



STATE OF ISRAEL

Ministry of Justice

Ministry of Foreign Affairs

Initial Periodic Report of the State of Israel  
Concerning the

**IMPLEMENTATION OF THE CONVENTION  
ON THE RIGHTS OF THE CHILD (CRC)**

Submitted to the United Nations Committee on the Rights of the Child  
February, 2001



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## Foreword

We are honored to present to the United Nations, and to the general public in Israel, the State of Israel's *Report Concerning Implementation of the Convention on the Rights of the Child*.

The Convention, drafted in 1989, was ratified by the State of Israel in 1991 and entered into force in Israel on November 2, 1991. According to the Convention, the State of Israel is to submit to the United Nations a comprehensive report on the implementation – in theory and practice – of each of the rights protected by the Convention.

This report covers the period from Israel's becoming a party to the Convention to the end of the year 2000. It contains comprehensive information and, for the first time since the establishment of the State of Israel, compiles the legislation, case law, regulations and directives on the rights of the child, as well as the activities of government and other organizations in this field.

The report presents data and research findings on the condition of children in Israel, and on sub-groups of the child population in various areas dealt with by the Convention. It includes an analysis of trends of change in these areas, and describes the challenges that face the State of Israel at the beginning of the 21<sup>st</sup> century.

The period covered by this report has been characterized by extensive activity concerning the rights of the child, as expressed in legislation, case law and the implementation of official policy. Some 20 noteworthy legislative initiatives have been passed since Israel ratified the Convention on the Rights of the Child, which address various aspects of children's rights, in the spirit of the Convention. Among them are the **Prevention of Family Violence Law**, which reinforces the protection of children exposed to violence; the **Evidence (Protection of Children) Amendment Law**, which is intended to strengthen the protection of children who are victims of an offense; the **Single Parent Families Law**, which expresses the State's commitment to providing children in single-parent families with an adequate standard of living; and the **Family Courts Law**, which expresses the need for professionalism in the legal treatment of matters concerning the family unit, including matters related to guaranteeing the welfare and security of children in this framework.

As the report indicates, the Convention has served as the inspiration for rulings affecting children in Israeli courts at all levels.

In addition to legislation and case law, policy and social service initiatives also reflect changes that follow the basic principles of the Convention on the Rights of the Child. The State of Israel has recently witnessed a wide range of initiatives aimed at developing services and policies that support families, in order to enable them to protect children and to increase the involvement of parents and children in planning and choosing methods of intervention and treatment while ensuring proper protection for children and while meeting their needs. Another notable trend is that of policy aimed at addressing and reducing gaps between different population groups. For example, the **Special**

**Education Law**, whose implementation was completed during this period, ensures the rights of children with disabilities to a variety of educational, paramedical and medical services that will enable them to fulfill their potential. Recent years have also seen a considerable increase in the scope and variety of programs intended to help weak students, drop-outs, and students at risk of dropping out to complete their studies and reach an acceptable level of education by Israeli standards – high school matriculation examinations. These efforts have significantly increased the percentage of students eligible for a matriculation certificate. Special efforts have been invested in policies and programs aimed at helping to absorb immigrant children and youth from the former Soviet Union and Ethiopia, in order to deal with gaps that are liable to arise following immigration and the need to cope with an extreme cultural transition. Much effort has been invested in reducing the gaps between Jewish and Arab children and youth, as reflected in the expansion of infrastructure for Arab education and the reduction of some of the gaps.

The report does not ignore the gaps that exist between the normative sphere and reality in the field. Moreover, it does not refrain from raising problematic issues, which require the continued and consistent investment of effort by various authorities. Within that context, the report describes the challenges that face Israel in the coming years in order to improve the protection of children's rights in the State of Israel, both in theory and in practice.

In a comprehensive overview, the report indicates how each of the principles included in the Convention has been addressed by Israeli public policy, and points to measures taken by the State to bring about their implementation.

We would further note that, in light of Israel's undertaking to implement the provisions of the Convention, on June 26, 1997 a Committee was established to examine the general principles concerning children and the law and their implementation in legislation. The establishment of this Committee created an historic opportunity to change the future of Israel's children, thereby making an important contribution to the building of Israeli society. The primary goal of the Committee is to examine the body of existing laws regarding children in light of the Convention, and to make recommendations regarding the basic guiding principles that should be integrated into legislation regarding children and the legislative changes necessary to comply with the provisions and principles of the Convention. The Committee is also charged with examining the need to establish authorities and agencies to implement, coordinate and monitor the realization of the rights of children, as required by the Convention.

The publication of this report, and the joint participation in a one-day conference by government ministries and non-government organizations held prior to the presentation of the report to the United Nations, are aimed at establishing and fostering dialogue and cooperation between government and non-government agencies that are engaged in the important and essential work of promoting the rights of the child. Ultimately, we hope to attain the goal shared by all of us: to improve the situation of children in Israel, and thereby to ensure the future of Israeli society.

As we mark the completion of this report, we would like to thank the Center for Children and Youth of the JDC-Brookdale Institute, which was responsible for drafting this report, and in particular Mrs. Talal Dolev and Mrs. Dalia Ben-Rabi, who coordinated its preparation, as well as Dr. Shulamit Almog and Dr. Ariel Bendor of the Faculty of Law of Haifa University, who wrote the legal sections of the report. In preparing this report, the authors received information and assistance from government ministries and non-government organizations. We wish to thank our colleagues in government and voluntary organizations for their great help in preparing this report.

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# Chapter 1

## General Introduction



## Introduction

At the end of 1998, the population of Israel numbered 6,041,400 individuals, 4,785,100 (79%) of whom were Jews and 1,256,300 (21%) of whom were non-Jews, primarily Moslem Arabs. In 1998, 2,061,600 children ages 0-17 (up to their 18<sup>th</sup> birthday) lived in Israel, representing 34% of the country's population. The composition of Israel's child population reflects the heterogeneity of its society. Twenty-five percent of Israel's children are Arabs, the majority (81%) of them Moslems and the remainder of them Druze and Christians, in varying percentages. Approximately 10% of Israel's children are new immigrants, 2% of whom immigrated from Ethiopia and 8% of whom immigrated from the former Soviet Union.

Most (89%) of the children in Israel live in urban centers. The percentage of children living in rural communities is higher among the Arab citizens of Israel, reaching 21. About 12% of Israel's children – 9% of the Arabs and 14% of the Jews – live in mixed communities of Jews and Arabs.

Many of the children in Israel live in large families of four or more children; in 1998, this group represented 16% of all of the Israeli households with children up to age 18. A greater percentage of Arab families have four or more children. Relative to other western countries, a small percentage (7.4%) of Israel's children live in single-parent families.

A number of factors have played and continue to play a decisive role in determining the character of Israeli society. One is the social and cultural diversity of the Jewish population, resulting primarily from immigration from a wide range of countries of origin but also from differences in religious observance. Another is the nature of relations between the Jewish majority and the significant Arab minority. To this may be added the Arab-Israeli conflict and the ongoing peace process.

## 1. Immigration and the Social and Cultural Variety of the Jewish Population

The disastrous results of the Holocaust had an immeasurable influence on the development of Israel's political ethos, which in turn influenced Israel's policy on a multitude of issues, including immigration. Since its establishment in 1948, the population of the State of Israel has increased more than sixfold – primarily as a result of the immigration of Jews from all corners of the world, who brought with them a variety of cultures and customs.

Immigration has contributed to the unique cultural diversity of Israel's Jewish population, which comprises people who were born and raised in practically all of the various cultures and geographic

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areas of the world. Consequently, equality among the ethnically diverse groups within the Jewish population has been of concern throughout the State's history.

In addition, the absorption of large numbers of immigrants from differing cultures was a significant economic burden on the fledgling State, particularly given its limited resources at that time. Many of the immigrants spent several years in tent cities and transit camps before being settled in permanent housing, and compulsory elementary education was instituted for the first time only in 1956, and even then without a sufficient number of teachers and schools.

The absorption of large numbers of immigrants has also had far-reaching social implications. There were discrepancies in educational background and family size between the two largest groups of immigrants in the 1940s and 1950s. The level of education of immigrants from Asian and African countries was lower, and their families larger, than those of immigrants from European countries. Moreover, immigrants from Asia and Africa were encouraged to replace their cultural, and even religious, heritage with the nascent "Israeli" culture. The social and cultural education of immigrants from Europe and the Americas enabled them to adopt the new culture with greater ease than could immigrants from Asia and Africa, who found it difficult to adjust to the new society and to succeed socially and economically. Moreover, during that period, Israel had to cope with general issues of housing, employment, and social integration.

Fortunately, significant changes have taken place in Israel's outlook on integration. Over the years, a more pluralistic approach has developed, which recognizes the importance to immigrants and to the larger society of preserving cultural traditions. This recognition is now reflected in government policy and in the allocation of resources.

The latest wave of immigration began in late 1989; by the end of 1996, it had brought 750,000 people to Israel, increasing the State's population by 17% in seven years. Most (87%) of these immigrants – 656,000 – came from the former Soviet Union, although an additional 30,000 came from Ethiopia. Many of the latter had subsisted on farming in the mountains of Ethiopia, and had had a most limited education; the society they came to is radically different. Although the population of Ethiopian immigrants (including 15,000 immigrants who arrived in Israel in the early 1980s) is numerically small, its cultural uniqueness and limited educational and financial resources pose a challenge to Israeli society, which is striving to absorb them socially and economically.

## **2. The Arab Population of Israel**

In 1998, the Arab population of Israel comprised 1,256,300 individuals, who represented close to one-fifth of Israel's total population (compared to 13% of the total population at the establishment of the State in 1948). The increase in the relative proportion of Arabs in the total population, despite

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the constant immigration of Jews to Israel, is a result of the high birth rate in the Arab population, as well as the constant increase in life expectancy in the total population.

Israel's Arab population is mainly resides in the Galilee in the north; the Negev desert in the south; and a south-north triangle in the center of the country. The Arab population comprises sub-populations that differ in their religious, social and cultural characteristics. These groups may be differentiated by religion (80% are Moslems, 11% are Christians, and 9% are Druze), by residence (urban versus rural), and by culture or lifestyle (Bedouin, Samaritan, Circassian). This diversity is also expressed in differing birth rates, housing conditions, and economic and employment status.

Table 1 presents some basic socio-demographic characteristics of the Arab population, compared to the general population of Israel. As the Table reveals, the Arab population is typified by larger families, lower levels of education, and lower income than that of the total Israeli population. Consequently, the percentage of Arab children who live below the poverty line is very high. It is important to note that there are differences among the different groups in the Arab population. For example, among the Christian Arabs, families are smaller and levels of (women's) employment and income are higher than among the other groups.

**Table 1: Basic Socio-demographic Characteristics of the Arab Population, Compared to the Jewish Population (in %)**

	Arab Population	Jewish Population
<b>Education</b>		
Women		
Fewer than eight years	38.5	14.8
11-12 years	26.5	35.4
Post-secondary	18.6	39.3
Men		
Fewer than eight years	28.7	11.1
11-12 years	30.0	37.9
Post-secondary	20.7	38.8
Average number of children per household	3.04	2.2
Families below the poverty line	37.6	16.6*
Children below the poverty line	42.7	<b>22.9</b>
Employment (in the civilian labor force)		
Women	19.5	51.0
Men	66.4	60.6

\*Percentage of the total population.

Source: Central Bureau of Statistics, 1999

## *General Introduction*

Israel was established as a Jewish and democratic State. Its declaration of independence calls for “full equal rights for all citizens, regardless of gender, religion, or race”. Members of a minority are full citizens with equal rights who participate in elections, are represented in the Knesset (Israel’s parliament), and are entitled to all of the services that the State provides its citizens. Nevertheless, the continuing conflict between Israel and the neighboring Arab States and the social and economic gaps between Arabs and Jews have contributed to tensions between the Arab minority and the Jewish majority. The development of social and municipal services in the Arab sector has lagged behind that in the Jewish sector, in part due to discrepancies in the allocation of government resources. This has delayed the attainment of social and economic equality by the Arab population. Although Israel’s governments have recently taken significant steps to accelerate the social and economic advancement of the Arab population, it is clear that achieving equality represents a major ongoing challenge.

### **3. The Arab-Israeli Conflict and the Peace Process**

Since the declaration of independence in 1948, Israel has been in a state of military conflict with neighboring Arab countries. Five wars, and several periods of active conflict have passed since the establishment of the State. This has created a need for military security, and has led to the allocation of a significant proportion of the national budget to defense. This in turn has sparked unending argument over the priority of military versus civilian expenditures.

Efforts have always been made to end the conflict between Israel and her Arab neighbors. In 1979, a first peace agreement was signed with Egypt. In October 1991, a conference was convened in Madrid to inaugurate direct peace talks. Subsequently, bilateral negotiations have been conducted between Israel and Syria, Lebanon, Jordan and the Palestinians, as well as multilateral talks on key regional issues. To date, these negotiations have resulted in a peace treaty between Israel and Jordan, and a series of interim agreements with the Palestinians.

### **4. Trends and Future Directions in Israeli Society**

The processes of immigration in the distant and recent past, the social and cultural diversity within Israeli society, the continuing conflict with Arab countries, and the need to pursue equality and coexistence with the Arab minority pose many challenges for the State of Israel:

- ◆ Poverty is widespread among the child population in Israel; in fact, the poverty rate among children has risen dramatically since the 1970s. In addition to being a problem onto itself, poverty hinders scholastic achievement, fosters delinquency, and impedes the attainment of equal opportunity.
- ◆ It is thus not surprising that an underclass is developing in Israel, with a third generation of children being born into families in distress. These are, on one hand, families that originally came

### *General Introduction*

to Israel during the mass immigration of the 1950s, but failed to successfully integrate into Israeli society, instead becoming trapped in a cycle of decline from one generation to the next. In addition to material and physical deprivation, this group is developing a “culture of poverty”, and is involved in crime to an extent disproportionate to its representation in the population. On the other hand, there is the large group of poor among the Arab population, which is an outgrowth of major differences in education and family size.

- ◆ Israel is also prey to the social ills that plague other western countries, such as high unemployment rates, increased divorce rates, and increasing rates of addiction to drugs and alcohol. Although these problems are less common in Israel than in many western societies, they are much more prevalent today than they were in the past.
- ◆ Naturally, the Arab population is affected by the same factors that affect all of Israeli society. Nevertheless, and at the same time, Arab society is undergoing rapid changes in its internal social norms and values. These changes parallel the transition that was experienced by Jewish families from North Africa and the Middle East in the 1950s and 1960s. While these changes add to the difficulties faced by Arab children, at the same time they create enhanced opportunities. The broader integration of Arab women into the labor force and of Arab girls in the education system is one of the positive outcomes. Arab children and youth also face the special challenge of preserving their cultural heritage and reconciling their national identity with their Israeli citizenship.
- ◆ Recent immigrants to Israel represent another group in transition. Immigrants from Ethiopia, as well as those from the former Soviet Union, find themselves in a very different culture, to which they must adjust. For Ethiopian immigrants, the challenge is multiplied by the very large educational gap that they need to overcome in order to achieve equality of opportunity. For Russian immigrant children, the challenge is to maintain the high levels of education of their parents despite the difficulties they face in their new society.
- ◆ Israel’s ability to address the social, ethnic and national differences will have a major influence on its ability to fulfill the promise of the Convention on the Rights of the Child in the years ahead.



## Chapter 2

### Introduction:

The Rights of Children in Israel  
at the Start of the Third Millennium



## Introduction

In this chapter, we will sketch a general picture of children's rights in Israeli law. In so doing, we will attempt to show how the United Nations (UN) Convention on the Rights of the Child is interpreted and implemented in the State of Israel, as required by article 44(2) of the Convention.

This report is being presented at the start of an era that is likely to witness significant change in the laws that concern children throughout the world. These laws have already seen social, cultural and historical upheaval. To a certain extent, the laws concerning children have developed much as have the laws concerning other groups, such as women and minorities. The current trend is one of transition from seeing these groups as having no rights or as being the object of another group's rights (e.g., women, children and black men as the chattel of white men), to one of seeing them as having rights of their own. Nevertheless, children still differ from women and ethnic or religious minorities, as paternalistic considerations are applied to them, preventing the absolute equalization of their rights with those granted to all human beings.

The lion's share of 20<sup>th</sup> century law concerning children is based on the principle of "the best interests of the child", which views children as being distinct from the "general" class of human beings who are entitled to a certain type and quantity of rights. Children are perceived as lacking the ability to exercise mature, free will or to make decisions that will affect their lives. Consequently, the authority to settle matters concerning children is placed in the hands of others, usually parents or the government, who are required to act in accordance with the presumed best interests of the child. This principle underlies the UN Convention on the Rights of the Child and, despite rhetoric regarding the human rights of children, has also long guided legislation and adjudication in Israel, as elsewhere.

During the past two decades, new developments have occurred: The correlation between children's rights and human rights has begun to exceed the limits of rhetoric *per se*. The perception that human rights should be applied to children has given rise to a doctrine that requires drawing normative, practicable conclusions – some of which may be at odds with those drawn from the principle of "the best interests of the child". Increasingly, a child has the right to be heard in matters concerning him and to have his wishes respected, even when these do not coincide with what adults perceive to be his "best interest". A 1998 amendment to section 27D(a) of the **Youth Employment Law 1953** determined that "in granting a permit to employ a minor, a young person who is capable of expressing his opinion will have the right to state his opinion regarding the granting of a permit for his employment, and his opinion will be given due weight, in accordance with his age and maturity". Thus, in legal terms, children are being increasingly likened to other groups, such as women and minorities, and are being granted the same status as human beings in general. This trend is also clearly reflected in the recent amendment to section 149G(a) of the **Municipalities Ordinance**, which stipulates that "the [local] authority will appoint a committee to plan activities

that promote the status of children and youth, protect them, and secure their rights, including non-discrimination, the best interests of the child, respect for the views of the child, and the right to life, survival and development to the maximum extent possible”.

This trend may have several explanations, one of which is the rapid pace of maturation, spurred by exposure to the media of an intensity unknown to past generations of children. Education and coming of age are today different in duration, content and essence than in the past. This phenomenon has implications for the rights of children.

Another possible explanation for this trend is the acknowledgment of the importance of human rights overall, and the need to defend them rigorously. Increasingly, children are viewed as human beings who have rights independent of and separate from those of their parents. At the same time, it is also customary to view the right to bear and raise children, and to educate them according to one’s beliefs, as a fundamental human right. The trend to recognize the rights of children is likely to reinforce the recognition and protection of the rights of parents regarding their children.

Although the perception of children as having rights independent of their parents is no longer unusual, and in fact is common rhetoric, in Israel, most of the laws and rulings regarding children are the outgrowth of a more traditional perspective. Specifically, this perspective stresses the best interests of the child on one hand, and the rights of parents, on the other. Not only do these goals not always coincide, but in fact they often conflict, and lead to opposite conclusions. In this chapter we will demonstrate how this tension is reflected in Israeli law.

## **1. Legislation**

### ***1.1 Rationale***

Underlying Israeli legislation concerning children is the assertion that childhood is unique. This is reflected in the fundamental **Guardianship and Legal Capacity Law 1962**. Primarily, this law defines the period of minority as ending at the age of 18, and obligates parents to meet all the needs of their minor children and to prepare them for life as adults. The law requires parents to act in accordance with the “best interests of the child” (section 25), “as devoted parents would act under the circumstances” (section 17).

However, it is important to note that this law, which was enacted nearly 40 years ago, does not consider the rights of the child, as distinct from the best interests of the child or those of the parents. By lumping together minors and people who are *non compos mentis* (that is, who due to illness or disability (such as mental illness or retardation) are incapable of looking out for their own interests), the law indiscriminately restricts a child’s freedom to take legal action.

Fortunately, the **Guardianship and Legal Capacity Law** is not the only law concerning children. There is no one principle underlying the many laws concerning children, though most of them consider the “best interests of the child”. Often, what is perceived to constitute “the best interests of the child” is fairly anachronistic, and in itself is the source of debate. However, there are also more innovative laws, which seek, at least in part, to uphold the rights of the child.

To illustrate, it is doubtful whether the “best interests of the child” are served in each and every instance by the order obligating a child to apply for a patent through a legal guardian (section 49 of the **Patents Law 1967**), or the order forbidding a child to join an association (section 15 of the **Amutot (Non-Profit Societies) Law 1980**). A more controversial example is that of the anonymity granted to sperm and ova donors, which prevents children who were born as a result of such donations from discovering the identity of their biological father or mother. While this legal situation may facilitate the donation of sperm and ova when necessary, and while it may improve the chances of becoming a parent for some adults, it may not serve the “best interests” of their progeny, as the sanction against their knowing their genetic identity is an affront to their dignity, and denies them information that is essential to their formulating a sense of self. On the other hand, given the assumed contribution of the sperm or ova donor’s anonymity to the very birth of the child, one may argue that this anonymity indeed serves his interests.

Some laws appear to show concern not for the best interests of the child, but rather for the best interests of society. For example, beginning at age ten, the consent of a child is a requisite for his conversion from one religion to another (section 13A(b) of the **Guardianship and Legal Capacity Law 1962**). However, it seems this stipulation is an outgrowth of the political and social sensitivity to conversion in Israel, rather than of consideration for a child’s right, or even “best interest”. An amendment made in 2000 to section 185 of the **Penal Law 1977** forbids the sale of brass knuckles or a knife (except one for household use) to a minor. While this sanction is somewhat paternalistic, it is also meant to protect minors from exposure to harm. A 1999 amendment to section 8C of the **Youth (Care and Supervision) Law 1960** stated that “a court sitting in the matter of a minor is authorized, at any time, to appoint a legal guardian for the legal proceedings or any matter arising therefrom, if this will serve the best interests of the minor or protect his interests”. This the court may do without hearing the position of the minor before appointing the guardian. A 1998 amendment to section 2E(a)(2) of the **Business Licensing Law 1968** stipulates that the licensing authority is authorized to ban the inclusion in a business of sexual devices for minors under the age of 17. The proposed **Restriction on Advertising Tobacco Smoking Products (Amendment No. 4)** (Indirect Advertising and Protection of Youth) 1998 would restrict the advertisement and distribution of cigarettes to minors; the proposed **Protection of Genetic Information Law 1998** would make the retrieval of genetic information from minors age 16 and over conditional upon their consent, and would allow the retrieval of genetic information from younger minors and the legally

incompetent only on the consent of their legal guardian, in part “to improve the state of the minor or incompetent”.

Nevertheless, signs are beginning to appear on the Israeli legislative landscape that the traditional, paternalistic perspective is changing into one that emphasizes the child’s independent rights, among them the right to dignity. For example, section 3(d) of the **Court for Family Matters Law 1995** allows minors to file a legal claim themselves in any instance in which their rights are in danger of infringement. In 1995, section 8 of the **Youth (Care and Supervision) Law 1960** was amended to require the courts to allow a minor to appear and express his views before the rendering of a judgment. An amendment from the same year determines the status of minors who have reached age 15 and who oppose psychiatric hospitalization (section 3F of that law). The **Adoption of Children Law 1981** stipulates that children who have reached the age of nine must be heard, as must children who are younger but who understand their circumstances, prior to the handing down of an adoption order. According to section 187(d) of the **Criminal Procedures [Consolidated Version] Law 1982**, agreement to an inquiry into the state of a victim of sexual assault who is over age 14 can be granted by the victim herself, without the consent of her legal guardian. Further, section 1 of the **Detection of the AIDS Virus in Minors Law 1996** determines that “despite the rule of law, a test to determine the presence of the AIDS/HIV virus in a minor will be conducted at the minor’s request, even without the consent of his parent or legal guardian (hereafter, his representative)...if the following [conditions] have been fulfilled: (1) the physician has provided the minor with a full explanation...and is satisfied that the minor has understood the explanation; (2) the physician has raised the possibility of obtaining the consent of the minor’s representative, but the minor has refused; (3) the physician is convinced that, given the minor’s age, emotional maturity and capacity for free will, his best interest requires conducting the test without the consent of his representative”. Nevertheless, at present, there is no law in Israel regarding the general obligation to hear children in any matter pertaining to their lives, as is stipulated by article 12 of the UN Convention on the Rights of the Child or by the British Children’s Act of 1989. It is worth noting that Israeli law does not give any such order concerning adults, either. Consequently, it may be possible to base the right of a child to a hearing on the laws of natural justice set in case law, which is the source of the general right to a hearing in Israel. In practice, there are many cases in which a child’s claims are not heard, even though the right to be heard would be granted to an adult in similar circumstances.

## ***1.2 Defining Childhood***

As noted, the general rule of law defines a minor as being age 18 or less. However, specific laws define a variety of age limitations and restrictions concerning children. Review of these laws leads to the conclusion that there is no uniform criterion in this matter, and that the variety of arrangements is the fruit of chance. Thus for example, children in Israel have the right to express their opinion regarding their adoption beginning at age nine, and to refuse to undergo religious conversion beginning at age ten. They carry criminal responsibility and liability for damages from

the age of 12, may only be legally employed from the age of 15, may change their names only after they have reached age 18, and may be elected to the Knesset only after they have reached age 21.

This corpus of legislation is based in large part on an arbitrary and inflexible definition that does not address the personal circumstances or capacity of the child. One may even claim that this automatic definition of legal minority is unjust. The denial of freedom that is a consequence of this definition does not distinguish between those who should have their freedoms denied, and those who should not. One may also claim that any arbitrary approach to human beings is unjust, particularly if freedoms are granted or denied based on that approach. It nevertheless seems that it is impossible to avoid defining “legal minority” arbitrarily (that is, by setting an age ceiling), and on this the UN Convention is based. Flexible, case-by-case definition is practically impossible, both because of the large number of minors and because minors are continuously maturing. Furthermore, case-by-case definition might invoke an invasion of privacy.

Nevertheless, some Israeli laws allow the courts to rule in light of a child’s personal circumstances. For example, under the **Marriage Age Law 1950**, the court must review the personal circumstances of every girl who asks to be married before reaching marriageable age as defined by law. Under the **Youth Employment Law 1953**, the Minister of Labor and Social Affairs must review the personal circumstances of a child who wishes to participate in an artistic performance before granting or denying permission.

## **2. Adjudication**

### ***2.1 The Best Interests of the Child***

As noted, until the mid-1990s, and sometimes today, the “best interests of the child” was a cornerstone of judicial rhetoric regarding children in Israeli adjudication. A typical example may be found in the words of Judge Menahem Allon:

“It appears that there is no longer a need to expand upon the principle of the ‘best interests of the child’ as a decisive consideration when examining matters of custody and education, if the parents are in dispute or in absentia, or are incapable of caring for their children, and also in the matter of adoption. This principle is ancient, and is rooted in Jewish law... accepted as exalted in the rulings of Civil and Rabbinic Courts since time immemorial, and usually their sole consideration” ((Petition to the) High Court of Justice 7/83 *Briars v. Haifa Region Rabbinic Court*, P.D. 38(1) 673).

In the same spirit, it has been said that “there are no judicial matters concerning minors, in which the best interest of the minor is not the first and the primary consideration”. In many cases, the courts do not shy away from creative interpretation that is in line with this forceful rhetoric, as

evidenced by Supreme Court rulings concerning the verdicts of Rabbinic Courts, which in Israel are authorized to adjudicate aspects of family law, subject to the surveillance of the Supreme Court. For example, the Supreme Court has required the Rabbinic Courts to adhere to section 25 of the **Guardianship and Legal Capacity Law 1962**, which stipulates that in the absence of an agreement between parents who live apart, the guardianship of their child will be determined on the basis of “the best interests of the child”. (See for example, (Petition to the) High Court of Justice 1842/92 *Blaugrund v. Chief Rabbinic Court, Jerusalem*, P.D. 46(3) 423.)

Although the Rabbinic Courts do not dispute adherence to the principle of the best interests of the child, it must be remembered that these courts view the best interests of the child in light of religious values, according to which a child’s best interest is served by his receiving a religious education. It is therefore not uncommon for a religious court to rule that a child remain in the custody of a parent who is capable of giving him such an education. This approach is not acceptable to the Supreme Court. To illustrate, one Supreme Court judge has written:

“In vain I searched the arguments of the Rabbinic Court for factual evidence regarding the cardinal question of the best interests of the child. It is difficult to escape the clear impression that the only consideration guiding the court was that the father would impart Jewish values to his children, an education that is, in his words, ‘spiritual and moral’, while the mother would provide a secular education, which is not legitimate in the court’s eyes. Of course, one must not make light of this consideration; surely, its importance in the eyes of the Rabbinic Court is sufficiently great. Nevertheless, as a *sole* consideration, and without inquiring which of the two parents is blessed with more traits appropriate to child-raising, or which of them has the material means to meet their children’s essential needs, it is not sufficient, nor does it comply with the stipulations of the legislator... Thus, although the rabbinic judges were generally aware that the locus of custody should be determined according to the ‘best interests of the child’, in effect, they closed their eyes to all considerations but one in this matter, which is that the father would raise them at the feet of the *Torah*” [emphasis in the original] ((Petition to the) High Court of Justice 181/81 *Mor v. Haifa Region Rabbinic Court*, P.D. 47(3) 94).

In fact, the Supreme Court has often overturned Rabbinic Court rulings in which the religious consideration, though weighed alongside other considerations, was the one that tipped the scales. In such cases, when it becomes clear that “through the window of the ‘best interests of the child’ we view doctrines and laws that do not necessarily obtain from the best interests of the child”, the Supreme Court is likely to reject the Rabbinic Court ruling and in its stead rule in favor of the best interests of the child as it perceives this, without giving independent, significant weight to the religiousness of the education the child will receive.

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Another example of consideration of the best interests of the child is provided by a recent case in which the Family Court in Jerusalem rejected a plea to conduct a tissue-typing test for the purpose of negating paternity of a nine-year-old child. It based its ruling on the belief that the “minor can, at his age, understand a claim of child support on his behalf, but cannot understand, without it devastating the foundation of his existence, that his father disputes his paternity”. (Family Court Case (Jerusalem) 12980/97 *Anonymous Plaintiff v. Anonymous Defendant* (10.11.98).)

Nevertheless, in some matters the rights of the parents or the interests of society are considered in addition to the “best interests of the child”. Thus, for example, the best interest of the child is not, in itself, a cause for adoption. In a series of rulings, the Supreme Court determined that even if adoptive parents are likely to be better parents than a child’s biological parents, this does not constitute sufficient cause to remove the child from the custody of his biological parents (see Civil Appeal 623/80 *Anonymous Plaintiff v. Attorney General*, P.D. 45(2) 72). Rather, it is permissible to place a child up for adoption only when there is cause for adoption, for example, when the biological parents are unable to provide sufficiently for the child. In any case, it is clear that the child’s best interests are the decisive consideration when there is cause for adoption.

Another example is provided by the policy of social integration into the education system. In accordance with this policy, children are deliberately placed in schools with the aim of raising the level of the schools in each region to a given standard, preventing the flight of students from weaker to more affluent areas, and integrating students from different ethnic and economic backgrounds ((Petition to the) High Court of Justice 595/88 *Schulman v. Director of the Tel Aviv Board of Education*, P.D. 52(3) 594). Sometimes, children are placed in a school in accordance with the policy of integration and in defiance of their wishes and those of their parents; the claim has been made that this is a breach of their interests. In this matter the Supreme Court has ruled that the “best interests of the child” are not an exclusive consideration, but rather represent only one consideration to be weighed alongside “the best interests of the public and its reform”, which are reflected in the policy of integration. (See (Petition to the) High Court of Justice 421/77 *Nir v. Beer Yaakov Regional Council*, P.D. 32(2) 253.)

The perception of the “best interests of the child” has also not yet achieved a stable position in the judicial debate over current fertility technologies, such as in-vitro fertilization, sperm donation, and surrogate mothers. For example, when the Supreme Court debated the fate of fertilized ova in a case in which a husband refused to continue the embryonic process, the court weighed many considerations, but only one of the 11 judges who sat in the additional and decisive hearing in this case raised the issue of the “best interest” of the child who would be born into a single-parent family. However, even this judge stated that he could not rule in the matter, because of the impossibility of determining whether it was better for a child not to be born at all than to be born into a single-parent family: “The answer to the question of whether non-existence is preferable to existence lies in the realms of philosophy and ethics; the helplessness of the court to resolve it is

clear” (Additional Civil Appeal 2401/95 *Nahmani v. Nahmani*, P.D. 50(4) 661). Even in the initial hearing held in the Supreme Court in this matter, only one judge addressed this consideration, stating that “given the reality we live in and the personal circumstances of Ruti Nahmani [the claimant], I would not give weight to the “best interests of the child” and deny what she has requested solely *for that reason*” [emphasis in the original] (Civil Appeal 5587/93 *Nahmani v. Nahmani*, P.D. 49(1) 458, p. 521).

### **3. The Dignity of Children**

In the mid-1990s, the Supreme Court began debating the issue of a child’s right to dignity.

The increased use of the term “the right to dignity” in matters concerning children may be ascribed to passage of the **Basic Law: Human Dignity and Liberty**, which sets constitutional statutes for the protection of human rights, at the core of which is respect for human dignity. This fundamental law has been given crucial symbolic and practical significance by the Israeli justice system. It has also had a great deal of influence on rulings concerning children.

For example, a Supreme Court decision to disqualify an agreement between parents which would have relieved the father of responsibility for child support payments was based on the court’s belief that the agreement was an affront to the child’s dignity (see Civil Appeal 5464 *Anonymous Plaintiff v. Anonymous Defendant (Minor)*, P.D. 48(3) 857). The right to dignity was also the basis of a recent Supreme Court ruling that overturned an old law, which permitted corporal punishment of children for educational purposes (Criminal Appeal 5224/97 *State of Israel v. Sde Or* (20.7.98, not yet published); Criminal Appeal 96/98 45 *Anonymous Plaintiff v. State of Israel* (25.1.00 not yet published)). In the spirit of that ruling, a clause of the **Civil Wrongs Ordinance** was recently annulled by the Knesset, which had granted immunity to parents, guardians and teachers who practiced corporal punishment on a minor “to the degree reasonably necessary to mend his ways”. Another important example of the Supreme Court’s belief in a child’s right to dignity was proved by its finding a creative interpretation that allowed it to “circumvent” a law that would have prevented a child’s right to know the identity of his parents. Thus one Supreme Court judge who sat in that case tied human dignity, as protected by the **Basic Law: Human Dignity and Liberty**, with natural law:

“The dignity of a man trumpets free will and choice. ...a man who wishes to know who his father is, who his mother is, where he comes from – who shouts, ‘who am I?’ – does his dignity not live?

It is difficult – very difficult – to accept such a law. Not for naught have we spoken of natural law, which took the form of human dignity in the **Basic Law: Human Dignity and**

**Liberty**” (Civil Appeal 3077/90 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(2) 578, p. 593).

Similarly, the Family Court in Jerusalem based its ruling on the right to human dignity when it respected the wishes of two girls age 10 and 13 to emigrate from Israel with their mother. The court stated that “we may not, barring exceptional or compelling circumstances, force an older child with mature will and understanding to remain with one parent, when his clear and absolute desire is to be with the other parent” (Family Court Case (Jerusalem) 14622/97 *Anonymous Plaintiff v. Anonymous Defendant* (31.8.98)). In this ruling, the court also based itself on the UN Convention, which addresses both the best interests of the child and the child’s will. In 1998, the same court accepted the claim of a 16-year-old minor who wished to go abroad during summer vacation with the youth movement in which she was active, despite the objection of her father, who believed that the trip would harm his daughter’s studies. This ruling, too, was based the child’s constitutional right to human dignity.

Even if we claim that defending the dignity of children is compatible with their best interests, the change in rhetoric and terminology has implications for the future, and signals an important change of emphasis: The essence of the concept “the best interests of the child” is paternalistic. The essence of the concept “the dignity of the child” is the recognition that children are autonomous and thus have the fundamental right to dignity – a right which may conflict with paternalistic concerns.

#### **4. The Rights of Children**

The concept of “children’s rights” as an independent discipline first appeared in Israeli Supreme Court rulings in the mid-1990s (Civil Appeal 2266/93 *Anonymous Plaintiff (Minor) v. Anonymous Defendant*, P.D. 49(1) 227). The test case was one in which the Supreme Court was asked to rule in the matter of the religious education of children of parents who had separated because the mother had become a Jehovah’s Witness. The children remained with their mother, who wished to educate them according to the beliefs of the Jehovah’s Witnesses. The father objected, demanding that the children receive a Jewish education. The chief justice of the Supreme Court, Meir Shamgar, suggested ruling in the matter on the basis of the child’s rights. He described the relationship between a child’s rights and his “best interests” as follows:

“The ‘rights of the child’ do not supercede the ‘best interests of the child’. On the contrary: The concept of ‘rights’ is broader than that of one’s ‘best interests’, and subsumes it. What is remarkable in our turning to the rights of the child is that the ‘best interests of the child’ is a subjective emotional concept, which requires the judgment and factual evaluation of the court in each specific instance, while the ‘rights of the child’ is a normative-legal concept that relies on a familiar, established system of rights – which is, of course, also guided by the

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aspiration to realize the best interests of the child. ...The test of the rights of the child anchors the autonomy of children's rights in the obligation to recognize and respect them. The best interests of the child is assumed by the recognition and respect of his rights. It is difficult to imagine that acknowledgement and respect of a child's rights would not be in his best interests, or that a child's best interests could be conditional upon ignoring his other constitutional and legal rights. ...In cases involving a child's fundamental constitutional rights, the appropriate mechanism for the court is that of the rights of the child; the best interests of the child alone will not suffice to express the interests of the child in a dispute" (*op. cit.* 254, 260).

Chief Justice Shamgar also stressed the autonomy of the rights of the child, as distinct from the rights of the parent:

"The concept the 'rights of the child' teaches us that children have rights. In essence, this concept erects a protective constitutional shelter over the child. It expresses the recognition that he has rights; the integrity of these rights also guarantees the fulfillment of his best interests. As a measure for resolving custody disputes or disputes between parents, this concept expresses the view that a child is an autonomous being with rights and interests that are independent of those of his parents. While the extent of these rights is liable to be narrower than that of adults, this does not mean that the rug should be pulled out from under the fundamental assumption that children have rights."

Given that the children had been raised and educated as Jews and did not express any desire to join the sect of which their mother was a member, Chief Justice Shamgar ruled that it was their right to continue to be educated as Jews until they were capable of deciding otherwise – even though by thus strengthening the children's position, he risked unsettling the autonomy of the family and weakening it.

Although the other judges who heard the case concurred with the chief justice, only one of them made an argument based on the same principles. The other three judges expressed the opinion that the test of the "best interests of the child" took precedence, stating that in any case in which the desired outcome based on the child's best interests contradicts the desired outcome based on the child's rights, the child's best interests should hold sway. Nevertheless, even these judges did not dispute the importance of recognizing the principle of children's rights.

Since that ruling, and perhaps in its wake, awareness has grown in Israel of the autonomy of children's rights. Legal debate has intensified regarding the significance of recognizing children's rights and the discrepancies between their rights and their best interests (Application for Civil Appeal 2043/98 *Amin v. Amin* (4.10.99 not yet published)). For example, the Supreme Court approved a ruling of the Tel Aviv-Jaffa District Court – apparently the first of its kind in the world

– that placed liability for damages on a father who had disowned his children, and thereby caused them emotional pain and suffering. The court ruled thus, although it acknowledged the sensitivity of the issue and the need to avoid inappropriate infringement of a parent’s autonomy. In so doing, the court recognized children as having rights of their own. In a similar spirit, in a May 1999 ruling based on the **Court for Family Matters Law 1995**, the Family Court in Tel Aviv-Jaffa recognized the right of a minor age 11 to separate representation by an attorney who would serve as her guardian in legal matters, in conflicts between her divorced parents. In this case, the court based itself on article 12(1) of the Convention, which requires enabling a child to be heard, directly or indirectly, in any judicial matter concerning him (Family Court Case (Tel Aviv) 23860/96 *Anonymous Plaintiff v. Anonymous Defendant and Others* (not yet published)).

## **5. Summary**

The fundamental principles declared in the introduction to the UN Convention on the Rights of the Child (hereinafter: the Convention) – including the recognition of childhood as deserving special attention, support, and legal protection, and of the crucial importance of the family environment to the growth and development of children – are also the fundamental principles on which laws concerning children are based in Israel. Furthermore, the central principles expressed in the articles of the Convention are compatible with the principles underlying Israeli law. As described above, these shared principles include the obligation to act in accordance with the best interests of the child as a primary consideration, and the frequent concern with the rights and obligations of parents.

Indeed, Israel’s courts – both the Supreme and the Lower Courts, including Family Courts – have cited the Convention and based rulings upon it. For example, the Supreme Court’s understanding of the essence of children’s rights is based on the Convention, as indicated by its ruling in favor of the plaintiff in the paternity suit of a Moslem girl, which was based on a child’s right to know his parents, as stipulated by article 7 of the Convention (Civil Appeal 3077/9 *Anonymous Plaintiff (Hemda) and Others v. Anonymous Defendant (Yunis)*, P.D. 49/2 578). In two other rulings, the court based itself on the Convention’s prohibition against the use of corporal punishment in children’s education. In this matter, the court wrote:

“Recognition of a child’s right to protection of the integrity of his body and mind is distinctly stated in the UN Convention on the Rights of the Child. ...The Convention expressly forbids the use of physical or emotional violence toward children, and requires the States Parties to take steps to prevent violence against children” (Criminal Appeal 4596/98 *Anonymous Plaintiff v. State of Israel*, P.D. 54(1) 145, p. 185).

In a number of rulings, the District Court of Tel Aviv-Jaffa also based itself on the Convention, stating that the Convention is “a source of great importance” (see for example Criminal Case (Tel

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Aviv-Jaffa) 64/96 *State of Israel v. Anonymous Defendant* (not yet published); Criminal Case (Tel Aviv-Jaffa) 511/95 *State of Israel v. Anonymous Defendant* (not yet published)). In another instance, the Family Court in Tel Aviv prohibited the parents of twins, who were born to a surrogate mother in Israel, from relating their experiences in a television movie. The judge ruled that the children's right to privacy – a right anchored in the Convention – takes precedence over the parents' right to publish (Family Court Case (Tel Aviv) 4570/98 *Anonymous Plaintiff and Others v. Attorney General* (not yet published)). In yet another case, the District Court in Tel Aviv-Jaffa used the Convention as a basis for an interpretation of the law, which emphasized the right of children of parents who have separated to maintain contact with both parents and, derivative thereof, the right of children to be heard by the court before the court rules on their custody (Family Court Appeal (Tel Aviv-Jaffa) 33/96 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)). The Family Court in Jerusalem rejected the petition of a mother to change the name of her minor son; it based its decision on the Convention's stipulation that children have separate rights in this matter. In another case, the Family Court in Jerusalem cautioned that Israeli law regarding a child's right to be heard in legal proceedings does not fully comply with the statutes of the Convention, and should be changed accordingly (Family Court Case (Jerusalem) 19530/97 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)).

There are a few other principles outlined in the Convention that have not yet been fully grounded in Israeli law. We refer primarily to the principles set down in articles 12 and 27 of the Convention. Article 12 of the Convention stipulates that a child who is capable of expressing his opinion must be given the right to freely express that opinion in any matter concerning him, and that his opinion must be given due weight in accordance with his age and maturity. Article 12 also stipulates that children be heard in any administrative or legal proceeding that concerns them directly or indirectly. Current law in Israel arranges the right of a child to be heard and his opinion to be considered in certain matters that concern him. For example, section 149g of the **Municipalities Ordinance** cited above, which was amended in 2000, stipulates that representatives of student and youth movement councils serve on local and municipal committees for the advancement of children. (See also the **Youth Employment Law** as it addresses the hearing of children and the **Pupils' Rights Law 2000** in this matter.) However, while current legislative initiatives address specific aspects of a child's right to be heard, there is as yet no general order in this matter, and the practice of allowing children to be heard is not consistent.

Article 27 of the Convention stipulates the right of a child to a standard of living appropriate to his level of development, the obligation of his parent in this regard, and the obligation of the State to assist his parents in this regard by providing material assistance when necessary. This article (as well as articles 25, 26, ff.) ensures the child's social and economic rights. Indeed, the UN Convention on the Rights of the Child, perhaps more than any other international convention, is outstanding in its integration of civil and political rights with social and economic rights. Nevertheless, in Israel, such integration is not a *fait accompli*. Public debate still rages over the role

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of social rights in the tapestry of human rights. Moreover, rights that have not yet been fully recognized for adults remain incomplete for children, as well.

Additional, special problems arise in Israel as a result of its multi-religious and multi-ethnic population. A prime example of this is the variety of types of education offered in Israel. Alongside State education and State religious education systems, there are private, church-affiliated and private, ultra-orthodox Jewish institutions. Such institutions are relatively autonomous; children may attend them on the prerogative of their parents. Some claim that ultra-orthodox Jewish institutions in particular, which focus on religious studies, do not provide the basic secular studies that prepare students to function in the modern world, and consequently put them at a disadvantage socially and economically. Article 29 of the UN Convention addresses the tension between the aspiration toward cultural freedom, for parents, and the need to protect the rights and best interests of children; however, it is doubtful whether the stipulations of this article resolve the tension.

Lastly, like other countries with developed economies, Israel attracts foreign workers. These foreign workers (and their children), some of whom remain in Israel illegally, are eligible for the same basic human rights as are citizens and legal permanent residents. While certain rights – such as the right to free education – are provided, at least in part, to the children of foreign workers, many others are denied them, regardless of their parents' legal status.



# Chapter 3

## General Measures of Implementation



## Introduction

This chapter addresses the steps that have been taken by the State of Israel to implement the UN Convention on the Rights of the Child. First, we will describe the legal status of the Convention, and describe the parliamentary activity undertaken to promote it. Then we will discuss the means used by national and local government authorities to comply with article 4 of the Convention, including the allocation of resources to protect the economic, social and cultural rights of children. Lastly, we will cite the non-government and government organizations that disseminate the rights of the child among children and adults alike, in compliance with article 42 of the Convention.

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

#### 1. The Status of the Convention in Israeli Law

##### 1.1 The Convention's Ratification and Legal Status

The United Nations (UN) Convention on the Rights of the Child was signed by the State of Israel on 3 July 1990 and ratified by the Knesset on 4 August 1991; it went into effect on 2 November 1991. Although the Convention does not have the status of law, it is often cited in rulings of both the supreme and the lower courts as a legal source and a basis of interpretation (for further detail, see Chapter 2). Table 1 gives examples of rulings that were based on the tenets of the Convention.

The interpretive authority granted the Convention by its ratification reflects the State's commitment to making its laws and legal norms congruent to the Convention. A Supreme Court judge has written that the law should be interpreted and enforced in a manner compatible with the Convention, deviating from the Convention in exceptional cases only. It should be noted that her two colleagues left this matter open to further study (Criminal Appeal 3112/94 *Abu Hassan v. State of Israel* (11.2.99. not yet published)). In another ruling, the Supreme Court determined that adherence to an international convention, which assumes mutuality, requires its uniform interpretation by all signatory countries. In December 2000, the **Pupils' Rights Law 2000** was passed. The first section of the law stipulates that the law's aim is to determine the "principles for the rights of the student, in the spirit of human dignity and the principles of the UN Convention on the Rights of the Child".

The State of Israel is also a signatory to other international conventions concerning children. For example, since 1953, Israel has been a party to conventions of the International Labor Organization (ILO), primarily the Convention Concerning Medical Examination of Children and Young Persons in Non-industrial Occupations (No. 78, 1946); the Convention Concerning Medical Examination for Fitness for Employment in Industry of Children and Young Persons (No. 77, 1946); the Convention Concerning Night Work for Children and Young Persons in Industrial and Non-industrial Occupations (No. 90, 1948 and No. 79, 1949). Since 1980, Israel has been a party to the

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International Labor Convention Concerning Minimum Age for Admission to Employment (No. 138, 1973). In addition, Israel is a party to the Hague Convention on International Private Law. Since 1991, Israel has been a party to the Hague Convention Concerning Civil Aspects of Child Kidnapping (No. 513 XXVIII, 1980), and since 1995, Israel has been a party to the Hague Convention Concerning the Protection of Children and Cooperation in Respect of Inter-country Adoption (1993).

