manner across all sectors. Until recently, the government has not supported educational projects to recognize sexual abuse of children, and it remains under-committed in its treatment of such cases. Meital, the Israeli organization for the treatment of sexually abused children, is struggling to survive financially. Its Director, Dr. Tamar Cohen, maintains that the Government has not been wise in its allocation of funds for the treatment of sexually abused children in other fields as well, beyond merely ignoring the needs of organizations that help such children. For example, the Government prefers to take the sexually-abused child out of the family and send him/her to residential care, than to spend money on therapy and assistance which would allow the child to remain within the family environment—an ultimately cheaper and less traumatic option.⁶¹

While the issue of child abuse is only in the last 15 years emerging in open light in Israeli and other societies, there are many positive indicators surrounding the problem:

The media has taken interest in the topic of child abuse over the last few years. Articles in newspapers, as well as television and radio programming, are raising public awareness to the issue and its social implications. Our colleague, Dr. Yitzhak Kadman of the National Council for the Child, has contributed greatly to this. Efforts are springing up from the Israeli academia to reform the system of care for child abuse.⁶²

⁵⁹ Reicher, Barbara, in an interview with Veerman, Philip, September 12 2001.

⁶⁰ Most notable in this field is: Zimrin, H. "Building up New Service for the Abused Child." *Child Abuse and Neglect*, vol. 7, p. 56-60, 1983.

⁶¹ Cohen, Dr. Tamar, Director of the Meital Organization for Sexually Abused Children, interview, October 21, 2001.

⁶² Most notable in this field is: Zimrin, H. "Building up a New Service for the Abused Child." *Child Abuse and Neglect*, vol. 7 pp.56-60, 1983.

In 2001, the *Law of Assistance for Victims of Crimes* was passed. This law includes assistance for children who were abused. Under the law, crisis intervention centers are being created to deal with complaints of sexual abuse. At such centers, victims can be connected directly with social workers, healthcare workers, police, lawyers, support groups, and other relevant services.

In September 1997, the Ministry of Education published a report on the prevention of child abuse in schools. School headmasters in public schools across the country were asked to sign the last page maintaining that they have read the information provided, and return it to the Ministry of Education.⁶³

Yet increasing the level of care for abused children and public awareness on the matter is only part of a holistic approach to minimizing child abuse. The problem must be attacked from the opposite angle as well—from the perspective of the abusers. The Coalition commends the State on recent increases in the length of sentencing for perpetrators of rape and incest against children. In 1989, amendments introducing stricter measures against rapists and those who commit incest did lead to longer sentencing as the Government Report notes, but as recently as 1997, rapists were still being freed after serving only 2-4 year sentences.

Nishmat, The Jerusalem Center for Advanced Torah Study for Women is encouraging cooperation between social workers and rabbis in individual cases of child abuse. This is an initial sign of cooperation between professionals and religious figures, and of activism against child abuse demonstrated by the country's religious organizations.⁶⁴

It is estimated that 6-10 percent of elementary school pupils are regularly violent against other pupils, but also against teachers.⁶⁵ In 1998 a special commission to study the violence of children in school started to operate. The commission (headed by Matan Vilnai, current Minister of Science, Culture and Sport) submitted its recommendations in August 1999. Among other things, it called for giving school principals and the community greater authority for dealing with the problem, for improving the physical conditions at schools and for lowering the number of students in a class from 40 to 32. The recommendations were not fully implemented. Some elementary school principals reported in a study⁶⁶ that there had been incidents of students threatening teachers in their schools over the past month. 6-8 percent reported physical attacks (such as hitting or kicking) by students.

The government, perhaps unintentionally, neglects Arab girls who are (sexually) abused and at risk of being murdered by their family/community members. Recently, there have been several "honor killings" (among others in the mixed Jewish-Arab town of Ramle), which probably could have been prevented. Several years ago, DCI-Israel accompanied a young Arab girl (a student at Israel's Haifa University) to the Israeli police station, where she complained that she and her sister were being raped by their father. DCI-Israel warned her that she needed protection,

⁶³ Special Publication for Headmasters on the prevention of Abuse of Minors and the Vulnerable, Ministry of Education, Culture and Sport, September, 1997.

⁶⁴ Hausman, Tamar, *Ha'aretz*, December 14 2001, p.A8.

⁶⁵ Shavit, Uriya. "School of Hard Knocks," in: *Ha'aretz Magazine*, December 7, 2001.

⁶⁶ Bevenisti, Rami & Zaira, Anat of the Baerwald School of Social Work, Hebrew University in Jerusalem.

but this was ignored, and she was found dead, hanged by her brother. Criminologist Dr. Nadera Shelhoub-Kevorkian wonders what would have happened in some of these cases if the victims had been Jewish (of course, in Judaism there exists no concept of honor-killings). She also claims that the government is too neutral and “over-culturalizes” the problem, approaching it mainly by appointing committees that are not serious.⁶⁷

A grave example of the implementation of such thought occurred last year, when a fourteen-year-old Arab girl from Lud was murdered in some “honor killing”. The Assiwar Association says that her mother still does not know why; perhaps it was because she dressed too modernly, perhaps it was because she attended a school with Jewish pupils.

The Assiwar Association operates a hotline in Haifa for Arab women. 48% of the calls relate to sexual abuse; usually of girls, but sometimes of boys as well. Many people cannot afford to pay 200 NIS for a session with a psychologist, which creates an urgent need for the Israeli government to subsidize professional help in Arabic for Arab children who are abused. Despite initial reluctance by Arab schools, Assiwar now does educational work there. In the Arab community, there exists a misunderstanding that leads people to believe that if a girl is raped, it is because she dressed or acted too provocatively, and not because of the psychopathology of the attacker. The Ministry of Education’s Director General now has rules indicating punishments for such crimes, which we view as positive.

A problem of which we recently became more aware is that of young children in children’s homes who abuse or rape other children.⁶⁸ These acts confront us with a harsh reality; the government takes children out of their homes to protect them, cannot provide them with an environment in which they will be guaranteed to be free from abuse. Although we have no real evidence based on research, staff members of children’s homes report that the homes are often populated by people with psychopathology. More night-staff is needed to guarantee that children will not be abused by other children. Until now, there has been no budget for this. Unfortunately, decreasing day staff in order to increase night staff is not a solution; extra staff is needed. In addition, abusive children, who are often under the age of criminal responsibility, need more intensive treatment, where they can be watched twenty-four hours daily. Budget for such institutions is lacking. Tragically, there are cases of children abused in such institutions, who are there because they themselves were abused at home.

With military actions going on and fathers being conscripts or reservists who are called up we wonder why, lessons from the Vietnam War are not more taken into account. They show that those who have seen action can be more violent in the family. Psychologist Dan Bar-On pointed out that there is a lack of research on this subject with respect to Israeli society.⁶⁹

⁶⁷ Interview with Dr. Nadera Shelhoub-Kevorkian, March 5, 2001.

⁶⁸ Information provided by Shimon Spiro of the *Yeladim*, the Council for the Child in Placement, Tel Aviv.

⁶⁹ Lily Galili, “The Abnormal will become the norm” in *Haaretz*, April 12, 2002.

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. How can the Government get, and provide, a more realistic picture of the number of children in the ultra-Orthodox child welfare and education system?
2. Can the Government do more to prevent the betrothal of children and underage youth? Is the Government planning an information campaign on the matter?
3. How will the Government now take responsibility for the disappearance of Yemenite children and make reparations to the families of Yemenite children who disappeared in the early years of the State, who are still unsatisfied with the official explanations they received? Does the Government plan to establish a compensation fund for this purpose?
4. Can the Government stimulate teachers' colleges to look at the implications of Article 12 (participation) for educational purposes?
5. Because of the outcome of research from developmental psychologists in Israel stress the importance of early intervention programs in order to create the chance for equality of lower-income groups, can the government invest

more in well-baby clinics, welfare boards and pre-school programs for all parents who have children at any kind of individual or environmental risk?

6. Can the government expand early home-intervention services programs for all children so that children from disadvantaged backgrounds can meet their requirements in schools?

7. Can the Government ease rules of family reunification in order to help split Palestinian families reunite?

8. What can the Government do to minimize the unnecessary extra bureaucratic processes that Palestinian residents of East Jerusalem must go through in order to get birth certificates and child allowances for their children?

9. Can the Government sharpen the criteria defining “good services” which the Government claims to provide to parents of children who are in distress, which if they do not make use of can lead to a request for taking away guardianship?

10. Can the government appoint a Committee of Consultation of Christian and Muslim Clerics who will be consulted in the cases of Arab-Israeli Women and girls and their out of wedlock/result or rape babies in danger of being victims of “honor killings,” who decide to give them up for adoption?

11. Can the Government provide and/or require greater training for the staff of inter-country adoption agencies, in order to keep the standards high? What enforcement mechanisms, if any, is the Government instating to control inter-country adoptions and audit the activities of such agencies?

12. Can the Government introduce training on the CRC and the Hague Convention on the Civil Aspects of Child Abduction for judges who handle child abduction cases, including Religious Court judges?

13. Is the Government ready to withdraw its reservation to the aforementioned Hague Convention, especially since now, quite often, the State of Israel pays for legal representation in needy cases?

14. Will the Government (especially the Ministry of Labor and Social Affairs), make sharper guidelines for periodic review of out-of-home placement and demand them from every institution?

15. Can the government provide children’s homes with larger budgets to hire night staff, I order to prevent children in such homes from being abused by other children?

16. Can the government do more to create support systems for children in children's homes with no family systems to fall back on after placement is ended or maturity is reached?
17. **Can the government subsidize organizations that provide therapy to abused children?**

VII. Basic Health and Welfare

- Social Rights are still unconstitutional in Israel
- One out of every four children in Israel is living below the poverty line
- Parents of children with disabilities who can pay for private treatments are at an advantage and children of parents who can not pay remain underprivileged

Social Rights are still unconstitutional in Israel. A basic law on social rights has not been accepted yet by the Knesset.¹ The Basic Law on Human Dignity and Liberty, which is a Basic law which was accepted by the Knesset, however does not give protection on issues like child allowance, health insurance, housing, electricity, water, etc. Since 1990, drafts for a Basic Law for Social Rights were tabled in the Knesset, but in the present political climate it seems such a Basic Law has no chance of passing.

¹ Alon, Gideon. "Justice Minister Submits Basic Laws on Judicial Rights, Freedom of Expression and Social Rights," in: *Ha'aretz*, September 17, 2001.

Dr. Eyal Gross²:

“Supreme Court Justice Barak, contains the concept of a human being as a free creature, thereby obviating the fact that the autonomy of personal wishes and therefore also freedom of contract are entrenched in ‘Human Dignity and Liberty.’ From this we can deduce that Professor Barak’s approach, as illustrated in his later writings as well, is that the right to human dignity and liberty, incorporates numerous human rights which are not specifically mentioned in the Basic Law. Moreover, it even includes the economic right of freedom of contract. Nevertheless, Barak’s suggested cataloguing does not include social rights.”

Dr. Eyal Gross quotes Professor Ruth Ben-Israel, in an early critique of the Supreme Court President’s approach:

“In a surprising, perhaps even amazing move, Justice Barak, the knight of human rights in civil and political issues, did not include one single social rights issue in the basic concept of Israel’s enlightened public based upon which he directs his interpretations of the concept of human dignity and liberty in the democratic Jewish State. Professor Ben-Israel’s conclusion was that Barak’s perception is of a neo-liberal nature, which places the individual at the center and is reflected in the freedom of contracts, in the support of a market economy. Barak believes that the intermediate model is the most fitting one as it provides intrinsic and comprehensive protection of human dignity and liberty, without changing the Basic Law: Human Dignity and Liberty into Basic Law: Basic Human Rights. But if we view rights that Barak regards as entrenched in “Human Dignity” according to his Intermediate Model, we will see that in fact all the main civil rights mentioned are included, as are economic rights such as freedom of contract. On the other hand no social rights are included, causing the limits of the Intermediate Model to stop short of social rights. It should be noted that the same required minimum for human existence, recognized by Barak as part of the right of human dignity is not regarded by him as a social right, but a prerequisite for avoiding degrading conditions, which infringe upon the right to dignity in its narrowest context. Beyond the interpretation of “human dignity”, it should be noted that at present there is not much hope of legislative solutions to social rights issues...The only way to explain the delimitation of the scope of “human dignity” on the line between civil and political rights is to assume the inferior status of social rights. It appears that Barak’s suggested division into models is to a great extent shaped by the differentiation between the various rights...Human rights as norms reflecting the idea that people should be able to enjoy freedom in its profoundest sense, enabling them to control their lives and their most significant life-decisions; Human Rights as an expression of the concept that no person will be subject to oppression and humiliation, but will be treated with dignity and as an equal – all these make the inclusion of social rights as of equal value to other human rights imperative...the tendency not to include social rights...makes them the primary losers in the 1992 process, firstly because of the lack of a Basic Law to protect them, but also due to the interpretations of the right to “Dignity”. The consequence of these two conditions is that social rights remain on the lowest rung of the rights ladder. The legislation and subsequent interpretations

² Eyal Gross, *Distributed Justice in Israel*, op.cit. see also Yuval Elbasha, “Constitution for poor Israel” in: *Haaretz* August 28, 2000 and in Yuval Elbasha, “The broken Clock Does not Want to Move” *Mispat Nerat* (publication of the Israel Bar Association) (in Hebrew)

of the Basic Laws have left social rights the sole human rights issue not reinforced in the law. In the respect, social rights are not only lagging behind, but have also lost their status, and in the current conflict with other rights are liable to suffer greater setbacks in status.”

The first Health Ministry Ombudsman was appointed in 1996, created by the National Health Insurance Law, which took effect in January 1995. The first Ombudsman report was issued in 1998, harshly criticizing the four public health funds, the National Insurance Institute, and the Ministry of Health. Recently, Health Minister Nissim Dehan replaced the health system ombudsman Dr. Karny Rubin-Jabotinsky. To date, several of the Ombudsman's initial criticisms have been addressed, especially those involving the limited types of health care and medication covered by the health funds. Others, including criticisms on the way the National Health Insurance Law is being carried out, especially by the health funds, continue to be ignored.

ARTICLE 23—CHILDREN WITH DISABILITIES

The rights of people with disabilities in Israel (including children) have been strengthened very much since the Equal Rights for Persons with Disabilities Law (1998). The basic principle of this law is that the rights of persons with disabilities and commitment of Israeli society to those rights are based on recognition of the principle of equality, of the worth of each person created in the image of G-d and on the principle of human dignity. The objective of the law is to protect the dignity and freedom of human beings with disabilities, and to anchor their right to an equal and active participation in society in all spheres of life, and also to provide a fitting response to their special needs, in a manner that will enable them to live their lives with maximum independence, privacy, and dignity, while utilizing their abilities to the utmost. The law established a Commissioner for Equal Rights for Persons with Disabilities,³ the first of its kind in Israel. However, and here we again see the gap between good lawmaking and its implementation, in the beginning of 2002, the Commissioner advocate Ayala Ophir, resigned because she received hardly any budget to do her job.

The fact that adults with disabilities have been striking for more than a month outside the Knesset, demanding the equivalent to a full salary in disabilities payments, changed the attitude of the public, which does not see the disabled only as victims, but also as people who can fight for their rights. It has unleashed a lot of solidarity with the disabled and many classes of schoolchildren came to visit them outside the Knesset where they set up a tent of protest. It improved the social position of the handicapped, including children.

About 170,000 children in Israel are either disabled or suffer from chronic illnesses, comprising thirteen percent of Israel's child population. It is standard to evaluate the rate of pre-school children who suffer from various disorders in their development as

³ Tasks of the Commissioner: The Commissioner shall act:

- 1) to advance the basic principles of this law
- 2) to promote equality and to prevent discrimination against persons with disabilities
- 3) to encourage the integration and active participation of persons with disabilities in society
- 4) to perform the tasks imposed on it in this Law

5%-10% of their age group. Between 1995 and 1997 the general rate of children with chronic illness or disabilities has been 12.8% of the entire child population.⁴

The Coalition welcomes the publications by the Ministry of Education is “Open line for students” in Arabic, Amharic and Hebrew about the work of the Placement Committees (which deal with placements in Special education Schools). We welcome the publications and the tone of them and pointing out what possibilities for appeal are and how this works. We still lack these publications in English and Russian, but see these publications as a step forward for parents whose children were referred to placement committees. We are of the opinion that it was an oversight of the drafters of the Initial State Report not to mention these publications of the Open Line for Students.

The Initial State report does mention the National Health Insurance Law and it praises that all children can get now the same services and treatments. It should be mentioned, however, that before the National Health Insurance Law came into effect some children were entitled to many more treatments from their Health Fund. Children with disabilities who are 3-6 years of age, receive 27 treatments, and children from 6-9 get 18 months of treatments and not more than 54 total amount of treatments from health insurance. If a child is double handicapped or has several problems, this is really not sufficient. If a child goes once a week to physiotherapy and one a week to speech-therapy for instance, any long term effective treatment can not be provided, unless the parents pay themselves for the additional treatments. This means that with the widening gap between rich and poor in Israel, the parents who can pay for private treatments are at an advantage, and children of parents who cannot pay have to stay underdeveloped. Children, who at a critical age do not receive enough treatment, will stay underdeveloped for the rest of their lives. The attitude of the legislator has been to make an ideological choice for mainstreaming children with disabilities in normal schools. However, arrangements by the government make implementation of this very difficult. Via the “Matia” services for children with special needs, once again, only a minimum of the minimum of services is available. This means that parents prefer to have their child in special education, because there they get much more treatment. It also means that only the people who can afford to have their child mainstreamed in normal education in the morning and who can go to additional private treatments in the afternoon for which they pay, can stay in a normal school. It is absurd that if a child with special needs is mainstreamed in normal education, he/she will lose special treatment hours. We see a trend that the children of the poor have to stay in special education (see also our comments under article 28 – education).

The Ministry of Education doesn't finance additional equipment for children badly in need. Help is given on a fixed budget, generally lower than the wheelchair or special bed children need. Parents have to complete the budget by themselves or give their kids standard wheelchairs. This means, again, that only parents with money for necessary equipment can help their children.

Many Arab-Israeli children have to go to Jewish institutions because of the superior services, which the Arab sector cannot provide to its children due to lack of subsidies

⁴ National Council for the Child, The State of the Child in Israel 2000, Jerusalem, 2001.

which is difficult for disabled children due to the lack of knowledge of Hebrew. This means that Arab-Israeli children have to communicate in a language that they hardly know. And many of these institutions do not employ (enough) Arab staff members who know the language (and not enough professionals in the Arab sector are available).

The Jewish Israeli hearing impaired, deaf and blind children have quite good services available.

Some parents' organizations have developed quite a good lobby for their children, such as the Yatet organization for children with Down syndrome or Alut, the organization of parents of autistic children.

It is difficult to speak of healthcare issues for children with disabilities, without detailing their entire treatment system, including education and financial support. Adequate care of a disabled child is a holistic field, which NGOs in Israel recognize but the Government does not always place as a priority. In this sense, Israeli NGOs are well advanced of the Government, and the work of NGO's for children with disabilities is impressive.

In the field of special education, NGO workers dealing with children with special needs are in agreement that the laws that exist in Israel are commendable, but the government fails completely to carry through its own responsibilities since it does not allocate sufficient budgets to the cause.⁵ This overarching problem of lack of funding for programs ordered *by law* prevents children from actually receiving the services to which they have a right, thereby rendering the laws useless. For example, a law exists requiring extra safety arrangements on transportation for children with disabilities. However, as outlined in the introduction of this report, since no government agency took it upon itself to fund such measures, children with special needs continue to travel in unprotected vans, occasionally sustaining injuries during the journey. The Government had also committed itself to funding an extended school day for children with disabilities, providing a chance for extra therapy sessions and support groups, but in practice the long school day is only implemented in schools for children with severe disabilities. Children with behavior problems, mild retardation, or learning disabilities all still have a short school day. The Government Report itself noted some of the most serious gaps in needs and services for children with disabilities.⁶ It does not, however, state what the government intends to do to minimize these gaps.

Parents generally do not know their children's rights, and therefore are unable to request them. The lack of coordination between government ministries on this matter is extremely alarming, because responsibility falls "between the cracks."

While children's medical needs are covered, for the most part by the health basket provided by law, the need for paramedical services that include physiotherapy, occupation therapy, speech therapy, sports and art classes and alternative treatment, do not receive similar attention. Research shows that 75% of the children with special requirements (children with disabilities and children with chronic illness such

⁵ From interviews with social workers at the NGO's Keshet and Bizchut, July 29 2001.

⁶ Initial State Report, *ibid.*, p.212.

as retardation, deafness, paralysis, cancer and severe learning and behavioral deficiencies) need paramedical services but only a third actually receive them.⁷ Furthermore, the payment required for paramedical services, in the form of personal participation by the insured child's family in the treatment costs, especially burdens children from low income families and prevents them from actually receiving services.

TZACHI, The Organization of Consumers of Special Education, reports that because of the *Special Education Law* of 1988, children in special education did not used to receive health services that children in regular schools received from the National Health Services, which claimed that the Ministry of Education is responsible as stated in the law. During the year 2000, changes were inserted in both the Special Education Law as well as the National Health Law in order to force the Ministry of Health to provide all children with the Health Services they require regardless of where they receive their education (change no. 2824)

In the year 2000, two other acts were passed: The *Special Treatment Frameworks* (2176/p), requiring day care for infants between the ages 1-3 years with severe disabilities, who are in need of special treatments and health care for their habilitation. The other act allows *Infants in Danger* (a/2882) "the right to day care." The right applies to infants between the ages of 1-3 years who are in need of a "protective" environment because they live in family situations that require them to be removed for the majority of the day." Due to lack of funds, however, the government has temporarily frozen both these laws. We are hopeful that the Minister of Finance will provide some funding for the year 2002, to start the habilitation of infants in need of special treatments because of their severe disabilities. Even though these laws have been passed, parents cannot afford the court cost in order to force the government to abide by them. The laws always stipulate that they are to be implemented with the approval of budgeting from the Minister of Finance, and are therefore subjugated to the Minister's approval.

Despite the high level of basic healthcare, the health needs of children with disabilities are not addressed to the necessary extent. The main lack is in the field of mental health, where many children who are mainstreamed and do not get proper mental health attention. Children in special education schools have therapy and counseling of various forms available to them, but children with disabilities who attend regular schools often go unnoticed by the overloaded school therapist, who has hundreds of children under his/her charge. The lack of therapy available in prisons, for drug abusers, and for other groups who are desperately in need of mental health care applies, unfortunately, to children with disabilities as well.

Palestinian children are hindered from reaching Israeli hospitals but also other Palestinian areas which are divided by checkpoints and roadblocks.

For very young autistic children⁹ (ages 0-3), there are very few options. A specific problem amongst children with autism is that some time until a diagnosis is made.

⁷ Neon, Dennis et al. "Children with Special Requirements: an Assessment of Needs and their Coverage by the Services" joint publishing- Brookdale institute and the social security institution

⁹ information provided by Rakeffet Gonen of "Alut," the Organization for Autistic Children.

The National Insurance Institute, however, did not provide retroactive payment from birth for people with disabilities, but on the basis of a diagnosis provided. A parent appealed this practice by the National Insurance Institute in the Supreme Court and won her case. However, when parents of children with autism attempt to talk with the civil servants of the Institute, they pretend to be unaware of this decision. Only if parents arrive with a photocopy of this Supreme Court decision, will they receive retroactive benefits for their disabled children.

There are also not many options available for autistic children in terms of care in the afternoon. The array of services available to a child with autism does not necessarily offer exactly what every particular child needs. Of course, a child's financial status affects the services that will be available to him; if his parents can afford it, they are much more likely to buy him all the various types of treatments and advances available, whereas if a child's parents cannot afford that, they will obviously only be able to provide their children with what the government offers in terms of treatment, which in some cases, might not be intensive enough.

The criteria of the National Insurance Institute of what is a disability are anti-development¹⁰. They do not recognize a child who can dress himself and shower as a disabled child. Some parents discourage their children from dressing and showering on their own, afraid of not being eligible for the badly needed financial assistance, which comes with the recognition of a "child with a disability." The committee that has to decide about this recognition lacks a specialist in genetic diseases, (mentioned under Article 5 as well). That's why rare diseases often do not get recognized, or if they do, it is often only after a long battle by the parents with the bureaucracy. Perhaps because of the criteria, only 16,500 children out of the 170,000 disabled or chronically ill children receive disability allowance.¹¹ The organization EITAN, for children with rare diseases, is fighting for the recognition of many children. One parent representing EITAN told us that she needs 8,000 Shekels a month (for medication, special food, diapers, etc.) for her child and the 1,800 shekels she receives from the National Insurance Institute is very much needed (but not enough). Parents who like to keep their children at home (and save the State a lot of money) do not get much help to make this possible.

ARTICLE 24—HEALTH AND HEALTH SERVICES

Pregnant women who need to go into labor are sometimes given medication to induce labor, and some women give birth through cesarean sections; too many in our opinion. The WHO has an acceptable guideline of 10% of births being through cesarean sections, however, 16% of births in Israel are Cesarean.¹²

¹⁰We thank the Bizhut organization for pointing this out to us.

¹¹ Sinai, Ruth. *Ha'aretz*, December 26, 2001. A Knesset appointed professional Committee, (headed by Professor Or-Noy) has already recommended a change in the criteria for allowance entitlement and a minimal addition of approximately 5,000 children with severe disabilities. These recommendations are not implemented and the offense against many children with severe disabilities continues.

¹² According to the Israel Childbirth Education Center (ICEC).

According to the Israel Childbirth Education Center (ICEC), childbirth education in Israel is not free and an overall subsidy from the Ministry of Health is lacking. Those who can afford it and want to, go to child education classes and those who cannot afford it, do not. They, therefore, also do not know that they can go to the mother and child clinic when they are pregnant to have the blood pressure and urine measured and why this is important. ICEC's courses are free, but not available everywhere, due to lack of funding.

The Israeli population is a relatively young one (29.8% of the population is of the age of 0-14).¹³ Of the general population of Arabs, 39% are children (0-14), while 26% of Jewish children are of that age group. According to the Unicef Report (The State of the World's Children 2000), Israel's rank is 165 in Infant Mortality Rates, which is very good, (the range is 1-189, with the best being in Sweden, Japan, and Norway). In general, Israel is one of the developed countries concerning health & welfare, however there are large gaps between different sections in society, and especially between Jews and Arabs. The Initial State Report points out that the health problems of children are similar to those of children in the West, however, this opinion is correct only for Jewish children. Arab children's health indicators are very much like those of the developing world.

Health indicators of the Bedouin are lower than that of the rest of the population. This is particularly expressed, among other things, by the data on infant mortality. According to ACRI¹⁴, the government's policy of non-recognition for Bedouin communities outside of townships has led to a severe shortage of health services and facilities for these communities, as well as a lack of providing them with infrastructure such as running water and electricity, which contribute to communal health and hygiene. The State Report points out that these things are lacking, not because the government does not give these things to them, but rather because the Bedouin way of life has been without these things for hundreds of years, and the Bedouin do not seem ready to have a complete outlook and lifestyle change imposed on them by the Israeli government. The government blames the Bedouins here, where it has failed in its task.

The Arab-Israeli children's concerning health status is very much a reflection of the status of the Arab society inside Israel. It is associated with environmental factors, economic factors, social and political factors. This explains much of the data about health and other services. The health situation of Arabs indicates that Israel is deviating the target of "health for all" declaration of the WHO. The first goal is about having Equal access and equitable services for all the sections of the society according to article 2 of the CRC. Data on some health issues of Arab children, for instance in the case of mental health, is not available. The last report of the Ministry of Health did not include data stratified on Arab children.

Data from the Ministry of Health and the Israeli Bureau of Statistics indicates that one of four major health problems for Arab-Israeli children in Israel is a high infant mortality rate (IMR).

¹³ Unicef, (2—1). The State of the World's Children 2000, New York, p.83.

¹⁴ The Association for Civil Rights in Israel, Comments on the Combined Initial and Second Periodic Reports of the State of Israel Concerning the Implementation of the United Nations Covenant on Economic, Social and Cultural Rights, (CESCR), November, 1998.

In the years 1993-1997 the IMR for Arab-Israeli children was 10.3 per 1,000; while the IMR of Jews was 5.5 per 1,000. The rates concerning gender are also different; while in the developed countries the rates are higher for male children in the first year of life, amongst Arab infants it is the opposite (5.3 for infant Arab girls and 4.6 for Arab boys). This data is similar to developing countries, which might indicate a different attitude by Arabs toward girls than toward boys. The rate amongst Jews is 1.3 for Jewish-Israeli infant boys and 1.5 for Jewish-Israeli infant girls.

On January 16, 2000 Adalah filed a motion to the Supreme Court seeking the imposition of a heavy fine on the Ministry of Health for the failure to build six mother and child clinics (well-baby clinics) in a number of unrecognized Arab-Bedoin villages in the Negev as mandated by a Supreme Court ruling in 1999. (H.C. 7115/97, Adalah et. al. v. Ministry of Health, et. al.) Statistics illustrate the importance of these clinics for children of unrecognized villages in the Negev because the infant mortality rate in these unrecognized villages is the highest in Israel and immunization, the lowest.

The organization, Sikkuy, The Association for the Advancement of Civil Equality, stated in their annual report 1999-2000 that:

In Israel, there are 520 Well Baby Clinics, and 175 of them are in Arab communities (33%). One of the results of a relative lack of Well Baby (mother and child) Clinics in the Arab local municipalities, is a higher level of infant mortality. Although there has been improvement in recent years, the infant mortality rate among Moslem citizens (82% of Arab citizens) is still twice that of the Jewish population. Quantitatively, it would appear that this situation reflects affirmative action. Yet the budget allocated to closing gaps in this area represents only 2.2% of the Ministry's development budget, and does not allow for any real affirmative action. It is therefore necessary to increase allocation (at least to reflect the percentage of Arab citizens in the total population – 18.6%) and only then can the gap in infant mortality be closed.

While the Initial State Report shows data concerning different religions of the Arab population (Moslems, Druze and Christians) gaps still remain. By this method of breakdown, the situation does not appear as bad as it would were the situation presented as a total. Actually, the Initial State Report does not include other important health problems such as low birth weight, mortality of children with congenital diseases and stillbirths. According to the Ministry of Health data book, "Health in Israel,"¹⁵ stillbirths occur twice as often amongst Arabs than amongst Jews, (4.8 amongst Arabs and 2.9 amongst Jews). In the years 1990-1994, the mortality rate of infants with congenital diseases was three times higher amongst Arabs than amongst Jews (4.2 to 1.7). Although some researchers relate this data to the high instance of marriages amongst family members amongst Arabs, the data of the Ministry of Health show that only 3.6% of infant Arab deaths (within the first year) are caused by congenital disease. The same report of the Ministry of Health indicates strong negative association between mothers' years of education and IMR, (for mothers with 1-4 years of education, IMR is 13.4; mothers with more than 16 years of education, IMR is 3.8). It is already well known that Arab women have less

¹⁵ Ministry of Health. "Health in Israel", Jerusalem, (2001)

years of education than Jewish women, (9.6 and 12.6 respectively). The Ministry of Health report indicates a strong correlation between the age of a mother giving birth and IMR. It is much higher for infants of mothers under age 20 and above age 40. Arab women usually marry and give birth before Jewish women (under 19 years of age, 7% of Arab women give birth, versus 1.9% of Jewish women).

*A big step forward, was the acceptance of the National Health Insurance Law in 1995. Prior to then, Israel had a voluntary health insurance system. Under which about 96% of the Jewish population, and 88% of the Arab population were covered for ambulatory treatment and hospitalization as members of health funds (Kupat Holim). "The National Health Insurance Law made health insurance both compulsory and universal. All formal residents were obliged to join a fund, and no fund was permitted to refuse membership on the basis of age, state of health, or any other consideration. A uniform benefits package was stipulated and the list of services promulgated. In lieu of membership fees, which had differed from fund to fund, a health tax with two income gradations was imposed, to be collected by employers and transferred to the National Insurance Institute along with a health tax paid by employers (the latter was abolished in 1997). The law obligated the Treasury to cover the difference between the cost of service provision and the income collected. Another change instituted by the National Health Insurance Law was the application of an age-adjusted capitation formula to the distribution of all health tax monies among the four health funds; the change increased equity among the health funds."*¹⁶

A paper for a conference of the National Council for the Child points out that treatment within the well baby clinic, including immunization shots and a doctor's periodical checkup requires the payment of a toll collected on the behalf of the state. "In fact, the toll payment forms a barricade in the face of parents and many times they avoid the visit as a result of the family's financial state."¹⁷

It was also noted that the immunizations currently provided in the infant welfare clinics belong to the "old generation" immunization group, and are not as safe for use as those recommended today by many pediatricians and are also more painful as a result of the need for multiple shots. These new immunizations are privately attainable in Israel via doctors' prescription. As the cost of privately purchasing the immunizations is very high, those who can afford it acquire the safer immunizations while the others have to make due with those provided by the infant welfare clinics. The fact that the baby well clinic nurses themselves encourage parents to purchase the "new generation" immunizations is all the more frustrating.

An additional difficulty in the functioning of the baby well clinics is that no information is provided to the parents in regard to the effects of the immunizations given to their children. In addition, due to the financial difficulties, no sufficient medical follow-ups are being performed on the development of most of the children treated in the well-baby clinics.

Both the World Health Organization and the OECD consider equity the most important criterion of success in health reform. According to the Adva Center "The

¹⁶ The Israel Equality Monitor, no. 9. November, 1999, The Adva Center, Tel Aviv.

¹⁷ Getit Lang, Amir Freud, Odelia Zohar and Hadar Sapir, "A Preparatory Document for the Session: Children Between Health and Sickness, conference paper of the National Council for the Child, February 19, 2002

Israeli health care system is characterized by inequities between the center and the periphery, between the big cities and the development towns, and between Jewish localities and Arab ones. The National Health Insurance Law has no provisions for distributing resources among different geographical area and social groups in a more equitable manner, and no program for closing existing gaps.”¹⁸

The National Health Insurance Institute law provides medications for free, when they are part of the general basket of benefits offered. However, for a new medication to be registered costs tens of thousands of dollars, and an agent will not easily do this. In the case of child with a rare disease whose medication is not covered, this is obviously very problematic.

A recent study by the *Clalit* health fund of its pediatric patients has shown that “children from lower socio-economic areas are more likely to suffer from chronic illnesses, and to be hospitalized, than those from more affluent areas.” The study established that some “children, particularly those who suffer from chronic diseases, return for a second round of hospitalization because they did not receive medicines prescribed to them during their first stay in hospitals, simply because their parents lacked money to purchase the drugs.”¹⁹ Also, a study sponsored by the Knesset’s Committee for the Advancement of the Status of Children uncovered differences in the number of beds in hospital pediatric wards around the country. The study showed that the number of hospital beds available to children in the south is substantially lower than the national average. The same study showed that the majority of children who arrive at hospital emergency rooms in need of treatment come at night. The study’s author assumes that a lack of non-hospital treatment options during evening hours accounts for this finding. The result is that medical residents who do night shifts in hospitals are overburdened with pediatric patients. In the current environment of daily terrorist attacks, pediatric intensive care units are in great need of more beds

Article 24 (c) “to combat disease...through, inter alia...clean drinking water, taking into consideration the dangers and risks of environmental pollution” is also a problematic area. “Adam Teva ve Din,” the Israeli Union of Environmental Defense,²⁰ stressed that the environmental issues are connected to public health. However, the official agencies are lagging behind in public concern. Two industrial centers (Southern Tel Aviv and the Haifa industrial zone) are quite polluted, but because air pollution is not an issue adequately addressed, many children suffer from respiratory problems and asthma. In the Arab sector, there is a lack of investment in economic development, and they often build garages, furniture factories, and metallurgy workshops on ground floors of homes, and not in industrial zones. These are health hazards for children—air pollution, closeness to machinery, and water effluents. Until now, the Israeli government has not done enough, in our opinion, to allocate land for Arab industrial zones.

¹⁸ The Adva Center, op. cit.

¹⁹ Shardmi, Haim. “Study Finds Poor Children More Likely to Suffer Chronic Illnesses,” in: *Ha’aretz*, February 27, 2002.

²⁰ Information provided by Philip Warburg, the Executive Idrector of Adam Teva ve Din, the Israeli Union for Environmental Defense, Tel Aviv.

Under article 6 (the right to life), we previously discussed accidents which form the primary cause of deaths among children and adolescents. Of the entire span of causes of childrens harm in accidents, traffic accidents form the second largest reason for hospitalization and death.²¹

There is almost no data the comparing Arab-Israeli children with Jewish-Israeli children. This is well worth considering. It is known that there are few clinics with Arabic speaking teams, which is necessary in Psychiatry and mental health. The awareness concerning the importance of maintaining the health of the teeth and mouth is low among pupils in Arab schools. In a survey conducted in 1992 among first year pupils it was found that the rate of pupils infected with tooth caries is 27.8%, only 4% of them have addressed a doctor for treatment. Since tooth treatments are very expensive, the Arab families find it difficult to give their children this kind of treatment. This issue has low priority in the Ministry of Health and other services suppliers, i.e. Kupat Holim. It is given privately. It can be seen that despite the fact that there are till gaps between Arab and Jewish children, and they are sometime widening, there is no special policy in the country to reduce these gaps. We recommend a comprehensive survey concerning the health condition of the Arab children in the country, on various aspects, and planning a future policy adapted to their situation.

We believe that the Initial State Report should have written more about suicide among Israeli youngsters. The Ministry of Health wrote to DCI-Israel²²:

"We have a file concerning reasons of death in Israel. It originates from the Central Statistics Bureau. This file is updated to 1997 and it also includes suicide cases. Although the suicides are also reported to the Ministry of Health, particularly the Institute of Forensic Medicine, this report is only partial, because some of the corpses are not sent to the institute. Therefore we recommend to rely only on the data of the Central Statistics Bureau.

As per your request, we examined several issues;

- *The rate of suicides between the ages of 10 to 17 by sex and age group during the years 1991-1997, **total** is:*

Table 2

Age Group/ Sex	Male	Female	Total
10-14	19	5	24
15-17	46	10	56
Total	65	15	80

Meaning an average of about 11-12 cases a year. 80% of them are boys. The suicide rate of boys throughout the period is 2.2 per 100,000 people, between the ages of 10-17. Obviously there are differences regarding the age groups, among the age group 10-14 the rate is 1.0 per 100,000 people, and among the age group 15-17 the rate is 4.3 per 100,000 people. The rate among the girls is lower – 0.5 per 100,000 people

²¹ National Council for the Child The State of the Child in Israel 2001, Jerusalem p. 211

²² Letter of January 22, 2002 by the Ministry of Health to DCI-Israel. Health Information and Computer Services Department of Health Information, Nehama Shtein, Medical Statistics Supervisor.

between the ages 10-17.” There are no suicide prevention programs taught in school, however.

The Coalition is worried about growing talk about bringing child mental health services, now provided by the government, under the National Health Law. This can mean that coverage for outpatient psychiatric services will be even more reduced and that service providers (such as *Kupat Holim*) can reduce the possibility for children to obtain these services drastically, and also to reduce the amount of sessions covered.

Mental Health is only available in a limited way and is not covered by the National Health Insurance Law, except for psychiatric hospitalization. The small health funds (*Kupat Holim*) such as Maccabi, Le’umi, and Me’uchedet, which try to attract members, have psychotherapy treatment in the complementary insurance for which people need to pay extra. The Me’uchedet health fund offers 24 sessions. The big Health Fund, Klalit, does not offer psychological or psychotherapeutic help in their services. It offers only 2-4 sessions and no long-term psychotherapy process.

Adolescents do not turn to governmental mental health clinics so easily. Firstly, there are not that many available and there are waiting lists; secondly because of the stigma attached to it. There are some good alternatives available for them, such as *Tafnit*, the Jerusalem Institute for Adolescents, but they are not subsidized, meaning that if their parents can afford it, they receive psychotherapy. Statistics from the National Council for the Child show a rise of 66% in the rate of hospitalized youths between the years 1995 and 2000. 95% of the children hospitalized as a result of anorexia are girls between the ages of 13 and 17.²³

Dr Sofia Eldar, a child and adolescent psychologist (and board member of the Israeli Association of Child Psychiatrists) wrote in a letter sent to DCI-Israel on April 5, 2002 that:

“Despite the National health Insurance Law, child psychiatry is not included within the law. Geographical distribution of child psychiatry services is deficient; the main deficiency is in the South and Northern regions. The services do not discriminate on a socioeconomic basis, but they have long waiting lists. There is a shortage of child and adolescent psychiatrists. Reorganization took place, giving priority to services in the community and transfer services from psychiatric hospitals to the community. Resources were allocated to training of medical personnel. The Arab sector lacks specialists of all disciplines and services of mental health.”