**Table 1: Court Rulings Based on Articles of the Convention on the Rights of the Child**

Ruling	Article of the Convention
Supreme Court Cases	
Criminal Appeal. 4596/98 <i>Anonymous Plaintiff v. State of Israel</i> , P.D. 54(1) 145	9(1)
Civil Appeal 93/2266 <i>Anonymous Plaintiff v. Anonymous Defendant</i> , P.D. 49(1) 221	3, 14
Criminal Appeal 3112/94 <i>Abu Hassan v. State of Israel</i> , P.D. 53(1) 427 (Petition to the) High Court of Justice 1554/95 “ <i>SHOHAREY G.I.L.A.T.</i> ” v. <i>Minister of Education</i> , P.D. 50(3) 2	37(a) 28
Additional Civil Appeal 7015/94 <i>Attorney General v. Anonymous Defendant</i> , P.D. 50(1) 48	13(1)
Civil Appeal 3077/90 <i>Anonymous Plaintiff v. Anonymous Defendant</i> , P.D. 49(2) 578	7
Criminal Appeal 5224/97 <i>State of Israel v. Sde Or</i> (not yet published) (Petition to the) High Court of Justice 5227/97 <i>David v. Rabbinic High Court Jerusalem</i> (not yet published)	19(1) 3
District Court Cases	
Criminal Case (Tel Aviv) 40069/00 <i>State of Israel v. Anonymous Defendant</i> (not yet published)	12
Family Court Appeal (Tel Aviv) 3/98 <i>Biton v. Biton</i> , 500-48 98(3) 2509	12
Family Court Appeal (Tel Aviv) 90/97 <i>Moran v. Moran</i> (not yet published)	12
Civil Appeal 3275/98 <i>Child Protection Officer v. Anonymous Defendant</i> (not yet published)	6, 12
Family Court Appeal (Tel Aviv) 1009/00 <i>Anonymous Plaintiff v. Anonymous Defendant</i> (not yet published)	12
Family Court Appeal (Tel Aviv) 3/99, 4/99 <i>Anonymous Defendants v. Attorney General</i> (not yet published)	3
Family Court Appeal (Tel Aviv) 36/96 <i>Anonymous Defendants v. Attorney General</i> (not yet published)	16
Family Court Appeal (Tel Aviv) 1010/98 <i>Keshet v. Keshet</i> (not yet published)	3
Family Court Appeal (Tel Aviv) 33/96 <i>Deutsch v. Deutsch</i> 500-48 97(2) 1567	9, 7(2), 10(2), 18
Family Court Appeal (Tel Aviv) 1125/99 <i>Anonymous Plaintiff v. Anonymous Defendant</i> (not yet published)	9, 7(2), 10(2), 18
Criminal Case (Tel Aviv) 40006/00 (not yet published)	37b

**Table 1: (cont'd.)**

Ruling	Article of the Convention
Family Court	
Family Court Case 94300/90 (not yet published)	12
Family Court Case (Tel Aviv) 23860/96 <i>Anonymous Plaintiff v. Anonymous Defendant</i> 500-48 96(2)	12
Family Court Case (Jerusalem) 2030/97 <i>Anonymous Plaintiff v. Anonymous Defendant</i> 500-48 98(2), 81	12
Family Court Case (Tel Aviv) 23200/96 <i>Anonymous Plaintiff v. Anonymous Defendant</i> 500-48 96(2)	Preamble
<b>Family Court Case (Beer Sheva) 10101/98 <i>Judicial Review</i> 251, p. 15</b>	7(11), 7(2)

## 1.2 The Committee to Examine Fundamental Principles Concerning Children and the Law, and Their Implementation in Legislation

In June 1997, the Minister of Justice appointed a “committee to examine fundamental principles concerning children and the law, and their implementation in legislation”. The minister appointed this committee to thoroughly examine Israeli law concerning the rights of the child and the child’s legal and welfare status, *in light of the principles set down in the UN Convention on the Rights of the Child*. The committee was asked to examine the need for legislation, including amendments to current laws, so that the State could meet its commitment to the Convention. It was also asked to assess *the need to write an integrative law* regarding the status of children and youth, in light of the Convention and on the basis of a *comprehensive, uniform perspective*. The committee was further asked to examine the necessity of establishing agencies and mechanisms to implement, coordinate and regulate fulfillment of the rights of the child, as outlined in the Convention.

This committee comprises senior public and other officials from a variety of fields, including the court system, the Ministry of Justice, the Ministry of Labor and Social Affairs, departments of social work, law and psychology of the universities, the system of mental health services for children, the Council for Child Welfare, and the Israel Bar Association. To date, five sub-committees have been established, which address the continuum of child protection, out-of-home placement, the child in the family, education, and the child in criminal proceedings.

In 1999, a project was implemented concurrent with the committee’s work, whose goal was to hear the views children, according to article 12 of the Convention. This project is being evaluated.

## 1.3 Parliamentary Activity

### 1.3.1 Knesset Members’ Lobby for Children

The first goal of this lobby is to promote legislation concerning the rights of the child. To this end, it coordinates proposed laws concerning children; monitors the status of tabled laws and the

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publication of reports; promotes proposed laws by lobbying the heads of relevant committees; reminds Knesset members to promote laws they have proposed; and increases Knesset members' awareness of the lobby's support of proposed laws concerning children. Furthermore, in 1997-1998, the lobby initiated 21 proposals for legislation.

In addition to its legislative activity, during the 14<sup>th</sup> Knesset the lobby organized site visits for Knesset members (e.g., to a juvenile detention hall, a school attended by the children of foreign workers, and a summer camp for disabled children), met on budget issues, observed "Convention on the Rights of the Child Day" in the Knesset, raised nine laws for debate before the plenum in one month alone (November 1997), organized a conference and participated in one-day conferences, and hosted guests from Israel and abroad.

The lobby also cooperates with relevant voluntary organizations, for example on one-day conferences like that held on the initiative of the National Council for the Child. This conference, titled, "Children in Israel 1998: Fifty Years of Activity, Another 50 Years of Commitment", held at the Knesset in July 1998 during the State's jubilee, addressed the current situation and trends for the future regarding children and the law, welfare, health, and education. Lecturers included government ministers, chairpersons of relevant parliamentary committees, professionals from public agencies (including the National Council for the Child), and representatives of youth. The lobby organized a question-and-answer session for youth council representatives with ministers and Knesset members.

#### **1.3.2 Proposed Bills on the Rights of the Child**

A number of proposed bills (tabled in 1993, 1996 and 1997) sought to grant Section I (articles 1-41) of the Convention legal standing. Their proposal led to extensive discussion in the Knesset, which revealed the State's commitment to the principles of the Convention, while reiterating that the Convention itself need not be made law. Following the establishment of the committee to examine fundamental principles concerning children and the law and their implementation in legislation (cited above), the Knesset members who had proposed these bills decided to shelve the proposals for the time being. In early 1997, a discussion was held in the committee on early childhood, which is a joint sub-committee of the labor and welfare and the education and culture committees. Representatives of the Ministry of Justice, the National Council for the Child, Defense for Children International (DCI), and the Ministry of Labor and Social Affairs attended this discussion. The committee reported that "although six or more years have passed since [the Convention's] ratification, the Convention's principles and recommendations do not have sufficient influence on the living conditions and rights of children in Israel. ...the authorities of the State of Israel are still coping with implementing the Convention on the Rights of the Child, even though some of its articles reflect the spirit in which the State itself acts on behalf of children".

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The work of this committee led to the establishment in July 1999 of a Knesset committee for the advancement of the status of the child, whose task it would be to comprehensively and holistically address issues concerning children, including their rights as outlined by the Convention. During its first year of activity, this committee (which was open to student council representatives), drafted three bills: one that would establish in every municipality and local authority of a permanent committee to promote the child; one that would establish rehabilitative day care centers for disabled and retarded children; and one that would ensure the placement of a young child at risk in a day care center. The committee discussed the health and welfare of children, problems in education, problems arising from the gaps in service provision to Arab children, emphasizing violence against children and among youth, the importance of early childhood, and the rights of children in the legal system. In addition, the committee organized discussions in the Knesset on children's rights as a human right, literature and children, safety devices, and violence among youth, which were attended by hundreds of students, representatives of government ministries and voluntary organizations.

The Knesset is very active on behalf of children, establishing *ad hoc* committees on pressing issues, such as violence among youth. Recently, Knesset committees and the National Student Council have been working to establish a body of youth representatives ("the young legislator") that will monitor the discussions of most Knesset committees.

#### **1.3.3 Adaptation of Laws**

Recent years have seen extensive legislative activity on behalf of children (see Tables 2, 3 and 4). Many new bills and amendments to existing laws have been proposed, some of which have been ratified, some of which have been rejected, and some of which are still being debated in the relevant government ministries (for example, an initiative for comprehensive reform of the **Youth (Trial, Punishment and Modes of Treatment) Law**, and a proposed bill protecting the eligibility of children at risk for services).

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**Table 2: Laws Enacted during the Past Ten Years**

Law	Year	Relevant Article of the Convention
Special Education	1988	23: the right of the disabled child to special education
Prevention of Family Violence	1991	19: protection against abuse
Hague Convention	1991	3: the best interests of the child 11: prevention of illegal transfer 12: respect for the child's opinion
Consumer Protection (Advertisements to Minors)	1991	36: protection against undue advantage 17: protection against exposure to harmful information
Single Parent Families	1992	27: the right to a reasonable standard of living
Children's Sick Days	1993	18: both parents have responsibility for raising the child, and the State will provide appropriate assistance; children of working parents will have the right to benefit from child care services
Court for Family Matters	1995	3: the best interests of the child 5: guidance and instruction of parents
Detection of the AIDS Virus in Minors	1996	16: protection of privacy 23: recognition of the right to live with dignity of children with impaired health 24: the right to a high level of health and health services
Public Defense	1995	37(d): the right to representation at incarceration and trial/legal proceedings
Treatment of Mentally Ill	1991	12: the right to be heard 23: treatment for mentally ill children
Extended School Day and Educational Enrichment	1997	28: the right to equal opportunities in education
Rehabilitative Day-care Centers	2000	6: the right to development 23: treatment for disabled children 2: non-discrimination
Students' Rights	2000	12: the right to be heard 16: protection of privacy

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**Table 3: Amendments to Laws Enacted during the Past Ten Years**

Amendment to the Law	Year	Relevant Article of the Convention
Amendment to the Penal Law: Increased Severity of Punishment of Relatives Who Harm Children; Obligatory Reporting	1989	19: protection against abuse and neglect
Amendment to the Law: Evidence Ordinance Revision (Protection of Children) Expansion to Crimes of Assault and Abuse	1991	36: prevention of undue advantage
Amendment to the Youth Law: Obligation to Hear Minors, Parents and Guardians	1995	5: guidance to parents 12: respect for the child's view
Amendment to the Penal Law: Taking Evidence Immediately	1995	40: protection of children in the juvenile court system
Amendment to the Penal Law: Statute of Limitations on Sexual Crimes against Children	1996	19 and 34: protection against sexual assault and abuse
Amendment to the National Insurance Law: Cancellation of the Reduction in Children's Benefits	1997	26: the right to social security 27: the right to a reasonable standard of living
Amendment to the Single Parent Families Law: Children's Benefits up to Age 21	1997	26: the right to social security 27: the right to a reasonable standard of living
Amendment to the Adoption of Children Law: International Adoption Agreement Permit for Adoption of Children by Parents of a Different Religion	1997	11: prevention of illegal transfer 21: adoption for the best interests of the child with permission of the authorities
Amendment to the Youth Employment Law	1998	32: protection of working children 12: participation 36: protection against undue advantage
Amendment to the Youth (Care and Supervision) Law: Sanction against the Publication of Information about Crime Victims	1998	16: the right to privacy
Amendment to the Municipalities Ordinance	2000	2: equal fulfillment of rights stipulated by the Convention 3: the best interests of the child 12: the right to be heard 13: freedom of expression

**Table 4: Proposed Bills in Advanced Stages of Ratification**

Proposed Bill	Year	Relevant Article of the Convention
Youth Employment Law (Amendment No. 11) – Head of Public Agency Obligation	2000	32
Penal Law (Amendment No. 55) – Imposition of Minimum Punishment on Relative for Injury with Serious Intent	2000	19
Protection of Genetic Information Law	1998	16

## 2. Implementation of the Convention by National and Local Government

This section presents the administrative mechanisms that advance the rights of the child in Israel, through concern for his welfare, well-being and needs, and through data collection and research, as stipulated by article 4 of the Convention.

### 2.1 Initiatives of Government Ministries

Although no specific mechanisms for implementing the Convention have been established by the government, since ratification of the Convention, government ministries have initiated many changes that are compatible with the Convention's principles. These initiatives are described in this report, as follows: for initiatives of the Ministry of Labor and Social Affairs, see the chapter on the family environment (Chapter 7); for initiatives of the Ministry of Education, see the chapter on education and recreation (Chapter 9); for initiatives of the Ministry of Health, see the chapter on health and welfare (Chapter 8); and for initiatives of the Ministry of Justice and the Ministry of Public Security, see the chapter on special protection measures (Chapter 10).

### 2.2 Data Collection and Research as a Basis of Children's Rights

#### 2.2.1 Public Agencies

A number of public agencies regularly publish information about children and youth, in the framework of the information they provide on the general population of Israel. The following agencies are among them.

The *Central Bureau of Statistics* collects a great deal of data on children as part of the many surveys it conducts. Some of these data are published annually in the *Statistical Abstract of Israel*, which includes data on the living conditions of children. The *Abstract* also presents data on the percentage of children in the population, household composition, birth rates and infant mortality, secure housing and youth probation services, education, morbidity, and social security. The Central Bureau of Statistics also produces special publications and periodicals – including the quarterly

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*New Statistical Activities and Publications in Israel* – which include information on government and public studies and which contain information about children. In addition, the Central Bureau of Statistics produces a series of publications on social indicators in fields such as education, health, and welfare, which contribute to current knowledge about children. Recently an inter-ministerial forum on statistics about children was established to coordinate government ministries and help in the collection and publication of data on children.

The *National Insurance Institute* publishes an annual report of its activities, which includes an analysis of the effect of its various programs. In the framework of these annual reports, a series is published which presents annual data on poverty, including the poverty rates among children and families with children. Occasionally, special issues are devoted to children. The Institute's sizable research department also produces many studies on children.

A number of departments in the government ministries that provide services to children publish reports of their activities, as do some of the local authorities. However, these reports are not published regularly. Similarly, since services do not have comprehensive information systems, often these data are partial or are not up to date. To compensate, government ministries may conduct or commission studies in their areas of activity, or maintain constant reporting through the Central Bureau of Statistics (e.g., the series' on education or on juvenile delinquency).

The *National Institute of the Ministry of Health* finances studies in all areas of health, including children's health.

The *Israel Center for Disease Control* was recently established by the Ministry of Health; it generates and disseminates current data on health issues, including those concerning children.

The *Henrietta Szold Institute*, under the auspices of the Ministry of Education, conducts research on Israeli society, education and behavior.

#### **2.2.2 Non-government Agencies**

The following non-government agencies also generate information, which may be relevant to the status and rights of children.

The *Center for Social Policy Studies in Israel* publishes an annual report analyzing government expenditure on education, welfare and health services, which sometimes includes articles concerning children.

The *Adva Center* is concerned with issues of equality and disparity in Israeli society, and periodically studies dimensions of equality. The center devotes a great deal of attention to issues pertaining to children and minorities.

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The ***Center for Research and Policy Design*** of the National Council for the Child was established in 1991 as the applied research arm of the Council. Among its many activities, the center publishes the most complete statistical report on children in Israel. This statistical yearbook, *The State of the Child in Israel*, which is published in cooperation with JDC-Israel, the JDC-Brookdale Institute and government ministries, includes data from a variety of sources on most aspects of children's lives. The Council also publishes a special report on immigrant children.

The ***NCJW Research Institute for Innovation in Education*** of the National Council of Jewish Women, under the auspices of the School of Education of The Hebrew University, conducts research on education, especially pertaining to the reduction of gaps.

The ***Center for Children and Youth*** of the JDC-Brookdale Institute was established to generate and disseminate the applied information necessary for the development of policy and programs that promote the welfare and education of children and youth. At present, the center conducts research on services for children at risk, children with disabilities, immigrant children and youth, health promotion, and youth leadership. The center also develops information systems for children's services as a basis for planning, policymaking and identifying children at risk. Center staff also identify, document and disseminate successful approaches to and services for children. The center conducts separate studies of Arab children and youth, and cooperates with professionals from the Arab sector through a steering committee of Arab and Jewish experts on children. The steering committee is presently setting priorities for the promotion of Arab children and youth, and is preparing a comprehensive book on the subject.

The ***Minerva Center for Youth Studies*** was established in 1995 by the Minerva Foundation in Germany, and is adjunct to the University of Haifa. The center's goal is to study issues concerning children and youth that are of interest to public policymakers. Accordingly, the center studies the attitudes and values of Jewish and Arab youth regarding democracy, the Israeli-Arab conflict, minorities and immigrants, violence in the family, drug abuse, juvenile delinquency and the like.

The ***Adler Center*** was established in 1997 by the School of Social Work of Tel Aviv University. The center conducts research into children at risk.

***Sikkui – The Association for the Advancement of Equal Opportunities*** is a Jewish-Arab voluntary organization, which publishes an annual report on the equal rights and integration of Arabs. The annual report also contains information on children and children's services.

### **2.2.3 Research into the Arab Population**

All of the above agencies study the entire population of children in Israel, both Jews and Arabs. In addition, the following agencies focus on the Arab population.

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The *Galilee Society – The Arab National Society for Health Research and Services* conducted a survey of Arab children with special needs. The survey steering committee recommended establishing an initial data base to map the agencies that have data on children, particularly those newborn to age seven, and helping to formulate strategic interventions.

In 1999, the *Center for Bedouin Studies and Development*, under the auspices of Ben-Gurion University of the Negev, published the first statistical yearbook on Bedouin in the Negev, which includes data on education, health and welfare.

#### **2.2.4 Research into the Immigrant Population**

The following agency generates data on immigrant children.

The *Israel Association for Ethiopian Jews (IAEJ)* is a voluntary agency that promotes the integration of Ethiopian immigrant students into the education system and into society. IAEJ collects data on aspects of the integration of Ethiopian students, such as scholastic achievements, drop-out rates, eligibility for matriculation, delinquency, and the interaction between the education system and parents. IAEJ publishes and disseminates its findings as a basis for action on behalf of Ethiopian students.

### **2.3 Mechanisms Regulating Implementation of the Convention**

As yet, there is no specific mechanism for regulating the implementation of the UN Convention on the Rights of the Child. Nevertheless, the State Comptroller's Office publishes an annual report citing shortcomings in government activities, including violations of children's rights. For example, the 1995 State Comptroller's report reviewed the functioning of the regular school attendance system, and found that tens of thousands of children do not attend school, in part due to a lack of elementary education frameworks for students with differing needs and levels. The 1993 State Comptroller's report reviewed how welfare agencies handle the adoption of children at risk. The report found that adoption procedures were unduly long, and that there is no appropriate follow-up of children in out-of-home placements (e.g., institutions) who have no contact with their families, and who might have been suitable for adoption. The 1992 State Comptroller's report made a thorough review of the discrepancies in educational inputs between the Jewish and Arab sectors. It found, for example, that fewer hours of educational enrichment are provided in the Arab sector, despite its lower level of achievements.

### **2.4 The Efforts of Public Agencies to Implement the Convention**

Many public bodies, including labor unions, work to implement the Convention. To illustrate, we will describe the work of two such unions – the Israel Teachers' Union and the Israel Psychologists' Union.

### **2.4.1 The Israel Teachers' Union**

Through the Association of Teachers for the Advancement of Instruction and Education, the Israel Teachers' Union is implementing a code of ethics for teachers. The code includes 35 articles covering four issues, including that of student-teacher relations. The code requires teachers to treat students with respect; to refrain from discriminating among students on the basis of race, gender, origin, political views, social status or any other reason; to be aware of and sensitive to a student's problems and work to solve them; to assess a student's scholastic achievements on a professional, conscionable basis; and to maintain confidentiality regarding a student's status. Under the code, a teacher who is charged with assaulting a student can expect to have his teachers' license revoked, and a teacher who insults a student because of his ethnic origin will be called to a disciplinary hearing.

Several years ago, a steering committee comprising senior educators and academics was established to formulate an ethical code. Initially, the committee conducted a study so as to formulate the basic values to which a teacher should aspire. A draft report of this study cites values such as sound judgment, liberty, responsibility, equality, respect for others, consideration, tolerance and solidarity, as expressed in the UN Convention on the Rights of the Child.

In order to involve teachers in formulating the final version of the ethical code, steering committee members visit schools and present the draft of the code in an active workshop that includes the presentation of hypothetical dilemmas and discussion.

### **2.4.2 The Israel Psychologists' Union**

This organization actively participated in sessions of the Knesset committee on early childhood that concerned issues of psychology (e.g., promotion of legislation authorizing free education for very young children, development of a network of well-baby clinics). Union members also attended sessions of the sub-committee of the Knesset labor and welfare committee that addressed amendments to the **Youth Law** and the **Treatment of Mentally Ill Law**.

## **3. Allocation of Resources to Protect the Economic, Social and Cultural Rights of Children**

In this section we will present the mechanisms that protect the economic, social and cultural rights of the child through the allocation of appropriate budgets, as outlined in article 4 of the Convention.

### 3.1 Mechanisms for Ensuring Government and Public Allocation of Resources to Children

The methods of ensuring that the services to which children are entitled are indeed provided to them are anchored in law, in the regulations stipulated by law, and in the policy decisions of government ministries, as detailed in the Budget Law. The allocation of resources for families, health and welfare, education and recreation, and special protective measures is described more extensively in Chapters 7-10.

### 3.2 Government Expenditures on Services for Children

There is no comprehensive calculation of the expenditures on children from the national budget. However, we may consider the following data: During the first half of the 1990s, the social expenditure of the government – that is, the total government expenditure on education, health, personal welfare services and income maintenance – grew at an average annual rate of 8.7%. This growth reflected the change in the government's priorities announced in 1993. During the latter half of the decade, the government decided to reduce its deficit and hence to reduce its budget; nevertheless, the government's social expenditure continued to increase. In 1999, the social expenditure came to NIS 87 billion – 54% of the available income from debt returns, and 23% of the Gross National Product. (For a description of government expenditures on health and welfare, and education, see Chapters 8 and 9, respectively.)

### 3.3 Reducing Discrepancies among Groups and Geographic Areas

Since ratification of the Convention, a number of steps have been taken to reduce gaps among population groups. Some of these concern children specifically, while others influence them indirectly. These steps are discussed extensively in the relevant chapters.

## 4. Voluntary Organizations that Implement and Disseminate the Convention

This section describes the role of non-government organizations in the promotion of children's rights, through implementation and dissemination of the Convention, as stipulated by articles 4 and 42 of the Convention.

### 4.1 Children's Rights Organizations

This section describes organizations that deal with aspects of children's rights.

***DCI – Defense for Children International***, Israel Section was established in Israel by Jewish and Arab professionals in 1987 with the aim of promoting the ratification and implementation of the UN

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Convention on the Rights of the Child. The organization works for children's rights in the Jewish and Arab sectors. Following are its main areas of activity:

- ♦ protecting children's rights: DCI provides minors with legal counsel and representation free of charge. It conducts monthly inspections of the conditions for minors in all of Israel's prisons and detention centers. When a violation of rights is discovered, the organization makes a complaint to the Prison Service Authority or the courts. In addition, DCI works to redress inequities and violations like the lack of special education in the Bedouin sector, or violation of child labor laws.
- ♦ disseminating children's rights and the Convention: DCI operates an information center that explains the Convention and children's rights, particularly through lectures in schools. A special project has been devoted to explaining children's rights to immigrants from Ethiopia. Once a year, DCI holds a conference for professionals. It also publicizes the Convention through the internet, where a translation of the Convention into Hebrew appears. The organization also disseminates the Convention newsletter in Hebrew, Arabic, Russian and Amharic, and publishes a local bulletin on children's rights, which also reports the organization's activities.

The *Coalition for Children's Rights* was recently established by DCI. It comprises 70 organizations that cooperate in promoting the Convention on the Rights of the Child, among them children's organizations, human and civil rights groups, and special-sector rights groups (e.g., representing people with disabilities). The coalition is compiling a report of non-government efforts to implement the Convention. Seven associations were chosen to participate in the steering committee for this report: DCI, ELEM (see below), the Association for Bedouin Rights, the Family Planning Association, the Association of the Forty (which represents unrecognized Arab villages in Israel), Physicians for Human Rights, and TZACHI (special education).

The *National Council for the Child* has been actively promoting children's rights since 1979. It does not directly provide education, welfare or other services to children, but rather ensures that children's rights are realized by promoting legislation, lobbying, conducting research, and engaging in public relations. In order to maintain its independence, the council does not accept assistance from government agencies; all of its income is from contributions and grants from organizations, foundations and private donors. The council has a number of departments and areas of activity:

- ♦ The *Center for the Child and the Law* lobbies to promote legislation on children's rights. The center has been involved in many recent changes in legislation and policy regarding children's rights and welfare, such as the amendment to the Penal Law concerning the statute of limitations on sexual crimes (see Chapter 7). The center works to enforce existing laws, and engages in legal debate when a child's rights have been violated. The center is developing a program of legal representation for children, through which council and volunteer attorneys will provide separate legal representation for children in matters concerning their future, such as the resolution of custody

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disputes. In addition, the center provides consultancy services, and implements a program to escort minor victims of crime through the criminal proceedings.

- ◆ Every year, *The Center for Research and Education* publishes a yearbook on children in cooperation with JDC-Israel. The yearbook provides current statistical data on all aspects of children's lives (education, law, welfare, distress, health, etc.). The center helps fund studies and surveys, such as one on how the police handle minors. It also publishes position papers and makes policy recommendations, for example regarding the system of services for children at risk. In cooperation with other organizations, the center organizes one-day conferences on child welfare, and cooperates with similar organizations abroad. In 1996, the center established a forum of business people which implements projects with commercial corporations and involves the commercial sector in activities on behalf of children and children's rights.
- ◆ Since 1990, *The Ombudsman for Children and Youth* has received referrals of all types concerning minors, including infringement of their rights or harm to their person, and has provided consultation and information and made referrals to other agencies when necessary. There are special ombudsman for Arab minors and immigrant minors from the former Soviet Union and Ethiopia. The existence of the ombudsman is publicized among children through lectures in schools, the mass media (radio, television and newspapers, including children's newspapers), advertisements in school diaries and on the backs of notebooks, stickers, book marks, postcards and the like. The number of referrals to the ombudsman rose from about 200 in 1990 to about 8,500 in 1998. Table 5 presents the referrals to the ombudsman in 1996. The large proportion of referrals from immigrant children is worthy of note.

**Table 5: Referrals to the Ombudsman for Children and Youth, by Subject and Sector, 1996**

Subject	Total	Immigrants			
		Jewish Sector Native Israelis	– from the Former Soviet Union	the Immigrants from Ethiopia	Arab Sector
<b>Total</b>	7,271	3,780	1,963	887	641
Children at risk	1,423	1,023	226	101	46
Education	2,084	906	682	310	186
Information and counseling	1,737	1,008	418	179	132
Divorce	411	246	70	77	18
Police	227	135	34	13	45
Health	315	144	110	21	40
Employment	322	165	65	57	35
Other	752	153	359	129	111

Source: Ben-Arie and Zionit, 1999

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- ◆ By the end of 1996, the National Council for the Child had published more than 50 books, pamphlets, bulletins, leaflets and translations of books on the rights of children. Some of these publications were geared for the adult population, and some for children, such as one addressing the rights of youth employed during summer vacation. In cooperation with commercial corporations that market products to children, the council disseminated pamphlets concerning the rights and obligations of children of different ages (e.g., through a chain of restaurants). The council and a for-profit corporation initiated a “mobile child rights van” that visits schools and recreation spots. In another joint effort, 150,000 postcards bearing the declaration of the rights of the child in Israel were distributed with cartons of ice cream. The National Council for the Child broadcast a corner on children’s rights on a television program for children. In addition, the council’s actions regarding infringement of children’s rights are frequently published in the media.
- ◆ In 1997, the National Council for the Child, together with other lobbies, formulated a declaration of children’s rights in Israel, which was based on the tradition of Israel, the declaration of independence, and the UN Convention on the Rights of the Child. It included 12 articles, which addressed the right to grow and develop, the right to social security, and the right to the special attention of the courts and law enforcement agencies. The declaration was signed by the Knesset and disseminated through posters, post cards, and pamphlets, particularly in educational institutions.
- ◆ Activities that relate to the UN Convention on the Rights of the Child include the establishment of the committee to examine the basic principles in the field of children and the law, and their implementation in legislation (see section 1.2 of this chapter), to which the National Council for the Child was a party. The council was assigned to coordinate the committee’s activities by the Minister of Justice. As noted, this committee is the main mechanism for implementing the Convention in Israeli legislation.

***The Jerusalem Council for Children and Youth (JCCY)*** was established in 1984 as a lobby for promoting the well-being of Jerusalem’s children and youth, particularly the under-served sectors of the population. It initiates innovative projects designed to produce social change, such as the Children’s Ombudsman (1984) and KESHER (1989), engages in joint projects with the municipality and other organizations, involves youth in volunteer activities, such as helping children with disabilities, and supports activities for children from single-parent families. JCCY develops brochures regarding parents of young children on topic such as fostering safety in the home, ensuring quality child day care, taking preventive measures regarding neglected health issues, especially in early childhood (dental health), and regarding risk behaviors among youth (alcohol and tobacco abuse, eating disorders).

***ELEM – Youth in Distress*** was established in 1983. Its main activities are initiating services for youth at risk, and influencing policy on youth at risk. ELEM finances or helps finance the projects of government agencies such as the Youth Protection Authority. ELEM establishes shelters for children who don’t have housing and operates vans to locate these youth; helps the Youth

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Protection Authority develop community hostels for youth (in cooperation with ASHALIM and DCI); establishes counseling centers in the form of coffee houses for youth; and provides treatment and vocational training for young women immigrants from the former Soviet Union and Ethiopia. ELEM also trains professionals in the treatment of youth who have committed sex crimes (see Chapter 10). Further, ELEM lobbies for children's rights and for the allocation of money to programs for youth who have nowhere to live. ELEM coordinated an operative program and the publication of an inter-ministerial and inter-organizational report on commercial sexual exploitation of minors. ELEM was also the driving force behind the establishment of the Knesset committee to examine violence among youth.

***Yeladim - Council for the Child in Placement*** promotes the rights of children living in out-of-home frameworks, and works to improve the quality of their lives (see Chapter 7).

***ELI – Israel Association for Child Protection*** provides services to children who have suffered abuse in the family (see Chapter 7). It raises public awareness of child abuse through educational programs, advertisements, and appearances on radio and television, and lobbies on behalf of child victims. ELI helped promote the amendment to the Penal Law that requires reporting child abuse, which was ratified in 1989. ELI is currently lobbying to develop appropriate services for immigrant children.

***MEITAL – The Israeli Center for the Treatment of Child Sexual Abuse*** directly provides therapeutic services children and youth who were sexually abused and their families. It also trains professionals, works to increase public awareness of sexual abuse of children, and is establishing an information center.

***JDC-Israel***, the Israeli branch of the international Jewish Joint Distribution Committee (JDC), helps other organizations establish and improve services, and works to strengthen voluntary organizations and lobbies. JDC projects are active among all of Israel's sub-populations, and especially among minorities. Children and youth are a top priority of this organization. During the 1990s, JDC-Israel developed new approaches to the care of immigrant youth from the former Soviet Union and Ethiopia. At present, it coordinates a coalition of organizations that promote the education of Ethiopian immigrant children. JDC-Israel has also developed services for Arab children and youth, including one to prevent their dropping out of school. In 1998, JDC-Israel, in cooperation with the Israeli government, established ***ASHALIM***, which develops and disseminates innovative programs for children at risk and encourages inter-ministerial and inter-organizational cooperation. Together with the National Council for the Child, JDC-Israel publishes a statistical yearbook on children. JDC-Israel publishes pamphlets in Russian about children's rights, and helps finance the activities of the Ombudsman for Immigrant Children and Youth. JDC-Israel helps train professionals concerning children's rights by participating in a course given at the School of Education of Bar Ilan University and by publishing a book on children's rights in the education system. JDC-Israel helps establish pilot programs. It also works to improve existing organizations

that take an innovative approach to caring for children at risk in the family and community, and to complete the continuum of services for children in a variety of situations.

**SHATIL: Employment and Training Center for Social Change Organizations in Israel** helps develop voluntary organizations under the auspices of the New Israel Fund, which financially supports organizations that protect human rights, especially the rights of minorities. For example, SHATIL helped publish a report on special education in the Arab sector.

#### **4.1.1 Organizations in the Arab Sector**

All of the organizations that work on behalf of children's rights in Israel work with all segments of the population, and view equality among them as a goal. Within the Arab sector, a number of organizations concentrate on the rights and welfare of Arab children.

During the past decade, the number of voluntary organizations and public associations in the Arab sector has grown. Nevertheless, activists in these organizations estimate that their scope is still limited and does not cover all problems: Some of them are active to a limited extent, while others are intensely active in specific areas. This creates confusion among the Arab population regarding the role of each organization, as well as a certain vagueness that makes it difficult to map the organizations. In general, some of these organizations work specifically on behalf of children, particularly in the field of education (*The Follow-up Committee on Arab Education; Altufula Center – Nazareth Nursery Institute; The Trust of Programs for Early Childhood, Family and Community Education; Acre Women's Association; Insann – The Society for Applied Research, Cultural and Educational Services*), while others work on behalf of the entire population but also address the welfare of children (*Adalah – The Legal Center for Arab Minority Rights in Israel; Galilee Society – The Arab National Society for Health Research and Services; The Follow-up Committee on Arab Social Services; Ittijah – Union of Arab Community-based Associations*). To illustrate, we will describe five of the organizations cited.

*The Follow-up Committee on Arab Education* was established by and works under the National Committee of the Heads of Arab Local Authorities as a lobby to promote education in the Arab sector. This voluntary organization aims to improve all aspects of Arab education, from facilities and equipment to teaching methods, from the official goals of education to the contents of the curriculum. To this end, the committee cooperates with public agencies (the Ministry of Education, the Knesset committee on education), lobbies the Ministry of Education and members of Knesset, raises public awareness of the problems of Arab education through advertisement, one-day conferences, and publications, raises the awareness of decisionmakers in the field of education, cooperates with other voluntary organizations in the field, enlists the assistance of the Association for Civil Rights on legal matters, and wages a public battle that sometimes erupts in strikes and disruptions of the system. Cultural autonomy in Arab education in Israel is a top priority of this committee (Hazaan, 1998).

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***Altufula Early Childhood Center*** was established in 1989 to promote early childhood education and advance women in the Arab sector. In addition to providing local services for young children and their parents, the center is establishing an infrastructure for very young children in the Arab sector by training manpower, disseminating professional literature, distributing books to children, publishing an information leaflet, and holding one-day conferences. The center helps establish educational frameworks for very young children through contact with the government, local authorities, and professionals in the field. It cooperates with other voluntary organizations in lobbying for services for very young children.

***Adalah – The Legal Center for Arab Minority Rights in Israel*** was the first Arab legal organization in Israel; it was established in November 1996 and formally registered as an association in December 1997. Adalah offers its services to the Arab minority throughout the country. Its main goal is to use Israeli law, comparative law, and international human rights standards to achieve equal rights for Arabs, as individuals and as a group. Adalah focuses on land and housing, employment, education, language, religion, unrecognized villages, women, and allocation of government budgets. Since 1997, Adalah has filed a number of claims with the Supreme Court, among them three concerning children and youth (transportation to school, educational enrichment programs, well-baby clinics). In March 1998, Adalah published a shadow document regarding implementation of the convention to eliminate all forms of racial discrimination in Israel. Although there is no specific reference to children in the above document, there is a chapter that deals with rights in education (Adalah, 1998).

***Galilee Society – The Arab National Society for Health Research and Services*** was founded in 1981 by a group of physicians to reinforce health services in the Arab sector, in part by establishing clinics in unrecognized villages. Over the years, activity has expanded to the entire country. While the association initially dealt with health and the environment, since ratification of the **National Health Insurance Law** its activities have been reduced to operating a mobile clinic in unrecognized villages in the Negev, under contract to the Ministry of Health. The association is trying to establish a library for the blind, and to hold education programs for parents and professionals who work with children with special needs. The association plans to conduct a survey of Arab children with special needs.

***The Follow-up Committee on Arab Social Services*** was established by the National Committee of Heads of Arab Local Authorities in 1987, and comprises professionals from the Arab local authorities. The committee lobbies for improved welfare services for the Arab population, and aspires to induce the government to reduce gaps in the extent of services provided. Every year the committee chooses a main area of activity, such as the welfare of Arabs in the Negev. No matter what the area, attention is also paid to the needs of children, who comprise half of the Arab population. The committee places issues on the public agenda through the media and one-day conferences, and through public battles, such as a joint struggle with the Union of Social Workers to

establish welfare departments in all of the Arab local authorities, as stipulated by the **Social Services Law**.

#### **4.1.2 Organizations for Immigrant Children**

Several organizations work specifically for immigrant children. As an example, we will cite the *North American Council on Ethiopian Jewry (NACOEJ)*, which works on behalf of Ethiopian immigrants, particularly children, in Israel. NACOEJ participates in public debate, promoting the integration of Ethiopian immigrant children into education and making sure this issue remains on the public agenda. It also operates intervention programs for Ethiopian immigrants in education frameworks (see also Chapter 9).

#### **4.1.3 Organizations for Children with Disabilities**

At present, a number of organizations specifically help children with disabilities. Usually, each organization works on behalf of a specific disabled population (for example, *ALUT – The Israeli Society for Autistic Children*, *MICHA – Society for Deaf Children*). We will present two examples of such organizations (see also Chapter 8).

*KESHER*, an information, counseling and support center for parents of children with special needs, was established in 1989 by the Jerusalem Council for Children and Youth; in 1993 it became an independent non-profit national association. KESHER's professionals counselors assist parents through the maze of services and multitude of service providers involved in their child's care by helping them to sort out difficulties and reconnecting them to the relevant services. KESHER's Hotline for parents and professionals operates in Hebrew, Arabic, Russian and Amharic. Information is constantly updated via a bi-monthly newsletter, as well as in pamphlets on specific issues. A national network of local branches is being developed.

*Bizchut – The Israeli Center for Human Rights of People with Disabilities* was founded by the Israel Association for Civil Rights and promotes the rights, welfare and well-being of disabled people of all ages. It provides legal consultation and representation in education, housing, and employment, and disseminates information on the rights of the disabled. In addition, it lobbies for appropriate legislation for the disabled, and works to increase public awareness.

## **4.2 Non-government Organizations' Interaction with the Government**

Many voluntary organizations have extensive contact with government agencies, and receive some funding from the government. While non-government organizations are not systematically involved in planning policy, their influence has increased in recent years, and they take initiative in developing services and promoting legislation for the best interests of the child.

## **5. Disseminating the Convention**

## *General Measures of Implementation*

This section will discuss mechanisms for disseminating the Convention to the public, through government and non-government agencies, as stipulated by article 42 of the Convention.

### 5.1 Translating and Publishing the Convention

The UN Convention on the Rights of the Child was translated into Hebrew by the Ministry of Justice and published in May 1993 in the Official Gazette (K.A. 1038). DCI has been most active in disseminating the text of the Convention, and to date has distributed 10,000 copies of it in Hebrew, Arabic, English, Russian and Amharic, primarily through the Ministry of Education and the Ministry of Justice. The Hebrew text of the Convention appears on the DCI website. The National Council for the Child disseminates an abstract of the Convention in Hebrew.

### 5.2 Including the Convention in Curricula

In 1994, the Ministry of Education published a document entitled *Involvement, Partnership and Responsibility*. This document concentrates on the rights of the individual at school, and draws a parallel between the rights of the student in school and the rights of the individual in society. The Ministry also disseminated a “School Convention” to implement the principles outlined in the document. The School Convention recognizes the right of students to express their opinion, and to criticize and suggest improvements in school life. It does not obligate schools (as does a Ministry of Education director-general’s decree), but rather makes recommendations, which a school may accept or reject. Since publication of the document, tens of secondary schools have introduced experimental “school conventions” (see Chapter 9).

In 1995, a book was published on the rights of children, which emphasized what was being done in the education system (Gilat, 1995). The book presents the outcomes of a study of 25 civics textbooks and curricula between 1948 and 1990, which were used with students in grades seven through 12 in academic and vocational schools in the State and State religious systems. The study revealed a significant lack of attention to children’s rights in civic studies.

### 5.3 Disseminating the Convention among Professionals

Unions are aware of the need to disseminate the Convention to professionals who work with children. Following we will present a number of examples of this.

**Psychologists:** According to the head of the Israel Psychologists’ Union, the chief psychologist of the Ministry of Education is disseminating the Convention to educational psychologists and SHEFI (Psychological Counseling Services) stations, and encouraging psychologists to help schools take comprehensive responsibility for fulfilling the rights of students.

**Police officers and youth workers on the police force:** According to the head of the youth section at police headquarters, the Israel Police Force provides guidance and in-service training on child victims of crime, with the aim of increasing the efficiency and sensitivity of the police force in

### *General Measures of Implementation*

handling them. Regarding minors who have perpetrated crimes, new guidelines, regulations and laws in the spirit of the Convention have been distributed to youth workers and field units, and are strictly enforced. Training programs for youth workers include the Convention (see Chapter 10).

**Teachers:** As noted, the Israel Teachers' Union is establishing an ethical code. At present, a pilot has been introduced into several hundred schools, giving teachers an opportunity to review and examine a draft of the code. In this way, the Convention on the Rights of the Child is disseminated among teachers. In 1990, the Ministry of Education established a hotline for students' complaints of injustice or discrimination in the education system. One goal of the hotline is to inform and counsel educators on students' rights. The professional ethical guidelines for hotline staff jibe with the Convention (see Chapter 9).

**Physicians:** The medical ethics published by the Israel Medical Association and ratified at the association's 38<sup>th</sup> convention require preserving the confidentiality of all patients, including children. Specific attention is paid to children in several other clauses. The association also made a declaration to the World Medical Union regarding the rights of the child patient (see Chapter 8).

**Lawyers:** The Jerusalem Bar Association held a course for lawyers on all of the UN's conventions. A joint program of the State's attorney general, the National Council for the Child, and JDC-Israel trains lawyers on crimes against children.

**Social workers:** At a conference on children at risk, the deputy attorney general spoke on children at risk and the UN Convention on the Rights of the Child.

#### 5.4 Disseminating the Convention in the Mass Media

As noted, the National Council for the Child publicizes the activities of the Ombudsmen for Children and Youth, and issues of children's rights in general. For example, for the third consecutive year the council is sponsoring a regular corner on a radio program, which presents actual cases in the care of the Ombudsman for Children and Youth. The council also broadcasts a television program specifically dealing with children's rights. In addition, regular radio programs for immigrants are broadcast in Russian and Amharic. The council also publicizes items in the print media, particularly those for children and youth.

An interesting example of the Convention's dissemination is offered by a Hebrew-Arabic magazine for children with a circulation of between 4,000 and 5,000 copies; it is distributed through organizations, schools and libraries. In response to children's letters to the editor, the magazine produced a special issue on children's rights which covered children's rights in the world, defining children's rights, child labor, and whether teachers teach children their rights.

## 5.5 Preparation of This Report

This report was prepared and financed by the Ministry of Justice and the Ministry of Foreign Affairs. The authors of this report consulted with judges, members of Knesset, and representatives of the Ministries of Education, Labor and Social Affairs, Health, and Public Security, and NGOs. Prior to its submission to the United Nations, this report was disseminated in Hebrew to voluntary organizations, and a seminar was held to discuss the issues raised in it.



# Chapter 4

## Definition of the Child



## Introduction

This chapter will review the ages at which children in Israel are granted rights and incur obligations, and examine the degree to which the legal system reflects the prevailing perspective that the transition between childhood and maturity is a gradual one, during which children acquire the skills that enable them to function as adults and make decisions that affect their fate. The chapter focuses on the ages at which rights are granted and obligations incurred, and not on the essence of those rights and obligations, which are discussed elsewhere in this report.

## Article 1 of the Convention

### 1. Defining Childhood and Legal Minority

#### 1.1 Definition of Childhood versus Adulthood

Section 3 of the **Guardianship and Legal Capacity Law 1962** stipulates that “an individual who has not reached the age of 18 is a minor; an individual who has reached the age of 18 is an adult”, subject to specific rulings. In this, Israeli law upholds the UN Convention on the Rights of the Child.

#### 1.2 Fetuses

Section 1 of the **Guardianship and Legal Capacity Law 1962** stipulates that an individual has rights and incurs obligations from birth until death. From this we infer that fetuses do not have rights, nor do they incur obligations. Nevertheless, specific rulings – which, as noted, may overrule the general stipulations of the **Guardianship and Legal Capacity Law** – grant fetuses the protection or rights granted children.

Thus, for example, the definition of a “child” in section 2 of the **Civil Wrongs Ordinance [New Version]** does “include[ing]...fetuses”. According to section 3(b) of the **Succession Law 1965**, an individual is eligible to inherit if he or she “was born within 300 days of the death of the person bequeathing the inheritance...unless it is proven that his parentage was *post facto*”. Section 2 of chapter 10 of the **Penal Law 1977** stipulates that performing an abortion on a woman is a crime, unless the abortion was approved *a priori* by a committee appointed for that purpose, which established the existence of one of the extenuating circumstances stipulated by law. According to section 33(a)(6) of the **Guardianship and Legal Capacity Law**, the court has the authority, at the request of a relative or the attorney general, to appoint a guardian for a fetus to manage specific matters outlined by the court; beyond these, the guardian of a fetus does not have the general obligations of the guardian of a minor. It is not permitted to appoint the father, or another

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individual, to be the guardian of a fetus at a hearing of the committee to approve abortions (see Civil Appeal 413/80 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 38(3) 57).

## 2. The Right to Participate in Civil Activities

### 2.1 The Right to Vote and to Be Elected

The right to vote for the Knesset and the prime minister is granted from the age of 18. A recently-ratified law grants the right to vote in local or municipal elections from the age of 17. The right to be elected to the Knesset and to a local or municipal authority is granted from the age of 21. The right to be elected prime minister is granted from the age of 30. The right to be a member of a political party is granted from the age of 17 (see section 20 of the **Political Parties Law 1992**).

### 2.2 Identity Card

Residents of the State of Israel are obligated to obtain and carry an identity card from the age of 16. A minor who has not reached the age of 16 may obtain an identity card with the consent of his representative or the approval of the chief records clerk.

## 3. Taking Legal Action: The Legal Capacity of Minors

As noted, under the **Guardianship and Legal Capacity Law 1962**, minors have rights and incur obligations. However, as a rule, a minor may only take legal action with the consent of his representative (that is, parent or other guardian; see sections 4 and 80 of that law). Legal action taken by a minor without the consent of his representative may be annulled by the representative within 30 days of his being informed of the action. If the representative is not informed of the action, the minor himself may annul the action within 30 days of his reaching legal majority (see section 5 of the law). Nevertheless, “the legal action taken by a minor that minors of his age would perform, and a legal action between a minor and an individual who did not know or is not expected to know that he is a minor, may not be annulled even if it was made without the consent of his representative, unless it incurred real damage to the minor or his property” (section 6 of the law). This section allows for significant change in the actions that minors are thought capable of undertaking, according to the development of Israeli society over time. This is a dynamic process that reflects the mutable norms of the society or the era, and so accounts for the changing abilities of children as a group. In order for an act to be considered “one that minors his age would perform”, time must pass before the act becomes rooted as custom.

For example, the Magistrates’ (Circuit) Court in Jerusalem ruled that a young person age 17 has the right to own a dog, as receiving a dog as a gift “is an act that minors his age might perform”, while

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the District Court in Beer Sheva ruled that purchasing a gas balloon for household use was an act a minor age 12 might perform. However, some legal actions of minors – for example, actions that have economic weight, such as selling an apartment, or actions that involve a conflict of interest between the minor and his representative, such as a business transaction between them – require the approval of the court, as the consent of the minor's representative is deemed insufficient.

## 4. Receiving Medical Care

### 4.1 Consent to Medical Treatment

Consent to medical treatment is a legal action, and therefore requires the approval of a minor's representative. This is specifically stipulated in section 13(c) of the **Patients' Rights Law 1996**.

Nevertheless, some medical treatments may be performed with the consent of the minor, without the consent of his representative. These include abortion (section 316 of the **Penal Law 1977**); a test to detect the presence of the AIDS virus (if a physician has explained the meaning of the test, found that the minor understood the explanation, and believes that the minor has sufficient emotional maturity; for minors under age 14, the approval of a team of professionals, comprising a physician and a social worker, is required (**Detection of the AIDS Virus in Minors Law 1996**)); and, for minors over age 15, mental health care, including hospitalization, with the approval of the court (section 3G of the **Youth (Care and Supervision) Law 1960**, and section 4B of the **Treatment of Mentally Ill Law 1991**). Medical treatment without parental consent is possible – with the approval of the court – for minors whose parents do not show proper concern for their welfare (sections 2 and 3 of the **Youth (Care and Supervision) Law 1960**). In such cases, the minor is assisted by a welfare worker. At present the Ministry of Health is preparing guidelines for physicians regarding the routine treatment of minors age 14 and over, without parental consent.

### 4.2 Refusal to Receive Medical Treatment

The law gives no specific instruction in the case of a minor who refuses to receive medical treatment – not as a consequence of mental illness – in defiance of his parents' wishes. This issue has been raised in the Supreme Court, but has not been decided. However, under some circumstances it is possible to provide medical treatment to any individual, including a minor, without his consent. (See Chapter 8.)

A boy or girl who has reached the age of 15 can oppose admission to a psychiatric hospital even when his or her guardian has consented to it; in such a case, the court may appoint a lawyer to represent the minor (section 13 of the **Youth (Care and Supervision) Law 1960**).

## 5. Completion of Compulsory Education

According to section 1 of the **Compulsory Education Law 1949**, education is compulsory for children and youth up to age 15 inclusive. As a rule, secondary education over the age of 16, although not compulsory, is provided free until age 18, and education for people with special needs (as defined in the **Special Education Law 1977**) is provided free until age 21. Under the **Apprenticeship Law 1953**, being an apprentice is also thought to constitute compulsory education (as defined by section 2A(a) of the **Compulsory Education Law 1949**). Youth who do not attend an education framework that is under the surveillance of the Ministry of Education thus still have the right to a basket of services under section 6 of the **Compulsory Education Law 1949** (see Chapter 9).

## 6. Permission to Employ Children

The **Youth Employment Law 1953** distinguishes between a “child” who has not yet reached the age of 16, and a “youth” who has reached the age of 16 but has not yet reached the age of 18. Under this law, a “youth” is the same as a “minor” – that is, an individual up to age 18. Section 2 of the **Youth Employment Law 1953** generally forbids the employment of children who have not yet reached the age of 15 or who are subject to compulsory education under the **Compulsory Education Law 1949**. This corroborates the stipulation of the UN Convention regarding the uniformity of the age of completion of compulsory education and the age at which an individual may be employed. In effect, it is usually permissible to employ a minor from the age of 16 (see Chapter 10).

Under section 2 of the **Youth Employment Law 1953** it is permissible to employ a child who has reached the age of 15 and who works as an apprentice under the **Apprenticeship Law 1953**; a child age 15 who has completed his compulsory education; and a child age 14 whose employment has been approved by the Minister of Labor and who has been excused from compulsory education. Employers of youths of compulsory school age are required to release them to attend school, without debiting their salary, during school days and hours. Failure to fulfill this obligation is a criminal offense (under section 4(c) of the **Compulsory Education Law 1949**). Children who have not yet reached the age of 14 may work during official school vacations in light jobs that do not endanger their health or development (section 2A of the **Youth Employment Law 1953**). Under section 4 of the **Youth Employment Law 1953**, the Minister of Labor and Social Affairs may permit the employment of children under the age of 15 in artistic productions or advertising photographs, for a limited time. (For a description of the restrictions on the hours and types of employment permitted to children and youth, see Chapter 10.)

## 7. Marriage

The State of Israel is a signatory of the International Convention on Setting a Minimum Marriage Age. Israel forbids putative marriage in order to protect individuals who are not physically or mentally mature from the negative implications of marriage at an early age.

The **Marriage Age Law 1950** stipulates that the minimum age of marriage, for men and women, is 17. According to section 2 of the law, it is a criminal offense to marry a young man or woman who has not reached the age of 17, or to assist in conducting the marriage of such young men and women. The young man or woman does not commit an offense under the law if he or she marries prior to reaching age 17, unless his or her partner has also not reached the age of 17.

According to section 5 of the law, Family Court is authorized to permit the marriage of a young woman if she has conceived or given birth to a child by the man whom she wishes to marry, and may permit the marriage of a young man if the woman whom he wishes to marry has conceived or given birth to his child. Under certain circumstances, the court may permit the marriage if the young man or woman have reached the age of 16. Circumstances that invoke the court's leniency are the desire of the youths and their parents for the marriage, ethnic customs, economic considerations, and extensive preparations for marriage (see Civil Appeal 50/81 *Attorney General v. Anonymous Defendant*, P.D. 35(4) 430; Civil Appeal 690/77 *Hanifam v. State of Israel*, P.D. 42(1) 531).

According to Jewish religious law (*halacha*), which in Israel confers validity on the marriage of Jews conducted within its borders, it is possible to marry a girl of any age, but the girl herself may decide to marry only when she has reached the age of 12 and a half. A Jewish boy may be married from the age of 13, and he himself may decide to marry at this age. According to Moslem law (*shari'a*), a father may promise his daughter in marriage from the age of nine, but a girl may decide to marry only when she has reached the age of 17. A Moslem boy may be married from the age of 12, and he himself may decide to marry from the age of 18. According to the Christian law practiced in Israel, a boy may marry from the age of 16 and a girl from the age of 14. Under all of the religious laws reviewed, the age of marriage of girls is younger than that of boys. In any case, as noted, the criminal sanction against the marriage of children is stipulated in a Knesset law, which also sets a uniform marriage age for boys and girls of all religions. In reality, the marriage rate of young men and women in Israel is very low (see Chapters 7 and 10).

## 8. Consent to Sexual Relations

Section 346 of the **Penal Law 1977** concerning consensual, unlawful sexual relations stipulates that an individual who engages in sexual intercourse with a minor who has reached the age of 14 but has not yet reached the age of 16 and who is not married to him, or an individual who engages in sexual intercourse with a minor who has reached the age of 16 but has not yet reached the age of 18 by

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exploiting relations of dependence, authority, education or supervision, or by making a false promise of marriage or masquerading as being unmarried while being married, is subject to five years' imprisonment. From this we may infer that engaging in sexual intercourse with a minor who has reached the age of 14 is permitted in the framework of marriage. According to section 353 of the law, someone accused of this offense may defend his actions if the age difference between himself and the minor girl does not exceed three years, and if the sexual intercourse was engaged in as an aspect of regular intimate relations, and not through exploitation of the defendant's status. In this, the legislator sought to extend his protection to young couples who engage in mutual friendly relations. A 1998 amendment to the **Penal Law** eradicated the distinction between a minor boy and a minor girl regarding consensual sexual relations, and set a uniform age for pederasty and consensual, unlawful sexual relations. Both of these acts are prohibited for individuals who are between 14 and 16 years of age.

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

The **Defense Service Law [Consolidated Version] 1986** stipulates that an individual may be drafted into military service from the age of 18. A young man or woman may be drafted at age 17 if they have so requested in writing, and their guardian has given his consent. A child under the age of 17 may not be involved in acts of war.

## 10. Criminal and Tortious Liability

### 10.1 Criminal Liability

Section 34F of the **Penal Law 1977** stipulates that "an individual is not criminally liable for an act he committed before reaching the age of 12 years". Nevertheless, delinquent acts of children under age 12 may be cause for initiating tortious proceedings under the **Youth (Care and Supervision) Law 1960**. Minors who have not reached the age of 13 will be prosecuted only in consultation with a probation officer (see section 12 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**). (See also Chapter 10.)

### 10.2 Tortious Liability

Section 9 of the **Civil Wrongs Ordinance [New Version]** relieves children under the age of 12 of liability for civil wrongs. It is not possible to sue a minor (under age 18) for a civil wrong resulting directly or indirectly from a contract he made. However, a minor's tortious immunity does not preclude the possibility of filing a claim against him of possession on the basis of ownership, or of filing a contractual claim in a matter considered one that a minor his age might perform, including for violation of the obligation to *bona fides* (best interests faith) in negotiating a contract. Minors

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are not released from liability for contributory guilt, which is determined according to the degree of caution required of minors of tortious age.

## 10.3 Statute of Limitations

As a rule, the civil statute of limitations in Israel is seven years (see section 5 of the **Prescription Law 1958**). According to section 10 of that law, in calculating the period of limitations, the time before the plaintiff reached the age of 18 is not to be considered; thus, an individual can bring suit for events that took place when he was a minor up until the age of 25.

According to section 14 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, “a minor may not be tried for an offense if a year has passed since the offense was committed, except with the consent of the attorney general”.

In offenses of rape, consensual, unlawful sexual intercourse, pederasty and indecent acts committed against a minor, the period of limitations begins the day the victim reaches the age of 18. If ten years have passed since the offense was committed, no indictment may be made, except with the approval of the attorney general (section 345 of the **Penal Law 1977**).

## 11. Revocation of Liberty

### 11.1 Detention

The **Youth (Trial, Punishment and Modes of Treatment) Law 1971** and the **Criminal Procedure (Enforcement Powers – Arrests) Law 1996** set restrictions on the detention of minors. While adults may be detained without a court order for 24 hours, children up to the age of 14 may be detained without a court order for only 12 hours; in special circumstances, the duty officer at a police station may order continued detention for an additional period, which is not to exceed 12 additional hours. Regarding minors ages 14-18, at present, the arrangement for their detention without a court order is similar to that for an adult. In other words, they may be detained without a court order for up to 24 hours; in special cases, this period may be extended by an additional 24 hours (see Chapter 7).

Under section 10(4) of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, which addresses detention prior to indictment, juvenile court is authorized to order the detention of a minor for a period that is not to exceed ten days (instead of 15 days for an adult) and to extend detention, from time to time, for periods that are not to exceed ten days. A minor suspect may not be detained continuously for the same offense, including without a court order, for a period in excess of 20 days (instead of 30 for an adult), unless a request for continued detention has been filed with the consent of the attorney general. It should be noted that the maximum period of

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detention prior to indictment is identical for minors and adults: 90 days (section 51 of the **Criminal Procedure (Enforcement Powers – Arrest) Law 1996**).

Section 13 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** requires the separation of minor and adult detainees (see Chapter 10).

## 11.2 Detention for Protective Purposes

In Israel it is also permissible to detain a minor to protect him. Section 10(3) of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** stipulates that “the judge before whom a minor is brought is authorized to order his detention if this is required to ensure the minor’s personal safety or to remove him from the company of an undesirable individual”. A police officer is authorized to order detention on these grounds for 12 hours, until the minor is brought before a judge, and in special circumstances for 24 hours. (This section of the law is disputed; for further detail see Chapter 10.)

## 11.3 Imprisonment

According to the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, it is possible to impose a punishment of imprisonment on a child who is age 14 at the time of his sentencing. In sentencing a minor, the Juvenile Court must consider, *inter alia*, the age of the minor when he committed the offense. For minors, the tendency of the court is to prefer methods of treatment that are not imprisonment (see Chapter 10).

It is forbidden to imprison a minor with adults (section 25 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**).

## 11.4 Closed Residences

Closed residences, as defined in the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, serve as out-of-home residences or the locus of custody for a minor referred to them by the Commissioner of Residences. A minor may be sent to a closed residence as a punishment or as a treatment alternative to punishment. Also, a minor who is under the age of criminal liability, and a minor who is a danger to himself and others and who has been declared a minor in need may be sent to a closed residence (see Chapters 7 and 10).

## 12. Capital Punishment and Life Imprisonment

An individual who was a minor on the day he committed an offense may not be sentenced to death (in practice, the death penalty is not imposed on adults in Israel, either). Despite what is inscribed in every ruling there is also no obligation to impose a life sentence, a compulsory sentence, or a minimum sentence (section 25(b) of the **Youth (Trial, Punishment and Modes of Treatment)**

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**Law 1971**) on an individual who was a minor in the day he committed an offense. A Supreme Court judge has expressed the opinion that, in light of the UN Convention, courts should exercise judgment and impose life prison sentences on minors in exceptional cases only. However, the other judges in that case found that the matter warrants further consideration (see Chapter 10). (Criminal Appeal 3112/94 *Abu Hassan v. State of Israel* (11.2.99. not yet published).)

While the death penalty formally exists in Israel in a very limited number of extremely severe cases listed below, Israel applies a moratorium on executions. In fact, the death penalty has never been implemented since the establishment of the State of Israel in 1948, with one exception – in 1962, in the case of the Nazi criminal Eichmann, who was convicted of genocide under the 1950 **Nazi Collaborators (Punishment) Law**. In addition, since 1954 Israel has removed the death penalty for the crime of murder from its penal code and its military law.

The five rare and extreme instances in which the death penalty formally exists in Israeli law are with regard to murder of persecuted persons during the Nazi Regime and during World War II for crimes against the Jewish people and against humanity, genocide or assisting in the act of genocide, treason of soldiers in time of armed conflict, treason during war, and the sabotage and unauthorized use or transfer of firearms and explosive materials.

In any event, the death penalty cannot be imposed on any person who was a minor at the time of committing the offense. (Section 25(b) of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**).

## 13. Giving Testimony in Criminal and Civil Court

### 13.1 Capacity to Testify

According to the **Evidence Ordinance [New Version] 1971**, children of every age may testify in court. However, the court must examine the ability of child witnesses to present a precise testimony of what they have experienced.

### 13.2 Admissible Testimony

When ruling in matters of civil law, the court must explain its decision to base itself on the sole testimony of a minor younger than age 14 that was not corroborated, regardless of whether the minor bears criminal liability (section 54 of the **Evidence Ordinance**).

When ruling in matters of criminal law, an individual may not be convicted on the basis of the sole testimony of a minor whose age at the time of testimony is less than 12 years (the age of criminal liability), unless additional evidence corroborates the child's testimony (section 55 of the **Evidence**

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**Ordinance**). The reason for this is that a minor below the age of criminal liability may not be punished for perjury.

### 13.3 Limitations on the Testimony of Minors

The **Evidence Ordinance Revision (Protection of Children) Law 1955** restricts the testimony of minors to certain areas. The restrictions are not a consequence of the incapacity of minors to testify, but rather are meant to protect minors in general, and children under the age of 14 in particular. Section 2 of this law stipulates that minors who have not reached the age of 14 may not testify concerning an offense against morality (i.e. crimes of prostitution and vice, sex crimes, and crimes committed by an adult against a child for whom he is responsible, including violation of parental responsibilities, and assault or abuse of a minor or helpless person), or concerning some offenses against the body perpetrated upon or in the presence of or by a minor. A minor's testimony in these matters is only accepted on the authority of a youth interrogator, and only if the youth interrogator believes that testifying will not cause the minor mental anguish. According to section 9 of the law, if the youth interrogator has forbidden the testimony of a minor, the minor's admission to the investigator may be presented as evidence in place of his testimony. However, according to section 11 of the law, such evidence cannot be the sole basis of conviction, and must be corroborated (see Chapter 10).

The court is authorized to order that the testimony of a minor under the age of 18 against his parents in a criminal proceeding for a sex offense must be heard in the absence of his parents and in the presence of his defense attorney, so as to protect the witness from mental anguish (section 2A of the law).

## 14. Legal Representation without Parental Consent

A minor may be legally represented by a legal guardian appointed by the court, or by a lawyer who represents the minor directly, without the intercession of a guardian. However, a minor's right to separate legal representation is not set in law.

The choice between these two methods of representation is made based on the minor's emotional maturity, though as a rule, representation is provided by the minor's guardian – usually his parents. Section 13 of the **Youth (Care and Supervision) Law 1960** stipulates that a minor who objects to psychiatric hospitalization has the right from the age of 15 to independent representation by a lawyer. The National Council for the Child and DCI help children by providing them with the services of a lawyer or legal guardian.

## 14.1 Legal Representation of a Minor in Specific Proceedings

Regarding certain proceedings, specific attention is paid by legislation and case law as to the representation of minors. Below we review situations in which the usual rule – that is that the guardian serves as representative – does not apply.

### 14.1.1 Private Law Proceedings

Section 3(d) of the **Family Courts Law 1995** stipulates that a minor is authorized, by himself or through a close friend, to file a legal claim in any family matter in which his rights may have been violated. In addition, a minor can file a request as part of a legal claim filed by someone else, and can appear in court. However, neither the law nor the regulations arising from the law arrange for the appointment of a lawyer to represent the minor. Such representation is important in all of those cases in which there is factual evidence that the best interests of the minor would be neglected in a battle between his parents – his natural guardians. At present, the Supreme Court has ruled that it is possible to obtain independent representation for a minor through the appointment of a legal guardian (see Civil Appeal 878/96 *Pozilov v. Pozilov*, P.D. 50(5) 208). Some believe that it is also possible to appoint a lawyer for a minor, and not only a legal guardian.

### 14.1.2 Public Law Proceedings

In proceedings to determine need under the **Youth (Care and Supervision) Law 1960**, the initial request to declare a minor as being in need is filed by a welfare worker. However, under section 14 of the law, a minor may himself file a request to change the decision of a juvenile court and may be a respondent in such proceedings. There is no instruction to appoint a lawyer for a minor in such a case, even though the proceedings may infringe on the minor's rights (with his parents' tacit consent or even support). In such proceedings, Family Court and Juvenile Court are authorized to appoint a legal guardian for the minor.

In proceedings according to the **Adoption of Children Law 1981**, section 23 of that law authorizes the court to appoint a legal guardian for an adopted child or candidate for adoption.

Section 18(a) of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** authorizes a court sitting in a criminal proceeding against a minor to appoint a defense attorney for the minor without the consent of his parents, if it believes that his best interests so requires. Juvenile courts are not wont to use this authority because of the rehabilitative nature of their work (see Chapter 10). In certain cases the court is obligated to appoint a defense attorney for a minor who is not represented for the same reasons that apply to an adult defendant; the court is also required to appoint a defense attorney for a minor defendant who has not reached the age of 16 and who has been brought before a court that is not a juvenile court (see Chapter 10). According to the **Public Defender's (Entitlement to Representation of Additional Minors) Regulations 1998**, minors are eligible for representation by the public defender in criminal proceedings if they have been detained or indicted

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(with the exception of an indictment for an offense that is not a crime, which is made before a traffic court judge). Given the increasing practice of legal representation of minors in criminal and civil trials, the contract between a minor and a lawyer may be seen as being “an act a minor might perform”, and hence not require the consent of the minor’s representative (section 6 of the **Guardianship and Legal Capacity Law 1962**).

## 15. Out-of-home Placement

According to section 8 of the **Youth (Care and Supervision) Law 1960**, the Juvenile Court is required, prior to ruling in the matter of out-of-home placement, to give the minor himself an opportunity to make claims and proposals. The law does not set a minimum limit for the age at which this right becomes available to minors.

There is no systematic data on the extent to which minors are actually heard in court, or on how their proposals are weighed. According to information received from the chief child protection officer pursuant to the **Youth Law**, a hearing depends on the minor’s age, as well as on the opinions of the child protection officer and the judges sitting in the case (see Chapter 7).

## 16. Placement in the Custody of One Parent

According to section 25 of the **Guardianship and Legal Capacity Law 1962**, if separated parents have not reached an agreement regarding the custody of their children, the court will rule in the matter; barring extenuating circumstances that would indicate a different ruling, children under the age of six will remain with their mother.

It is acceptable in court rulings to consider the wishes of a child beginning at approximately age ten, as the child’s preference from this age is thought to be an important indicator, at least *prima facie*, of his future best interests and happiness. The weight given a child’s wishes depends on his age, his discrimination and judgment, and the degree to which he is vulnerable to outside influence. The Supreme Court distinguishes between a preference for one parent, and strenuous opposition to one parent (Civil Appeal 740/ *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 43(1) 661). However, at present, a child’s preference does not legally have decisive weight – unlike cases of adoption or conversion (see Chapter 7).

## 17. Adoption

According to the **Adoption of Children Law 1981**, it is possible to adopt an “individual” who has not yet reached the age of 18. It is not possible to adopt a fetus before it is born.

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According to section 7 of the law, a court will not give an adoption order unless it has been convinced that a child who has reached the age of nine – or who has yet to reach the age of nine but who has impressed the court that he is capable of understanding the issue – wants to be adopted by the adopter(s). Rulings indicate that the court must also hear the opinion of a much younger child who is not an infant. Nevertheless, in some cases the law allows the court to issue an adoption order without revealing the fact of the adoption to the adoptee (if three conditions are fulfilled: the adoptee does not know that the adopter is not his parent; all signs indicate that the adoptee desires the continuation of the relationship with the adopter; and the best interests of the adoptee requires not apprising him of the adoption). In lieu of hearing the adoptee in person, the court may be convinced of the adoptee's wishes in some other manner, for example, if a child protection officer voices the adoptee's opinion (see Chapter 7).

### 17.1 Delivery of a Minor under the Execution of Judgments Law

Section 62 of the **Execution of Judgments Law 1967** stipulates that if a court rules that a minor must be delivered, or that contact, visitation or communication must be allowed between a parent and his minor child who is not in his custody, or that any other action be taken in the matter of the minor, and if the court rules that the action is to be carried out through the Execution of Judgments Office, the executor will take all of the steps necessary to comply with the ruling, and will be assisted in this by the welfare worker. Section 62(b) of the law qualifies this instruction, stating that if the Execution of Judgments Office has determined that the ruling cannot be carried out except against the will of the minor, and the Execution of Judgments Office believes that the minor is capable of comprehending this, then the head of the Execution of Judgments Office is authorized to petition the court that made the ruling and request instructions. Section 62 does not make this conditional upon the minor's age, but rather on his legal capacity, which is expressed in his ability to "understand the matter" (for further detail see Chapter 7).

### 18. Changing One's Name

As a rule, under the **Names Law 1956**, the names of minors are chosen and may be changed without their consent. However, in certain cases the court is authorized to intervene in the decision of parents or guardians in this matter, or to change the instruction set down in the law. Petitioning the court with such a request is likely to be the initiative of a minor.

For example, one ruling, which was based in part on the UN Convention on the Rights of the Child, determined that a 16-year-old girl who had been raised all her life by a foster family was authorized to change her family name to that of the foster family. However, as this ruling was handed down by a District Court it does not constitute a binding precedent, although it may guide the lower courts.

## 19. Accessibility to Information about One's Biological Family

From the age of 18, adoptees are authorized to review their adoption papers and the details of the identity of their biological parents (section 30(b) of the **Adoption of Children Law 1981**). This is also true for children born to a "surrogate mother", who may know her identity from the age of 18 (section 16 of the **Surrogates (Ratification of Agreement and Status of the Newborn) Law 1996**).

## 20. Legal Capacity to Inherit and Transfer Property

### 20.1 Legal Capacity to Inherit

According to the **Succession Law 1965**, if an individual dies intestate, his children are the beneficiaries of the first order. In any case, even if he has left a will and regardless of what is written therein, his minor children (including, as noted, those who were fetuses at the time of his death, as well as children out of wedlock, adopted children, and grandchildren who were orphaned before his death or whose welfare was his concern and responsibility, in lieu of parents who could not uphold the children's maintenance) are eligible for child support from the estate. Removing a minor from his portion of the estate, or transferring his portion, or putting a lien thereon before the estate has been distributed, requires the consent of the court.

According to section 24 of the **Succession Law 1965**, minors are not capable of being witnesses to the making of a will. According to section 26 of the law, minors are not capable of bequeathing, and the will of a minor is invalid.

## 21. The Right to Organize

In reality, children often "organize" to participate in social or political activities, such as youth movements or demonstrations. However, there is a question as to whether children are authorized to unite in every form – for example, to register as an association. In any case, it is necessary to examine whether the action in question is "one that minors would perform", as required by the **Guardianship and Legal Capacity Law 1962** (see Chapter 6).

## 22. Choice of Religion

The freedom of religion and conscience is promised in Israel's Declaration of Independence and has been developed in court rulings; it includes the freedom to convert to a different religion.

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According to section 13A of the **Guardianship and Legal Capacity Law 1962**, a minor who has not reached the age of 18 may not be converted unless both of his parents have given their consent in writing *a priori*, or the court, at the request of one parent or guardian, has approved the conversion *a priori*. Parents are allowed to convert their children who have not yet reached the age of ten. The conversion of a child who has reached the age of ten requires the child's consent in writing. Non-fulfillment of this condition not only renders the conversion invalid, but is also a criminal offense (section 268 of the **Penal Law 1977**; see Chapter 6).

## 23. Consumption of Alcohol

Section 193a of the **Penal Law 1977** forbids the sale of alcohol to minors under the age of 18. The law does not forbid the drinking of alcohol by minors.

## 24. Driving

A minor's receipt of a driver's license depends upon the type of vehicle. From the age of 16, a minor may receive a driver's license for a tractor or a motorcycle with an engine of up to 50 cc. If the intended driver has not yet reached the age of 17, he must receive the consent in writing of his parents or guardian to receive the driver's license.

At the age of 17½ a minor may receive a driver's license for most types of private and commercial vehicle, if the vehicle's total weight does not exceed four tons and its maximum number of passengers does not exceed eight. During the first year after receiving the license, the minor must drive while accompanied by an experienced driver. Beginning at age 21, an individual may receive a license to drive a bus, taxi or rescue vehicle.

The law allows a minor to begin taking driving lessons before reaching the age at which he is permitted to receive a license. Thus it is possible to begin learning to drive a motorcycle (up to 50 cc) or a tractor at age 15, and most types of private vehicle at age 17.

At age 17, a minor may file a request to receive an apprentice pilot's license.

## 25. Summary

The Table below summarizes the rights and obligations of children according to the legislature, as presented in this chapter. The Table is organized by the age at which the rights and obligations are granted, from youngest to oldest. The Table is a basis for the summary discussion that follows it.

*Definition of the Child*

**Table 1: Definition of the Child: Summary of the Rights and Obligations of Minors**

Issue	Law	Age	Full/Partial Right; Restrictions
Age of legal capacity	Guardianship and Legal Capacity Law, section 4	18	earlier age of legal capacity if act is “in the manner of minors to undertake” (section 6)
Completion of compulsory education	Compulsory Education Law 1949 Special Education Law 1988	16 (21 for those with special needs)	provided free to age 18
Legal age of employment	Youth Employment Law 1953, section 2	15 or completion of compulsory education	
Vacation employment	Youth Employment Law 1953, section 2A	14	
Participation in artistic productions	Youth Employment Law 1953, section 4	under age 15 or during compulsory education	with consent
Civil and criminal liability	Penal Law, section 34F Civil Wrongs Ordinance [New Version] section 9(a)	from age 12	
Imprisonment	Youth (Trial, Punishment and Modes of Treatment) Law 1971 section 25	from age 14	to age 18, minors must be held separate from adults
Mandatory life imprisonment/ death penalty	Youth (Trial, Punishment and Modes of Treatment) Law 1971 section 25	from age 18	
Detention without a court order	Youth (Trial, Punishment and Modes of Treatment) Law 1971 section 10	from age 12 12-13: 12 hours 14-18: 24 hours	includes detention as means of protection
Institutional placement instead of imprisonment	Youth (Trial, Punishment and Modes of Treatment) Law 1971 sections 31-33	12-18	
Testimony in court	Evidence Ordinance [New Version] 1971	any age	limited weight ascribed to testimony

*Definition of the Child*

**Table 1: (cont'd.)**

Issue	Law	Age	Full/Partial Right; Restrictions
Appointment of lawyer	Guardianship and Legal Capacity Law 1962, section 4	from age 18	
Consensual sexual relations	Penal Law, section 345(3)	14-15 in marriage 16-17 under certain conditions	
Medical care or consultation		from age 18	except abortion and AIDS testing (Discovery of AIDS in Minors Law 1996, section 1(a))
Psychiatric hospitalization	Treatment of Mentally Ill Law 1991, section 4A	from age 15	consent of parents and child required, or court order
AIDS test without parental consent	Detection of AIDS Virus in Minors Law 1996	from age 14	conditional on restrictions of medical condition and physician's judgment; test may be done under age 14 with approval of committee comprising social worker and physician
Abortion	Penal Law 1977, section 316	any age	conditional on approval of abortion committee
Mandatory identity card	Population Registry Law 1965, section 25	from age 16	may receive identity card earlier with consent of representative or chief registration clerk
Driver's license	by type of vehicle	16: tractor, motorcycle up to 50 cc 17½: most private vehicles 21: heavy and public vehicles	
Marriage	Marriage Age Law 1950	from age 17	or 16 in case of pregnancy, or special circumstances with court approval
Sale of alcohol	Penal Law, section 193a	forbidden to minors under age 18	no restriction on consumption
Right to vote	Basic Law: Knesset	from age 18	for local authorities from age 17
Right to be elected to Knesset	Basic Law: Knesset	from age 21	
Child support from estate	Succession Law 1965	to age 18	

*Definition of the Child*

**Table 1: (cont'd.)**

Issue	Law	Age	Full/Partial Right; Restrictions
Writing a will	Succession Law 1965	from age 18	
Capacity to inherit	Succession Law 1965	any age	including prior to birth
Transfer of property	Guardianship and Legal Capacity Law 1962, section 6A	under age 18 only with consent of representative	
Military draft	Defense Service Law 1986	age 18	from age 17 and up with parents' written consent
Conversion	Guardianship and Legal Capacity Law 1962, section 13A(b)	from age 10, with minor's consent in writing	minor cannot convert himself until age 18
Adoption	Adoption of Children Law 1981, section 30	birth to age 18	
Hearing minor's opinion regarding adoption	Adoption of Children Law 1981, section 7	from age 9	or earlier if child understands meaning of adoption
Adoptee's access to information about biological family	Adoption of Children Law 1981, section 30b	from age 18	

As can be seen in the Table, most rights and obligations begin at age 18. The Table also indicates that the Israeli legislator tends to see children age nine or ten, or even younger, as individuals whose opinion regarding their identity and sense of belonging to their family should at least *be heard*. For example, the legislator requires the court to hear the opinion of an adoptee regarding the adoption beginning at age nine (despite the restrictions that may prevent realizing this right), and requires the court to obtain the minor's consent to conversion beginning at age ten. Further, it is accepted practice, based on case law, to hear the opinion of a minor from the age of ten or 11 regarding the locus of custody, even though there is no binding legislation in this matter. As noted, there are no unequivocal guidelines regarding how a minor's opinion should be weighed and considered in the above matters (with the exception of conversion). Neither are there systematic data on the extent to which the opinion of minors is indeed heard and considered in such matters.

Receipt of medical treatment without parental consent and the appointment of a lawyer by the minor himself are considered legal actions. Therefore, under the **Guardianship and Legal Capacity Law**, a minor cannot himself consent to receive medical treatment, nor can he appoint legal counsel for himself.

The legislation allows the provision of medical treatment with the consent of the minor alone in only two extreme instances, which society wishes to prevent or encourage: performing an abortion, and performing a test for the AIDS virus. In these two cases, if the minor consents, the decision of

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whether to accept his consent rests with the relevant professional (e.g., a physician), who is instructed to determine the degree to which the minor is capable of making the decision and understanding its consequences. Concerning psychiatric care, the consent of a minor from the age of 15, as well as of his guardian, must be obtained, or else the decision must be made by the court. In reality, relatively young children, with the help of professionals, do make very grave decisions about their medical condition, even though the legislator does not perceive them as being capable of making other serious decisions (e.g., a minor may consent to an abortion, even though the legislator assumes she is not capable of making the decision to take birth control pills, which would preclude the need for an abortion). In addition, minors are perceived as being incapable of making routine intimate decisions or decisions related to their medical condition.

The **Treatment of Mentally Ill Law**, the relevant stipulations of the **Youth (Care and Supervision) Law**, and the **Detection of the AIDS Virus in Minors Law**, which were passed in the 1990s, express the legislator's increasing tendency to recognize the right of a child to consent to medical treatment without the consent of his parent or guardian, as well as the need to weigh a minor's ability to do so according to his evolving capacity. This trend is also reflected in the Ministry of Justice's initiative to amend the **Patients' Rights Law** regarding children. It is the Ministry's intention that this law enable minors of a certain age to consent to routine medical care themselves; that the law require obtaining the consent of a minor, as well as of his parent or guardian, to medical treatment that carries risk; and that a relatively young minor be able to consent (with the help of a professional) to medical treatment that is in society's interest or that is an intimate matter (e.g., birth control, psychological care, treatment of a drug problem).

To date, the legislators and the courts in Israel have refrained from determining the right of a minor to *refuse* to receive medical treatment.

Another trend is to allow for independent legal representation of minors. Two laws that were passed in recent years – the **Family Courts Law** and the stipulations of the **Youth Law** regarding admission to a psychiatric hospital – specifically order the appointment of a lawyer for a minor. This trend is getting stronger in light of current practice.

Minors are criminally liable beginning at age 12 – a rather young age, relative to the ages at which other rights and obligations are imposed. In this matter the law reflects the perspective that it is legitimate to place responsibility on minors, alongside the perception that the transition from childhood to adulthood is a gradual one, as may be seen in steps taken regarding children who bear criminal liability. Some punishments (the death penalty, mandatory life imprisonment) are not imposed upon minors at all, while others, such as detention and imprisonment, are imposed with restrictions concerning age, duration, and conditions. The law allows the use of a variety of punishments and special treatments for juvenile offenders.

### *Definition of the Child*

Israeli legislation also includes laws that protect minors of various ages from harm or exploitation. Aside from defense against abuse and neglect and the obligation to report these, the law protects minors up to age 14 (and in certain cases up to age 18) from exploitation through sexual relations, and minors up to age 17 from putative marriage. These protections, which are paternalistic in nature, restrict the rights of minors to some extent, although the restrictions are not directly imposed on them but rather on those who engage in sexual relations with them or who marry them. Similarly, the law protects minors up to age 14 from testifying in certain criminal proceedings, and restricts the extraction of testimony from them regarding certain offenses.

Israeli law allows minors to work from the age of 14 (during school vacation or in special circumstances) or from the age of completion of compulsory education. The **Youth Employment Law** protects the right of a minor to attend school while working, and protects minors against harsh working conditions (such as night shifts) and long working hours (see Chapter 10).

Most specific laws do not require examining the individual capabilities of a child, but rather define a certain age at which a right is granted or an obligation imposed. Only a few laws allow the court or professionals to grant a right or impose an obligation based on a child's level of development, ability, or circumstances. Some laws – such as the **Adoption of Children Law** and the **Detection of the AIDS Virus in Minors Law** – cite a certain age as a “default”, while allowing deviation from it according to the circumstances of a specific case. The **Guardianship and Legal Capacity Law** recognizes the legal actions of minors as being “actions that a minor might perform”.

Israeli legislation concerning the capacity of children is not exceptionally consistent. For example, a minor has the right to make decisions regarding medical treatment and consultation only at age 18, while he has the right to be heard in the matter of psychiatric hospitalization heard from the age of 15. Youths age 17 cannot refuse medical treatment or sign a contract, but a child is criminally liable from the age of 12 and can be imprisoned from the age of 14. This inconsistency may be a consequence of the writing and passage of laws at different times, such that each law is influenced by the prevailing attitudes and beliefs about a child's capacity, as well as prevailing social needs (e.g., the need to fight crime probably influenced determination of the age of criminal liability).

It is a task of the committee to examine fundamental principles of the child and the law, and their implementation in legislation (see Chapter 3) to strive for harmony among the various laws concerning the rights and obligations of minors of different ages.

# Chapter 5

## General Principles



## Introduction

Articles 2,3,6 and 12 of the UN Convention on the Rights of the Child stipulate four principles according to which States must act, regarding children and their rights.

### General Principles

1. The right to life, survival and physical, cognitive and emotional development (article 6)
2. Non-discrimination (article 2)
3. The “best interests of the child” as primary guiding principle in all actions concerning children (article 3)
4. Respect for the views of the child (article 12)

In this chapter we will point to some of the major legislative and policy measures, which are undertaken by Israel in order to support the realization of these principles. We will also indicate the major problems and challenges that face Israeli society in achieving more complete implementation of these rights. (See also Chapters 7, 8, 9 and 10.)

### Article 6 of the Convention

#### 1. The Right to Life, Survival and Development

The right to life, survival and development is the most fundamental of the principles set down in the Convention, and is the basis for discussion of the implementation of the other principles. The right to life, survival and development includes the right to health, physical development, development of abilities and skills that enable an individual to live with dignity, and a standard of living that guarantees these rights.

Israeli law places responsibility for the life and development of the child on both parents. Parents and other guardians have the obligation (and the right) to meet their child’s needs, including the need for education and vocational training. Under the **Penal Law**, it is possible to punish parents (or legal guardians) who do not meet needs essential to the health and security of their children (see Chapter 6). The term “essential needs” was recently interpreted in a court ruling as including emotional and social needs, in keeping with the UN Convention.

Although responsibility for a child’s subsistence falls first and foremost on his family, the State is responsible for helping the family ensure a child’s existence and development by providing social services. Voluntary organizations also play an important role in ensuring the welfare of children.

## *General Principles*

Social services and the policies that govern them are described in detail in the chapters of this report.

### 1.1 The Right to Life and Physical Development

The **National Health Insurance Law 1994** guarantees the right of every child to health services (preventive, primary, hospital and rehabilitative care). Indeed, primary health care and hospital services are available to the majority of Israel's children, and efforts are being made to expand the accessibility of these services to include groups that to date have had less access to them (see Chapter 8 and section 2 of this chapter).

Israel has a particularly well-developed system of preventive health services for pregnant women and very young children. A national network of family health centers provides women and children with regular examinations and inoculations, as well as consultation, guidance and support, especially for weaker and at-risk populations. In addition, women who give birth in a hospital are given a grant by the National Insurance Institute (Israel's social security administration), which is meant to cover the cost of hospitalization and basic equipment for the baby. Data indicate that the rate of mortality at childbirth, the infant mortality rate, and the rate of underweight births are very low in Israel and continue to decline (see Chapter 8).

Some preventive services are provided in elementary and secondary schools, although not in sufficient quantity to meet all of the needs of children or promote their health. The few positions earmarked for preventive health staff in elementary schools allow for a limited number of routine examinations, but not for the recommended extent of classes or guidance in prevention and health promotion.

The services provided in secondary schools focus on preventing risk behaviors and promoting health, and include programs on drug and alcohol addiction, sex education, and prevention of infectious diseases such as AIDS. It has been claimed that the resources allocated for these services are insufficient (see Chapter 8). Limited prevention and health promotion services are also provided to youth by the Ministry of Health and the sick funds.

Until recently, there were no systematic and comprehensive data on the health behaviors of children and youth. For the first time, a survey conducted in 1994 among children and youth in grades six through 11 revealed the status of Israeli youth, compared to youth in 23 other countries (Harel et al., 1997). As was commonly believed, Israeli youth are less apt to engage in some risk behaviors than are their peers in other countries. For example, the percentage of youth in Israel who drink alcohol or smoke cigarettes is lower than that of youth in other countries. Similarly, 90% of Israeli youth eat fruit and vegetables at least once a day – the highest percentage found among the countries that participated in the survey.

### *General Principles*

At the same time, the survey highlighted a number of issues for concern. For example, Israeli youth (especially young women) are less apt to exercise than are their peers in other countries. In addition, a trend was identified of a decrease in the age at which children begin experimenting with cigarette smoking, drugs and alcohol. These findings may indicate an increase in these risk behaviors among youth, and hence a need to increase preventive and health promotion activities among them. The rate of youth violence was also found to be high in comparison with most countries in the study. A follow-up survey conducted in 1998 (as yet unpublished) showed a similar trend.

Another area that arouses concern for the welfare of children and youth is that of accidents, including accidents at and around home, on the road, at school or during social activities. About one-quarter of the deaths of children are caused by accidents. In recent years, efforts have been made to reduce car accidents through campaigns in the media and in schools (including the participation of children in safety patrols). Survey findings indicate a need to continue these efforts and to emphasize programs that promote safe behavior and encourage compliance with safety measures.

Environmental factors, such as water quality and pollution, also affect the health status of Israel's children. In recent years, awareness has grown of the need to address these issues much more seriously.

## 1.2 The Right to Fulfillment of Basic Needs

Israel employs various mechanisms to guarantee a basic level of income and standard of living for its citizens in general, and for families with children in particular. Minimum income is guaranteed through a series of benefits for children and income maintenance benefits. The number of children in a family is taken into account when calculating these benefits. Israel also offers programs that help individuals and families find housing. These programs consider the number of children in a family when determining eligibility for loans, rental of public housing, and other forms of assistance. The State also supports hostels for youths who have no place to live. In addition, government policy, implemented (through the National Insurance Institute) in 1994, which aimed to reduce the dimensions of poverty overall, and among children in particular. This involved increasing benefits for children of people who did not serve in the Israel Defense Forces (IDF) – primarily Arabs; increasing child allowances for large families and special groups; and expanding the payment of benefits to groups in which the incidence of poverty among children is particularly high (see Chapter 8).

Nevertheless, poverty among children is high and arousing increasing concern. During the mid-1970s, the percentage of poor children in Israel was about 10%; by 1995, it had reached 23.2%. However, data for 1999 which were just released indicate that poverty among children has reached a new peak (26%). The percentage of poor children is especially high among certain groups,

### *General Principles*

including large families (with four or more children), single-parent families, Arab families and immigrant families from Ethiopia (see section 2 of this chapter and Chapter 8).

Data on the implications of poverty for the welfare of children and youth are limited. What data do exist indicate that poor children are over-represented among those who suffer from neglect and abuse, those who do not achieve minimal levels of education, and those who become involved in marginal and risk behaviors such as crime and drug abuse.

#### The Right to Life, Physical Development and Fulfillment of Basic Needs: Main Achievements

- ◆ Legally mandated universal health coverage
- ◆ Preventive health services, nearly universal coverage for very young children
- ◆ Low and declining rates of
  - ◆ mortality of women in childbirth
  - ◆ infant mortality
  - ◆ underweight births

#### The Right to Life, Physical Development and Fulfillment of Basic Needs: Problems and Challenges

- ◆ Insufficient preventive health services for children over age five and in elementary schools
- ◆ Limited extent of prevention and health promotion programs
- ◆ Large percentages of youth do not exercise; increasing trend of alcohol and drug abuse
- ◆ High rate of youth violence relative to other countries
- ◆ High prevalence of accidents and accident-based injuries
- ◆ Poverty among children has grown since 1970 and is a growing and major concern

### 1.3 Emotional, Cognitive and Social Development, and the Acquisition of Skills

Israel offers services designed to support all aspects of the development of children, from early childhood to adulthood. As noted, family health centers play an important role in the development of very young children. This and other health services identify children with developmental difficulties and refer them to child development centers for treatment.

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Naturally, the education system supports the cognitive and social development of children and youth. National expenditure for education, which is almost 10% of the Gross National Product, has increased consistently since the early 1990s.

The **Compulsory Education Law** mandates free education for all children from the age of five and for children with special needs who are eligible for special education from the age of three. However, the education system plays a central role in the development of children from an even earlier age. A large percentage of Jewish children attend preschool beginning at age two, and the majority of Jewish children age three or four attend preschools that are under the surveillance of the Ministry of Education. The rates of preschool attendance are much lower among the Arab population, although they are increasing (see Chapter 9).

Pre-compulsory kindergartens utilize a sliding-scale fee, such that families with very low income receive a significant discount. In some towns, pre-compulsory kindergartens are free or available at a minimal cost. There is a plan to expand this program to more towns and villages in the coming school year.

Elementary and secondary school attendance are almost universal. The percentage of Jewish students who attend school remains large through 12<sup>th</sup> grade (age 17), reaching about 96.5% among 14 to 17-year-olds. The percentage is also lower among immigrants. The percentage of Arabs who attend school is much lower, and is a major source of concern (see section 2 of this chapter). Dropout rates are also higher among some groups of new immigrants. The percentages of both Jewish and Arab students who attend school has increased in the past two decades, due to a policy of reducing the drop-out rate as much as possible.

Matriculation examinations are a central indicator of the success of the education system, as well as being a key to acceptance at institutions of higher education. Receipt of a full matriculation certificate by the largest possible number of students is a primary goal of the education system. Since the late 1980s, the percentage of students eligible for a matriculation certificate has been increasing. Nevertheless, nearly 60% of all 17-year-old students are still not eligible for a certificate. The rate of matriculation is much lower among Arab than among Jewish students and, within the Jewish population, it is particularly low among the Ethiopian Immigrants.

Beyond the problem of school dropouts, there is also a significant problem of youth who are in school but who are either not attending school regularly or fully participating in the educational process. A recent report (Cohen et al., 2000) has for the first time attempted to estimate the scope of this problem, which well exceeds the extent of youth who have actually dropped out of school. It is very important to address the need to provide meaningful educational and career tracks for those students who are not able to achieve full matriculation.

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A variety of programs have been developed to address the needs of the youth who have dropped out as well as those of the weaker students within the schools. However, these programs do not reflect a uniform policy: there is little evidence of their effectiveness and their extent and dissemination within the school system do not match the extent of need.

#### Education, Cognitive and Social Development and Acquisition of Skills: Main Achievements

- ◆ Preschool attendance rates are high among Jews and rising among Arabs
- ◆ Nearly universal elementary school attendance rates
- ◆ High and rising secondary school attendance rates (especially among Jews)
- ◆ Increasing percentages of students eligible for a matriculation certificate
- ◆ Development of a variety of programs and support services that prevent dropping out and promote weaker students
- ◆ Significant role of youth movements and community centers in after-school frameworks

#### Education, Cognitive and Social Development and Acquisition of Skills: Problems and Challenges

- ◆ The Compulsory Education Law has not been fully implemented for children ages 3-5
- ◆ Relatively high drop-out rates among Arabs and immigrants
- ◆ Evidence of extensive “hidden dropping out”
- ◆ More than 60% of all youth are still not eligible for a matriculation certificate
- ◆ Unclear to what extent the variety and level of education tracks meet the needs of youth
- ◆ No uniform policy covering programs to promote weaker students and address those who have dropped out; their scope is limited and their efficiency has not been examined
- ◆ Concern about declining participation in and funding of informal activities

The education system’s mission is not only the formal education of youth, but also the transmission of positive values and social skills and the fostering of a greater awareness of and concern for the community. These goals are achieved both inside and outside the system through a variety of informal education programs.

Informal education within the schools includes a fixed number of weekly hours with the homeroom teacher and student participation in volunteer activities (such as personal commitment and youth leadership programs; see Chapter 9). Despite the variety of programs available, most are not part of

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the compulsory curriculum, such that their implementation depends upon the priorities of a school's principal. Currently, only a small percentage of students participate in these programs.

Outside of the education system, activities are offered by youth movements, community centers, and social clubs. These activities offer children and youth opportunities to develop and exercise the social and civic skills they will need to play a role in the community as adults. Currently, a significant percentage (25%) of youth participate in youth movements, and a similar percentage participate in community center programs. However, there is a decline in participation rates, as well as in funding, which is a major cause of concern for the future of these activities.

The emotional development of children and youth also receives attention. The school system has psychological and counseling services designed for children, youth, and parents who have problems adjusting to the education system or meeting its demands. However, there is evidence that these services are not offered on a large enough scale to provide adequate solutions.

Counseling and treatment for emotional difficulties are also available to children and youth through mental health clinics, which are operated by the sick funds and the Ministry of Health. Here, too, there is evidence that the scope of these services, their geographic dispersion, and their availability and accessibility to various populations do not meet the needs. The Ministry of Health is aware of the need to expand these services, as well as to intensify cooperation with schools and social services. To this end, a new model of treatment center for children and youth now operates in a small number of towns around the country. The Ministry of Education and the Ministry of Labor and Social Affairs also sponsor treatment and emotional counseling for children and youth through local social services and youth promotion units. These services tend to focus on underprivileged children and youth at risk. However, these services are not universally available and problems of coordination among them create situations in which youth are not provided with the services they need.

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

Guaranteeing the rights of children with disabilities presents a special challenge. These children represent 8.7% of children age 18 and under in Israel. In recent years, there have been notable developments in legislation: the passage of a law granting rights to disabled children (the **Special Education Law 1988**); the expansion of disability benefits to newborn infants (previously granted from the age of three); the passage of the **Safe Transportation of Invalid Children Law 1994**; and the passage of the **Equal Rights for People with Disabilities Law 1998**; and the **Rehabilitative Day-care Centers Law 2000**. Much attention has been devoted to the needs of disabled children, and services have been designed to assist them and their families, promote their development, and contribute to their self-actualization. These services include child disability allowances (provided by the National Insurance Institute), rehabilitation services (available through the health and education systems), and a range of educational services provided under the **Special Education Law**. Volunteer organizations also develop and provide services to disabled children (see Chapter 8).

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However, there have been major difficulties in the implementation of these laws. Several recent studies, including the first national study of disabled children, raise a number of issues. First, there is evidence that the extent of coverage of rehabilitation and development services is not sufficient. For example, some groups – children with mild disabilities, learning disabilities, and emotional and behavioral problems – are not entitled to services under any law. In other cases, existing services are not adequate to meet needs or are not accessible, or else there is insufficient awareness of developmental problems. Children in the Arab, ultra-Orthodox Jewish, immigrant, and low-income populations are particularly vulnerable to these inadequacies (Naon et al., 2000).