Aggressive marketing on the radio by baby food producers, praising bottles of milk for babies, does not in any way state the advantage of breast-feeding, as Article 24 proclaims it should. Worse is the baby food advertising in hospitals, where baby formula is given out for free by the baby food companies in exchange for having their logos placed on equipment. The only hospital to which the WHO gave their Baby Friendly Diploma is the Soroka hospital in Be’er Sheva. A Television advertisement for Materna Formula called a mother who gives her baby this formula a “genius of a mother.” “According to the Israel Childbirth Education Center,²⁴ an NGO based in Haifa, hospitals and mother and child clinics hardly ever give

²³ National Council for the Child, *The State of the Child in Israel* 2001, Jerusalem

²⁴ Information provided by Mrs. Wendy Blumfeld, President of the Israel Childbirth Center, an NGO.

counseling to mothers about breast-feeding. When a baby is not gaining weight quickly enough, mothers are not advised to continue with breast-feeding. At hospitals, nurses do not invest a lot of time in patiently sitting with mothers and teaching them how to breast-feed. The Ministry of Health has recommended implementing education courses on the topic for nurses, however, awareness has been awakened late, and much needs to be done. We urgently need a law of implementation of the 1991 Code of Marketing of baby food.

Healthcare for babies and young children is covered by the Kupat Holim national health fund. Well Baby Clinics (mother and child clinic) centralize all the necessary immunization for babies, as well as monitor the child's development during the crucial first phase of its life. They also provide mothers with (mandatory) guidance on early childhood health and nutrition. However, development screening and speech therapy are lacking. The clinics are spread out in residential neighborhood, although like all healthcare, they are more concentrated in the center of the country and its large cities, and rather sparse in the periphery. The Government does make an attempt to improve the healthcare provided to babies through such clinics in areas populated by weaker socio-economic populations by sending volunteers in their national service to staff the clinics. Still, a major problem exists for babies in unrecognized Arab-Israeli villages and in Bedouin villages across the country, whereby the Ministry of Health has not set up Well Baby Clinics that exist in other parts of the country and provide immunization and basic healthcare for babies. If healthcare for the young age is not made more easily available to these groups, we are concerned that the negative consequences will follow these babies through their childhood and into their adult lives.

The Regional Council for Unrecognized Negev Arab Villages stated that mother and child clinics need urgently to be established in the Negev. The installation of water pipes, trash collection and electricity will contribute to the improvement of the health situation of the Bedouin children. The Association *Sikkuy* states in relation to the Arab population in general that:

When a sewage system connects a large Arab town to the same infrastructure used by the surrounding Jewish towns, the fact merits an item in the newspapers and the "coexistence" value of the event is marked, even celebrated. Despite the substantial investment, however, connection of the town to the national system is only part of the job. About half the Arab households in Israel are not connected to their town's internal sewage lines, but rather use household septic tanks. In contrast, thanks to adequate planning and infrastructure, nearly all Jewish households near these Arab communities are served by town sewage systems even before the owners of newly built homes move in.

They concluded, based on Ministry of Health figures, that another 56 family health clinics are needed in Arab communities. Hence NIS 10 million (half from the Ministry of Health and half from the Ministry of Finance) has been budgeted in the plan over four years, meaning NIS 2.5 million a year. The Average cost of building a family health clinic is .5 million. Thus the budgeted amount will suffice for five clinics a year, for a total of twenty over the four years covered. At that pace, the need outlined by *Sikkuy*, it will take twelve years for the plan to be completed. In comparison, between 1993 and 1996, 48 family health clinics have been built in Arab communities, at a rate 2.5 times faster than proposed by this plan.

Within the national healthcare system, a matter of special concern is the weakness of preventative care in schools.²⁵ Health education and psychological health services are particularly weak in elementary schools, leaving children ill equipped to cope with health-related decisions as they develop. By law, health services must be supplied at school to primary and junior high students. The Education Ministry transfers NIS 70 million annually to the local authorities to pay for doctors and nurses at schools. However, there is currently a shortage of 515 nurse stations in schools, mainly in the ultra-Orthodox section, and approximately 700 nurse stations are in poor conditions or lack equipment. Health Ministry regulations call for one nurse per 1,500 students, but due to the meager wages offered, the ministry is unable to fill the positions. Countrywide, there are only 50 school nurses (barely 10 percent of the number that the regulations call for.)²⁶

Since the Public Health Law was established, the public health services in the Ministry of Health try to determine the scope of the health services in schools. Today the inclination is to appoint at least one nurse in every school, in most of the elementary schools. Indeed, the Ministry also tries to impose this service on other factors like the Health Insurance Plan (Kupat Holim) or the local councils and municipalities. It is known that the decentralization of the health services for the pupil can have a detriment effect mostly on the children of the weak socio-economic strata and especially the Arab-Israelis, that their local councils and their municipalities are still engaged in severe infrastructure and planning problems. Also, if children express preferences concerning medical decisions that contradict their parents' desire, the parents' opinions are most often heeded. (For example, if a child prefers to have dialysis at home instead of the hospital, but the parents prefer it to be done at the hospital.)²⁷

Another issue worth considering is the health education in schools, which is deficient compared with the developed condition of the public health services in the country. There is a lot of want on this matter. In schools, this issue is not implemented as part of the obligatory lessons, although it is obligatory in many countries in the developed world and the developing world. The education and health improvement department in the public health services of the Ministry of Health tries to develop such materials. Indeed, most of the material is written in Hebrew and only after a few years they attempt translating it into Arabic, which does not necessarily answers the needs of the Arab-Israeli children, since the materials do not go through adaptation.

Article 12 on the right of the child to an opinion is almost entirely ignored within the healthcare system, and doctors and childcare workers are rarely cognizant of their responsibility to the child's desires.

The Palestinian residents of East Jerusalem are entitled by law to receive Israeli citizenship as well as all services provided to Israeli citizens. In practice, however, the Israeli Department of the Interior places difficulties in the way of Palestinian's

²⁵ Listed as one of the main problems concerning children's rights in Israel by Member of Knesset Tamar Gozansky, in interview, *Ibid.*

²⁶ Sa'ar, R., *Ha'aretz*, February 24, 2002.

²⁷ Gabbai, N., Rouch, H., Elnekave, M. Spitz & I. Weissman. (1999) Treatment Decision in Pediatric Dialysis: children's versus parental rights. In: EDTNA/ERCA Journal, XXV, 4, pp. 39-41.

demanding their rights. It is common for one East Jerusalem resident to be married to a Palestinian from the occupied territories, Jordan, Egypt or another Arab country. For the spouse and children to be allowed to live in Jerusalem and maintain family unification, the process is long and involved, and requires a minimal period of 5 years and 3 months. During this time, the family must prove that their "center of life" is in Jerusalem. However, children in these families were denied health benefits during the long process of the unification. Even children born in Jerusalem were denied benefits. This was part of what was known as the "quiet deportation" - a strategic decision to influence the demographic statistics in Jerusalem by denying the right to maintain normal family life and access to services to Palestinian residents. In 1995, the Israel Government adopted a national health plan, which entitled all residents to free health coverage from birth to death. However, the National Insurance Institute, which is empowered to certify health benefits for residents, argued that residency in Israel is a condition for the granting of health insurance and that it is authorized, therefore, to investigate each claimant. The NII determined that non-resident spouses of Jerusalem residents would be covered by health insurance only after receiving temporary-resident or permanent resident status in Israel, a process taking many years.

The NGO HaMoked, (Center for the Defense of the Individual) is located in East Jerusalem and provides free legal and administrative assistance and advocacy for the Palestinian residents of the territories in the West Bank, the Gaza Strip and East Jerusalem.

After a long process of appeals and court cases filed on behalf of claimants under the age of 18, in 2001 the High Court of Justice instructed the National Insurance Institute to confirm health coverage for all children of East Jerusalem residents, even if only one parent was born in East Jerusalem. ²⁰ Further, it was decided that all hospitals and health clinics would supply registration forms. The National Insurance Institute then is to offer a temporary identification number within seven days of registration. This number is then sent to the Ministry of Health and the Health Care Organizations then receive this number for their computers.

The National Insurance Institute then decided unilaterally that this provision apply, however, only to children born in Jerusalem after the implementation of the National Health Insurance Law, in January 1995. While this provision has not been challenged by a court decision as of yet, in practice it does permit the provision of health care benefits to the population most needing it, that of babies, infants and young children needing proper inoculation against the common childhood diseases.

The Israel government still challenges the spirit of this principle of health benefits to children in East Jerusalem by demanding that from the children as well, proof be offered that the child's "center of life" is in Jerusalem. For a baby or infant, not registered in an educational framework and thus being able to offer proof of attendance, this is a nearly impossible task. The National Insurance Institute also still demands the results of an investigation before finalizing registration of many of these children. However, since the beginning of the Al-Aqsa Intifada in September 2000, few investigations are made, as the NII investigating teams claim that it is too dangerous to go into the Palestinian neighborhoods and some of the refugee camps in the area. For example, in the Jerusalem neighborhood of Kfar Akab, one within Jerusalem municipal boundaries and for which the municipality charges annual land

user fees for residents, over 600 families have filed claims for obtaining unification and health insurance, and for whom the requests are not processed due to "lack of investigation." These 600 families include about 2000 children, thus arbitrarily denied the health benefits to which they are entitled by law.

In mid-2001, a joint effort by HaMoked,²⁸ Physicians for Human Rights and the Association for Civil Rights in Israel (ACRI) secured the right medical treatment of children in East Jerusalem in cases where only one of his parents is an Israeli resident. The former policy of the National Insurance Institute had been that children in such cases were not entitled to national insurance from the moment of birth. Instead, eligibility was confirmed only after an extended investigation to ascertain whether Jerusalem was the family's center of life, and after registration of the children at the Ministry of the Interior, or the allocation by the Institute of temporary numbers in place of official identity numbers. The result of this policy was that at a critical stage of life, babies and children were deprived of populations in the State of Israel, and most residents are unable to afford private medical treatment (or receive it from the government of their native country). In March 1999, HaMoked petitioned the Israeli Supreme Court against this procedure. Following the filing of the petition, a settlement was reached with the state stipulating that these children would receive free health insurance from the State of Israel by means of a procedure that should not, as a rule, exceed one week. The children are to continue to receive medical treatments as long as the National Insurance Institute has not conclusively established that they are not residents, including a hearing on this matter. Immediately after birth of the baby, parents must complete a form (printed in Hebrew and Arabic). The form may be submitted in person or by mail, and is distributed at the National Insurance Institute offices, at maternity wards in Jerusalem hospitals, at health fund clinics and at mother-and-baby clinics in the east of the city. The process of affiliating the child to a health provider takes one week. The Court accepted the settlement and incorporated the complete text of the agreement in its ruling.

A recent, and yet small, phenomena which has recently begun to occur is due to the Israeli policy of blockades and closures in the occupied territories. More and more, birthing mothers living in East Jerusalem, are trapped while visiting in the occupied territories and not permitted to enter Israel to give birth. This has resulted in a number of cases of infants who have died during delivery while Israeli soldiers refuse to permit passage to medical facilities. To add harm to injury, in a number of recent cases, the Israel National Insurance Institute and Interior Ministry have refused to permit registration of these children, on the grounds that their mothers "chose" to give birth outside of Israel. HaMoked has begun to act both in the administrative and the legal realms to rectify this egregious discrimination.

Other matters, also under judicial challenge, include the lack of appropriate governmental supported well baby clinics in East Jerusalem as compared to West Jerusalem and the lack of appropriate early child care facilities for young children, which would serve the family support system and would also contribute to appropriate health and nutritional care for children in East Jerusalem.

²⁸ We thank Curt Arnsen for having written this section on East Jerusalem. Also see Ziv, Hadas "Children's Health Rights in Jerusalem, in: Palestine-Israel Journal, vol. IV, no 1, 1997, pp. 61-64

On the Palestinian side, medical personnel have been prevented from entering villages to vaccinate babies. According to the Health Work Committees, 123 villages were without vaccinations for two months in 2000, affecting approximately 150,000 children. Many Palestinian children with metabolic diseases have, in the past, been treated by Israeli experts in Israeli hospitals (such as Professor Orly El Peleg in Sha'arei Tsedek Hospital). Unfortunately, the Palestinian Authority does not allow these children to be sent there (due to a lack of financial means) anymore, and they almost all die. The interruption of vaccinations in towns could lead to re-emergence of epidemics like measles and polio, which were eradicated in 1997 and 1999, respectively. Prenatal, post natal and medical screening and detection programs have also been interrupted. In the last quarter of 2000, there were 109 incidents of denial of access to Palestinian Red Crescent Society (PRCS) ambulances at roadblocks.²⁹

The policy of closures and roadblocks and delays of ambulances and the medical mission of their personnel have a direct impact on medical care, which many Palestinians children require. This policy is unacceptable.

The checkpoints and roadblocks by the IDF have on many occasions led to children and birthing mothers being sent back or to shooting incidents.³⁰

According to Philip Warburg of Adam Teva Ve Din in Tel Aviv, a general phenomenon of areas that are not clearly jurisdictionally defined is that it invites environmental mismanagement, which can cause health concerns. The organization Adam Teva ve Din reports that until environmental dumping in the West Bank is part of a clear national jurisdiction; these problems are likely to continue.

Four children: two from Qalqilia and two from the village of Qusan in Nablus District are suffering from Thalassemia and need regular blood transfusions. Because of the curfew the IDF has imposed on Nablus and many other areas in the West Bank, the four children have been unable to reach Al-Watani hospital in Nablus for treatment. The Civil Administration told Physicians for Human Rights – Israel that the matter was being looked after. The children have not yet been taken to the hospital on the day we go to print with this report. (source: Physicians for Human Rights- Israel, Tuesday April 16, 2002)

Traditional Practices

Article 24.3 states that the State “shall take effective measures” with a view of abolishing traditional practices. A problem that exists within the Bedouin population is ritual female genitalia surgery (RFGS), and female circumcision. Genital mutilation is frequent among Bedouin tribes in North Africa, and the practice is normative in several Bedouin tribes in the Negev desert. However, research by Dr. Bellmaker³¹ of young Bedouin women in Israel has revealed that the cuts made

²⁹ Brochure, The Right to Health. Palestinian Central Bureau of Statistics; Secretariat for the National Plan of Action for Palestinian Children; Defense for Children International--Palestine.

³⁰ Hass, Amira. “Israeli Soldiers Shot Pregnant Women on her Way to Hospital,” in: *Ha'aretz*, February 25, 2002. also see: “Another Stillborn Baby After Soldiers Deny Mother Passage” B'Tselem Research in *Haaretz*, February 27, 2002.

³¹ Bellmaker

amongst this population are less drastic (only small scars on the labia) than in their African counterparts, and seems to be more a symbolic drop of blood than removal of the clitoris. However, Dr. Alean Al-Krenawi of the Ben-Gurion University of the Negev School of Social Work says that there are many different kinds of touch practiced by various tribes; the details are kept secret, so not much information is available. The practice by the Negev Bedouin seems less harmful medically, although the trauma of being held down cannot be ignored. Also, when practiced with dirty utensils, the cut can get infected. Still, as long as this practice is documented among Israeli healthcare workers, the Government is obliged to act against it. Article 24(3) of the CRC requires that States Parties “take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.” In Israel’s State Report to the CRC Committee, no mention was made of female circumcision, although in State Reports to other Treaty Bodies mention was made of this phenomenon among Bedouins. The Association of Civil Rights in Israel (ACRI) concluded that even if the phenomenon is rare and the physical injury is minimal, “failure to take action to prevent the phenomenon still constitutes an abrogation of the State’s obligation....The State must initiate surveys and act through educational, public and legal channels against any injury to young women resulting from this custom. All means possible should be taken to prevent this phenomenon, which has both serious physical and mental ramifications, from occurring.”³²

Interesting is that many Ethiopian immigrant women have undergone full removal of their clitoris in Ethiopia, but the practice completely stopped when immigrants moved to with girls born in Israel.³³

Alean Al-Krenawi and Rachel Wiesel-Lev³⁴ interviewed twelve Bedouin women who had undergone the ritual and twelve who had not.

“A structured questionnaire revealed that women who had experienced the circumcision gave legitimization and cognitive rationalization to it. In contrast, the semi-structured interview revealed that these same subjects reported insult: traumatization, direct negative influences, and narcissistic insult, and described emotional difficulties during the research interviews. The findings indicated that they had difficulties in mother-daughter relationships and trust...It should be noted that the practice of circumcision ritual, and of the extent of genital mutilation caused, varies across the Bedouin-Arabs of the Negev. While some tribes have abandoned the practice, other tribes still practice it. IN Arabic, the ritual is called “Thoor” [circumcision]—the same word used for male circumcision, which is obligatory for all male Muslims. The root of “Thoor” comes from the word “Taharah” [purification], and the stated purpose of this act is to make the girl “pure.” Thus, “Thoor” covers such a wide range of kinds of circumcision that it is imagined by outsiders to be nothing more than a relatively harmless ritual

³² ACRI, The Association for Civil Rights in Israel, Comments on the Combined and Initial First Periodic Report Concerning the Implementation of the International Covenant of Civil and Political Rights (ICCPR), Submitted to the United Nations Human Rights Committee, July 1998.

³³ Bellmaker, R.H. Ritual Female Genital Surgery Among Ethiopian Jews, in: Archives of Sexual Behavior, (1997), vol

³⁴ Al-Krenawi, Alean and Wiesel-Lev Rachel. Attitudes Toward and Perceived Psychological Impact of Female Circumcision as Practiced among the Bedouin-Arab of the Negev, in: Family Process, vol. 38, no. 4. (1999) p. 431-443.

initiation. But female circumcision, as practiced among the Bedouin-Arabs, is often a euphemism for female mutilation. It is a sacred women's ritual performed by women."

AL-Krenawi and Wiesel-Lev report that: "...feelings of fear, shame, anger, and helplessness are created out of this experience even among those in Group 1 who spoke positively about the value of their circumcision." Their findings showed that the subjects "who had been circumcised expressed various emotional difficulties, as well as psychosocial problems, such as the loss of trust within the mother and daughter relationships." They recommend that "social interveners try to bring about a change in at least the way ritual circumcision is carried out; for example, trying to encourage their clients to perform it under adequate medical conditions; to raise the age-level of girls; to explain the procedure to the girls; and to enable girls not only to express their views regarding the ritual, but to accept their decision about whether or not they agree to submit to it. On the community policy level, it is recommended that programs for sex and health education be developed that can be delivered by female nurses."³⁵

A serious public debate about Article 24 (3) of the CRC and of a public health issue³⁶ has not taken place.

International Cooperation

The Faculty of Medicine and Hadassah Academic Hospital in Jerusalem provide courses in public health which (Article 24.4) "take account of the needs of developing countries). We regret that the Initial State Report does not refer to these important courses which are attended by students from Africa, Asia and progressively more of the Former Soviet Union countries. In the past, Palestinian students used to attend as well.

ARTICLES 26—SOCIAL SECURITY

The Ministry of Labor and Social Affairs defines poverty rates proportionally, according to the family size, like in other welfare states. The NIS measures relative poverty. This year the average income went up compared to last year. Hence a household of one person need only have a monthly salary roughly one-fourth the size of that of a family of 8 in order to be defined as poor:

Table 3
Poverty Line in Israel by Family Size

Number of Family Members	Poverty Line 1995 (New Israeli Shekels)	Poverty Line 1996 (NIS)	Poverty Line 1999 (NIS)	Poverty Line 2000 (NIS)
1	1,058	1,200	1611	1672
2	1,693	1,920	2577	2676
3	2,243	2,544	3415	3546
4	2,279	3,071	4124	4282
5	3,174	3,599	4833	5018
6	3,598	4,079	5477	5687
7	4,021	4,559	6121	6356

³⁵ See Also: Al-Krenawi, A. & Graham, J.R. (1999). Social work practice and female genital mutilation. *Social Development* Issue, 21 (1), pp. 29-36.

³⁶ Toubia, N "Female circumcision as a public health issue." *New England Journal of Medicine*, 331:7122-716. (1994)

8	4,402	4,991	6701	6959
9	4,740	5,375	7217	7494

Source: The National Insurance Institute, Office of Research and Planning. One American Dollar in 1995-6 was approximately equal to 3.5 New Israeli Shekels.³⁷

According to Dr. Jonny Gal, social policy expert of the School of Social Work of the Hebrew University the level of poverty in Israel is relatively high as compared to other welfare states. This is because there is a lower level of participation of men and women in the labor market. Less than half of women work and 60% of men do. Many families depend on one income or a second income which is relatively low. Not many Haredi (Ultra Orthodox) men work, they study in Yeshivot and not many Arab women work. There are relatively many children (as compared to other welfare states). In sum there is less money but more mouths too feed.

In Israel, the *Large Families Law* is a bill meant to help larger families. Under amendments to this law which took place in the late-1990's, a one- or two-child family receives monthly child allocations of NIS 170 per child, while a larger family receives much more per child from the fifth child on. Initiated by ultra-Orthodox parties, the *Large Families Law* is designed to enlarge State subsidies for families of ultra-Orthodox men who learn *Torah* in *Yeshivot* who often have large families. According to the *Large Families Law*, the State provides monthly child allowances for the fifth child which are five times higher than for the first and second children (NIS 850, as opposed to NIS 170). Allocations for families with ten children increased by NIS 1,500 per month, reaching a total of NIS 6,500—enough for the parents to support their families without working. Arab families, which also tend to be large, benefit as well. However, parents of families with one or two children are aided very little by the monthly child allocations as a result of the low rates they receive.

The Na'amat Women's Organization³⁸ pointed out to us that according to the legal regulations of child support, if a single father does not pay child-support to his ex-wife, the National Insurance Institute will do an independent evaluation which is separate from the courts and will pay her an allowance based on her income, which can result in little or no support for the mother. This policy not only discourages mothers from working, but is unfair as well. Most single parents who take care of the children are mothers, and we believe that the courts should utilize more tools to enforce the law on fathers who do not pay child-support. The National Insurance Institute should in our opinion encourage single parents to work and develop, because this is the best interest of the child.

The National Insurance Institute continues to infringe upon the social rights of residents of East Jerusalem. Here, too, intervention by human rights organizations or attorneys is often the only way to insure the practical implementation of court rulings. For example, the Supreme Court ruled that the National Insurance Institute must provide prior written notification in cases when it intends to remove individuals from the list of those entitled to services in accordance with the National Health

³⁷ We thank Lea Agdud of the Office of Research and Planning of the National Insurance Institute in Jerusalem for providing us with their data.

³⁸ We thank Advocaate Galli Etzion of Na'amat for this information.

Law, and must offer them a hearing. In several cases, HaMoked was forced to intervene in order to restore names to the list that were removed in contravention of this procedure. Nevertheless, some improvements have been seen. For example, the National Insurance Institute's East Jerusalem office now accepts many forms by mail, rather than requiring applicants to present the forms in person. Following complaints by several organizations, including a complaint by HaMoked after a pregnant woman miscarried after being required to stand in line, the Director-General of the National Insurance Institute informed HaMoked that several changes had been introduced.

DCI-Israel and MK Ilan Gilon³⁹ complained after having made several visits to the N.I.I. office in East Jerusalem about the terrible conditions which included people having to actually stand in line in order to be given health insurance by the Israeli government by filling out forms in Hebrew, a language which they do not even know. Some promises for improvement were made.

Child Allowances, which families receive upon the birth of a child, are granted automatically by the National Insurance Institute (after registration) as a form of child support for families, paid according to the number of children.

In Israel, the *Large Families Law* is a bill meant to help larger families. Under amendments to this law which took place in the late-1990's, a one- or two-child family receives monthly child allocations of NIS 170 per child, while a larger family receives much more per child from the fifth child on. Initiated by ultra-orthodox parties, the *Large Families Law* is designed to enlarge State subsidies for families of ultra-orthodox men who learn *Torah* in *Yeshivot* who often have large families. According to the *Large Families Law*, the State provides monthly child allowances for the fifth child which are five times higher than for the first and second children (NIS 850, as opposed to NIS 170). Allocations for families with ten children increased by NIS 1,500 per month, reaching a total of NIS 6,500—enough for the parents to support their families without working. Arab- Israeli families, which also tend to be large, benefit as well. However, parents of families with one or two children are aided very little by the monthly child allocations as a result of the low rates they receive.

ARTICLE 27—STANDARD OF LIVING

We believe that Article 26 (Child's Right to Benefit from Social Security), Article 27 (Adequate Standard of Living) and Article 18 (Parent's Joint Responsibility Assisted by the State) are somewhat interconnected, because they all deal with social protection.

There is a recent important High Court decision dealing with the standard of living for children of divorced parents.: *Prof. Jossi Gamzu v. Naama Isaiau* of March 2001. The case relates to the relationship of two divorced parents and their respective responsibilities to child maintenance. In this decision, the highest court of the land, under chairmanship of its President, defined the standard of living for the purposes

³⁹ Anosh, Agar, "3 Hours on Line Just to Get a Number; Visit of DCI-Israel and MK Ilan Gilon to the National Insurance Institute in East Jerusalem," in: *Yediot Aharonot*, December 15, 1999.

of child maintenance as the *minimum standard of living* rather than a *decent* standard of living. The CRC speaks about a standard of living adequate for the child's physical, mental, spiritual and social development. The consequence of the decision is that fees for divorced parents cannot be claimed according to a probable standard of living or a decedent standard of living, but only on the basis of minimal standard of living. So, people have the right to a *minimum* standard of living⁴⁰, as the Supreme Court decided, not a *decent*, probable, or what the CRC described as an adequate standard of living. Again, we see here how much we lack a Basic Law on Social Rights. A law that did pass was the Basic Families Law.

Poverty

Israel is a State whose transition from a largely socialist, state-controlled economy with good social services to a more free-market, privatized economy was rapid; the process took place mainly during the optimistic years in the mid 1990's, during a time of great optimism for the region. At that time, the flourishing high-tech economy left behind large numbers of Israelis, many of them children, who did not benefit from the economic boom but rather suffered from the declining stress on social issues within the Israeli Government. Today, Israeli President Moshe Katzav openly admits to being "embarrassed to look into the eyes of those suffering families."⁴¹ His statement was issued at the first Socio-Economic Conference, part of a series of conferences undertaken by the Government to establish a response to the social crisis that is worsening in Israel at a rapid pace.

In the year 2000, 17.6 percent of Israeli families were defined as poor, meaning that nearly one out of every five families living in poverty. Yet the bottom two deciles of the country's workers earn less than 3 % of the country's income. Data pertaining to the year disclosed that, **one out of every four children in Israel is living below the poverty line**. In 2000, 480,000 children, or 25.2% of all children in Israel were poor.⁴² Bnei Brak and Jerusalem, the two areas with the largest concentrations of ultra-Orthodox Jews, are the two poorest cities in Israel. This poverty translates to direct health effects for children suffering from it; while malnutrition was once rare within the Israeli child population, school principals, teachers, and other caretakers now note an increase in cases of malnourished children.

Unfortunately, in terms of child poverty incidence and the requirements of Articles 26 and 27 of the Convention, Israel no longer has any relative accomplishments to speak of. Whereas once, Israel had one of the most equitable distributions of wealth in the democratic world, now economic gaps are growing as a result of privatization and economic growth paralleled by minimized government redistribution efforts, leaving children the most affected. Child poverty rates in Israel have been steadily on the rise in recent years, both before and after redistribution and taxation:

Table 4

⁴⁰ We would like to thank advocate Yuval Elbashan of the Academic College of Law in Ramat Gan for pointing this out to us.

⁴¹ Bassok, M, *Ha'aretz*, December 5, 2001.

⁴² We thank Haela Cohen of the National Insurance Institute in Jerusalem for reviewing these data with us.

Poverty Rates in Israeli Child Population, 1992-2000 (percentages)

Year	Before Redistribution and Transfers and Taxes	After Transfers	After Transfers and Taxation
1992	31.9	19.3	21.3
1993	33.0	20.8	22.1
1994	34.5	22.0	22.8
1995	35.2	21.2	23.2
1997	33.3	18.2	22.0
2000	35.7	20.5	23.2

Source: The National Insurance Institute, Office of Research and Planning. Translated from the National Council for the Child's Child Poverty in Israel. Does not include East Jerusalem.

Furthermore, the National Insurance Institute has not been keeping up with the increasing number of children living in poverty. The number of poor children registered by the National Insurance Institute has not come close to the actual number reported in annual census data:

Table 5
Poor Children in Israel After Taxation and Welfare Redistribution, 1997-2000 (Absolute Numbers)

	1997	1998	1999	2000
Of Total Child Population	401,300	400,600	466,500	481,100

Table 6
Comparison of Poverty Rates Among the Child Populations of Various Countries (Percentages)

Country	Poverty Rate Before Welfare Redistribution and Taxation	Poverty Rate After Welfare Redistribution and Taxation
Finland	12	3
Sweden	19	3
Denmark	16	3
Belgium	16	4
Norway	13	5
Holland	14	6
Italy	12	10
Canada	23	14
Australia	20	14
United States	26	22
Israel	33	22

Source: UNICEF, The State of the World's Children, New York 1996. www.unicef.org

In 2000 the poverty rate among Jewish children was 19.5%, in comparison to 37.7% among non-Jewish children.⁴³ But ethnicity is not the only form of social inequality rapidly advancing in Israel. Currently, single-parent families live in much more difficult financial situations than their two-parent counterparts. In 1997, 170,662 children lived in families which received aided income. Close to 50% of these children hailed from single-family households, whereas only 21% had two working parents for whom welfare was used primarily as income enhancement.⁴⁴

⁴³ Kadman, Y. "Children's Rights in Israel: the Half-Empty Cup," Children in Israel: On the Verge of the Next Century. National Council for the Child, May 1999. p.12.

⁴⁴ Kadman, Y. *Ibid*, p.11

The Israeli Organization, *Latet*, distributes food among the Israeli poor, as well as in Malawi, India, Goma (Congo) and Nepal. They are of the opinion that the government report on poverty gives an embellished picture. It only looks at how much money people have and not if there is food in the home. For instance, drug addicts get money, but their children are still left without food, because they use their money to buy drugs. *The Economist* reported Israel's GDP as having decreased 2.7 percent over the last year, with industrial production decreasing by 9.6 percent and consumer prices increasing by 1.4 percent. Trade balance decreased by 7.1 billion dollars, leaving the current account at a negative 3.6 billion-dollar deficit. The foreign reserves were recorded at 22.9 billion- dollars.⁴⁵

One of the many NGO's working in the field is the Association Tal Haim, in the city of Petah Tikwa. Mrs. Esther Batist of the Association (herself a child of impoverished concentration-camp survivors) sees her battle as one to save children from falling into a "poverty mentality."⁴⁶ She tries to spread the message that it is not shameful for poor families to make necessary budget and spending adjustments in order to make ends meet, rather than going more deeply into debt. She says that managing with limited income is not something to be ashamed of; to the contrary. Even poor people can volunteer and be proud of their contributions to the community. Mrs. Batist helps families (like two families sharing one apartment or a mother of 13 children with mismatching furniture who manages nonetheless) to feel proud and not to have a negative self-image. The "I Care" project of the Tal Haim organization teaches kindergarten students in poor neighborhoods to save five agurot a day (half a penny). At the end of each month, a class can buy a gift for someone else, and everybody feels proud. "The right to give," says Esther "is not only for the rich." A big part of a positive self-concept is being able to give, "as the scriptures say, benevolence comes before love."

The Community Advocacy Association ("singur kehilati") in Jerusalem knows many (and a growing number of) families who are dependant on food banks. When the period of handouts by the food banks are over they can not give children sandwiches to bring to school and have no food for the holidays.

According to Guy Erlich, chairman of Wellspring for Democratic Education in Israel,⁴⁷ an organization which works in poor neighborhoods:

"The growing social gaps in Israel are feeding the barriers that prevent disadvantaged groups from participating in mainstream economic, political, and social processes, and are opening the doors for groups who are able to exploit these barriers for their own undemocratic purposes. In neighborhoods with little opportunity for advancement, these parties gain support by offering their school system as the alternative, particularly to ineffective public education...The alternatives are scarcely available to those who cannot afford them. Wellspring is endeavoring to present an alternative by bringing the benefits of private education to disadvantaged neighborhoods and thus catalyzing a bottom-up process that breaks

⁴⁵ *The Economist*, February 9th-15th. Note that consumer prices increased (while salaries in most cases stayed the same).

⁴⁶ Interview with Esther Batist of the Tel Haim Association by Philip Veerman, March 7, 2002.

⁴⁷ Interview with Guy Erlich, Chairman, Nazeeh Ahsari, coordinator in East Jerusalem, March 3, 2002, Jerusalem.

down the barriers to advanced education... On the other side of the gap, the affluent neighborhoods are also seeking alternatives to public school education: private lessons are increasingly seen as educational requirements rather than supplements in the preparation of young people for the rigorous demands of the modern work place."

Wellspring offers (for a small fee or for free) computer classes, English lessons, and summer camps. They have come to the conclusion that the government neglects the poorest neighborhoods, where they focus their activity. The government bureaucracy works well in responding to specific populations (such as youth at risk) as opposed to the work of Youth Advancement departments of municipalities or the Ministries of Education or Labor and Social Affairs. Wellspring's criticism stems from the fact that the government likes to come up with a "key" to some specific sub-populations, but remaining open to be able to respond to specific and changing needs is beyond bureaucratic possibilities. The poorest populations often do not fit the criteria of projects of the government.

These disturbing poverty levels for Israeli children do not even approach the level of economic strife suffered by Palestinian children in the Occupied Territories. According to the World Bank, nearly 32% of the Palestinian population were living below the poverty line at the end of 2000. Prior to the Intifada, the poverty rate was 21.1%. Israeli closures on Palestinian areas created a harsh impact on the Palestinian economy, with no compensation. As an economy highly dependent on Israel, the conditions in Palestine decline enormously when Israel discontinues its employment of Palestinians—with drastic effects for Palestinian children.⁴⁸ We leave it to the Palestinian NGO Reports to discuss the economic devastation of Palestinian children in greater detail.

In April 2002, the Association Bustan-Shalom which helps Palestinians and also Israeli poor people reported that families are hungry and crippled by the war economy. Clinics and hospitals have depleted their stocks of medical supplies.

A topic related to the CRC's protection of a decent standard of living, yet not mentioned in Israeli laws, is the right to housing. Israeli law provides rules for mortgages and loans for homebuyers, and low-income rental subsidies for families. It does not, however, stipulate any State responsibility to provide a home for families who cannot afford housing. The Government ceased building public housing compounds in 1972, thereby creating long waiting lists for subsidized housing.

The Association for the Right to Housing claims that in this respect, the Ministry of Housing will only aid families who fall into certain financial and social criteria, including having three or more children. The Ministry of Housing will also disqualify a family from public housing if its income falls above the monthly line of NIS 3,500. Thus, one-parent families with few children are often in an incredibly difficult situation after a divorce, yet are left to fend for their own housing. Such families are known to move from one apartment to another searching for cheaper solutions, after being expelled for not paying rent. Children must move from

⁴⁸ Brochure, The Right to an Adequate Standard of Living. Palestinian Central Bureau of Statistics; Secretariat for the National Plan of Action for Palestinian Children; Defense for Children International--Palestine.

neighborhood to neighborhood, from school to school. In many such families, as much as 80% of the income goes towards rent prices (which are overall unusually high in Israel, as a result of minimal land availability). This hardly leaves the families anything for food, clothing, and other necessities. The Association for the Right to Housing maintains that 450,000 families in Israel need urgent solutions to housing problems. The Association maintains that housing subsidies through the Ministry of Housing, whose availability is mentioned in the State Report, are rarely ever accessible to those who need them.

Under Art. 27, the Right to Housing is also reviewed. There is no law in Israel giving one the right to housing. The Association for the Right to Housing claims that the housing subsidies via the Ministry of Housing which the State Report claims to give, are hardly ever provided. The fund for investment in public housing out of which the Ministry of Housing is supposed to take money, does not, in practice, function. Sixty thousand families are waiting for public housing facilities. The government contributes to rent for thirty-six months, in a symbolic and temporary contribution. The only thing that is arranged by law is rules for mortgages and loans provided for the purchase of a house.

According to ACRI:⁴⁹

“Rents in major cities in Israel are some of the highest in the world. Because of this, families are often forced to take out mortgages they cannot really afford in an attempt to buy a home. Indeed, one of the reasons Israel has one of the highest home ownership rates in the world is that high rents force people to buy – even if they cannot afford it. Many families ultimately lose their homes as a result of their inability to maintain high mortgage payments.”

They say that high priority is given to Jewish communities over the Green Line, and that some Jewish families have incentive to move to communities West Bank and Gaza, where housing prices are considerably lower than in big cities such as Jerusalem or Tel Aviv.

The Association for the Right to Housing complains that if parents cannot buy a house, the State does not take responsibility to provide one, because there is no legal obligation for them to do so. Since 1972, the government has not been building public housing facilities, creating waiting lists for public housing apartments. The Association claims that the Ministry of Housing only considers eligibility for families with three children and more. If the gross income of the family is above NIS 3,500 monthly, they are no longer eligible. Single parents are only eligible to obtain public housing if they have three children or more.

Single parent households are in a more difficult situation because they are often coming off of divorce (dividing what they had together in half after debts to the bank are fulfilled). In addition, there are usually small children to consider (with higher costs for diapers and the like), and no second income to help. They move from apartment to apartment, always looking for cheaper solutions or after having been

⁴⁹ ACRI, Association for Civil Rights in Israel, Comments of the Combined Initial and Second Periodic Report of the State of Israel Concerning the Implementation of the United Nations Covenant Economic, Social And Cultural Rights, (CESCR), Jerusalem, November, 1998.

evicted after half a year for not paying rent. All the while, the children must move from neighborhood to neighborhood and school to school. Often, 80% of the income goes to housing, not leaving much for food, books, housing, leisure activities for the child, etc. Many families have debts to the neighborhood mini-markets (Makollets) and are no longer allowed to buy from them. When debt-collectors come to take TV sets out of the home, it has a great impact on the children. The Association for the Right to Housing expresses criticism of the State Report and believes that it embellishes the figures in this regard and claims that 450,000 families need urgent solutions for housing

Perhaps the most fundamental -- and bitter -- struggle between the Israelis and Palestinians since 1967 has been over land. Here, where national conflict intersects with personal lives and Palestinian families try to carve a semi-normal existence under occupation, human suffering is the greatest. For people impoverished, humiliated and living under conditions of extreme instability, owning a parcel of land and a family home assumes an importance far beyond mere shelter; they represent the one place in the world where security and dignity are assured.⁵⁰

In a precedent setting decision delivered on September 5, 2001, the Supreme Court ordered the district planning committee to re-examine and resubmit the plan for Kammaneh, an unrecognized Arab village in the Galilee. The court also prohibited the demolition of homes and the removal of residents.

Amnesty International claims that since 1967 almost 8000 Palestinian homes have been destroyed on the West Bank and in Arab East Jerusalem, some 2000 since 1987, leaving more than 30,000 people homeless, destitute and living in fear and trauma. (Obviously many were homes of leading terrorists who were the brains behind endless bombing and suicide attacks of civilians.)

A second "front" in this struggle to contain Palestinian housing is East Jerusalem, where the vast majority of the city's Palestinian residents live, but whose presence in the city Israel is trying to reduce. Here are some basic realities to consider:

- Palestinian residents of Jerusalem are confined to highly circumscribed parts of pre-1967 Jordanian "East Jerusalem" (including the Old City and the commercial downtown of east Jerusalem). This area of 70 km² (70,000 dunums/17,600 acres) constitutes more than half of Jerusalem's total urban area. Since 1967, 35% of the land comprising East Jerusalem has been expropriated for Israeli neighborhoods, roads and other facilities, while another 54% is forbidden for Palestinian construction (for such reasons as security, zoned "green spaces," and new Jewish neighborhoods). That leaves only 11% of *East* Jerusalem is available for Palestinian housing and other needs, only 6% of the city's total urban space. The reasons for this are several:

- While Palestinians are confined to small patches of East Jerusalem, Israelis have access to large areas in both the eastern and western parts of the city. Between 1967-1995, 76,151 housing units were built in *East* Jerusalem. 88% of them (64,880) were built for Jews with government subsidies and other kinds of support, and only

⁵⁰ This part was prepared by Professor Jeff Halper of the Coalition Against House Demolitions.