Second, the system of services for disabled children is very complex, and uncoordinated. Disabled children and their parents have trouble using services due to the complexity of the system, as well as to a lack of up-to-date information on eligibility requirements and application procedures. Despite the efforts of various organizations to provide up-to-date information, this problem still plagues parents, service providers, and policymakers.

Problems also arise when determining eligibility for special education. Parents have been given special status on placement committees, and legislative efforts have been made to include them as full partners in the process of placement, treatment and rehabilitation. Nevertheless, there is considerable evidence that this process is characterized by a lack of information, by problems transmitting information, and by misunderstandings between parents and professionals. Organizations representing parents and professionals alike are aware that this problem may impede a child's opportunity to receive appropriate education and treatment. In recent years, service providers have debated the creation of uniform definitions and policies, and studies have been conducted into how to better coordinate services.

To address the complexity of the service system, it is necessary to define more clearly the responsibility of each of the different legislative frameworks and service systems and to introduce mechanisms to coordinate care at the case level and to assure an adequate flow of information among professionals and to clients.

Still another issue is that of the willingness to “mainstream” disabled children in frameworks for the general child population. The Special Education Law 1988 obligates the integration of children with special needs into the “less restrictive frameworks”. However, in the implementation of the law, a clear priority has been given to financing services for children within special education frameworks who have a defined individual entitlement as opposed to children who are mainstreamed into regular classrooms. In recent years efforts have been made to integrate children with special needs into regular classrooms. However, these efforts have focused on specific groups (blind or visually impaired students, deaf or hearing-impaired students) rather than on the entire population of disabled children. The way in which resources are allocated under the Special Education Law – that is, primarily to special education frameworks and special education classes in regular frameworks –

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also makes it difficult to comprehensively integrate disabled children into regular frameworks. Mainstreaming is also hampered by lack of training of teachers and other personnel in the regular school system to address the needs of disabled children within the regular classroom and school. The lack of access for the handicapped to schools, public buildings and recreation centers also creates a barrier to mainstreaming. The committee to examine comprehensive legislation on the rights of the disabled has warned that lack of access is one of the main reasons the disabled cannot realize their rights or participate actively in social and community life.

#### Children with Disabilities: Main Achievements

- ◆ Extensive legislation preserving the rights of children with disabilities:
  - ◆ expansion of disabled child benefits
  - ◆ legislation and progress implementing the Special Education Law
  - ◆ Equal Rights for People with Disabilities Law
  - ◆ Rehabilitative Day-care Centers Law
- ◆ Declining trend in the number of students in special education

#### Children with Disabilities: Challenges

- ◆ Large gaps between needs and services
- ◆ Service system is complex and lacks coordination
- ◆ Problems involving parents and children, primarily in the process of placement in special education
- ◆ Despite commitment to mainstreaming in education, financing gives priority to segregated special education frameworks
- ◆ “Mainstreaming” of children with disabilities into activities for all children only just beginning

## Article 2 of the Convention

### 2. Non-discrimination and Equal Opportunity

Non-discrimination is a central principle of Israeli legislation. Equality among population groups is promised in the country’s Declaration of Independence and in legislation, and the creation of equal opportunity for all citizens has guided social policy since the establishment of the State.

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This is a major challenge in a society that is as ethnically diverse as is Israel. The challenge is complicated by the correlation between socio-demographic characteristics and ethnic origin which influence the ability to compete for social and economic status. For example, different population groups differ in family size, parents' education, and the participation of women in the work force.

In addition to legislation and policy designed to prevent discrimination, steps are constantly being taken to improve the allocation of resources and development of services so as to reduce gaps and promote equality among population sub-groups. At the same time, Israel maintains a policy of helping each group preserve its cultural heritage (for example, by granting the right to choose the type of education one's children will receive, by allocating resources to preserve cultural tradition). Nevertheless, significant gaps persist among groups in Israeli society. These are a result of both the patterns of allocation and use of services, and inherent differences among these groups.

### 2.1 Gaps among Sub-groups of the Jewish Population

One pivotal area of difference is that between Jews whose families immigrated to Israel from Europe and the Americas, and those whose families immigrated from Asia and Africa. However, data on gaps among sub-groups of the child population is limited, as the majority of children (and of their parents) were born in Israel. Moreover, many children have parents of differing ethnic backgrounds.

In recent years, two groups of immigrants with radically different social and cultural characteristics have arrived in Israel: immigrants from the former Soviet Union, and immigrants from Ethiopia. Immigrant children and youth are facing major difficulties and in general experience higher rates of dropping out of school and of social deviance. The educational gap is particularly great for Ethiopian immigrants and for certain groups of immigrants from the southern parts of the Former Soviet Union.

In recent years, concern about the quality of the integration of immigrant children into the school system has led to a range of initiatives to promote their educational and social integration (see Chapter 9). No systematic, reliable data exist on the educational integration of children and youth from the former Soviet Union.

The absorption of Ethiopian immigrant children presents a particular challenge, given the dramatic cultural transition they must make and the socio-economic status, demographic composition, and level of education of their parents. Policies have been developed to promote equal opportunity for these children and to support their absorption into the school system. Nevertheless, a large percentage of them have scholastic problems and do not regularly attend school. The rates of school attendance and of eligibility for matriculation certificates among Ethiopian youth are low, compared to the general population.

## 2.2 Gaps between Jews and Arabs

Serious gaps exist in most of the areas reviewed by this report between the Arab and Jewish populations of Israel: Arab children and youth are at a disadvantage, relative to their Jewish peers. For example, infant mortality rates and accident rates are higher among the Arab than the Jewish population, and more Arab than Jewish children suffer from severe disabilities or live in poverty. Fewer Arab than Jewish children attend preschools and secondary schools, and fewer Arab youth are eligible for a matriculation certificate. There is broad recognition and agreement that a major factor contributing to the gaps is insufficient allocation of resources by both the national government and the local Arab authorities. In order to address these gaps, there is a need to overcome significant differences in the demographic composition of the Arab and Jewish populations, such as differences in family size and parents' level of education.

This report identifies a number of areas in which the resources allocated to the Arab population are or were insufficient, and less than those allocated to the Jewish population. These include the range of and accessibility to preventive and primary health services, diagnostic services, rehabilitation and special education for disabled children, child allowances, education (especially for weaker populations), and support services (such as psychological counseling, programs to prevent dropping out), and training of educational manpower.

The recognition of this situation has led to a variety of measures to address it. The implementation of the National Health Insurance Law in 1995 provided the sick funds with incentives to serve weaker populations, including the Arab population; this led to accelerated development of primary health care services and expansion of preventive services for this population. Implementation of the Special Education Law has brought about an increase in the number of Arab students participating in special education programs, and to an increase in the scope of services for disabled Arab children. Benefits for Arab children in large families have been equalized and expanded.

In the field of education, initiatives have been taken to increase the resources allocated to Arab children and youth. These initiatives followed the adoption of several five-year plans for the Arab education system, including a significant increase in support services and special programs in schools, the development of training programs for kindergarten and school teachers, and the construction of classrooms and facilities. There have also been initiatives to revise the educational goals of the Israeli school system so as to adapt them to the Arab sector.

As in the overall population, there has been significant progress in a number of areas, such as a decline in the infant mortality rate, an increase in school attendance rates, and an increase in the percentage of students eligible for a matriculation certificate in the Arab sector. However, in many areas the gaps have not decreased; the most serious gaps remain in poverty rates and educational achievement.

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Data also indicate gaps among sub-groups of the Arab population. In most cases, the situation of Christian Arabs and Druze is better than that of Moslem Arabs. The health, welfare and education of Bedouin children, particularly those living in unrecognized settlements, fall far below those of the general population of Arab children – a situation that demands special attention (see Chapters 8 and 9).

#### Gaps between Jews and Arabs: Policy Directions

- ◆ Steps have been taken to reduce gaps in many areas:
  - ◆ changes in the structure of National Insurance Institute benefits for children
  - ◆ National Health Insurance Law passed in 1994
  - ◆ changes in the education system, primarily in infrastructure

#### Gaps between Jews and Arabs: Challenges

- ◆ Gaps remain in the majority of areas, and have not decreased consistently over time:
  - ◆ Differential measures of health status
  - ◆ The extent of poverty
  - ◆ Attendance rates at preschools and secondary schools
  - ◆ Achievements on matriculation examinations
  - ◆ Percentages of children at risk
- ◆ In many areas, the extent of services provided to the Arab population is less than that provided to the Jewish population:
  - ◆ Services for the disabled
  - ◆ Support services and programs in the education system (gaps are not declining)
  - ◆ Child welfare services

## 2.3 Children of Foreign Workers

A large number of foreign workers have come to Israel in recent years. No systematic data are available on their number, the number of children living with them, or their living conditions. Some estimate that between 2,500 and 3,000 children of foreign workers now live in Israel. As the arrival of foreign workers is a recent phenomenon, and as many of the foreign workers remain in Israel illegally, no national or legal system has been established to provide their children with education, health and welfare services. However, the government has begun to make arrangements

to provide services in a systematic, comprehensive manner, and there is extensive activity surrounding this issue in the Knesset (see Chapters 8 and 9).

## Article 3 of the Convention

### 3. The Best Interests of the Child

#### 3.1 The “Best Interests of the Child” as a Guiding Principle

In Israeli law, the “best interests of the child” is recognized as a guiding principle and a primary consideration in decisionmaking regarding the lives of children. Usually, those who decide a child’s fate are his parents. However, when there is a need to protect the child, the parents’ role may be assumed by the courts, child protection officers, or other social service providers.

The concept of “the best interests of the child” is not defined by law (see Chapter 2). Rather, it is being defined gradually through court rulings and the decisions of authorities and agencies that serve children, on a case-by-case basis and in light of the situation of each child and his family, and the child’s own wishes. This principle may thus have different meanings, depending on the values and cultural norms of the society (or social group) in which the child and his family live, and on the beliefs and expectations of those making decisions in the child’s interest.

Nevertheless, the principle of the “best interests of the child” serves as a measure of the extent to which a child is being cared for properly by his parents, and is used as the basis for deciding the course of the child’s life (e.g., custody and visitation rights). A variety of criteria are applied in determining the best interests of a child. For example, in custody proceedings, a judge may consult with and consider the reports of child protection officers, who are obligated to present a factual assessment of a child’s situation and to recommend the course of action they feel best serves the child’s best interests (see Chapter 7).

The principle of the best interests of the child is also reflected in the structure of the juvenile justice system. A minor who commits a crime is treated differently than is an adult. The agencies that handle minors accused of committing a crime have two major goals: to keep the minor from being labeled as a criminal, and to give him an opportunity for rehabilitation. These goals are clearly reflected in court rulings, most of which are made only after consultation with the specially-trained child welfare professionals who accompany juvenile suspects from indictment through treatment, and are geared toward rehabilitation.

Concern for the best interests of the child also requires safeguards against exploitation such as in the workplace, sexual abuse, and exposure to crime. The public is increasingly aware of the need to

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protect children and youth from exploitation. This has led to legislative and policy initiatives that protect minors.

### 3.2 Preserving the Best Interests of the Child in Child Welfare Proceedings

A variety of legal procedures and services, designed to protect the best interests of the child, are implemented by government ministries, local authorities and volunteer organizations.

The key agent responsible for protecting children from harm due to a lack of proper parental care is the social welfare system. Alongside it are the education and health systems, which potentially play a role in identifying cases in which there is a need to protect children. The Ministry of Labor and Social Affairs has in recent years increased the resources allocated for treating children at risk and preventing domestic violence. As part of this initiative, innovative intervention methods are being introduced into the service system.

Services that aim to protect children lie along a continuum, which ranges from support and training for families that have difficulty ensuring the best interests of their children, to frameworks and mechanisms that provide these children with immediate, short-term protection to long-term, alternative care outside the home. Examination of these services raises a number of issues about how the principle of the best interests of the child and his protection are ensured.

In order to protect children, it is first necessary to identify those at risk. In Israel, a variety of mechanisms are used to identify children at risk. Legislation requires reporting cases in which there is a reasonable suspicion that a child is suffering from abuse or neglect. An infrastructure of services – family health centers, primary health care centers, preschools, and elementary and secondary schools – provides children with universal coverage. As a result, nearly all of Israel's children come into contact with professionals who can identify risk situations at an early stage and who know how to make referrals when necessary. In addition, children who need help may contact the ombudsman of the National Council for the Child or other voluntary organization.

Data indicate that a relatively large percentage (about 17%) of Israeli children are known to some social service organization as being at risk. However, data also indicate that the extent of services provided does not match the scope or type of need of children at risk. About 10% of the children who are known to social welfare departments receive some community service, while an additional 4% have been placed outside their home by the Service for Children and Youth of the Ministry of Labor and Social Affairs. A survey revealed that even children and families at high risk have serious unmet needs. The limited scope of the services available and their unequal geographic distribution impair the system's ability to successfully help parents care for their children and to adequately protect children.

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The UN Convention on the Rights of the Child requires that the State signatories implement measures to protect children, taking into consideration the rights and duties of their parents or guardians. In this way, the Convention expresses the importance of helping parents fulfill their responsibilities toward their children.

This principle finds expression in some of the principles and operating structures of Israel's child welfare system, which is part of the general social welfare system. It aims to provide a "one-stop" response to a range of needs and problems, which may arise in family life. In addition, some of the innovative models introduced in recent years reflect a family-focused, rather than an exclusively child-focused approach, and aim not only to provide for the child but to support the family as part of the rehabilitative process.

Nevertheless, the majority of services that are provided on a broad scale focus on the child, rather than on the family. This is illustrated by the emphasis on out-of-home care and by the small number of programs that return children to their families or maintain the relationship between children in out-of-home placements and their parents. In the community, as well, the most prevalent methods of intervention involve placement in a day-care center, or in family day care, or in after-school programs. These programs often do not address the needs of the parents or of the family as a whole.

Preserving the best interests of the child while maintaining the rights and responsibilities of parents is reflected in parental involvement in decisionmaking. Courts are obliged to hear parents in cases involving children. The involvement of both parents and children in choosing the appropriate intervention is stipulated in the guidelines of the decisionmaking committees for children at risk that exist in every local authority (Dolev et al., 2000). A recent study of these committees indicates that the extent to which these guidelines are followed is increasing: In two-thirds of the cases, a member of the family (child, parent or both) is present at the committee meetings. However, the study also indicates that the participation of parents and children is not always effective: They are not present during decisionmaking, and professionals lack the training and skills to meaningfully include them in choosing an appropriate intervention.

### 3.3 Preserving the Best Interests of the Child in Out-of-home Care

Between 65,000 and 75,000 (3%) of the children and youth in Israel live apart from their families, in frameworks supervised by the government. Most (some 55,000) of these children are between the ages of 14 and 18, and attend boarding schools (usually as the result of a decision made by them and their families). Far fewer (about 10,000) children and youth have been placed outside their homes by child and family services, most (8,500) of them in boarding schools, and the remainder (1,500) in foster families. Other, small groups of children are also placed out-of-home: Some reside in facilities operated by the Youth Protection Authority (which is responsible for the placement of delinquent and near-delinquent youth); some are disabled children who were removed from their homes by welfare services; and some have been admitted to psychiatric hospitals. Legislation and

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regulations govern the operation and surveillance of each of these frameworks (see Chapters 8 and 10).

Since the late 1980s, efforts have been made to improve the level of care in and the surveillance of out-of-home frameworks, and to monitor the quality of care and its outcomes. For example, new, comprehensive surveillance criteria and methods have been introduced in residential facilities. An important feature of these new system is that they consider the opinions of resident children as part of the process of evaluating quality. At the same time, the Youth Protection Authority is developing a system of monitoring the outcomes of care of children in residences under its auspices.

Efforts are being made to improve foster care, as the qualifications of many foster families have also come under criticism. These include the development of a training program for foster families, which will stress the importance of the child's relationship with his biological parents, and legislation defining the role and responsibilities of the foster family. Efforts are being made to provide more guidance and assistance to foster families and to more carefully screen these families in advance. An information system developed to monitor the care of children in foster families has been partially implemented.

Examination of the extent to which the best interests of the child is safeguarded in out-of-home frameworks raises several issues. Children in institutions may receive their education within schools located in the institution or may attend schools in the local community. In general, it has been found that these children have poor scholastic achievements and that the cooperation between the residential facility and the schools is inadequate. It seems that more resources need to be allocated to schools that operate within residential settings and to after-school enrichment programs. In addition, the responsibilities and contact between schools and residential settings must be clearly defined. Another challenge is assuring appropriate staff within the boarding school frameworks.

The availability of professional and para-professional personnel in out-of-home care is also an issue. A committee of experts has established criteria for hiring personnel for different roles and at different levels. However, these criteria are not always met and there are limited training opportunities, especially for child care staff.

The length of stay in an out-of-home framework, whether a boarding school or a foster family, is also at issue. Generally, a child's stay in one of these frameworks is long; even though these are defined as being short-term solutions, rarely does a child return to his biological family.

Another issue concerning children in out-of-home frameworks is their relationship with their parents. The welfare system is aware of the importance of maintaining a relationship between parents and the children, and a special program has been designed for this purpose. A committee of experts that set standards for maintaining the relationship between boarding school students and their parents recommended that schools regularly report to parents on their child's status, set times for telephone calls between parent and child, pre-arrange vacation dates, and host at least one event

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per year to which parents are invited. The Youth Protection Authority has also set guidelines and methods for including parents in the care of their child and reinforcing their relationship with their child.

Despite all of these efforts, findings from several studies indicate that policies that foster the relationship between natural parents and their children have not been uniformly or consistently implemented. In many cases, parents are not well informed about their child's life at boarding school, and are not involved in their child's care.

Children with serious mental health or behavior problems are often admitted to psychiatric hospitals, due to a lack of more suitable solutions, even though they don't need the services provided by a psychiatric hospital. In order to provide more suitable solutions to the needs of such children, during the 1990s the Ministry of Labor and Social Affairs established post-hospitalization units within existing boarding schools. These frameworks are designed to enable children with a serious emotional disturbance to make the transition back to the community after having been in a psychiatric hospital. They aim to be an alternative to psychiatric hospitals, and to prevent long and unnecessary hospitalization of children. In 1996, six post-hospitalization units were in operation.

### 3.4 Preserving the Best Interests of the Child in the Criminal Justice System

As has been noted, the principle of protecting the best interests of the child is expressed in the juvenile justice system by focusing on rehabilitation rather than on punishment. However, there are two sources of concern as to the extent to which the best interests of children and youth are protected in this system.

First, there is evidence that despite the system's orientation toward rehabilitation, most youth who have been detained or even convicted of committing an offense do not receive adequate rehabilitation and services. Youths who have been detained but whose cases have been closed are referred to the Youth Probation Service, but are rarely treated as they are not obligated to report to the Service. Youths who are being tried receive some intervention from a parole officer, although only 25% of them receive long-term rehabilitation intervention. Concern has been expressed that the conditions of incarceration for minors who have committed a serious offense do not allow for meaningful rehabilitative intervention. The lack of closed rehabilitation facilities (especially for Arabs and adolescent girls) also presents a serious problem.

The system has been criticized for protecting the youth offender at the expense of preserving his other rights, such as his right to legal representation. Legislative initiatives have been proposed to remedy this situation, for example by guaranteeing proper legal representation of minors, and amending current law to redress oversights.

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Criticism has also been leveled against the actual implementation of the procedures designed to ensure the best interests and the rights of the child. According to officials in the criminal justice system and in children's rights organizations, despite marked improvement in the protection of children's rights in criminal proceedings, infringement of rights still exists. On the other hand, police officers have questioned the consequences of implementing some of the measures designed to protect children. Recent studies indicate that youth workers on the police force differ in the extent to which they implement such measures and in their attitudes toward children's rights.

#### The Best Interests of the Child: Achievements

- ◆ There are mechanisms to ensure the receipt of extensive and professional assessments that will facilitate decisionmaking on the basis of the best interests of the child
- ◆ The best interests of the child are protected in the sentencing and punishment of minors through emphasis on rehabilitation and avoidance of stigmatization
- ◆ Many new procedures and a number of new models for providing protective services to children have been developed in recent years
- ◆ Development of new systems to ensure the quality of care in out-of-home frameworks

#### The Best Interests of the Child: Problems and Challenges

##### In child welfare proceedings

- ◆ Services that protect children and preserve their best interests are limited:
  - ◆ Very significant unmet needs
  - ◆ Innovative best practice approaches are not broadly disseminated
  - ◆ Services do not meet the needs of the family as a whole
  - ◆ Involvement of parents in decisions about and the process of intervention is only just beginning

##### In out-of-home placement

- ◆ Protecting the best interests of children in out-of-home frameworks requires:
  - ◆ Improving scholastic achievement and coordination with schools
  - ◆ There is a need to improve the quality of staff in residential facilities and support provided to foster families
  - ◆ Contact between children in out of home placements with their parents is often not maintained

##### In the criminal justice system

- ◆ The regulations to preserve the best interests of the child in the criminal justice system are not always implemented
- ◆ Rehabilitation of minors who have committed an offense is partial; many minors who have committed an offense do not receive rehabilitation

## Article 12 of the Convention

### 4. Respect for the Views of the Child

#### 4.1 The Right of a Minor to be Heard, and Respect for a Minor's View in Matters Affecting Him

Laws and policies stipulate that the opinion of a child should be heard and considered in matters concerning him (see Chapters 7-10). However, despite the tendency of both laws and administrative procedures to recommend, and even demand, that a child's opinion be heard, there is no consistent general policy. Although no systematic data are available, anecdotal evidence indicates that hearing a child's opinion often depends upon the attitude and opinion of the professional (e.g., judge, social worker) involved in the relevant decisions and procedures.

In only a small number of situations is the consent of a minor (or a minor over a certain age) *required* before a decision is made or proceedings undertaken. In proceedings involving conversion, adoption, or admission to a psychiatric hospital, the consent of the minor (once he has reached an age established by law) is required before action can be taken. Courts are allowed to rule against the minor's wishes (in the case of admission to a psychiatric hospital) or not to hear the minor's opinion (in the case of adoption) if this is judged to be in the child's best interests (see Chapters 4, 7 and 8).

Judges and administrators are *required to hear and consider a minor's opinion* (though not to obtain his consent) when ruling or making a decision in matters of custody and intervention under the Youth (Care and Supervision) Law and the Youth (Trial, Punishment and Modes of Treatment) Law. However, there are no specific guidelines regarding how minors are to be heard and considered in each situation, nor is there systematic information about the extent to which their opinions are actually heard and taken into account. There is some evidence that it is indeed becoming more common to hear the opinions of minors in cases of custody and decisions related to the Youth Law. For example, according to the national child protection officer, the degree to which a minor's opinion is heard and considered in cases pertaining to the Youth Law depends largely on the presiding judge. While some judges tend to hear minors, others rarely do. The Youth Protection Authority requires that youth participate in the periodic evaluation committee meetings that are held in boarding schools under its auspices. Specifically, students must be allowed to participate actively in at least part of the meeting, and the committee must hear their opinion about their status, treatment methods, and interventions. This requirement is indeed fulfilled in practice.

It is also noteworthy that there are procedures in which it is *not even mandatory* to hear or consider a minor's opinion. For example, parents are allowed to change their child's name without his agreement, and can consent to medical treatment for him (except in cases in which this right is reserved for the court). Neither children nor parents have a formal position on the municipal or local decision committees that decide on matters of community intervention and removal of a child from

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his home. Nevertheless, the regulations governing these committees recommend that children and parents participate in at least some of the committee's discussions. Children also have no voice in decisions concerning the school they will attend, although parents do. Children who are candidates for special education do not participate in the placement committees that determine their eligibility, but the participation of their parents is mandatory. Such placement committees are allowed to invite a child to present his opinion, but there are no data on the extent to which they do so.

## 4.2 Legal Representation of Minors

Under the Guardianship and Legal Capacity Law 1962, parents or guardians are appointed by the court to represent a minor in legal proceedings; they may appoint someone else to represent their child. The law authorizes the court to appoint a representative for the child (a legal guardian or attorney) if necessary. Legal instructions and case law emphasize the importance of the appointment, especially when it is clear that the interests of the minor may be harmed if he does not have separate representation. They also emphasize the right of the child to be heard when there is a conflict between him and his parents, as stipulated by article 12 of the Convention (see for example Family Court Appeal (Tel Aviv) 1009/00 *Anonymous Plaintiff v. Anonymous Defendant* (not yet published)). The implementation of these legal provisions is still not widespread.

However, there is a growing tendency to allow the appointment of a representative for a minor without his parents' consent in an increasing variety of cases. Two recent laws, which concern admission to a psychiatric hospital – the **Family Courts Law** and the 1995 amendment to the **Youth Law** – specifically mention appointing a representative for a minor. The increased representation of minors in criminal and civil proceedings, would seem to indicate that this practice is now “one that minors would perform”, and thus one that they are competent to perform under the **Guardianship and Legal Capacity Law 1962**. The establishment of a public defense attorney for minors is enabling many more minors to be represented in criminal proceedings. However, as noted, the general right to separate representation of minors is not set in law – although it may be inferred from case law.

Respect for the child's opinion is also reflected in his involvement in his school and community. Increasingly, students are encouraged to get involved in their school. In fact, the Ministry of Education views this as a right of students and parents, and has defined the participation and responsibility of students in making and enforcing decisions concerning schools and education. For example, the Ministry has recommended that students be involved in determining curricula and in the choice of their course of study (i.e. choosing major and minor subjects). It also recommends allowing students to help establish bylaws and express their opinions and needs. It is not clear to what extent these recommendations are being followed. (This issue is addressed by the new **Pupils' Rights Law 2000** – see Chapters 6 and 9.)

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Community schools are another way of involving children and youth in their education: They allow – in fact require – student involvement in decisions that influence school policy and programs. Further, they encourage students to get involved in the community, and community residents to get involved in the school. These schools are run by committees comprising representatives of the school administration, teachers, parents, students, the local authority, and other community institutions (see Chapter 9).

The extent to which students feel that their opinions are being taken seriously at school and that their involvement is being encouraged is revealed by the results of an international comparative survey of Israel and 23 other countries (Harel et al., 1997). Some 40% of Israel's students feel they are involved in setting school rules and that the rules are not too strict. Sixty percent of them feel that their teachers encourage them to express their opinion in class. Although these percentages are larger than in most of the other countries in the study, they nevertheless indicate that there is much room for improvement.

Both in and outside of school, a variety of programs encourage youth to become involved in their community. These programs give youth the opportunity to contribute to their community and peers, as well as to learn skills and gain experience as leaders (see Chapter 9). In recent years, the umbrella organization of community centers has developed a new approach to planning activities for youth, which is based on empowering the youths themselves in planning the programs and even independently managing them. The centers are also striving to involve the youth in programs that benefit the entire community.

Traditionally, youth movements were an important part of the experience of Israeli youth. They inculcated in these youth a positive attitude toward involvement in community and country. Today, youth groups still enable youth to plan their own activities, express their opinions, make decisions, and learn leadership skills. Youth movement members serve as counselors for children and as mentors for younger counselors. In recent years, the number of participants in youth movements has declined, and the reduction in financial support has become a cause for concern (see Chapter 9).

There is clearly a need for greater efforts to reverse the trend toward less participation in meaningful afterschool programs that can promote positive youth values and active citizenship.

### 4.3 Youth Involvement in School and Communities

Another aspect of respect for the opinions of children and youth is the opportunity for them to organize and express their views as a group. Student and youth councils, operated by the Youth and Society Administration of the Ministry of Education, are an example of this. A student and youth council is a channel for dialogue and cooperation between teachers and students, and between the school and the community; it also represents students before school and education authorities. The councils are elected democratically with suitable representation from each age group.

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The councils operate in schools, in local authorities, and at the regional and national levels. Youth on the regional and national councils represent their peers before the Ministry of Education and other government and public officials. The councils operate according to bylaws written by council members, their advisors and other educators. Regional councils sponsor the committees that write these bylaws, monitor their implementation, distribute information about the council and its activities, initiate social activities for students, and field requests and complaints from students who believe they have been treated unfairly in or outside of the school system.

The current trend is to strengthen student councils, increase their involvement in school life, and reinforce their role in determining the atmosphere and direction of a school. Student councils do not exist in every school, and municipal councils operate in less than half of all municipalities. Regional councils operate in every region of the Ministry of Education. Two years ago, regional student councils were particularly active promoting students' rights, in the face of national sanctions applied by teachers in the schools as part of a labor dispute. They have also been increasingly involved in discussions concerning the structure of matriculation examinations (for more information on student and youth councils, see Chapter 9). The **Pupils' Rights Law 2000** stipulates that a school must encourage the establishment of a student council, and refrain from any action that would inhibit its establishment.

A recent law mandates that children be represented on committees on the status of children, which operate within local authorities. In addition, youth representatives are allowed to participate in Knesset committee debates (see Chapter 3).

#### Respect for the Views of the Child: Achievements

- ◆ A notable increase in service providers' awareness of the need to hear and weigh the views of children in matters affecting them:
  - ◆ Custody
  - ◆ Matters under the Youth (Trial, Punishment and Modes of Treatment) Law
  - ◆ Determining interventions for minors in facilities of the Youth Protection Authority
- ◆ Increased willingness to appoint a representative for minors
- ◆ A trend to develop programs that encourage youth to get involved in their school and community
- ◆ Participation in student and youth councils and similar forums

#### Respect for the Views of the Child: Challenges

- ◆ Children's views are only just beginning to be heard and considered
- ◆ Professionals are not sufficiently trained in involving and listening to children
- ◆ No consistent policy for hearing the views of children in various frameworks

## 5. Summary

This chapter has surveyed the extent to which the four general principles of the UN Convention on the Rights of the Child are implemented in Israel. There are many indications that the Convention has had a significant effect on policy, legislature and social services. Moreover, a public committee has been established to review all legislation and policies concerning children and youth, and to promote their compliance with the demands of the Convention. Despite the efforts being made to implement the spirit and stipulations of the Convention, this report identifies many areas that deserve special attention. These include the following:

1. There is a need to invest more in and devote greater attention to promoting health, preventing risk behaviors (particularly among youth), and promoting safety.
2. Poverty rates are very high, and this has significant consequences for children in many areas.
3. The education system has been successful in reducing drop-out rates and raising achievement levels. However, drop-out rates are still high, and there are significant rates of “hidden drop-outs” among Arabs and immigrants. The system needs to find ways to address the needs of these children and youth more comprehensively and systematically. In addition, 60% of Israel’s youth do not successfully pass matriculation examinations.
4. Examination of the services for disabled children reveals several shortcomings: large gaps between needs and adequate services, lack of coordination and information, and limited opportunities for mainstreaming.
5. Israeli law prohibits discrimination of any type. However, the allocation of resources to different population groups is not always consistent with this principle. Greater efforts are required in a broad range of areas to narrow the gaps between Jewish and Arab children. Efforts are being made to promote equality between new immigrants and veteran Israelis, and to protect the rights of the children of foreign workers.
6. A variety of means guarantee “the best interests of the child”. In recent years, the public has given greater attention to this issue.
7. In addition, there is a trend to adopt programs and approaches that focus on maintaining children in their families (and hence on assisting the families), and on involving parents in decisions concerning the fate of their children. However, there are many gaps in the services that aim to protect children and support their families: Only a small proportion of children, including children at severe risk, receive services; most services do not involve parents, nor do they attend to their needs. Extensively involving both parents and children in decisionmaking and planning intervention requires that professionals receive more training.
8. Many changes have been made in legislation and policies that protect children and youth suspected of committing a crime, as well as children who are victims of crime

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and exploitation. However, most children who have committed an offense do not receive comprehensive rehabilitative interaction, and many of them do not receive rehabilitation at all. In addition, it is still unclear to what extent children's rights are adequately protected within the juvenile justice system.

9. There is no consistent policy requiring that the opinions of children be heard and considered in decisions that concern them. The notion that children have the right to be heard in decisions that affect them is increasingly reflected in policy and law. However, it is necessary to ensure consistent and uniform implementation of such policy by creating structured mechanisms, changing attitudes and training professionals.

#### Summary of Key Issues

- ◆ Attention to preventive health services, prevention of accidents and risk behaviors
- ◆ Reduction of poverty and coping with its effects
- ◆ Addressing the needs of youth who do not adjust to the education system (drop-outs as well as hidden drop-outs)
- ◆ Continued development of services for children with disabilities, with emphasis on mainstreaming
- ◆ Reducing the existing gaps between Jews and Arabs
- ◆ Extending coverage and improving services that preserve the best interests of the child, with emphasis on services for families
- ◆ Ensuring adequate rehabilitation while protecting the rights of minors who have committed an offense
- ◆ Creating structured mechanisms, changing attitudes, and training professionals to hear children's views and involve them in decisions that affect their lives

# Chapter 6

## Civil Rights and Freedoms



## Introduction

Certain civil and political rights – those also likely to be relevant to children – are prescribed in general international treaties ratified by Israel, or form a part of international customary law, and as such are universally accepted. (See the Universal Declaration on Human Rights, 1948; the International Convention on Civil and Political Rights, 1966; and the United Nations' Convention against Torture, 1984.) The Supreme Court and other courts have used these treaties to support their judgments; however, reference to them in the context of children's rights has not been widespread.

### Articles 7 and 8 of the Convention

#### 1. Registration of Children at Birth and Establishment of Identity

Under section 6 of the **Population Registry Law 1965**, there is a duty to notify a registration officer of the Ministry of the Interior of a birth which occurred in Israel. The notification shall be made within ten days of the birth by the institution at which the birth occurred, or by the parents of the child. The notification is made according to the form determined in the **Population Registry (Forms for Notification of Births and Deaths) Regulations 1972**. The form requires, *inter alia*, certain particulars concerning medical data about the newborn, the parents' occupations, the parents' number of years of education, and whether the mother's marriage is her first marriage. It is possible to contend that certain of these requirements constitute an unjustifiable invasion of privacy of parents and newborns, and as such are not binding. After registration, newborns are provided with an identity number. All registrations are kept in the "Register of Births", administered by the Ministry of the Interior.

Under section 9 of the **Population Registry Law**, when an infant is found abandoned, any person first obtaining possession of the infant will within ten days make notification to a registration officer of such particulars of registration of the infant as are known to him or her, and any such other information as he or she may have concerning the birth of the infant.

Under section 30 of the **Population Registry Law**, a person born in Israel and registered in the Population Registry may receive a birth certificate, as may other persons having a *prima facie* interest in the certificate.

Under section 11 of the **Population Registry Law**, residents of Israel who give birth to a child abroad are under a duty to notify the registration officer within thirty days of the birth and of the particulars of registration of the infant.

Section 13 of the **Population Registry Law** requires that residents of Israel who adopt a child abroad notify the registration officer within thirty days of the particulars of registration of the child. Under section 32 of the **Population Registry Law**, persons registering a marriage are permitted to ascertain whether the persons wishing to marry are adopted. This provision is necessary to prevent forbidden marriages, such as marriages between relatives.

Special arrangements found in the **Surrogates (Ratification of Agreement and Status of the Newborn) Law 1996** address the registration of children born as a result of a surrogacy agreement, and guarantee the legal status of such children.

Children of foreign workers or tourists born in the State of Israel are granted a "birth notice" and not a "birth certificate". This notice includes particulars of the parents and their passport number. The status of the children is determined according to their parents' status.

Under section 19e of the **Population Registry Law**, when the registration officer is convinced that a certain particular of registration is missing or that a particular of registration about the child provided by the parents is in contradiction with another registration entry found in the Ministry of the Interior, the officer may, after providing the parties with a suitable opportunity to be heard, complete or correct the registration. However, correction or completion of a registration entry relating to nationality, religion or personal status will not be made without the consent of the person involved in the matter, or by a declaratory judgment of the Family Court.

Representatives of the Association for Civil Rights in Israel recently presented data to the Knesset Committee for the Advancement of the Status of the Child, according to which hundreds of children, mostly Bedouin, who are not born within the confines of a medical institution, have not been registered in the Register of Residents. Similarly, a child born in East Jerusalem, one of whose parents is not an Israeli national, encounters difficulty obtaining an identity card, which prevents his obtaining medical insurance and realizing his right to an education. At the conclusion of the debate, the Committee advised carrying out a survey on the extent of this phenomenon, which would enable children to be located and cared for.

## 2. The Right to a Name

The right of a child to a name is regulated in the **Names Law 1956**, which ensures that a child will not be left without a name and surname.

Section 4 of the **Names Law** provides that a first name agreed upon by the parents will be given to a child shortly after birth. Parents are free to choose whatever name they wish and are not limited by a list of names or any other restriction. Where the parents are unable to reach agreement on a

name, each parent will give the child a first name. A father who is not married to the mother of his child may not give a first name to his newborn child. This right is reserved solely for the mother.

Parents may change their child's first name without the consent of the child or the approval of the court. This arrangement, which is likely to expose children to arbitrary name changes against their will, which are not in their best interest, is problematic. On the other hand, a guardian who is not a natural parent needs the approval of the court to change a child's first name. Children may not change their first name until they reach the age of 18, unless they obtain the consent of the court.

The **Names Law** provides other arrangements with regard to surnames. According to section 5, children born to parents who are married to each other receive their parents' surname upon birth. If the surnames of the parents differ, the child will receive the father's surname, unless the parents have agreed between themselves that the name to be given will be the mother's name or both the father's and the mother's surnames. If parents change their surname, they need the approval of the court for the respective change of surname of their minor child. A guardian who is not a natural parent also needs court approval for any change of surname of a child under his protection. Children may not change their surname before reaching the age of 18, unless they obtain the consent of the court.

Even if only one parent is requesting a change of name of a minor – for example, when the parents are divorced or separated – the court's approval is necessary. In a case involving an application from a mother who changed her surname after divorcing the minor's father, in which she requested changing the surname of the minor accordingly or adding her new surname to the minor's current surname, the Family Court in Jerusalem held that the child's wishes in this matter were of cardinal importance; it criticized the existing law, which fails to make it mandatory to hear the child's view in such a case. After having heard the child, the court decided *ex gratia* to dismiss the application, as it discovered that the child was indifferent to the name change, and that such a change would harm the child's well-being and his relationship with his father. It should be noted that the court relied on the spirit and the letter of the Convention (Family Court Case (Jerusalem) 19530/97 *Anonymous Plaintiff v. Anonymous Defendant* (12.4.98 not yet published)).

Children of parents who are unmarried at the time of birth will receive the mother's surname. However, when both parents are in agreement, the children will receive the father's surname or the surnames of both parents.

According to section 5 of the **Adoption of Children Law 1981**, an adopted minor receives his or her adoptive parents' surname, but will not receive a new first name unless the court determines otherwise in the adoption order. A minor adopted by the spouse of his or her birth parent will also carry the name of his other birth parent, unless the adoptive parent requests otherwise, or at the order of the court.

According to sections 8 and 9 of the **Names Law**, a person who has no surname or no first name, or whose names are not known, and who is a minor, will have names chosen for him or her by his or her parents or guardians. Children who have not had their names chosen for them, as stated, may have their name fixed for them by the Minister of the Interior. The Minister is required to notify the parents and guardians of the name, who may choose another name for the child. These provisions are most probably designed to ensure the well-being of children, since not having a name is likely to harm this well-being.

### 3. The Right to Acquire Nationality and Protection of Nationality

#### 3.1 Nationality by Birth

Under section 4 of the **Nationality Law 1952**, children born anywhere in the world to a father who is an Israeli national or a mother who is an Israeli national are entitled to Israeli nationality.

#### 3.2 Nationality by Birth and Domicile in Israel

Under section 4a of the **Nationality Law**, persons born after the establishment of the State of Israel in a place which was part of the State of Israel on the date of their birth, and who have never possessed any nationality, will become Israeli nationals if they request this between their 18<sup>th</sup> and their 21<sup>st</sup> birthdays, and if they were residents of Israel for five consecutive years immediately preceding the date of their application for nationality. The Minister of the Interior is authorized not to approve such an application, if the applicant has been convicted of an offense of State security or has served at least five years in prison for any other offense. In such a case, the applicant is likely to remain without any nationality.

#### 3.3 Nationality by Naturalization

Under the **Nationality Law**, if parents acquire nationality through naturalization, Israeli nationality is also granted to their minor children who are residents of Israel at that time. However, if only one parent becomes naturalized, and the other parent declares that he or she does not wish the children to become Israeli nationals – the children will not be granted Israeli nationality.

#### 3.4 Nationality at the Discretion of the Minister of the Interior

Under the **Nationality Law**, the Minister of the Interior may grant Israeli nationality to minors who are residents of Israel following the application of both parents, or following the application of either the mother or the father, if one of them has sole custody of the child.

#### 3.5 Nationality by Return

Immigrants (“*olim*”) to Israel under the **Law of Return 1950** are entitled to nationality. Children of parents who are entitled to nationality under the **Law of Return** are also granted nationality. According to a directive of the Ministry of the Interior, if one parent does not agree that his immigrant children be granted Israeli nationality, the children will be granted permanent resident

status (under the **Entry into Israel Law 1952**). This status entitles the children to all of the benefits given to immigrant children who acquire Israeli nationality under the **Law of Return**.

### 3.6 Nationality by Adoption

Under section 4b of the **Nationality Law**, adopted minors are Israeli nationals by virtue of their adoption from the date of their adoption, if they are adopted in Israel and if their adoptive father or mother are Israeli nationals, or if they are adopted abroad by Israeli nationals.

## 4. Protection of Children's Nationality

Minors holding Israeli nationality may not renounce this nationality. Adults who are not residents of Israel and who have renounced their Israeli nationality may also renounce the nationality of their children who are still under the age of 16, with the approval of the Minister of the Interior. The Minister may decide that the Israeli nationality of the children will remain valid, despite revocation of the parents' nationality, if he believes there are special grounds justifying such a decision. Children whose nationality has been revoked by their parents may again invoke Israeli nationality by applying to the Minister of the Interior between their 18<sup>th</sup> and their 22<sup>nd</sup> birthdays. In the case of children over the age of 16, their written consent to revoke their nationality is necessary, and their parents' application to revoke their nationality is insufficient. These arrangements are in accord with the provisions of article 8 of the Convention, whereby States should provide children with adequate means to protect the component parts of their identity and to re-establish this identity in appropriate cases. While these arrangements do not completely prevent children from becoming stateless, it stands to reason that the Minister of the Interior should bear this possibility in mind when exercising his discretion under the law.

## 5. The Right to Know Parents' Identity

The right of children to know the identity of their parents is recognized in Israeli case law as a basic right deriving from the rights of children under the provisions of personal law and their rights to property (see Civil Appeal 5942/92 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 48(3) 857); from their right to dignity (prescribed in the **Basic Law: Human Dignity and Liberty**, which has the status of constitutional legislation); and from the UN Convention on the Rights of the Child. The Supreme Court wrote the following in this regard:

“The dignity of man trumpets free will and choice. ...a man who wishes to know who his father is, who his mother is, where he comes from – who shouts, ‘who am I?’ – his dignity compels us, all of us, to extend a helping hand... Indeed, the dignity of any man, whoever he may be, entitles him to know who gave birth to him, who fathered him. We must also remember the International Convention of 1989, the Convention on the Rights of the Child,

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to which Israel became a party in 1991. According to article 7 of the Convention “[a child] will have the right from birth...as far possible...to know...his or her parents” (Civil Appeal 3077/90 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(2) 578, p. 593).

However, Israeli courts have been forced to grapple with the difficulties arising from the application of religious law in several areas of family and personal law, which at times prevents an individual from realizing his right to know his parents’ identity (as in the case of Moslem *shari’a*), or infringes on the rights of children whose father is not the husband of their mother (as in the case of Jewish *halacha*). The Supreme Court has struck a balance between the right to know the identity of parents and considerations that conflict with this right, based consistently on the principle of the best interests of the child.

Thus, for example, if there is doubt over the identity of a father, the court usually refers the defendant in the paternity suit for a DNA screening, which can confirm or refute paternity with a high degree of certainty. Although the court is not authorized to compel a defendant to be tested, his refusal to do so is persuasive evidence that he is indeed the father (see Civil Appeal *Sharon v. Levi*, P.D. 35(1) 579). In a landmark case, the court came to the aid of a Moslem minor girl, whom *shari’a* denied the right to paternity proceedings, as her mother was not married to the person alleged to be her father. The Supreme Court ruled that in addition to the paternity, that is a matter of personal status, and that is governed by religious law, there is another paternity, which may be termed "civil paternity", and which the court will examine by disregarding religious law. In this case, the court was assisted by article 7 of the Convention, which addresses the right of a child to know his parents (Civil Appeal 3077/90 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(2) 578).

However, there are cases in which the court prohibits testing that would reveal the truth regarding the identity of a child’s father. These are cases in which a husband alleges that he is not the father of the child to whom his wife has given birth. According to Jewish *halacha*, the consequences for the child of verifying such an allegation are liable to be severe, as the child could be declared a "bastard", and as such would be prohibited from ever marrying a Jew. In cases in which disclosing the true identity of a child’s father is liable to cause the child harm, the Supreme Court has held that a paternity test ought not to be ordered (see Civil Appeal 1354/92 *Attorney General v. Anonymous Defendant*, P.D. 48(1) 748). For example, in one case, the Jerusalem Family Court refused to order a paternity test on the supposition that even casting doubt on the father’s paternity would severely harm the child.

Another case in which a different interest prevails over the right of a child to know the identity of his biological parents is that of fertilization by means of donated sperm or ova. In Israel, persons donating sperm or ova are guaranteed anonymity, and children born from such donations are not entitled to know the identity of their biological fathers or mothers. The anonymity guaranteed to

donors promotes donation, and serves the parents who actually raise the offspring of the donation. However, the best interest of these children, who are prohibited from ever knowing the truth of their origin – including information that may have medical repercussions (for example, concerning genetic makeup) – is not served.

Adopted children may receive information about the identity of their parents after they have reached the age of 18. Adopted children must apply to a child protection officer to inspect the register in which information about their biological parents is recorded. If their application is rejected, they may petition the court, which will decide the matter after having obtained a report from the welfare officer.

Similarly, children born as a consequence of a surrogacy agreement may also apply to review the register in which the details of their birth are recorded.

## 6. The Right to Parental Care

Under section 14 of the **Guardianship and Legal Capacity Law 1962**, parents are the natural guardians of their children. This means that children are entitled to be cared for by their parents, and parents are entitled to care for their children. Denial or restriction of guardianship is made only in those cases in which parents are unable to fulfill their obligations, and with the approval of the court.

Children whose right to be cared for by parents is not exercised due to a refusal on the part of the parents to care for them are likely to be awarded compensation for damage incurred due to neglect. Such was the ruling of the Supreme Court in a case, which was evidently groundbreaking on a world scale. In the case in question, a mother committed suicide when her children were very young, and their father cut off all ties with them because of an agreement he had made with his new wife. The children were raised in institutions and foster homes, and were emotionally handicapped by their father's cruelty and abandonment. The court ruled that by neglecting his children, the father was in breach, *inter alia*, of his duty to his children as stipulated by the **Guardianship and Legal Capacity Law 1962**, and hence had committed the civil wrong of violating a statutory obligation.

## Article 13 of the Convention

### 7. Freedom of Expression

Although freedom of expression is not anchored in a specific statute, it is recognized by Israeli law as a fundamental right. Just as the freedom of expression of adults is recognized, so too is the freedom of expression of children. Nevertheless, freedom of expression is not an absolute right. Limitations on the freedom of expression of adults also apply to children. These limitations are determined, *inter alia*, in the **Defamation Law 1965** and in those provisions of the **Penal Law 1977** that prohibit incitement to racism, soliciting an individual to commit an offence, and the like (see also Chapter 2).

#### 7.1 Freedom of Expression in the Education System

It is the policy of the Ministry of Education, as expressed in the circulars of the director-general of the ministry, to encourage political education, social awareness, involvement in current events, and understanding of and involvement in State affairs. Schools allow the expression of the range of opinions and perspectives abroad in society, as long as these do not contravene the law. The point of this is not to encourage affiliation with any one political party, but to expose pupils to a diversity of ideas.

Schools allow those supporting and opposing a political position to express their opinion, regardless of whether the position is supported by the government or accepted by the majority of the public. Students are not required to renounce their beliefs or views, even if these are repugnant. As part of this policy, the ministry encourages meetings between pupils and persons engaged in public and social affairs. Such meetings, which schools take part in organizing, are held both in and outside the bounds of the school.

The Ministry of Education encourages students to become involved in publishing student newspapers, although supervises their content. For example, the Ministry of Education initiated an electronic magazine, "*Itonnoar*", which is written and produced by youth and broadcast on Teletext. The Ministry of Education has published bylaws, including a code of professional ethics, for the members of editorial boards of student newspapers.

## Article 14 of the Convention

### 8. Freedom of Religion and Conscience

Freedom of religion and conscience are anchored in the law of the State of Israel. According to section 83 of the King's Order-in-Council for Palestine 1923, a statute enacted during the British Mandate that is still valid:

“Every person in Israel shall enjoy complete freedom of conscience and may perform their form of worship without hindrance, provided that public order and morals are preserved. Every religious group will enjoy independence in internal affairs, subject to the ordinances and orders issued by the government.”

The Supreme Court has added that "it is a matter of principle in Israel – originating in the rule of law (in its material sense) and in the case law issued by the courts – that freedom of religion and freedom from religion be preserved for nationals and residents of Israel” ((Petition to the) High Court of Justice 3872/93 *Mital Ltd. v. Prime Minister and Minister of Religion*, P.D. 47(5) 485).

Freedom of religion involves providing parents with the opportunity to educate their children in accordance with the religion to which they adhere, or to refrain from providing a religious education. In order to exercise this freedom, the law allows parents to select from among State schools, State religious schools, and private schools. (See section 10 of the **Compulsory Education Law 1949**.)

If parents are unable to reach agreement on the religious education of their children, the court will decide the issue by balancing the various pertinent interests. The Supreme Court's approach is that the desire to educate children according to their religious identity is only one of many things that must be considered when deciding matters of custody. In one case the Supreme Court dismissed an application by a mother to transfer her children from the custody of her former husband into her custody, so that she could bring them to Sweden where they were born, and where they would receive an education commensurate with their Christian religion. The court ruled that the theoretical possibility of a crisis concerning their religious identity was insufficient grounds for removing them from the custody of their father, who cared for them devotedly (Civil Appeal 90/86 *Martinson v. Buzo*, P.D. 40(3) 503). In another case in which a mother wished to expose her children to the doctrine of a sect that she had joined after her marriage, while the father wished to educate them according to the tenets of the Jewish religion, then-Chief Justice Meir Shamgar determined that this was a conflict between mother's right to freedom of religion, and the children's right to freedom of religion, and that the perception of children's rights as being separate led to the conclusion that the children's right to be educated as Jews should prevail over the mother's right to educate them

according to another religion. In the words of Chief Justice Shamgar, "The mother's right to freedom of religion is firmly established, and includes her right to give her children a religious education. However, her right bows to that of her children". The other justices who heard this case had reservations about the primacy Chief Justice Shamgar gave to the rights of the child as a means of resolving disputes concerning children. Nevertheless, they reached the same conclusion regarding the case – albeit by relying on the more traditional doctrine of the best interests of the child (Civil Appeal 2266/93 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 49(1) 231). There is no law or case law determining the rights of a minor who wishes to become more religiously observant, or to leave a religiously observant lifestyle, without parental consent.

## 8.1 Freedom to Convert

The religious conversion of children is regulated in section 13 of the **Guardianship and Legal Capacity Law 1962**. According to section 13(a) of that law, children who have not yet reached the age of ten may be converted if both of their parents agree to conversion, or if the court approves conversion upon the application of one of the parents. According to section 13(b), the religious conversion of children who have reached ten years of age requires both an application by their parents and the consent of the children. The conversion of children contrary to the provisions of this section is legally invalid. The Supreme Court explained the reasoning behind these provisions in *Anonymous Plaintiff (Minor) v. Anonymous Defendant*, P.D. 49(1) 221, p. 258, as follows:

“The purpose of these provisions is to protect the interests of the child. Freedom of religion grants parents complete freedom to choose their child's first religion. However, after having done so, the complete choice is no longer in their hands, and any change of religion also incurs some infringement of the legitimate interests of the child. It is possible that the child may still be unaware of this interest and may not yet be able to form, exercise or protect his interest; nevertheless, it still exists. Therefore the State is required to intervene, in the form of the protection of the court.”

## 8.2 Freedom of Religion in the Education System

The primary organizing principle of the Israeli education system is a religious one. The system comprises a significant number of fairly autonomous approaches, most of which are supported by State funds. While based on a recognition of religious pluralism, and not lacking in advantages, this arrangement may also foster difficulties – such as unequal or insufficient funding for politically weak groups, religious separatism, and the perpetuation of gaps among population groups – which are liable to hinder the provision of equal educational opportunities.

A problem deriving from a difference between the religious beliefs of children and the religious beliefs of their parents may arise when the children find themselves, by virtue of their parents' choice, at an educational institution affiliated with a faith or belief system to which they do not

adhere. In one case, the Supreme Court debated the refusal of a private Christian school to allow a female Moslem student to attend school wearing a veil. The court decided not to intervene in the school's policy, as the school was a private one affiliated with a religious group, whose considerations were based on its particular nature and essence. Chief Justice Aharon Barak commented that were the school affiliated with the State system, it would have been appropriate to recognize the student's right to wear the veil as her religion commands her, within the ambit of the freedom granted every student to express his religious beliefs through his mode of dress, since freedom of religion takes precedence over rules of uniformity. Another justice who heard the case, Eliezer Goldberg, did not rule on the implications of freedom of religion for State schools ((Petition to the) High Court of Justice 4298/93 *Jabarin v. Minister of Education and Culture*, P.D. 48(5) 199).

Religious Jewish males customarily cover their heads. According to a directive of the Ministry of Education, a Jewish student may not be prevented from covering his head, even if he attends a non-religious State school. Conversely, the bylaws of some non-religious State schools require students to cover their heads during certain classes (such as bible class). It could be claimed that this obliges students to perform a religious practice, and that as such it violates their right to freedom from religion.

## Article 15 of the Convention

### 9. Freedom of Association and Peaceful Assembly

Freedom of assembly is recognized in Israel as a basic human right. In principle, this freedom also applies to children. Similarly, restrictions on the assembly of adults also apply to children. For example, under section 147 of the **Penal Law 1977**, a person who has reached the age of 16 and who is a member of a proscribed organization may be sentenced to one year in prison.

However, in reality, the law makes it difficult for children to exercise this right. The **Amutot (Non-profit Societies) Law 1980** restricts the right of children to belong to an association. (Under section 15 of this law, any adult is competent to be a member of an association.) Similarly, the **Companies' Law 1999** grants every individual the right to establish a company.

In reality, aspects of freedom of assembly, such as establishing a company, are liable to be proscribed for children by the **Guardianship and Legal Capacity Law 1962**, which limits their capacity to perform certain legal acts – even if the specific law governing an aspect of freedom of assembly itself imposes no restrictions. Under the **Guardianship and Legal Capacity Law 1962**, a minor performing a legal act generally requires the consent of his representative (parent or guardian). A minor's representative has the authority to consent to any legal act performed by the

minor, or to revoke the act within one month of the date on which the representative was notified of it. This does not hold for “legal actions performed by a minor, which minors his age would perform”, even when the representative does not agree to them, unless they cause real harm to children. The answer to the question of what acts “would be performed by a minor” of a certain age varies with cultural and social developments. It is doubtful whether assembly for economic gain is at present an activity “that minors would perform”. Thus, those few children who would wish to engage in such activity, including those who are sufficiently mature to do so, are liable to be put at a disadvantage by the paternalistic arrangement in the law.

### 9.1 Political Assembly

Under section 2 of the **Political Parties Law 1992**, only adult Israeli nationals may establish a political party. However, under section 20 of the law, an Israeli national who has reached the age of 17 and is a resident of Israel may join a political party.

### 9.2 Assembly in Student and Youth Councils

The Ministry of Education encourages the establishment of student councils, which are elected bodies of students that represent the entire student body before the school administration, the local school board and the Ministry of Education. Student council members are elected democratically, with adequate representation for every age group (see the director-general's circular nt/1(a) of September 1, 1998.) A student council member also serves on the committee to promote the status of children established in each local authority under section 149G of the **Municipalities Ordinance**, as amended in 2000. The **Pupils' Rights Law 2000** stipulates that a school must encourage the establishment of a student council, and refrain from any action that would inhibit its establishment.

Similarly, youth movements that represent various political movements and sectors are active in Israel (see Chapter 9).

### 9.3 Freedom of Protest and Demonstration

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

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

## Article 16 of the Convention

### 10. The Right to Dignity, Privacy and Reputation

According to sections 2 and 4 of the **Basic Law: Human Dignity and Liberty**, all persons, including all children, are entitled not to suffer any violation of their life, body and dignity; moreover, they are entitled to protection of their life, body and dignity. Section 7 of the **Basic Law: Human Dignity and Liberty** includes a number of provisions on the right to privacy, derived from the right to dignity. The right to privacy is set forth in the **Protection of Privacy Law 1981**. Protection of the right to a reputation, which also derives from the right to dignity, is set forth in the **Defamation Law 1965**.

Ministry of Education directives include numerous provisions to protect students' dignity, including their privacy. For example, the directives prohibit anyone in the school from conducting a bodily search of a student to discover drug use, even if students and parents have given their consent to such searches. Another directive of the Ministry of Education prohibits an educational institution from punishing a student for any act or omission of his parents. This is directed at parents who fail to make all of the payments requested by the institution. A student may not be removed from a classroom or suspended from school as a result of non-payment, nor can his grades or certificates be withheld for non-payment. In fact, another directive stipulates that matters of payment will be settled directly with parents, without involving students. A student's dignity will not be violated due to a dispute with his parents over payment.

#### 10.1 The Right to Privacy in the Narrow Sense

As noted, the right to privacy and confidentiality are anchored in section 7 of the **Basic Law: Human Dignity and Liberty** and in the **Protection of Privacy Law 1981**. In principle, this right is also granted to children. Invasion of privacy is a civil wrong for which the law provides relief.

In addition, the law includes arrangements concerning children specifically, which are reflected in a diversity of prohibitions against publicizing information or details that will reveal a child's identity. A number of statutes prohibit the publication of information about minors.

Juvenile court proceedings are conducted *in camera*. Publication of a hearing conducted *in camera*, including a photograph of the courtroom, must be authorized by the court. Sections 70 and 70(c) of the **Courts Law [Consolidated Version]1984** prohibit publication of any detail whatsoever that is liable to lead to the identification of minor defendants in a criminal trial. This provision applies to courts of all instances in which minors may be tried – not only juvenile court – and its application is not restricted to cases which are heard *in camera*.

The **Youth (Care and Supervision) Law 1960** protects minors from the publication of details that are likely to impute an offense or moral corruption to them or their relatives, or to impute a minor's having been the victim of an offense. Furthermore, section 13 of the **Crime Register and Rehabilitation of Offenders Law 1981** restricts the transmission of information about offenses committed by minors who have not yet reached the age of 14, and misdemeanors (offenses punishable by a maximum of three years' imprisonment) committed by minors who have not yet reached the age of 16. The section also restricts the transmission of information about a probation order, an order on recognizance to abstain from an offense, and an order to perform public works without a conviction. The law allows such information to be delivered to certain authorities only, which require it to fulfill their duties – *inter alia*, the courts, the attorney general, military prosecutors, and the Review Committee into the Criminal Record of Soldiers. Information on a criminal investigation against a minor that does not lead to an indictment will not remain with the police in a computerized form and will not be transferred to any external authority.

Prohibited publications generally constitute a criminal offense, as determined in the statute in which the prohibition is included. Section 14 of the **Crime Register and Rehabilitation of Offenders Law 1981**, which prescribes particularly short limitation periods for convictions of minors, prevents information about the conviction from being transmitted at the termination of the limitation period.

Family Court has addressed the conflict between a child's right to privacy and the right of the public to know and freedom of the press. In one case, potential parents and a surrogate mother requested permission to reveal their identity and that of their children and to recount their experiences in a television film. Under section 19 of the **Surrogates (Ratification of Agreement and Status of the Newborn) Law 1996**, the name and identity of a surrogate mother, potential parents, and children may not be published without the consent of the court. In this case, the court refused to permit the publication, ruling that the right of the children to privacy prevailed over the freedom of expression of the parents and the makers of the film. In so ruling, the court relied on article 16 of the UN Convention on the Rights of the Child, which provides that "no child shall be subjected to arbitrary or unlawful interference with his or her privacy" (Family Court Case (Tel Aviv) 4570/98 *Anonymous Plaintiff v. Attorney General* (not yet published)).

According to the **Protection of Genetic Information Law 1998**, one of whose main objectives is to protect genetic information and the right of persons who have undergone genetic testing to privacy with regard thereto, genetic testing and DNA sampling on a minor age 16 and over requires the written consent of the minor and his representative, provided the minor has received and understood a complete explanation about the test; in the case of a younger minor, the written consent of his representative is required. The law restricts genetic sampling on a minor to cases in which the minor will not suffer any physical or emotional harm. Genetic testing of a minor for another person who is not a relative requires the approval of the court. Results of tests conducted on a minor may not be revealed to his representative unless they detect the existence of a disease or a disease-bearing gene,

or unless reasonable medical opinion determines that intervention or treatment could prevent or delay the outbreak of disease in the minor or a relative, or could prevent a decline in the minor's condition, or could provide essential assistance to another person without causing the minor any physical or emotional harm. It has been further proposed that in research that includes genetic testing of minors, a minor who has reached the age of 16 will be instructed not to reveal details of his identity. A person age 18 and over may revoke, restrict or alter the consent he gave to participating in such research when he was a minor.

## 10.2 Privacy in the Narrow Sense in the Education System

Large amounts of information are collected on children in the education system. This information, including personal details, grades, medical records, and a psychological profile, is compiled on a student card, which follows the student throughout his stay in the education system. According to the directives of the Ministry of Education, no student card or information therein may be brought to the attention of authorities outside the education system, without the consent of the student's parent or the student himself (after he has reached the age of 18).

According to Ministry of Education directives, parents must be notified of any request by a student, on his own initiative, to meet with the school psychologist, unless the student expressly states that he or she is not interested in such notification. If more than two meetings take place with the psychologist, the parents must be notified, even in defiance of the student's wishes. (See Director-General's Circular na/1 of September 2, 1990.) Special directives deal with psychological information about students and oblige schools to keep all matters relating to psychological reports confidential. Moreover, a student's parents and the principal must be informed of any sensitive or serious case that reaches the psychologist or school counselor, such as a minor's contravention of the law, engaging in sexual relations, or pregnancy. It is desirable, but not mandatory, that the information be transmitted with the student's consent. (See Director-General's Circular sn/9 of May 1, 1990.)

According to a general directive of the Ministry of Education, the right to receive information about a student is reserved for parents and guardians; anyone else desiring information about a student must obtain the consent of his parent or guardian. However, this general directive is apparently subject to another, specific directive that determines that information about students may be transmitted to the staff of the Ministry of Education, the local authority, or government agencies who require it in order to do their jobs. This directive does not require obtaining the consent of a student or his guardian to transmit the material.

The legality of these directives, which violate the constitutional right to privacy prescribed **in the Basic Law: Human Dignity and Liberty, and the provisions of the Protection of Privacy Law 1981**, has not yet been reviewed by the courts. It seems possible that in certain circumstances these

directives do not even conform with the obligation to preserve confidentiality that is imposed on psychologists by section 7 of the **Psychologists' Law 1977**. In fact, the directives are liable to deter students from seeking counseling or treatment.

Nonetheless, Ministry of Education directives are strict about a student's right to privacy in other contexts. For example, the Ministry of Education sponsors a "hotline" for students who wish to discuss a problem, clarify their rights, or receive assistance. Hotline staff are obligated to maintain confidentiality and privacy; they may transmit information about a caller only with the caller's consent. (See Director-General's Circular nz/1 of September, 1996.) According to another directive, teachers, principals or other staff conducting research on students must receive the consent of the students' parents and the Ministry of Education. Publication of such research must not reveal the students' identity. The recently ratified **Pupils' Rights Law 2000** stipulates that anyone who has received information about a student pursuant to the job he is legally charged to perform must keep this information secret and may not reveal it except for the express purpose of performing his job.

According to section 368d of the **Penal Law 1977**, the staff of an educational institution attended by minors – who as a consequence of their position have reasonable grounds to believe that an offense has been committed against a minor by a person responsible for him – are bound to report any such incident as soon as possible to a child protection officer or the police. Breach of such an obligation is a criminal offense (see Chapter 10).

The employment of a private investigation company within school grounds is absolutely prohibited, regardless of whether the investigation concerns theft, drugs or other unusual phenomena involving students. (See Director-General's Circular ng/10 of June 1, 1993.)

The **Protection of Privacy Law 1981** determines special instructions regarding the information in computer data bases. The law provides, *inter alia*, that every person has the right to view information about himself and to amend any erroneous information; this information must be kept confidential. Much information about students is indeed found in data bases. Instructions to protect the privacy of an individual about whom information may be found in a computer data base also applies to students.

### 10.3 The Right to Privacy in the Broad Sense

The right to privacy in the broad sense, derived from the right to dignity, refers to the right of an individual to be "left in peace" and to conduct his intimate affairs and private life without interference. Granting children privacy in this sense is likely to conflict with the role of parents as natural guardians and with their right to nurture and educate their children in the manner they see fit, as well as with the educational function of school. Such conflicts are liable to arise in any matter concerning children's lives. We shall provide examples of their complexity in the contexts of medical treatment provided to children.

The law allows medical treatment, testing and other intervention for minors without the consent of their parents in only a limited number of cases, including AIDS/HIV testing (the **Detection of the AIDS Virus in Minors Law 1999**); performing an abortion on a female minor (section 316 of the Penal Law 1977); and mental health care or hospitalization (section 4B of the **Treatment of Mentally Ill Law 1991**).

The Supreme Court addressed the case of a youth age 17 and seven months who had become ill with cancer who refused medical treatment (chemotherapy) and was admitted to a closed psychiatric ward to forcibly receive treatment. The youth petitioned the Supreme Court with a request not to receive treatment against his will. However, the case was settled without a ruling, which would have set a precedent ((Petition to the) High Court of Justice 2098/91 *Anonymous Plaintiff v. Child Protection Officer, Jerusalem Social Welfare Department*, P.D. 48(3) 217).

Many directives have been issued in the education system that infringe upon a student's privacy in the broad sense. For example, students are forbidden to smoke at school, yet teachers are permitted to smoke in a designated smoking corner. Most schools publish internal bylaws through director-general circulars, which include restrictions on students' dress and physical appearance. A typical example is that given by the regulations of a secondary school in Haifa: On Fridays, when students are free to dress as they choose, they are "forbidden to come to school in shorts (shorter than Bermuda length), torn pants, undershirts, bikini tops, torn shirts, clogs or slippers". The constitutionality and legality of some of the provisions in these directives and bylaws have yet to be reviewed by the courts.

## Article 17 of the Convention

### 11. Access to Appropriate Information: Regulating Television, Radio, and Film

Under the **Broadcast Authority Law 1965**, the promotion of the goals of State education as prescribed in the **State Education Law 1953** was included among the functions of the Broadcast Authority, which is responsible for public broadcasting in Israel. The rules of the Broadcast Authority have the status of administrative guidelines and are designed to guarantee ethical broadcasting. Under the **Second Television and Radio Authority Law 1990**, the Second Television and Radio Authority, which is responsible for commercial broadcasting, is assigned the task of broadcasting educational programs.

The law includes a number of arrangements to protect children exposed to the mass media.

Educational Television was granted a license, without a tender, for television broadcasting of pedagogic-educational subjects only, at viewing times that are appropriate for its target population. Educational Television is allocated broadcasting time on both Channel One, operated by the Broadcast Authority, and on Channel Two, operated by the Second Television and Radio Authority. Under **Second Television and Radio Authority (Television Program Broadcasting by Licensee) Regulations 1992**, companies licensed to broadcast on Channel Two must give appropriate expression to the areas of interest of defined population groups, including children, and to devote 15% of their air time to children and youth at appropriate viewing hours. Licensees are required to clearly state in all program listings if viewing is restricted to adults; such programs may not be aired before 22:00. Licensees must ensure that programs designed for children under the age of seven are dubbed in Hebrew.

According to the **Cinematography Ordinance 1927**, the Film Censorship Board is authorized to determine the minimum viewing age for films likely to harm children, such as those with explicit depictions of violence or sex. At present, the Knesset is debating several bills to classify television programs by the age of the target audience and to censor the content of advertisements broadcast during child and family viewing times.

Existing legislation aims to protect minors from advertising that is liable to harm their health or welfare. The **Consumer Protection (Advertising Aimed at Minors) Regulations 1991** set the following fundamental principles for advertisements directed at minors: An advertisement must be adapted for the level of knowledge, understanding and maturity of its target audience, and must transmit information precisely, truthfully and in clear language; it must accord with those social values generally accepted as being positive, in the knowledge that minors are likely to be influenced by it to do things that may adversely affect their health or welfare; it must not encourage minors to do dangerous things; it must refrain from exploiting the imagination and lack of experience typical of minors; it must not use violence, nudity or sexual innuendo. In addition, advertising is prohibited in schools, save with the permission of the director-general of the Ministry of Education or a person who has been authorized by him to give such permission. The law does not define what constitutes “advertising to minors” or how to protect minors from exposure to advertisements not directed at them; it seems that this law is not widely enforced. Public television channels control the advertisements broadcast during times when minors are likely to watch television.

### 11.1 Protection against Publications about Children in the Media

Few laws protect children against harmful publicity. The main provision in this matter is section 24 of the **Youth (Care and Supervision) Law 1960**, which states the following:

The following are liable to imprisonment for a term of one year:

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- (1) A person who publishes the name of a minor or anything else likely to lead to a minor's identification or hint at his identity, in a manner or under circumstances that may reveal the following:
  - (a) that the minor has been brought before a court;
  - (b) that a child protection officer acted or is acting in respect of the minor under this law;
  - (c) that the minor attempted to commit suicide or committed suicide;
  - (d) anything that is likely to impute a minor in an offense or moral corruption;
  - (e) that the minor is a relative of a person to whom an offense or moral corruption is imputed;
  - (f) that a sexual offense, violent offense, or abuse has been committed against the minor, or that the person responsible for the minor has committed an offense against him...;
  - (g) any matter that might link a minor to an AIDS/HIV test;
  - (h) any matter that might link a minor to a psychiatric test, treatment or hospitalization.
- (2) A person who publishes a nude picture of a minor age nine or over which may lead to the identification of the minor ...
  - (a) under this section, it is immaterial whether the minor or his representative consented to the publication.

Under section 25 of this law, the prohibition does not apply to a publication permitted by the court or to publications made by the police as part of a felony investigation.

The instructions of the law are inadequate regarding the publication of nude photographs of children, as children of all ages are liable to suffer from the publication of a nude photograph of them, if not at the time of publication, then years afterward. Regarding the prohibition against publicizing the name of a child who has been involved in an offense, the need to protect the minor – even when he is the offender – from a stigma that may harm him in the future should prevail over the public interest in warning against notorious offenders.

Section 34 of the **Adoption of Children Law 1981** prohibits disclosure or publication of the name of an adoptive parent or an adopted child, or of his or her parent, or of any other matter likely to lead to their identification, without the court's consent; violation of this prohibition is a criminal offense.

## 11.2 The Right to Information from the Education System

The Israeli education system has recognized the right of students and parents to receive current information on students' functioning, rights and obligations at school. The Ministry of Education and other agencies disseminate information on students' rights and obligations at educational institutions.

## Article 37(a) of the Convention

### 12. Prohibition against Torture and Cruel Treatment

General constitutional protection against torture and cruel, inhumane and degrading treatment and punishment, whether of adults or children, is grounded in the **Basic Law: Human Dignity and Liberty**, section 2 of which states that "there may be no violation of the life, body or dignity of any person as such", and section 4 of which states that "every person is entitled to protection of his life, body and dignity". On the basis of these sections, the Supreme Court has prohibited, *inter alia*, the use of methods of interrogation that cause physical discomfort, and so much the more so actual torture against people suspected of a breach of security ((Petition to the) High Court of Justice 5100/94 *Public Committee against Torture in Israel v. Government of Israel* (6.9.99 not yet published)). Israel ratified the 1984 International Convention Against Torture and Cruel, Inhumane and Degrading Treatment in 1991.

In addition, Israeli law provides a range of protections for children against cruelty on the part of State authorities and on the part of those persons responsible for them (e.g., parents, teachers, caretakers, etc.).

Assault, abuse and neglect of a minor are defined as separate offenses, with maximum penalties that are more severe than those for parallel offenses perpetrated against adults (see section 7(1) of the **Penal Law 1977**). Israeli case law, particularly that of the Supreme Court, regards cases of abuse and assault of children with the gravest severity (see for example Criminal Appeal 1121/96 *Anonymous Plaintiff v. State of Israel*, P.D. 50(3) 353; Criminal Appeal 1351/92 *State of Israel v. Anonymous Defendant*, P.D. 46(3) 631). (Regarding the prohibition against the sale of brass knuckles and knives to minors with the aim of protecting bodily integrity, see section 185A of the **Penal Law 1977**, amended in 2000.)

#### 12.1 Corporal Punishment of Children

Until recently, section 24(7) of the **Civil Wrongs Ordinance [New Version]** – an section originally enacted in 1944 – provided that in an action for assault, the defendant would have a defense if "the defendant was the parent, guardian or teacher of the plaintiff, or had a relationship with the plaintiff similar to that of a parent, guardian or teacher, and tormented the plaintiff to the extent reasonably necessary to correct his ways". This provision endured much criticism. For instance, the Minister of Justice stated that "it is an archaic defense which no longer reflects modern attitudes concerning children in general and the State of Israel's obligations under the Convention on the Rights of the Child, in particular" (Knesset debate dated March 18, 1998). The Knesset did in fact recently repeal this provision.

### *Civil Rights and Freedoms*

In the past, the approach reflected in the **Civil Wrongs Ordinance** was also reflected in the case law concerning criminal offenses, which stated that parents are entitled to employ corporal punishment to educate their children.

This approach has changed. The Supreme Court has ruled, regarding teachers, that the old case law "no longer conforms to the social norms that we find acceptable" (Criminal Appeal 5224/97 *State of Israel v. Sde Or* (20.7.99 not yet published)). In another case, the Supreme Court held:

"Physical violence against a student is prohibited. Flogging, beating and ear pulling have no place in school. A classroom is a place of instruction, not an arena of violence. A student's body and soul are not ownerless. His dignity as a person is violated if his teachers exercise physical violence against him ...Ear pulling is not sanctioned as a means of encouraging a student to remember. Striking his hand with a ruler is not a sanctioned means of warning" (Criminal Appeal 4405/94 *State of Israel v. Abd al-Gani*, P.D. 48(5) 191, pp. 192-193).

In ruling in the Sde Or case, the Supreme Court – relying in part on the UN Convention on the Rights of the Child – overturned a lower court's acquittal in a charge of assault against a kindergarten teacher who beat the toddlers in her care. In section 7 of its ruling, the court stated:

"The pedagogic approach that promotes the use of force for educational purposes is not appropriate...to the norms of our society, particularly against such young children... As such, the severity of the physical punishment imposed against the child is totally irrelevant. As a rule, corporal punishment is not a legitimate method to be used by preschool or other teachers or other staff in the education system. An erroneous approach in this context endangers the safety of children and is liable to taint the fundamental values of our society: human dignity and bodily integrity."

It was further held in the Sde Or ruling that the use of corporal punishment against preschool children does not meet the requirement of what is "reasonably necessary to correct [the child's] ways", as stipulated in section 24(7) of the **Civil Wrongs Ordinance**.

In another ruling, the Supreme Court determined that the criminal sanction against corporal punishment also applied to parents (Criminal Appeal 4596/98 *Anonymous Plaintiff v. State of Israel*, P.D. 54(1) 145). The ruling stated, *inter alia*:

"Not only does painful or degrading punishment as a means of education fail to truly achieve its objectives and cause a child physical and emotional distress, but it also violates the fundamental right of the children of our society to dignity and to integrity of body and mind. A court examining the normative aspect of a parent's behavior toward his child must weigh the prevailing legal approach to the status and rights of the child. Such is the case in many

countries and in Israel following the passage of the **Basic Law: Human Dignity and Liberty** and Israel's accession to the UN Convention on the Rights of the Child. At present it may be stated that in a society such as ours a child is autonomous, with rights and interests of his own; society is obligated to protect him and his rights."

The Ministry of Education imposes an absolute ban on the use of any form of corporal punishment as a means of discipline. The same holds for verbal violence – that is, injurious or humiliating remarks. These directives are enforced through the criminal justice system and through disciplinary measures. The prohibition against the use of corporal punishment was recently given legal sanction by the **Pupils' Rights Law 2000**, which determines that the implementation of disciplinary measures by a school in a manner that respects human dignity is the students' right. In this context, the law specifically prohibits the use of corporal or humiliating punishment.

## 12.2 Remedies for Parental Cruelty

In a groundbreaking ruling, the Israeli Supreme Court held that children were entitled to damages from a parent for emotional anguish suffered in consequence of the parent's extreme neglect and cruelty (Civil Appeal 2034/98 *Amin v. Amin* (4.10.99 not yet published)).

## 12.3 The Obligation to Report

Chapter 10, section 5(1) of the **Penal Law 1977** obliges every individual to report to the authorities a suspicion that a child is suffering from neglect, abandonment, assault or physical, mental or sexual abuse by his guardian. This obligation – the breach of which is a criminal offense – is imposed on everyone, regardless of whether he has any tie to the child in question. Even more severe maximum penalties are imposed for breach of this obligation on physicians, nurses, people who work in the education system, social workers, welfare service employees, police officers, psychologists, criminologists, paramedical professionals, and staff of an institute for children (see Chapter 10).

## 13. Minors in Need of Protection

Under the **Youth (Care and Supervision) Law 1960**, children whose physical or emotional well-being is impaired or liable to be impaired due to abuse, humiliation or any other reason are considered in need of protection – that is, as needing supervision and care. When the relevant authorities receive information about a child in need of protection, they are authorized to enter any place in which the child may be found and make inquiries about his condition. In an emergency, child protection officers are authorized to act as they see fit to assist the child. In other cases, the child protection officer must apply to juvenile court before exercising his authority. The court, if it finds that the minor is in need of protection, is authorized to give any instruction it deems necessary to care for and safeguard him. When appropriate, the court may order the removal of the child from the custody of his guardian to another place. The court is also authorized to issue a restraining order.

## 14. Children Suspected of a Criminal Offense

The handling of a child suspected of having been involved in criminal activity is different from that of an adult, and is regulated by the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** and by the internal directives of the relevant authorities (see Chapter 10).

## 15. Capital Punishment

Israeli law allows the courts to impose the death penalty in rare cases only. Since the establishment of the State, the death penalty has only been implemented once (in the case of Adolph Eichmann, who was responsible for the annihilation of Jews in Nazi Germany; see section 12 of Chapter 4).

In any case, section 25(b) of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** absolutely prohibits imposing the death penalty on a person who was a minor on the date he perpetrated an offense.

## 16. Life Imprisonment

Section 25 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** provides that, notwithstanding provisions of law, the court is not obligated to impose life imprisonment, mandatory imprisonment or a minimum penalty. However, in a majority opinion, the Supreme Court ruled that if a court finds it appropriate to impose a life prison sentence in certain circumstances, it may do so, even with respect to a minor (Criminal Appeal 530/90 *Anonymous Plaintiff v. State of Israel*, P.D. 46(3) 652). It should be noted that one of the Supreme Court justices in that ruling expressed the view, basing herself in part on the Convention, that life imprisonment should be imposed on minors only in exceptional cases. The remaining justices left the matter as requiring further review (Criminal Appeal 3112/94 *Abu Hassan v. State of Israel* (11.2.99 not yet published)). According to the above law, life imprisonment should never be imposed on a child who, at the time of sentencing, has not yet reached the age of 14.



## Chapter 7

# Family Environment and Alternative Care



## Introduction

This chapter addresses the implementation of articles of the Convention concerning children and their families, and separation of children from their families: State respect and support of parental responsibilities (article 5), prevention of the separation of children from their parents (article 9), a child's right to be reunified with his family (article 10), prevention of illicit transfer of children (article 11), measures to ensure that both parents fulfill their financial obligation toward their children (article 18), the prevention of maltreatment of children in the family (article 19), the protection and care of a child not able to live with his family, and out-of-home care (article 20), adoption procedures (article 21), and opportunities for recovery and social reintegration (article 39).

### 1. Definition of the Term "Family" in Israeli Law

The term "family" is not uniformly defined in Israeli law, and different definitions can be found in different acts of legislation. While some laws, such as the **Prevention of Family Violence Law 1991** and the **Court for Family Matters Law 1995** define "family" very broadly to include all present and former relatives, unmarried parents who jointly run a household, and anyone responsible for a child, other laws, including most of those that deal with social security, adopt a more narrow definition. In this chapter, in the main, we will refer to the family as comprising children, parents and siblings.

### 2. Family Structure

Israel's population is relatively young. In 1996, children newborn to age 17 comprised 34.1% of Israel's population. In that year, 49.6% of the households in Israel were families with children under age 17 (Central Bureau of Statistics, 1999).

#### 2.1 Family Size

Family size is an important descriptive indicator of families. As discussed in Chapter 8, large family size is a significant indicator of poverty and disadvantage in Israel, and large families have been the focus of components of social policy such as child allowances and income tax reductions.

As indicated in Table 1, in 1998 the average number of children in families with children was 2.3 – a decline from an average of 2.7 children per family in 1980. Large families with four or more children comprise 16.7% of all families, while approximately one-third of all families have only one child. The number of children in families varies greatly according to sub-population: Jewish families have an average of 2.2 children, while Arab families have an average of 2.9 children. Large families with four children or more comprise of 12.3% of Jewish families and 31.2% of Arab families. Among the Bedouin population of the town of Rahat, 61% of the families have four or

more children. The ultra-orthodox Jewish population is also characterized by large families; however, there are no systematic national data on this group. Data on the city of Bnei Brak, most of whose residents are ultra-orthodox Jews, indicate that children comprise almost half (46.7%) of the city's population.

New immigrant families that came to Israel in or after 1990 tend to be smaller: 56.5% of them have one child, compared to 34.5% of the general population, while only 4.9% of these families have four or more children, compared to 16.7% of those in the general population. The overall decrease in family size during the past two decades may be partly attributable to the wave of immigration in the early 1990s.

**Table 1: Number of Children per Family, by Sub-population (Average and Percentage)**

Number of Children	1980	1998			
	Total Population	Total Population	Jews	Arabs	Immigrants
Average	2.7	2.3	2.17	2.87	1.78
Percentage					
1 child	27.3	34.5	35.7	25.6	56.6
2 children	31.3	30.5	33.9	24.7	31.2
3 children	20.5	18.5	18.1	18.5	7.1
4 or more children	21.0	16.5	12.3	31.2	5.3

Source: Ben-Arie and Zionit, 1999

## 2.2 Family Composition

In Israel, most (92%) families with children are headed by two parents; the remainder (8%) are single-parent families. There are fewer single-parent families in the Arab population, and significantly more such families among the new immigrant population (19.8%). The proportion of children in single-parent families has increased in recent years, from 6.4% in 1994 to 7.4% in 1998. Most (67%) single parents are divorced, although 22% are widowed and 11% were never married.

**Table 2: Percentage of Children in Single-parent Families, by Sub-population, 1998 (in %)**

Sub-population	Children in Single-parent Families
Total Population	7.4 (14)*
Jews	
Immigrants	-- (22)*
Ultra-orthodox	2.9**
Arabs	2***

\*The figure in parenthesis is the percentage of *households* headed by a single parent

\*\* Estimate based on data from the city of Bnei-Brak

\*\*\* Estimate based on data from several Arab towns and villages

Source: Ben-Arie and Zionit, 1999

## 2.3 Marriage and Birth among Minors

The **Marriage Age Law 1950** prohibits the marriage of girls and boys under the age of 17. Until recently, boys under age 17 were not prohibited from being married, but the law was amended in 1998. The offense falls both on whoever marries a girl or boy, and on whoever conducts or helps conduct the marriage, including parents who marry off their children. Under the law, the maximum sentence for this offense is two years' imprisonment.

Putative marriage is cause for dissolving a marriage, if suit is brought by the girl or boy before they reach the age of 19, or by their parents, guardians or a child protection officer before the girl or boy reaches the age of 18.

However, Family Court may permit a young girl to marry if she gave birth to a child or is pregnant by the boy or man she wishes to marry, and may permit a young boy to marry if the girl or woman he wishes to marry is pregnant by him or has given birth to his child. The court may permit a young girl or boy to marry if they have reached the age of 16 and the court believes that circumstances justify the marriage. The parent or guardian of a young boy or girl, or the person wishing to marry them, may petition the court to permit such a marriage. Common reasons for allowing such marriages, apart from pregnancy or birth as specified by law, include the consent of the girl and her parents, the common practice of an ethnic group, preparations for marriage, the age difference between the couple, the couple's financial situation, and family support. The court makes its decision based on the good of the girl; of course, the court also weighs the couple's wishes. Thus far there have been no requests to permit a boy's early marriage, but it may be assumed that the rules would be similar to those applied to girls.

As demonstrated in Table 3, marriages of minors under age 17 are rare in Israel. The highest incidence of minor marriages is among Arab girls age 17. In 1996, 14.6% of the Arab girls that age were wed. In comparison, only 1% of the Jewish girls in the same cohort married that year. Minor marriages are far less common among men, both Jews and Arabs (0.05% and 0.15% of the men age 17, respectively). As shown in Table 3, the proportion of marriage among minors has declined steadily among men and among Jewish women during the past two decades. Although the overall decrease in minor marriages among Moslem girls has been less pronounced, there has been a significant decrease in marriages among girls age 16 or less – from 1.96% in the late 1970s to 0.07% in 1996.

**Table 3: Percentage of Minors (Age 16-17 or Less) Marrying, by Gender and Religion**

	Girls				Boys	
	Jews		Moslems		Jews	Moslems
Age	16	17	16	17	17	17
1975-1979 (average)	0.12	4.84	1.96	13.3	0.12	0.22
1985-1989 (average)	0.24	1.74	1.54	14.0	0.03	0.17
1996	0.06	0.72	0.07	14.6	0.03	0.03

Source: Ben-Arie and Zionit, 1999

It should be remembered that marriage to a girl age 17 or less is illegal (unless special permission is granted) under the **Marriage Age Law 1950** (see Chapter 4). This being the case, in 1995, few girls in this age group (58 girls, 25 of them Jewish) were registered as being married. However there is evidence that in some sectors of Israeli society, such as among Moslems, and among Jewish immigrants from the southern republics of the former Soviet Union, some girls under the age of 17 are married privately, and not registered as being married until they reach the age of 17. Public health nurses have indicated that some of these girls become pregnant and register at family health centers as single mothers. However, there are no data on the extent of this phenomenon. The nurses interviewed estimated that it is not widespread.

Births to single minors are also rather uncommon in Israel. In 1998, 4,565 children were born to girls age 19 or younger – that is, 1.8 births per hundred girls ages 15-19. Most (80.1%) of the girls were married, and the majority of them (59.4%) were Moslem. These births comprised 1.9% of all births in Israel that year. Among girls in this age group, legal abortions were one and one-half times more common than births. As noted elsewhere in this report, girls may legally consent to an abortion without the consent of their parent or guardian. The low rate of births to minors may be related to this.

## Articles 5, 9 and 18(1)-(2) of the Convention

### 3. Parental Guidance and Responsibilities

#### 3.1 Parents' Legal Responsibilities

The **Guardianship and Legal Capacity Law 1962** stipulates that parents are the natural guardians of their minor children. Section 3 of the **Women's Equal Rights Law 1951** stresses that subordinate to the best interests of the child, both parents are equally responsible as the child's guardians and that, in case of the death of one parent, the surviving parent remains the child's natural guardian.

According to the **Guardianship and Legal Capacity Law 1962**, parents, as guardians, have the right and obligation to provide for their child's needs, including education, schooling, and vocational training. The Supreme Court has ruled that the needs of the minor for which parents are responsible should not be interpreted narrowly, and that these needs include "not only the minor's material needs but also other needs deriving from his age and position as a ward, such as the need to guard his safety" (Civil Appeal 587/73 *Shauli v. Mizrahi*, P.D. 30(1) 533, p. 539). Parents are required to protect, manage and develop their children's financial assets. They must protect the best interests of their children as devoted parents would under the circumstances. Parental guardianship includes the authority to have custody of them, determine their place of residence, and represent

them. The parents' rights and obligations toward their children have been discussed by the Supreme Court in a string of rulings. For example, the Supreme Court has written:

“It is a law of nature that a child grow up in the home of his father and mother: It is they who will love him, feed him, educate him, and support him until he becomes an adult. This is the right of a father and mother, and this is the right of their child” (Civil Appeal 6106/92 *Anonymous Plaintiff v. Attorney General*, P.D. 48(2) 833, p. 836).

“The law recognizes the parents' right over their children: both the right itself, and its limitations. In recognizing this right and its limitations, the law embraces a natural phenomenon that is deeply imprinted on man and beast. Thus man: ‘As a father has compassion on his children so the Lord has compassion on those who fear him’ (Psalms 103, xiii). Or: ‘Can a mother forget the baby at her breast and have no compassion on the child she has born? Though she may forget, I will not forget.’ (Isaiah 49, xv) (note: the rule and its exception). And beast and fowl: ‘Like an eagle that stirs up its nest and hovers over its young, that spreads its wings to catch them and carries them on its pinions’ (Deuteronomy 32, xi). This is a creature's survival instinct, and the court is obliged to adopt it” (Civil Appeal 3798/94 *Anonymous Plaintiff v. Anonymous Defendant*, P.D. 50(3) 133, p. 165).

“The right of the parents in education, teaching, and all aspects of guardianship is *the right to fulfill their obligation* as guardians of their children... thus and consequently, realizing this “right” of parents is subjugated to the principle of the best interests of the child” (Special Court Martial 1/81 *Nagar v. Nagar*, P.D. 38(1) 365, p. 393).

However, there is no single method that is forced upon parents in fulfilling their rights and obligations toward their children. Rather, in carrying out their duties, “parents have the right to decide the way that seems the most correct and best way to meet the needs of the minor... this ‘way’ differs among different parents, based on to their worldview and lifestyle”. Children, for their part must, under section 16 of the law, obey their parents in all matters of guardianship.

According to section 18 of the **Guardianship and Legal Capacity Law 1962**, parents are required to make decisions based on mutual consent between them. A parent may only take action regarding his child without the other parent's consent if a matter is urgent and cannot be delayed. The Supreme Court has ruled that in the case of divorced parents, one of whom has custody of the children, that parent “has the discretion to make decisions that are either extraneous or inherent to the right of custody, without consulting the other parent... It is difficult to draw the line between topics that are subsidiary to custody, and those regarding which a decision must still be made by both parents, but it seems we may generalize and say we mean decisions of principle pertaining to the parent's general right-obligation toward his child – that is, concern for the minor's general and religious education, supervision of his property, care of his health. In these matters, parents must

decide by mutual cooperation and consent” (see Civil Appeal 2266/93 *Anonymous Plaintiff (Minor) v. Anonymous Defendant*, P.D. 49(1) 221, p. 246). According to section 19 of the law, if parents cannot reach an agreement regarding their children, the court, or someone designated by the court, will rule on the matter, but only if the court is unable to get the parents to agree, and if it has found that such ruling is necessary.

As stipulated in section 20 of the law, parents are forbidden to perform several legal actions on behalf of their children without the court’s approval. These are financial actions of significance, such as selling a house, or actions that are liable to create a conflict of interests between parents and their minor children, such as legal actions between a minor and his parents or his parents’ relatives, with the exception of accepting gifts given to a minor. The Supreme Court ruled that section 20 “should not be interpreted too narrowly, but rather in a way that will achieve its aim of affording effective supervision of a range of issues that may have considerable implications for the minor’s assets” (see Civil Appeal 112/79 *Sharf v. Avar*, P.D. 34(3) 178, p. 194; see also Civil Appeal 1763/88 *Pilovsky v. Balas*, P.D. 45(4) 521, p. 527)

A parent’s failure to provide for his child’s needs may constitute a criminal offense. Section 323 of the **Penal Law 1977** states:

“A parent, or any person responsible for a minor living in his household, is obligated to provide for all of the child’s needs, to care for his health, and to prevent his abuse or physical injury; the parent will be held responsible for any harm to the child’s health or life caused by failure to fulfill this obligation”.

The **Penal Law** defines specific breaches of this obligation, which are subject to penalty. For example, section 6 of section 10 of the **Child Abandonment Law** defines as a criminal offense the abandonment or neglect of a child or the transfer of a child to another in return for personal gain or in defiance of parental duties and rights. Abandonment and neglect of children are two of the few offenses where a penalty is imposed for inaction rather than action. The Supreme Court has explained that this reflects the special importance with which Israeli society regards a parent’s obligation toward his child (Civil Appeal 5587/93 *Nahmani v. Nahmani*, P.D. 49(1) 485, p. 498).

According to a ruling by the Supreme Court, a parent’s failure to care for his child, including withholding mental and emotional support, may also constitute a tortious wrong, the commission of which may entitle the child to compensation (Civil Appeal 2034/98 *Amin v. Amin* (4.10.99 not yet published)). Most of the criminal offenses involving a violation of parental obligations toward children are committed against children age 14 or less. This differs from civil law, such as the **Guardianship and Legal Capacity Law 1962**, which applies to minors up to age 18.

A parent's obligation to care for his child is also implied by the **Adoption of Children Law 1981**. Section 13 of this law states that a child may be adopted even without parental consent under certain circumstances, for example:

- “(4) The parent abandoned the child or avoided maintaining personal contact with the child, with no reasonable cause, for six consecutive months.
- (5) The parent avoided, with no reasonable cause, maintaining all or most of his obligations toward the child, for six consecutive months.
- (6) The child was kept outside the parent's home for six months beginning before the child reached age six, and the parent refused, with no justification, to accept the child in his home.
- (7) The parent is unable to care for the child properly because of his behavior or condition, and there is no chance that his behavior or condition will change in the foreseeable future, despite financial and care-oriented assistance offered by the welfare authorities.”

The Supreme Court has ruled that a child may be put up for adoption without his parents' consent if they have neglected their emotional and psychological duties – that is, if they have failed to show love and concern or provide emotional support (*Civil Appeal 549/75 Anonymous Plaintiff v. Attorney General*, P.D. 30(1) 459).

### 3.2 Income Support for Families

Israeli labor law, along with a comprehensive system of cash entitlements and other benefits, provides support for mothers and families during pregnancy, at birth, and during post-natal care. A pregnant woman must notify her employer of her pregnancy by the fifth month. Thereafter, she may not be employed for more than six days a week, on the weekly day of rest, or at night, and she may not work overtime hours without her consent and a physician's permission. A pregnant woman who has been working for the same employer or at the same workplace for at least six months may not be dismissed by her employer without special permission from the Minister of Labor and Social Affairs. An employer who dismisses a pregnant woman without ministerial permission is subject to criminal liability, and must reinstate the employee. If a pregnant employee is dismissed before she has informed her employer of her pregnancy, she is to be reinstated, but no sanctions are imposed against the employer.

Pregnant women are entitled to paid absences from work for routine medical examinations. A pregnant woman who receives medical confirmation of her inability to work for a specified period may take a paid leave from work with no effect on any seniority-related rights. Under a recent amendment to the **National Insurance Law**, women who are unable to work due to a high-risk pregnancy receive the equivalent of their salary from the National Insurance Institute, up to 70% of the average wage.

When a child is born, the cost of the mother's hospitalization and delivery is paid by the National Insurance Institute. Women who give birth or adopt a child receive a grant equivalent to 20% of the

average wage (or more in the case of a multiple birth) to help cover some of the initial cost of preparing the home for the baby. This maternity grant is paid to all women residents or wives of residents of Israel, even if they gave birth in a hospital outside of Israel, and to women working in Israel or wives of men working in Israel, provided they gave birth in a hospital in Israel. A similar grant is given to adoptive parents. At present, the maternity grant is equivalent to roughly US \$300. In the case of a birth of triplets or more, the family receives an expanded benefit of between 25% and 35% of the average market wage for 20 months following the birth.

According to the **Employment of Women Law 1954**, mothers are entitled to a three-month maternity leave paid by the National Insurance Institute. If the mother agrees, the father may take half of the maternity leave; in such a case, he will receive the maternity benefit in her stead, provided both parents are eligible under the law. At the end of the paid maternity leave, the mother is legally entitled to take an additional, unpaid leave of absence for up to nine months (dependent on how long she was employed prior to giving birth), with full security against termination of employment. Fathers whose wives worked for at least six months prior to giving birth may take the unpaid leave of absence instead of their spouse. This right also applies to fathers who have sole custody of the infant or whose wives are incapacitated, as well as to adoptive fathers. During the first four months following maternity leave, mothers who work in a full-time position may work one hour less per day with no decrease in salary. Adoptive mothers enjoy the same rights and benefits as biological mothers with respect to maternity leave. Other laws enable parents to devote themselves to caring for their children without suffering undue economic loss. For example, the **Severance Pay Law 1963** entitles a woman employee who quits her job to care for a child to receive severance pay during the first nine months following childbirth or the adoption of a child under the age of 13. A male employee who quits his job to care for a child is also entitled to severance pay during the same nine-month period, provided the mother has not done the same (e.g., if she is self-employed and has not stopped working to care for the child), or provided the child is in the father's sole custody because of the mother's disability or illness. In addition, under the **Equal Employment Opportunities Law 1988**, male employees are entitled to day care services, shortened work days, maternity absences due to a child's illness, child care expenditures covered by employers, and any other benefit offered to female employees, provided the child is in the sole custody of the father or the mother has not taken advantage of these benefits.