12% (8,880) for Palestinians – although all of these on private property and with private financial resources. *None* were built for Palestinians with any kind of public financing. As of 1996 there were 23,073 Arab housing units in Jerusalem, most of them overcrowded (2.2 persons per room, vs. 1.1 in the Jewish sector). To meet only the existing needs of the Palestinian population, an additional 21,000 units must be built. The Municipality grants 150 permits a year for Arab housing and demolishes between 20-50 homes a year. 10,000 Palestinian housing units have been declared “illegal,” some 2000 demolition orders are outstanding. In the first days of 2002, the Jerusalem Municipality destroyed 32 buildings in East Jerusalem, compared with seven in West Jerusalem.⁴⁸

- Securing a building permit does not guarantee adequate housing. In most cases Palestinians are permitted to build on only 25% of their land, so if they have a small plot (which most working-class Palestinians in Jerusalem do), the house they are allowed to build is small as well. Additional rooms added as the family grows or due to the inability of married sons to obtain building permits for their own families, thus forcing them to continue living with their parents) are often demolished. A basic house might stand, but it cannot be enlarged to accommodate a growing family’s needs. By contrast, Israeli contractors are allowed to build at rates of 150% or more of the size of the property. Jewish-Israelis, then, are able to acquire roomy apartments in medium- or high-rise buildings, or are able to purchase spacious “villas.” While no law prohibits Palestinians from buying on the open market as well, the hostility and violence they would face from their Jewish-Israeli neighbors is enough to dissuade them from moving outside the confines of their own crowded quarters.

- Demolition of Palestinian homes in Jerusalem is carried out by both the Municipality and the Ministry of Interior (except for an occasional porch or other minor additions, Jewish-Israeli homes are not often demolished). Securing a building permit does not guarantee adequate housing. In most cases Palestinians are permitted to build on only 25% of their land, so if they have a small plot (which most working-class Palestinians in Jerusalem do), the house they are allowed to build is small as well. Additional rooms added as the family grows or due to the inability of married sons to obtain building permits for their own families, thus forcing them to continue living with their parents) are often demolished. The figures for demolitions in East Jerusalem are as follows:

Table 7

1988 – 30
1989/91 – unknown
1991 – 12
1993 – 48
1994 – 29
1995 – 25
1996 – 17
1997 – 16
1998 – 25
1999 – 31
2000 -- 9

⁴⁸ “Jerusalem Demolishes Two More Homes,” in: *Ha’aretz*, February 5, 2002.

2001 – 48

2002 -- 9 (until mid-January)

(Source: B'tselem; LAW, Jerusalem Municipality)

The Municipality and Interior Ministry often work at cross-purposes according to different policies. Thus agreements to end house demolitions in particular Palestinian neighborhoods may be accepted by one but not the other, making it impossible to resolve this painful issue.

Discrimination against Palestinians exists also in the provision of municipal services. The Palestinian population comprises some 30% of the city's population but receives only 11% of the municipality's budget. Much of East Jerusalem is lacking such basic services as sewage systems, roads, parks, lighting, schools and community services.

Israeli human rights organizations are concerned about the many house demolitions in the West Bank. Here are some statistics on house demolitions.

Table 8

1987 – 103

1988 – 393

1989 – 347 (including East Jerusalem)

1990 – 102 (including East Jerusalem)

1991 – 227 (including East Jerusalem)

1992 – 148

1993 – 63

1994 – 120

1995 – 43

1996 – 140

1997 – 233

1998 – 150

1999 – 69

2000 – 12

2001 – 680+

2002 -- 60 (until mid-January)

TOTAL: 2,462

(Sources: B'tselem; LAW, Amnesty International, Jerusalem Municipality, UNRWA)

The human suffering entailed in the process of destroying a family's home is incalculable. One's home is much more than simply a physical structure. It is one's symbolic center, the site of one's most intimate personal life and an expression of one's status. Land expropriation is another facet of home demolition, an attack on one's very being and identity. Demolition is a different experience for men, women and children. Men are probably the most humiliated, since loss of one's home means loss of one's connection to family and the land – and ultimately to the inability to secure a dwelling and well being for your family. Men often cry at demolitions (and long after), but they are also angered and swear revenge, or plan to build again. For women the loss of the home is the loss of one's life. Women, for whom the house is sometimes their entire world, tend to sink into mourning; their behaviors – crying, wailing and then depression – very much like those of people who have lost loved

ones. The demolished home can never be replaced, and any women undergo personality changes after demolitions, becoming more sullen or moody, often frightened by small sounds or unexpected events, prone to break into crying.

Since March 2, 2002 Palestinians are given a 48-hour stay to appeal the possible destruction of their home. “The IDF’s statement came during a hearing at the High Court on six petitions to prevent the demolition of 40 homes in the Gaza Strip, most of them along Kissufim route near Netzarim.”⁵²

For children the act of demolition – and the months and years leading up to it – is a time of trauma. To witness the fear and powerlessness of your parents, to feel constantly afraid and insecure, to see loved ones (relatives and neighbors) being beaten and losing their homes, to experience the harassment of Civil Administration field supervisors speeding around your village in the white Toyota jeeps – and then to endure the noise and violence and displacement and destruction of your home, your world, your toys – these mark children for life. Although psychological services are missing in the Palestinian community, Palestinian colleagues reported to us that there are many signs of trauma and stress among children: bed-wetting, nightmares, fear to leave home lest one “abandon” parents and children to the army, dramatic drops in grades and school-leaving, exposure to domestic violence that occasionally follows impoverishment, displacement and humiliation.

The deep-seated trauma is evident in this story told by Salim Shawamreh, a Palestinian from the village of Anata near Jerusalem, whose house has been demolished three times between 1998-2001.

“When our house was demolished I moved my wife and seven children to a rented apartment in a northern Jerusalem neighborhood populated solely by Palestinians. During the Intifada in late 2000, Israeli helicopter gunships and fighter planes frequently flew low over our home to attack nearby Ramallah... ‘I said to my nine-year old daughter, Lina, ‘Don’t worry, I’m here, I’ll protect you.’ Do you know what she answered? She answered that ‘You can’t protect us. I saw what the soldiers did to you when they kicked you and threw you out of the house before they demolished it. You can’t protect us.’”

ACRI stated:⁵³ *“A family whose house is demolished is left with no dwelling. The State does not investigate a family’s living alternatives before the demolition order is carried out. This is despite the State’s obligation to refrain from leaving people without a place to live as a result of eviction, and to secure alternative housing for anyone forcibly evicted from his home. In most cases, the residents whose house was destroyed build a temporary tent next to the ruins of their former home. Bills submitted by several Members of Knesset to forbid the demolition of a building*

⁵² Reinfeld, Moshe “48-Hour Warning for Palestinians ahead of home Demolitions.” In Haaretz, March 2, 2002; an article which describes psychological stress in such situations is: Hugh Butts and Heather Butts, ‘Housing Bias and Post-Traumatic Stress Disorder’ in: *Mind and Human Interaction*, vol. 8, No. 4, Winter (1977) pp 261-265. see also Samir Qouta, Raija-Leena Punamaki and Eyad El Sarraj, House Demolition and Mental Health: Victims and Witnesses, in: Journal of Social Distress and Homeless, vol. 6, no. 3 (1997) pp. 203-211

⁵³ ACRI, Association for Civil Rights in Israel. Comments on the Combined Initial and Second Periodic Reports of the State of Israel Concerning the Implementation of the United Nations Covenant on Economic, Social and Cultural Rights (CESCR), November 1998.

whose residents have no alternative accommodation, did not pass, due to the government's objection."

Delegates of Amnesty International reported⁵⁴ that areas "of Palestinian homes which we had visited several times over the past year were now razed to the ground for alleged security reasons but apparently as collective punishment. It is unacceptable that without warning or legality tanks and bulldozers demolish the homes of hundreds of families, including thousands of children."

A free-flow of relief goods to Palestinian children in the West Bank and Gaza by the International Committee of the Red Cross (which has a special mandate to act in times of armed conflict) and relief agencies was not possible during the incursions in March/April 2002. This affects their capacity to deliver relief goods, and this is unacceptable.

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. Can the government revise the criteria of the National Insurance Institute for who is considered a child with disabilities?
2. Can the government add a specialist in genetic diseases to the committee of the National Insurance Institute which decides who is recognized as a child with disabilities?
3. Can the government take responsibility to create and provide solutions for young (0-3) children who are likely to have autism?

⁵⁴ Amnesty International, Press Release. February 5, 2002, no. 23.

4. Can the government do more to ensure that the basket of services for children with disabilities will be personalized to the needs of every particular child?
5. Can the government be more helpful in finding solutions to relieve exhausted parents of children with disabilities over holiday periods?
6. What is the Government doing to ensure that well baby clinics and (mother and child clinics) are equally distributed across the population, including in unrecognized Arab/Bedouin villages?
7. What investments will the government make in order to close the gaps between mortality rates in the Jewish-Israeli and Arab-Israeli sectors?
8. Can the government reduce the level of destroying illegally built homes of families with children within the Arab-Israeli and Palestinians sectors to the level in the Jewish-Israeli sector?
9. **Can the government make a positive contribution to reduce child poverty over time?**

VIII. Education, Leisure and Cultural Activities*

Education in Israel comprises 9% of the state's annual expenditure. Approximately 1,150,000 students are studying in the state's educational system, comprised of lower, primary, secondary, and upper secondary schools. Eighty-one percent are in

* This chapter was rewritten by Dr. Ruth Firer, Director of Peace Education Projects, the Harry S. Truman Institute for the Advancement of Peace, the Hebrew University of Jerusalem and board member of DCI- Israel.

the Hebrew sector, 14% in the Arab sector, 3% in the Bedouin sector and 2% in the Druze sector. Teachers are state employees, and the schools are either state-owned or owned by the local authorities. Over 50% of the teachers hold advanced degrees. The government expenditure on education per student has risen sharply during the 1990's, from 4,437 NIS in 1992 to 7,020 NIS in 1998. In the majority (Hebrew) sector, 77.4% of the children are enrolled in regular state schools, 18.1% are in state-religious schools, and 4.5% are in independent schools, including ultra-Orthodox schools. Ten percent of the total secondary school student population is in state boarding schools. Approximately 47% of the general 12th-grade student population is eligible for a matriculation certificate by the end of the school year, having completed and passed the matriculation exams.¹

We want to point out a collision between parents' rights and children's rights with respect to education of children from the Ashkenazi and Sephardi Jewish Ultra Orthodox Communities. On the one hand, the parents have the right to have their children educated in the way they see fit and on the other hand the right of the child to receive reliable information about the modern world. The Israeli government has obligations under the Convention (article 29). We recognize that the one way a State could operate is to enforce education against the will of the parents and we are not for this approach. However, we wonder if a core curriculum (sciences, what a child needs to know about modern society) cannot be removed from schools if they want to receive government funding. This illustrates how much this framework is indeed closed and separate. Our proposal is to impose a core curriculum. It is also important to note that schools of the Ashkenazi and Sephardi Ultra-Orthodox communities receive more money than other schools.²

Some of these schools (mainly in the Sephardi community) teach arithmetic, geography, and Modern Hebrew (and not only the original Biblical Hebrew). In general, in Ultra Orthodox Jewish schools, classes are smaller, there are longer hours, warm meals are provided, etc. Education for boys starts at 3-4 years of age in a *heder*, *Katav*, or *Talmud Torah*. This continues until age six, seven, or eight, depending on the progress of the pupil. Then begins the *Yeshiva Ketana*, (equivalent to a Junior High School) where studies intensify and expand to include studies all sorts of great Jewish thinkers like Maimonides, and of course the two-thousand year old *Talmud*. This continues in *Yeshiva Gedola* where studies can last for ten hours a day. After young men marry, some choose to continue their studies in a *kollel* for several years, during which time they are not required to go to the army.

ARTICLE 28—THE RIGHT TO ACCESSIBLE AND RESPECTFUL EDUCATION

When the Soharei G.I.L.A.T. Association's Educational Institutions ceased to receive funding, the Association³ petitioned the case to the Supreme Court. The

¹ The State of Israel, The Ministry of Education, Culture and Sports, Facts and Figures about Education and Culture in Israel, 1994.

² interview with Professor Zvi Lamm, Professor Emeritus of Education, Hebrew University of Jerusalem, December 16, 2001.

³ *Soharei G.I.L.A.D. v. Minister of Education and the Ministry of Education*, 1554/95, Supreme Court. And (*Ezra*) *Yitzchak et. Al. v. Ministry of Education*, 7715/95, Supreme Court; we thank Mrs.

Association wanted to appeal the fact that most of the budget went to strong populations so that the Ministry could show results in the statistics, not provide money to the most needy. They lost the appeal, but it revealed a shocking thing: one of the justices had based his decision on the fact that the right to education has no constitutional recognition in Israel. The case (with its 43 page decision) revealed that we might have good laws, but that some basic things are not yet arranged.

A problem in the Arab sector is that there are not enough classrooms available. Much less construction takes place in Arab schools than in Jewish schools. A staff-member at the Arab Teachers College in Haifa, Dr. Habib Allah, explained at a hearing⁴ on the implementation of the CRC in Israel; that this is the consequence of discriminatory policies (as we already discussed in chapter IV, article 2).

By going to the Supreme Court, the Arab-Israeli minority succeeded in getting more equality. The Agabria case⁵ had the Ministry of Education declare that they would now be ready to include Arab schools in the long school day introduced in some schools in disadvantaged areas. The follow-up committee on Arab education petitioned the Supreme Court to compel the Ministry of Education to provide academic enrichment (Shagar) programs equally to Arab and Jewish children. The Court accepted this being equally implemented.⁶

Article 28 of the Convention requires that States make primary education free and compulsory. Discipline in schools must be conducted in a manner that is respectful to the child. Higher education and vocational training should be made accessible. Indeed, with very few exceptions, education is accessible to all children, and higher education is affordable and of high quality.

The exceptions to the easy availability of education in Israel are unrecognized Arab villages and certain Bedouin communities who have permanent residences but no schools close by. In the unrecognized villages, schools do not receive adequate funding from the Government because of the high number of unregistered children, who lower the official child population count. And in some Bedouin settlements where families live far apart from one another and from populated areas, children will occasionally walk up to 8 kilometers to get to school and back, which accounts partially for the extremely high rate of school absenteeism in those areas. The Associations see the situation as one in which the government does not provide what children need, and even puts obstacles⁷.

A serious problem is that the right to education is not protected as a constitutional right in the Basic Laws and has not been considered yet as a constitutional law by the Israeli Supreme Court but rather as a fundamental right.⁸ The right to education is protected only in the *Compulsory Education Law* of 1949, which requires school

Shulamit Lustig, the director of Soharei G.I.L.A.T.

⁴ Hearing on the implementation of the CRC in Israel, organized by DCI- Israel in 1995 at Haifa University

⁵ Agabria v. Ministry of the Interior, Supreme Court, 3951/91, also 3951/90.

⁶ Follow-Up Committee on Arab Education, et al., High Court of Justice, 2814/97.

⁷ According to Halil Halil of the Association of Forty (Unrecognized Villages) at a DCI-Israel hearing on the CRC in 1995, organized by DCI- Israel and an interview with the chair of the regional council for Palestinian Bedouin Unrecognized villiages in the Negev, in Beersheba, 2001.

⁸ Dakwar, Jamil, *op.Cit.*

attendance only for all children from ages 5-16. This situation, combined with the fact that Arab-Israeli children are not protected in a basic law as a minority, created difficulty in fighting discriminatory policies.

Another major schematic problem we have with Israeli education is the discriminatory use of the Education Ministry's funds. The decisions to deny Arab schools from benefiting from foreign Jewish donations for education in Israel, or not to provide a long school day (most elementary schools dismiss students before 14:00) must be scrutinized in light of their effects on the child population and the larger society it belongs to. A matter of concern is the rapidly increasing popularity of the ultra-Orthodox independent schools, which often proselytize undemocratic concepts, as an alternative in poor neighborhoods.

A disturbing fact to us is that the Initial State Report blames the Bedouins themselves for the inferior education they provide their children: "The Bedouin Sector in southern Israel is the weakest of all population groups in the country. The education system in this sector has the worst gaps and suffers from severe problems that prevent development and an improvement in the standard of services it receives." Also, in her report to the Rotlevy committee⁹ attorney Anat Ben-Dor finds the following disturbing: "It is astonishing that problem is attributed to this sector's education system. As in any other region – the education of the Bedouin population is public education, which is the responsibility of the State and the local education authorities. The fact that a significant part of the urban population does not live in official towns adds a dimension of legal and organizational difficulties. The educational system is composed of schools in towns founded by the State, and of schools located in unofficial towns. The status of education is significantly worse in the unofficial towns: lower budgets, shortage of suitable facilities (some schools have no electricity or water) or appropriate equipment. Even here, the formulation might mislead the reader. The State must build and equip schools for unofficial towns as well-in reality, the State does acknowledge this responsibility but the educational services that it provides to these villages falls far short in quality than those provided in other locations."

If it were not for NGOs challenging the policy of the government, the situation would be even worse. The Association for Civil Rights has filed a petition in order to force the education authorities to build a school for children living in the Negev mountains (Bir Hadagi and Mishkenot Roim) near their residence. The government claimed that it is not one of the unofficial villages for which there is planning, thus forcing high school pupils to travel long distances, which ultimately contributes to the dropout phenomenon. Thanks to bringing this to the Supreme Court, the government announced that it would work to build a school and preschools according to need.¹⁰ It is stunning that despite the enormous dropout problem in the Bedouin sector, the number of truancy officer positions in the Negev Bedouin community is lower than accepted for Arab education – there are approximately five truancy officer positions for a population of over 120,000 people, spread over a wide geographical area. According to the Ministry of Education, the dropout rate among

⁹ Ben-Dor, Anat. "Equality in Education-The Convention on the Rights of the Child and Israeli Legislation," submitted to the Rotlevy Commission of the Education Subcommittee, October, 2001.

¹⁰ HCJ 5221/00, *Abu-Bardud et al. v. The Ramat HaNegev Local Council and Minister of Education*.

17 year olds in 2000, reached 37%. According to more detailed statistics from previous years, the dropout rate was even higher, reaching 65%.¹¹

Arab-Israeli students had faced discrimination when applying to university because they could not gain the same weighted bonus that Jewish students receive if they take five units of classes in Bible or Talmud during high school. A similar bonus was not offered to Arab-Israeli students who have taken five units on Islam.¹²

The *New Family* organization has expressed concern, in a time where there are more one-parent families than ever that the school system in Israel does not take responsibility for what happens with children outside of school hours. Since most parents work, municipalities and schools should pay more attention to after-school activities. Also, some parents work in the center of the country and have to travel home; not many primary schools provide hot meals, which would be helpful.

A problem in Israel is that the obligation for primary education to be free is not fulfilled. Although the education itself is free, the books, additional charges for security, etc. cost parents money. This was reported on by The State Comptroller's Report in 1994, (pp. 453)

"The services provided for school children are paid for primarily by the central government and local councils, in the framework of the State's obligation under the compulsory Education Law, 1949. There are additional services and products—detailed below—for which the parents are charged, either partially or in full. Article (6)d of The Compulsory Education Law stipulates, *inter alia*, that the local education authority may collect fees and reimbursements annually from students' parents, according to the rates determined by the Ministry of Education and Culture in consultation with the Knesset's Education and Culture Committee.

Every year, the Ministry of Education and Culture publishes in its Director's memorandum the additional services provided for elementary and high school students and the maximum amounts that the school or local authority may collect from parents for these services. These are as follows:

Compulsory Fees: These are incorporated in the "Additional Services Fee", which includes: health services, dental health, personal injury insurance, guarding, arts and crafts materials, lending of library textbooks, lending of reference books, and photocopied learning materials. In addition, reimbursements for trips, educational tours, and swimming lessons may be collected. The municipality treasury collects an "Educational Services Fee"¹³ from parents. The municipality finances the health, insurance and guarding services in these educational institutions. An examination by the (Jerusalem) municipality's Internal Comptroller in 1989 revealed that in the 1989-90 school year, 42% of the parents' fees were collected (see the 1989/1990 Municipality Comptroller Report). According to the municipality treasury, 41% and 38.4 of the fees were collected in the 1990-1 and 1991-2 school years, respectively.¹⁴

¹¹ as quoted by Attorney Anat Ben-Dor, op.cit.

¹² Ratner, David. "Arab Students to Get a Much Needed Boost," in: *Ha'aretz*, January 30, 2002.

¹³ The "Educational Services Fee" (for health, insurance and guarding), as termed by the Jerusalem municipality, is included in the "Additional Services Fee". The other compulsory fees as well as voluntary fees are collected from parents by the school and are registered in its accounts.

¹⁴ Goldberg, Andy, "Free Education's high costs" in *The Jerusalem Post* September 2, 1988

The Community Advocacy Association (“Singur Kehilatit”) pointed out that they know of many cases where children were not able to join school excursions and outings not did they get report cards and services provided in school because the parents were unable to pay the school. Jerusalem Council member, Ronni Aloni told us about the cutting of the budget affecting tests for dyslexia by the municipality. This means that only parents who can afford it can receive proper attention for their child.

Optional Fees: (a) Additional Curriculum – a program for extra curricular hours. All expenses are to be imposed on interested parents. This is grounded in article 8 of the State Education Law, 1953 and its regulations. (b) voluntary services – additional services and goods offered by the schools for educational activity and enrichment of school activity, such as: “culture basket”, parties and festivities, after-school classes and tutoring, class photographs. (c) general parents’ contribution – parents’ contribution toward financing activities for improving the teaching and learning processes. (d) special contribution for computers – parents’ contribution for financing purchase of computers or operation of computer software.

Fees collected from parents differ according to grade: kindergartens; grades 1-6; grades 7-9; grades 10-12 (pp. 461)

The findings regarding parents’ payments to schools in Jerusalem in the 1990-1991 and 1991-1992 school years indicate that the municipality has allowed imposition of optional and compulsory fees without checking and verifying that the monies indeed served for all of the purposes for which they were collected.”

This practice has not changed and, in addition, schools often have an additional charge for security guards.

Regular Educational Facilities

Despite some beneficial laws protecting children’s right to education (mentioned in the State Report), the Report of the State Comptroller of Israel for the year 2000 reveals major problems in the Israeli educational system. First, it discusses the lack of organization and efficiency between different Governmental bodies in coping with children at risk. This was addressed in our report in ‘Family Environment and Alternative Care,’ as it is a problem wider than the educational system alone and relevant to children’s conditions at home as well. The State Comptroller also pointed out that the Government is not doing enough to help resolve the epidemic of school violence.

Although there is evidence that a long-term trend of decline in the drop out rate exists, it is still a great problem in Israel with high secondary-school dropout rates. The Government Report mentions the *Compulsory Education Law*, municipal regulations, and a 1994 note of the general-director of the Ministry of Education placing responsibility on a long list of personalities and authorities for preventing children from dropping out of school. However, based on the information now available, we conclude that not enough is being done to prevent adolescents from

leaving school early.¹⁵ A study commissioned by the Knesset Advancement of the Status of Children Committee concludes that: a lack of coordination between the schools and the Ministry of Education leads to problems in particular schools and institutions not being dealt with. A general lack of awareness on the part of educational authorities to the tough circumstances many adolescents face—including drugs and other harsh social pressures—leads many youths away from the school system without proper treatment. Even some troubled youths wishing to stay within the school framework are expelled against the Ministry's regulations, without any knowledge of their rights in the process.

Educational achievement rates vary greatly between different groups. The percent of Muslim children attending school decreases with age: 89.2% of children study in the elementary school level, while only 57.6% of 17-year-olds remain in high-schools.¹⁶ In contrast, the drop in school-attendance rates among the Jewish-Israeli population is more gradual. Elementary schools maintain 96.6% of the children, and 90% of children aged 17 remain in high school. These statistics demonstrate the enormous gap in education rates between the Arab-Israeli and Jewish-Israeli sectors (36%:6%), especially in the pre-school level and for ages 14-17. Between 1996 and 1999, Jewish-Israeli students' dropout rate declined by less than 1 percent, while Arab-Israeli students dropout rate rose dramatically. Among immigrants from the former Soviet Union and Ethiopia, the dropout rate reaches 20%. In both Jewish and Arab-Israeli sectors, boys are nearly twice as likely to leave school than are girls.¹⁷

Ha'aretz newspaper reported¹⁸ the latest figures as including a:

"4.5 percent increase in the high school drop-out rate over the last three years, with the rate more than doubling in the last year alone, according to Education Ministry figures. The ministry's figures show that the 2000-2001 school year saw 75.4 percent of the country's 17-year-olds completing the 12th grade – a 2.5 percent drop in relation to the previous year's figure of 77.9 percent, which, in turn, indicated a 2 percent drop in relation to the 1998-1999 school year, when 79.9 percent of the country's 17-year-olds attended the 12th grade. There was just as high an increase in the drop-out rate among Arab students in the last year alone the ministry reported: Some 65.7 percent of Arab 17-year olds were enrolled in 12th grade classes last year, compared to 70.1 percent in the previous year – an increase in the drop-out rate of 4.4 percent in just one year. The figures revealed almost no change among Druze students, with 79.6 percent of 17-year-old Druze students in the 12th grade last year, compared to 79.8 percent in the previous year."

Perhaps the most depressing aspect of Human Rights Watch's 2001 publication, "Second Class: Discrimination Against Arab Children in Israel's Schools" is the huge differences in budget and systematic inequality which has been an ongoing

¹⁵ Miriam Cohen-Navat, Sarit Ellenbogen-Frankavits, Tamar Reinfeld, School Dropouts and School Disengagement, Jerusalem, 2001, The Knesset Research and Information Center and JDC-Brookdale Institute. A study commissioned by the Knesset Advancement of the Status of Children Committee (Chair: MK Tamar Gozansky)

¹⁶ Kroner, Y. Poor Children in Israel, National Council for the Child, p.86.

¹⁷ S. Relly, "Arab school dropout rate more than twice that of Jewish kids." *Ha'aretz*, Dec. 6 2001.

¹⁸ Ministry of Education figures quoted in: Sa'ar. Relly. "School Drop-out Rate up 4.5 Percent in 3 Years," in: *Ha'aretz*, March 7, 2002.

reality in the Palestinian schools. Part of the chronic inequality in budgets schools in the Arab sector face, involves the inability of these schools to raise funds from donors abroad, while Jews around the world support their brethren in such a way. The most serious repercussions of the budgetary inequalities involve special education, in which the number of Palestinian Israeli students in need (as defined by an Education Ministry committee) far outnumbers those whose needs are met.

The main gap in accessibility to education starts in the early years of childhood. Between the ages of 3 and 4, 95% of Jewish children attend nursery school, while only 44% of Arab children of the same age attend nursery school to get this "head start."¹⁹ A further problem with the Arab education system is the interference by the powerful General Security Service (GSS) in the appointments of Arab-Israeli teachers and headmasters, who can only be appointed after security clearance. Even Education Minister Yossi Sarid, who interfered to stop this practice, could not change this.²⁰ This hierarchy which places the security forces above the educational system, with the power to interfere, is clearly very problematic.

Yet despite the superior education and attainability of education in the Jewish sector, the dropout rate for Jewish children is still extremely high. In July, 2001, the Knesset Research and Information Center and the JDC—Brookdale Institute published a report on school dropout and school disengagement, commissioned by the Knesset Committee on the Advancement of Children, chaired by Member of Knesset Tamar Gozansky.²¹ ACRI believes²² that the fact that the Compulsory Education Law has been insufficiently implemented is to blame for students' decisions to drop out of school. They believe this true especially among Arab and Ethiopian students. The report contains both school dropouts and "disengaged" youth, who still attend some educational setting but are not engaged in meaningful learning. The report finds, among other issues, that:

There is evidence of a long-term decline in the dropout rate, while percentages of students being identified as "disengaged" are very high. The main cause of dropping out is scholastic difficulty and problems adjusting to the school framework. These problems generally begin long before the student drops out. The characteristics typical of disengaged students and dropouts are similar: family problems, difficult relationships with the parents, poor self-image, and engagement in risk-behavior such as alcohol or drug use.

The quality of frameworks and services available to youth who have already dropped out of the educational system were found to be meager.

The report highlights the need to address the problem through a long-term intervention project, which identifies troubled students in advance and provides

¹⁹ Golan, Daphna, "*The Gap Between Arab and Jewish Education*," The Ministry of Education, Jerusalem, 2001.

²⁰ Sikkui Association for Equal Opportunities, Jerusalem, 2001.

²¹ School Dropouts and School Disengagement: Research Report. The Knesset Research and Information Center and the JDC—Brookdale Institute Center for Children and Youth, Jerusalem, July 2001.

²² Association for Civil Rights in Israel (ACRI), Combined on the Combined Initial and Second Periodic Reports of the State of Israel Concerning the Implementation of the CRC.

preventative care. It is critical that the Ministry of Education takes the report's recommendations seriously, and considers ways to implement suggested projects.

The Union of Regional Authorities of Israel has petitioned the Supreme Court in regard to the government budget-cuts in transportation. They say that 120,000 Arabs from the Negev, the Galilee and the PA territories will be unable to attend school soon unless their parents pay for their transportation (which many will not)²³

Before leaving school, children disposed to violence create an environment in which attending school can be dangerous and traumatic to other children. Schools are required to report cases of violence to the Ministry of Education. However, as the State Comptroller's report asserts, they cannot always be counted on to do so.²⁴ Furthermore, Government-funded programs for educating against violence at school are not necessarily effective or even provided to students; the State Comptroller criticizes that no research has been conducted about the implementation of such programs in practice.²⁵ Perhaps the epidemic of school violence and the problems of students' mental health and well being would be better addressed were the number of psychologists required by the Ministry of Education at each school actually working at the school. However, at present there are only 50% of the requisite number of psychologists on average at each school, with elementary schools and the non-Jewish sectors particularly lagging behind their share. Along with psychologists, educational consultants and social workers are also lacking at around the same rates.²⁶

The State Comptroller stresses that the problem of school violence is widespread throughout the society, "crossing social boundaries."²⁷ The State Comptroller reports that in a 1998 survey of 8,000 students aged 11-16 (sixth through tenth grades), over 50% reported that they were involved in acts of violence of some sort.²⁸ The public educational system is, with the help of the Ministry of Education, "viewing the minimization and de-escalation of violence amongst students as an important task, and part of the educational process," according to the State Comptroller.²⁹ However, the State Comptroller notes that the Ministry of Education is only in its initial phases of bringing such education against violence into the classroom.

In the year 2000, Benbenisty, Zeira and Asher published their findings of a report commissioned by the Ministry of Education. The goal of their study was to create a detailed and comprehensive portrait of violence in the Israeli education system. The findings are important and troubling.³⁰

"More elementary and junior high school students reported that their school had a bigger violence problem than senior high school students did. Approximately

²³ Sa'ar, Relly. "Budget Cuts will Keep 120,000 Out of School," in: *Ha'aretz*, March 7, 2002.

²⁴ Annual Report of the State Comptroller of Israel, 2001, 51B, p.52.

²⁵ Annual Report of the State Comptroller of Israel *Ibid*, p.52.

²⁶ Annual Report of the State Comptroller of Israel *Ibid*, p.53.

²⁷ Annual Report of the State Comptroller of Israel, 2001, 51B, p.59.

²⁸ Annual Report of the State Comptroller of Israel, 2001, 51B, p.62.

²⁹ Annual Report of the State Comptroller of Israel, *Ibid*, p.60.

³⁰ Benbenisty, R., Zeira, A., & Astor, R.A. (2000) Violence in Israel education system: A summary report. Jerusalem: Hebrew University. See also Harel, Y., Keeny D. and Rahav G. (1994) Health Behaviors in school-aged children (HBCS): A World Health Organization cross national study. Jerusalem: JDC-Brookdale Institute

one third of elementary and junior high students versus about a quarter of senior high school students reported a “big” or “very big” violence problem in their schools.

Fear of violence at school or on the way to and from school often leads to students avoiding going to school. Many students reported that they avoided going to school at least once in the last month because they were frightened of being hurt at school or on the way (15.7% of elementary school, 6.5% of junior high school, 4.6% of senior high school.) It should be noted that 8.5% of elementary school students reported that they were truant more than once due to fear of violence.

Arab-Israeli students tended to report missing school due to fear of violence more than Jewish-Israeli students, especially at the elementary school level (21.1% versus 14.1%).

The principals and educators reported that they received very little training on how to deal with violence at school during their professional training. Less than 10% of the principals and educators thought that they received enough training in violence prevention. Less than half of the principals and a third of the educators had done any in-service training related to violence, and less than a quarter of the principals and educators thought that they did not need such training. The principals’ assessments of teachers’ need for this type of training were even higher.”

A problem exists with private/independent education in Israel, which is completely unmonitored in the Initial State Report. Hence ultra-Orthodox schools, while receiving funds from the Government, teach only Judaism and religious subjects and fail to provide their children with even the most minimal secular education. Such children, should they choose later not to remain in the highly secluded ultra-Orthodox world, will find themselves entering the workforce as adults without even the most basic language, literacy and mathematics skills. The increasing popularity of the ultra-Orthodox educational system gives this problem greater magnitude. Nearly half the pupils registered in schools in Jerusalem for the 2001-2 school-year are in ultra-Orthodox institutions. According to statistics released by the Jerusalem Municipality, 78,000 of the 176,000 pupils in the capital are in ultra-Orthodox private schools.³¹

The State Comptroller’s Report addresses the lack of coordination between the local authorities and all the social/educational institutions on the one hand, and the national Government on the other, in matters of collecting information about youth at risk. The State Comptroller places ultimate responsibility for such information on the local authorities, and maintains that the authorities—especially those of underprivileged areas—are not fulfilling their obligation. The CRC, however, places responsibility for all matters concerning the educational system on the national government, and Israel must not designate blame to local authorities in poorer regions for such problems. The new Status of Children Committees in some municipalities provide a good chance to do the necessary coordinating.

Opmerking: _

Graduation is important for a student’s future, since it his “ticket” to university. About 57.9 percent of students (48, 934) obtained the matriculation certificate – a 5 percent increase from the previous year – thanks to the option of being able to re-take the exam. Had this not been introduced, the ministry said, there would have been only a 3.2 percent increase in the number of students completing high school

³¹ Lefkivits, E. "Half of Capital's pupils are Haredim." The Jerusalem Post, August 28, 2001.

with the certificate. Last summer saw 87.6 percent of Jewish students taking the exam; 58.3 percent passed on the first sitting, with the percentage rising to 59.5 percent on the second sitting. Only 43 percent of Arab students taking the exam passed after one sitting, with the number increasing to 49 percent after re-taking it.

Dr. Shlomo Swirski of the Adva Institute believes that the policy of sending most:

“Ethiopian youth to the state religious school system and to dormitories run by the religious and ultra-Orthodox streams, and particularly the policy of having them learn trades, and placing them in average and low-level study tracks [which do not prepare them for higher education] certainly contributes to the immigrants’ problematic employment situation.”³²

Independent Education

The Ministry of Education has a small division which is responsible for all schools not run by the State. These schools have, however almost complete independence. Under this division are the some Christian schools and “Ultra-Orthodox” school systems: that of the Agudat Yisra’el (Ashkenazi) independent system and Shas (Sephardi) “Fountain of Torah” system. These schools determine their own curriculum and even their own inspection mechanism.³³ Their independence is reflected in the fact that these schools have their own teachers colleges, classification of Hebrew and textbooks.

In an article by Ari Caspi,³⁴ he logically pointed out that “Israel’s overall education and cultural activity budget is NIS 29 billion. This includes the funding given to the social studies and humanities faculties of Israel’s universities. It also includes the money ultra-orthodox institutions receive from the Labor and Social Affairs Ministry and from the Ministry of Religious Affairs. Of these NIS 29 billion, about 2.3 billion go to fund ultra-Orthodox educational and cultural activities. NIS 1.1 billion come from the Education Ministry, NIS 1.1 billion from the Ministry of Religious Affairs, and some NIS 60-70 million from the Ministry of Labor and Social Affairs. All in all, they get about 8 percent of the country’s education and cultural activity budget. The Haredi Community accounts for 8-10 percent of the Israeli population.”

Education for Palestinian Children in East Jerusalem

After the Six Day War in 1967, Israel annexed East-Jerusalem , Israeli law applies in East Jerusalem. A very serious problem among Arab children in East Jerusalem is that almost 20% do not register in the education system in the city. A third of the schools are in renovated apartments, which are not suitable for classes.

On August 29, 2001 the High Court of Justice refused to compel the Jerusalem Municipality and the Ministry of Education to provide free education to thousands of

³² Algazy, Joseph “The State Looks at us With its Eyes Closed” in *Haaretz*, March 14, 2002.

³³ Swirski, Shlomo; Konur, Etti; and Yechezkel, Yaron. “Government Allocations to the Ultra Orthodox (Haredi) Sector in Israel,” Tel Aviv, 1988, Adva Center, p.10. see also: Etgar Lefkovitz, “Half the capital’s pupils are Haredim” in: *The Jerusalem Post* August 20, 2001.

³⁴ Caspi, Ari. “Who Really Robbed our Kitty? Everyone is Blaming the Ultra-Orthodox, No One is Interested in Facts,” in: *Ha’aretz*, February 8, 2002.

primary school children in East- Jerusalem (The Jerusalem Municipality and the Ministry of Education case, 5185/01 and 3834/01).

“The court also refused to discuss a petition by parents of some 1,000 children to instruct the ministry to finance private schooling for their children in view of the lack of public school facilities. The court said that it was not expressing an opinion on the issue of whether the children were entitled to demand state funding because their rights to free education had been infringed. But, it said it could not issue a sweeping order to compel the authorities to cover the costs of the all the children’s education. Instead, it issued a partial order to the ministry and the municipality to enroll those children who wanted state education in the coming years, but the court did obligate the authorities to give them buildings and schooling.”³⁵

The Supreme Court gave as its opinion that “There is nothing in our judgment to bring about the opinion concerning the question of whether the law upholds the entitlement of East Jerusalem children who have been prevented from taking up the rights to which they are entitled by the Law of Compulsory Education, to claim their rights according to the said law.”³⁶

For the Palestinian population of East Jerusalem, the Government has not fulfilled its obligation to provide free education for all children. There are Palestinian children who want to attend a state public school, and cannot because of space considerations. In the 2001-2 school-year, there are over 32,000 Palestinian school children attending public schools in East Jerusalem, an increase of more than 1,700 from the previous year and of more than 50% from just seven years ago. Jerusalem mayor Ehud Olmert claims that “the ever-increasing number of East Jerusalem Arabs attending Jerusalem-funded schools is an encouraging sign and a vote of confidence at any period—all the more so at this difficult time we are going through.”³⁷ Despite this improvement, however, the Ministry of Education and the Jerusalem Municipality notified the Supreme Court before the opening of the 2001-2 school-year that they will not be able to accommodate the 3,000 additional Palestinian children from East Jerusalem who want to enroll in municipal schools. More than 900 East Jerusalem Palestinian children have petitioned the Supreme Court demanding the right to study in public schools. While the Court acknowledged their legal right to public education, it refrained from forcing the authorities to accept them into the public school system.

In the current school year, tuition-free non public schools, which are partially supported by the Ministry of education and the Municipality, have been set up. We have not yet determined how the quality of these schools compares to the poor quality of a public school in the Arab sector.

Education for Palestinians in the Occupied Territories

³⁵ Reinfeld, Moshe “Court Won’t Order City to Uphold Free Schooling for Jerusalem Arabs.” Haaretz, August 30, 2001

³⁶ The Supreme Court in Jerusalem Sitting in the High Court of Justice, the petitioners: Minor Faddi Badria through her parents and guardian, of Shuafat, Jerusalem. 904 additional minors through their parents et al.

³⁷ Lefkivits, E., *Ibid*.

The Israeli State does not guarantee the right to education for Palestinian children in the Occupied Territories, as is the responsibility of a State for all children under its jurisdiction.³⁸ Education laws in the West Bank comply closely with the Convention's standards. But while the Military Orders of the West Bank contain detailed descriptions of the goals of education and guarantee free, compulsory education, the Military Orders in the Gaza Strip do not specify a certain age or level for compulsory free education. They do not maintain any responsibility on the part of the authorities to provide education at all. Additionally, an "education tax" applicable in the Occupied Territories interferes to a certain extent with the provision of free education, even in the West Bank where such education should legally exist. Furthermore, no laws address the issue of co-education, neither prohibiting it nor encouraging it.