The **Sick Day Payment (Absence from Work due to Child's Illness) Law 1993** grants parents six paid absences a year for a child's illness, or 30 days a year (which may correspond to regular vacation time) in case of a child's terminal illness. Many work places grant additional privileges, such as shorter work days for mothers or employers' participation in day care expenses.

All families residing in Israel receive a monthly child allowance from the National Insurance Institute. This allowance is paid regardless of income, based on the number of children up to age 18 in the family. In addition, many of the National Insurance Institute's income maintenance and income support programs take into account the number of children in a family when calculating the

level of benefits. Until recently, the National Insurance Institute followed a policy of offsetting children's allowances against parents' income tax debts. This policy had a disproportionate effect on poorer families, and hence on their children. After intensive lobbying by non-government organizations concerned with children's rights, the National Insurance Institute agreed to refrain from offsetting child allowances against tax debts; a private bill to amend **National Insurance Regulations** has passed the first step toward ratification in the Knesset (for more information on social security benefits, see Chapter 8).

### 3.3 Guidance in the Care and Education of Children

#### 3.3.1 Family Health Centers

Guidance regarding all aspects of child care is offered to parents at over one thousand family health centers ("well-baby clinics"). The centers provide preventive health care for pregnant women and children from birth to age five, as well as health education and counseling. They are community based, and take an holistic approach to care. It is estimated that 95% of children under two and a half years of age visit them. A national survey conducted on a sample of centers revealed that programs that support and guide parents are offered in one-third of them, primarily in the Jewish sector. Most of these programs promote parenting skills, improve the relationship between mother and child, and foster child development. About half of the programs promote children's health.

#### 3.3.2 Community Centers

Another widespread service is the network of 183 community centers, which offer cultural, educational and recreational programs for people of all ages. Community centers offer five types of service which are of help to families:

1. Day care centers for children ages one-three (see Chapter 8).
2. Enrichment and guidance programs, such as play facilities, for parents and young children. In such programs, professional staff play with the children and their parents, and counsel the parents on child development and interaction with their children.
3. Guidance workshops for parents, at which groups of parents meet regularly with professional facilitators to discuss parenting. The groups are usually organized for parents of children in a given age group (e.g., infants, school children, adolescents).
4. Social clubs for women offer support for women, including on issues of motherhood.
5. Innovative, multi-dimensional enrichment and guidance programs for immigrants and disadvantaged populations. These program involve work with small groups of mothers and children, and combine several weekly activities: day care for pre-school children, mother-child playtime with a child development instructor, and guidance workshops for mothers (and sometimes fathers, as well). These programs aim to help immigrant families adjust to their new environment, for example by familiarizing them with preparation of the foods available in Israel and helping them understand their role in the school system.

### **3.3.3 Enrichment Programs for Young Children**

Over the years, Israel has developed a variety of enrichment and support programs for young children and their families. However, analysis of these programs indicates that they are not cohesive, and do not meet the full range of needs: Despite the variety and quantity of programs, many of them are limited in size and operate locally, as the result of a private initiative. Many of these programs are brief in duration.

Furthermore, most of the programs for young children focus on one or two aspects of child development, rather than adopting a comprehensive approach. For example, programs supported by the Ministry of Education emphasize children's cognitive development, and offer limited intervention with parents. Programs supported by the Ministry of Labor and Social Affairs emphasize parenting skills and the parent-child relationship. Unfortunately, even those programs that are comprehensive are not available to all children and families. For example, a national survey of 250 programs offered in family health centers around the country revealed that only 10,000 of the 350,000 children newborn to age two benefited from these programs (Dolev and Yoel, unpublished). However, there are no systematic data on the extent of participation in all early childhood enrichment and support programs.

## **3.4 Support for Families from Social Services**

### **3.4.1 Social Welfare Departments**

Additional support for parents is provided through social services. The **Social Service Law 1959** requires local authorities to provide most social services; these are usually provided through a local social welfare department, which is divided into neighborhood branches that are staffed by professional social workers. Social welfare departments are supervised by the Ministry of Labor and Social Affairs and follow its policies.

In 1996, social welfare departments served 280,179 children in 114,260 families – 14% of the children in Israel. Of them, 14% had immigrated to Israel with their families in or after 1990. One of the main tasks of a social welfare department is to assign families in need a “family worker” – that is, a social worker who assesses the family's needs, counsels, helps with bureaucratic procedures, and mediates between the family and other services (e.g., schools). In some cases, a family is also assisted by a para-professional worker who visits it regularly and provides information, guidance and support. Families in need of greater support may be referred to a family counseling service; in 1995, 9,500 families (and 35,000 children) benefited from such services. In 1996, 19 centers for the prevention of family violence were in operation.

As income maintenance benefits are paid by the National Insurance Institute, social welfare departments offer only limited financial help directly to families. In 1995, 35,000 families received help purchasing basic appliances, 140,000 families received temporary assistance with rent and mortgage payments, and 4,500 families received help with household expenses.

Social welfare departments also help place children in day care centers, which are used predominantly by working mothers; in some cases, particularly if a family is unable to adequately care for a child, the social welfare department they will refer the child to a center and finance his attendance. In 1995, 12,455 children were placed in day care centers or family day care by a social welfare department.

After-school frameworks provide older children with supervision, hot meals, recreation, informal education, and some therapeutic services. In 1995, approximately 10,000 children were placed in such frameworks by social welfare departments – a dramatic increase from the 4,000 children who were placed in such frameworks in 1989. This increase was the result of cooperation between the Ministry of Labor and Social Affairs and the Ministry of Education, which together aimed to increase the number of after-school frameworks. (For more information on the after-school frameworks provided by the Ministry of Education, see Chapter 9.)

In recent years, community-based programs have been developed for young families with multiple problems. These programs teach basic life skills (such as family budget management), parenting skills, and family interaction skills. Many of them target families in which the children are subjected to, or are at risk for, abuse and neglect. Some of these programs were developed in Israel, while others were “imported” from the United States and Europe and adapted to Israel’s service system and culture. Unlike “traditional” programs, which focused on the child, these community-based programs focus on the child in the context of his family, and enlist community resources in helping parents care for their children.

Following are some examples of these programs:

**Home Start** is a volunteer program designed particularly for isolated families who do not easily request and accept help from social workers. This program was “imported” from the United Kingdom in 1989, and involves establishing a relationship between the family and a non-professional “friend” who visits regularly. In 1995, this program served 400 children.

**Mutuality** helps parents develop a reciprocal relationship with their infant.

**Video Home Training** involves visits to homes by a social worker, who films everyday interaction with a video camera. Later, the family watches the video and discusses the behavior patterns that it reveals. An outcome study, which compared families who participated in the program with a control group, found marked improvement in almost all aspects of children’s well being and family communication in the participating families. In 1995, 400 families were served by this program.

**Together** is a three-year program, which comprises group meetings at which mothers of children at risk work to improve their self-esteem and parenting skills. In 1995, the program was implemented at 33 sites, serving 630 mothers of 1,800 children.

**Multi-purpose Day Care Facilities** are innovative, and combine child care with support for families at risk. In addition to offering day care for infants and afternoon care for pre-school children, the

program welcomes parents to participate and offers formal and informal support and help improving parenting skills. In 1995, 700 children benefited from this service.

**Big Brother/Sister** programs involve weekly or bi-weekly meetings between a child and a supportive adult or youth. Such programs are implemented by local non-government organizations and universities, as well as by the Ministry of Labor and Social Affairs. In 1995, 800 children were assigned a big brother/sister by the Ministry of Labor and Social Affairs; however it is estimated that a much larger number of children are assigned a big brother/sister by another agency. (For example, in 1994, some 7,000 children enjoyed this program in Haifa alone; Leitner, 1996a.)

It is important to note that, despite the significant effort invested in establishing these programs, they remain limited in scope. As is evidenced by the small numbers of children and families served by each program, few of the children and families who are known to social services receive such support. Table 4 presents the number of children who participated in each of the services described above (through the Ministry of Labor and Social Affairs) in 1995. If we assume that each child benefits from only one service, the total number of children receiving any of these services was 26,555.

**Table 4: Children Receiving Services through a Social Welfare Department, 1995**

Type of Service	Number of Children
<b>Total</b> (assuming each child receives one service)	<b>26,555</b>
Day-care (social service referral)	12,455
After-school framework	10,000
Home start	400
Video home training	400
Together	1,800
Multi-purpose day care	700
Big brother\sister	800

Source: Korazim, 1996, and information from the Ministry of Labor and Social Affairs

A comparison of these figures to the number of children known to social welfare departments (280,179 in 1996) indicates that less than 10% of the children known to social welfare departments benefit from these programs. Obviously, not all of the children known to social welfare departments need these services, while other children and families are served in other ways (e.g., through counseling by a social worker, family counseling, out-of-home care). Conversely, not all families in need of support are known to social services. Thus, further information and analysis are required to determine the extent to which services meet the needs of children and families. Existing data do indicate extensive disparity between the needs of families and the coverage of support services. This conclusion is also supported by detailed analyses conducted in two cities (Haifa and Beer Sheva) as part of comprehensive community planning of services for children and youth at risk (Leitner, 1996a, 1996b). The analyses revealed that only one-third of the children surveyed received

day care, afternoon care, or intensive counseling from a social worker. Thus, despite rapid development, the adequacy of coverage is still at issue.

Table 4 also reveals that out-of-home services (e.g., day care facilities and after-school frameworks) predominate as means of helping families raise their children. Programs that involve parents actively are still being developed and tested, and programs that support the child within his family are not widespread. Policymakers claim that the relatively slow pace of dissemination of holistic programs is due to both a lack of resources, and to a need to train and educate service providers.

There is no comprehensive, national information on the extent of service coverage for specific populations, such as new immigrants or Arabs. However, a recent study conducted by the Ministry of Labor and Social Affairs in three Arab towns in the north of Israel (Korazim, Abu Asbah and Dolev, forthcoming) revealed that, despite the relative large percentage of children who live in poor families, and the relatively large percentage of large families, in the Arab population, relatively small percentages of Arab children are known to the social services, as indicated by limited social service coverage. Thus, even though a similar proportion of those children known to the social services receives support, the extent of support is more limited in the Arab than in the Jewish sector. In addition, the small size of Arab towns limits the extent to which innovative service models can be developed cost-effectively, and poses a challenge to making services accessible.

### **3.4.2 A Ministry of Labor and Social Affairs Program for Children at Risk**

In 1997, the government made children at risk a national priority. Consequently, the Ministry of Labor and Social Affairs initiated a program that it hoped would have a significant effect on this population. “Children at risk” were defined broadly as being children whose circumstances might impair their ability to adjust to school, society and family life. The children covered by this definition include those subjected to abuse, neglect, and family violence, those living in impoverished or dangerous environments, and those with destructive or problematic behaviors, such as substance abuse and delinquency. The program combines legislative initiatives and service development.

**Legislation:** In 1998, a new law – “**Entitlement to Services of Children at Risk**” – was proposed. The law would entitle children defined as being “at risk” to services, and would define the State’s obligation to supply these services. The extent of entitlement to services would be determined according to the degree of risk. According to the proposed law, decision committees in local authorities would determine the degree of risk (i.e. the level of services to which a child is entitled), and prepare a care plan for the child and his family. The proposed law is innovative in its stressing the right of children at risk to services, rather than the State’s obligation to provide services. Furthermore, it would make the provision of services independent of local or national government budgets. At the same time, the proposed law would limit the period of entitlement to one year, thus ensuring frequent monitoring of a child’s situation and of the success of the intervention plan prepared for him. In fact, the proposed law would require hearing the child himself during

discussion and preparation of the care plan, involving the child and his family in preparing the plan, and giving precedence to services that would enable the child to remain with his family (**Proposed Law on the Right of Children at Risk to Receive Services 1998**).

*Service development:* The proposed service would be based on family-focused intervention, cultural sensitivity, pooling of resources, and long-term treatment planning, focusing on the family's strengths and considering its priorities. The plan is to establish "family and child centers" within local social welfare departments, which would be adapted to the cultural style of each community. Each center would house sub-units to handle screening, intake and evaluation, family and couples therapy, prevention and treatment of family violence, the child-parent relationship, single-parent families, parent training, children at risk, and emergencies.

In 1997, seven locations were chosen for a pilot of this program. In 1998, the program began to be implemented on a national level, using government resources allocated to towns based on a plan submitted to the Ministry of Labor and Social Affairs. The government allocated NIS 75 million (about US \$20 million) per year for two years (1998 and 1999) of national implementation. As yet, there are no systematic data on the program's activities, the extent to which it has expanded service provision, or its outcomes.

### **3.4.3 Support for Families in the Education System**

Support for families is also available from guidance counselors who are employed in middle, secondary and some elementary schools, who counsel students with scholastic, behavioral or emotional problems. Students are usually referred to a guidance counselor by a teacher, although they may also be referred by their parents or may seek out the counselor themselves. Students with severe problems are usually referred to psychological services either in or outside the education system. Educational psychologists assess children referred to them by schools and offer limited personal intervention. School psychologists advise teachers and parents how to address the children's problems in the classroom. The extent of coverage provided by these services is also an issue. School psychologists and guidance counselors often have large caseloads that do not allow for intensive intervention. A 1995 survey of the educational psychology services in two cities indicated that only 25% of the cases referred to them received treatment, as opposed to assessment only, or counseling for the teachers involved.

### **3.4.4 Support for Single-parent Families**

Several ministries provide additional support to single-parent families. The **Single Parent Families Law 1992** entitles these families to specific benefits such as a reduced income taxes, an annual grant of 18% of the average salary for children ages six-11, and priority receiving a place at a public day care facility and/or a government housing loan. In 1995, the 38 centers for single-parent families operated by the government served about 7,500 families. These centers offer social activities, counseling and legal aid. A non-government organization of single-parent families,

“Meihad”, which is part of the largest women’s organization in Israel (NA’AMAT) operates centers for single-parent families that both provide services and engage in lobbying.

## 4. Separation of Children from Their Parents

### 4.1 Divorced or Separated Parents

#### 4.1.1 Determining Custody of a Child

Sections 14 and 15 of the **Guardianship and Legal Capacity Law 1962** regard both parents as being a child’s natural guardians and grant them the right to determine where the child will reside. If the parents live apart, they may come to an agreement regarding who will have exclusive or partial guardianship of the child, who will have custody of the child, and what visitation rights the non-custodial parent will have. This agreement must be approved by a court to be legally binding (section 24). The law determines that if the parents cannot reach an agreement, or if the agreement is not implemented, the court will make custody and visitation arrangements based on what it believes to be the best interest of the child, with the exception that children under age six will be placed with their mother unless there is a reason to rule otherwise (section 25). The Supreme Court has decided that a court must rule in the matter of custody even when the parents, although legally separated and estranged, continue to live together and with their children in the same house, as the children should not be left without a determination of who is responsible for their needs – basically a matter of custody. Prior to making such a decision, the court may ask a child protection officer to review the case, report factual findings and make recommendations (**Welfare Law: Minors, Mentally Impaired Persons, and Persons in Need of Protection 1995**). Child protection officers may approach a Family Court on their own initiative, with the approval of the attorney general (section 3[4] of the **Family Courts Law 1995**). Children may also petition Family Court, either themselves or through a close friend, concerning “any matter in which the child’s right may be substantially undermined”. Family Courts are assisted by support units composed of social workers, psychologists and psychiatrists who supply diagnostic, counseling and care services (section 5 of the **Family Courts Law 1995; Family Court (Establishing Support Units) Decree 1996; Family Court (Support Units – Professional Skills and Supervision) Decree 1996**). These units help parents arrive at a custody agreement and avoid confrontations that may be damaging to the children.

When parents fail to arrive at a custody agreement, custody may be determined either by a Family Court or a religious court. Determining the legal authority in this matter is complex, and has been the topic of many verdicts and learned sections. It has been determined that in some cases authority is granted to Family Court, although if both parents agree, the case may be heard by a religious court. In yet other cases, authority is granted to the court that was approached first.

The importance of the instance that determines custody lies in the effect that religious norms and mores may have on a religious court’s perception of the “best interests of the child”. The Supreme

Court has overruled decisions by religious courts when these clearly do not serve the best interests of the children but rather are based solely on religious value judgments. Thus, for example, the Supreme Court overruled a decision by a rabbinic court to transfer custody from a mother to a father, even though the father could not raise them in his home and hence intended to send them to a religious institution. The rabbinic court had based its decision on its aversion to the mother's cohabitation with a non-Jewish man.

As for the meaning of "the best interests of the child" with regard to custody, it is generally believed that living with one parent is preferable to residing at a boarding school. Continuity of custody is also considered compatible with a child's best interests so that, as a rule, custody will not be transferred from one parent to the other. The parents' financial situation and ability to provide stable living conditions are also taken into account. Usually, an effort is made to avoid separating siblings. Joint custody of separated parents is not common, and the courts usually award custody to one parent and visitation rights to the other. Rulings on custody and visitation rights usually take the children's wishes into account, in consideration of their age, maturity, and judgment. However, it should be noted that there is no easy way for a child to petition the court independently, and that, in most cases, a child is not represented separately from his parents.

#### **4.1.2 Maintaining Contact with Both Parents**

Section 24 of the **Guardianship and Legal Capacity Law 1962** states that when parents do not live together, the custody agreement or court ruling in the matter must determine "the rights of the non-custodial parent to have contact with the child". The courts tend to determine custody arrangements that ensure the child contact with the non-custodial parent.

Under certain circumstances, such as suspected abuse on the part of the non-custodial parent, or non-compliance of the custodial parent with the visitation rights of the other parent, the court will order supervised visitation. Social welfare departments operate "visiting centers" where such visits may take place with professional supervision and support.

The Supreme Court has ruled that maintaining contact with a child is not merely the right of the non-custodial parent, but may be considered his duty.

## **4.2 Separation by the Authorities**

### **4.2.1 Legal Procedures for Separating a Child from His Parents**

As noted, the **Guardianship and Legal Capacity Law 1962** grants a child's parents custody and guardianship. However, the same law states that a court may deny or limit parents' guardianship if they do not fulfill their obligations to their children within reason (sections 26-27). Under such circumstances, the court is authorized to appoint a guardian for the child in place of or in addition to his parents.

Removal of a child from his parent's custody and restriction of parental custody are regulated in detail by the **Youth (Care and Supervision) Law 1960**, which supplements the **Guardianship and Legal Capacity Law 1962**. For example, removal of a child from his parent's custody is possible if "the person responsible for the minor is unable to care for him or is neglectful of same" (section 2(2) of the **Youth Law**); if the minor "is under evil influence or is living in a place where offenses are regularly committed" (section 2(5) of the **Youth Law**); or if the minor "was born addicted to drugs" (section 2(7) of the **Youth Law**). In such cases it is possible to "remove the child from the custody of his parents or guardians and transfer him to the custody of the welfare services, which will decide where the child will reside or instruct that he be kept in an institution or secure facility (section 3(4) of the **Youth Law**). The court order is restricted to a period of three years, after which it may be renewed if necessary.

A court order to remove a child from the custody of his parents does not revoke the parents' guardianship or their right to maintain contact with the child. The court may specify when and how often the parents may visit the child, with or without supervision, and whether the child may visit the parents' home. Generally, visitation arrangements are not specified by the court decision.

The law provides for emergency situations: If a child protection officer is convinced that a child is in danger, she is authorized by section 11(a) of the **Youth (Care and Supervision) Law 1960** to take any steps necessary to prevent harm to the child – including removing the child from his home and placing him in a safe place – as long as she does not hold the child for more than seven days without the consent of the court or of the child's parent or guardian.

The court is also authorized to remove the offending parent, rather than removing the child from his home, under section 2 of the **Prevention of Family Violence Law 1991**, in conjunction with section 3A of the **Youth Law**.

#### **4.2.2 Considering the Wishes of the Child and His Parents**

According to section 30 of the **Guardianship and Legal Capacity Law 1962**, the court may revoke or limit a parent's role as guardian, or appoint an additional guardian alongside the parent, only after the parent has been given an opportunity to express his or her opinion of the matter. The law does not state the necessity of hearing the child's opinion. On the other hand, the court may remove a child from the custody of his parents only after "giving the minor, and his or her parent or guardian and the child protection officer a chance to express their opinion and suggestions" (section 8). According to section 9 of the law, however, "despite what is stated in section 8, the court may avoid summoning the child if it is convinced that he or she cannot understand the matter, or if appearing before the court will endanger the child".

The emergency removal of a child from his parent's custody for up to seven days, as well as the court's authority to extend the removal, apparently do not require that the child be heard.

In practice, parents are usually present and heard by the courts, unless they refuse to appear. Children under the age of eight are usually not present in court, but children between the ages of eight and 11 are sometimes present, depending on the child protection officer's assessment of the child's capabilities and on the judge's preference. While some judges insist on hearing the child in court, others do not. Children age 12 or older are usually present in court. A more systematic analysis of this issue is required as a basis for developing guidelines for uniform practice. It should be noted that although the courts are authorized to appoint an attorney or guardian *ad litem* to a child in these proceedings, this is extremely rare.

#### **4.2.3 Local Authority Decision Committees**

Most of the children who reside in an out-of-home placement are not separated from their parents by court order under the **Youth (Care and Supervision) Law 1960**, but rather are removed from their home with the consent of their parents. Residential placements are decided upon by a "decision committee", which sits in each local social welfare department. Decision committees are also involved in preparing the petitions and recommendations of child protection officers for the courts. In an emergency, when a court order is needed immediately and the committee cannot meet beforehand, the child protection officer will request a court order, and the decision committee will convene after the fact to approve it.

The government policy that guides decision committees is to avoid separating a child from his parents. The regulations of the decision committees state: "It is preferable for the child's development [that he] grow up in his or her natural family. Therefore, every effort should be made to develop services in the community that will help the family raise the child. If the family situation endangers or might endanger the child's physical or emotional well-being or damage his proper development, placing the child in an appropriate setting outside of the home must be considered as a temporary or, if necessary, a permanent solution". (**Social Work Regulations 1995**, section 8.9).

Broadly, decision committees are responsible not only for decisions about out-of-home placements, but for preparing treatment plans for children in need of intensive intervention. The options discussed may or may not involve separating a child from his parents. Decision committees are inter-service and multi-disciplinary, and comprise both regular participants and the professionals involved in the case being discussed. These committees are headed by a coordinator from the social welfare department, and always include the family's case worker and the chief social worker. Other services in the community (e.g., the school, local psychological services) are represented on the committee by professionals who are familiar with the child and his family.

Decision committees are regarded by the Ministry of Labor and Social Affairs as the primary mechanism for allocating services for the protection and welfare of children. Thus, emphasis is placed on their multi-organizational nature and on the participation of representatives of several

community services. In addition, the committees are regarded as mechanisms for planning and developing community services. The Ministry also considers decision committees a mechanism for implementing its national plan and proposed legislation (see section 3.4 of this chapter, above).

Further, the Ministry of Labor and Social Affairs regards decision committees as being an important tool in implementing the **Children's Rights Law**. A comprehensive study conducted between 1998 and 1999, which was initiated by the Ministry of Labor and Social Affairs in an effort to improve the work of the committees, found the following:

- ◆ Decision committees discuss some 11,000 cases annually, constituting less than 5% of the children known to social welfare departments. The children and parents who reach the committees are at high risk, and are already receiving more services and interventions than is common in the Israeli service system (the characteristics of these children and their families are similar to those of children in boarding schools and children under the care of child protection officers, and the extent of services they receive is similar to that given to the latter). Thus, in many cases, these children appear before the committees after numerous attempts have been made to leave them in the community (Dolev et al., forthcoming).
- ◆ Despite the hope that the committees would be able to plan intervention and follow-up without resorting to out-of-home placement, more than half of the children who appear before the committees face out-of-home placement. The percentage of children who are removed from their homes following discussion of their case by a committee increases with age, reaching 70% among children ages 12-18.
- ◆ Large percentages of the committee chairmen are satisfied with the committees' multi-professional composition. However, in about one-third of the cases, professionals from organizations outside the social service system were not present at discussions of specific cases, and in another one-third of the cases, only one such professional was present. Committee chairmen also cited difficulties recruiting professionals from educational, health, and mental health organizations to participate in committee discussions, primarily due to problems of coordination. The proposed **Children's Rights Law** would mandate the participation of professionals from other organizations in committee discussions.
- ◆ Most committee chairmen are experienced social workers who were trained in the area of children and youth, but who lack experience conducting a multi-professional discussion, which requires a variety of skills and talents. Furthermore, many of them hold several positions in their social welfare department, and hence are not able to concentrate solely on their role as chairman.
- ◆ Finally, there is insufficient documentation of referrals to the committees, of the committees' work, and of implementation of the committee's recommendations and their outcome.

In the wake of these findings, the Ministry intends to appoint a committee that will make and implement operational conclusions.

#### **4.2.4 The Participation of Parents and Children in Decision Committees**

The Ministry of Labor and Social Affairs recommends that a child and his parents participate in meetings of the decision committee. Indeed, findings from the study discussed above indicate a growing trend toward the participation of parents, children and relatives in the committees' discussions. Based on a sample of 230 committee discussions, a parent, child, or relative were reported to have participated in about two-thirds of the discussions. One parent participated in 60% of the discussions, while children participated in 17% of the discussions (the percentage was higher among children ages 12-18 – 25%). However, committee chairmen reported some persistent problems: Children and their parents are not always invited to participate in committee meetings, and when they are invited, they don't always attend. In such cases, it is rare that an additional meeting is scheduled to hear the parents and children. Furthermore, even when parents and children do attend a committee's meetings, they do not participate in the entire meeting. While committee members listen to their views and opinions, they rarely involve them in decisionmaking. Observations of decision committees revealed that when parents participate in a discussion, their participation causes them and the professionals embarrassment and discomfort.

National administrators in the Ministry of Labor and Social Affairs are aware of this state of affairs, and attribute it to lack of training and skills that would enable professionals to engage the parents and children in discussion. Several measures have been introduced in order to encourage the participation of parents and children in decision committees. For example, the Ministry of Labor and Social Affairs is beginning to implement a pilot program of "family group conferences", which will replace decision committees. At these conferences, the decision regarding the appropriate intervention for the family – including removal of the child from his home if required – will be placed in the hands of the family, rather than being made solely by professionals. The aim of the pilot program is to examine whether the program can be implemented nationally, while training staff to place more discretion and responsibility in the hands of parents. The program will initially be implemented at three sites.

## Article 10 of the Convention

### 5. Family Reunification

#### 5.1 Entrance to Israel as a Visitor

According to the **Entrance to Israel Law 1952**, the Minister of the Interior – usually through ministry staff – has the authority to grant permits to enter and stay in Israel to visitors who are not citizens. Visitors from countries with which Israel has visiting agreements may enter Israel for up to three months, if there is no specific reason to deny them entrance. However, the Ministry of the Interior can, and occasionally does, prevent the entrance of the children of foreign workers who are in Israel without a permit.

#### 5.2 Permanent Residence in Israel

**The Law of Return 1950** and the **Law of Citizenship 1952** entitle Jews, their spouses and children, including adopted children, and grandchildren, to Israeli citizenship. Thus, family reunification is automatic if children and parents are Jewish; the Minister of the Interior is authorized to grant Israeli citizenship even to those who do not meet these requirements. It is the policy of the Ministry of the Interior not to grant permanent residence to non-Jewish foreigners who have no Jewish relatives, except under special circumstances – for example if the person has served in the Israel Defense Forces (IDF). However, once a person has become a citizen, citizenship is also granted to his minor children if they resided in Israel on the day citizenship was granted, and if the parent who has become a citizen has custody of them. If the minor is a foreign citizen, and both his parents have custody of him but only one became a citizen of Israel, the minor will not be granted citizenship if one of the parents declares that he does not wish the child to have Israeli citizenship. Parents of citizens and permanent residents of Israel are not entitled to family reunification, but the Minister of the Interior may grant them citizenship or permanent residency at his discretion.

#### 5.3 Leaving Israel to Emigrate or Visit Abroad

Section 6(a) of the **Basic Law: Dignity and Liberty** states that “any person is free to leave Israel”. According to section 8 of this law, this right may only be violated by “a law that is compatible with the values of the State of Israel, for a worthy purpose, and only if said purpose does not exceed what is required by law”. However, persons who wish to visit enemy countries must receive a permit from the Minister of the Interior.

The Jerusalem Family Court has ruled that a parent who has custody of his children may move them to another country, and separate them from the other parent if the children so desire and if it is not clearly against their best interest.

## Article 11 of the Convention

### 6. Illicit Transfer and Non-return

According to article 11 of the Convention, States parties shall take measures to combat the illicit transfer and non-return of children abroad through inter-state agreements.

Israel is a party to the Hague Convention on the Civil Aspect of International Child Abduction and has passed the **Hague Convention Law**. Section 4 of this law determines that the attorney general is the authority for implementing the Convention, and he or she may appoint child protection officers, who will work under the supervision of the chief child protection officer and who will have the authority granted them by the **Youth (Care and Supervision) Law 1960**.

The attorney general is permitted by section 5 of the **Hague Convention Law** to transfer information to any person or organization, in Israel or abroad, if necessary to implementation of the Convention, as long as this information is not used for other purposes and remains confidential. A child protection officer also has permission to pass on needed information, as granted by the attorney general.

Family Court is entitled by law to issue an injunction preventing children who have been abducted, or anyone holding them, from leaving the country; an injunction preventing the children from leaving any place designated in the injunction; an order to the police to investigate the abduction, find the children, and help the child protection officer bring the child to court; and any injunction or order that will prevent injury to the children or infringement of the rights of anyone involved in the case, and that will ensure the return of the children or facilitate settling the dispute peacefully. Regarding such instances, regulation 95/9(5) of the **Civil Law Procedures 1984** stipulates that “if a child is of an age and level of maturity that warrant taking his opinion into consideration, the court will not decide the case prior to hearing the child, unless the court sees the need to do so for special reasons, which should be recorded”.

In 1992, the Ministry of Foreign Affairs publicized a list of the states with which Israel has an agreement under articles 37 and 38 of the Hague Convention: Argentina, Australia, Austria, Belize, Canada, Denmark, France, Germany, Great Britain, Hungary, Ireland, Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United States, and Yugoslavia.

Table 5 indicates the total number of cases of children handled by the central authority under the Hague Convention between 1993 and 1996. Of the 99 children abducted and brought to Israel during those years, 53 were from the United States and 10 from Canada. Of the 78 children

abducted from Israel during those years, 32 children were taken to the United States, and 10 to Great Britain.

As another means of preventing the illicit transfer of children in cases of disagreement between parents, and in light of the stipulation that both parents are a child's guardian, the Ministry of the Interior will issue a passport to a child only with consent of both of his parents. If one parent fears that the other may attempt to illicitly transfer the child, he or she may request an injunction against the child's leaving the country.

**Table 5: Cases\* of Abduction Handled by the Attorney General under the Hague Convention on the Civil Aspect of International Child Abduction, 1993-1996 (in Absolute Numbers)**

Case Resolution	Children brought <i>to</i> Israel	Children abducted <i>from</i> Israel
<b>Total</b>	<b>99</b>	<b>78</b>
Returned, following court ruling	21	10
Not returned, following court ruling	9	4
Waiting for appeal	14	22
Petition withdrawn **	20	23
Re-abducted to State of origin	1	2
Refusal by State authorities	1	1
State not party to Convention ***	3	5
Case not active	19	10
Child not located	5	1
Visitation arrangement	6	0

\* The figures refer to cases, as in some instances more than one child was involved.

\*\* In 18 cases, the child was returned by consent.

\*\*\* States that were not parties to the Convention during this period.

Source: Ben-Arie and Zionit, 1999

## Article 27(4) of the Convention

### 7. Recovery of Maintenance for the Child

In Israel, issues of alimony and child support are determined by the laws of the religion with which an individual is affiliated. The **Amendment to the Family (Child Support) Law 1959** applies when an individual is not obligated to pay child support to his or his spouse's children under the law of his religion, or who has no religion, and so is not obligated by any religious law. Section 3A of the law requires both parents to cover their children's expenses until they are 18, regardless of which parent has custody. Under section 6 of the law, if the parents have not reached an agreement,

the court will determine the amount to be paid by each parent based on the child's needs and the parent's ability. The court may define needs for child support even if it is doubtful that the parent can meet them, so as to ensure payment from the National Insurance Institute, which is conditional upon a court order regarding the right to and the amount of child support. Section 17 of the law stipulates that if a parent and child reside in different countries, payments will be determined according to the law of the State in which the child resides. According to section 12 of the law, the court may change a child support arrangement if the child's circumstances have changed. The law also allows the court to employ several measures – the most severe of which is imprisonment – if a parent fails to pay child support as required. In bankruptcy proceedings against a parent who has failed to pay child support, these payments are given precedence over the claims of other creditors, including the tax authorities.

The **Maintenance (Assurance of Payment) Law 1972** states that the National Insurance Institute will pay a child support allowance to any person whom the court has awarded child support, but who is not receiving these payments from the parent who owes them. The maximum child support allowance, set in State regulations, currently equals 39.7% of the average wage for a woman with one child, and 49.6% for a woman with two children (National Insurance Institute, 1997). In 1997, 19,509 women received child support allowances from the National Insurance Institute; nearly all of them (99.3%) were mothers with children. Seventy percent of the women had one or two children, close to 20% of them had three children, and 12% of them had four or more children.

## Articles 20 and 25 of the Convention

### 8. Children Deprived of a Family Environment

#### 8.1 The Alternative Care System in Israel

Between 65,000 and 75,000 (or 3% of all) children and youth in Israel live outside of their family home. The exact number of children and youth who live outside their families can not be calculated due to insufficient data on the number of children who live and are educated in out-of-home facilities or yeshivas, particular in the *haredi* sector. Data on the number and nature of these settings are also lacking. These children and youth may be divided to several groups: The majority (61,726) of them are ages 14-18 and reside in boarding schools, mostly out of personal preference. A smaller group (9,599) of children and youth are placed outside their home by social services in residential facilities and foster homes. A yet smaller number of youth are placed in Youth Protection Authority facilities, which are geared for juvenile offenders and youths with severe behavior problems (see Chapter 10).

### 8.1.1 Children Placed Outside Their Home by Social Services

In 1998, a total of 8,980 children newborn to age 18 resided in an out-of-home placement arranged by the Ministry of Labor and Social Affairs. About 5,000 of these children were under the age of 14, and the remainder were adolescents ages 15-18. Contrary to the situation in most western countries, the majority of these children, particularly the older ones, lived in residential settings; a considerably smaller number of them lived with foster families.

## 8.2 Foster Families

### 8.2.1 Children in Foster Care

Reliance on foster families began in Israel in the 1920s, and was considered a more humane option for children without parents than were institutions. However, over time, the system of residential settings came to be seen as a more attractive option. Approximately one-third of the children under age 14 who are in out-of-home placements are in foster homes, while the remainder are in residential settings. As indicated by Table 6, in 1998, 1,523 children lived with foster families; 22% of them were under age six. The proportion of children in foster care, as opposed to residential settings, is greater only among children this age. Thirty percent of the children in foster care live with relatives from their extended family.

**Table 6: Children Placed in Foster Families by the Ministry of Labor and Social Affairs in 1996, by Age (in Absolute Numbers and %)**

Age Group	Number of Children	Percentage
<b>Total</b>	<b>1,523</b>	<b>100</b>
0-6	346	22.7
7-14	853	56.0
15-17	324	21.3

Source: Data from the Ministry of Labor and Social Affairs

### 8.2.2 Foster Care Regulations

Ministry of Labor and Social Affairs regulations state that the goal of foster care is to provide a child with a temporary home, from which he may return to his parents' home or, if that is impossible, be transferred to another, permanent home. Foster care is considered preferable for children under age six and for older children who do not have severe developmental problems. It is not recommended for children with severe emotional problems, or for children whose parents are unable to accept the emotional attachment between their children and a foster family and who may thus interfere with the foster relationship.

Placement is made as part of a comprehensive treatment plan for the child and his family of origin. It is recommended that a child be placed with a family that lives in the same geographic area as his family of origin, unless:

- a) there are indications that the child's biological parents may harm him

- b) the child needs special services not available in the area
- c) the biological parents are substance abusers or criminal offenders
- d) the children are being considered for adoption.

The social workers of the social welfare department are responsible for preparing the foster family and providing constant guidance; they visit the foster family as needed, and at least once a month.

The regulations stress that the child's natural parents remain the central figures in the child's life. Under the **Guardianship and Legal Capacity Law 1962**, a child's biological parents remain his natural guardians, unless the court has revoked this status. Parents are entitled to be involved in decisions about the child's placement, such as the school system in which the child should be enrolled (religious or non-religious). The social welfare department is responsible for updating the parents about their children's progress, encouraging them to maintain contact with their children by visiting them, and providing professional help that will rehabilitate the family and enable the child to return home.

### **8.2.3 Issues in Foster Care**

In recent years, there has been increasing awareness of the difficulties of enforcing these regulations in the foster care system. For example, although the regulations stress that foster care is meant to be temporary, children placed in foster families typically live with them for several years, and often until they are 18. In addition supervision of foster families proves difficult, and lack of systematic supervision creates barriers to enforcing the Ministry's policy and regulations.

Currently, several changes are being proposed or introduced into the foster care system, so as to improve the care provided by foster families and increase the child's possibility of returning to his biological parents. One of these involves employing foster family counselors in local social welfare departments, whose task would be to assist foster families and maintain contact with the professionals working with biological families. In addition, a clinical data base has been developed for children in foster care. This system helps follow the child and his biological family as a basis for planning and decisionmaking. Recently, a program has been developed to select, train, and assist new foster families. This program teaches 12 skills that have been found to help foster families. New models of foster care aimed at improving supervision and upgrading the quality of care are currently being piloted. These include family group homes, which serve a number of foster children in a family setting, and "community foster care clusters", in which several foster families in the same community (which serve children from that community) receive counseling and supervision, and special services for the children in their care. Lastly, legislation is being initiated concerning foster care, as to date there are no laws that specifically define the rights and obligations of foster families, biological families, and children.

## 8.3 Residential Facilities

### 8.3.1 The Historical and Social Context of Residential Care

When describing the residential care system in Israel, it is useful to note that in Jewish and Israeli society, raising and educating children in residential institutions has not been seen as a drastic step that should be taken only when a child cannot remain at home. Education away from home at a *yeshiva* (Jewish religious school) was and is acceptable and even prestigious. Until very recently, children raised in the influential kibbutz movement lived and were educated communally; to this day, adolescents on kibbutzim usually live in group homes.

Following the Second World War, and with the establishment of the State of Israel in 1948, boarding schools and kibbutzim were homes for young, parentless refugees. During the mass immigration of the 1950s, residential settings continued to enjoy prestige, and were considered ideal for helping newcomers – including children who arrived with their families – become integrated into Israeli society. In later decades the function of residential settings shifted; gradually, they came to serve children at risk and children whose needs could not be met at home.

Over time, professional attitudes also changed, and out-of-home placement came to be seen as less desirable than community-based solutions for children. However, this historical and social context explains why educating children and youth in residential settings is still seen by many, including parents and children, as legitimate, and not as an extreme step involving the separation of a child from his parents.

During the past decade, much concern has been expressed regarding the quality of care in residential facilities. In the late 1980s and early 1990s, several reports on poor living conditions and insufficient staff were published and received wide attention. At present, measures are being taken to improve this situation. In addition, government and non-government agencies have begun to cooperate on the development of community-based services that support families and enable children to be safe and cared for at home. Nevertheless, the overall number of children placed in out-of-home settings has not changed significantly in recent years.

### 8.3.2 Residential Settings and Boarding Schools

Table 7 presents data about the different types of residential setting and the number of children attending each type. The majority (431) of the settings, considered part of the “regular education” system, are for children with regular educational needs, although some of the children who reside in them attend special education frameworks. The “special education” settings include institutions for children with retardation, physical handicaps, hearing and sight problems, and emotional problems. Some (155) of the facilities are only for youths ages 14-18 and some (53) are only for children under age 14, but most (283) accommodate both children and youth. The average number of residents in an institution for young children is 59, while the average number of residents in an institution for youth or for children and youth is 147. Most residential facilities are operated by non-

profit organizations, while a limited number of facilities are private. Most of the private facilities serve children with severe emotional problems. Only a few facilities for extremely troubled or delinquent youth are operated by the Youth Protection Authority (a government agency; see Chapter 10).

**Table 7: Number of Residential Settings and Residents, by Residents' Age and Type of Education 1996-1997\***

Age	Total	Regular Education**	Special Education
<b>Total</b>	<b>491 (67,633)</b>	<b>431 (62,609)</b>	<b>60 (5,024)</b>
Children under 14	53	53 (3,117)	---
Youth (15-18)	155 (22,788)	148 (22,417)	7*** (371)
Children and youth (up to 18)	283 (41,728)	230 (37,075)	53 (4,653)

\* The numbers in parentheses refer to the total number of residents.

\*\* No data are available on an additional 40 religious institutions.

\*\*\* Children under age 14 and youth up to age 18.

Source: Ben-Arie and Zionit, 1997.

The residential care system, much like the education system, comprises Jewish and Arab institutions. Within the Jewish sector, the facilities are divided in the same way as in the education system: State, State religious, and independent religious frameworks.

## 8.4 Children under Age 14 in Residential Settings

### 8.4.1 Types of Residential Setting

Residential settings for young children under age 14 are supervised by the Ministry of Labor and Social Affairs. In recent years, the settings have been classified and budgeted according to the needs of their residents.

- a) Therapeutic settings: Approximately-one quarter of the children attend institutions defined as being therapeutic – that is, for children with significant emotional or learning difficulties.
- b) Rehabilitative settings: Two-thirds of the children attend rehabilitative settings – that is, for children with mild difficulties.
- c) Educational settings: Only 8% of the children attend settings defined as being educational – that is, for children with a normal level of functioning.

Children who reside in a therapeutic facility usually attend a special education school on the premises, while children who reside in a rehabilitative or educational setting usually attend a public school in the community. In recent years, a fourth model of residential setting has been developed for children who have been hospitalized in a psychiatric institution or who have severe emotional problems.

### 8.4.2 The Purpose of Placement, Placement Procedures, and Lengths of Stay

The majority of children under age 14 who live in a residential setting are placed there by the Ministry of Labor and Social Affairs, through the decision committee of their local social welfare department. These children often have family problems, behavior problems, and serious problems in school. These settings offer an alternative to the family home, which meets the children's everyday needs and protects them from the abuse and neglect to which they were subjected in their home.

A 1996 survey of 995 children under age 14 in residential settings showed that most (76%) of them were referred to residential care for more than one reason (Dolev and Barnea, 1996). The reasons for referral were grouped into four categories:

- a) problems with parental care (64%)
- b) marital problems or violence between the parents (60%)
- c) behavioral or emotional problems of the child (40%)
- d) economic problems or anti-social functioning of the parents, such as crime, drug abuse or mental illness (38%) (Dolev and Barnea, 1996).

Most placements are made with parental consent or compliance: A 1993 survey of nine residential settings for children showed that only 15% of the children were placed in them under court order, while the remainder were placed in them at their parents' request or with their consent. Interviews with some of the parents indicated that they saw placement in a residential setting as being to the benefit of their child. However, it is not clear to what extent alternatives were offered or discussed with them.

### 8.4.3 Characteristics of Children in Residential Settings

The study of nine residential settings also provided information about the characteristics of the residents (see Table 8). As may be expected when a child is removed from his home by social services, large proportions of them were neglected, a significant proportion of them were abused, and many of them had emotional, educational and behavioral problems.

**Table 8: Major Problems of Children under Age 14 in Residential Settings (in %)**

Problem	Percentage*
Parents' Problems	
Physical abuse	25
Emotional abuse	25
Physical neglect	50
Children's Problems	
Emotional problems**	33
Two-year gap in school achievement	33
Over three-year gap in school achievement	40

\*The percentage of children to whom this applies. The percentage does not total 100%, as children may fit into several categories.

\*\*In the clinical range, as measured by the Child Behavior Check List (Achenbach, 1990).

Source: Dolev and Barnea, 1996

Children referred to a residential facility usually remain away from home for several years, often until they are 18. The children in this study were 12 years old on average, and had been in a residential setting for an average of two and a half years.

#### **8.4.4 Maintaining Contact with Parents**

Several studies have examined the steps taken to maintain and improve the relationship between a child in a residential setting and his parents. In 1991, a study was conducted of how children in residential facilities maintain contact with their parents (Laufer, 1991). The study found that in most residential facilities, parental visits are not monitored, and there is usually no place where children can meet with their parents in private. A 1994 survey of 174 settings collected information about the setting as a whole through interviews with directors (Bendel and Katz, 1994). In a 1996 study, data were collected on the individual children in each of nine residential settings (Dolev and Barnea, 1996). The latter two studies revealed that the most common form of contact between parents and children was weekend and holiday visits to the family home – roughly once every three weeks. Although there is no uniform government policy regarding parental visits and activities, most residential settings hold joint activities for parents and children on their premises. The 1994 study revealed that 63%-69% of the settings allowed relatives to visit unannounced, 11%-25% had a regular visiting day, and 80% arranged transportation and accompanied the children home (Bendel and Katz, 1994).

At the nine settings studied in 1996, the parents of half of the children participated in joint activities at the facility, and the parents of two-thirds of the children visited them (Dolev and Barnea, 1996). Comparison of the data from the 1994 and 1996 studies reveals that while many of the settings have some sort of contact with the children's parents, it is usually only with the parents of a small proportion of the children. Nearly all of the directors interviewed in the 1994 study reported that most or all of the parents received regular reports on their child's progress from staff members; 42% of the directors reported that some of the parents receive counseling from the facility staff (Bendel and Katz, 1994). Conversely, the 1996 survey of individual children revealed that only 4% of the parents met regularly with a social worker at the setting, while an additional 14% met with a social worker approximately once a month. It also revealed that while the social workers generally supported the children's contact with their families, those who worked directly with the children were ambivalent toward the parents, and often blamed them for the children's misfortune (Dolev and Barnea, 1996). Moreover, the social workers often lacked the skills and training required to effectively relate to parents and other relatives; they felt burdened, and tended to place responsibility for working with the parents on the local social welfare department.

#### **8.4.5 Recent Developments in Residential Care for Children**

During the late 1980s, public concern was expressed over the quality of care in residential facilities and the effect of separating children from their family and community. In recent years, the government has accelerated the development of several new residential care models. For example, community-based residential settings and group homes have been established in collaboration with non-government organizations. These facilities are located in the child's own community and encourage his parents' participation in his daily life and in decisions concerning him. In addition, family units are being developed, in which a married couple lives with and cares for a group of ten-12 children. Some of these units are part of larger residential settings, while others function as separate group homes in the community. Some residential facilities offer afternoon "external programs", which the children attend during the day, returning to their family's home at night.

#### **8.5 Youth (Ages 14-18) in Residential Settings**

Approximately 55,000 youngsters ages 15-18 live at a boarding school or residential facility. They comprise 10% of the young people in this age group. Usually they refer themselves to a residential setting, often following the recommendation of social services.

Approximately two-thirds of the youth attending boarding schools are orthodox Jews – a far greater proportion than their proportion in the general population. Moreover, the popularity of boarding schools is on the rise in this sub-population. Another group amply represented at boarding schools is that of new immigrants from the former Soviet Union who arrived in Israel without their parents, and immigrants from Ethiopia who arrived in Israel in the late 1980s. It was hoped that boarding schools would enhance their adjustment to Israeli society. However, this viewpoint has come under criticism, particularly within the Ethiopian community, as many of the boarding schools do not offer advanced technological education, have a poor scholastic level, and generally enroll students come from disadvantaged backgrounds. In the wake of this criticism, increasing numbers of Ethiopian youngsters are living at home and attending schools in their community. In a study of Ethiopian immigrant youth, Lifshitz, Noam and Segal (1997) found that the reported level of satisfaction with school and the sense of belonging was similar for students at boarding schools and at schools in the community. They also found that young people living at a residential facility received more scholastic and financial help than did young people living in the community.