During the present Intifada beginning in September 2000, many Palestinian schools have been disturbed and even shut down temporarily by the IDF, when the school becomes the instigator of violent protests which take place at or around the school. Israel is now actively interfering with some Palestinian children's right to education. The Association of Civil Rights in Israel recently petitioned the Supreme Court to allow children in El Hadrin, the West Bank to go to school throughout the Intifada.

Special Education

The CRC does not mention special education in its article 28 on education, and the definition in Israeli law for exceptional children fits more into article 23 on children with disabilities, we discuss the special education under art. 28 (education) because we think that is a less stigmatizing place.

Remedial teaching for children with learning disabilities is almost not available in normal schools, thus increasing the amount of pupils who are referred to special education.

A common way of dealing with hyperactive children (ADHD) within the education system is the use of the medication Ritalin. It is however, also used in order to keep order, and the frequent prescriptions are not properly supervised. Parents and children are not informed enough about the side effects of the drug, according to information provided to DCI-Israel by Professor Ruth Firer. There are even cases reported of school principals advise the use of the medication without proper medical-pediatric or neurological advice is consulted.

Israel's implementation of its *Special Education Law* (1988) has been widely criticized. Indeed, this issue serves as one of the many examples for the trend of the Government's legislating "good laws" for children, and then neglecting to implement them. Aside from the lack of budgeting for special education and healthcare needs of children with disabilities, there are a couple of main issues of concern related to Israel's implementation of the *Special Education Law*³⁹

³⁸ Rishmawi, M., Legislation Relating to Palestinian Children, *Ibid*, pp.24-7.

³⁹ The following list provided by HILA, the Israel Committee for Equality in Education.

Children who do not really require special education are forced into special education programs. There is a hasty move to push many students inappropriately into special education. Certain groups are targeted: immigrant children (especially from Ethiopia), children who are struggling academically and receive bad grades in school yet have not been proven to have a learning disability through proper testing, and children from weak socio-economic backgrounds and “development towns.”

The process for determining eligibility and placement of special education is not commensurate with standards established in the law. The committee that handles placement in special education within the Ministry of Education does not take the time for a thorough investigation of each child’s needs, and information is not provided to parents in a timely and competent manner, and children themselves are hardly involved.

Among Arab-Israelis, special education is far behind that of the Jews, and the Israeli government failed to develop enough special education facilities for them. Many children sit at home doing nothing. The Association for Civil Rights in Israel and *Bizchut* (The Center for Human Rights for People with Disabilities) appealed this situation.⁴⁰

There are not enough possibilities for Ultra Orthodox Jewish pupils in special education.

These concerns raised here are not new for the government. Actually, a report by a State Committee headed by Prof. Malka Margalit (June 2000) already expressed many of these concerns.

Furthermore, there exists very little continuity between programs for children with special needs (i.e. Special Education schools) and rehabilitative or sheltered programs for young adults with such needs. The responsibility of the Ministry of Education towards the child with disabilities terminates at the end of his/her high-school education, enacting almost no coordination with the next responsible agent: The Ministry of Labor and Social Affairs. Above the age of 21, when most special education school programs end, the disabled person must face the Ministry of Labor and Social Affairs’ Placement Committee, a completely different committee from the one that has handled the particular child’s case until that point. This committee then decides how the person will fit into very specific categories of rehabilitation or “sheltered work,” which are not appropriate for every case.

Children and young adults with disabilities would benefit enormously from:

A more fluid system, which would be better equipped to handle specific cases and assign them to specific programs (a wide range of which do exist), rather than limiting the person’s selection through qualifying categorization;
Greater continuity between programs for children and programs for young adults.

The Law determines the aim of special education as: advancing and developing the exceptional child’s abilities and skills; correcting and improving his physical,

⁴⁰ *ACRI and Bizhut v. Ministry of Education*, Supreme Court, no. 1709/01.

mental, emotional and behavioral functioning; providing him with knowledge, skills and habits; and adapting him to socially-acceptable behavior, in order to facilitated his integration into society and the work force.

The law defines an “exceptional child” as “a person three to twenty one years of age who, due to defective development of physical, emotional, mental, or behavioral capability, has limited ability for adaptive behavior and requires special education.’

The HILA organization⁴¹ found that even children who do not meet the criteria defined under the Law are referred to the special education institutions. In conformance with the law, Special Education is designed “to any person between the ages of 3 and 21 whose ability to behave in an adjusted manner is diminished because of physical, mental, psychic or behavioral disability” that is to say a student who suffers from a non-repairable disability.

“The Assignment and Committee of Appeals decision forms” published under the General Director’s Special Circular A of September 1996, page 17, describe the irregularities and characteristics of the disabled student who needs a special setting: borderline intelligence, light mental retardation, intermediate mental retardation, severe/deep retardation, behavioral/emotional disorders, autism, psychic disorders, brain paralysis/severe physical disability, deafness/impaired hearing, blindness/impaired vision, language retardation.

Moreover, Clause 9(b) under the Law institutes that “When determining a disabled child’s assignment, the Assignment Committee will grant precedence to his assignment to a known educational institution that is not a Special Education institution,” -- meaning that even in the case of a child defined as disabled, the option to integrate him first in a regular educational institution should be considered.

From the experience of HILA, we know that students who do not meet the above criteria – students with moderate disorders, students who are a disturbance in class and/or are having difficulties in their studies – have been referred and are yet today referred to Special Education. Most students referred to these institutions do not fulfill or do not fit the irregularity criteria defined under the Law and do not require special education. They mostly are regular children who were referred to special education because the teaching staff at school experienced some difficulties in dealing with them or because their learning achievements were not good enough. Special Education has become an easy solution available to teachers and school directors who wish to keep their school “quiet” and present learning achievements among the school’s students.

HILA found that massive referrals of students coming from housing projects and urban development settlements, mainly from families with low socio-economic background and new immigrants from Ethiopia. Referral among these residents is more easily performed, cynically exploiting the parents’ weaknesses, their ignorance and insufficient knowledge of the Law and the assignment processes and their

⁴¹ The HILA organization has been in operation since 1987 amid parents and students, old residents and new immigrants, in housing projects, urban development settlements and villages, with the intent to promote educational intensity and achievements as a lever for social mobility and bridging socio-economic gaps.

inaccessibility to decision-makers. HILA receives monthly several applications from parents whose children were referred or are being referred to Special Education institutions. These are mainly residents in housing projects, urban development settlements and immigrants from Ethiopia. For example, in the town of Hadera, 89 students out of 683 students of Ethiopian origin are enrolled in the Special Education system; this is a 13% average among the students, whereas the national average is 2%. As already stated, in more than 80% of the cases handled by HILA, it was found that the children do not meet the criteria and the processes by which they were referred to Special Education were illegally and unjustly performed.

There is no strict enforcement either of the Law or of the provisions relating to the assignment to the Special Education system and institutions: teachers, counselors, school directors, psychologists, as well as placement and Committee of Appeals members do not meticulously fulfill the provisions under the law and regulations of the Director General of the Ministry of Education. During Professor Amnon Rubinstein's tenure as Minister of Education, HILA submitted a reform draft concerning the parents' right to obtain the documents available to the placement Committee, prior to the discussion in the committee about the child. HILA and other organizations like TZACHI, also held meetings and extensive correspondence with the Ministry of Education officials, in view of reducing massive referrals to the special education system. Following this activity, the then General Director of the Ministry of Education, Dr. Shimshon Shoshani published the 12th Director's Special Circular (May 1994) relating to "Policy Changes in Handling Disabled Students who are at a Disadvantage in the Context of Regular Education and Assigning Students to the Special Education System," with the view to reduce the number of students being referred to special education and grant them the appropriate care to help them integrate into regular education. Public activity also included petitions to the Supreme Court, broadcasting and other activities leading to the changes in the provisions. For example, the Director General's provisions enforcing documents discovery to the parents before the Assignment Committee were dictated following HILA's petition to the Supreme Court.

Placement in special education has to be in conformance with Clause 9 (d) under the Law: 'The committee will notify, in writing, its decision and the pertaining arguments to the disabled child's parents or whomever on their behalf, unless the Committee voted that for special reasons the arguments should not be notified to the parents; however, an educational psychologist, a physician or a social worker on the parent's behalf, will be entitled to review the entire protocol, in every instance.' HILA is in possession of several dozen copies of Placement Committees' resolutions made without arguments; therefore, should parents wish to appeal, they are denied the option to adequately represent their children, based on the arguments.

Mainstreaming of children with disabilities in normal education is sometimes difficult to achieve because the child will receive less paramedical treatments than if s/he remains in school. A State Committee headed by Professor Orney suggested revision of the paramedical services, but the recommendations have not been implemented. An amendment of the Education Law drafted and lobbied for by the BIZHUT organization (and accepted in the first reading in the Knesset), obtains the rights of the child who is mainstreamed in normal education to keep his/her special (para)medical treatments.

Another obstacle for mainstreaming is that not many normal school buildings are accessible for children with disabilities. The organization Bizhut appealed this in the High Court of Justice, and the Ministry of Education agreed that every new school building be adapted.⁴²

A matter of great concern is that many Palestinian children are not allowed to go to their schools because of closures. The 37 villages west of Ramallah for instance are not allowed to pass the checkpoint to go into Ramallah and thus attend school.

(Information provided to DCI-Israel by Marilena Schultz of Azaryah)

Another issue, not less important to the child's health is appointing a position quotas related to the mental health of children, especially in elementary schools. A survey, of the Central Bureau of Statistics, shows that at school year 1995-6 there were marked gaps in these positions between Arab schools and Jewish schools. For instance, there is a big gap in educational counseling between Arab and Jewish schools 18.7% out of the Arab elementary schools against 67.4% in Jewish schools. There is a psychologist in 91.3% of the Jewish elementary schools against 44.4% in Arab elementary schools. It is the same concerning social worker; there is a social worker in 64.7% of the Jewish elementary schools against 27.7% in the Arab elementary schools. There is a visiting officer in 61.1% of the Jewish high schools against 53.5% in Arab high schools. So, there is no wonder that the violence rate in Arab schools is higher than in Jewish schools (Abu Asme, op. cit, 2000). We would like to see an investigation on why in the incursion in Ramallah (April 2002) in the Palestinian Ministry of Education, serving one million children, school records and results of all tests, 1960 were destroyed by the IDF, as was reported by Serge Schmemmann in the International Herald Tribune of April 16, 2002.

International Cooperation

The State Report does not discuss the topic of Israel's cooperation with developing countries, although there is interesting work to report on in this field.

The Peoples International Institute⁴³ of the Histadrut Trade Unions Federation (affiliated with MASHAV, the Center for International Cooperation of the Israeli Ministry of Foreign Affairs) is doing work that we mention with appreciation. The Institute's main activity is the training of Civil Society organizations, investing in people and ideas in order to enhance equitable and sustainable development. In this orientation, work is also taking place in the area of child and youth advancement, considering that education is one of the key components of development. Since its establishment in 1958, the Institute has provided leadership-training courses and programs for more than 41,000 participants from 140 countries worldwide in five languages.

On these issues, it is relevant to mention a project which the International Institute is involved in and which provoked a great impact. This program dealt with marginal

⁴² *Bizhut and Shagar Botzer v. the Makkabim Re'ut Municipality and the Ministry of Education*, Supreme Court, no. 7081/93.

⁴³ information provided by Dr. Michael Freulich of the Peoples Institute of the Histadrut.

youth from Bello, the city with the highest index of civil violence in Colombia and probably the entire world. The main objective of this project is the social re-absorption of thousands of margined youngsters into the educational system and into society in general. These potential young leaders were taken from their neighborhoods and “decontaminated” during a special intensive program at the International Institute. During the last three years, the program implemented the lessons which were learned with projects on street groups in Israel were presented before the unique populations of Bello and translated into a reality for their population. The obtained results were very impressive in Colombia upon returning home the participants-previously marginal youth, now assumed the role of peace volunteers, agents of change and leaders who redefine the perspectives and objectives of the groups that they lead and other groups of marginal youth, thus launching a process of change at the municipal level.

Other ongoing programs at this Institute over the last three years are with a Chilean Ministry of Education concerning improvement and upgrading of educational systems for formal and non-formal education. One of the programs implemented during 2001 which took place at the “Coples” International Institute was a special course for educators and programmers concerning the prevention of school dropout. This course analyzed the Israeli experience. Another important program implemented by the institute with the same Ministry was concerning democratization of formal education, which promote democratic participation of and accountability to civil society, including all levels in education and decision making.

In Haifa, the “Carmel Institute” receives students from many developing countries and focuses more on early childhood education. Even though motives might not be purely altruistic, (with motives such as establishing good relations with other countries) Israel is not different in this respect from other States providing development cooperation. Since there are many violations of human rights and problematic areas, we feel that where positive work is done, this should also be mentioned and we were surprised that the State Report did not mention this at all.

ARTICLE 29—THE AIMS OF EDUCATION

The Initial State Report dedicates one page to the goals of education in Israel, quoting the recently amended State Education Law of 1953. Only the last one specifically relates to Arab education and we welcome the change initiated by former Minister of Education MK Professor Amnon Rubinstein.

School textbooks taught in State (public) schools must pass the inspection of the Textbook Committee of the Ministry of Education. Private/independent-sector education, however, such as the ultra-Orthodox school systems, is hardly monitored at all, and some school children do not learn basic skills for life in a democratic society. In recent years, there has been a revisionist historiography movement within the Israeli academy which seeks to “objectify” Israeli history in terms of world history and the Arab states, in reaction to what some members of the Israeli academy consider an “indoctrinating” tendency on the part of history and civics textbooks. Furthermore, the relationship between secondary education and preparation to serve

in the IDF is a sensitive topic, about which the government is sometimes criticized by academics and professionals.

With respect to children in the Ultra-Orthodox section, we wish to point out a collision between the rights of the child and the parents' rights. On one hand, parents have the right to have their children educated in the manner they see fit (in this case, with the educational content being mainly composed of study of the Jewish Torah, the basis of Jews' lives and education for the past 3,300 years, which lead to Jews being called "the people of the book"). On the other hand, it is the child's right to receive information about the modern world, and the Israeli Government is obligated to provide such information under the CRC. There have already been cases of adults suing the Government for the complete lack of "practical" education they received as children in State funded ultra-Orthodox schools, which left them severely handicapped in securing employment. In order to minimize this tension, we suggest a very broad core curriculum be established involving topics a child should learn about modern society, which schools would have to implement in order to maintain Government funding. A core curriculum about democracy and freedom of choice would be especially important in the context of the enormous expansion of ultra-Orthodox schools and the huge amount of funding they receive from the Government.⁴⁴

The Committee on the Rights of the Child's General Comments on the CRC, of April, 2001 relate to the Aims of Education in a manner that is especially relevant to ultra-Orthodox education in Israel. General Comment 1(1) maintains that the aims of education is of "far reaching importance," and reminds that the aims include "the holistic development of the full potential of the child...including development of respect for human rights."⁴⁵ The General Comment continues to state that the Article 29(1) stipulates: "Education must also be aimed at ensuring that essential life skills are learned by every child, and that no child leaves school without being equipped to face the challenges he or she can expect to be confronted with in life." Unfortunately, the ultra-Orthodox school system provides extremely few of what we view as such skills, (yet it continues to benefit from the same Government support as the State school system does.

The State Education Law defined the goals of education for Jewish children in the following terms: "To base education on Jewish cultural values, scientific achievements, love of the homeland and loyalty to the State and the people of Israel, on awareness of the memory of the Holocaust and Heroism, on training in agricultural work and crafts, on pioneering training and on the desire to build a society based on freedom, equality, tolerance, mutual assistance and love of humanity." While the Arab education system exists *de facto*, its existence is not defined in any law, unlike the two principal Jewish education systems (State and State-Religious) whose existence and operation is clearly defined in the State Education Law. The only legislative acknowledgement of the existence of non-Jewish education appears in paragraph 11 of section 2 of the State Amendment Education Law.

⁴⁴ Interview with Professor Zvi Lamm, Emeritus Professor in Education, The Hebrew University of Jerusalem. December 16, 2001.

⁴⁵ Committee on the Rights of the Child, The Aims of Education: .17/04/2001. CRC/GC/2001/1, CRC General Comment 1.

However, here also, in contrast to this highly defined national agenda for Jewish education, this element of the law is still controversial. The comments of Professor Majid Al-Haj of Haifa University still hold true today: “Official policy-makers have sought since the establishment of the State to strengthen the religious and cultural dimension of the Arab educational system, rather than the national Arab identity dimension.”⁴⁶

In a position paper to the Rotlevy committee on the aims of education Arab-Israeli students got much attention:

*when a minority group does not have the ability to determine or, or at least, truly influence, the educational content given to their children, the children's rights to benefit from their culture and education that will reflect and promote them and their culture are hindered. Arab intellectuals claimed that the educational system has, for many years, been utilized as an instrument by the Jewish majority to control the Arab minority.*⁴⁷ 1996 saw a change in the Ministry of Education's approach with the legislation of the Public Education Law (Advisory Council for Arab Education)-1996, which trained educators and academicians working in Arab education and who should have provided advice and proposals to the Minister of Arab Education Affairs. The committee worked briefly but its members resigned after it became clear that their proposals would not be implemented.⁴⁸

... Both the Public Education Law and the Mandatory Education Law make almost no reference to the unique educational needs of Arab children. The only directive addressing this issue is found in Article 4 of the Public Education Law, which states that “in non-Jewish educational institutions, the curriculum will be adapted to their unique conditions.” Grounding the education on Israeli cultural values...love of the homeland and loyalty to the country and nation of Israel.”⁴⁹ This problem is largely rectified with the amendment to Article 2. The said amendment (whose formulation was introduced in the previous chapter) established various universal objectives, and as a more explicit objective in Articles 11 and 12. “To acknowledge the language, culture, history, heritage and unique traditions of the Arab populations, and of other groups, in the State of Israel, and to recognize the equal rights of all citizens in Israel. The amendment to Article 2 is obviously insufficient.”⁵⁰

On August 21, 2001 Adalah sent a letter to the Minister of Education Limor Livnat regarding her announcement that additional funding to Arab public schools would depend on their show of loyalty to the state.

⁴⁶ Al-Haj, Majid, “Education Towards Multi-Culturalism in Israel in Light of the Peace Process,” Multi-Culturalism in a Democratic and Jewish State, Tel Aviv University, p.705.

⁴⁷ See, for example, Alhag, M. *Education among Arabs in Israel – Social Control and Change*, Magnes Press, 1965, p.171-181.

⁴⁸ Abu-Atba, *The Arab Education System in Israel – Current State and Possible Organizational Alternatives*, The Institute of Peace Research, Givat Haviva, 1997, p. 15.

⁴⁹ Kretzinci, D., *The Legal Status of the Arabs in Israel*, Weslow Press, 1990, p.19.

⁵⁰ Ben-Dor, Anat. *Equality in Education- The Convention on the Rights of the Child and Israeli Legislation*, Submitted to the Rotlevy Committee, October, 2001.

ACRI⁵¹ concluded that the goals of Jewish and Arabic education differ widely, reflecting the lack of symmetry in majority-minority relations in Israel. While the focal point of Jewish education is Zionist and national, the Arab education system is denuded of any Palestinian Arab character, (probably due to the fact that the Palestinian nation is made up of mostly transplanted Jordanians and Egyptians and only officially came into existence in 1948, whereas the Jewish heritage is 3,300 years old). Professor Majd Al-Haj of Haifa University describes this situation in the following terms:

“Official policy makers have sought since the establishment of the State to strengthen the religious and cultural dimension of the Arab education system, rather than the national Arab dimension. This policy reflects the view that the Arabs constitute a “security threat” and a potential source of instability. The policies adopted have formed an integral part of the broader policy for controlling the Arab minority in Israel.⁵²”

Both the Public Education Law and the Compulsory Education Law make almost no reference to the unique educational needs of Arab-Israeli children. The only directive addressing this issue is found in Article 4 of the Public Education Law, which states that “in non-Jewish educational institutions, the curriculum will be adapted to their unique conditions.” The Public Education Law was amended in 1996, establishing various universal objectives, (i.e. articles 11 and 12 of the law) to: “acknowledge the language, culture, history, heritage and unique traditions of the Arab populations, and of other groups, in the State of Israel, and to recognize the equal rights of all citizens in Israel.” The law also established an Advisory Council for Arab Education which aimed to train educators and academics working in Arab education, and provide advice and proposals to the Minister of Arab Education Affairs. The committee worked briefly but its members resigned after it became clear that their proposals would not be implemented.⁵³ Professor Ruth Gabizon comments on the aims of education are important: “The amendment to Article 2 is obviously insufficient. Educational content must be meticulously examined, as explained by Gabizon. Despite increasing awareness of the problems involved with the uniqueness of Arab identity and educational content...the asymmetry basically remained in the contents of the two systems – study of Hebrew, Israeli history, Hebrew literature are mandatory in the Arab schools in Israel. Arab schools are banned from teaching material that hint at Arab or Palestinian nationalism. Jewish schools are not required to teach Arabic, the history of Islam or the Arab nationalist movement, which are almost never discussed. ‘objective’ treatment of history of the Arab-Israeli conflict and the ramifications of the establishment of the State of Israel to Israeli Arabs is not included either.”⁵⁴

⁵¹ ACRI, THE ASSOCIATION FOR CIVIL RIGHTS IN ISRAEL. Comments on the Combined Initial and First Periodic Reports Concerning the Implementation of the International Covenant of Civil and Political Rights (ICCPR), submitted to the United Nations Human Rights Committee, July, 1998.

⁵² Al-Haj, Majid. “Education toward Multi-Culturalism in Israel in the Light of the Peace Process,” in: *Multi-Culturalism in a Democratic and a Jewish State*, Tel Aviv University, p. 705. See also: Ian Lustik, *Arabs in the Jewish State: Israel's Control of a National Minority*, Austin University of Texas Press, 1980.

⁵³ see also: Abu-Atba, *The Arab Education System in Israel-Current State and Possible Organizational Alternatives*, The Institute of Peace Research, Givat Haviva, 1997.

⁵⁴ Gabizon, R. *Does Equality Mandate Integration? The Case of the Public Education System in Jaffa*.

A network of schools teaching peace and tolerance (The Israeli Educators Forum for Peace and Tolerance) was initiated by Avinoam Grant of the New High School in Ra'anana. The network formed youth leadership by trying to motivate "ambassadors peace and tolerance" in schools to motivate them to lobby for the TPT (Teaching Peace and Tolerance) in schools, in difficult times. According to Avinoam, many teachers are ready to teach tolerance despite the difficult situation. They are ready to make the human connection (connection between Jewish and Arab teachers). The teachers met in September with President Moshe Katsav and he expressed support of the initiative. There are many initiatives like the Education Forum. The Adam Institute for Human Rights Education is very active as is Givat Haviva⁵⁵ and Neve Shalom's School for Peace. In Haifa, Beit Hagefen is active and DCI-Israel has a project of teaching religious tolerance (of a Jewish, Christian and Muslim school). Many other organizations should be mentioned for their activities as well.

The need for directing education to the development of respect of human rights and fundamental freedom and for the principles enshrined in the charter of the United Nations is shown by research⁵⁶ conducted among Jewish youth, which indicated that about of third of them declare themselves to be racist or state that they hate Arabs. Two-thirds are opposed to granting full rights to Arabs, and support the cancellation of their representation in the Knesset. 36.9 percent of new immigrants from the Former Soviet Union consider transfer of Arabs from the occupied territories and from within the Green Line, to be a desirable solution to the current security situation in Israel.⁵⁷

ACRI⁵⁸ quoted similar research (conducted in 1994 by the Carmel Institute for Social Research of the Ministry of Education and published in Meimad, issue 8, December 1996):

"Recent Research conducted among Jewish youth indicated that about a third of them declare themselves to be racist or state that they hate Arabs. Two-thirds are opposed to granting full rights to Arabs, and support the cancellation of their representation in the Israeli Knesset. From this data it is clear that there is need for forceful action on the part of the State to change these attitudes, both by means of education and by public action, in order to combat the growing atmosphere of racism and discrimination in Israeli society."

The Center for the Study of Arab Society, Beit Berl, 1999, p. 17-18. As quoted by Anat Ben-Dor, op.cit. Last paragraph on Children's Rights is based on Ruth Firer in R Firer and Musa Barhoum "Children's rights in Israeli and Palestinians Primary Textbooks." Minerva Center of Human Rights, Faculty of Law, The Hebrew University of Jerusalem.)

⁵⁵ Children Teaching Children in Israel; Investing in Future Decision makers in: People Building Peace, 35 Inspiring Stories From Around the World. Utrecht, 1999, European Center for Conflict Presentation, pp. 281-285.

⁵⁶ Research performed by Carmel Institution for Social Research for the Ministry of Education in 1004 was published in Memad, Issue 8, December 1996, and research was conducted by Dr. Nili Keren, Hila Zelikovitz, and Yair Doron of the Hebrew University Jerusalem, and the Kibbutzim Seminar College.

⁵⁷ Sheleg, Yair. "Thirty Seven Percent of New Immigrants Want Arabs Transferred," in: Ha'aretz, February 15, 2002.

⁵⁸ ACRI, The Association for Civil Rights in Israel, Comments on the Combined Initial and Second Periodic Reports of the State of Israel Concerning the Implementation of the United Nations Covenant on Economic, Social and Cultural Rights (CESCR), Jerusalem, November 1998.

It is important to note that in textbooks of religious and ultra-orthodox and Arab schools there is no education for children's rights, and very little exists in the state's "regular" textbooks. The religious, ultra religious and Arabic primary textbooks are based on the notion of obedience and protectionism. In the "regular" primary textbooks, the children are encouraged to be assertive, self opinioned and outspoken. Nevertheless, even these textbooks pupils are not told what their rights are, what to do when they are abused and whom to address their problems to. Problems of children with special needs and tolerance towards "others" (minorities, groups of different convictions) as well as gender inequality are ignored by the religious, ultra-orthodox and Arab textbooks and dealt with at random by the "regular" textbooks. Democracy education and civil society education as well as Israeli national education are absent in the ultra orthodox textbooks.⁵⁹

Melisse Lewine-Boskovich of Peace Child Israel wrote:

"Instilling the values of tolerance, peaceful coexistence, mutual respect, accepting the 'other' and democratic process for all citizens remains unsatisfactory, incomplete and unfilled in the present educational process. NGO's try to fill this gap but remain marginalized.

The difficulties to meet such an objective- influenced and supported by conflictual histories between Arab and Jewish citizens in the State of Israel which perpetuate fear, mistrust and inequality, can be surmounted only by the decision by policy makers to systematically incorporate awareness and then acquaintance and acceptance through encounter and dialogue, as an inherent part of the educational system."

However, Shuli Dichter of the Association Sikkuy has pointed out that dialogue alone, and not allocations of increased budget to the Arab sector increased the disappointments on the Arab side.

In the current Palestinian-Israeli conflict, it is the responsibility of the Israeli government and the Palestinian Authority to provide children with an education that does not provoke children to use violence. Changes must be made in the education system of both nations, which teach about the history and ownership of the land from a one-sided, skewed perspective. The Israeli and Palestinian Education Ministries must do their part in producing citizens who are aware of the rights of both sides in the struggle and who seek peace rather than continued violent conflict. Article 29 of the Convention maintains that education "shall be directed to: ... the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nation...[and] the development of respect for...civilizations different from his or her own." The Hague Appeal for Peace also launched a global appeal for peace education, encouraging the introduction of peace education in all educational systems. It reminds that the current decade is the United Nations Decade for the Culture of Peace and Non-Violence for Children of the World.

Minister of Education Limor Livnat, upon her appointment to the ministry, expressed her commitment to a policy of instilling equality between the sexes in the school

⁵⁹ Firer, Ruth "Children's Rights in Israeli and Palestinian Textbooks" Minerva, Hebrew University, 2002

system. Towards that end, she tripled the budget for gender equity.⁶⁰ Minister Livnat also established a committee to evaluate school textbooks and teaching materials with respect to content and a message concerning equality between the sexes (the “Committee”). The Committee, chaired by Israel Woman’s Network Executive Director Ella Gera, submitted an intermediate report to the Minister of Education in October 2001. The report states that numerous studies and reports since 1978 have shown that Israeli textbooks and schools promote gender stereotypes that hinder the goal of achieving gender equality in society, and that the recommendations of a previous Ministry of Education report intended to address these problems were never implemented.⁶¹

In its interim report, the Committee recommends:

- Using a logo to indicate textbooks approved for use on the basis that they do not contain gender stereotypes.
- Undertaking efforts to increase the awareness and sensitivity of everyone involved in the entire education system to both explicit and implicit gender stereotyping in educational materials.
- Requiring principals and teachers to ensure that all materials used in the classroom are approved.

To date, the Committee has found that despite the commitment to the principle of equal opportunities for both genders, approximately 60% of the textbooks used in schools contain gender stereotypes that contradict that principle.⁶²

The Israel Woman’s Network is engaged in a pilot project in cooperation with the Ministry of Education in 13 high schools during the 2001-2001 school year, called *Leadership Education and Training for Young Women*. The course is aimed at empowering and training tenth grade girls, building their self-confidence, and encouraging them to take leadership roles in their schools and the community. The project is designed to awaken high school girls to their abilities and potential to participate fully in all aspects of society by increasing their awareness of gender issues, and to empower them to select sources of study such as math and sciences that they may otherwise not have pursued. The project also engages boys in discussions on gender equality in order to develop awareness of their role in creating a more equal society.

Article 29 (e) “the education shall be directed to the development of respect for the natural environment,” is described by the Heschel Center for Environmental Leadership and the Greening Schools Network in their NGO Report to the Johannesburg Conference as follows:

⁶⁰ T. Lazaroff, “Sexes to be separated in math and science classes,” The Jerusalem Post, March 8, 2002

⁶¹ “Gender Stereotypes in Textbooks in the Education System in Israel,” Intermediate Report of the Committee for the Examination of Gender Stereotypes in Textbooks” submitted to Minister of Education Limor Livnat, October, 2001, p.4 and annex on p. 10 (in Hebrew)

⁶² T. Lazaroff, “Sexes to be separated in math and science classes,” The Jerusalem Post, March 8, 2002

“lack of effort accorded to sustainability in Israeli educational policy and practice, and more specifically to that of environmental education. Sustainability is as yet an almost totally unfamiliar concept, rarely appearing in textbooks or curricula and almost never in any of the “serious” educational discourse nor in formal programs and curricular projects sponsored by the Ministry of Education. The burgeoning awareness of both the global and the local environmental crises in Israel, have in fact done little to change the relatively marginal place relegated to environmental education in terms of priorities and resources allocated to the field. The sobering general statement of the Executive Report on Sustainability of the Environment Ministry makes for an equally apt description of the official educational response to the challenge of sustainability in Israel: environmental issues have not yet been placed at the top of the political agenda. This equally summarizes the state of education in Israel, that has remained entrenched within a worldview that has not given much thought to sustainability, while existing programs ‘have not yet been successful in changing trends nor in steering the country toward a sustainable path.’”

The Heschel Center is of the opinion that the “roots of Israeli education’s neglect can be found in the wider social context. Over the first half century of Statehood the issues of security and the Arab-Israeli conflict have dominated public consciousness, always pre-empting the treatment of social and environmental concerns in Israeli society.” Although the amended State Education Law states that a goal of education is “to foster respect for and responsibility toward the natural environment, and a bond with the land, landscape...” and students do go on trips around the country (much more than in other countries), the Heschel Center sees that an integrated, multi-disciplinary approach is, in practice, missing.

“The challenge posed by adopting the “third paradigm” of a place-based environmental education, is still within the Israeli milieu. It will require a welding of science and ecology to community education, citizenship and activism. This wholistic value-oriented approach looks both at the place of humanity in nature, as well as the social and political implications creating a sustainable society. How will schools be different if they adapt an approach to education as if the planet (and with it a sustainable Israel) really mattered?”

Here, the Heschel Center and the Greening Schools Network notice that Israel lacks an environmental literacy program. The NGO Report notices;

What is lacking is that sustainability is adopted as a core strategic goal and pedagogic priority of the educational agenda in Israel. Education has a crucial role to play in Israel toward building a sustainable society. Environmental education heightens the reality that we have only one future- a common future- for the peoples of this region and for planet Earth. The above outlined some of the necessary steps in crafting such an education for Israel. This will, no doubt. Require a re-appraisal of our education priorities, the allocation of resources, budgets and curricular concerns. This is no technical fix or token gesture. The real challenge posed by forging an education “as if the planet really mattered” requires first, that we dare to dream. That we engage both hearts and minds, ourselves and of young people, in the task of re-envisioning a future that will allow all life to flourish here, and design

an education that will give them the knowledge, the skills, the caring and confidence to get there.”

The school system can begin, for instance, to recycle all of its paper and use re-used products. We are waiting for such a symbolic act by the Ministry of Education that can have an impact.

ARTICLE 31—THE RIGHT TO PLAY, LEISURE, RECREATION AND CULTURAL ACTIVITIES

The Israeli State Report does not mention anything about the right to play, which is an important concept in Article 31 of the CRC. An Israeli organization to advocate, research, and consult about the importance of play for the development of the child, “Elhav,” works closely with the International Play Association to support healthy play activities for children. The Israeli Government’s unsatisfactory treatment of the right to play in its State Report certainly reflects the lesser importance the Government has dedicated to this topic (perhaps out of necessity due to its heavy security concerns).

When we look at a breakdown of participation of the Israeli Ministry of Education, Culture and Sports in the budgets of cultural institutions. We see that high percentage is given to Community Centers.⁶⁴

Table 9

Israel Association of Community Centers	23.5%
Ultra-Orthodox cultural activities	7.9%
Torah Culture	2.8%
Immigration and Israeli cultural organizations abroad	1.5%
Literature and periodicals	2.6%
Theater	16.8%
Dance	4.7%
Music	8.1%
Museums	9.0%
Film and popular art	8.2%
Corporations	2.4%
Libraries	4.3%
Other Institutions	8.0%

It is extremely problematic that libraries account for only 4.3% of such spending, since libraries provide for the best and cheapest form of informal education. Some towns and many urban neighborhoods do not have a library at all. However, an

⁶⁴ The State of Israel, The Ministry of Education, Culture and Sports, Facts and Figures about Education and Culture in Israel, *Ibid.*

encouraging sign regarding leisure reading is the fact that 63% of Jewish students in grades 9-12 and 58% of Arab students in the corresponding grades report that they read a daily newspaper. Seventy-four percent of the Arab population of the same age reports that they read books regularly, as do 68% of the Jewish population.⁶⁵ With such interest in reading, were the government to dedicate greater efforts to opening libraries, they would surely serve a large amount of children. There is a lack of publication of Arab books for children in Israel.

Community centers and youth movements form the core of organized youth cultural activities. The Association of Community Centers in Israel is an extremely well developed institution, focusing on children and youth and offering a wide range of courses and activities, subsidized by the Government; it oversees the work of 180 community centers. In addition, there are many community centers not under the umbrella of this organization, (such as twenty community centers of the Tel Aviv municipality, for instance). Twenty-five percent of Israeli youth in secondary schools participate in youth movement activities, 25% participate in community center activities, and 27% participate in voluntary activities apart from the school curriculum.⁶⁶ Community centers are also established in the periphery, Arab towns, and some unrecognized villages. They perform an important function in poor neighborhoods of cities.

The Israeli Government provides ample recreational activities for children; however, the opportunities are not equally distributed across different sections of the child population. As with healthcare, there are vast differences between the span and depth of Government sponsored programs in the center of the country and in the periphery. Furthermore, recreational budgets of different towns and neighborhoods vary by tax income and other variables, creating a vastly unequal distribution. The Government does not compensate the Arab population for differences in recreational budgets when cultural activities in the Jewish sector are funded by donations from the Jewish community abroad. Because the Jewish communities abroad (mainly those in Europe and the United States), often fund cultural activities in Israel, such differences between the Jewish and Arab-Israeli sectors are profound. In recent years, however, there has been an increase in funding for Arab Israeli cultural activities from charities around the world. While we cannot count on such charities to compensate for the entire difference in budgets. Until now, the government has not done its share to equalize recreational budgets of different locations across the country.

Especially in the Southern part of the country (Beersheva, Ofakim, Kiryat Malahi, Sderot, Tel Sheva, programs tend to be under-funded, and extra effort should be made by the government to help. Also, there are not enough community centers for the Bedouin. If a child needs to travel an hour from his Bedouin village to his or her judo class or music lesson to make it to a city where community centers exists, he/she will probably not make it.

Where the Government does spend on recreational activities, they are very often centered on children and formatted to correspond with children's school vacations.

⁶⁵ The State of Israel, The Ministry of Education, Culture and Sports, Facts and Figures about Education and Culture in Israel, *Ibid.*

⁶⁶ The State of Israel, The Ministry of Education, Culture and Sports, Facts and Figures about Education and Culture in Israel, *Ibid.*

Some cities operate a “youth city” project in the summer with recreational activities (often the first projects to be cut in economic hard-times).

Already in 1987, Offir Fegel, the Chairman of the Youth Parliament of the city of Upper Nazareth, said that the lack of leisure-time activities is what leads some youth to violence. Givatayim mayor Yitzhak Yaron warned that the reluctance of politician to accept the political consequences of providing cultural activities for youth on Friday evenings (the Jewish Sabbath) increases the danger of violence among youth.⁶⁷ (This school of thought obviously believes that partaking in violence is not a choice of the participant, but rather something he is “forced” into by a lack of other leisure activities being provided to him).

We believe that with the workday being shortened, children also need to be educated how to positively fill a non-working part of life. Compared with the formal education budget, the non-formal education budget is very small. For children who have difficulty at school or at home, “the third milieu” can strengthen self-esteem. The attitude of the community centers⁶⁸ is to put the child central and we support these efforts. With so much violence around them constantly, and a growing drug scene, centers fulfill an important function which the politicians have not recognized enough. We propose a new law where the government will pay for every child to participate in at least one activity outside of school a week. Now we have a situation where people who can afford it and want to, go to various activities and lessons, whereas those who can’t afford it or don’t want to, don’t go to activities and lessons and perhaps hang out “on the streets.” The lack of funding for development of activities for children within the Association of Community Centers is appalling. For guidance, training, and development work the Association has only four staff members for a nationwide effort.

The last two years youth movements, which were in decline, are again getting more members, probably because the economic situation in Israel deteriorated and many parents can not afford sending their children to expensive activities. According to Celso Garbare of the Hashomer Hatzair Youth Movements, in the youth movements, children can participate in a lot of different activities. Youth movements can be an active partner to advance international human rights and the CRC. Not enough has been done to engage the youth movements.

In terms of leisure in prisons for minors, we are unsatisfied. In the Sharon prison’s youth wings, the highest security department (“Brosh”) allows young criminals to leave their cells for only one hour a day, in order to walk around the courtyard (where there is not even a basketball court, because it would result in violence). In jails, (where accused minors wait until the end of the trial) such as the Kishon jail near Haifa, there are no games at all. No ping-pong table, nothing. In the Abu Kabir and Russian Compound jails in Tel Aviv/Jaffa and Jerusalem, the directors at least try to get some games and extra help from the municipalities or NGOs. The police is not at all investing in this, claiming that when minors go to the Sharon prison, they

⁶⁷ Levavi, Lea, “Mayor ties violence by youth to lack of leisure-time activities,” *The Jerusalem Post*, November 26, 1987.

⁶⁸ information provided by Esti Cohen of the Association of Community Centers in Rishon Le Zion.

have education and recreation. In most jails, minors lay on their beds most of the time, or smoke cigarettes, or play cards.

There is also a great need to develop recreational activities for children with disabilities.⁶⁹

Hospitals lack child-life specialists who examine the leisure and recreational activities of children in the hospital, something which many countries have. Most hospitals are now equipped with classrooms for children, but do not have any particular places set aside for parents and children to play together.⁷⁰

⁶⁹ as communicated to us by BIZHUT (the Center for Human Rights for People with Disabilities).

⁷⁰ Information provided by pediatric psychologist, Helen Elnkave-Rauch, of the Western Galilee Hospital in Nahariya.