About one-quarter of the youth who attend boarding schools are neither orthodox Jews nor recent immigrants. For many of them, the residential setting offers a solution to social, family or scholastic problems. However, there is limited systematic data on the characteristics of these youth, or the services offered to them by the residential system, although voluntary organizations and policy makers report that there are not enough placements for youth with serious emotional problems.

## 8.6 Protecting the Rights of Children in Out-of-home Placements

### 8.6.1 Laws Protecting Children in Out-of-home Placements

The **Surveillance of Residential Facilities Law 1965** protects children in out-of-home placements. Section 2 of the law stipulates that owning or operating a residential facility requires obtaining a license from the Minister of Labor and Social Affairs. Under section 6 of the law, a facility that operates without a license or in a way not compatible with the law may be closed. According to section 7 of the law, the government must appoint supervisors who are authorized to enter and inspect a facility at any time in order to make sure it is being managed as stipulated by its license.

The **Penal Law 1977** also protects children from abuse by staff or other minors in residential facilities. Section 386A defines “a person responsible for the child” as being “whoever has the responsibility for the essential needs, health, education or well-being of the child” – a definition that includes the staff and administration of a residential setting. Section 368D(C) of the law states that if a person responsible for a minor has reasonable cause to suspect that another person responsible for the minor has committed a crime against the minor, he or she must report this as soon as possible to a child protection officer or to the police. The penalty for failure to report is six months’ imprisonment. Section 368D(d) obliges the director to report any crime committed against a child in the institution under his care. Failure to comply is punishable by six months’ imprisonment.

### 8.6.2 Protecting Children's Rights in Residential Facilities: Supervision and Regulations

Three agencies supervise residential facilities: The Service for Children and Youth of the Ministry of Labor and Social Affairs supervises all residential facilities for children and youth. In practice, the Service emphasizes the supervision of facilities for children under age 14, the majority of whom were placed in them by the Service. The Youth Protection Authority of the Ministry of Labor and Social Affairs is responsible for supervising correctional facilities (see Chapter 10). At present, the Ministry of Education supervises residential facilities for youth, and all schools within residential facilities.

The Ministry of Labor and Social Affairs is developing standards and practices to improve the quality of care in residential facilities, including an advanced surveillance system, which will enable inspectors to continually monitor each facility according to uniform standards.

### 8.6.3 The Actual Quality of Care in Residential Facilities

As a basis for developing the new surveillance system, a national survey was conducted in 1995 of all Youth Protection Authority facilities, and of a sample of residential facilities supervised by the Service for Children and Youth (Fleishman et al., 1999). The survey compared the directors’ perception of the quality of care in these facilities, with the level of care required by the regulations then applicable and compliant with the recommendations of an expert committee that was established to set standards of care in residential facilities. The survey revealed the following:

- ◆ While most facilities met the requirements for the number of staff set by Ministry regulations, many did not meet the higher standards recommended by the expert committee. Most of the directors stated that the majority of their staff met the educational requirements of the regulations. However, they reported difficulty recruiting and keeping staff. These findings are supported by other studies (see Bar, 1995).
- ◆ Most facilities met or exceeded the regulation requirements for physical conditions. However, over half of the facilities did not meet the conditions recommended by the expert committee regarding the number of bathrooms per child.
- ◆ Approximately two-thirds of the facilities met the regulation requirements for routine medical and dental check-ups.
- ◆ The majority of the facilities met the expert committee's recommendations for monitoring the physical well-being and hygiene of the children
- ◆ Standards of educational, emotional and recreational intervention were not included in the regulations, and are currently being developed. The survey indicated that most of the facilities provide a range of interventions and activities. However, written intervention plans, as recommended by the expert committee, were available at only a small proportion of the facilities.
- ◆ Approximately one-third of the facilities reported that requiring children to perform additional chores was used as a punishment, and 8% of them reported placing a child in seclusion or denying him visits home as a sanction. Such sanctions are prohibited by Ministry regulations. In most cases, the regulations regarding response to theft, leaving the facility without permission, and physical violence were followed.

Information from this and other studies reveals that there is difficulty providing an adequate education to children in residential facilities. Dolev and Barnea (1996) found that even though many of the children in therapeutic facilities have extensive gaps in their scholastic achievements, insufficient resources are allocated to education in these facilities. Special education schools in these facilities are classified as "recognized but not formal", and are therefore financed at a lower level than are similar schools in the community. Furthermore, the time devoted to assistance with homework is limited.

Children residing in rehabilitative facilities usually attend school in the community in which the facility is located. School and facility staff often report that the children have trouble adjusting to school, and that there is a lack of communication and coordination between the school and the facility.

Following this survey, both the Youth Protection Authority and the Service for Children and Youth developed a new surveillance system for residential facilities. Uniform standards were developed for all aspects of out-of-home care, and systematic measures were introduced to monitor the extent to which the residential facilities meet standards. Periodic supervision was instituted to identify and

correct deficiencies. This system is based on a model first developed for inspecting and improving old age homes. It assumes that measuring and controlling quality of care must consider the children's condition (outcomes of care) as well as intervention methods and physical resources available to the facility. When a facility is inspected, its staff are required to report on each child and "tracers" that indicate the presence of a problem (e.g., bedwetting, poor scholastic achievements, running away, suicide attempts). At the next inspection, a sample is made of children who showed one or more "tracers", and the facility is checked to see whether the appropriate steps have been taken to help the child, based on the standards. In addition, facilities are inspected for general measures such as cleanliness, crowding, and staff-child ratio. Attention is also paid to the number of extracurricular activities and meetings with parents a facility allows. A sample of children is interviewed about the quality of care (e.g., the food, the attitude of the staff toward them). During subsequent inspections, the staff of the facility are presented with a report of areas that need improvement.

### 8.7 Periodic Review of Placement

The **Youth (Care and Supervision) Law 1960** sets a three-year limit on a court decision regarding a minor in need, including a decision to remove a child from his parent's custody. At the end of three years, the order may be renewed.

The regulations of the Ministry of Labor and Social Affairs require that the decision committee review a child's treatment plan, including out-of-home placement, every six months (Ministry of Labor and Social Affairs, Regulation 8.9, 1995). Though systematic data are not available, it appears that this regulation is not implemented uniformly.

Usually, a child's situation and progress is reviewed twice a year at the facility where he resides. In some cases the community family social worker who is responsible for the family attends the review. However, the plan and goals of intervention are not usually recorded, such that it is impossible to evaluate the extent to which they are followed. Furthermore, the length of stay in an out-of-home placement is often protracted; for most children, returning home is not an alternative. A study of decision committees found that when a child already resides in an out-of-home facility, committees usually recommended leaving him there.

In recent years, policy makers and service providers have begun to examine ways of shortening out-of-home stays when possible. Alongside efforts to improve the efficiency of decision committees, the Ministry of Labor and Social Affairs and ASHALIM are establishing community residential facilities and foster clusters, with the ultimate aim of reducing the length of stay at residential institutions. Policy makers are also considering a transition to daytime residential frameworks and placing a child in a residential framework for only a few days a week while allowing him to spend the rest of the week at home. Greater attention is also being paid to this issue in the foster care

system, through foster care coordinators who have recently begun working in local social welfare departments.

As noted, the Youth Protection Authority is responsible for managing correctional facilities for juvenile offenders and youths with severe behavior problems. The Authority's regulations require review of out-of-home placement. The youth's situation and progress is reviewed three months after admission and at least every six months thereafter. Review committees include the child protection officer or probation officer who referred the youth to the facility, the youth himself, and his parents. Intervention plans are generally recorded. The Youth Protection Authority is introducing a more systematic, efficient means of review, which will entail reformulating the regulations that guide the review process.

## 8.8 Non-government Involvement with Children in Out-of-home Care

*Yeladim - Council for the Child in Placement* is a non-government organization established in 1986 in response to problems with residential care, such as children who drift from one setting to another, insufficient training for staff, poor physical conditions, and children being placed far away from their families.

The council lobbies for the rights of children in residential care and raises funds to improve their quality of life. It also offers the children art activities, educational materials and holiday gifts, in partnership with the business sector. The council has lobbied for the establishment of a national authority for residential settings for children, official recognition and funding of the schools that operate in residential settings, and the passage of a law to prevent the psychiatric hospitalization of children who are not mentally ill. The council also acts as legal guardian for children whose parents are incapable of doing so, and operates an "ombudsman" for children in placement. The council has published several reports on the care of children in residential settings.

## Article 21 of the Convention

## 9. Adoption

### 9.1 The Adoption of Children Law

According to the **Adoption of Children Law 1981**, adoption establishes the same rights and duties between adoptive parents and their adopted children as between natural parents and their children, and gives the adoptive parents the same authority that natural parents have regarding their children. Adoption terminates the rights, duties, and authority of natural parents toward their children (section 16), although the court may limit the above (section 16(1)).

The **Adoption of Children Law** states that a child can only be adopted through an adoption order granted by a court at the request of the adopting parent. Upon this request, a child protection officer must present a detailed report of the child's condition to the court (section 287 of the **Civil Law Proceedings 1984**). An adoption order will only be granted by a court if it is in the child's best interest (section 1 of the **Adoption of Children Law 1981**), and only after the child has lived with the adoptive parent(s) for at least six months (section 6).

### **9.1.1 Circumstances of Adoption**

It is presumed that "the child's best interest [lies in his being] with his natural parents. This presumption is not only based in reality, but also in values deriving from the natural parents' basic rights" (Additional Civil Appeal 7015/94 *Attorney General v. Anonymous Defendant*, P.D. 50(1) 48, p. 67). However, in certain circumstances, this presumption is invalid, in which case the court may declare the child "available for adoption", even without his parents' consent.

According to section 13 of the **Adoption of Children Law 1981**, a court may declare a child available for adoption in the following circumstances: (1) The birth parents cannot be identified or located or cannot be asked about their wishes; (2) the parent opposing the adoption is the father, who never recognized the child as his own or, if he did recognize him, the child nevertheless does not live with him and he refuses, for no reasonable cause, to take the child into his home; (3) the parent has died, or been declared incompetent, or his or her guardianship of the child has been revoked; (4) the parent has deserted the child and failed to maintain contact with the child or to fulfill his or her parental obligations for at least six months; (5) the parent has avoided, for no good reason, fulfilling his or her basic obligations toward the child for six consecutive months; (6) the child was kept outside the parent's home for six months prior to the child's reaching six years of age, and the parent refused, with no justification, to take the child into his or her home; (7) the parent is unable to care for the child adequately because of his behavior or condition, and it is unlikely that his condition will change in such a way as to enable him or her to care for the child, despite economic or social assistance; (8) the biological parent's refusal to agree to the adoption is based on an immoral reason or for an illegal purpose.

With regard to this section, the Supreme Court has noted:

"Section 13... lists the circumstances under which a parent is considered as not fulfilling his or her obligations toward his child. The reasons for adoption reflect the balance, whereby... preference is given to the best interests of the child, as weighed against the rights of the natural parents. A parent is required to fulfill his obligations to his child to the best of his ability, and the law requires that the welfare services assist him. However, a parent's ability is measured objectively, based on the child's mental and corporal needs, which if not fulfilled, will cause him harm... A parent not fulfilling his obligations toward his child, despite the assistance of the welfare authorities, loses his parental right, even if his failure is a

result of objective circumstances, as the purpose of adoption is not to “punish” the parent, but to realize the superior right of the child” (*op. cit.* p. 67).

In certain cases, a child may be declared available for adoption even if the circumstances listed in section 13 are not present:

“In general, when there is no circumstance for adoption, the principle of the best interests of the child is fulfilled in the assumption (which is also anchored... in the parent’s right) that the child’s best interest is served by his being raised by his parents. However, because the best interests of the child takes precedence, even this assumption may be overturned in exceptional cases, if returning a child to his natural parents would cause him great harm, even if he was taken from them illegally. In such a case, a child will not be returned to his natural parents, even if there was no valid circumstance for adoption” (*op. cit.* pp. 86-87).

According to section 12(3) of the **Adoption of Children Law 1981**, if a case is urgent, a child protection officer may deliver the child to the intended adoptive parents even without parental consent, and even before the child has been declared available for adoption. Such a step must be ratified by the court within 14 days.

### **9.1.2 Consideration of the Parents’ Opinion**

In the case of parental consent to adoption, the court must determine that the parents indeed wish to relinquish the child (section 8). Parental consent is invalid if given before the child was born, or under pressure. In special circumstances, the court may decide to allow the parents to change their decision, as long as an adoption order has not yet been issued (section 10).

The official who receives parental consent must explain its meaning to the parents (section 273 of the **Civil Law Proceedings 1984**). The court reviewing the adoption order may choose to appoint an attorney to represent the parent, at the State’s expense (section 24 of the **Adoption of Children Law 1981**).

### **9.1.3 Consideration of the Child's Opinion**

**Section 9 of the Adoption of Children Law states:**

“If a child is nine years old, or if he or she is not yet nine years old but is capable of understanding the issue, the court must establish that the child wishes to be adopted by the adoptive parent(s) before issuing an adoption order. However, the court may give an adoption order without notifying the child and without his consent if it is convinced of the following:

- 1) the child does not know that the adoptive parents are not his or her natural parents

- 2) all signs indicate that the child wishes to continue his relationship with the adoptive parents
- 3) the child's best interest requires that he not be told of the adoption."

The law does not require that a child's opinion be heard before he is declared available for adoption, but only before a final adoption order is issued.

The Supreme Court has ruled, in the case of a four-year-old child who expressed his wishes to psychologists when he was three years old, that "perceiving the child as a separate entity entails granting his right to have his wishes and wants considered to the extent possible" and that "this is not a baby, but a child with a will of his own which he is capable of expressing, indeed... [a child of three or four] does not have the same powers of consideration as an adult. Sometimes the wishes of a small boy do not reflect his best interests. However, a child is not an object to be handed from one person to another without consideration of his wishes. The child has an opinion, which needs to be taken into consideration". In practice, the weight the court ascribes a child's opinion increases with age.

#### **9.1.4 Competence of Adoptive Parents**

The law specifies several conditions of competence to adopt: A child may only be adopted by a married couple, or by the spouse of the child's parent, or by an unmarried relative in case of the death of the natural parents (section 3). The adopting parent must be at least 18 years older than the child, except in case of adoption by the parent's spouse (section 4). The parent must be of the same religion as the child (section 5).

#### **9.1.5 Discretion in Cases of Adoption**

Section 34 of the **Adoption of Children Law 1981** prohibits the disclosure of information about the identity of the children, the birth parent, and the adoptive parents. Section 30(b) states that when the child reaches the age of 18, he may receive information about the adoption, based on the decision of the child protection officer (see also Chapter 6).

As a rule, the identity of the adoptive parents is not revealed to the natural parents. In exceptional cases, law and case law allow for an "open adoption", whereby contact between the adopted children and their birth parents is maintained.

## **9.2 Adoption in Practice**

### **9.2.1 The Service for the Child and the Adoption Process**

**Adoptions in Israel are handled or supervised by the Service for the Child, which is part of the Ministry of Labor and Social Affairs. This Service serves the following populations:**

- 1) children who are relinquished, or deemed by a court to be available for adoption
- 2) adults who wish to adopt, or who have adopted, children

- 3) pregnant women who are considering giving up their child for adoption
- 4) adult adoptees, who wish to learn about their past.

Infants who are given up for adoption with their parents' consent are usually transferred to the adoptive family within a short period, and an adoption order is requested six months later. The more complicated cases are those in which children are adopted against their parents' wishes, through the intervention of the court. These children are usually older.

As noted above, Ministry of Labor regulations require welfare services to attempt to rehabilitate the family, so as to allow the child to stay with his family of origin. The decision to proceed with an adoption is made by the social welfare department decision committee. Regulations require that a representative of the adoption service attend any discussion concerning a child under age six, or any case in which adoption is being considered. If the committee decides that, despite attempts to help, the parents are incapable of raising their child and that it is in the child's best interest to be adopted, the adoption service will ask the legal department of the Ministry of Labor and Social Affairs to petition the court to declare the child available for adoption.

According to officials in the Service for the Child and in the Ministry of Labor's legal department, the courts are strict in their demand that the State prove that the biological parents are incapable of raising the child, even if helped by the authorities. Court decisions are based on the testimony of the child's parents, witnesses, social workers and other professionals who have worked with the family. The court also relies on expert (psychological or psychiatric) evaluations. Often, other options will be considered before freeing a child for adoption, such as granting guardianship to a member of the extended family, if such an arrangement is in the best interest of the child. Once a court has determined that a child is available for adoption, the birth parents can appeal to a higher court.

The 1994 Report of the State Comptroller expressed concern about the duration of legal proceedings, which was an average of between 12 and 18 months in 1989-1991. Sources in the adoption service stated several causes for lengthy legal proceedings: an overburdened court system, long intervals between hearings (despite regulations determining maximum intervals), and the insistence of courts on extensive examination of the evidence presented in favor of parents.

During legal proceedings, the child is usually under a court order that has deemed him a "minor in need" and placed him outside his home. The Service for the Child and several non-government organizations operate special group homes for children in transition. Other children stay with a foster family or at a residential setting. This period is used to prepare the child for separation from his family and adoption into a new family.

It is possible to place the child with parents who wish to adopt him if circumstances so require, even before the child has been declared available for adoption. Data from a survey of children over two years old who were adopted between 1985 and 1995 reveal that only 9% were placed with adoptive

families at this stage (JDC-Brookdale Institute, unpublished data). It appears that this option is often successful when the child is an infant.

Once a child has been declared available for adoption, the regulations require that a suitable family be found within 12 months. When older children are involved, several meetings take place between the child and the prospective parents, over the course of one or two weeks, before he begins to live with them. During this time the child’s reaction is observed by professionals who know him; if he seems distressed by the interaction, a different family will be sought.

As a rule, the adoption order severs the legal ties between adopted children and their biological parents. The children are usually placed in a different geographic area from that of their birth parents, in order to prevent involvement. As noted, “open adoption” is rare, although consideration is being given to expanding this option.

Once a child has reached 18 years of age, the Service for the Child will contact his biological parents if he is interested in meeting them, and will help set up a meeting.

### 9.2.2 Information about Adopted Children

Information about children adopted within Israel is presented in Table 9.

**Table 9: Children Adopted within Israel, 1995-1997 (in Absolute Numbers)**

	1995	1996	1997
<b>Total</b>	<b>215</b>	<b>182</b>	<b>149</b>
Infants (0-2)*	96	102	71
Children (2+)	119	80	78

\*Including two-five children with Down’s Syndrome per year.

Source: Ben-Arie and Zionit, 1995

As is apparent, about half of the children adopted within Israel are children over two years old. This population presents a challenge to the adoption service, as most couples prefer to adopt an infant (the waiting period for adopting an infant is five and a half years). Recently, a study initiated by the Service for the Child examined the outcomes of the adoption of older children and the services needed during different stages of the adoption process. Preliminary data from this study are available on 343 children over two years of age who were adopted between 1985 and 1995, as shown in Table 10.

**Table 10: Characteristics of Older Children Adopted between 1985 and 1995**

	Number	Percent
<b>Total</b>	<b>343</b>	<b>100</b>
Age of Children		
2 – 3	92	27
4 – 5	92	27
6 and over	156	46

Siblings		
Adopted with siblings	119	35
Adopted alone	224	65
Adoptive Parents		
Have other children	183	54
Do not have children	160	46

Source: Rivkin et al., forthcoming

### 9.3 Inter-country Adoption

In 1997, approximately 190 children were adopted from other countries. In 1996 the **Adoption of Children Law 1981** was amended to regulate inter-country adoption. This amendment subjects inter-country adoption to the Hague Convention on the Protection of Children and Cooperation in Respect to Inter-country Adoption, which Israel signed in 1995. Section 28 of the law determines that the central authority for all inter-country adoptions by the law and in accordance with the Convention is the chief child protection officer, who is appointed by the Ministry of Labor and Social Affairs. Inter-country adoption will be administered, as a rule, by non-government agencies authorized by the Minister of Labor and Social Affairs and the Minister of Justice (section 28c). Each agency is responsible for verifying that the authorities of the country of origin have examined the possibilities for adopting the child within that country and have determined that inter-country adoption is in the child's best interest. The agency must also verify that due process has been carried out regarding the child's availability for adoption. When the child's age and level of understanding render it necessary, the agency is responsible for verifying that the child understands the adoption and has consented to it. The law requires that each agency verify the eligibility of the prospective adoptive parents to adopt a child according to the standards set for inter-country adoption (sections 28H-28J). Under regulations of the Service for the Child, the adoptive parents or parent must have reasonable health and economic stability, and at least one parent must be under 48 years of age. The adoption agencies are responsible for monitoring the child's adjustment to the home, and must submit a report to the country of origin. As in internal adoption, inter-country adoption must be finalized by a court order, once the court has verified that all conditions required by law have been met.

According to section 28t(c), which was amended to the Adoption of Children Law in 1997, a court may grant an inter-country adoption order even if the adoptive parents have a different religion than the adopted child, provided this presents no infringement of the child's best interest.

Adoption of children born in Israel by people in other countries is extremely rare. In 1996, five children were adopted outside of Israel, and in 1997, six children were adopted outside of Israel. These children were born to Moslem mothers. As Islamic law does not recognize adoption, and inter-religious adoption is prohibited within Israel, these children were placed with adoptive families outside of Israel. It is probable that in the future such children will be placed with Moslem

families in Israel for long-term fostering and guardianship, which will be similar to adoption and in accordance with Islamic law.

#### 9.4 Support Services for Adoptive Families

The adoption agency provides counseling services at least until an adoption order has been granted (usually six months after the child begins living with the family) or longer, at the family's request. In special need adoptions (children over two years old, children with disabilities), more intense support is provided. Adoptive parents of children with special needs undergo training before receiving the child; in some cases, post-adoption support groups are offered.

A non-government agency, *MALI - The Center for Counseling and Treatment for Adoptive Families*, also offers professional help to adopted children and families at subsidized rates. In 1997 this service treated 344 individuals, through individual, family and group therapy. The service also offers workshops, training and consultation for professionals who work with adopted children.

## Articles 19 and 39 of the Convention

### 10. Abuse and Neglect, Recovery and Reintegration

#### 10.1 Legislation Regarding Child Abuse and Neglect

Several laws deal with the prevention and treatment of child abuse and neglect. (For additional information on legislation regarding sexual exploitation, see Chapter 10.)

##### 10.1.1 The Penal Law

The **Penal Law 1977** prohibits acts of physical, emotional or sexual abuse directed at minors, and sets a maximum sentence of seven years for such offenses, and nine years if the perpetrator is the child's guardian (sections 368B, 368C). As noted, the Penal Law also prohibits neglect of a child, and sets penalties for specific breaches of parental obligation, such as failing to provide a child under age 14 with food or clothing (section 362), or leaving a child under two years of age without supervision (section 361).

The **Penal Law** was amended in 1989, introducing a new chapter, 6.1: Harm to Minors and Dependents. The following principles underlie the stipulations in this chapter: First, crimes committed against a minor are more severe than those committed against an adult. Second, crimes are more severe when committed by a person responsible for a minor, than when they are committed by a person not responsible for the minor. Offenses committed by a relative are especially serious. Third, these prohibitions also apply to emotional abuse.

Section 351 of the **Penal Law 1977** addresses sex offenses committed within the family, and sets more severe punishments than those set for offenses committed by someone who is not related to the victim. Thus for example, the penalty for rape or sodomy of a minor within one's family is 20 years' imprisonment, as opposed to 16 years' imprisonment for the same crime committed against someone who is not a relative. Section 351b stipulates that having sexual relations with a relative who is between the ages of 14 and 21 is punishable by 16 years' imprisonment.

Mandatory reporting of child abuse was added to the **Penal Law** in the 1989 amendment. Section 368D(a) requires an adult to report any case of child abuse or neglect to the police or to the Child Protection Authority. Failure to report such abuse is a criminal offense, which carries a three-month jail sentence. The law imposes a sentence of six months' imprisonment on professionals who fail to report abuse of a minor, (e.g., physicians, nurses, educators, social workers, policemen, psychologists, criminologists, and school principals and staff; section 368D(b-c)). As noted, schools and other facilities for children are obligated by this law to report the incidence of severe injury, abuse, and sexual offenses against a minor performed by caretakers or non-caretakers, including another minors (368D(d)).

The amendment that made reporting mandatory was the result of extensive lobbying by voluntary and advocacy organizations, as well as of the disclosure of several cases of severe abuse and neglect, one of which culminated in the death of a three-year-old girl who had been continuously abused by her uncle, which shocked the public. Teachers, friends and neighbors had been aware of the continuous abuse, but had failed to report it to the Child Protection Authority. The setting of longer sentences for professionals who fail to report suspected abuse was meant to resolve the dilemma of professionals, such as physicians and therapists, who may hear of abuse and yet hesitate to report it lest they break their vow of maintaining confidentiality. Despite the passage of this law and the increase in the rate of reporting that has resulted, the sanctions set down in the law are not actually enforced, such that practically no professionals have been brought to trial for failure to report a suspicion of abuse or neglect.

The **Penal Law** was again amended in 1996 (Amendment 47), in response to the recognition that it frequently takes incest victims many years to file a complaint. The amendment extends the ten-year statute of limitations in cases of incest, so that the period of limitation begins tolling not from the date of the offense, but from the date on which the victim reaches the age of 18. Although the wording of this amendment leaves something to be desired, the Supreme Court has interpreted it broadly and in keeping with the spirit of the Convention (*Criminal Appeal 2213/00 Anonymous Plaintiff v. State of Israel*, P.D. 54(3) 180).

### **10.1.2 Implementation of the Penal Law**

As noted, the use of violence that may cause physical or emotional injury to children is forbidden by law and is considered criminal, whether committed by the child's parents or by others. However, the Supreme Court recently ruled that there is a criminal injunction against the corporal punishment

of a child, whether perpetrated by a parent or teacher. This ruling came in the wake of recent rulings in a similar vein made by some lower courts, including Family Courts. Thus, for example, a mother who had beaten her children on their rear end, slapped their faces, beaten one child with a vacuum cleaner and punched another in the face, breaking his tooth, was charged with abuse. The mother claimed that she had punished her children to educate them, and denied the charge of abuse. The judge ruled that although these acts were not considered “intentional cruelty”, they did constitute abuse, as they involved repeated and systematic acts of violence for the sake of discipline. The mother was convicted under sections 368(C) and 379 of the **Penal Law**. The ruling referred to the stipulations of the Convention, to the psychological damage caused by violence toward children, and to the evidence given by behavioral research that beating a child does not improve his behavior (Criminal Case (Tel Aviv-Jaffa) 511/95 *State of Israel v. Anonymous Defendant* (not yet published)).

It should be noted that a stipulation of the **Civil Wrongs Ordinance [New Version]**, which offered protection of parents and teachers for corporal punishment perpetrated to the “reasonable degree necessary”, was recently abolished. (See also section 13.1 of Chapter 6.)

Another development is the recent increase in conviction rates and in the severity of sentences in cases of incest. One Supreme Court decision convicted a father of raping his daughter, overturning an earlier acquittal based on the father’s claim that the child “was not in a situation that prevented her from resisting me”. The conviction held that a child victim of incest is always presumed to be unable to object to the act. Review of court rulings also reveals that the amendments introduced in 1989, which stress the seriousness of sex crimes committed within the family, have had an effect. In recent years, courts have imposed heavy punishments of 12, 15 and 16 years for such offenses. However, criticism is still being voiced about cases in which the courts have been more lenient toward incest offenders.

### **10.1.3 The Youth (Care and Supervision) Law 1960**

Section 2 of the **Youth (Care and Supervision) Law 1960** defines seven situations in which a child or youth may be declared by the court as being a “minor in need”:

- ◆ no one defined as a parent, including a step-parent, adoptive parent or legal guardian, is responsible for the child
- ◆ the adult responsible for the child is incapable of caring for the child or neglects caring for him
- ◆ the child has committed a criminal offense, but has not been tried
- ◆ the child was found loitering, panhandling, or peddling
- ◆ the child is subject to detrimental influences, or lives in a criminal environment
- ◆ the child was born with a chemical addiction
- ◆ the child’s physical or emotional well-being has been or may be impaired.

Once the court has declared a child to be a “minor in need”, it may intervene, by doing any of the following:

- ◆ issuing an order, to the child or his guardian, that the court deems necessary to the care and supervision of the child and to ensuring his physical and emotional well-being
- ◆ appointing a “friend” to the child who will advise the child’s guardian and determine his authority and responsibility
- ◆ placing the child under the care of a child protection officer
- ◆ ordering that the child be examined or treated in a psychiatric facility as stipulated by law.

In addition, the **Youth Law** stipulates that if the court is convinced that the child is a “minor in need” and that there is no other way to ensure that he receives the treatment and supervision he needs, it may decide to remove the child from the custody of his parent or guardian, and place him in the custody of the welfare services, which will determine where the child will reside (section 4). This decision is limited to a period of three years, though it may be renewed (section 3). The law also provides for emergency situations: If a child protection officer is convinced that a child is in danger, he is authorized to take all steps necessary to prevent the danger – including removing the child from his home to a safe place – provided the child is not held for more than seven days without the consent of the child’s parent or guardian, or the approval of the court (section 11A). Section 12 of the law states that the court must approve the emergency steps taken and render an interim decision on the matter before hearing the child or his parents. This decision is valid for 30 days, and may be renewed for up to three months (section 14).

As noted, the **Youth Law** was amended in 1995 as follows: “The court will not make a decision under this law... unless the minor, the person responsible for him and the child protection officer have been allowed to make their claims and offer suggestions” (section 8). Section 9 of the law states, however, that the court may avoid summoning the child if it is convinced that he cannot understand the matter or that appearing before the court will endanger him. In such a case, the court may admit as evidence the testimony of a child heard and recorded by a youth interrogator (section 9A). (See also Chapter 10.)

#### **10.1.4 Young Children at Risk (Eligibility for Day Care) Law 2000**

Under the **Young Children at Risk (Eligibility for Day Care) Law 2000**, a committee of the Ministry of Labor and Social Affairs is authorized to determine that the healthy development of a young child (infant or toddler) is at real risk, and that therefore he should be placed in a day-care center, so as to preclude his being removed from his home. The law defines a young child as being at risk if he is abused, if his developmental needs are not being met, if one of his parents is not functioning properly, if he is one of triplets, quadruplets, etc., if his family is in crisis following immigration, or if he is developmentally delayed. The law, which is slated to go into effect in May 2001, stipulates that young children at risk will be eligible to attend a day-care center close to their place of residence. However, the law has left it to the Minister of Labor and Social Affairs to determine the amount of parents’ co-payments.

### **10.1.5 The Prevention of Domestic Violence Law 1991**

The **Prevention of Domestic Violence Law 1991** is intended to protect people, including children, from a relative who endangers those living with him through physical, sexual or emotional abuse.

“Physical abuse” was defined by the Supreme Court, in connection with the criminal offense of abuse of a minor, as being the “direct or indirect use of force or physical means against the body of the victim in a manner and to an extent that may cause physical or emotional harm or both”. According to the court, abuse typically involves “cruelty, instilling in the victim considerable fear and terror, degrading or humiliating the victim, or severe risk of (physical and emotional) harm”.

In order to prevent such risk, the court may issue a protection/restraining order against the offender, which prohibits him from entering or even approaching the home for a period of up to one year, from harassing children or other relatives, and from carrying a weapon. The protection order may require the offender to undergo psychological treatment. Any relative who is aware of sexual or physical abuse that has been or may be perpetrated, may petition the court for a protection order. An amendment to the **Penal Law** (Amendment 56, Minimum Punishment for Violent Offenses against Women and Children), which was ratified by the Knesset in July 2000, sets punishment for an offense of severe violence committed against a relative at no less than one-third of the maximum punishment imposed for the offense. The amendment is in keeping with the legislator’s trend to favor minimum sentences, in order to obligate the courts to raise the baseline of punishment for offenses of this type.

### **10.1.6 The Child Testimony Law 1955**

The purpose of this law is to protect children under the age of 14 who have been involved in a sex crime (as victims, witnesses, or offenders), or who have been abused by the person responsible for them. The law enables a youth interrogator (usually a social worker) to question the child and then testify in court on his or her behalf, thereby protecting the child from traumatic situations which could arise in court (see Chapter 10).

## **10.2 The Prevalence of Abuse and Neglect**

Like other countries, Israel does not have one data base that contains full data on the number of children “at risk”. It is therefore difficult to obtain accurate figures on children who suffer from abuse and neglect or who are vulnerable to other risk situations. The data on cases reported to the chief child protection officer pursuant to the **Youth (Care and Supervision) Law 1960** or reported to the police concern only those children in the most severe risk situations; it is almost certain that they do not adequately represent the actual extent of the phenomenon.

Children known to social welfare departments are a larger group. However, these children come from families that were referred to or sought help from their local social welfare department, and

while they are all exposed to some level of risk, it is likely that not all of them should be defined as being “at risk”.

As indicated in Table 11, 14% of the children in Israel are known to local social welfare departments. Half of them (51%, or 7% of the total child population) are thought to be in a situation of direct risk, and under the care of a social welfare department due to violence directed at them or between their parents, deficient parenting, or behavioral, emotional, or adjustment problems. Another 25% of them (or 3.5% of the total population of children) live in families where there are risk situations, such as a problematic relationship between the parents or problems with the parents’ social functioning (i.e. drug addiction, criminal behavior). The remaining 26% of the children known to social welfare departments (an additional 3.4% of the total child population) live in families that are subject to environmental risk factors such as poverty, unemployment and single parenting.

**Table 11: Estimated Children at Risk Known to Social Welfare Departments and Children at Risk Identified by Universal Services (in %)**

Estimated Children at Risk	Percentage
Known to social welfare department	
Total	14
Direct risk	7.1
Family risk	3.5
Environmental risk	3.4
Recipients of universal services (direct and family risk)*	
Total	6.3
Not known to social welfare department	4.4
Overall estimate (direct and family risk)	15

\*Based on estimates.

Source: Dolev, Ben-Rabi and Yoel, forthcoming

Another basis for estimating the number of children at risk are surveys in which professionals identify these children from the pool of children who receive some sort of universal social service, such as those provided in a clinic, school, or preschool. For example, surveys conducted nationally at all family health centers, and at schools in two local authorities, revealed that 2.5% of children newborn to age six and 6% of children age seven-17 are “at risk”, yet are not known to their local social welfare department. All of these children are in either a direct or a family risk situation. It is therefore estimated that 15% of Israel’s children – that is, 320,000 children – are in direct or family risk.

Table 12 presents the major characteristics of children and families at risk, gleaned from several studies. The Table reveals the following:

- ◆ Some population sub-groups have an over-representation of children at risk: single-parent families, large families, and families where the head of the household is unemployed.
- ◆ Children at risk and their families suffer from multiple problems. Large percentages of these children have at least one dysfunctional parent (e.g., who is mentally ill, a criminal, a prostitute, a drug addict, or an alcoholic). Many of the children suffer from neglect, and many are emotionally disturbed or have significant educational gaps.
- ◆ Children at risk are a heterogeneous group. Some sub-groups of children at risk, such as those under the care of the chief welfare officer pursuant to the **Youth (Care and Supervision) Law 1960** and children referred to local decision committees, have a great many needs, as reflected in the greater number of them who suffer from multiple problems. Other sub-groups, such as children known to social welfare departments, have fewer needs. Children identified as being at risk from among those who receive universal services have the fewest problems.

**Table 12: Characteristics of Sub-groups of Children at Risk (in %)**

Characteristic	Sub-Groups of Children at Risk				
	Under the Care of a Child Protection Officer	Known to a Social Welfare Department	Referred to a Decision Committee	Visit a Family Health Center	Live in a Residential Facility
Single-parent family	36	21	38	22	34
Large family (4+ children)	48	42	37	36	62
Dysfunctional parent(s)	52	12	46	39	51
Abuse	16	1	16	5	23
Neglect	50	26	31	45	49
Educational gaps	54	No data	56	Not relevant	71
Behavioral/emotional problems	75	31	53	34	36

Source: Primak, 1998

### 10.3 Services for Children Subjected to Abuse and Neglect

As noted, the **Social Services Law 1958** obligates the local authorities to develop and provide the majority of the welfare services for needy populations, including services for children who are

victims of abuse and neglect. National policy is set by the Ministry of Labor and Social Affairs, which supervises local welfare services.

The past decade has seen significant development of services for children at risk, in response to the increased number of children identified as suffering from abuse and neglect since reporting became mandatory in 1989. There are three types of service: Those that provide immediate protection, those that offer treatment specifically related to abuse and neglect, and those that provide general support. As general support services were described above (see section 3.4 of this chapter), the following sections will address the first two types of service.

### **10.3.1 Child Protection Services**

In Israel, child protection is conceived of and implemented by the social welfare system, reflecting a belief in social intervention, rather than legal action. This preference is expressed in both the legislation regarding child protection, and the organizational structure of the service system. Child protection officers, employed by social welfare departments, are legally responsible for implementing the stipulations of the **Youth (Care and Supervision) Law 1960**, which views legal intervention as a last resort, after all other means of helping parents adequately care for their children have failed.

Child protection services are provided under the **Social Services Law 1958**. The involvement with a family of a child protection officer does not entitle that family (children or parents) to specific services. Like other clients of the welfare system, these children and families are dependent on the priorities and allocation policy of the Ministry of Labor and Social Affairs, as well as that of their local authority, to a certain extent. A legislative initiative proposed by the Ministry of Labor and Social Affairs as part of a national program for children at risk would entitle children and families at risk, including those subjected to abuse and neglect, to a basket of services based on their needs.

Child protection services are provided by child protection officers, who are supervised by regional child protection officers; both are in turn supervised by the chief child protection officer pursuant to the **Youth Law** in the Service for Children and Youth. Child protection officers are social workers in social welfare departments who have undergone specific training and have been appointed by the Minister of Labor and Social Affairs.

In most local authorities, child protection officers are part of neighborhood teams that also comprise family social workers, geriatric social workers, and the like. The child protection officers act as experts on children, and advise the other professionals on the team. Their role in relation to a child and his family varies according to the policy of the local authority and the specific case. A child protection officer may remain “behind the scene” as a consultant to the family social worker, may intervene during a crisis in the family, or may work in partnership with the family social worker. In some cases, the child protection officer will take responsibility for intervention and become the case

manager for a child and his family, instead of the family social worker. Sometimes intervention is carried out under court order, though often it is not.

Upon receiving a report of a child in need, a child protection officer will investigate the case and gather information with the help of other social workers in the social welfare department. If there is reason to suspect that a criminal offense has been committed, the child protection officer must report this to the police. (Conversely, the police must also consult with a child protection officer.) However, if it is the child protection officer's professional opinion that reporting the incident to the police would harm the child, he may petition a committee comprising representatives of the district attorney's office, a senior police officer, and a senior child protection officer to refrain from reporting the incident. This procedure is rarely used: In 1996, 59 such requests were made to these committees, and only 29 of them were granted.

Once the investigation is complete, intervention is begun either with or without a court order.

***Intervention under court order:*** Under the **Youth (Care and Supervision) Law 1960**, a court order may be issued for a "minor in need" if the child protection officer is convinced that the minor is in immediate danger, or is in need of urgent medical treatment. The child protection officer may take whatever steps he deems necessary to help the child, without the consent of the child's guardian, for no longer than one week without court approval. The minor must not undergo a psychiatric examination unless so ordered by a regional psychiatrist.

Once the court has pronounced the child a "minor in need", the child protection officer may ask that the court take the steps required to protect the child. These usually include one of the following:

- 1) issuing a protection order, which places the child under the protection of the child protection officer; though the child continues to live at home, he and his parents are enjoined to cooperate with the treatment plan authorized by the court.
- 2) issuing a custody order, which removes the child from his parents' home and places him in the care of the child protection officer until an appropriate out-of-home framework can be found. The court may issue an interim order that is valid for 30 days and may be extended for up to three months, or may hand down a final ruling, which is valid for up to three years.

***Intervention without court order:*** Child protection officers often use the authority they are granted by law without actually applying legal procedures. They do so with the knowledge that they can apply such procedures at any stage, if the parents fail to cooperate. Those responsible for the child protection officers in the Ministry of Labor and Social Affairs services believe that the use of a child protection officer's authority, even without a court order, can induce change in families that are unwilling to admit they have problems and need help. Initially, parents find it easier to comply with a program that is imposed upon them. Eventually they experience the intervention of the child

protection officer as supportive and helpful. Once parents agree to a treatment plan, they are asked to sign a contract with the department of welfare services, which describes the program and mutual expectations. In nearly half of the cases in which children were placed in the care of a child protection officer, the intervention was defined as being “in light of the law” – that is, without a court order.

Children and families may exit the child protection system in several ways, including the gradual transfer of responsibility for the case from the child protection officer to a family social worker. Many (about 25%) of the cases reported to child protection officers never formally enter the child protection system, but rather are immediately referred to a family social worker. In other cases, a family social worker resumes care or takes responsibility for the case after the crisis situation has been handled.

As a result, identifying and describing the population of children and families in the care of the child protection system is very difficult. At any point in time there are children in the care of child protection officers under court order, or not under court order; cases in which child protection officers act as consultants or partners; and cases being investigated by child protection officers. Despite the relatively flexible definition of “being in the child protection system”, it is agreed that these children are those who are subject to the most extreme risks, and who require the most intensive intervention. However, as these children and families are entitled to the same services as those available and accessible to all children and families, the services and support available to children who suffer from abuse and neglect should be seen within the context of general support services (see section 3.4 above).

### **10.3.2 Children in the Care of Child Protection Officers**

The Ministry of Labor and Social Affairs collects data regarding children referred and reported to child protection officers through a central information system. However, the Ministry claims that the information being reported to the system is incomplete, and covers only between half and one-third of all children referred or reported to the officers. Data gathered by the Ministry in 1997 show that 11,000 children were referred or reported to child protection officers in that year. Approximately two-thirds of these children were already under the care of a social welfare department at the time of referral. According to the Ministry, about 50% of the reported cases were verified. Often, the child and his family remain in the care of a social welfare department, even if the report is not verified, or is only verified in part.

Additional information about children referred to child protection officers is available from a survey of the National Council for the Child. According to this survey, in 1996, 18,605 children were referred to child protection officers. This figure is higher than that reported by the Ministry of Labor and Social Affairs for 1996 (10,592), which is thought to represent about two-thirds of the children who were referred to child protection officers in that year. This discrepancy appears because some

of the social welfare departments submitted data to the National Council for the Child, but not to the Ministry of Labor. Information about the types of abuse experienced by the children referred to child protection officers is presented in Table 13; the information is culled from reported cases, which may or may not have been substantiated.

**Table 13: Children Referred or Reported to a Child Protection Officer in 1996, by Primary Type of Maltreatment**

Type of Maltreatment	Number	Percentage
<b>Total</b>	<b>21,503</b>	<b>100</b>
Neglect	9,550	44.5
Physical abuse	6,903	32
Emotional abuse	3,513	16
Sexual abuse	1,537	7
Other or unknown	199	0.5

Source: Ben-Arie and Zionit, 1997

Since reporting became mandatory in 1989, the number of reports of child abuse or neglect has risen significantly – from approximately 4,000 in 1989 to over 18,000 in 1997. Even though, as noted, few individuals have been tried for failure to report a case of suspected abuse, the law seems to have had an impact on the public. The data indicate a strong correlation between the social welfare and the child protection systems: 63% of the children reported to child protection officers were already known to the social welfare system at the time of referral, and one-third of them were referred by a social worker. The small proportion of children who reported themselves, or who were reported by friends or neighbors, indicates that the legislation has influenced professionals to a greater extent than it has the general public.

It is also noteworthy that the percentage of Arab children (13%) among those reported to child protection officers is much lower than their proportion in the general population of children (25%), despite there being no evidence that abuse and neglect are any less common among the Arab than among the Jewish population. This may reflect reluctance to report cases of abuse and neglect within the Arab population.

A 1992-1993 survey of children in the care of child protection officers in four cities (Jerusalem, Tel Aviv, Haifa and Beer Sheva) provides a deeper understanding of who remains in the care of a child protection officer, after the initial investigation. All of the children were living at home at the time of the survey.

**Table 14: Characteristics of Children in the Care Of Child Protection Officers in Four Cities, 1992-1993**

Characteristics	Percentage	Number
<b>Total</b>	<b>167*</b>	<b>849</b>
Single-parent families	36	306
Families with four or more children	42	356
Head of household unemployed	37	314
Parent has impaired functioning (due to substance abuse, mental illness)	52	441

\*More than one characteristic may apply.

Source: Dolev and Rivkin, 1997 (unpublished)

The data reveal that children who remain in the care of a child protection officer come from families in which any of a number of problems may impair social functioning and parenting. Approximately one-third of the children live in single-parent families, compared to 6% in the general population, and almost half of them live in families with four or more children, compared to 17% in the general population. Thirty-seven percent of the children live in families in which the head of the household is unemployed, and almost half of them have at least one parent who suffers from a severe problem that may impair his social functioning (substance abuse and diagnosed mental illness are the most prevalent).

In contrast to the popular perception, most of the children in the care of a child protection officer are not subjected to physical or sexual abuse, either suspected or substantiated; emotional abuse is more common (i.e. humiliation, severe punishment, punishment that is unrelated to the child's behavior). The percentage of cases of physical abuse that are substantiated increases with the child's age.

Most of the children in the care of a child protection officer are subjected to various forms of neglect. Almost half of them are physically neglected – that is, at least one of their basic daily needs is not being met on a regular basis. An even larger proportion of children lack adequate supervision, are often left alone, and do not have a daily routine. The majority of the children suffer from emotional neglect, and close to half of them suffer from educational neglect – that is, their parents do not make sure they attend school regularly and do their homework.

**Table 15: Children in the Care of a Child Protection Officer, by Type of Abuse and Neglect\* and by Age Group (in %)**

	Age				
	Total	0-3	4-6	7-11	12-14
<b>Total</b>	<b>849</b>	<b>170</b>	<b>207</b>	<b>330</b>	<b>141</b>
Proven physical abuse	16	8	13	15	34
Suspected physical abuse	16	16	17	18	9
Proven sexual abuse	1	0	2	1	2

Suspected sexual abuse	12	2	9	16	17
Inappropriate discipline	66	48	67	68	79
Physical neglect	50	56	48	51	41
Inadequate supervision	74	67	75	78	74
Educational neglect	44	7	37	61	61
Emotional neglect	79	67	84	83	79

\* A child may be subjected to more than one type of abuse or neglect.

Source: Dolev and Rivkin, 1997 (unpublished)

Table 16 presents the services provided to these children and their families. The service most commonly provided to children in all age groups is participation in a group framework that to some extent substitutes for care that is usually provided in the home. For example, half of the children in the youngest age group attend a day care framework that operates eight hours a day. Older children are enrolled in after-school care. Considering the large proportion of children who were reported as having problems with school performance, few children receive educational support or enrichment outside of assistance with school work, which is provided in some after-school frameworks. A small but significant proportion of the older children undergo individual or group therapy.

**Table 16: Services Provided to Children in the Care of a Child Protection Officer, by Age (in %)**

Type of Service	Age		
	0-3	4-6	7-14
<b>Total in Numbers</b>	<b>170</b>	<b>207</b>	<b>471</b>
Day care	52	-	-
After-school care	9	36	21
Enrichment and extracurricular programs	2	7	8
Big brother/sister	-	-	12
Tutor	-	-	5
Individual or group therapy	-	16	19

Source: Dolev and Rivkin, 1997 (unpublished)

The proportion of children whose families receive services geared for the entire family is even smaller. The most common of such services, provided to 59% of the families, is counseling with a social worker or child protection officer. However, these counseling sessions tend to be few and far between (fewer than two sessions per month, on average). Only a very small proportion of the children live in families that receive a concrete service that is meant to support the routine operation of the household. For example, about 15% of the families are assisted by a para-professional home-care worker. Specific rehabilitative services for parents, such as drug detoxification or vocational rehabilitation, are even less common.

**Table 17: Services Provided to the Families of Children in the Care of a Child Protection Officer (in %) (N=849)**

Type of Service	Percentage
Home-care worker	15
Sessions with a social worker or child protection officer	59
Family counseling	13
Psychotherapy	7
Drug detoxification	4
Group therapy	4
Psychiatric care	9
Legal aid	7
Vocational rehabilitation	2

Source: Dolev and Rivkin, 1997 (unpublished)

It is noteworthy that families with children in the child protection system were not generally found to be participating in programs that took a more comprehensive approach to family intervention, such as Video Home Training, even though such programs were available in some local authorities. It is possible that the expansion of some of these programs has made them available to more families in the child protection system.

The patterns of service provision to this population are similar to those described in section 3.4 and indicate a marked preference for services that are provided directly to the child, preferably in a group framework outside the home. Investment in services for the family unit or for parents is limited.