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. Will the government start proceedings to education as a constitutional right?
2. What is being done to reduce school violence, in the public as well as private school sectors and what are the plans of the Ministry of Education to encourage anti-violence education (as well as an available budget)?
3. **Is the Government of the opinion that schools in the ultra-Orthodox sector prepare pupils sufficiently for life in a modern society, and instill in students the skills necessary to participate in the larger Israeli and international community?**
4. **Can the government now introduce a core curriculum in the independent schools, including citizenship education for a democratic state?**
5. **How can the Government provide children in the independent ultra-Orthodox school system with a basic education in the skills necessary for entry into the job market? Can the Government not do more programs with more subjects of general education in State funded ultra-Orthodox schools?**
6. How can the Government solve the problem of the deficiency in funds for Palestinian East Jerusalem residents to attend municipal schools? What measures is the Government taking to answer the needs of Palestinian East Jerusalem children who wish to attend municipal schools but have been placed on waiting lists for State-funded education?
7. What can the Government do to ameliorate the serious discrimination in funding between Jewish-Israeli and Arab- Israeli schools?
8. In terms of closing the gap between the education systems for Jewish Israeli children and the one for Arab-Israeli children, are there concrete plans by the government in affirmative action for Arab-Israeli children, particularly with regard to special education?
9. Is there an intention to review rules and legislation which relate to art 29 (the aims of education), and to make these rules more universalistic and multicultural so that it will extend itself more to the identity of **all** children?

10. Could the Government not find a more balanced approach in the Jewish schools to on the one hand instilling a sense of belonging to the Israeli State and the Jewish people, and on the other hand educating equally about the importance of international law and responsibility with respect for human and children's rights education?
11. What can the Government do to encourage education for peace rather than promote nationalist tendencies in textbooks? Is the Government willing to support an information campaign aimed at "opening up" the Israeli classroom, in the spirit of the United Nations Decade for the Culture of Peace and Non-Violence for Children of the World?
12. Is the Government willing to dedicate more funds to the establishment and development of public libraries, as statistics indicate a great interest of youth in written materials, which is not addressed by the current distribution of funds?
13. Is the Government making efforts to balance the recreation and cultural activities budget differently, so as to ensure a fairer distribution of funds across the population?
14. Can the government encourage more representation by lawyers to represent children and parents in the appeals committee dealing with placement in special education?
15. Can the government guarantee that from now on, placements in special education are only based on a diagnosis made by registered and qualified educational psychologists?
16. Can the government build many more schools in the Bedouin sector over the next few years, so that many children will not need to travel long distances, even if the schools will have to be built in unrecognized villages?
17. Can the government provide every pupil with an information brochure about their rights and informing them what to do when their rights are violated and whom to turn to in such cases?
18. Can the government appoint an investigation committee to look at why school records and other vital information of the Palestinian Authority Ministry of Education were destroyed by the IDF in its incursion in Ramallah in April 2002?

IX. Special Protection Measures

As with many other issues pertaining to children's rights, the special measures of protection that Israeli law offers children is a highly politicized topic, and the Government's performance record varies greatly depending on which children are involved and which type of protection measures they require. Overall, in its treatment of Israeli children in conflict with the law, the Government has demonstrated at high degree of interest in implementing its responsibilities under the Convention. The shortcomings tend to be in matters of budgeting and cooperation between the different bodies involved. There are special concerns regarding the 750,000 adolescents.

According to the new Interdisciplinary Center for Child and Youth Studies of Tel Aviv University¹, nine ministries and most of the local authorities and relevant organizations provide services to youth. There is an urgent need for more research on policy making and the Coalition welcomes the start of the Interdisciplinary Center of Tel Aviv University. The findings of their studies will help to shed light on how decisions of the government are taken, how they can be improved, and what philosophies behind policy-decisions are. For instance, when the Ministry of Labor and Welfare gives aid to a high school dropout, we know that behind this action is a hidden understanding of the youth's situation, knowledge of his/her difficulties, an understanding of the State's function in improving his/her situation. Also, there are obviously decisions made in regard to how to assist, and who should do the assisting. According to Netta Harel², there are many problems among the elements that provide services to youth. Dolev and others (1997) claim that there is a duplicity and overlapping of services given to youth by the Ministry of Education and the Ministry of Labor and Welfare. In 2001, the ombudsman reported that only 23% of young people who were cared for by youth advancement departments in municipalities in 1997 were youth who do not either study or work. However, 51% of youngsters who do not study or work were not attended to. The State Comptroller also reported that in over than 100 authorities, there is no unit specific to dealing with youth in difficulty. This data indicates an inefficiency in providing services and shows only duplication of available services that are insufficient to cover the needs of youngsters.³

¹ information provided by Netta Harel of the Interdisciplinary Center Child and Youth Studies of Tel Aviv University.

² Idem.

³ The Interdisciplinary Center: "We will be examining all these levels of services for youth. We will attempt to estimate with the existing policy in these fields what is suitable for the problems of youth as is recognized today. Since the research is still in its early stages, we are not able to discuss

In its treatment of Palestinian children in the Territories, on the other hand, the Government has demonstrated considerably less good intentions and has not made the appropriate efforts to safeguard children. Still, it must be stressed to the Government's credit, that even the conditions of Palestinian child residents of the Occupied Territories held in custody while awaiting trial or in imprisonment improved over the last few years, while concern remains for the period of arrest (police violence) and interrogation.

ARTICLE 22—THE RIGHT OF REFUGEE CHILDREN TO PROTECTION AND HUMANITARIAN ASSISTANCE

Compared with European countries, Israel does not know the phenomenon of unaccompanied minors arriving at airports or refugee children trying to enter the country with their families. There is an office of an honorary correspondent for the UN High Commissioner for Refugees in Jerusalem (in the past filled by former UNICEF president Zera Harman and now by Ambassador Bavly)⁴.

In the past, some incredibly humanitarian gestures were made to Vietnamese boat people and Bosnian Muslims (who at the suggestion of former Education Minister Yossi Sarid were absorbed by Kibbutz Ora) and we want to commend the government for having done so.

One of the main problems to be solved in the Israeli-Palestinian peace negotiations, now not relevant with the current political situation, is that of Palestinian children (40% of the population of the territories) who have refugee status. The fact that the UN High Commissioner doesn't address this issue, but rather a special UN agency (UNWRA), is a further sign that this problem is a very deep and broad issue which can only be solved in the greater framework of peace negotiations, of which this is one of the central issues. In the West Bank there are 500,000 people with refugee status and in the Gaza Strip there are 800,000; more than half of them are children.

We are not dealing here with a new refugee crisis, in fact some of the children who have refugee status (descendants of people who obtained refugee status) are already fourth-generation. We are dealing here with a consolidated refugee crisis, which emerged fifty years ago.

There is additional protection given by UNWRA, who assists in providing education and health services. The UNWRA schools are clearly marked as UN property.

A Palestinian refugee is "someone who resided in Palestine for at least two years before 1948, lost his/her home as a result of the 1948-1949 war, and now lives in the Gaza Strip, the West Bank, or Lebanon."⁵ The definition includes the offspring of the first-generation refugees. Israeli consensus, including most "peace" activists, is

findings, though from an examination of existing sources, it is possible to learn something of youth's needs and the limitations of the system that attends to them."

⁴ Algazy, Joseph. "Don't Give me your Tired and your Hungry; Some Illegal Aliens may be Recognized as Refugees in Israel by the United Nations, but Getting Israeli Authorities to Agree is Another Matter," in: *Ha'aretz*, January 9, 2002.

⁵ Leon, Dan, "The Right to Return: Different Approaches to a Critical Issue." *Palestine-Israel Journal*, vol.VIII, no. 2: 2001. P.86.

that the right of return for the 3.7 million Palestinians (including offspring) would conflict with the right to self-determination of the Jewish people, because it would destroy the State of Israel. Only in a climate that tries to restore trust, in which both sides recognize the enormous trauma of the other, will this issue be able to be discussed. In a time of refueled conflict and daily violence, it becomes increasingly difficult for each side to have empathy for the other.

Even if the status of Palestinian refugees can be debated, the additional protection which the blue UN (UNWRA) flags give to refugee facilities should be respected. Violating the UN additional of buildings clearly marked with blue UN flags, protection seems to us a very serious matter. If armed Palestinian groups within the refugee camps engage in terrorist and war activities (such as firing Kassam 2 rockets at Israeli civilians out of refugee camps), the Refugee and Humanitarian law is overruled, and should be avoided by Palestinians. According to UNWRA Commissioner-General Peter Hansen, violations are made by both sides.⁶

On occasion, outside parties have entered UNWRA schools in the Gaza Strip and shot at Israeli positions. In each such case, UNWRA has strongly protested to the Palestinian Authority and taken measures to hinder entry...In other cases, the IDF have targeted UNWRA schools without cause – for example three weeks ago where IDF responded to a mortar attack at a settlement by firing more than 30 tank shells, 18 of which hit an UNWRA elementary school in Khan Younis causing extensive damage to classrooms...There have also been other incidents where serious damage has been caused to UNWRA schools by the IDF...At the end of October this year, IDF soldiers fired tear gas canisters into an UNWRA school in Hebron and then entered the school...And as I have mentioned, armed Palestinians have on occasion entered UNWRA schools in the Gaza Strip during last year. A serious incursion occurred in October this year, when Palestinian Police Forces entered an UNWRA school and assaulted some of the pupils.

Mr. Terje Roed-Larsen, the UN's special coordinator for the Middle East Peace Process said in a press statement on March 13, 2002: "Only last week, a UN staff member was killed in a clearly marked UNRWA ambulance."

On February 28, 2002, the IDF had to enter refugee camps (the Balata refugee camp near Nablus and another near Jenin) for the first time since the start of the Intifada. Ze'ev Schiff, an analyst of military operations for the Ha'aretz newspaper wrote⁷:

"The Balata refugee camp, located near Nablus, was chosen as a primary target after Israeli intelligence found that Hamas activists from Nablus were using the camp as a hideout. Hamas also maintains several workshops in the camp that manufacture Kassam rockets and explosives. Nuresh Shams, the other camp that was invaded, is located near Jenin and houses some 13,000 refugees. The camp has produced many suicide bombers in the past 17 months of violence.

⁶ Hansen, Peter, Commissioner – General of UNWRA, *The Humanitarian Situation in the West Bank and Gaza*, speech at the Conference of High Contracting Parties to the Fourth Geneva Convention, Geneva, December 5, 2001.

⁷ Schiff, Ze'ev. "Going for the Snake's Head," in: *Ha'aretz*, March 1, 2002.

The IDF's goal in entering the camps focuses on shutting down the work-shops manufacturing Kassam rockets and explosives, and seizing ammunition storerooms. The army also wants to capture Hamas and Tanzim commanders who are hiding out in the camps, but this will be more difficult to achieve. While the workshops usually operate in houses, wanted men are often hidden in secret underground bunkers. Some activists will probably be taken by surprise at the first stage of the IDF invasion, but the others will quickly find cover in the camp's secret passageways. Military invasion of refugee camps has always been considered a complex operation, since it requires face-to-face fighting in a densely populated area housing many children. The Palestinian Authority security forces themselves are wary when entering the camps."

DCI-Israel is extremely worried by this escalation, both by the production of bombs and rockets in the camps, and by the IDF attempts to go from house to house in the refugee camps by blasting holes in the walls between homes. It is another sign of how quickly the situation is escalating and how few are ready to throw water on the fire.

In March, 2002 the IDF executed large scale operations in refugee camps. The International Herald Tribune wrote in an editorial:

"Soldiers in full battle dress, riding in tanks and backed by fire from Apache attack helicopters, have ripped their way through large refugee camps. Tanks have torn up roads, missiles have gutted homes and Palestinian Authority offices, and troops have rounded up and questioned all male camp residents between the ages of 15 and 45.

Its current methods are causing great civilian suffering and unnecessary humiliation. Indeed, the very public rounding up the camp residents who are then blindfolded appears to be aimed specifically at using humiliation as a tactic. Some of Israel's own political and military leaders are now saying that such an approach to camp residents is insensitive.

Hard-core terrorists from Hamas and other groups appear to have slipped away before the Israeli soldiers entered the camps. It is clear that a large part of the Israeli mission is simply to make the point that nowhere is beyond its soldiers' reach.

Of course, Israel cannot allow Palestinian refugee camps and towns to become terrorist sanctuaries. With Palestinian police failing to make arrests, Israel is justified in sending its own forces after specific terrorist suspects. That can be done without humiliating general roundups of the male population, which are guaranteed to deepen the level of Palestinian anger and make it even harder to imagine a future accord based on peaceful coexistence between the two peoples."

According to Neil Mac Farguhar who wrote ("For many Palestinians anger keeps a dream alive" in the International Herald Tribune on April 18, 2002.) "The Arab peace initiative of March 2002 left the entire issue of refugees up to negotiations."

ARTICLE 38—THE DUTY TO ENSURE RESPECT FOR THE RULES OF INTERNATIONAL HUMANITARIAN LAW PERTAINING TO CHILDREN IN ARMED CONFLICT AND NOT TO INVOLVE CHILDREN IN HOSTILITIES

Israel has been one of the developers of international criminal law (the Eichman case for instance), and has been in the forefront of universal jurisdiction and crimes against humanity and continues positive work in this area. Therefore, from the point of view of children's rights and the importance of the Rome Statute, (which also forbids use of child soldiers) we hope that Israeli will be able to soon ratify the Rome Statute of an International Criminal Court.

Not only the CRC but also the Fourth Geneva Convention, to which Israel is a party, requires the State to provide protect children affected by violent conflict and to do all within its capabilities to keep children out of violent conflict.

In the recent Palestinian uprising, we are concerned, as we explained under Art. 6, at the high levels of force the Government has utilized against Palestinian minors participating in violent activities. The ages of Palestinians Injured in the uprising are startlingly young:

Age Distribution of Palestinians Injured by Area:

Age Distribution	West Bank %	Gaza Strip %
< 10 Years	2.6	3.8
10-19 Years	33.7	59.8
20-29 Years	47.5	26.7
30-49 Years	13.3	7.1
50+ Years	2.8	2.6

source: HDIP, Health Care Under Siege II, p.6.

Our discussion of State responsibility to protect children's right to life in Article 6 of the CRC applies to the particularly dangerous situation for children which is currently taking place in the violent demonstrations of the Palestinian uprising. We recommend the CRC Committee to enter a constructive dialogue with the State party about Palestinian children in violent demonstrations (and the IDF response with tear gas, rubber-coated bullets, and live ammunition) as the Committee did with Indonesia about the demonstrations in 1991 in East Timor.⁸ We believe the CRC Committee cannot neglect these events⁹.

We welcome the signing of the Optional Protocol on the Involvement of Children in Armed Conflict and Amendment no. 13 (2002), and the proposed Military Service Law, regarding the minimum recruitment age, (see Appendix 3 for the text). The Military Judge Advocate General has as its purpose of the amendment:

"The amendment is proposed in order to co-ordinate the instructions for the protocol instructions for the United Nations Charter in concerning rights of the child and charter 182 of the International Labor Organization.

Explanation:

⁸ CRC/C/SR. P.1 paragraph 7.

⁹ See the guidelines for the Optional Protocol on Children in Armed Conflict online on the OHCHR website: www.unhchr.ch/tbs/doc.

Clause 1—It is proposed to set the minimum age for compulsory recruitment at 18 years calculated by the Gregorian calendar, and not according to the instructions laid out in paragraph 2 (2) of the Military Service law. It is also proposed to set an exception to this principle concerning academic reserve and unpaid service routes, for which recruitment is essentially voluntary (in any case, the individuals pertaining to these routes, do not perform active military service).

Clause 2—It is proposed to set the legal time for the person appointed for military recruitment starting from the 18th birthday, according to the Gregorian calendar, this in order not to be detrimental to the period of time available to the recruitment authorities for military recruitment, following the proposed changes in paragraph 1.

Clause 3—The date for the proposed amendment becoming effective has been fixed at 1-7-2002, this being the commencement of the 2002 “recruitment season”, which allows enough time for the military authorities to adopt the proposed changes, also it is proposed to set a period for the instruction of enforcement, and accordingly whoever on the recruitment day has passed the “Call-up period”, as intended to clause 20 (2c), the law amendment will not have the power to adjust its legal state.”

This brings the military recruitment in line with the Optional Protocol and the new ILO Convention 182.

We see it as a big step forward that even in a time when every soldier is needed, the government decided that army service will begin on the calendar date of 18 and volunteers (17-18) will not be placed in action, only training. That is important, because young people in the army face difficult moral dilemmas.

We fear that if training camps are in the West Bank, young Israeli volunteers will be at risk of being shot at by Palestinians traveling to and from the camps. It will be important not to train them in such locations in order to comply with not putting people aged 17 into action (for instance in the Negev, where chances of being shot at are lower).

An issue which is not covered by the new optional protocol is that of military schools where the minor (with the consent of his parents) commits him/herself to many years (because of the investment in becoming an airplane technician, etc.). We believe that such commitments should be made after reaching majority and, therefore, we are not discouraging the army from considering closing down some military schools, an option which was recently reported as being considered.¹⁰ The report said that the issue is under discussion in the army and that budgetary matters are not the only concern. According to military sources, reported the *Ha'aretz* newspaper, the main problem is that the schools are not “attractive” to prospective pupils. Surveys conducted in the army show that the military high school graduates of the last decade have not been as successful as in the past in establishing long-term army careers. “It’s not the same as it was 30 or 40 years ago when many of the graduates reached the general staff,” said one army source to *Ha'aretz*. The IDF is not making efforts to find reasons for continuing investment in the schools. On the other hand, the social and educational ramifications of closing the schools will likely keep the issue under debate inside the army for some time to come.

¹⁰ Harel, Amos. “IDF Considers Closing Military High Schools,” in: *Ha'aretz*, February 12, 2002.

The humanitarian crisis is also a crisis in respect for international norms and practices. Access to victims of the conflict is being denied. The Red Cross, Red Crescent and the Red Magen David (Star of David) emblem is being abused and not respected by both the IDF and the Palestinians.

A Red Crescent Ambulance was used to transport a bomb which was hidden under a gurney on which a sick Palestinian child was lying. We acknowledge the right to check ambulances provided it does not unduly delay medical services. We also find it appalling that vehicles of the International Committee of the Red Cross were in the recent incursions in Palestinian areas restricted and that life-saving work of emergency medical services and the ICRC's humanitarian mission was hampered. (See The Jerusalem Post, Seigel, Judy "ICRC shocked by explosives in Palestinian ambulance" March 31, 2002 and "MDA protests PA use of ambulances for terror.")

The Palestinian Human Rights Monitoring Group (PHRMG) confirmed that the suicide bomber on March 29, 2002 was a sixteen year old girl, Ayat Akhras. She blew herself up in a Jerusalem supermarket killing a 17-year-old Jewish Israeli shopper and a guard of the supermarket. The fact that minors too commit suicide attacks is highly problematic because it contributes to the effects of harsher interrogation of minors and suspicion of minors at checkpoints, this also makes it more difficult for the state to carry out its obligations under article 38 (1). Haaretz newspaper, on April 23, 2002 also mentions the reality that minors are being recruited and sent out as suicide bombers. (Harel, Amos and Barak, Omer "The Portrait of a Terrorist as a Young Man.")

-UN property, including schools is being occupied. Aid workers are unable to assess the situation and to respond to those in need.

-Ambulances are being shot at, even after they have received explicit permission from the IDF to do their work.

- It has not always been possible to provide medical assistance.

The March/April incursions imposed curfews on some Palestinian towns and villages allowing only two hours for inhabitants of the towns and villages to do shopping. Declaring the area a closed military zone prevented even UNICEF from delivering food and medicine. This is totally unacceptable and against all humanitarian and human rights laws. Serious allegations are being expressed and the Israeli Military Judge Advocate General should investigate all accusations and bring those who committed abuses to justice.

ARTICLE 39—THE DUTY TO PROVIDE APPROPRIATE MEASURES TO REHABILITATE CHILD VICTIMS

It is most worrisome that in March, 1997, a law proposal intending to stop Israeli civil courts from dealing with complaints by Palestinians related to the periods of the previous Intifada was proposed in the Knesset. The draft Law Concerning Handling of Suits Arising from Security Force Activities in Judea, Samaria and the Gaza Strip (Exemption from Liability and Granting of Payment) 1997, if adopted, exempts the State of Israel and its security forces from tort liability for a wrongful bodily injury or killing.¹¹ The draft was rejected, but its proposal was disturbing. Such a law, if accepted by the Knesset in the future, would be a violation of Article 39 of the CRC. Since 1997 the law has not been adopted, although in light of the new Intifada there are renewed calls to adopt it. In the last Intifada, there have been settlers who have shot at Palestinian youngsters, and were ordered to pay damages. In a precedent-setting ruling, the Jerusalem Magistrates Court ordered on the 25th of December, 2000, a settler (Boaz Moskovitz) to pay punitive damages to the family of a 14-year-old Palestinian boy who was killed when Moskovitz fired at his family home.¹²

A nine-member panel of Supreme Court Justices handed down a precedent setting ruling on March 20, 2002 that distinguishes between ‘belligerent acts’ by the army against the intifada that grant the state immunity from law suits demanding compensation for damages and police actions which are not granted immunity¹³

“According to the court, war acts can be defined as ‘special risks which can only be dealt with outside the realm of regular responsibility for damages.’ In order to decide whether an act is an act of war or not, one must examine the act, not its context. Some of these acts are acts of war and others are not. For example, when a soldier shoots a Palestinian because he has refused orders to wipe out wall graffiti, this is not an act of war since the soldier was not at unusual risk.”¹⁴

While the decision is precedent setting, it also makes clear that every petition for damages will be judged on the specific circumstances of the incident.¹⁵

ARTICLE 40—THE RIGHT OF CHILDREN IN CONFLICT WITH THE LAW TO BE TREATED WITH DIGNITY AND RESPECT

The Juvenile Courts are in general child-centered and take the age of the minor and social conditions into account. Among social workers, juvenile probation officers have high standing and are, in general, very professional. It has not been easy for the juvenile judges to adapt to the new system that came into effect in 1998, where all children in criminal cases are represented by counsel. This increases the chances of children’s opinions being heard and taken into account. However, the Israeli

¹¹ Human Rights Watch, *Israel Legislating Impunity; The Draft Law to Halt Palestinian Tort Claims*, New York 1997, vol.9 no 6(e).

¹² Reinfeld, Moshe, *Ha’aretz*, December 26, 2000.

¹³ Reinfeld, Moshe “Court: Not all IDF Actions in the Territories are War; Rules Pave Way for Compensation Suit by Victims of Army Intifada Operations. In *Haaretz*, March, 21, 2002

¹⁴ Izenberg, Dan “Supreme Court Awards Damages to Victims of IDF Actions During first Intifada” in *The Jerusalem Post*, March 20, 2002

¹⁵ Segal, Zeev “Damage Control- the state loses” in *Haaretz*, March 21, 2002

Juvenile Courts are still very welfare-oriented, and have wide discretion when determining sentence or treatment.¹⁶

Article 40.4 (“...and proportionate both to their circumstances and the offense...”) is because of the welfare orientation of the juvenile court not included in the delinquency law of 1971, (Youth Trial, Punishment and Modes of Treatment Law). But also in the non-criminal sphere where the court can appoint a so-called “apotropus le din” (“guardian at litem”), the welfare of the child is dominant. We believe that if a child is placed out of the home, he needs legal representation to balance the welfare approach. Welfare officers can request of the court that it extend a child’s stay in an institution at any time. Welfare officers, we believe, are too quick to remove a child from his home, when good alternatives are not available. Often, in such cases, the child is not consulted. Hearing the child’s opinion (as article 12 demands) is important even if these opinions on the child’s needs do not differ. Also, the welfare orientation of probation officers and juvenile judges leads to files not being closed and treatment being continued, even if this leads to the creation of a criminal record, not in the best interests of the child. Juvenile probation officers often use relatively insignificant files as reasons to begin treatment, when, in fact, the cases can be closed. It should be noted that half of the cases are dealt with by the “aleph-taff” (“non-prosecution”) procedure, whereby there is no prosecution, but usually informal treatment by a probation officer. In such cases there is also no criminal record.

Some juvenile court judges still focus mainly on how to provide treatment to children and adolescents. They are not much bothered by the question of whether the child did the offense or not and are irritated by lawyers who are concentrated on that question. If it cannot be proven that the child did the offense, treatment cannot start. Judges therefore like the child to admit to the offense and the juvenile probation officer to start treatment. DCI-Israel lawyer Jonathan Weingarten had a case of a child from Netanya who was accused of having vandalized a window of a shop and having stolen a book from the shop. The child was allegedly beaten during interrogation, and shown a boy who had been beaten until he was bleeding. The lawyer started a “Mishpat Zutah” challenging the way a confession was obtained which showed that the child was physically pressured in the interrogation. The judge believed the child (these cases are difficult because they are based on the defendant’s word versus the officer’s word) and he was acquitted. Under police pressure, we believe that adolescents often admit to things that they did not do. We suspect that when the child grows up, this will lead to looking at law enforcement agencies with complete dislike.

The task of juvenile justice provides an enormous challenge to states. In Israel, while the juvenile justice system is flawed in many realms, at least there seems to be a demonstration of good intentions on the part of the state agencies involved. Defense for Children International—Israel and other national and international human rights organizations have made frequent visits to child detention facilities, and youth prisons. We were received with honesty and reflection by the authorities in all the

¹⁶ Sebba, Leslie. Juvenile Justice Policy: Mapping the Criteria, in: Freeman, Michael & Veerman, Philip, *The Ideologies of Children’s Rights*, Dordrecht, Boston, London, (1992) Martinus Nijhoff Publishers, pp. 237-254. See also: Sebba, Leslie. ‘Legalism versus Welfarism in Israel’s Juvenile Justice System’, *Israel Law Review* 16 (1981), 461.

locations we visited and at all times. Defense for Children International—Israel was allowed to speak freely with child prisoners without the presence of a guard. These visits are key indicators and provide a realistic portrayal of the conditions these children are held under. We saw that the directors of the Russian Compound (Jerusalem) and the Abu Kabir (Tel Aviv/Yaffo) holding centers for having made positive changes in the last few years. However, there is still much to be done. After the mass arrests in March/April 2002, young people are even deprived of their liberty in police stations, in Bethlehem and in the Old City of Jerusalem which are totally unfit for minors. We support the directors in the Russian Compound and Abu Kabir jails for having made progress in the last few years. Other jails, however (like the Kishon jail in Haifa) still need to start a process of improvements. Changes in the jail in the Beersheba police station only recently started to be implemented.

According to Mahmoud Rabah, the many arrests in March/April 2002 have undone much of the improvements. In Jerusalem, the Russian compound jail is again overcrowded and the Kishle police station in the Old City is now used. Minors are now brought to the Bet Shemesh police station outside of Jerusalem. There is no courtyard for a walk and conditions are not in accordance with Israeli law. Minors have to be brought into the Russian Compound jail for family visits.

A Positive change was the State's treatment of children within the justice system is the new regulations ("*takanot*") of 1998 until April 2002, of the *Public Defender Law* of 1995. As the Government Report mentions the changes realized (against opposition of some juvenile court judges) stating that children facing trial must be represented by a lawyer from the Office of the Public Defender. This replaced an outdated system whereby children faced with crimes whose punishment is less than 10 years would often stand undefended in Court. We applaud the State for passing and implementing this law, and the Office of the Public Defender, and the regulations of 1998 which provided council for all children if their parents had not hired a lawyer for them. This has created good quality service as well as a general strengthening of the legal system. However, due to budgetary reasons, children in the Northern district are not yet represented.

On April 7, 2002, the Minister of Justice suspended implementing their own regulations and the Public Defender's Office cannot send, for budgetary reasons, cases to private lawyers. This means that the work stagnates. It is predicted that now only 20% of cases will get representation by the Public Defender's Office. (As reported by Ruti Sini, Haaretz Newspaper, April 10, 2002) A letter was written by DCI-Israel to the Minister of Justice challenging the decision and threatening to go to the Supreme Court. After the Finance Minister gave money to the Public Defender, on April 22, 2002 the Public defender started to operate again as normal, (until the next crisis).

Juveniles convicted to long prison sentences for serious crimes are not representative of the overall Israeli population. In the Sharon Prison, one of the country's largest, there were 206 child detainees and child prisoners in 1999. Their ethnic composition was:¹⁷ 72 native Israeli Jews, 76 Palestinians, 25 Israelis of various minority

¹⁷ *Ha'aretz*, November 15 1999.

ethnicities, 23 immigrants from the former Soviet Union, 5 so-called “Black Jews” (a sect living in Dimona), 5 immigrants from Ethiopia.

The agencies involved in working with juvenile delinquents are: the police, social workers of the Ministry of Labor and Social Affairs, the juvenile probation officers, and the Youth Protection Authority (“Hasut ha Noar”) of the Ministry of Labor. Budgeting concerns prevent the Juvenile Probation Service and the Youth Protection Authority of the Ministry of Labor and Social Affairs from expanding their much-needed work.

Juvenile probation officers have a strong influence on judges, who often follow their recommendations, without taking the opinion of the child into account. The probation officers do look at the needs of the child, but opinions on what the needs are can differ. Hearing the child’s opinion is important even if opinions on their needs do not differ.

Arab-Israeli children are assigned to Arab-Israeli probation officers. According to criminologist Leslie Sebba there is research which shows that Arab probation officers are tougher in their policies than their Jewish counterpart- reflecting the approach of the Arab culture. This could be seen as discrimination, although assignment to Arab probation officers is itself presumably in keeping with the need to take into account ethnic variations.

Furthermore, the organization Adalah claims that there is a morally dubious practice by the General Security Service (GSS) to recruit even pupils in schools as informers. This practice also seems to take place in prisons and jails where Palestinian minors are deprived of their liberty and are even more vulnerable to such practices. DCI-Israel lawyers have reported that in cases of Jewish Israeli minors, police sometimes try to obtain cooperation in catching drug-dealers or place cameras in their rooms for the same purpose, which we believe is unethical.

While any such abuses of children’s rights and the State’s responsibility to the Convention for Israeli children are disturbing, since the 1995 Public Defender Law was implemented the fundamental process of juvenile justice for all those brought to trial in Israel and entitled to any attorney, is a fair one. However, for Palestinian children in the Occupied Territories who have been arrested by the armed forces, the special measures protecting children are less comprehensive. Palestinian youth detained in the Occupied Territories in connection with Intifada violence lack sufficient legal protection and suffer from a number of abuses: abusive interrogation procedures, psychological trauma from the arrest, inadequate jail facilities, disregard of visiting rights, and lack of explanation of procedures to the detainees and their families. Minors have also on occasion been held for long periods of time with no explanation of the delay.

Our main problem with minors in the military courts is that it is a system where there is no place for juvenile justice. It is not a system made for rehabilitation, it is purely for punishment. In order for rehabilitation to be possible, there must be a feeling on the part of the offender that he has done something wrong. In the case of people involved in terrorist activities like stabbing or throwing rocks at civilian cars often because of political and nationalistic motivations, that cannot always be expected.

However, this being the case, military judges should take the young age into account. It is purely punishment (with “minor” crimes resulting in quite long prison sentences), and through harsh punishments, attempting to discourage others from doing the same. Release on bail until the end of proceedings is not practiced (as it is in Israel proper with Jewish- Israeli defendants). At the Bet El Military Court near Ramallah, a year-long sentence is about “normal” for throwing rocks at people.

It is not unusual for the prison authorities not to bring the accused to court.¹⁸ The military court judges rarely take the background of the child into account, contrary to Israel proper, where reports of the Juvenile probation officer count.

The punishment as deterrence can be seen in decision numbers 3,6, &7 (2001) of the military appeals court in Gaza.¹⁹ Two teenagers (15 & 16) were caught sneaking over the border and arrested. They had originally received four days in prison and a three-month suspended sentence. The military prosecutor appealed and the judge noted the young age of the prosecutors, and therefore not exhausting the sentence, military judge Gordon increased the sentence for the serious offense of infiltrating to two months prison and a 750 shekel fine.

Article 78 of the Military Order on Security Provisions (Judea and Samaria, No.378, 1970) determines how long a person can be held without trial. Here the military order, contrary to the aforementioned order, does recognize that a minor is any person under the age of 18, and that he/she has the right to be held fewer days while waiting for a trial than an adult.

According to Adalah, of the Israeli minors arrested since the beginning of the Al-Aqsa intifada, 74% are Arab.²⁰

Edna Arbel, the Attorney General, said on October 10, 2000: "There is no substitute for the confinement of a person who endangers in his actions the lives of others." However, Arab Israeli minors are often not released on bail while Jewish – Israeli minors accused of the same crimes are not released. The Coalition is concerned about the absolute necessity of depriving minors of their freedom until the end of the trial. Since detention should be a last resort, we believe that Arab-Israeli minors should also have the right to be released on bail until the end of their trial. It would like to see the Government demonstrate that the law is applied equally to a Jewish –Israeli minor who has rioted and to an Arab-Israeli minor who had rioted. We ask the CRC committee to demand that the government to apply principles of the CRC, such as human dignity, best interests of the child, and take age into account when dealing with minors accused of having committed security offenses in the context of justice. Military judges often not only lack any legal background, they certainly lack proper knowledge on administration of juvenile justice.²¹

¹⁸ In an act of “protest,” the Military Appeals Court of Salem (near Afula) decided to release two people (16 &17) who were not brought to the court from the Sharon prison by the prison authorities for the fourth time. See also: Hass, Amira. “Court Orders Release of Palestinian Girl on Bail,” in: *Ha’aretz*, January 11, 2002.

¹⁹ We thank advocate Lea Tsemel in East Jerusalem for having gone through her file of military appeal court cases with us.

²⁰ Adalah, The Legal Center for Arab Minority Rights in Israel, "Palestinian Israeli Minors Confined to Custody (Summary)." November 7, 2000, p.1.

²¹ Harel, Amos “IDF Vows Trained Judges for Courts in Territories” in *Haaretz*. March 20, 2002

When it relates to being informed of the charges in the West Bank and Gaza, where almost all of the arrests are made for security related offenses, the minors are in no formal way informed of the charges, and a frightening scenario with the same script unfolds, almost all of the time. Read, for example, the case of Mohammed Y., I.D. 92165062, from the area of Bethlehem, (in an affidavit to the Public Committee against Torture in Israel):

“ 1. I was born at the 15th of April 1986 (15 years old), my name and address is as above.

2. On the 26th of December 2000, or around that date, at around 1:00 AM, I was in my house and suddenly I heard a noise near the house and on the roof. I woke my father, I heard loud banging on the door, banging of shoes, I opened the door and the security forces came in. They asked me what my name is and announced their intention to take me. My father said that I am a minor and that they cannot take me, but they ignored him. My father requested that they do not hit me in the house in front of my mothers and brothers.

-It is important to note that the entire household was woken, my brothers and my mother started to cry.

3. They blindfolded me and cuffed me while my hands were stretched behind my back; the cuffs were tight.

4. They put me inside the back of a vehicle. We left, and as the vehicle stopped I heard Mr. Nasser Sabatin's vice, he is M.'s father, then I knew we arrived at their house.

The vehicle stopped near another house, the door opened and they shoved another man in. We stopped for the third time and they shoved another man in. And when they wanted to close the door and it didn't close, they shoved us in with their shoes and then they closed the car door.

The vehicle stopped, they forced us out. They drugged us and guided us to the left, right, until we arrived at a doctor who took the blindfolds off; he examined me while I was cuffed.

-It is important to note that only then I noticed that the other detainees were with me, they were Fadi Ahmad H. and Shaukat S, they are from my village. Not far from the clinic, they started to interrogate me about throwing incendiary bottles. Then he took me, handcuffed and blindfolded, to the room. We entered and he asked me if I threw stones. When I replied negatively, he stripped my coat off and started to hit me with a stick. I felt that the stick broke up and he brought a new one and continued to hit me.”

The prison commissioner needs to be commended for having decided to build a prison specifically for minors (the Ofek prison) and placing all minors there instead of in the Sharon prison; an attempt to ensure that the prison is more appropriate for the needs of adolescents. It is also a welcomed fact that staff has been especially selected and that one wing of the Ofek prison has already been opened in the Sharon prison. In 2003, all juveniles (including Palestinian security offenders) will have better conditions and a specially selected staff. We believe that this is the right policy. In the meantime, conditions for Palestinian security offenders have

deteriorated in the Sharon prison complex, with three cells of ten beds and a courtyard to the second floor which has cells of two inmates, which breaks down the group feeling in the prison. We understand that many adults in the Sharon prison had no bed to sleep on and that within that complex, changes had to be made. However, minors should have had priority and should have stayed on the ground-floor and “their” courtyard. The fact that family visits are impossible in times of closure is unacceptable since these young prisoners (even though they might be security offenders and members of groups like Hamas or PLFP or the Tanzim) need their mothers too.

There is an urgent need in the Ofek prison to have a new wing for drug rehabilitation separate from the wings for non-users and rehabilitated prisoners. There is an urgent need for a closed educational institution for mandatory treatment of drug use (many young addicts have no interest in quitting and need to be sent by the courts to such rehabilitation—their last chance before prison). (See article 33).

In the Ofek prison, (still located within the Sharon prison walls and still not including the department for Palestinian security offenders, which is still within the Sharon prison as a separate department) DCI Israel found on its last visit with MK Tamar Gozansky, that 20% of the detainees were Russian adolescents, 10% Ethiopians, 40% Born Israelis, and 30% Arab-Israeli.

Adolescent girls are not separated from adult female prisoners in the Neve Tirza prison. Since there are so few girls detained, it would be very lonely for them to be alone. We understand the dilemma and is the same as the government of Finland had (see Initial State Report of Finland paragraphs 19-20); the prison authorities believe, because of the initial number of female prisoners that it can sometimes be in the best interests of the girls (sometimes only 3-4) to have them in a cell with a young woman a bit older, we propose that in such cases the decision should be decided by a committee and registered. .

Psychiatric Hospitalization

Our colleagues from ACRI state that²¹ Children and youth are routinely committed to psychiatric hospitals, contrary to the provisions of the law²². The authority to commit a child or youth rests with the District Psychiatric Committee for Children and Youth, comprised of experts who are supposed to ensure that commitment of a minor takes place solely in accordance with the law. However, although years have passed since the law was amended, many of these committees are not functional. The State Comptroller found that although 539 minors were committed to psychiatric hospitals in 1996, and although the law states that that these cases should have been brought before the Psychiatric Committees for Children and Youth, only a few dozen cases were actually discussed by such committees in that year. Despite various declarations by relevant government ministries, and particularly the Head of Mental Health Services in the Ministry of Health, that this situation must be rectified

²¹ ACRI, THE ASSOCIATION FOR CIVIL RIGHTS IN ISRAEL, Comments on the Combined Initial and First Periodic Reports Concerning the Implementation of the International Covenant of Civil and Political Rights (ICCPR). Submitted to the United Nations Human Rights Committee, July 1998.

²² For details, see the State Comptroller's Report for 1998, p. 222.

immediately, no actual change has occurred in this grave state of affairs, to the best of our knowledge.

The result is that there is no administrative or judicial supervision or oversight of the involuntary commitment of minors in Israel. There is a real danger that these minors' liberty will be deprived without any examination of their cases, and without them or their relatives enjoying the right to appeal against the State's decision to impose involuntary commitment.

Amendment 11 to the "Youth (Care and Supervision) Law", passed in 1995, established a series of checks relating to the psychiatric commitment of minors, including the establishment of special psychiatric committees for minors. These committees were intended to supervise and review psychiatric commitment, preventing the situation hitherto, whereby many minors were committed unnecessarily, and acting to find community alternatives to psychiatric commitment. Some three years after the law was passed, the Ministry of Health has still not enabled the full operation of this amendment. The State Comptroller's report for 1997 reveals a grave state of affairs: to this day, the psychiatric committees for minors still do not operate as required by law. As a result, minors continue to be committed to psychiatric institutions unlawfully. (On the subject of psychiatric commitment, see also our comments on Article 7.)

A preliminary approval of a bill of rights of psychiatric patients adapted in the Knesset on February 14, 2002 will make it obligatory for all those people whose placement is discussed in psychiatric council to be represented by a lawyer. This will also extend to children's cases.

It will be often very difficult for a minor to represent himself in a dispute with a grown up, it is therefore feasible to execute this right mainly through nominating an attorney or a guardian – at – law, who will be responsible for representing the minor's interests. The attorney will present to the court the facts, the minor's wishes and his best.

The Israeli legislation combines two basic principles affecting decisions regarding minors: the best interests of the minor and the principle of children's rights. The recognition of "children's rights" developed during the second half of the 20th century. This is expressed by recognizing the child's independent ability to understand his position and decide regarding his future at any time, and at the right circumstances, including the right to his own representation.²³

The perception recognizing the right of minors to be individually represented independent from their parents, is gradually achieving its position in the Israeli legislation in general, and in relation to mental treatment of minors in particular. Any new constitutional arrangement should, however be handled with extreme care and the court should be given the power to consider every case per se' making sure that the "minor's rights" are neither harmed nor trampled.

²³ See Kaplan "From children's well being to children's rights – independent representation of minors" (Hebrew) Mishpatim LA (3) (2001) 623,647.

The law governing treatment of mentally disabled was approved during 1991. This law was intended to balance between the interests of society on the one hand, and of the mentally disabled on the other. Psychiatric treatment of minors in general and psychiatric hospitalization of minors in particular, have serious affects on the life of the patient – causing social stigma and limiting freedom of movement. Amendment nr. 11 to the juvenile law (treatment and supervision) 1995, including corresponding addendum to the law of treatment of the mentally disabled, was intended to grant protection to minors according to their special needs, trying to apply the principles of the international treaty on children's rights. The above mentioned amendment defines conditions which are considered as prerequisites for the court to be able to order involuntary psychiatric hospitalization of minors. Follow up and control of the hospitalization is proposed as well as the suggestion that such decision be made only following a report by a psychiatrist specializing in treating children and youth.

The above addendums refer to consideration given to the opinion of minors above the age of 15 when they object hospitalization. One is obliged to refer to youth court every case of objections by a minor, and the minor is entitled to be represented by a lawyer or guardian – at – law. The addendum also gives the minor the right to approach, at any point, the psychiatric committee requesting an additional consideration of the decision to hospitalize, and grants the court the authority to nominate at any point, a guardian – at – law, provided it is considered to be required for the benefit of the minor and protection of his cause.

Despite laws being as comprehensive as possible, there will always exist cases where a minor, not standing up to the criteria set by law, will be deprived of his rights.

1. It is recommended that instead of relying on the age test only (arbitrarily determined), supposed to “determine” the degree of ripeness of the minor, court will be enabled to evaluate the ability of each and every minor to represent his points and nominate a lawyer to represent him.
2. There are few lawyers specializing in cases involving child and youth psychiatry, hence minors are frequently represented by attorneys unfamiliar with this area. It would be recommended that the court should have access to a list of lawyers specializing in the subject.
3. The psychiatric committees for children and youth, are presently obliged to include a lawyer responsible for the protection of the interests of all minors whose cases are discussed by the committee. The minor, however, is not represented independently by his own lawyer in the process.

ARTICLE 32—THE RIGHT TO PROTECTION FROM ECONOMIC EXPLOITATION

Israel ratified ILO Convention 5 in 1953 and ILO Convention 138 in 1979. Overall, Israel's laws correspond with the principles of Article 32 of the CRC. There are, however, problems with enforcement of the laws.

An amendment to the Compulsory Education Law was proposed and submitted by MK Zevulun Orlev whose purpose was to extend the application of the law to people aged 6-18 and invalidate the possibility of employing youth during days when they should be studying. This proposed law would invalidate the apprentices law by which the student is given professional and practical training in vocational schools. However, the proposal has not yet been discussed in the Knesset Committee.²⁴

While Israel has enacted laws to protect working children, including minimum ages for employment, maximum hours of employment for minors, and minimum wages for children, illegal employment of children is a severe problem in the country. Young children selling small objects can occasionally be seen peddling their wares in traffic lines, and child employees handle produce in marketplaces.

The head of the *Noar Haoved Vehalomed* Youth Movement, presented data in September 2000, claiming that 20,000 children in Israel are working in violation of the labor laws²⁵ This is far more than estimated in Israel's State Report. More field work is necessary to establish if these estimations are correct. Little is known about illegal child labor—only the tip of the iceberg is exposed. Illegal child employment leads to shocking cases, such as that of the Palestinian child killing someone by mistake while having to drive a transport vehicle in the Mahane Yehuda Marketplace in Jerusalem, or the child who fell into the machine while harvesting sunflower seeds.²⁶ Palestinian workers have to feed large families, and when closures or permits make obstacles, a child from the family often goes to earn money on the Israeli side of the Green Line. Occasionally, when arrested for having entered without a permit, the child will get a suspended sentence, but after several times of being arrested for the same thing, will probably find himself in prison. DCI-Israel saw young workers who were illegal in Israel in the Kishon jail. After crossing the Green Line several times and being arrested, the judge may send them to prison. In the watermelon season, many communal settlements and *kibbutzim* employ children and youth from the city of Hebron. They are brought in groups by Bedouin contractors from the Negev, and put to work in the fields. Jewish children from cooperative villages (*kibbutzim*) work in the community's fields as well (although they don't perceive of themselves as child laborers). Occasionally, children employed in farming handle pesticides and other chemicals, of which some are neuro-toxins or carcinogenic.²⁷

Labor Courts, in general, do not punish employers for employing children. They do see if the child received his money, and at most, the case is closed for them. *Noar Haoved Vehalomed* sees that many employers take advantage of the lack of information of young people. They propose that employers who allow minors to work for them should be placed in prison for at least one day. *Noar Haoved Vehalomed* states²⁸ that the fast food sector (pizza shops, ice cream shops, hamburger shops, etc.) is especially problematic. There is a conspiracy of silence between the young employees and employers that the young workers receive less

²⁴ We would like to thank Eliezer Bleu of the "Noar Oved Vehalomed" organization for finding this out for us.

²⁵ Bior, Haim, "Illegal Child Labour Exceeds 20,000 Mark" *Ha'aretz*, September 25, 2000.

²⁶ Arbel, Aliza, *Ha'aretz*, February 20, 2000.

²⁷ Richter, Elihu, *Ibid*.

²⁸ Yoram Barkovetz, spokesman of Noar Haoved Vehalomed, December 25, 2001, Tel Aviv.

than they should receive, and agree to it, (because of the current difficult economic situation there are many candidates in competition). There are hardly any inspectors to enforce the labor laws, especially those for children. This is a most important task because without a request of the minor to investigate, only the State has a legal right to act, and therefore should.

In the Arab sector, implementation is more problematic because of family ties. The other problem is that big organizations (Universities and even Ministries)²⁹ work with sub-contractors. They send minibuses of young workers to these places to clean, etc. and the organizations claim not to be responsible. Sub-contractors are a cover-up of this market, especially in public organizations.

In the markets, Jewish children (often from the former Soviet Union) can be found working. In Jerusalem, and East Jerusalem especially, can be spotted working. Children's rights NGOs in Israel have demonstrated concern for such children, but the phenomenon of illegal child employment is too daunting to overcome without the absolute insistence of police authorities. DCI—Israel has been involved in a project to provide basic services and education to child laborers of Jerusalem's Mahane Yehuda Market. The initiative for the project came from the Market's management and the local community center (*Lev Hair* Community Center). Most of these children come from large families in the Palestinian villages surrounding Jerusalem, and their stories are heart wrenching. An Arab social worker works with the children as an interlocutor³⁰

The problem of illegal child labor particularly affects Palestinian children, whose difficult economic situation makes them more vulnerable targets for illegal employers seeking to pay the lowest fees possible. Israeli Military Orders for the West Bank and Gaza Strip define the minimum age for employment as 14. The number of hours a child is permitted to work is limited to 6 per day, and an exception is made for these rules for agricultural or family work. The laws grant special protection to girl children on the occasion of their getting married or becoming pregnant. However, while additional protection should certainly be provided to girls in such cases, a negative consequence of such legislation is that girls are encouraged to get married or become pregnant at a young age. Furthermore, and perhaps most damaging, the Military Orders governing the employment of Palestinian children in the Occupied Territories do not provide an adequate mechanism for punishment of employers who violate the laws. Thus, such laws are essentially treated as recommendations rather than rules, at the expense of employed Palestinian children.³¹

By 2000, 24.6% of Palestinian children lived in poverty, according to the Palestinian Authority's Central Bureau of Statistics.³² This poverty drives them to work in Israel. In the Galilee, Arab girls from poor families or those with histories of underachievement in school commonly leave school altogether after 8th grade, and

²⁹ according to [Noar Haoved Vehalomed](#).

³⁰ Lefkovits, Etgar, "Saving the Street Children of the Shuk," *The Jerusalem Post*, June 28, 2000.

³¹ Rishmawi, M., [Legislation Relating to Palestinian Children](#), *Ibid*, pp.21-2.

³² Hass, Amira, "Survey Finds: One in Four Palestinian Kids Live in Poverty Soon," *Ha'aretz*, April 12, 2000.

begin working in small textile factories.³³ Factory bosses prefer child employees to adults, as this is a distinct financial advantage. In the Negev, Bedouin children are employed in jobs that present health hazards.³⁴ What Tzippy Kuper wrote in 1986 is still true today: “There appears to be a conspiracy of silence between the children and their employers and, as a result, many children earn a pittance for a hard day’s work—often in dangerous circumstances.”³⁵ It is time for the Israeli Government to ratify ILO Convention 182 on Extreme Forms of Child Labor.

ARTICLE 34—THE RIGHT TO BE PROTECTION FROM SEXUAL EXPLOITATION

This interagency Committee also believes that the approach of the government agencies dealing with youth in distress lacks outreach: “nothing is done to locate or provide outreach to teenage prostitutes.”³⁶ The agencies have their established methods of work and young people have to adapt to them if they want to be treated and get help. Teenage girls are treated only if they can be integrated into existing treatment frameworks. No treatment is provided in Israel for teenage boys who have been sexually exploited for commercial purposes. In addition to Israeli girls from disadvantaged backgrounds who are “pulled into” prostitution, DCI Israel also saw on occasion, young girls from the Former Soviet Union in the Abu Kabir jail in Tel Aviv-Jaffa, waiting to be extradited. On March 7, 2002 a man was taken into custody for running a brothel where he employed six Moldavian women smuggled into Israel via Egypt. One woman was a seventeen year old minor.³⁷

DCI-Israel’s concern with these cases is that they are treated as the criminals, not as victim, which is reflected in the fact that they await extradition in the Abu Kabir jail or the Neve Tirtza prison, not a closed educational facility. The jail authorities had not made any effort to contact social workers in the countries where the girls came from and to where they were going to be sent back. The attitude is “it is not our problem” is appalling and not in compliance with article 34’s requirement that the State Party “shall in particular take all appropriate national, bilateral, and multilateral measures.” It can be expected that once the girl arrives back in her home country pimps are waiting at the airport with further offers, and in no time, she is back in Israel under another name and a new false passport.

DCI Israel has seen a “side effect”, a younger brother of a prostitute from the Former Soviet Union, who had promised him work, was arrested, locked up, and then terribly abused in jail while waiting extradition.

ELEM³⁸ did develop a plan for a pilot project for an intervention and outreach program. The program goals were formulated as follows:

³³ Kananeh, Hatem, in interview

³⁴ Isralovitz, Richard, “Work Values of Jewish and Bedouin Arab Youth in Israel” *Journal of Social Psychology*, 128(6), 1998: p.837-838.

³⁵ Kuper, Tzippy, “Conspiracy of Silence Abets Child Labor” *The Jerusalem Post*, April 15, 1986.

³⁶ Inter-Agency Committee to Study Sexual Exploitation in Israel, end report, 1999. Tel Aviv.

³⁷ Yam, Yehoshua. “Suspected Brothel Manager Held in Custody,” in: *Ha'aretz*, March 8, 2002.

³⁸ ELEM, “They too have a right to blossom,” – Detection and Intervention Program to Prevent Sexual Exploitation of Children and Youth in Israel. Tel Aviv, December 2001.

To develop methods (detection, assistance, and intervention) for working with children and youth who are being sexually abused for commercial purposes.
To develop a working knowledge of the problem and appropriate intervention methods for preventing sexual exploitation among minors.

Tel Aviv is the largest center in the country for striptease shows, brothels, and clubs. It has lots of nightlife, famous throughout the country, which attract youngsters from all over (Tel Baruch, the old and new Central Bus Stations in Tel Aviv, the area near the Stock Exchange, the border between Holon and Bat Yam).

After a year, ELEM identified eighty sexually exploited youngsters in the Tel Aviv area and they claim they know of a similar amount of youngsters in other parts of the country as well. ELEM's statistics refer to fifty-six youngsters with whom they came to work.

Sex: girls, 31 (55%); boys, 18 (32%); transgender, 7 (13%).

Age: 12-14, 6 (11%); 15-16, 11 (20%); 17-18, 19 (34%); 19-20, 20 (35%).

Cultural Background: Israelis, 35 (63%); New Immigrants from the FSU, 8 (14%), Ethiopian, 3 (5%); Palestinian, 10 (18%).

A group of volunteers working against sexual exploitation of children (Todaa Center) has told us about a growing number of Palestinian youngsters who are sexually exploited. They cannot go back to their communities and are most at risk.

On the basis of intensive work with these minors, ELEM concludes that 200-300 youngsters all over the country are involved in prostitution and they actually fear that the numbers might even be higher.

An important fact was revealed during the field research is that most of the youngsters started prostituting at the early age of 13-14 years old.

Finally something has been done to reach out to this extremely vulnerable group of young people. It is disappointing that at the moment, there is no governmental commitment that assures the continuity of the program beyond the 18 month timeframe set for the pilot. ELEM strongly believes that it is essential to maintain the continuity of the program in order to develop prevention, treatment, and rehabilitation systems suited for sexually exploited minors in Israel.

Recently, an Israeli was arrested in Thailand for having sex with minors. More needs to be done to discourage Israelis traveling abroad from having sex with people under 18.

In recent years, Israel gained the unfortunate position of a country with one of the leading prostitution and sex industries in the world. Because of the illegal nature of the prostitution business, little is known about the numbers of children employed in the sex industry, or the conditions of their employment. Needless to say, however, children employed in the sex industry are employed against not only Israeli law and the UN Convention on the Rights of the Child, but also against numerous declarations of international ethics including ILO Convention 182 on Extreme Forms of Child Employment.

The State Comptroller expressed concern in 1999³⁹ that local authorities had not enough manpower to treat all girls in distress. And the State Comptroller continued to criticize that state social workers did nothing proactive to find girls who were not yet known to them, and do not reach out. The State Comptroller concluded that thousands of girls, who are also included in the target population of the girls in distress units, are not located by them and “it is therefore logical to assume that within this population severe crises situations many deteriorate.”⁴⁰

The State Comptroller also found⁴¹ that (short-term) shelters are overcrowded and many girls stayed longer than the six month maximum period of placement should be (because no other services were available or had vacancies) thus causing girls wanting to stay there to be turned away, while they should have been admitted.

The State Comptroller reported⁴² that girls in distress (and who are in need of being taken away from their families because they are abused there) are not taken away and placed in an appropriate framework (such as a shelter) and they probably will continue to be abused. Emergency centers are not properly supervised according to the State Comptroller, while also no follow up is taking place.

Although the editors of newspapers in 1995 told the Knesset Education Committee they would cut lucrative ads for escort services etc, in fact nothing has happened.⁴³

Before the Stockholm Conference (The First International Conference on the Sexual Exploitation of Minors) of November 1996, many Israeli government officials were of the opinion that sexual exploitation of minors in Israel hardly existed. It was Deputy Attorney General (and CRC Committee Member) Judith Karp, who personally forced a breakthrough by taking the initiative for an Inter-Agency⁴⁴ Committee to study commercial sexual exploitation of minors in Israel. The Director General of ELEM, Association for Youth in Distress, Dr. Mike Naphtali was appointed as the chairman of the Inter-Agency Committee. The conclusions of the Inter-Agency Committee were clear:

- *Child Prostitution*- The act of soliciting children for the purpose of involving them in sexual activity with no emotional involvement and in exchange for money or some other reward, with the person himself or someone else. The activity is not always organized by a third party, and the child usually returns to the activity with more than one client.
- *Trafficking of Minors*- Either internationally or within a single country, for the purpose of sexual activity.

³⁹ State Comptroller, report 4g (over the year 1998), Jerusalem, 1999, p. 306.

⁴⁰ idem, p. 310.

⁴¹ idem, p. 312.

⁴² idem, p. 314.

⁴³ Tsur, Batsheva. “Newspaper Editors Agree to Cut Sex Ads,” in: *The Jerusalem Post*, July 13, 1995.

⁴⁴ participating in the committee: government Ministries (Labor and Social Welfare, Education, Justice, Internal Security, Health, Tourism, Immigrant Absorption), DCI Israel, ELEM, Israel Women's Network, SHANI, Ashalim, Tel Aviv University-The Forum on Women's and Children's Issues.

•*Child Pornography*- The production, distribution and use of pornographic materials, audiovisual or other, in which minors are either photographed or recorded. The participation of minors in striptease shows, etc. can be added to this category. A related phenomenon is facilitating the participation of minors in commercial advertisement roles that are pseudo-erotic or have sexual innuendoes.”⁴⁵

We were pleased that an Israeli delegation headed by the minister of justice participated in the 2nd World Congress against Commercial Sexual Exploitation of Children in Yokohama, Japan (December 2001).⁴⁶

In 2002, Reuters press agency and Ynet (web-site of the Israeli newspaper Yediot Aharonot) reported⁴⁷ that in an operation conducted in many countries, dozens of suspects were arrested for distributing child pornography on the internet. They based their reports on information received from the British police, who coordinated the global operation. The spokeswoman from the British police force informed them that the name of one suspect was given to the Israeli police and that they do not know if he was arrested or not. The Israeli police informed the journalists that they had not yet arrested any suspects. The spokeswoman also told Reuters that there is cooperation until today between the various police forces “by any standard.” Policemen from 20 countries from Asia to Europe participated in the operation. Dozens of computers were confiscated, following a search of dozens of houses. Among others, the investigation was conducted in the USA, Belgium, Canada, France, the Netherlands, Sweden, Russia, Turkey and North Korea. The investigators located more than 30 internet sites, in which, the pedophilic surfers were suspected to have traded thousands of pictures. 60,000 new pictures of child abuse which were transferred were discovered. According to the police in Britain, over 10,000 people entered these sites over a two-week period. There are 440 people who entered the sites more than ten times on the suspect list, although the number was expected to drop, considering that many people used fake or multiple names. “The people that used these photos learned how to camouflage their real identity after previous police successes,” the police told the journalists.

It is shocking to learn that in spite of the announcement of the British police – that the Israeli police informed the journalists that for the time being, it had not conducted any raids at the addresses which had been given to them by the British police. A former senior police officer told y-net that the Israeli police cannot handle such cases, due to lack of manpower and resources. According to the officer, several years ago the Italian police gave details about an Israeli man suspected of distributing photos on the internet, “until today nothing has been done about it,” said the officer.

⁴⁵ The Israeli Police and Juvenile Probation Service of the Ministry of Labor and Social Affairs expressed reservations about these conclusions.

⁴⁶ The Israeli delegation included the Minister of Justice, Mr. Meir Shitreet, Lawyer Adi Sheinman, representative from the Ministry of Foreign Affairs (the legal advisor's office), representatives from the ELEM association-Dr. Mike Naftali, director, Amit Appel, information coordinator of the “Awake in the Night” project, (it's original name: “you also have the right to bloom.”) of the ELEM organization.

⁴⁷ Ynet, November 28, 2001 and January 1, 2002.

According to Ynet,⁴⁸ a team of The Rainbow Telephone organization, which operates against pedophiles on the internet, discovered an Israeli child pornography site. The police got the warning on the 17th of March, 2001, through an e-mail from the FBI. The site was only accessible through a server hosting an Israeli up.co.il web-site. The warning was also sent to “Little Hollywood”, the company that runs up.co.il, but it was not in a hurry to act. The general director did not respond to ynet’s interest in the matter, although a few phone messages were left. The people of the Italian organization, activists in the field of online pedophilia identify at least one new Israeli pedophilic site a month. According to ynet, warnings concerning identified sites are sent to the hosts and copies of the warnings are sent to the legal authorities in various countries. The team has already sent about 10 e-mails concerning Israeli sites, some of them were received by the Israeli police, but have not yet gotten proper treatment. Ynet believes that these sites are not only operating under the patronage of small ephemeral bodies, which do not move quickly to remove them, but also within the framework of big sites, which offer surfers to establish their own private site with their servers. In the past, private pedophilic sites that were hosted by large sites were quickly removed after being discovered. They quote people stating that the police did not follow up on a complaint when a pedophilic site was discovered at the “iol” server. They also quoted Gadi Shimshon, currently the deputy director of the Sigler group, who revealed that the police did not handle a complaint concerning pedophilic sites he filed when he was the editor of Nana Portal. “We discovered very rough pedophilic material. We complained about it to the police, and after two months we got a message from Kfar Saba police that said they closed the complaint. I spoke about it with an officer from the computer felony division. He knew we removed the site from the internet and justified the lack of handling on behalf of the police with the workload they have. All the material, relevant to finding the operator of the site is kept with Nana. If anyone wants to file a complaint, maybe this time they will listen.”

And maybe the CRC Committee can take this issue up with the Israeli delegation to take such complaints more seriously and give more guidance to local police stations on how to handle such complaints.

Advocate Stephanie Raker of the Israel Women’s Network in Ramat Gan wrote DCI that: “Sexual violence is a significant problem in Israel. There are no accurate figures regarding the extent of the problem among minors. One source of information about the extent of sexual violence is the Report on Sexual Violence in Israel, 1998-2000, published by the Association of the Centers for Assistance to Victims of Sexual Violence. In 2000, there were 25,260 calls to the Centers for Assistance to Victims of Sexual Violence. The vast majority of these calls (nearly 89%) concerned sexual attacks by a person known to the victim. Over 47% of these calls for assistance concerned sexual attacks of girls and teens under the age of 18. Less than 20% of the callers to the center chose to file complaints against the attacker.

The Government of Israel should undertake a variety of measures to eliminate sexual exploitation and the abuse of minors. One important measure in which the Israel Women’s Network is involved concerns pornography.

⁴⁸ Ynet, March 28, 2001.

In January 2002, the Israel Women's Network submitted a position paper to the Knesset's Committee for the Advancement of the Status of Women concerning the broadcast of pornography. This paper states that the exposure of minors to any kind of pornography is destructive. Exposure to the harmful messages in pornography prior to the completion of the development of the minor's sense of self-identity influences the minor's identity and behavior, the minor's perceptions of gender roles in relationships, and society's behavior with respect to violence against women.

The Israel Women's Network is one of the main organizations that drafted legislation proposed in the Knesset in March 2002 that would prohibit certain pornographic broadcasts that (i) primarily present sexual relations that include violence or abuse, or that are accompanied by violence or abuse, or that include humiliation or degradation or (ii) primarily presents a person's body parts as an object for sexual use; so long as there is no public interest in such broadcasts. The Israel Women's Network is opposed to the current situation and to alternative proposed legislation that would permit pornography to be broadcast with codes and/or pay-per-view. The Israel Women's Network believes that the abilities of today's technology-sophisticated children enable them to gain access to televised pornography despite such preventative measures.

Passage of the proposed legislation that is supported by the Israel Women's Network, along with the appropriate financial resources needed to implement it, would be a significant step toward advancing the State of Israel's obligation under Article 34 to protect children from sexual exploitation and abuse."

ARTICLE 35—PREVENTION OF ABDUCTION, SALE, AND TRAFFICKING

Women trafficked from countries of the Former Soviet Union to work in the sex industry in Israel, many of them minors, are generally subjected to human rights violations such as violent assaults and enslavement. In 2000, the Knesset established a special committee to investigate the situation of trafficked women. In July 2001, the Knesset passed an amendment to the Penal Code, making the buying and selling of human beings for the purposes of prostitution a criminal offence punishable by up to 16 years' imprisonment. We welcome these new efforts as a sign of seriousness on the part of the Israeli Government in its treatment of this issue.

Courts will be required to sentence individuals convicted of trafficking women for sexual purposes to a minimum of two-and-a-half years in jail, according to a bill approved on February 9, 2002 in its first reading by the Knesset Constitution, Law and Justice committee. The committee, which held a marathon discussion on seven law proposals involving slave-trading for sexual purposes, also decided that an Israeli citizen who committed the crime abroad could, nevertheless, be tried in Israel.

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Research carried out by Israel Women's Network reveals a pattern of importation of women to Israel from the CIS for the purpose of prostitution.⁵⁰ Some of these

⁴⁹ Alon, Gideon. "MKs Ready Bill to Crack Down on Trafficking of Women," in: *Ha'aretz*, February 8, 2002.

⁵⁰ Israel Women's Network, *Trafficking in Women to Israel and Coerced Prostitution*, November, 1997.

women are coerced to work in prostitution against their will. Indeed, some were unaware, when brought to Israel, that they would be forced to engage in such work.

DCI-Israel saw two girls in the Abu Kabir jail from Latvia and Ukraine waiting to be extradited. In fact, the traffickers should have been in jail, not the victims. We have no evidence that the Israeli police looked for social workers in the home country (to which the girls were going to be extradited) to see to it that upon return they would not fall into the hands of criminals once again.

ARTICLE 36—PROTECTION FROM OTHER FORMS OF EXPLOITATION

Some companies tell young women that they can become models, get famous, be in the magazines and on TV. Parents, then made enthusiastic by their daughters, pay large sums of money, and get basically for that only a book with headshots. The profession and the photo album is all the girl gets and it almost never leads to a photo in a magazine. The parents are ripped off. The TV program “kolbotek” recently exposed this practice as did our colleagues from the National Council for the Child for years. Since the public has short-term memory for these practices, we expect soon again more victims of it.

Articles 27 and 28 of the Ethical Rules for TV state that advertisements cannot show vitamins for children, medications for children, etc. during hours when children watch. However, videos which children rent or buy are full of previews, which appear before the actual presentation.

ARTICLE 33—THE RIGHT TO PROTECTION FROM NARCOTIC AND PSYCHOTROPIC DRUGS

The use of psychoactive drugs amongst minors is on a severe rise, and if the Government does not take a more aggressive approach against dealers and manufacturers of the pills, a huge percentage of the country’s youth will be affected by this danger. The trend is: they are used younger and the stuff is heavier. The approach should be, in our opinion, not more policing, but more social work, psychology services, community centers, etc. The juvenile probation service has not enough budget to do group therapy with drug users.

There is only one institution for long-term drug rehabilitation (Malkishua) and one for short-term (Lifta). And this is far from enough. There is also an urgent need for a closed institution for drug rehabilitation of youngsters. Because treatment of drug abuse is hard and kicking off the habit is very difficult, young people in treatment often leave if they can. That means that if an adolescent does not want to stay off of drugs, and does not want to be rehabilitated, he can be sent to jail. Often, these people can be very young. In the Sharon prison, there is an urgent need for a separate department for young offenders on drugs. This also would prevent non-users in the prison from becoming users, due to the influence of the users.

Furthermore, while drug use was not so prevalent among Israeli youth until the 1990’s, a culture of widespread use has developed relatively recently. Israel has a lively discotheque scene. Certain discos have been known not only to tolerate but

also to support the use of heavy psychoactive drugs such as LSD (“Acid”) and MDMH (“Ecstasy”). Teenagers are often admitted to such clubs and have no difficulty obtaining drugs. Today, drugs are so prevalent among certain segments of Israel’s youth population that in a survey of high-school Seniors in secular State schools, 60% reported that they have tried some drug. Israel has had relatively few drug-related deaths and injuries among youth so far (compared to Western countries), but this fact is misleading. The phenomenon of heavy drug use is on a sharp rise, and if more is not done to combat it, the country could face a problem of proportions that it is not equipped to deal with in the near future.

Bayit Ham, an NGO for young people in distress, noted that the police bring more cases of drug use to the prosecution in the last few years. Previously, similar cases were only given a warning. The national educational television station has launched various campaigns against drug use, but, like with AIDS and other unpleasant realities, there is a tendency in Israeli society to assume that it is largely a foreign occurrence and “does not exist here.” The police have been lenient on drug offenders and generally ignore small neighborhood dealers—which promises the continuity of a steady supply to all those who seek it. And the Education Ministry, while offering limited programs for drug education, maintains these programs on a voluntary basis only. Therefore, most children in Israel never receive any guidance on the matter.

It is a sad reality that the infrastructure for redemption from narcotics addiction reflects Israel’s state of denial about the prevalence of drug use in the country. The juvenile probation service’s inadequate funding is to blame for the lack of group therapy for drug users with a criminal record. Israel has only one institution for long-term rehabilitation from drugs (Malkishua), and one for short-term (Lifta). There are unacceptably long waiting lists for these facilities, of up to eight months. There is an urgent need for a closed institution for drug-addicted youth.

The populations which are particularly stricken with the problem of narcotic drug use are, as would be expected, the weaker sections of the population. Hence, first-generation Ethiopian children and children from the former Soviet Union are occasionally referred to as a “lost-generation,”⁵¹ because of their involvement in crime and drug use. It is a sad reality that a generation of children should be so easily dismissed in a country that once excelled in its care for immigrant youth that arrived in the country alone. Here, the lack of facilities and the lack of outreach work shows.

Since Israel ratified the CRC in 1991, the landscape of drug-use among minors has changed completely. There is more of a variety of drugs on the market, according to the Jerusalem Anti-Drugs Association. The use is also more normative among youngsters and is used quite frequently as recreation (many youngsters believe hashish is not dangerous, for example). According to the director of the Jerusalem Anti-Drugs Association, many young people have, against the background of the hard life with terror attacks in Israel, adopted the attitude of *carpe diem*, “enjoy life now before it might not be possible later.” As an additional complication, the perspective of going into the army scares young people, and the fact that soldiers (conscripts) use more drugs has an influence on adolescents, a few years younger.

⁵¹ “An Entire Generation is being Lost because of Lack of Budget,” *Maariv* Newspaper, 05/11/2001, p.2.

The Anti-Drug Authority recently reported that drugs (both soft and hard) are on the rise among Israeli youth. Use by girls⁵² as well as religious youngsters is increasing as well. It seems the gap, between Israeli girls and Israeli boys is narrowing. We are concerned that the budget of the Anti-Drug Authority has been cut by ten percent (to 27,000,000 NIS), specifically now, when drug use is seemingly on the rise.

It is very worrisome that young people in East Jerusalem who use drugs fall completely between the cracks of the treatment system. On one hand the municipality and the Israeli government neglect the needs of this population, and on the other hand, the Israeli Government makes obstacles for the Palestinian Authority to operate there (although it seems to us that the PA is not focused on providing such social services anyhow). An urgent investment to help East Jerusalem adolescents is needed. Perhaps the CRC Committee can encourage NGOs (which might be more acceptable to Palestinian youngsters than the Jerusalem municipality) to provide a drug treatment service.

ARTICLE 30—THE RIGHT TO USE HIS OR HER OWN LANGUAGE

According to Spolsky and Shohamy⁵³ it is estimated that 4,500,000 Israelis have functional competence in Hebrew versus 2,000,000 in Arabic. According to these figures, Arabic is the second major language in Israel. In the Arab schools in Israel, Arabic is taught as a first language, Hebrew as a second language, and English as a foreign language. Arabic is the language of instruction in all subjects in Arab schools. There still remain a few homes within the Jewish population where parents or grandparents came from Arabic-speaking countries and thus still speak Arabic. Mohammed Amara:

*“The language spoken by Palestinians in Israel is the Palestinian Arabic dialect. As exposure to the Arab media (mainly television and radio) and the educational level of the Palestinians have increased, so too has the knowledge and usage of Standard Arabic increased. Some words from Standard Arabic have replaced local vernacular words (See Amara, 1986). Modern Standard Arabic, the language of newspapers, short stories and novels, has influenced even those people who are minimally literate. Features from other dialects of Arabic have also invaded Palestinian Arabic.”*⁵⁴

According to Amara, the normative status of Arabic as one of the two official languages in Israel is the most far-reaching communal right given to the Arab minority by the law.⁵⁵ It is the only ethnic nation State in which a language of a minority has an official status. However, Israeli society is far from bilingual.⁵⁶ In Israel there is an integration of a state and civil society which work, almost

⁵² Siegel, Judy. “Girls Catching Up to Boys in Drug Use,” in: *The Jerusalem Post*, February 28, 2002.

⁵³ Spolsky, Bernard and Shohamy, Elana (1999). Language in Israeli Society and Education. *International Journal of the Sociology of Language* 137: 93-114.

⁵⁴ Amara, Mohammed. The Place of Arabic in Israel. (2002). *Journal of Sociology of Language*, issue 158.

⁵⁵ Amara, Mohammed. The Status of Arabic as an Official Language in Israel. *Qadaya Israiliyya*. (English summary given to us by the author.)

⁵⁶ Idem.

exclusively in the language of the majority community; together they push towards a society characterized by *asymmetrical* bilingualism and biculturalism of the minority. In the level of the minority language, the accumulating outcome is erosion.

Majid Al-Haj, a sociologist, said at a hearing about the implementation of the CRC organized by DCI-Israel in Haifa in 1995:

“Linguistic policy in Israeli is motivated by ideology. Officially, Israeli is a bilingual state: Hebrew and Arabic. In practice, however only the Hebrew language is promoted, while Arabic serves only the Arab citizens of Israel. The official two-language policy is adhered to only in the most restricted manner. Israel is de facto a mono-lingual state, and the ideology held by the majority of the population is ‘one nation – one language.’”

The social integration of the Arab minority in Israel is hindered by the fact that most Israeli Jews do not speak Arabic. The State Comptroller has pointed out that enrollment figures of enrollment in the Arab language in the state education system showed that less than 50% of the 7th-9th graders and only 21% of the 10th graders and 4% of the 12th graders studied Arabic in school.⁵⁷ Less than 3% of the 12th graders applied for a final matriculation exam in Arabic. In the State Religious system, Arabic is considered a “foreign language” and studying Arabic is not encouraged enough. In the State religious schools, only 21% of 7th-9th graders and 2% of 12th graders studied Arabic. Media exposure encourages children to study English, at the expense of other languages of the region. Schools do not counter this pressure. According to Professor Majid Al-Haj of Haifa University,⁵⁸ “there is a big difference between spoken Arabic, which is the first language of Arab students, and literacy Arabic, which is the type of Arabic used in the exams and is actually a ‘second language’ for Arab students, he said. But he noted that scrapping psychometric exams—a measure which has been under consideration for all students—would not solve the problem and might even worsen the situation for Arab students because more weight would be put on the scores students receive in three subjects on high school matriculation exams: English, Hebrew, and math. He said English was a ‘second foreign language’ for Arab students and not a ‘first foreign language’ as it is for Jewish students.” Arab Israelis must learn the language of the majority in order to be fit for the job market. Progress in the field of language rights for minorities is being made, however. Recently, the Arab-Israeli human rights organization Adalah has successfully petitioned the Supreme Court to have street names in the city of Haifa appear not only in Hebrew and English, but also in Arabic.

Not many Jewish children learn Arabic at an early age. There are a few exceptional schools (in Jerusalem and the Galilee) run by the organization *Hand in Hand*, where Arabic is taught. Each class has both a Jewish and an Arabic teacher. The state of Arabic in Israel reflects the social position of the Arab minority.

Mohammed Amara, a sociologist at Bar-Ilan University, proposes that we look at Arabic in Israel different than we look at other majority-minority situations in Israel.

⁵⁷ Report of the State Comptroller 1995, (1996) no.46, pp. 367-368.

⁵⁸ Ratner, David. “Arab Students to Get a Much Needed Boost,” in: *Ha'aretz*, January 30, 2002.

*“Political conflicts affect language repertoires, and in some cases language issues become part and parcel of the conflict. Language is not abstracted from reality and people but responds to surrounding changes. The status of the Arabic language in Israel is a reflection of the unique socio-political situation of the Arab minority in Israel and the Arab-Israel conflict in the Middle East. Arabic in Israel is perceived by many Israeli Jews as the language of the enemy and also the language of the marginal Arab community in Israel (in Ben-Rafael’s words (1994) the language of the weak). As such, Arabic is perceived of language conflict and of low linguistic capital. As long as the Arab minority is a marginal community in Israel, and the Israeli-Arab conflict continues, I cannot see any drastic change in the place of Arabic in the Hebrew state.”*⁵⁹

Attorney Anat Ben-Dor wrote to the Rotlevy committee⁶⁰ that “the advantage to separation is that it enables the preservation of the language, and creates an internal unity. It also has the potential to aid group empowerment. On the other hand, separation incorporates the fear, one that has apparently been realized, of ‘separate but equal is not equal’. The *Brown v. Board of Education* of Topeka ruling⁶¹ determined that separate educational institutions by nature are not equal. In its ruling, the court argued that racially-based separation supported by the law instills feelings of inferiority among minorities regarding their status in the community; feelings that might influence the thoughts and emotions of members of the minority group in a way that cannot be rectified.” Ben-Dor quoted Professor Ruth Gabison, who believes that the Brown case should not be discussed in the context of integration of Arab children in Jewish Public schools.⁶² According to her, “unlike the separation between white and African-American children in the United States, the legal institutional separation of schools in Israel does not necessarily represent a message of superiority or inferiority. Integration in Israel might exact too high a price – relinquishment of the reinforced community, linguistic and religious identity by the student via the educational system. The decision to preserve the separation, therefore, must also include a guarantee that the separation will not serve as an instrument of discrimination in any way regarding input.” It is precisely there that there are problems with implementing article 29 in relation to the Arab sector in Israel.⁶³

Israel’s Channel One television station has a few programs in Arabic (there is one children’s game program with Jewish and Arabic kids). Five new channels are in the

⁵⁹ Amara, op. cit.

⁶⁰ Ben Dor, Anat. “Equality in Education-The Convention on the Rights of the Child and Israeli Legislation,” submitted to the Rotlevy Commission of the Educational Subcommittee, October 2001. See also: Amara, M. & Spolsky, B. The Construction of Identity in a Divorced Palestinian Village, Socio-Linguistic Evidence, in: Asir, S.Y., ed. *Language and Identity in the Middle East*, Luriz Press, 1996.

⁶¹ *Brown v. Board of Education of Topeka*, 98 L.ed. 873,881.

⁶² Gabison, R. “Does Equality Mandate Integration? The Center for the Study of Arab Society in Israel, Beit Beryl, 1999, p.58.

⁶³ See: Ben-Rafael, Eliezer (1994). *Language, Identity and Social Division: The Case of Israel*. Oxford Studies in Language Contact. & Ben-Rafael, E. and Brosh, H. (1991). A sociological study of language diffusion: The obstacles to Arabic teaching in the Israeli school. *Language Planning and Language Problems* 15 (1): 1-23. & Benziman, Uzi and Mansur, Atallah (1992). *Subletters: The Arabs of Israel, their status and the policy toward them*. Jerusalem: Keter Publishing. (Hebrew) & Landau, Jacob. (1987). Hebrew and Arabic in the State of Israel: Political aspects of the language issue. *International Journal of the Sociology of Language* 67: 117-133

planning stages in Israel: a news channel, a Russian channel (beginning this spring), a music channel, a heritage channel, and an Arabic channel. There is a demand for original children's channels ("Children's Channel 6," "Fox Kids," "Y+N") in Hebrew added to the English Hollywood productions or the other language productions (such as the popular "chicititas" Spanish program for children. Article 16 states that language of programs has to be correct and coherent, and programs for children under age 7 (such as cartoons) have to be doubled in. That is always in Hebrew.

On February 27 2002, the Supreme Court sitting as the High Court of Justice gave an interim decision in the case of DCI-Israel against the National Insurance Institute and the Ministry of Labor and Social Affairs⁶⁴ in the matter of DCI-Israel's petition to the following:

- Translate all forms of the National Insurance Institute into Arabic.
- Enabling Arab residents of East Jerusalem to fill in forms in Arabic and accept them.
- Send all letters and notices of the National Insurance Institute to Arab residents of East Jerusalem in Arabic.

The National Insurance Institute had indicated that such an operation (adaptation of the computers, hiring of staff who can speak Arabic etc. will cost more 168 million NIS. The Supreme Court decided that the respondents would have to submit to the court within 90 days a detailed schedule of how they can begin to make these changes. In addition, special reference is to be made in the schedule for East Jerusalem. The NII provides, by law, all services of social security in the country. This includes grants for pregnant women on delivery, child-allowance, allowances for handicapped children, etc.

DCI-Israel sees in this interim decision a major breakthrough in the status of the Arab language by the authorities and in the promotion of social and health rights of the Arab community, especially in Jerusalem.

In 1994, DCI-Israel initiated a discussion about the concerns relating to educational needs of deaf Bedouin children. Central to the concern, was the issue of the language system used in the Niv School for the Deaf in Beersheva, where 90% of the students are Bedouin. Spoken/written Hebrew and sign language based on Hebrew signs is used in the school, while Arabic sign language is used in the Bedouin children's homes. While the Hebrew system prepares the children better for employment and participation in Israeli society, DCI—Israel argued that Arabic/Bedouin spoken, written, and sign communication with deaf Bedouin children would enable better communication with Bedouin parents.⁶⁵

Special education teachers in the Arab sector, especially in the Negev with the Bedouin are hardly available. It is a combination of lack of investment (for instance by providing scholarships), lack of a feeling that this is a priority, and a lack of

⁶⁴ *DCI-Israel v. the National Insurance Institute and the Ministry of Labor and Social Affairs*, Supreme Court, sitting as the High Court of Justice, 2002.

⁶⁵ Deaf Children in a Bedouin Tribe in the Negev, DCI—Israel publication in the *Israel Children's Rights Monitor*, vol. 4, Autumn 1994: p. 112-114.

reaching out to the Bedouin and a cultural aspect (Bedouins don't allow their daughters to leave the home for school every day). And the fact that this is the periphery where any service is more difficult to obtain. Also distances and lack of transportation (Bedouins set themselves up in little encampments and villages of tents in isolated desert areas) also plays a role. The saddest thing is the lack of teachers in special education to deaf Bedouin children of Arab communication systems (sign language).

Of course, it is certainly logical that Hebrew Sign Language along with written/spoken Hebrew should be the language of instruction for deaf Bedouin children in the Israeli Education system, because it prepares a child for employment and participation in society. However we think an equally compelling case can be made for using an Arabic base for spoken, written and signed communication with deaf Bedouin children because this would better enable them to interact with their families and with the Bedouin community. In addition, the use of Arab communication forms in the school would facilitate communication between the school, Bedouin parents, and the Bedouin community.

In a meeting organized by DCI-Israel⁶⁶ in 1994, a professor from Texas' Lamar University, Robert Moulton, suggested that there need not be an either/or choice concerning language systems. There is a place for Hebrew-based spoken, written and signed communication in the school. There is also a need for Arab based communication systems within the educational setting. According to him, both should be equally valued and taught. Given that Hebrew systems are now being used, his recommendation was to add Arab systems to the schools. He referred to a multi-lingual educational similar to that used in the Rio Grande Valley of Texas. There, Mexican-American deaf children come from homes where English is not spoken and where Mexican sign language and Spanish are the primary modes of communication.

Different interventions⁶⁷ by DCI-Israel did not succeed in bringing about the needed change in having Bedouin children in the Israeli Niv school for the deaf in Beersheva (where 90% of the children are Bedouin) enjoy using the language which they use at home. We express concern that there is a mismatch between the language systems used in the school and the systems used in the homes of these children.

Evidently, spoken/written Hebrew and a form or forms of sign language based on Hebrew signs are used in the Israeli school systems, while Arabic, presumably of a Bedouin dialect, and/or sign language based on Arabic sign systems are used in the homes of deaf children.

Recognizing that there are cultural obstacles, we nevertheless have the impression that the Ministry of Education did not actively enough approach this problem.

The million immigrants from the former Soviet Union, according to Dr. Julia Mirsky, should also be considered a linguistic minority.⁶⁸ In an interview with

⁶⁶ Israel Children's Rights Monitor, Bedouin Tribe, Autumn 1994, p. 112-114.

⁶⁷ such as excursion to the Holy Land Institute for the deaf in Salt, Jordan to study Arabic sign language and encourage cooperation.

⁶⁸ Dr. Julia Mirsky, Ben Gurion University of the Negev, Department of Social Work, in interview,

Eleanor Pardess, clinical psychiatrist of Sela, the Israel Crisis Management Center in March 2002, she pointed out to us that special tutoring for immigrant children in school is not sufficient. They came into a class where subjects such as Israeli history, Bible and Hebrew are strange to them. In addition, much is lost in the translation. We are concerned about these children's cultural rights since there are some schools which forbid pupils to speak with each other in Russian in the breaks. Furthermore, equal opportunities in education are closely linked with non-culturally biased psychological testing, yet psychological testing in Russian does not exist in Israel.⁶⁹ The fact that we need to request to regulate by law that children can be tested in their mother tongue says something about Israeli society where there is not a lot of empathy for cultural identity other than what is considered "Israeli."

Some Russian immigrants arrange after-school lessons for their children, where students receive tutoring in mathematics, science and Russian. More than 20,000 Jews, mostly in the Ashkenazi Ultra-Orthodox sector still speak Yiddish (Jewish) on a daily basis, in an effort to maintain what was the Jewish tongue in all of the European countries throughout the time spent in the Diaspora.⁷⁰ Besides this, about 3,000 children learn Yiddish as an elective language (as children can study Spanish or French) in normal orthodox or non-orthodox schools. They also take Yiddish matriculation exams.⁷¹

January 17, 2002.

⁶⁹ Professor Reuven Feuerstein of the International Center for the Enhancement of the Learning potential has experimented with testing which is less culturally biased. Also see: S. Kaniel, et al, *Dynamic Assessment: Learning and Transfer Abilities of Ethiopian Immigrants in Israel* in: Feuerstein, Reuven, et al., Mediated Learning Experience (MLE). Theoretical, Psychological and Learning Implications, London, 1991, Freud Publishing House. See also Samuda, Ronald J., ed., Advances in Cross cultural Assessment, London, Sage, 1990, pp. 100-161. and Reuven Feuerstein, et. Al, *The Learning Potential Assessment Device: History, Theory, Applications and Results* in D.P. Flanagan et. al, Beyond Traditional Intellectual Assessment, New York, 1997 Guilford.

⁷⁰ Pilowsky, Arye L. (1985). Yiddish alongside the revival of Hebrew: Public polemics on the status of Yiddish in Eretz Israel, 1907-1929. *In Readings in the Sociology of Jewish Languages*, J.A. Fishman (ed), 104-24. Leiden: Brill.

⁷¹ Information provided to DCI-Israel by Shlomo Alon of the Ministry of Education in April, 2002.

Suggested Questions to the Government by the UN Committee on the Rights of the Child:

1. Can the government explain why if Israel has experience in finding survivors from the rubble of earthquakes (the IDF was in Turkey for this) why did the IDF not assist in finding survivors from the rubble in Jenin refugee camp? Also, why did the IDF block for so long access to humanitarian aid to Jenin refugee camp in April 2002?
2. We see a trend that all kind of special groups cannot get (enough) services from the Youth Protection Authority of the Ministry of Labor and Social Affairs ("Hasut ha Noar") such as drug-offenders, sex-offenders, mentally disturbed and those who are not mentally ill but need extra care and treatment. There is a lack of facilities for psychological support for minors who come out of prison. The Juvenile probation service urgently needs more social workers to do group work with drug-addicted young people. There is also an urgent need for a closed institution for girls, or an expansion of the current facilities. Now the waiting lists are sometimes 8 months long and the girls are often on the street or in prison, waiting for a place. So, on the one hand, "children are considered in Israel to be of high value, not only to their parents, but also collectively,"⁷² but on the other hand, it takes often petitioning the Supreme Court by NGOs to get the government to invest. In fact, it will already cost the community more than if the appropriate action had originally been taken. Can the government not come up with a long-term

⁷² Shamgar-Handelman, Lea. "Childhood as a Social Phenomenon; National Report-Israel," Vienna, 1991, European Center for Social Welfare Policy Research.

plan in which facilities for specific groups will be opened or expanded and report about that in the next State Report?

3. When can the government hire more Arab social workers for the Juvenile Probation Service?
4. Can the government reconsider ratifying the First Additional Protocol to the Geneva Conventions?
5. Can the government conform to European legal opinion and the position of the High Contracting parties to the Geneva Conventions and consider them bound to all aspects of the Geneva Conventions?
6. How can the government justify having minors held as administrative detainees, even in small numbers?
7. What steps is the Government taking to implement the Supreme Court's 1999 ban on all forms of torture by the Security Services?
8. Can the police and Security Services stop interrogating Palestinian criminals at night?
9. Does the government plan to create a database on child labor, do research, and coordinate different ministries and the police to deal with this matter in order to see what is the extent of this problem and if we are not just dealing with the tip of the iceberg?
10. When will the government improve the residential facilities available to youth drug-addicts to fit the demand for such facilities and open special wards for drug using minors in prison?
11. Can the government support having a parent/guardian/lawyer observe interrogations of minors, even if behind a one-way screen or by having the interrogation recorded on video as a means of preventing torture?
12. Can the government arrange for Palestinian parents of children in prison to be exempt from the closure arrangements so that the ICRC can restart family visits to young prisoners?
13. Did the government start to formulate a national agenda to fight child prostitution, child pornography, and trafficking of children for sexual purposes, as the outcome document of the Yokohama Conference adapted as a follow-up process, (The Yokohama Global Commitment 2001), taking the recommendations of the Israeli Inter-Agency Committee into account?
14. How can the government assure that volunteers (17-18) who serve in the IDF, (who are only there for training, and not to see action), will not, in fact, be drawn into action if they are trained on an army basis in the West Bank, (meaning that they can be fired on by Palestinians on the way to the base or on the way back and they have to fight back)?

X. Concluding Comments

A. Introduction

The Israeli Children's Rights Coalition notes that the Initial Report by the State of Israel was submitted in February 2001, while in fact it should have been submitted in 1993. If the government had not called in the help of the JDCI Brookdale Research Institute and Haifa University Faculty of Law, the report would not have been finished even today. We demand that the government find a structural solution to improve the responsibility of all ministries to implement the CRC. The appointment of a Commissioner for Human Rights to oversee that the duty to report is carried out in a timely manner would be a step in the right direction.

The Initial State Report is of high quality, although the legal aspects comprise a larger portion than warranted. The report should have taken into account Palestinian children who live under the Palestinian Authority leadership, as Article 2 (all children under the jurisdiction of the State Party) prescribes. NGOs were involved by the government in the Report's preparation only at the last moment, and young people were not involved at all. Although CRC is applicable in the territories, the Initial State Report completely ignores them. The Initial State Report also completely ignores children of those who collaborated with Israel ("mastapim") and now live in Israel because they are afraid of being killed by their fellow Palestinians.

Cultural issues relating to new immigrant children from the former Soviet Union and Ethiopia are ignored; the focus is on integrating into Israeli society and not on links with the past. Children in kibbutzim and moshavim have also no attention.

B. Positive Aspects

We welcome the signing of the Optional Protocol on the Involvement of Children in Armed Conflict and of the Optional Protocol on Sexual Exploitation in September 2001 as positive steps and hope that ratification will soon follow, along with ratification of ILO Convention 182 (Extreme Forms of Child Labor).

The Coalition welcomes the establishment of a Committee to Examine Fundamental Principles Concerning Children and the Law (the "RothLevy Committee") but fears that the process might not lead to the incorporation in Israeli law of the whole CRC.

While the approach towards children's issues in the Knesset-Committees is often ritualistic, we believe that the Knesset Advancement of the Status of Children Committee and its dedicated chairperson MK Tamar Gozansky are very helpful in advancing children's rights issues and keeping children on the political agenda.

The new Local Status of Children Committees of municipalities can be a unique chance to push for implementation and coordination on a local level. This has also become important since local authorities are increasingly delivering services, and contribute financially to services in their community, in addition to the national government.

A Committee of the Ministry of Justice headed by Deputy Attorney General Judith Karp cooperates with other government agencies and involves NGOs, such as the Association for Civil Rights in Israel (ACRI), the National Council for the Child and DCI-Israel.

The Ministry of Justice developed some very progressive laws, such as the Evidence Revision (Protection of Children) Law 1995 where minors under the age of 14 do not have to testify in person concerning sex-offenders or violent crime perpetrators. A social worker can appear in his/her place in court, which in many other countries would not be possible because it would be seen as hearsay and insufficient evidence. The NGOs welcome the change in 1998 of the 1995 Public Defender Law, providing counsel to all minors being tried in criminal cases in court.

The government finances NGO experiments of the National Insurance Institute-Special Projects. It has agreed to finance DCI-Israel for three years in creating a Youth Information Center in the port city Ashdod staffed by a community worker and a lawyer to promote children's rights. The project is subsidized through the NII Special Projects Fund and will be run with the municipality of Ashdod. It is now involved in a project of "Dilemma Cafés" ("Hafuch Al Hafuch") operated by the NGO ELEM (Youth in Distress) and several others which provides adolescents with non-stigmatic advice and counseling services. DCI-Israel has received funding for the first time (from NII Special projects) to operate in the Arab sector (in the town Al-Tira). In Al Tira and in some of the Dilemma café settings, DCI-Israel gives legal advice to young people about their rights. Such innovative socio-legal defense centers are encouraged by the government, as a welcomed development, although it also brings attention to the disparity of services.

We welcome the work done by the Golda Meir Mount Carmel International Training Center and the People's International Institute in cooperation with developing countries and regret that they were not mentioned in the State Report.

We appreciate that in the first half of the nineties (especially in 1993 under the Rabin government) a huge investment in education was made, certainly as compared to the previous decade. This was also true in the Arab-Israeli sector (mostly in salaries of teachers, and not in building classrooms).

In contrast to many other States, the Supreme Court in Israel is approachable. Israeli law provides for relative ease in bringing social policy issues before its Supreme Court.

We see it as a positive step that the Prison Commissioner has decided to open a prison exclusively for minors (the Ofek prison) with personnel trained specifically for that purpose and that the first stage is already in force. By 2003 all juveniles in prisons (including Palestinian security offenders) will have improved facilities.

The Supreme Court also ruled recently that torture during terrorist interrogations is illegal and thereby revised the decision by a State Commission headed by a retired Supreme Court Judge, Moshe Landau, no longer allowing "moderate physical pressure". It should be noted that the law dealing with self-defense was changed during this period, which facilitated the court in its latest decision.

The public health system compares favorably with systems in industrialized countries. The National Health Insurance Law no longer, in principle, excludes any child in Israel. Despite this, Arab children born in East Jerusalem are liable to encounter difficulties.

The responsibility for development of health facilities has shifted to the P.A., which must tend to the running of hospitals and health services in P.A. controlled areas. However since we believe that the State of Israel neglected development of health facilities in the West Bank and Gaza when it was 100% under its rule. The State of Israel should have a moral responsibility to help the P.A more financially develop health services and pay for treatments not developed in the West Bank and Gaza.

C. Factors and Difficulties Impeding the Implementation of the CRC

We realize that children's rights have to be implemented in what Simha Landau called "an ideal natural laboratory for the study of the effects of stress on human beings."

If it were not for the Palestinian conflict, Israel could be considered just as any other State where policies of the World Bank and IMF impact upon decisions the government takes in trying to cut government social expenditure. The tragedy of Israel is that because of the conflict-situation with the Palestinians and the continuing occupation, it cannot put its best tenets to use for children. If things do not change soon, many resources will be wasted on coping with the violent situation, instead of on children and the future. Children, of course become the major victims of this conflict many of whom have lost their lives; so much energy and resources which children so desperately need are channeled into the struggle with the Palestinians. After hopes of resolution a few years ago, the situation is growing from one of low-intensity conflict to a serious war-like situation. The growing gap between the rich and the poor also takes place in many other countries, and we see it having its negative impact on children in Israel, as well. The economic difficulties may also contribute to angering parents as does the general security situation (most Israeli Jewish and many Druze and some Bedouin men have to go one month per year to reserve duty until the age of 50), which can perhaps lead to anger and frustration being taken out on their wives and children.

We have seen that the right to life (art 6) and prevention from torture (art 37) are closely linked with the situation with the Palestinians. In addition, we see as key: art 27 (adequate standard of living) and the protection from all forms of violence (art 19) – as we have seen a growing phenomenon as Israeli society has become more unstable, impoverished and ultimately more violent.

Israel is not unique in making budget cuts that affect the weakest groups in society, such as children and not adequately addressing the needs of Arab-Israeli children. If this was the only problem, it would be seen against the background of first positive steps to implement the CRC, Israel could be among the leading States which to the best of their ability try to implement the CRC. Certainly this is the impression that one gets by reading the Initial Report. The impression is that one reads about an island of good lawmaking and first steps in the right direction. It would be a blessing if in the next years a political solution could be found for a just peace with the

Palestinians. Then, indeed, the context of children's rights would be more like many other "normal" countries.

Principle Subjects of Concern

1. General Measures of Implementation

We are concerned that basic rights (such as social rights, equal opportunity, the right to education, minority rights) have no constitutional protection in Israeli law (because Israeli law is not based on a constitution). However there is an important Basic Law: Human Dignity and Freedom; this is a quasi-constitutional document.

The Coalition is concerned that law proposals by Members of Knesset to make the CRC, in its totality, the law of the land are blocked by the government. We also recommend that all military orders oriented towards the Palestinians be brought in line with the CRC.

The text of the CRC (in Hebrew and Arabic) is not sufficiently disseminated nor available. We recommend that the Ministry of Justice subsidize NGO (The Adam Institute, the National Council for the Child, the Association for Civil Rights in Israel, the Arab Association for human Rights, DCI-Israel and others) for distribution of the CRC and their development of educational programs in cooperation with the Ministry of Education.

2. Definition of the Child

We are concerned that military orders do not coincide with the CRC's definition of the child, meaning that Palestinian children are considered by the IDF adults at age 16.

3. General Principles

A. The Right to Non-Discrimination

In different areas (alternative care, health-and welfare services, education and special education) we found that children of the Arab-Israeli minority were discriminated against. This manifests itself in the fact that more budgets are spent on alternative care, education and special education for Jewish children than for Arab-Israeli children. An instance in which one can most clearly see discrimination is that of children of unrecognized Arab-Bedouin villages. Equal educational opportunities for boys and girls are absent in the field of technology where girl-pupils are not sufficiently encouraged, and textbooks as well as curriculum include gender stereotypes that reinforce traditional gender roles. Children of foreign workers are also discriminated against even though Art 2. of the CRC clearly outlines that the CRC should be applied to each child within the jurisdiction of the State Party "without discrimination of any kind, irrespective of the child's or his or her parents or legal guardian's...national, ethnic or social origin...birth or other status". The State discriminates against Palestinians, for instance, in regard to residency rights in East Jerusalem and uses it as a way of unethical pressure discouraging parents and children to live in Jerusalem.

Research presented in this NGO Report, (under Article 5) showed a strong relationship between social/ethnic origin, poverty and results on the

matriculation tests. The government is not taking effective steps to give all children an equal opportunity.

B. The Best Interests of the Child

The best interests-principle is widely used by judges, welfare officers, etc. However, the principle is applied paternalistically often and the link with art.12 is often not made. The best interests principle seems on a general level to be violated by everyone, but the tragedy is that hardly anybody realizes this; not the parents of the children in settlements close to Palestinian towns, not Palestinians who glorify violence in which their children participate, not the Israeli army which does not think about the best interests of the child when the only answer they have to violent demonstrations is tear gas, rubber coated bullets or live ammunition. Political and nationalistic interests have taken the upper hand, but everybody thinks they do it for the better future of their children.

C. The Right to Life

The government has not taken all steps possible to protect lives of Palestinian children and has not shown enough accountability when violations occur leading to fatal consequences.

Traffic accidents are the second highest cause of death of children in Israel. The struggle against traffic accidents and the requirements of children to wear safety belts are not given enough priority.

D. Respect for the Views of the Child

As in many countries, the best interests of the child principle, interpreted in a paternalistic way, did not leave much room for the views of the child. Slowly, modern times are also bringing changes to Israel and new ideas are incorporated in the law, such as the Family Court Law where the child can submit his or her position and have his or her independent lawyer, and the Youth Trial, Punishment and Modes of Treatment Law (allowing the judge to appoint an independent representative for the child). However, in practice, the judge often talks with the child in his/her chambers, tells the child what he/she thinks should happen and then writes in the file that the child agrees with the decision. The Decision Committees (dealing with care plans for children in need) and Placement Committees (to special education) do not yet, as a matter of standard procedure, listen to the child's point of view. The option of having the child's lawyer accompanying the child has hardly been explored. Another concern is that rabbinical courts rely on traditional religious legal reasoning; little progress has been made to extent rights to children.

4.Civil rights and freedoms

It is interesting to note that the Israeli government appointed a committee (The Roth-Levy Committee) to arrange a Children's Rights Law, but the larger constitutional context is not dealt with.

A. The Right to a Name and Nationality

Unfortunately, fear (of demographic numbers of Palestinian children) has led to the fact that Art.7 has not been kept out of the political arena. Palestinians in East Jerusalem fear registering their child with the Ministry of the Interior. In East Jerusalem, procedures and rules seem to be made in order to make Palestinians in East Jerusalem so miserable that they will leave. We are concerned Israeli authorities use this article as a weapon in a battle against Palestinians, and rights of the child are no consideration at all.

Israel stopped the egregious administration, deportation and denial of residency rights of Palestinian children in East Jerusalem. It is still failing to provide any stable status to the Palestinian children in East Jerusalem continue to be stateless, with no prospect of having a nationality in the near future.

Israel's battle against non-eligible immigrants coming into the state, as well as children and families who's status is questioned and do not get their citizenship rights leads to the practice (in violation of the CRC) of not promptly recording children in the population registry.

B. The Right to Freedom of Conscience, Thought and Religion

Adolescents in the community of ultra-orthodox Jews find heavy pressure if they do not want to lead this lifestyle. Also, children of secular Jewish families who opt for an ultra-orthodox Jewish lifestyle face difficult decisions as there is no civil marriage and divorce within the ultra-orthodox community.

The child's right to freedom of religion is curtailed by the State's decision to accept only Jewish orthodox institutions as valid legal institutions. Thus, non-orthodox Jewish conversions are not truly recognized. This also affects adopted children and their families. Recent court decisions granted un-orthodox conversions of adopted children the same status as other conversions, but there are already attempts to legislate further restrictions on freedom of conversion in Israel.

C. The Right not to be Subjected to Torture

At the time of ratification of the CRC, the situation was worse than it is now. A State Committee permitted the Security Services (Shin Beth) to apply physical and psychological pressure during terrorist interrogations. Later, the Supreme Court ordered this practice stopped. However, teenage Palestinian suspects are routinely lifted from their beds at night and interrogated. The routine of beating under interrogation in order to get confessions is well documented as are other "techniques" and is very worrying indeed. It brings shame on a State which claims to be law-abiding.

5. Family Environments and Alternative Care

Although Supreme Court Justice Beinisch has now revised a 1953 court decision on the definition of abuse stating that continuous slapping by a parent is not an educational measure, this is not yet backed by legislation. The mandatory reporting law and NGOs bringing the issue to the attention of the public via the media, have raised

awareness of the phenomenon of child abuse. However, even if cases are diagnosed and reported, follow up therapy is hardly available because of lack of budgets.

Family reunification is taking place much too slow for the 10,829 Ethiopians still waiting in Addis Abeba or Gondar to come to Israel, and many among them are children. The Israeli government seems not to take firm action to bring these people, waiting in difficult circumstances, quickly into Israel. Family reunification is not granted to Palestinian children promptly or humanely, but only grudgingly after intolerable delays and unreasonable administrative procedures.

Foster family care is in Israel much less developed than residential care. As the State Comptroller pointed out in 1998, there is a lack of supervision of foster families. It is possible that the change in policy which came into effect in May 2001 which gave three NGOs the responsibility of running and developing foster family-care, will, hopefully, bring an improvement thus leaving the Ministry of Labor and Social Affairs in the role of supervising the care. However, to develop this sector in a serious way, much more needs to be invested in the training of foster parents and in upgrading of their payment. A bad sign is that no association of foster parents than can do self-help and be a partner to the Ministry of Labor and Social Affairs presently exists.

6. Basic Health and Welfare

Dr. Eyal Gross¹ of Tel Aviv University has pointed out that:

“social rights are suffering from decreased status precisely at that point in time when they can and should be playing an important function as a ‘safety-net’ in the era of market economy, privatization and globalization: the era of employer privatization as well as a period in which many government social services are de facto being increasingly privatized; when enjoying the benefits of these services is becoming increasingly dependent on the ability to pay for them. The current dominant trend is to reduce government responsibility for welfare and to transfer it to the fringes of the universal welfare state.”

We are concerned that the major achievement of universal healthcare is being undermined by the allowance of health funds (*kupot holim*) to ask contributions for visits to specialists and medications, in contrast to the position that existed formerly.

The unrecognized Bedouin villages do not have the necessary number of well-baby clinics.

The patients-rights law has not made specific provisions for children. In the mental health field, the child guidance clinics cannot provide long-term psychotherapy. Suicide-prevention programs are not being made available to children and adolescents.

Parents of children with disabilities are required to deal with multiple bureaucratic structures and various government agencies to deal with, which drains energy they need for the children. Care for children with disabilities after-school hours is hardly available.

¹ Gross, Eyal. Distributed Justice in Israel, op.cit.

In the Arab-Israeli minority, where because of consanguinity (marriage amongst family members –which is still very much present) the percentage of children with disabilities is relatively high, facilities and more services should be available.

The worst violations of children's rights have occurred during periods of 'closures' when the IDF has not allowed Palestinian children to move between towns in the West Bank and Gaza when they need to visit a clinic or need to go to therapy. Also visits (sometimes even in ambulances) are delayed and unnecessarily prevented. The coalition is not against inspection of ambulances by the IDF, but holding them up unnecessarily or not letting them through after inspection is unacceptable.

7. Education, Leisure and Cultural Activities

The government has unfortunately not succeeded in narrowing the gap in achievement between the center of the country and the periphery (development towns in the Negev for instance).

The educational system has not been able to provide equally motivated and skilled teachers in development-towns. After 3 or even 4 generations there remains a strong correlation between low educational achievement and Jewish children from North African descent. The educational system, which was expected to solve the problem, did not do so.

Matriculation is a ticket to higher education and a good job, but many Israeli young people do not matriculate.

This is a major failure of the school-system in a society where matriculation is central. In 1998, 61.5% of Israelis aged 17 could not be admitted to University, due to failure to complete the high school matriculation exams. The drop-out rate of Jewish pupils aged 16-17 is 10%, and 40% among Arab students.

The lack of means provided to the Bedouin educational system is especially worrying. Many schools do not yet have electricity or water or permanent buildings which are not temporary structures, meaning that the minimum-conditions for a learning-climate are not present. Recently the High Court of Justice directed the authorities to provide these facilities. There is a severe shortage of preschools and high schools within the Bedouin sector.

8. Special Protection Measures

The situation in the jails (where children wait before trial) is worrying because of lack of education and recreation. The Prison Service has now improved facilities in the Ofek youth-prison near the Sharon prison, but the condition of Palestinian security-prisoners, still in the Sharon prison has deteriorated. Which conditions call for Palestinian minors to be sent to the Megiddo military prison and which conditions call for them to be sent to the Sharon prison is not clear, and we hope that with the opening of the new Ofek-prison complex this will change. The fact that Palestinian minors, although in very low numbers, are in administrative detention is highly undesirable. Closures and siege make family members' visits impossible, even if they go in ICRC busses. The civil administration authorities should make exceptions for visits by family members of minors in prison. Special measures should be taken to solve the problem of visits during times of security tensions.

More lawyers should be involved in procedures that decide if minors will be committed to psychiatric hospitals.

9. Optional Protocols

Although the Optional protocols to the CRC are signed, they are not yet ratified. The Knesset and the CRC Committee need urgently to be informed by the office of the Military Judge Advocate General if minors who are volunteers (17-18 year old) are still being placed in action, or only in training.

10. Dissemination of Reports

Although the State has sent the Hebrew version of the State report to many NGOs, we recommend that the concluding observations of the CRC Committee be translated into Hebrew and Arabic and sent to them as well. The concluding observations of this NGO report and of the CRC Committee should be part of the debate in the Knesset. The government should use its obligation to use its budgets to disseminate the CRC or provide more budgets to NGO's to do this with accompanying educational programs.

XI. Appendices

Appendix 1: List of Members of the Israeli Children's Rights Coalition

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Phone 00972-2-6521300
Ms. Netta Dagan or Sylvia Tessler.

Bustan le Shalom
Fax: 00972-2-672-9249
Email: deb2000@zahav.net.il

Director: Devora Brous

Children's Ombudswork Association
Bolivia Street, 4/47
Jerusalem 96746
Fax: 00972-2-6296549
Phone: 00972-2-6295760
Director: Ms. Ronnie Alonie

Community Advocacy ("Singur Kehilatit")
PO Box 30081
Jerusalem 91301
Fax: 00972-2-6783491
Phone: 00972-2-6782997
Email: cammadu@zahav.net.il
Director: Ms. Barbara Epstein

Defense for Children International-Israel section
PO Box 8028
Jerusalem 92384
Fax 00972-2-5631241
Phone 00972-2-5633003
Director: Dr. Philip Veerman

Eitan, the Israeli Association for Rare Diseases
PO Box 6349
Tel Aviv, 61063
Phone 00972-5-465-6371
Fax 00972-3-602-5156

ELEM (Association for Youth in Distress)
Bet Rapak
Tel Aviv
Director: Dr. Mike Naphtali
Fax 00972-3-6421503
Phone 00972-3- 6414508
ELI , the Israeli Association for Child Protection
PO Box 65601
Tel Aviv
Fax 00972-3-5101533
Dr.Hanita Zimrin, President

FIDEL, Association for Education and Social integration of Ethiopian Jews in Israel
PO Box 397
Hod Hasharon 45103
Director: Negist Mangashe
Fax 00972-9-7601579
Phone 00972-9-7408542

Friends of Beit Ham

PO Box 37065
Jerusalem 91370
Fax 00972-2-6233084
Phone 00972-2-6245186
Mr. Edgar Lalume

Halonot, Windows – Channel for Communication
PO Box 56096
61560 Tel Aviv
Director : Ruti Azmon
Phone 00972-3- 6208324

Hamoked, Center for the Defense of the Individual
4 Abu Obeidah Street
Jerusalem, 97200
Director : Mr. Curf Anson
Phone 00972-2-626-4438
Fax 00972-2-627-6317
E-Mail : mail@hamoked.org.il

Hand in Hand, Center for Jewish-Arab Education
PO Box 52141
91521 Jerusalem
Phone 00972-5-347-1179
Fax 00972-2-6481449

HaNoar Oved ve Lomed (Federation of Working Youth)
Kibbutz Galuot 120
Tel Aviv-Jaffo
Telephone 00972-3-5125120
Mr. Ephraim Cohen

HaShomer HaTza'ir Youth Movement
7 Betzalel St.
Tel Aviv, 65204
Cesso Garbarz, Secretary General
Phone: 00972-3-6292588
Fax: 00972-3-6292592
E-Mail: celsogar@hotmail.com

Heschel Center for Environmental Leadership
(in cooperation with the Greening Schools Network)
Nahalat Binyamin 85
Tel Aviv, 66102
Phone: 00972-3-5608-788
Fax: 00972-3-5605-091
Orly Ronen

HILA – Israel Committee for Equality in Education
PO Box 56154

Tel Aviv 61560
Director: Tikva Levy
Fax 00972-3- 5284846
Phone 00972-3- 5289719
E-Mail: amutahila@bezeqint.net

Horut-Shava (Equal Parenting Association)
PO Box 53425
Tel Aviv 61534
Phone 00972-3- 6417513

Interdisciplinary Center for Children and Youth Studies (being founded)
Tel Aviv University
Bob Shapell School of Social Work
Ramat Aviv, 69987
Fax: 00972-3-6421503
Phone: 00972-3-6418792
Director: Netta Har El

Israel Association for Ethiopian Jews (IAEJ)
Pierre Konigstreet 28
Jerusalem
Director: Shula Mulla
Fax 00972-2-6790412
Phone 00972-2-6730992

Israel Association for Family Planning
Rambam Street 9
65601 Tel Aviv
Director: Dr. Ilana Ziegler
Fax 00972-3-5102589
Phone 00972-3- 5101511

The Israeli Association of Marital Family Therapists and Family Life Education
Kehilat Venecia 17
Tel Aviv, 69400
Dr. Eva Einat, Chair
Phone: 00972-3-648-0832
Fax: 00972-3-648-0833

The Israeli Childbirth Education Center
26A Shlomzion HaMalka St.
Haifa, 31037
Phone/Fax: 00972-4-837-6820
Wendy Blumfield, President

Israeli Association of Child and Adolescent Psychiatry
C/O 24 Yasmin Street
Ramat Hasharon 47243

Fax: 00972- 3-5400164
Phone: 00972-3-5400164
Director: Dr. Sofia Eldar, Child and Adolescent Psychiatrist

Israel Committee against House-Demolitions
Rechov Tiveria 37
94543 Jerusalem
Director: Professor Jeff Halper
Phone 00972-2-6221530
Fax 00972-2-623-6210

Israeli Educators Forum for Teaching Peace and Tolerance
c/o The New High School of Ra'anana
Coordinator: Avinoam Grant
Phone 00972-5-459-4433
Fax 00972-9-774-8235
E-Mail peace_ed@netvision.net.il

The Israeli Janusz Korczak Association
Arlozorov St. 102
Tel Aviv
Phone: 00972-3-522-8696
C.O: Mr. Benjamin Anolik

The Israel Religious Action Center for Human Equality,
Social Justice and Religious Tolerance
PO Box 31936
Jerusalem 91319
Director: Leslie Sacks
Fax 00972-2-6256260
Phone 00972-2-6256261
E-Mail: irac@irac.org.co.il

Israel Women's Network
9 Habonim St.
Ramat Gan, 52462
Director: Advocate Ella Gera
Phone: 00972-3-6123990
Fax: 00972-3-6123991
Email: iwn@netvision.net.il

Jerusalem Anti-Drugs Association
Hillel 22
Jerusalem
Director: Ms.Hila Janiv
Fax 00972-2-6232947
Phone 00972-2-624550

The Jerusalem Council for Children and Youth
PO Box 61327

Jerusalem 91060
Fax 00972-2-6257174
Phone 00972-2-6257173
Dr.Hanna Niedorf, chair

Kesher, Information-Center for Parents of Children with Disabilities
King George 27
Jerusalem, 14 July 2000 fax 00972-2-6246390
Director: Maya Goldman,
Phone 00972-2-6248852
Fax 00972-2-624-6390

Latet, Israeli Humanitarian Association
Ahad Ha Amstreet 118
Tel Aviv 65208
Director: Ms.Shlomit Yarkoni
Fax 00972-3- 6859375
Phone 00972-3- 6869649

Mahapach
Jerusalem
Phone 00972-56-652501
Ms.Mihal Greenberg, coordinator

Magon Todaa
(Awareness Center Against Sexual Exploitation of Children)
Mozeer 4
Tel Aviv, 62963
Phone/Fax: 00972-3-604-5128
Email: Leah2000@bezeqint.net
Directors: Leah Greenpeter-Gold and Nissan Ben-Ami
MEITAL*
Jerusalem
Phone 00972-2-5630428
Dr.Tamar Cohen

MEORAVUT, Parent's Involvement Center
PO Box 8180
91081 Jerusalem
Director: Ronnie Strier
Fax 00972-2-6242107

NAAMAT – The Movement of Working Women and Volunteers
Arlozorov Street 93
Tel Aviv 62098
Phone 00972-3-692-1980
Fax 00972-3-695-4470

New Family Association

Sderot Hen 4
Tel Aviv 64071
Irit Rosenblum, Attorney at Law
Phone 00972-3- 5282791
Fax: 00972-3-620-4539
E-Mail: n_family@netvision.net.il

Orr Shalom Children's Homes
PO Box 1837
Mevaseret Zion 90805
Director: Dr.Haim Feingold
Fax 00972-2-5337074
Phone 00972-2-5337059
E-Mail orrshalom@netvision.net.il

Peace Child Israel
PO Box 3669
Tel Aviv, 61036
Fax: 00972-3-7300695
Phone: 00972-3-7300481
Email: PCI@netvision.net.il
Melisse Levine-Barkovich

"Peoples" International Institute – Histadrut
Beit Berl
Kfar Saba 44905
Fax 00972-9-7421868
Phone 00972-9-7612323
Dr. Michael Freulich

Public Committee on the Disappeared Yemenite Children
40 Rosh Ha'ayin Municipality
C/O Mayor Yigal Yossef
Shiva Street 22
Rosh Ha'ayin
Phone 00972-3-900-7201
Fax 00972 900-7206
E-Mail yyigal@inter.net.il

Public Committee Against Torture in Israel – PCATI
PO Box 4634
Jerusalem 91046
Director: Hanna Friedman
Fax 00972-2-5665477
Phone 00972-2-5630073

Rabbis for Human Rights
Yitzhak Elhanan 2
Jerusalem 92141
Yehiel Grenimann, Chair

Fax 00972-2-5662815
Phone 00972-2-5637731
E-Mail info@rhr.israel.net

Regional Council for Palestinian Bedouin Unrecognized Villages in the Negev
PO Box 10002
Beer Sheva
Fax 00972-8-6283315
Phone 00972-8-6283043
E-Mail mqupty@hotmail.com
Director: Jaber Abu Kaf

Sella, Israel Crisis Management Center
15 Chevrat Shas
Neve Tzedek, Tel Aviv 65156
Fax: 00 972-3-5107751
Phone: 00 972-305107750
Email: icmc@inter.net.il
Executive Director: Ruth Bar-Or

Sikkuy, the Association for the Advancement of Civil Equality
17 Hameshoreret Rachel Street
Beit HaKerem, Jerusalem 96340
Director: Shalom Dichter
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Fax 00972-2-654-1108
E-Mail sikkuy@inter.net.il

Social Workers for Peace and Social Welfare
P.O Box 31442, Jerusalem
Fax: 00972-2-6540926
Tel: 00-972-2-6537643
Email: nathanLavon@hotmail.com
Chairperson: C.O. Nathan Lavon

Society for Patients Rights in Israel
PO Box 47002
Tel Aviv 61470
Adina Marx, Chair
Phone 00972-3-602-2934
Fax 00972-3-602-1878

South Wing to Zion Association for Ethiopian Jews
PO Box 23970
Jerusalem, 14 July 2000 fax 00972-2-6235374
Phone 00972-2-5814072
Avraham Negoshe

Tafnit, the Jerusalem Institute for Adolescents
PO Box 3813

Jerusalem 91037
Director: Miriam Tsurel
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Fax 00972-2-652-4798
E-Mail jtafnit@netvision.net.il

Tal Haim Association
PO Box 203
Petah Tikva 49120
Esther Batist
Phone: 00972-3-9333494/9320607
Fax: 00972-3-9320358

Tzachi – National Parents Organization of Children in Special Education
PO Box 80
Moshav Udim 42905
Director: Haia Jagoda
Fax 00972-9-8659082
Phone 00972-9-8655203

Wellspring for Democratic Education in Israel
PO Box 3488
91034 Jerusalem
Phone 00972-2-6449303
Fax 00972-2-5660022
E-Mail d_spring@012.net.il

YEDID, the Association for Community Empowerment
Jerusalem
Director: Sari Rivkin
Fax 00972-2-6481552
Phone 00972-2-6481323
E-Mail yedid@yedid.co.il

Yeladim, the Council for the Child in Placement
64 Pinhas Rosen Street
Tel Aviv 69512
Professor Shimon Spiro, Chair
Phone 00972-3-647-5075
Fax 00972-3-647-5076

* Organizations marked with a star have in the meantime become non-active due to lack of funding.

**Information about most of the organizations on the list can be provided by
SHATIL, The New Israel Fund Empowerment and Training Center for Social
Change Organizations in Israel.
P.O Box 53395
Jerusalem, 91533**

Fax: 00972-2-673-5149

Phone: 00972-2-672-3597

Appendix 2. Selected Web-sites

www.acri.org

www.adva.org

www.adalah.org

www.betselem.org

www.dci.org.il

www.phr-il.org

www.sikkuy.org.il

Appendix 3: Amendment of the Proposal by the Military Judge Advocate General for a Military Service Law (amendment no. 13) (minimum recruitment age) 2002

Amendment to 1986 ¹	1. Clause 13 of the Military Service Law (combined version)
clause 13	- (known as the principle law)-marked (A) and following it:
except	“and concerning this clause, clause 2 will not be enforced on the calculation, if the man discharged from the army is or is not 18,
defined	the academic reserve and concerning unpaid service, as they are in the military regulations.”
Amendment to Clause 20	2. In Paragraph 20(A) of the principle law after paragraph (2),
will	be inserted:
is or	“(3) for this clause, the instruction of paragraph (2) will not be enforced on the calculation if the man discharged from the army is not 18.

¹ 1986, p. 107. 1001, p. 14.

Enforcement and Content (a) The date for the proposed amendment becoming effective is 1-7-2002, (below – the commencement day)

whom ever (b) The instructions of this law shall not be enforced upon

service has that at the commencement day the period of recruitment to

passed, according to clause 20, as outlined before the commencement day.

Appendix 4: Israeli and Palestinian Minors, under the Age 17, Killed From 1991 until the end of January 2002

Year	Palestinian minors killed by Israeli Security forces in the Occupied Territories	Palestinian minors killed by Israeli civilians in the Occupied Territories	Israeli minors killed by Palestinian civilians in the Occupied Territories	Israeli minors killed by Palestinian civilians in Israel
1991	24	3	-	-
1992	23	-	-	1
1993-13.9.93	36	1	-	-
14.9.93-31.12.93	4	-	-	-
1994	16	8	-	2
1995	4	1	-	-
1996	10	1	1	7
1997	5	-	-	3
1998	3	-	-	-
1999	-	-	-	-
2000 until 28.9	2	-	-	-
29.9.00-31.12.00	60	-	-	-

2001	66	1	8	24
2002 until Jan 31	2	-	-	-
Total	409	24	12	38
Of the total, age 13 and under	101	14	6	4

Information of B'tselem

Appendix 5: Adalah Document on Discrimination

Education Rights

Systematic, institutionalized discrimination impedes the education of Palestinian students in Israel's state-run schools. The two primary sources of inequality are the lack of Arab control over the curriculum, and the unequal distribution of resources to Arab students.

The Compulsory Education Law (1949) mandates school attendance for all children from ages 5-16. From elementary school through high school, Arab students and Jewish students learn in separate schools. **The State Education Law (1953)** sets educational objectives for State schools that emphasize only Jewish history and culture and ignore or conceal Palestinian history and culture. The Ministry of Education retains centralized control over the form and substance of the curriculum for Arab schools and secular Jewish schools. State religious schools established only for religious Jewish students maintain wide autonomy over their curriculum. Arabs are excluded from significant decision-making positions in the Ministry, and have no autonomy to set curricula.

In addition, the Ministry of Education severely under-funds Arab schools. As a result, Arab schools are characterized by poor facilities and insufficient infrastructure. Moreover, the Ministry's discriminatory policies further limit educational opportunities for Palestinian students: special programs to assist academically weak students or enrich the studies of gifted students are disproportionately awarded to Jewish schools. The consequences of the government's separate but unequal strategies are clear: only 49.2% of Palestinian students pass their matriculation exams, compared to 65.6% of Jewish students,ⁱ and Palestinians comprise only 8.7% of the university student body (1st degree level), although they are almost 20% of the eligible age group.ⁱⁱ

The State Education Law (1953)

Article 1 of the State Education Law establishes separate independent educational systems - State secular and State religious schools - to satisfy the distinct needs of the Jewish community. In contrast to the independence afforded to Jewish religious schools, no autonomous educational system run by Arab educators has ever existed to meet the needs of the Arab community as a distinct group with a common language, history, culture, and national identity.

Article 2 of the Law states the aims and the goals of the State education system. The original version of Article 2, which passed in 1953, reflects the Zionist ideology of the state:

“The object of state education is to base elementary education in the State on the values of Jewish culture and the achievements of science, on love of the homeland and loyalty to the state and the Jewish people, on practice in agricultural work and handicraft, on pioneer training, and on striving for a society built on freedom, equality, tolerance, mutual assistance and love of mankind.”

The Knesset amended this article for the first time in February 2000. The amended version supercedes the original version, and includes eleven different educational objectives, including the advancement of science and technology for all students. Four of the objectives directly affect Arab students. They are:

“(2) to inculcate the principles stated in the Declaration on the Independence of the State of Israel and values of the State of Israel as a Jewish and democratic State, and to develop a respect for human rights, fundamental liberties, democratic values, adherence to the law, and for the culture and beliefs of other persons, and to educate to seek peace and tolerance among individuals and peoples;

(3) to teach the history of the Land of Israel (*Eretz Yisrael*) and the State of Israel;

(4) to teach the tenets of Israel (*Torat Yisrael*), the history of the Jewish people, the heritage of Israel and Jewish tradition, to inculcate a conscious remembrance of the Holocaust and of heroes, and to teach respect for them;

(11) to know the language, culture, history, tradition and unique customs of the Arab population and of other groups in the population of the State of Israel, and to recognize the equal rights of all the citizens of Israel.”ⁱⁱⁱ

Although adding human rights and fundamental liberties as educational goals is certainly an improvement, the amended version of Article 2 poses serious problems for Arab students.^{iv} An examination of the new law shows that it adds three separate provisions regarding the inculcation and teaching of Jewish values, history, and religious studies - codifying each as distinct areas of required study, and thus expanding the range of Jewish-identified education that must be taught throughout the educational system. Section (2) defines the state as Jewish and democratic, a pairing that codifies discrimination against non-Jewish citizens and impedes the realization of full democracy. The clear tension between these two principles is that the first emphasizes the national character of the State and its privileging of the Jewish people over all other citizens, and the second demands democratic values. The two are simply incompatible. Section (3) perpetuates the teaching a version of history that contorts or completely omits the history of the Palestinian people. Section (4) was drafted to require compulsory teaching of Torah in all public schools, including Arab schools.^v Section (11) acknowledges the presence of non-Jews in the educational system, but in notably weaker language than any other section of the amendment. Where the other ten sections begin with directives like “teach” and “inculcate,” Section (11) suggests that students should “know” the language and heritage of others, but does not recommend how the state education system should help them reach that goal. Unsurprisingly, this stated objective has not been

meaningfully implemented. For example, although language is the first item listed, and Arabic is one of Israel's two official languages, Arabic is not compulsory in the Jewish school system and is not required for high school matriculation. Right-wing Israelis are so unwilling to hear non-Jewish voices that an attempt by then-Minister of Education Yossi Sarid to introduce the work of prominent Palestinian poet Mahmoud Darwish into the Jewish secular school curriculum prompted a no-confidence vote in the government.^{vi}

Article 4 of the Education Law promises, "In non-Jewish educational institutions, the curriculum shall be adopted to the special conditions thereof." Arab schools have their own curriculum, but it is designed and supervised by the Ministry of Education, where almost no Arab educators or administrators have decision-making power.^{vii} Arab students devote more hours of classroom study to Torah than to Arab religious studies.^{viii} Torah comprises one of the mandatory high school matriculation exams, on par with math, English and Hebrew.^{ix} Arab students are assigned to read Zionist literature and poetry but not Arab Palestinian classics studied throughout the Arab world.^x Moreover, part of the compulsory curriculum in the Arab schools requires Arab students to study Hebrew in grades 3-12, whereas Jewish students are not required to study Arabic.

Attempts to implement a more appropriate curriculum for Arab students have been blocked by the majority in the Knesset. A bill submitted by MK Azmi Bishara in 1997 proposed a separate educational system for Arab students, similar to the separate system that exists for religious Jewish students. The bill proposed a system wholly Arab in its conception, run in Arabic by Arab educators and administrators. The bill would have established a separate Arab education committee to maintain the system, like the existing state education and religious education committees. It would also have guaranteed appropriate representation of Arabs on the state education committee, as the Arab system would operate under that committee's aegis. Further, the bill proposed changing the state educational objectives to include the values of both Jewish and Arab cultures, and to teach democratic values and equality between sexes and peoples.^{xi} The Knesset rejected the bill twice: first in July 1997 and again in December 1999 (by a vote of 45-22) after it was re-submitted.^{xii}

State control of Arab schools includes control of the faculty. For the Ministry of Education, undisclosed State "security reasons" or considerations are decisive in the process of hiring of Palestinian teachers. Regardless of their qualifications, Palestinian teachers are often denied the right to work based on their political views.^{xiii} These denials continue despite Israel's 1997 report that it had ceased security examinations of schoolteachers, which it had previously conducted on all Palestinian teachers.^{xiv} The Ministry prefers to hire teachers who have never been politically active, resulting in another form of control over the education of Palestinian students.

In sum, the objectives of the State educational system ignore the needs of Palestinian citizens of Israel, and as a result, deny Palestinian students the opportunity to develop a positive cultural and national identity. The system recognizes only one national group in the State - the Jewish majority - and as a result, the Jewish community is afforded the opportunity to preserve and enrich its culture, art, religion, and history whereas the Arab community is deprived of that chance. Palestinian children not only do not study their own history, they are compelled to study Israeli history from a Jewish perspective. A report on Israeli textbooks, which are used in some Palestinian schools, demonstrated that although history texts have removed the most egregious stereotypes about Arabs over the past decade, they still paint Israel as practically uninhabited in 1948 and make little mention of the expulsion and dispossession of Palestinians. In addition, the books describe relations between Arabs and Jews as inherently conflict-ridden, and depict the Jews as naturally stronger and wiser than the Arabs.^{xv}

Discriminatory Policies

Gaps between Arab and Jewish schools exist on every level, due in large part to the discriminatory policies of the State. Today, Arab schools are the weakest in the State, with the worst facilities, highest dropout rates, and little access to special services and quality programs. This section reviews the disparities in different fields of the educational system. The Ministry of Education has established various committees throughout the years to examine these gaps, but the resulting recommendations have been largely ignored. Other attempts to remedy the problems are poorly designed or insufficient in scope.

Early Childhood Education

Few government-funded preschools operate in Arab towns or villages. Instead, preschools in Arab localities are conducted by a patchwork of private homes and NGOs. As a result, Arab children are at a disadvantage from the early stages of the educational process.

Percentage of children attending public preschool^{xvi}

Age	1998-99 SCHOOL YEAR		1999-2000 SCHOOL YEAR	
	Arabs	Jews	Arabs	Jews
3	21.0%	69.9%	32.1%	64.5%
4	32.3%	86.7%	42.3%	92.4%
5	80.5%	93.0%	79.2%	91.1%

As shown above, less than one-third of Arab 3- and 4-year-olds attends a state preschool, in contrast to more than two-thirds of Jewish 3-year-olds and the vast majority of Jewish 4-year-olds.

The situation of preschool aged children in the unrecognized villages in the Negev is particularly alarming. According to information obtained in 2001, 85% of these children (4,936 of 5,776) have no preschool framework; about 200 preschools must be opened in 45 unrecognized villages to meet the need.^{xvii} While the Ministry of Education recently opened 27 preschools in 13 unrecognized villages, only 14 remain open, while 13 have closed due to their substantial distance from villagers' homes. Local NGOs operate 10 preschools in the unrecognized villages to assist partially in meeting this urgent need.

In 1998, the Knesset amended the Compulsory Education Law to require the state to subsidize education for all citizens beginning at age 3. However, the government's implementation plan excluded all Arab municipalities. Adalah strenuously objected to this plan and filed a motion for an injunction to the Supreme Court.^{xviii} In response, the Ministry of Education added 34 Arab towns to the plan, however, Arab children are still sorely underserved, and each small advance has required extensive legal intervention. For example, the government-appointed council in Segev Shalom (one of seven government-planned towns established to relocate more than 120,000 Arab Bedouin in the Negev desert) opened preschools for 200 children, but overcrowded and lacking in play space, they fell below the Ministry of Education's standards and the mayor closed them for safety reasons. Parents protested, and the town's appointed mayor promised to improve the conditions and reopen the classes, but did not do so. In December 1999, Adalah petitioned the Supreme Court, which granted an *order nisi* requiring the Ministry of Education and the town council to reply within seven days. Soon after, the preschools were reopened.^{xix}

Facilities and Infrastructure

Overcrowding in Arab schools is the norm: Arab classrooms accommodate an average of 31 students per class, as compared to an average of 27 students per class in Jewish schools.^{xx} Arab students are limited by a student/teacher ratio of 16.6-to-1 in elementary schools and

14-to-1 in high schools, while Jewish students benefit from having only 12 students per teacher in elementary school and a mere 9.4 students per teacher in high school.^{xxi}

Inferior buildings and insufficient facilities are also common in Arab schools. A study commissioned by The Follow-Up Committee on Arab Education in Israel found that not only did Arab classrooms accommodate more students, but also they were smaller than the schoolrooms of Jewish students - 20% of them measured less than 24 square meters in size.^{xxii} Of the 6,300 classrooms surveyed, 411, or 6.5%, were completely unsuitable for productive learning and instruction. Moreover, 80% of Arab schools had no gymnasiums; 82%, no large lecture halls; 33%, no laboratories, and 37%, no libraries.^{xxiii}

In addition to these problems, the physical facilities themselves are also laden with health risks, such as asbestos and other hazardous substances. In Segev Shalom, an Arab Bedouin town in the Negev, the principal refused to open the door to human rights activists who came to inspect the school, which consisted of prefabricated structures that freeze in winter and boil in summer.^{xxiv} The State has neglected education as one means of pressuring Bedouins in unrecognized villages to move to existing development towns. In 1998, eleven schools in unrecognized villages had no electricity until parents petitioned the Supreme Court, which ordered the Ministry of Education to provide generators.^{xxv}

A further problem faced by many Palestinian children is that of reasonable access to a nearby school. In July 2000, Adalah and the ACRI filed a petition to the Supreme Court demanding that the Ramat HaNegev Regional Council and the Ministry of Education establish schools for Arab Bedouin children in the unrecognized village of Be'er Hadaj in the Negev.^{xxvi} As there are no Arab schools in the area, these children must travel for 32-40 km each way to schools, after walking several kilometers from their homes to reach buses on main roads; with the result of low registration and attendance rates, especially for girls.^{xxvii} As a result of the petition, the Ministry of Education agreed to and placed a temporary school (a caravan) in the center of Be'er Hadaj, however, the Regional Council issued a demolition order against it.^{xxviii} The Ministry then removed the school and suggested another location for a temporary school near but outside of the village.^{xxix} The school is set to open at the beginning of the 2001-2002 school year. The Supreme Court is continuing to supervise the process of locating, placing, and opening the school.

Educational Enrichment Programs and Social Services

According to the Ministry of Education, Arab students dropped out of school at more than twice the rate of their Jewish counterparts. The dropout rate for Arab students over the 1997-98 and 1998-99 school years was 11.6%; for Jewish students it was 4.9%.^{xxx}

Despite such high dropout rates, the Ministry of Education has not provided Arab students with educational enrichment proportional to their needs. Programs aimed at improving skills, raising grades, and preventing dropouts have been operating in Jewish schools since the 1970s, and almost 1/3 of all Jewish students have benefited. Until recently, such programs were not offered in Arab schools, although Arab communities are among the poorest in Israel.

In a 1997 petition to the Supreme Court filed by Adalah, the Follow-up Committee on Arab Education sought to compel the Ministry of Education to provide "Shahar" academic enrichment programs to Palestinian and Jewish students equally.^{xxxi} Adalah argued that the Ministry intentionally discriminated against Arab students by writing and implementing program guidelines purposely designed to exclude them. One month after the petition was filed, the Ministry admitted to historical, intentional discrimination against Palestinian students, and declared that equality between the communities would be reached within five years. Adalah objected to the Ministry's proposal on the grounds that any delay in extending

the programs to all students would effectively sanction the discrimination admitted to by the Ministry, and asked for an immediate remedy including the establishment and implementation of affirmative action programs. The Supreme Court postponed the case for three years before dismissing the petition. According to the Court, the Ministry's promise to allocate 20% of its budget to Arab schools for these programs, according to Arabs' percentage-of-the-population, effectively mooted the petition. In the Court's view, the Ministry's pledge to designate 20% of the budget provided a sufficient remedy for admitted historical discrimination.^{xxxii}

Arab schools also lag far behind Jewish schools in the social service programs they provide to students.

Percentage of schools offering social service programs^{xxxiii}

	Jewish schools			Arab schools		
	Elementary	Jr. High	High School	Elementary	Jr. High	High School
Educational Counseling	67.4	95.7	94.0	18.7	64.4	74.4
Psychological Counseling	91.3	81.0	65.8	44.4	27.4	34.8
Social Workers	63.4	60.6	52.7	27.7	23.3	40.8
Tutoring Programs	55.2	10.2	25.0	37.4	5.3	18.5
Computer Services	55.4	57.7	53.7	26.2	33.3	32.2

Moreover, Palestinian students have far fewer opportunities to participate in extracurricular activities, as indicated in the chart below.

Percentage of elementary schools with extracurricular activities^{xxxiv}

	Jewish schools	Arab schools
School trips	46	17
Educational programs	90.1	29
Training courses	71.1	33.7
Foreign languages courses	19.6	8

Special Education

The Special Education Law (1998) guarantees free and individualized special education to all children with special needs, but resources allocated by the State for Palestinian students lag far behind those of Jewish students. Deficiencies include an insufficient number of classrooms and specialists, under-qualified staff, unsuitable curricula, unsafe buildings, and lack of transportation; and inadequate resources for mainstreaming students into the regular school system.

A recent example of the problems faced by Arab special education schools and students is the Galilee School. The Galilee School serves Arab children with special needs in Acre, a mixed Arab-Jewish city in the north with a population of about 45,000, 26% of whom are Palestinian. In September 1999, the Ministry of Education closed the Galilee School suddenly without providing an explanation. At the request of affected families, Adalah wrote to the Ministry demanding to know why the school had been closed and requesting that the Ministry provide reasonable alternatives for the Arab children enrolled in the school. The Ministry replied that it closed the school due to its deteriorating conditions, which posed a safety hazard to the students. The Ministry claimed that the school would be renovated over the course of the next year, and that all students would receive immediate placements in

alternative schools. The Galilee School remains closed to students.

Arab special needs schools are particularly victimized by underfunding. After filing a petition to the Supreme Court on this issue, ACRI recently obtained a settlement which forced the state to acknowledge the gap in resource allocation for Arab special education students. The State committed to develop a plan to equalize resources by 2004. As a result of the petition, the Court noted the State's historic failure to provide adequately for Arab special needs students.^{xxxv}

The need for special education programs is dire. A 1998 study found that the occurrence of developmental disabilities among Arab children is three times as high as among Jewish children, and the rate of blindness is twice as high. However, the study found that Jewish children are two to three times more likely to receive adequate treatment.^{xxxvi}

A similar study was conducted by SHATIL and submitted to the Knesset in 1998. The study found that more than 5,000 Arab children from 1st-9th grade are enrolled in regular schools without the special education resources they need; 1,400 Arab children entitled to special services such as speech and physical therapy do not receive them; and 30 out of 36 Arab special education institutions are not capable of providing the necessary services.^{xxxvii} Arab parents are also often placed in a terrible bind, forced to choose between meeting their children's special education needs and enabling them to study in Arabic with a more suitable curriculum.^{xxxviii} When an Arabic school appropriate to a child's disability does exist, it may be the only one in the country, requiring long, exhausting journeys from home which diminish students' ability to benefit from the resources, or forcing children to board at school, away from their families and communities.

The Commission to Examine the Implementation of the Special Education Law ('the Margalit Commission') published its findings in July 2000. After hearing testimony from experts, lawyers, NGOs, and parents, the Commission found that "the most conspicuous and significant" inequality in the allocation of special education resources was between Arab and Jewish schools.^{xxxix} In its paper and presentation before the Commission, Adalah raised concerns about resource disparities between facilities and programs for Jewish and Arab students in the special education system, and the failure of the special education system to meet the language and cultural needs of the Arab students.^{xl} The Commission recommended the adoption of affirmative action policies in allocating resources and services for Arab special education in general, and in Arab Bedouin communities in particular.^{xli} The report noted other inequalities, including disparities in diagnostic testing that prevent Arab students with special needs from being properly identified and treated. The Commission found that even students who are placed in an Arab special education framework find themselves in overcrowded and poor physical conditions, which lack the proper infrastructure to enable them to realize their objectives.^{xlii} Despite the Commission's submission of detailed recommendations, there has been as yet no implementation.

Higher Education

All of the aforementioned disparities have critically affected the percentage of Arab students in Israeli universities.

Percentage of students in Israeli universities, by degree program^{xliii}

		1990	1994	1996	1999
1 st Degree	Jewish	93.3	93.7	93.0	91.3
	Arab	6.7	6.3	7.0	8.7
Masters Degree	Jewish	96.4	97.1	97.0	96.4
	Arab	3.6	2.9	3.0	3.6

Ph.D.	Jewish	96.1	96.4	96.5	96.5
	Arab	3.9	3.6	3.5	3.5

The Ministry of Education provides financial aid to university students who went to the army, and consequently discriminates against Palestinian students who cannot and are not required to go to the army. The Ministry offers this assistance on top of other benefits and educational preferences, provided by **The Absorption of Former Soldiers Law (1994)**. Most Israeli universities also privilege former soldiers in the process of university acceptance and in housing provision in university dormitories.

Students at Israeli universities have organized Arab student committees, which are active on numerous issues of concern to Palestinians attending these institutions, ranging from freedom of speech and political participation to admissions policies, scholarships, housing, and tuition. However, these committees are not recognized by the universities and are thus ineligible for funding. Arab students also face particular challenges in regards to freedom of expression. Students at Haifa University, where Palestinians comprise 18% of the student body, have been disciplined for even the mildest protest such as two individuals sitting with a sign noting the atrocities perpetrated by the Israeli military in the Occupied Territories.^{xliv}

Palestinian lecturers and professors at the university level are sorely underrepresented. Less than 1% of the faculty at Israeli universities - roughly 45 lecturers out of 5,000 - is Palestinian.^{xlv} Explanations range from simple racism to a dearth of Arab doctoral students to more attractive offers abroad. The absence of Palestinian academics is particularly notable in Middle Eastern and international studies programs.^{xlvi}

Proposals for Improvement

Five-Year Plan

In the 2000 budget, the Ministry of Education adopted a Five-Year Plan for the advancement of the Arab education system. The plan's primary goal is to boost the percentage of high school students passing their matriculation exams by 50%.^{xlvii} The plan was first implemented in the 2000-2001 school year, but rather than a thorough-going reform of the system, it merely began a series of stop-gap measures designed to boost standardized test scores.

The Ministry of Education allocated NIS 250 million over five years for the plan, less than a third of what the Follow-Up Committee on Arab Education in Israel estimated was necessary to meet the system's immediate needs.^{xlviii} The plan fails to reform curricula, repair infrastructure or address overcrowding. Instead, the sum total of the plan is to simply contract out small enrichment programs to private vendors, with little oversight or input from local educators. The privately operated classes are taught by outside staff, rather than local teachers. The vendors claim they can double as a valuable jobs program for unemployed teachers, but the effect on students of potentially substandard teachers does not seem to be a concern.^{xlix}

Whether worthwhile or not, the programs serve a limited number of students: only half of the 570 Arab public schools in Israel were included in the plan's first year of implementation, and only a small fraction of the students in each school were allowed to participate.¹ Instead of a wide-ranging attempt to address the serious inequities that pervade the Arab education system, the plan is a shell of extremely modest goals and even leaner implementation.

The "Bridging the Gaps" Committee

After the budget for the Five-Year Plan had already been determined, the Ministry of Education appointed a special committee to examine how to bridge the gaps between the Arab educational system and the Jewish educational system. The Committee published its recommendations in December 2000. It recommended structural reform of the Arab educational system to bridge existing gaps including: affirmative action in hiring Palestinian personnel for key positions in the Ministry of Education; the establishment of clear and equal criteria for the promotion of all personnel within the Ministry; a new method of budget allocation to more fairly account for the socio-economic status of targeted groups; allocating 25% of resources for enrichment programs to the Arab educational system; efforts to nurture Arab language and culture; and a means to compel private education groups to offer their programs in Arab as well as Jewish schools. Despite these recommendations, none of them have been implemented.ⁱ

The Katz Committee on Bedouin Education

The Arab Bedouin community in the Negev is by far the most educationally underserved group in the state. The Arab Bedouin have the highest dropout rate and the lowest matriculation scores within the Arab community and in the country at large. Then-Minister of Education Zevulun Hammer set up the Katz Committee in 1997 to study the Bedouin educational system and to design a five-year plan to improve it.ⁱⁱ The Committee recommended the establishment of school facilities like science and computer labs, libraries and gymnasiums; provision of educational services such as psychologists, academic counselors, and special education teachers; implementation of an enrichment program; identification of gifted and special needs children; the establishment of preschools in Bedouin towns comparable to those in targeted, underserved Jewish towns; and a plan for parents - especially mothers - to train them to be able to help their children. The Committee recommended building 146 classrooms every year from 1998 to 2003, with special attention paid to the needs of remote, unrecognized villages without sufficient transportation. The Committee also recommended training 100 Bedouin teachers a year for five years. Despite these far-reaching recommendations, few have been implemented.ⁱⁱⁱ

ⁱ *The Statistical Yearbook of Israel*, Central Bureau of Statistics (CBS), 1999 (<http://www.cbs.gov.il>). A Ministry of Education report published in 1998 provides strikingly different statistics regarding successful matriculation. According to this report, during the 1994/5 school year, only 40% of Jewish students, 22% of Arab students (as a whole), and 6% of Arab Bedouin students successfully matriculated. See excerpts from The Ministry of Education, *The Investigatory Committee on the Bedouin Education System in the Negev*, 19 March 1998 (available at <http://www.bgu.ac.il/bedouin>) (hereinafter the *Katz Committee Report*). Also note that when the smaller number of Arab pupils remaining in school at this point is taken into account, the proportion of Arab students with this qualification is far lower than that of Jewish students.

ⁱⁱ CBS, 1999.

ⁱⁱⁱ The State Education Law 1953, as amended 29 February 2000.

^{iv} The initial bill proposed to amend the State Education Law, introduced by MK Amnon Rubinstein of the Meretz (liberal Zionist) party, focused on democratic values and multi-culturalism. On the floor of the Knesset, MK Shmuel Halpert of United Torah Judaism, an ultra-Orthodox religious party, successfully added the provision for compulsory Torah studies. MK Rubinstein subsequently tried to pass a bill to limit application of the State Education Law to Jewish schools.

^v Relly Sa'ar and Gideon Alon, "Rubinstein tries to reverse Haredi bill requiring Arabs to study Torah," *Ha'aretz* English Edition, 24 February 2000.

^{vi} Gideon Alon, "Government survives revolt, no-confidence vote," *Ha'aretz* English Edition, 14 March 2000.

^{vii} There has never been an Arab minister or deputy minister of education.

^{viii} See Sami Mara'i, *Arab Education in Israel* (New York: Syracuse University Press, 1978) and Majid Al-Haj, *Education, Empowerment, and Control: The Case of the Arabs in Israel* (New York: State University of New York Press, 1996).

^{ix} Relly Sa'ar and Gideon Alon, *Ha'aretz*, 24 February 2000.

^x Zionist authors include H. N. Bialik, Tchernichowsky, Ahad Haam, S. Y. Agnon, and Rahil. Palestinian authors include Mahmoud Darwish, Rashid Hussien, Ghassan Kanafani, Fadwa Tukan, and Tawfiq Ziad.

^{xi} Some of these secondary objectives were achieved in the February 2000 amendment, but without the development of a school system or curriculum sufficient to the needs of Arab students.

^{xii} *Divrey HaKnesset*, 22 December 1999.

^{xiii} In September 2000, Adalah successfully advocated for Mr. Abdallah Ayoub, a teacher whom the Ministry of Education refused to place in his local school system for nine years. The Ministry claimed that there were no suitable vacant positions; however, Mr. Ayoub believed that he was denied a position because of his past political activities in the Islamic movement.

^{xiv} "The State of Israel, Combined Seventh, Eighth and Ninth Periodic Report of Israel Concerning the Implementation of the International Convention on the Elimination of all Forms of Racial Discrimination, Submitted to the UN Committee on the Elimination of Racial Discrimination," July 1997 at 23, para. 105.

^{xv} Sami Adwan and Ruth Firer, *The Narratives of the Palestinian and Israeli Conflict in Palestinian and Israeli History and Civics Textbooks and Curricula Statements*. United States Institute of Peace, August 1999.

^{xvi} Committee for Early Childhood Education, Equal Access Initiative, Shatil: The Empowerment and Training Center for Social Change Organizations, November 2000.

^{xvii} Data collected by Adalah in July 2001 from the Regional Council for Unrecognized Villages in the Negev, the Galilee Society, Shatil, the Negev Association for Education, and other local NGOs and local councils in the Negev.

^{xviii} See H.C. 2773/98, *The High Follow-Up Committee on Arab Affairs, et. al. v. The Prime Minister of Israel*; motion for injunction filed 7/99.

^{xx} H.C. 8534/99, *The Parents Committee in Segev Shalom, et. al. v. The Government-Appointed Council in Segev Shalom, et. al.*

^{xx} CBS, 1999.

^{xxi} See The Ministry of Education, Pedagogical Secretariat, *Bridging the Gaps and Arab Education in Israel*, (2000) at 3 (hereinafter *Bridging the Gaps Report*).

^{xxii} R. Khamaisi and A. Atrash, "A Field Study on the Physical Conditions of Arab Schools in Israel," *A Report on the Education of the Arabs in Israel*, The Follow-Up Committee on Arab Education, July 1995.

^{xxiii} *Id.*

^{xxiv} See Joseph Algazy, "What about the Bedouin?" *Ha'aretz* English Edition, 9 May 2001.

^{xxv} See H.C. 4671/98, *Dr. Awad Abu-Freh, et. al. v. The Authority of Bedouin Education, et. al.*, Takdin Elyon 1998(3) 459. See also Moshe Reinfeld, "Power to Bedouin, Court Declares," *Ha'aretz* English Edition, 24 August 1998.

^{xxvi} H.C. 5221/00, *Dahlala Abu Ghardud, et. al. v. Ramat HaNegev Regional Council, et. al.* (pending).

^{xxvii} According to statistics gathered by community members, 635 children aged 3-18 live in the village, with a total population of about 5,000. Ministry of Education data shows that during the 1999-2000 school year, only 420 children from Be'er Hadaj registered for school. Thus, a startling 34% of school-age children did not attend school. These statistics are cited in the petition.

^{xxviii} Former Minister of Education Yossi Sarid submitted an affidavit on the petitioners' behalf, calling on the State to build the school within Be'er Hadaj. The Supreme Court did not intervene in the decision of the Ramat HaNegev Regional Council's order to demolish the school or the Ministry of Education's decision to remove the school from Be'er Hadaj.

^{xxix} The new location proposed for the school is the site of a new government-planned town. The government seeks to move and re-settle the residents of Be'er Hadaj into this new town. The town is only in the initial planning stages, and there are many objections to the plan from the community, which was not consulted. The electric company also objects to this new location, as it claims to already have an approved plan to establish a nuclear power plant nearby.

^{xxx} See *Bridging the Gaps Report*. As with successful matriculation statistics, *supra* 186, the Katz Committee Report notes significantly different statistics for drop-out rates. According to the Katz Committee Report, for 1994/95, the percentage of students who drop-out of school before completing the 12th grade are 43% in the Arab community as a whole, and 67% of Arab Bedouin students.

^{xxxi} H.C. 2814/97, *The Follow-Up Committee on Arab Education, et. al., v. Minister of Education, et. al.*, P.D. 54 (3) 233.

^{xxxii} *Id.* For an analysis of the Supreme Court's decision, see Samera Esmeir, "On Legal Space,

Political Forces, and Social Injustice,” 2 *Adalah's Review* 56 (Fall, 2000).

^{xxxiii} See *Bridging the Gaps Report* citing to CBS statistics for the school year 1995-96.

^{xxxiv} Id at 4. Citing statistics for the school year 1994-95.

^{xxxv} H.C. 5466/00, *Follow-Up Committee for Arab Education, et. al. v. Minister of Education*, Takdin Elon 2001(1) 1741.

^{xxxvi} See also Einat Fishbain, “Disabled kids fail to receive proper care,” *Ha'aretz* English Edition, 14 December 1999, citing to a study published by the National Insurance Institute/JDC-Brookdale Institute in 1998.

^{xxxvii} Committee for Improving Special Education, *Equal Access Initiative*, Shatil: The Empowerment and Training Center for Social Change Organizations, 1998.

^{xxxviii} In some schools, like Ofakim in Haifa for children with cerebral palsy, more than 40% of the students are Arab but classes are given only in Hebrew and the curriculum emphasizes Jewish culture. See Tamar Rotem, “Special education for Arab children is only available in Hebrew,” *Ha'aretz* English Edition, 16 July 2000.

^{xxxix} Ministry of Education, *Report of the Commission to Examine Implementation of the Special Education Law*, 20 July 2000 at 4.

^{xl} Letter sent by Adalah (22 March 2000, letter on file with Adalah).

^{xli} *Report of the Commission to Examine Implementation of the Special Education Law* at 5.

^{xlii} In June 2000, MK Mohammed Barake submitted a request to then-Minister of Education Yossi Sarid for statistical information on resources for children with learning disabilities. In his response, the Minister said that of 1,181 classes, only 96 were operated in Arab schools. Sarid also admitted that one of the reasons for the discrepancy in resource allocation was the lack of professional personnel and paramedical resources.

^{xliii} CBS, 1999.

^{xliv} Political activity at the state-funded university is heavily restricted: almost any political activity on campus requires a permit, although permits are required on the streets of Haifa only when more than 50 people participate in an open space and either a lecture or speech on a political topic is given or the event is a march. See Orna Kohn and Tawfiq Rangwala, “Rights on Campus: Palestinian Students, Political Space and Haifa University,” in 2 *Adalah's Review* 69 (Fall 2000).

^{xlv} Vered Levy-Barzilai, “Know thy neighbor - but don't hire him,” *Ha'aretz* English Edition, 12 July 2001.

^{xlvi} Id.

^{xlvii} Shlomo Swirski and Yaron Yecheleskel, “How Israel's 2000 Budget Affects Arab Citizens,” Adva Center, December 1999. (hereinafter Swirski & Yecheleskel, Adva Report)

^{xlviii} Wadi'a Awauda, “Five-Year Plan for Improving Arab Education: How It's Holding up in Reality,” *Report on Equality and Integration of the Arab Citizens of Israel 2000-2001*, Sikkuy: The Association for the Advancement of Civic Equality, Spring 2001 at 2.

^{xlix} Id.

^l Id. See also Swirski & Yecheleskel, Adva Report.

^{li} Dr. Dafna Golan, Bridging the Gaps Committee Chair, telephone interview 3 July 2001.

^{lii} See Katz Committee Report, *supra* 186.

^{liii} In August 2001, The Center for Bedouin Studies and Development at Ben Gurion University reported that none of the Katz Committee recommendations had been implemented. SHATIL-Beer Sheva reported in August 2001 that about 10% of the recommendations proposed had been implemented per year. While the budget request to improve the educational system is about NIS 50 million, the government to date has allocated NIS 6 million.

Appendix 6: Executive Summary in Hebrew, Arabic and French

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Ce rapport auquel DEI-Israël s'est particulièrement attaché, s'inscrit dans un contexte de violence dans lequel l'Etat d'Israël est actuellement engagé et la priorité par conséquent donnée à la sécurité par rapport aux autres aspects de la vie sociale. La question des droits de l'enfant est particulièrement influencée par cette priorité: malheureusement, les exigences de sécurité tendent à ralentir les progrès dans l'avancement des droits de l'enfant du fait que les ressources sont inévitablement dirigées vers l'effort militaire. *Sans résolution pacifique du conflit, ce sont les enfants qui seront les principales victimes de la situation.*

DEI-Israël et la Coalition des droits de l'enfant considèrent que le rapport gouvernemental s'est principalement centré sur l'état de la législation en négligeant la mise en oeuvre des droits. En ce qui concerne le travail législatif, beaucoup de pas ont été franchis en faveur des droits de l'enfant (notamment la loi tendant à ce qu'un travailleur social puisse représenter le mineur abusé devant un tribunal, de façon à ce qu'il ne soit pas confronté à son agresseur). *Toutefois la triste réalité actuellement en Israël, c'est qu'une telle législation est de peu d'effet, du fait qu'elle n'est pas mise en application.* De plus, des lois importantes font encore défaut. Il y a un manque réel en matière de droits sociaux fondamentaux; en particulier l'Etat d'Israël n'assure pas suffisamment la protection de la minorité arabe.

La Coalition salue la contribution du Comité Roth-Levy, créé en 1997, dans le but d'harmoniser le droit israélien, d'examiner les principes fondamentaux de la législation concernant les droits de l'enfant et la mise en oeuvre des lois à la lumière de la CIDE.

La CIDE n'a pas encore été traduite dans sa totalité dans le droit israélien. Les normes élémentaires de la CIDE doivent trouver application avant qu'une loi détaillée sur les droits de l'enfant soit présentée par le Comité Roth-Levy. Indépendamment de la situation sécuritaire, beaucoup d'aspects ont été négligés, notamment les thérapies des enfants abusés sexuellement ou maltraités pour lesquels les budgets insuffisants sont accordés.

Le rapport initial du Gouvernement reconnaît la discrimination à l'égard des enfants de la minorité arabe israélienne. Les mesures prises pour remédier à cette situation sont loin d'être satisfaisantes. Des résolutions plus radicales devraient être prises par le Gouvernement s'il entend éradiquer les discriminations en matière d'éducation, de santé, de services sociaux, etc. Cela concerne l'ensemble de la population arabe qui augmente rapidement, et en particulier les villages bédouins qui ne font pas l'objet d'une reconnaissance.

Il y a lieu de noter que le rapport du gouvernement ne consacre presque pas d'attention à la situation des enfants palestiniens vivant dans les territoires occupés. Des organisations israéliennes et palestiniennes de défense des droits de l'Homme font état de graves violations de la CIDE. Le rapport des ONG décrit ces violations, notamment l'usage mortel des balles en caoutchouc ou d'autres armes aussi redoutables contre les populations civiles, le déroulement des interrogatoires, la démolition des maisons, l'empêchement d'accéder aux soins médicaux et de se rendre dans les hôpitaux en raison des bouclages ou des barrages routiers.

Bien que l'Autorité palestinienne ne soit pas concernée par le rapport, du fait que c'est l'Etat d'Israël qui est partie à la Convention, le Comité des droits de l'enfant devrait garder à l'esprit que beaucoup de groupes armés palestiniens s'attaquent délibérément et sans discrimination à des civils, y compris des enfants, sur le territoire d'Israël. Les attaques terroristes et les commandos-suicide constituent des violations flagrantes des lois internationales humanitaires et relatives aux droits de l'Homme, et sont à l'origine d'un sentiment de peur et d'anxiété tant parmi les enfants que des adultes. A notre estime, ces événements peuvent également être à l'origine des détériorations dans la conduite des interrogatoires des mineurs.

Le fossé croissant entre les riches et les pauvres dans la société israélienne intensifie les problèmes économiques qui affectent directement les enfants. La pauvreté ôte aux enfants l'opportunité de bénéficier de l'égalité des chances. En l'an 2000, un enfant sur quatre vivait en-dessous du seuil de pauvreté en Israël. Ce problème croissant a les implications les plus graves dans chaque aspect de la vie des enfants.

En dépit du fait qu'il est confronté à la possibilité d'une escalade dans le conflit armé, avec les tensions qui en résultent dans la vie quotidienne de ses citoyens, l'Etat d'Israël doit s'attacher sans relâche à promouvoir à la fois les droits de l'Homme et les droits de l'enfant. DEI-Israël est conscient des obstacles au maintien des valeurs de la Convention dans les conditions défavorables qui prévalent actuellement. Cependant, dans les dernières semaines, de nombreux exemples ont démontré la détérioration de l'attention accordée aux enfants, du fait que le budgets relatifs au bien-être sont réduits pour faire face aux imposants besoin de sécurité.

A titre d'exemple, dans ce contexte, le travail sur la réunification des familles est gelé par le ministère de l'intérieur. Beaucoup d'enfants figurent parmi les victimes d'arrestation de masse et à certains endroits, leurs conditions de privation de liberté sont en deça des règles élémentaires. Le bureau du Défenseur public des enfants a gravement restreint le champ de la représentation légale des mineurs. Dans tous ces domaines et dans d'autres, et dans des conditions qui pourraient bien se dégrader encore, le rapport des ONG peut contribuer à soutenir le maintien des normes internationales relatives aux droits de l'Homme. En effet, il peut servir de guide pratique pour la mise en oeuvre de la CIDE par Israël, en dépit des exigences de la situation actuelle.

Philip Veerman, directeur de DEI-Israël, coordinateur de la Coalition israélienne pour les droits de l'enfant,

Jérusalem, avril 2002.