However, the data do indicate that more extensive services are provided to children who are in the care of a child protection officer than to other children in the care of a social welfare department. Nevertheless, extensive disparities between the needs of the children and their families and the services provided remain evident.

Another issue of concern upon which social workers and other professionals agree is the shortage of services for children who are victims of abuse in the Arab community, including emergency centers, foster families, child protection officers and other trained professionals, residential settings, hotlines and support groups for parents.

### **10.3.3 Emergency Services**

At times, it is necessary to provide immediate protection for children in an emergency situation. There are various ways to do this, including providing short-term shelter. "Shelter families" serve as an immediate foster placement until a child's situation can be evaluated and a longer-term plan devised. Emergency centers and child protection teams, which function in hospitals, also provide immediate, emergency placement when the need arises.

### Emergency Centers

Since 1993, a network of six emergency centers for children has been operating in Israel. Five of these centers serve the Jewish population, and one serves the Arab population. (Two additional centers are planned for the Jewish orthodox and ultra-orthodox sub-populations.) Emergency centers are designed for short-term residence of up to three months and serve three purposes: to provide shelter for children in need of immediate protection; to provide short-term crisis intervention; to evaluate the child and his family so as to design a comprehensive long-term treatment plan for them. Intervention and planning are carried out in cooperation with professionals in the family's community. A child is referred to a center by a child protection officer, who remains involved in treatment and acts as a case manager to ensure continuity of care when the child leaves the center.

Three emergency centers were evaluated during their first three years of operation. Selected data on the 205 children included in the study are presented in Table 18. The data indicate that the most prevalent reasons for referral to an emergency center were abuse or neglect. Although the centers were designed as a short-term intervention, one-third of the children remained in them for an extended time due to the lack of an appropriate longer-term solution. The majority of the children eventually returned to their parents' home. Follow-up data on children who reached the age of 18 shows a clear decline in physical and sexual abuse and physical neglect. However, the prevalence of more complicated types of maltreatment, such as emotional neglect and abuse, did not decline dramatically, indicating need for sustained intervention.

**Table 18: Components of Care at Three Emergency Centers, 1993-1996 (N=205)**

Component of Emergency Care	Percentage
Reason for Referral*	
Physical, sexual, or emotional abuse (suspected or proven)	46
Severe neglect	41
Parent crisis	35
Length of Stay	
One month or less	26
Two-three months	31
More than three months	32
Destination on Departure	
Parents' home	56
Out-of-home placement	38
Adoption	6
Treatment Plan**	
Out-of-home placement	47
Services for children	33

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\*There may be more than one reason for referral per child.

\*\*Each treatment plan may contain more than one component.

Source: Dolev et al., assessment of emergency centers for children at risk, various reports, 1994-1997

### **Hospital Child Protection Teams**

Hospitals also play an important role in child protection. Special teams have been set up in the emergency rooms of 26 general hospitals. These teams are headed by a social worker, and also include a doctor and a nurse. The child protection teams instruct hospital staff in dealing with cases of suspected abuse and neglect: how to recognize them, how to conduct an initial investigation of the circumstances of the child's injury, and how to report the case to a child protection officer or the police. The members of the team can recommend hospitalizing the child until the case has been clarified and referred to the care of a child protection officer.

A survey of 238 children referred to child protection teams in 23 general hospitals showed a very low rate of referral: two children for every thousand children. This proportion is particularly low, given the estimates of maltreatment in Israel. Close to half of the children referred to the teams were newborn to age three. A large percentage of the children lived in families characterized by socio-economic stress factors: 15% were from single-parent families, 37% were from large families, 18% were from families with economic problems, and 29% were from families with housing problems.

About half of the children arrived at the emergency room with burns, bruises or wounds, and 35% reported a medical complaint. Seven percent were suicide attempts, and 8% were sexually-related complaints. In one-quarter of the cases, the adult accompanying the child reported that the injury was caused by violence, 29% reported that it was caused by a home accident, and 16% cited a medical cause. The hospital child protection teams decided to report 82% of the children to a child protection officer (Alter, 1995).

### **10.3.4 Non-government Services for Children Who Are Victims of Abuse and Neglect Hotlines for Children**

Several organizations operate telephone hotlines for children suffering from abuse or neglect. The following data were supplied by these hotlines:

- ◆ In 1996, the hotline of the ombudsman for children of the National Council for the Child received 7,271 calls. This represented a very significant increase from 242 calls in 1990. Of the 7,271 callers, 1,423 children reporting being in a risk situation (e.g., abuse or neglect). (See Chapter 3.)
- ◆ In 1994, rape crisis centers received 941 calls regarding children under age 18.
- ◆ In 1997, the hotline of the voluntary organization *ELI – The Israel Association for Child Protection* received 4,209 calls. These children reported the following problems:
 

Emotional abuse	40%
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Physical abuse	28%
Neglect	18%
Sexual abuse	14%

About one-quarter of the calls were from children in need; the remainder were from relatives, professionals, and friends.

*Meital - The Israeli Center for the Treatment of Child Sexual Abuse* is a public non-profit organization that provides professional treatment to children and adolescents who are victims of sexual abuse and their families. It also treats adults who were sexually abused during their childhood. In 1997, the organization provided treatment to 264 children under the age of 14, and to 94 adolescents (ages 15-18). Most (65%) of the clients were referred by the social services. The organization is sponsored by various foundations, and receives minimal support from the government. It faces extremely severe financial difficulties, as most treatment is provided without charge, or for a token fee.

*ELI - The Israel Association for Child Protection*, founded in 1979, is a non-profit organization dedicated to preventing and treating child abuse and neglect. It offers the following services:

- ◆ A toll-free hotline, staffed by trained volunteers 14 hours a day (see above).
- ◆ Therapy services for children who are victims of abuse and their families. In recent years, ELI has made this service available throughout the country, with special attention to Arab children, children from immigrant families and children on kibbutzim.
- ◆ An emergency center for children.

## 10.4 Awareness and Prevention of Abuse and Neglect of Children

Many (government and non government) agencies and organizations promote awareness of child abuse and neglect. For some of these organizations, education about maltreatment of children is a primary activity. Other organizations deal with this issue as one of a range of activities. At present, there is no systematic information on the scope of such activities or their effectiveness.

### 10.4.1 Government Activities

#### **The Ministry of Labor and Social Affairs**

When reporting became mandatory in 1989, child protection services invested a great deal of effort into promoting awareness of and enhancing sensitivity to the signs of child neglect and abuse, through workshops, lectures and media appearances geared for both professionals and laymen. During the past year, the Ministry has made services for abused and neglected children its priority, and has generated public support for this. The Ministry also issued detailed instructions for reporting neglect and abuse.

### **The Ministry of Education**

In the wake of mandatory reporting, the Ministry of Education disseminated revised regulations in 1993 and in 1997, which were required reading for principals and teachers. The regulations explained child abuse and children's reactions to it, described how to recognize signs of abuse, clarified the situations of physical, emotional and sexual abuse and neglect that must be reported, and instructed school staff how to act if they suspect a child has been subject to abuse or neglect. First, they must report their suspicion to a child protection officer or the police. Next, they must notify the principal and the school psychologist, guidance counselor or social worker. School staff then meet with the child protection officer to exchange information and determine an appropriate course of action for the school. School staff are instructed to refrain from questioning the child. If the abuse is suspected to have occurred within the child's family, teachers are instructed not to contact the child so as not to endanger him. The principal is responsible for maintaining contact with the child protection officer and implementing the treatment plan. Additional regulations concerning the detection and reporting of sexual abuse, which were meant to increase the awareness and sensitivity of school staff, were issued in 1999.

The Psychological Service of the Ministry of Education operates a Unit for the Prevention of Child Abuse. The unit comprises 18 counselors who work throughout the country; it also runs training workshops of between three and 56 hours for teachers and guidance counselors, which cover recognizing abuse and neglect, approaching injured children, and reporting suspected abuse to the appropriate authorities. The workshops also teach educators to use preventive programs in the classroom. The director of the unit estimated that most of the school guidance counselors in Israel have participated in such a workshop.

The Psychological Service of the Ministry of Education has developed 11 such prevention programs for use in the classroom, adapted for children of different ages, from kindergarten through 12<sup>th</sup> grade. For example, a program for children in the first and second grades, called "Learning to Protect Ourselves", encourages children to protect themselves from adult harassment. A program for children in third and fourth grades addresses protection in the context of children's rights: assertiveness, recognizing one's feelings, and dealing with uncomfortable situations, such as an uncle who forces a girl to kiss him on the lips. The program teaches children which secrets should not be kept, how to recognize adults who can be helpful, and how to contact help hotlines. The director of the Unit for the Prevention of Child Abuse reported that these programs are not often used: To her knowledge, the prevention programs were used in only 400 of the nearly 37,000 elementary classrooms in Israel during the 1996/1997 school year. The prevention unit is now trying a new approach to disseminating abuse prevention programs in the apparently less threatening context of "life skills", alongside issues such as communication, friendship, violence, and drug abuse.

### **The Ministry of Health**

In response to mandatory reporting, in 1990 the Ministry of Health published regulations regarding the obligation of health workers to report any suspected abuse or neglect of minors to a child protection officer and/or the police, and to submit a report to the Ministry's Central Committee on Family Violence, Abuse and Neglect of Minors and the Helpless. These regulations were circulated a second time in 1996.

### **The Police Force**

The Police Force is also an important component of the system to identify and prevent abuse and neglect. Representatives of the Police Force serve on relevant national committees and, in cooperation with the Ministry of Education and the Ministry of Labor and Social Affairs, give presentations in schools.

### **The Prime Minister's Office**

Recently, the Prime Minister's Office has initiated an extensive media campaign to increase awareness of and prevent all forms of family violence.

## **10.4.2 Non-government Organizations**

*ELI - The Israel Association for Child Protection* operates educational programs that increase awareness of and disseminate information about child abuse. Some of these programs are geared for children and adolescents, in an effort to encourage them to seek help if they or other children are subject to abuse. Other programs educate and train professionals. Special programs have been designed for immigrant families, in an attempt to introduce to them unfamiliar approaches to violence against children, including the use of therapy to resolve family problems and crises. ELI also operates a "Child Protection Data Bank" that collects and disseminates information about child abuse and its treatment. ELI also lobbies for legislation and social policy that would prevent child abuse and provide rehabilitative services.

Through lectures and seminars, the *National Council for the Child* educates and raises awareness about child abuse as part of its activities for children's rights. For example, the council held a one-day conference on non-violent education, and published the lectures presented. The council also circulates a booklet in Hebrew and Arabic entitled "Education without Violence - A Guide for Parents". The council operates a "children's rights" minivan that travels among schools to raise awareness and encourage reporting among children.

Women's organizations such as *NA'AMAT*, *WIZO*, and *Emuna* actively combat family violence and offer support services to women and children who are victims of violence.

*Meital, the Israeli Center for Treatment of Child Sexual Abuse* works to increase public awareness of sexual abuse and its effects through lectures and presentations in the media (e.g., in children's magazines and television programs). In 1997, the organization provided training and consultation for professionals in social service and voluntary agencies, the education system, and on

the police force, including those who work with specific populations (e.g., Arabs, Ultra-orthodox Jews, immigrants from the former Soviet Union).

In addition, some radio and television channels show programs about child victims of abuse and how they may seek help. During the slot of television time reserved for children, information is presented about hotlines, whose telephone numbers are presented through catchy “jingles”. Issues of child abuse, particularly sensational cases, receive much attention in the electronic and print media.

# Chapter 8

## Basic Health and Welfare



# Children with Disabilities

## Article 23 of the Convention

### Introduction

In this section we will describe the legislation and policy that aim to ensure the right of children with disabilities and their families to special services, and the extent to which, in so doing, they fulfill the stipulations of the Convention. It should be noted that, apart from specific rulings or policy regarding children with disabilities, these children and their families are eligible for the same services as children without disabilities. Therefore, this section will concern itself with those policies and services that are geared for disabled children and their families, and those areas in which the capabilities of the children and their families prevent them from participating in or enjoying the rights granted all children.

The past two decades have brought a relatively large number of changes in legislation concerning children with disabilities. These changes testify to an increasing recognition of the special needs of disabled children and their families, and to the State's obligation to meet these needs. This section begins with a description of court rulings and legislative initiatives concerning children with disabilities. It then presents data on the number of children in Israel who suffer from disabilities, and on differences in disability rates among population sub-groups. Then the system of services for disabled children and their families is described, with emphasis on the way these enable disabled children to realize their right to live full lives and become self-reliant. The section then describes the identification and diagnosis of disability, and the provision of developmental and para-professional treatment. Lastly, it discusses the opportunities for disabled children to participate in community life and recreational activities.

### 1. Legislation

In 1980, Israel's **National Insurance Law 1953** was amended to grant disabled child benefits to children with disabilities who had been deemed eligible for them by a medical committee. The amendment, which was enacted in 1981, covered minors up to age 18 and was provided to families that cared for a disabled child, to help them bear the burden of personal and nursing care designed to improve the child's functional ability. In addition, disabled children who attend school are eligible for a monthly stipend, which pays for additional scholastic assistance. Benefit levels are determined by the child's level of functional dependence on his parents, whether he suffers from illnesses or certain syndromes, his age and his school attendance. Prior to 1991, children became eligible for benefits only at age three; in 1991, eligibility was extended to begin at birth. The benefit level was dependent on a means test until July 1995, when this condition was abolished.

Although disabled children were always eligible for free compulsory education according to their needs under the **Compulsory Education Law**, the **Special Education Law** passed in 1988 mandated and regulated the right of the “exceptional child” to special education according to his needs and level of development (see Chapter 9). To this end, the law states that a child must be provided with the assistance due him under law in the “least restrictive framework”; this constitutes a declaration of a policy of integrating children with disabilities into regular frameworks to the extent possible – also known as “mainstreaming”.

The **National Health Insurance Law 1994** regulates the eligibility of disabled children for medical and developmental care. The law established uniformity among children insured by the country’s sick funds, and set uniform minimum levels of care for all children. According to this law, children up to six years of age are eligible for diagnosis and care by an interdisciplinary team that comprises a pediatric neurologist, a psychologist, a physiotherapist, a social worker, communications clinician, and an occupational therapist. These children are also eligible for speech diagnosis and therapy, and for multi-professional care for learning disorders, minor cerebral dysfunction, language and speech impediments, communication disorders, and motor dysfunction. Medical diagnosis and care for physical disabilities are also provided by a multi-professional team regardless of the child’s age.

The recently enacted **Rehabilitative Day-care Centers Law 2000** is designed to ensure a proper care, rehabilitation and educational framework for children ages one-three with mental retardation or other disabilities. Such children are eligible for care and education based on a basket of services determined by the Minister of Labor and Social Affairs and the Minister of Health in consultation with the Minister of Finance and the Knesset labor and welfare committee. The cost of the basket is borne by the national government, the sick funds, and the children’s parents. Care is to be provided at the rehabilitative day care center nearest the child’s home. Professional and para-professional caregivers set an individual care program for each disabled child, in consultation with a center for child development authorized by the Minister of Health, and based on the basket of services.

The **Equal Rights for People with Disabilities Law 1998** defines a disabled person as one who has a permanent or temporary physical, emotional or mental (including cognitive) disability that severely limits his functioning in at least one primary activity of daily living (ADL). Under the law, the rights of persons with disabilities, and Israeli society’s obligation to secure these rights, are based on the principal of equality, on the recognition that man was created in God’s image, and on the principal of respect for one’s fellow man. The goal of the law is to preserve the dignity and freedom of the disabled person; anchor in law his right to equal, active participation in society; and meet his special needs while enabling him to live with a maximum of independence and dignity and to fulfill his potential. A disabled person should be enabled to make decisions that affect his life based on his own wishes and priorities.

In particular, the law addresses the rights of disabled people concerning employment and access to public transportation, and calls for the establishment of a commission that will ensure equal rights for people with disabilities. The sections of the law concerning employment rights for the disabled

also cover parents and relatives who care for a disabled person. Most of the law's sections specifically avoid dealing with children.

The law is based on the recommendations of the public commission to examine comprehensive legislation on the rights of disabled persons in Israel, which was established after the Knesset passed the **Equal Rights for People with Disabilities** bill in 1996. The commission examined the bill, as well as all other legislation concerning disabled persons in Israel. The law represents only some of the legislation recommended by the commission, which continues to work to enact additional legislation. However, a major limitation of the law is that it does not ensure that funds will be budgeted for its implementation, but rather leaves this to the discretion of the Minister of Labor and Social Affairs and the Minister of Finance.

## 2. Rates of Disability and Handicap among Children in Israel

Existing information in Israel on children suffering from disabilities is incomplete. The government ministries and agencies that serve children with disabilities possess some information on this population, yet the extent to which it encompasses all children with disabilities is unclear.

The National Insurance Institute (social security administration) and the JDC-Brookdale Institute conducted a national study, the first of its kind in Israel, to estimate the number of children and youth (up to age 18) with special needs, to examine these needs, and to determine the gaps between needs and services (Naon, Ifrah and Baich-Moray, 1998). "Children with special needs" were defined as children with disabilities or chronic illnesses who require constant care or medical supervision, including children who suffer from deafness, paralysis, cancer, kidney disease, mental retardation or severe learning disabilities or behavior disorders. These children have special medical, paramedical and educational needs in excess of those of their peers.

The study revealed that about 177,000 children, or approximately 8.5% of the children in Israel, suffer from a functional disability or chronic illness that requires constant care or medical supervision. This estimate does not include the many children who have slight learning disabilities or behavioral disorders, or problems that have not been diagnosed.

The study also revealed the following:

- ◆ About 145,000 of the children had severe learning disabilities and/or behavioral-emotional disorders, or were suffering from borderline retardation.
- ◆ About 48,000 children suffer from illnesses that require constant medical or paramedical care.
- ◆ About 23,000 suffer from a severe physical disability.
- ◆ About 65,000 children (3.1% of all children in Israel) suffer from more than one type of disability, as certain types of disability are accompanied by educational, behavioral or emotional problems.

Significant differences were found among various population sub-groups in rates of disability among children. The following were the most noteworthy:

- ◆ The rate of boys with special needs was almost twice as high as that of girls: 9.8% versus 5.4%, respectively.
- ◆ The rate of children with special needs was especially high in towns with low socio-economic ratings: 11.0% of all children in such towns, compared to 7.7% of all children in Israel.
- ◆ The rate of children with disabilities was especially high among elementary school children, as disabilities are often identified and diagnosed when children enter the education system: 10.7% of elementary school children had special needs, compared to 5.2% of children newborn to age five.

**Table 1: Rates of Disability among Children Living in the Community in Israel, by Type of Disability (in %)\***

Type of Disability	Percentage of All Children	Percentage of Children with Disabilities
<b>Total</b>	<b>8.7</b>	<b>100</b>
Personal Care (ADL)	1.1	13
Motor Control and Mobility	2.5	29
Communication	3.1	36
Hearing	0.7	8
Vision	0.6	7
Speech	2.1	24
Behavior	5.6	64
Learning disabilities	4.8	55
Behavioral disabilities	1.9	22
Emotional disabilities	0.5	6
Mental Retardation	0.4	5

\*The percentages do not add up to 100% , as some children suffer from more than one type of disability.

Source: Naon, Ifrah and Baich-Moray, 1998

Table 1 shows the rates of children suffering from various disabilities, according to the survey. (As some of the children suffer from more than one disability, the data do not add up to 100%.) As can be seen, more than half of the children identified in the survey as being disabled (5.6% of all children) had behavioral problems; they included children with diagnosed and non-diagnosed learning disabilities, and those broadly defined as having “behavior problems”. About one-third of the disabled children (3.1% of all children) were diagnosed with communication problems; most suffered from speech impairment, while others were deaf or blind. About two-thirds of the children defined as being disabled (5.7% of all children) suffered from one disability, while the remaining one-third suffered from two or more disabilities.

Table 2 shows the rates of children suffering from various disabilities according to sector and age (as some children suffer from more than one type of disability, the percentages in the Table do not total 100%). As can be seen, a comparison of the Jewish and Arab sectors reveals variance for specific disabilities. For example, the rates of disability in ADL, motor disorders, emotional disability, mental retardation and blindness were higher in the Arab sector than in the Jewish sector – in some cases, two and even three times as high. These differences can be attributed to the socioeconomic and health conditions of this population, as well as to the relatively large percentage of intra-family marriages in the Arab sector. Conversely, the rates of learning, behavior and speech disabilities were higher in the Jewish sector. There may be a number of reasons for this. First, awareness of the need to identify and diagnose disability, even if it is “less severe”, is not as great in the Arab as in the Jewish sector. Second, professionals report a severe lack of diagnostic services in the Arab sector, particularly for disabilities of this type.

**Table 2: Disabilities among Children Living in the Community in the Jewish and Arab Sectors, by Type of Disability and Age (in %)\***

	Jewish Sector			Arab Sector		
	Age			Age		
	0-5	6-11	12-17	0-5	6-11	12-17
All Children with Disabilities	4.9	11.8	9.5	4.0	9.2	12.2
Personal Care (ADL)	0.0	1.3	0.5	0.6	1.4	3.4
Motor Control and Mobility	1.7	2.8	2.6	2.0	2.4	4.3
Communication						
Hearing	0.6	1.0	0.6	0.5	0.7	0.6
Vision	0.3	0.5	0.6	-	2.0	1.3
Speech	2.6	2.8	1.4	1.9	0.9	1.9
Behavior						
Learning disabilities	1.2	7.8	5.6	0.2	5.3	7.6
Behavioral disabilities	0.8	3.0	2.2	0.7	0.9	3.2
Emotional Disabilities	0.2	0.4	0.6	0.2	0.5	2.3
Mental Retardation	0.3	0.4	0.2	0.1	0.8	1.9

\*The percentages do not add up to 100% , as some children suffer from more than one type of disability.

Source: Naon, Ifrah and Baich-Moray, 1998

### 3. The Service System for Disabled Children in Israel

In Israel, services for children with disabilities are provided primarily by the Ministry of Health, the Ministry of Labor and Social Affairs, and the Ministry of Education. The National Insurance Institute also plays a role in the care of these children.

In addition, many voluntary and parents' organizations play a central role in providing services to disabled children and their families, mobilizing resources, raising awareness, and advocacy. In fact, voluntary organizations that work on behalf of disabled persons in general, and disabled children in particular, play a pivotal role. Among the main organizations active on behalf of disabled children are the *ALYN Hospital – Pediatric and Adolescent Rehabilitation Center* devoted to children with cerebral palsy; *ILAN*, devoted to children and adults with physical disabilities; *MICHA – The Society for Deaf Children* and *SHEMA*, devoted to hearing-impaired children; and *AKIM*, devoted to children with mental retardation. The majority of the services operated by these organizations are government-financed. These organizations often operate services for disabled children by using funds received from national and local government authorities.

The services available to children with disabilities, and the organizations that provide them, will be described in greater detail in a later section.

#### 3.1 The Health System

Health services play an important role in identifying, diagnosing and providing care to disabled children and their families. These include family health centers, centers for child development, the system of mental health services, and hospitals.

Family health centers provide preventive health services to pregnant women and children newborn to age five. Centers are located throughout the country, operate on a neighborhood or community basis, and employ a holistic approach. Most of the nurses work with families from pregnancy through a child's early development. Families perceive the centers, which cover almost the entire population, as a source for support: It is estimated that 95% of all families with young children visit a family health center from pregnancy through the child's first two years of life. Use of these centers declines after a child has reached two and a half years of age.

As part of their mandate to monitor pregnancies and early childhood development, family health centers conduct examinations at pre-defined intervals, according to a uniform protocol. Consequently, they serve as a primary agent for identifying children with disabilities: They alert parents to possible problems, instruct parents how to encourage their child's development and, when problems are identified, conduct follow-up examinations and refer children for further diagnosis and care.

In fact, the agencies responsible for diagnosis and care of young children with disabilities (such as child development centers) report that family health centers are a primary source of referral to them. In a 1999 study of a representative sample of 16 directors of child development centers, ten directors reported that children were most often referred by a family health center (Naon, Sandler-Loeff and Strosberg, 2000).

When developmental problems are suspected, or when they are discovered by a primary care physician or nurse at a family health center, the child is usually referred to a center for child development. There are 29 such centers in Israel: 11 of them are operated by the Ministry of Health, nine by Clalit Health Services (Israel's largest sick fund), five by the Maccabi Sick Fund, two by the Meuhedet Sick Fund, one by the kibbutz movement, and one by the Sisters of Mercy in Nazareth. Most of those operated by the Ministry of Health are located in hospitals; those operated by the Maccabi and Meuhedet Sick Funds are located in the community; and those operated by Clalit Health Services are located in either a hospital or the community.

Centers for child development focus on early diagnosis, counseling, and care for preschool children who may be suffering from developmental or functional disabilities. The centers view their primary role as providing diagnosis and care for developmental problems in order to promote a child's maximum ability to function. Many center directors view support of the family as a primary objective. Some centers operate nursery schools for children with mental retardation, blindness and autism. The centers' services include diagnosis by a developmental physician or neurologist; psychological diagnosis; paramedical diagnosis and care (e.g., physical and occupational therapy, communications therapy); and consultation with a social worker. Some centers also offer special services, such as parent support groups, art therapy and examination by a developmental nurse.

A study of a representative sample of 16 centers for child development found that the centers treat between 100 and 800 children at any given time (the average number was 450). In all, then, the centers serve an estimated 13,000 children at any given time. Most of the centers treat children age three and older. Under the **National Health Insurance Law**, child development services are covered by the sick funds up to age six, though there is no age ceiling on services for children with severe physical disabilities. As of 1998, the centers operated by the Maccabi Sick Fund and the Ministry of Health usually ceased treatment at age six, while the centers operated by the Clalit and Meuhedet Sick Funds treated children as old as seven and eight. One-quarter of the centers studied had special programs for children ages 11-12 with learning disabilities and behavior problems (Sandler-Loeff and Naon, 1997).

The majority of children who receive care at these centers suffer from developmental retardation, language impairment, and learning disabilities. The centers operated by the Ministry of Health and the Clalit Health Services also treat a relatively large proportion of children with more severe disabilities, including moderate to severe mental retardation and cerebral palsy.

According to center directors, some groups of children are not adequately covered by the centers, including Arab children, ultra-Orthodox Jewish children, children who are new immigrants and children from disadvantaged families. A recent study of these centers revealed that most of them have waiting lists, and that the waiting time for specific services, such as speech therapy, may be as long as several months. This is critical, as early detection may be crucial to overcoming developmental problems. Center directors cited several reasons for this situation: a) the centers themselves do not have the resources to identify children who need intervention and, except for family health centers, neither do other services; b) both families and medical professionals in the community lack awareness of developmental disabilities; and c) the centers do not have staff who speak languages other than Hebrew – a fact which makes utilization of services even more difficult for some population groups (Strosberg, Sandler-Loeff and Naon, 2000).

Another group whose needs are not being met is that of children with non-physical disabilities who require care beyond age six (when their eligibility for care under the **National Health Insurance Law** ends). If deemed eligible by a placement committee, these children may receive care through the special education system. Most children with non-physical disabilities who receive care at a child development center are ineligible for special education, and have been integrated into the regular education system (i.e. “mainstreamed”); these children may receive assistance in the framework of a “reinforcement basket”, which only partially covers their needs. Other needs are met by continuing programs, offered by other frameworks. Child development centers have proposed extending their services to additional age groups.

Children with somatic (physical) disabilities are eligible for services after age six under the **National Health Insurance Law**. Most are eligible for paramedical services under the **Special Education Law**. The majority of center directors who participated in the study cited above reported that they do not provide services to children who attend special education frameworks.

Another problem with coverage arose following implementation of the National Health Insurance Law, which made the sick funds responsible for financing developmental services for children under the age of eight. Under the law, these services are conditional upon a co-payment by parents; however, co-payment covers only a small proportion of the cost of service – which may be substantial, if a child requires more than one type of service, or if a family has limited income. In the past, parents could petition a special committee to be exempted from co-payment. However, these committees were disbanded following implementation of the law and the transfer of responsibility to sick funds, such that parents with severely disabled children, or with limited financial means, may not be able to afford services (Strosberg, Sandler-Loeff and Naon, 2000).

It should also be noted that the transfer of responsibility for developmental services to the sick funds caused upheaval in the system of child development centers. As the sick funds were now compelled to cover these expenditures from the mandated basic basket of services, they developed their own developmental centers, believing this to be more cost effective. However, the sick funds’

developmental centers focus on children with less severe problems, which do not require a multi-professional response. This led to fewer referrals to centers operated by the Ministry of Health, which employ multi-professional teams and which serve children whose disabilities are more severe and require greater expertise and more resources. It is not yet clear what impact this trend may have on the ability of the centers or the service system to meet the needs of children with disabilities.

The Ministry of Health provides equipment and medical assistive devices to disabled children, including devices to aid mobility and walking, special mattresses and beds, and hearing and vision aids, as well as additional devices at the discretion of a committee for exceptional circumstances. The Ministry usually pays up to 75% of the cost of an assistive device, and 100% of the cost for a low-income family receiving National Insurance Institute income benefits. In order to receive 75% coverage of an assistive device from the Ministry, a physician's confirmation of need is required (as is that of additional professionals, in some cases). In 1996, 663 pairs of special shoes or assistive devices for walking, and 93 prosthetics, were provided to children with disabilities, most of whom had cerebral palsy or a somatic birth defect. An inter-ministerial committee comprising representatives of the Ministries of Health and Housing provides cash grants to adults and children who have impaired mobility, which enable them to renovate their home – e.g., widen doorways, build an access ramp, add safety features in the bathroom – to make them more accessible.

### **3.1.1 Mental Health Services**

Public mental health services are provided through a network of out-patient mental health clinics for children and adolescents that are operated by the Ministry of Health, sick funds, and hospitals for the mentally ill. These clinics are staffed by specially-trained professionals, and offer diagnostic testing, counseling and psychiatric care, as well as training for parents. Services are usually provided free of charge or for a token fee.

Nonetheless, professionals note large gaps between available mental health services and the community's needs. The clinics have been criticized for serving primarily middle-income groups and not addressing more difficult populations, including dysfunctional families. This may be because the clinics do not reach difficult populations, such as non-compliant families and families with multiple problems. In recent years, the Ministry of Health has sought to improve mental health services for children and youth. For example, the Ministry helped establish a mental health center for children in Beer Sheva to alleviate the shortage of mental health services in the south. The center reflected the Ministry's commitment to inter-organizational efforts on behalf of at-risk populations. A similar center was established in Ashdod in 1997.

Another problem facing mental health service delivery is the inaccessibility of clinics in some geographic areas. Most clinics are regional, and serve a broad geographic area. For example, prior to the establishment of the clinic in Ashdod, psychiatric care was available to the city's children only at a children's clinic in a hospital in another city.

Services for children whose mental health problems require them to be hospitalized are provided in the inpatient departments of hospitals for the mentally ill. According to Ministry of Health data, 369 children and youth were hospitalized for psychiatric reasons in 1998.

In recent years, two issues have arisen regarding the psychiatric hospitalization of children and youth. One concerns children who are hospitalized only because of the lack of another framework that suits their needs. In response to this problem, the Service for Children and Youth of the Ministry of Labor and Social Affairs, in cooperation with the Ministry of Health, has begun to operate out-of-home frameworks that offer an alternative to hospitalization.

The other issue concerns the compulsory psychiatric hospitalization of children and youth – a practice severely criticized in the 1997 State Comptroller's Report. According to the **Treatment of Mentally Ill Law 1991**, the person responsible for a minor may request that the minor be admitted to a psychiatric hospital, and consent in the minor's name to his hospitalization and treatment. However, if a minor who has reached the age of 15 refuses to be hospitalized, a court order is necessary, issued on the basis of the regular causes cited in cases of compulsory hospitalization of a minor. If the minor has not yet reached the age of 15 and his caregivers realize that he does not agree to be hospitalized, a decision will be made by a district psychiatric committee for children and youth comprising a legal professional, a psychiatrist specializing in child and adolescent psychiatry, a clinical child psychologist, an educational psychologist and a social worker. A minor who has reached the age of 15 may ask to be voluntarily admitted to a psychiatric hospital, although if the person responsible for him does not agree, the consent of the court is required. Fifty-three (about 10%) children were admitted to a psychiatric hospital in 1996 under a compulsory hospitalization order. The State Comptroller found that the district psychiatric committees for children and youth met irregularly, and that some children and youth were hospitalized in a manner that contradicted the letter of the law. The Ministry of Health responded that "substantial effort was made to recruit committee members and set guidelines... The primary difficulty implementing the law stems from a lack of manpower and the short deadlines set in the law... For many months we have been working with the Ministry of Justice to alter the law" (State Comptroller's Office, 1997).

## 3.2 The Social Welfare System

### 3.2.1 The National Insurance Institute

As noted, the National Insurance Institute pays disabled child benefits to children who are eligible for them by law.

A disabled child above the age of three whose disability renders him totally dependent on his parents 24 hours a day is eligible for a monthly benefit equivalent to about 40% of the average wage. A completely dependent child who is attending school or is older than 14 is eligible for an additional 20%. In addition, autistic children and deaf children up to age eight are eligible for this benefit, regardless of their diagnosed level of dependency. A disabled child who is dependent on his

parents to a great extent for most of the day is eligible for a monthly benefit equivalent to 25% of the average wage. Children with Down's Syndrome are eligible for 50% of the full individual benefit, regardless of their diagnosed dependency, as are children between the ages of eight and 18 who are hearing impaired (45 decibels), sight impaired or blind, or who require protracted medical care (dialysis, chemotherapy, etc.). In the early 1990s, eligibility for disabled child benefits was extended to newborn children.

Children whose disability is developmental are eligible for the benefit according to the following criteria, regardless of their diagnosed dependency:

- ◆ A young child suffering from a serious illness is eligible for the full benefit
- ◆ A young child suffering from a severe developmental deficiency is eligible for 60% of the benefit, and for an additional 40% if he is receiving developmental care (paramedical or other services)
- ◆ A young child with Down's Syndrome is eligible for 30% of the benefit and an additional 20% of the benefit if he is participating in a care program
- ◆ A young child who is blind is eligible for the full benefit
- ◆ A child with a hearing impairment is eligible for 60% of the benefit, and for an additional 40% if he is participating in a care program.

In addition, children ages three-18 with disabilities in their lower limbs who undergo a medical examination at a district health office and are found to have impaired mobility are eligible for a child mobility benefit, instead of a disabled child benefit. This provides for a standing loan for the purchase of an automobile, which is repaid without interest or linkage when the automobile is sold. The loan is equivalent to up to 75% of the taxes paid when purchasing an automobile. In addition, a monthly benefit is paid to cover expenditures incurred in operating the automobile. On average, it is equivalent to about one-third of the full benefit for a disabled child. It is not possible to receive both benefits for one child. However, a family with two disabled children is entitled to a child mobility benefit in addition to two disabled child benefits.

According to National Insurance Institute data, in 1998, 14,379 children – or 7.1 of every 1,000 children in Israel – received a disability benefit from the Institute. The proportion of children receiving National Insurance Institute disability benefits was higher in the Arab than Jewish population. This corroborates the finding that a larger proportion of Arab than Jewish children have severe disabilities (and thus are eligible for National Insurance Institute benefits); it also reflects the high rate of utilization of this service in the Arab population.

**Table 3: Children Receiving National Insurance Institute Disability Benefits in June 1997, by Age (in Absolute Numbers)**

Age	Children Receiving National Insurance Institute Disability Benefits
<b>Total</b>	<b>14,379</b>
0-3	1,551
4-14	9,711
15+	3,117

Source: Ben-Arie and Zionit, 1999

Eligibility criteria for the child disability benefit have been developed on a piecemeal basis; historically, the inclusion of various populations has been influenced by the activities of lobbyists (such as parents of children with a specific disability). Therefore, eligibility criteria for providing benefits do not always reflect the level of disability. Consequently, efforts are being made to revise the criteria to better reflect the needs of the child. Based on data from a survey of children with disabilities (Naon, Ifrah and Baich-Moray, 1998), a proposal was made to change the criteria for provision of the disability benefit, and to add some 4,000 children (half of whom are moderately or severely retarded) to the eligibility pool. The Knesset's health and welfare committee has adopted the proposal and is promoting this change.

*The Fund to Develop Services for the Disabled* of the National Insurance Institute provides funding for the development of new services for disabled people who receive disability benefits. Grants are made to develop services (such as structural modifications, rehabilitative or therapeutic equipment) to public agencies (e.g., associations, local authorities). The fund is not meant to be used for the development of services that are the stated responsibility of other government agencies (e.g., opening a school or clinic), nor is it meant to be used to purchase property or to construct facilities.

### **3.2.2 The Ministry of Labor and Social Affairs**

Two divisions of the Ministry of Labor and Social Affairs are responsible for the care of the disabled of all ages. The Division of Care for the Mentally Retarded is responsible for children with mental retardation, and the Division of Rehabilitation is responsible for children with somatic disabilities, the blind and the deaf, and those suffering from borderline mental retardation who have not been classified as being mentally retarded by the Division of Care for the Mentally Retarded.

These divisions are responsible for placing disabled children in out-of-home frameworks, and for supervising these frameworks. In addition, they supply a variety of services to disabled children in the community. Along with the Ministry of Education and other organizations, they operate preschools for disabled children who are not yet eligible for special education, and help operate extended school day programs for children with disabilities, beyond what is budgeted by the

education system. In addition, they operate respite care centers for these children, so as to grant their families temporary relief from the ongoing need to provide care.

The Service for the Blind is responsible for providing blind people with special equipment that enables them to function normally in the community. It also provides aides who accompany disabled children to classes in regular schools.

The Ministry also provides support services and psychosocial assistance to disabled children and their families through local social welfare departments. It also places disabled children in foster and adoptive homes (see Chapter 7).

As noted, the social welfare system has primary responsibility for providing out-of-home care. At present, some 1,500 mentally retarded children and a small number of children with other disabilities reside in various frameworks. A small number of children currently reside in several community housing frameworks, one of which is for children with mental retardation, and one of which is for those with physical disabilities. Community housing frameworks are developing rapidly. While most of them serve children with mild disabilities, four new facilities are geared for severely mentally disabled children.

As noted, in the past, children with emotional or severe behavior problems were admitted to psychiatric hospitals due to the lack of a more suitable way to meet their needs. In the 1990s, in an attempt to better meet these needs, the Ministry of Labor and Social Affairs established post-hospitalization units within existing out-of-home frameworks. These units are geared for severely emotionally disturbed children who have been discharged from a psychiatric hospital but who are unable to reside in the community; their goals are to be an alternative to psychiatric hospitalization and to prevent long, unwarranted hospital stays. In 1996, there were six such post-hospitalization frameworks.

Another group of children with disabilities (primarily learning disabilities and behavioral disorders) is that of children who reside in out-of-home and rehabilitation frameworks supervised by the Service for Children and Youth of the Ministry of Labor and Social Affairs (see Chapter 7).

### 3.3 The Education System

The education system is a major provider of services to disabled children in Israel, through special education and regular schools, and support frameworks under the auspices of the Ministry of Education. A major part of the services are provided under the **Special Education Law 1988**.

Section 1 of the **Special Education Law** covers “exceptional children” ages three-21 who are physically, mentally, emotionally or behaviorally dysfunctional. The goal of special education, as stipulated in section 2 of the law, is “to promote and develop the talents and abilities of the exceptional child; repair and improve his physical, mental, emotional and behavioral functioning;

teach him knowledge, skills and habits; and help him acquire acceptable social behavior in order to ease his integration into society and employment”. It is assumed that these children have special educational needs; that meeting these needs requires special teaching materials and methods; and that without these, the children will not enjoy equal developmental opportunities.

A personal study plan must be prepared for each exceptional child attending a special education framework. The plan should describe the child’s level of functioning at the time of its preparation, and set educational goals and objectives, determine the length of time and the means necessary to realize them, and establish a standard for measuring whether these have been achieved. At the end of the school year, the child’s parents are given a written evaluation of his progress, with reference to his personal study plan.

The approach of the law, as stipulated in sections 7b and 7c, is to integrate disabled children into the least restrictive framework possible. Eligibility is determined by a placement committee composed of a representative of the local school system (the chairman), two Ministry of Education supervisors, an educational psychologist, a pediatrician, a social worker, and a representative of the national special education parents’ committee. The placement committee must hear the child’s parents or representative before making a decision; it may also hear directly from the child. In general, the committee must explain its decisions to the parents; if there is a reason for not doing so, an educational psychologist, physician or social worker is given access to the committee protocol on behalf of the family. Every three years, the principal of a special education institution must bring the students’ cases for review before the placement committee. Review may take place after a shorter interval at the behest of the principal or a voluntary organization that serves exceptional children and that has been recognized by the Minister of Education. The child’s parents may also request a review one year after the previous hearing. In addition, the placement committee’s decision may be appealed to an appeals committee by the child, his parents, or a recognized voluntary organization.

Although the aim of the law, as noted, is to integrate into regular education those children who can benefit from such integration, the law does not determine the rights of these children, or the services for which they are eligible and which would make integration possible. Consequently, in practice, most of the funds for implementing the law have been allocated to special education frameworks, and this presents a serious barrier to mainstreaming. Despite this, the Ministry of Education does allocate funds for mainstreamed children, which are used to provide them with educational and paramedical services. These funds are allocated on an individual basis by “integration committees” that operate at the local level, and not under the provisions of the law.

Teachers at a special education institution must be certified as teachers and have undergone training in special education. However, the director-general of the Ministry of Education is authorized to grant a temporary permit to teachers who have not undergone such training. In this way, non-teaching assistants and caregivers such as psychologists may be employed in special education

frameworks. The Minister of Education, with the consent of the Minister of Finance, must set a maximum number of students permitted in a special education classroom. He is permitted (with the consent of the Minister of Finance) to establish an extended school day at some or all special education institutions, to determine the number of hours in an extended school day, and to determine the services necessary for an extended school day (e.g., meals).

### **3.3.1 Implementation of the Special Education Law**

The **Special Education Law 1988** does not define the extent or type of services for which students are eligible. Rather, it stipulates that these be determined in regulations governing the law's implementation, which requires the agreement of the Ministers of Education and Finance. The lack of a clear definition of eligibility under the law led to a protracted process, during which regulations and methods of implementation were determined. In addition, disagreement over budgetary allocations between representatives of the Ministries of Education and Finance further delayed implementation.

In 1994, a master plan was designed to help formulate standards and assess how much the **Special Education Law** would cost the education system. The plan details the types of care to be provided under the law, as well as the number of care hours and the manpower required per disability. It defines the type and scope of service provided by the education system to children who are eligible for special education, based on the extent of their disability and type of need, and the type of educational framework.

At the request of the Ministry of Education, the JDC-Brookdale Institute assessed the equipment needs of special education frameworks (Naon et al., 1996). The results of this assessment became, in effect, a recommendation regarding the extent of equipment allocation under the law, and served as the basis for equipping the special education system. In addition, the Institute for Education and Welfare Structures prepared a detailed construction plan for schools in the special education system.

In order to implement the **Special Education Law 1988**, NIS 200 million over and above the budget for the 1995 school year were allocated over a four-year period (1996-1999, during which time implementation was to be completed). This budgetary supplement was to facilitate the gradual introduction of the baskets of services included in the master plan. It did not cover three areas eligible for separate budget supplements: the provision of medical and paramedical care; the physical development of special education institutions; and the equipping of special education frameworks.

The **Special Education Law** did not determine the extent of funding required to implement it. Thus, its implementation is dependent on the allocation of funds by the Ministry of Finance, through negotiation with the Ministry of Education. The process of implementation has consequently been lengthy, extending over the course of a decade. During this process, elements of the law that are explicitly defined, such as longer school days and extension of coverage from age

three to 21, have been implemented, while elements of the law that are ambiguous, such as the level of paramedical services or equipment required, have not been implemented. Negotiations between the Ministries are continuing.

### 3.3.2 The Structure of the Education System for Children with Disabilities and Special Needs

Children with disabilities and special needs may attend any of the following frameworks:

- ◆ Special education schools classified according to the types of disability of their students
- ◆ Special classrooms in regular schools for students with less severe disability
- ◆ Special education kindergartens, and regular kindergartens and classes into which a small number of students with special needs have been integrated.

In addition, many children attend regular schools but receive special education services. A small proportion of them have been “mainstreamed” by a placement committee, while most of them receive special education services without having been deemed eligible by a placement committee, after having been placed in a regular framework by an integration committee.

According to data from the Ministry of Education, about 35,000 children attend special education frameworks. An additional 80,000 children receive special education services in a regular framework (see Table 4).

**Table 4: Students in Special Education Frameworks, by Type of Framework, 1996**

Type of Framework	Number of Students
Total	<b>35,492</b>
Special education schools	15,106
Special education classes in regular schools	16,163
Special education and integrated preschools	4,223

Source: Ben-Arie and Zionit, 1999

Two groups of disabled children in the special education system are of special interest: those who are blind or have impaired vision, and those who are deaf or have impaired hearing. Although these children are portrayed as being part of the special education system, most have been mainstreamed into the regular system and attend regular classes, receiving special education assistance and assistive devices that enable them to function like the other students. These two groups, along with children who have learning disabilities, are the only ones who are almost completely mainstreamed into the regular education system.

Table 5 shows the distribution of children in special education frameworks by type of disability, as defined by the Ministry of Education. As can be seen in the Table, the majority (70%) of students in special education frameworks have learning disabilities, behavior or emotional problems, delayed development (preschool children), or mild retardation. Nineteen percent suffer from moderate to

severe retardation, and 3% suffer from cerebral palsy or a physical handicap. Seven percent are autistic or emotionally ill, or are hospitalized.

**Table 5: Children in Special Education Frameworks (Special Education Schools or Special Classes in Regular Schools), by Main Disability**

Type of Disability*	Total Students	Percentage
<b>Total</b>	<b>35,492</b>	<b>100</b>
Learning disabilities, behavior or emotional problems, mild retardation, developmental or speech delay	23,915	67.5
Moderate retardation	3,952	11.0
Severe retardation	2,707	8.0
Deafness, hearing impairment	1,078	3.0
Blindness, visual impairment	114	0.5
Autism, mental illness	1,770	5.0
Cerebral palsy, physical handicap	1,123	3.0
Hospitalized	883	2.0

\*Disabilities are defined according to accepted classifications of the Ministry of Education.

Source: Ben-Arie and Zionit, 1999

### 3.3.3 Children with Special Needs Attending Regular Schools

The implementation of the **Special Education Law 1988** is based on three guiding principles, one of which is to mainstream children into the regular education system. Ministry of Education data indicate that about 80,000 pupils attend classes in regular schools, with the help of special education services.

The master plan defines two different baskets of services for children with disabilities who attend regular schools. The “integration basket” is for students who have been mainstreamed by a placement committee, and includes special education teaching, paramedical and therapeutic services. The “reinforcement basket” is for blind and visually impaired, and deaf and hearing impaired, students who have been mainstreamed (not necessarily by a placement committee), and includes special aids and educational services. The Division for Special Education also covers educational services for home-bound students. Services are allocated according to a student’s personal study plan. The scope of services allocated as part of the integration and reinforcement baskets is smaller than that of the services allocated in special education schools and classes. The Ministry of Education allocates some 84,000 weekly special education hours (integration hours) for mainstreamed students. Each local authority is allocated a quota of teaching hours based on the number of students in its jurisdiction, the school’s “development index”, and the percentage of students with slight disabilities who are referred to placement committees in an effort to encourage their mainstreaming. In addition, the Ministry of Education allocates some 350 positions for full-time assistants to students with severe physical disabilities who have been mainstreamed into

regular schools and need this assistance to function. However, these resources are limited, and are provided mainly to children with severe disabilities. As a result, children with mild disabilities (such as learning disabilities) do not receive services in accordance with their needs.

Over the years, programs have been developed to assist disabled children who have been mainstreamed into the regular education system. These programs lie on the continuum between the full integration of disabled children into the regular school system, through partial integration in which the child learns some subjects in a regular classroom or attends regular classes on certain days, to full social integration in and out of school through joint recreational activities for disabled and non-disabled children. One example is the *MACHAR Program*, implemented in Jerusalem, which offers support and rehabilitation to children with cerebral palsy who have been mainstreamed into regular classes, as well as paramedical services and educational services after school hours. It should be noted that there is no systematic information on the success of these programs, nor is there information on or policy regarding the resources necessary for them to succeed. However, there is evidence that professional assistance both to the disabled children and the regular schools that integrate them contributes to successful educational and social integration.

The gradual implementation of the **Special Education Law 1988** and the policy of mainstreaming children with special needs into the regular education system have resulted in a significant decrease in the number of children attending special education classes in regular schools and special education schools. In 1991, the proportion of students in special education schools and special education classes in regular schools was 4% of all students in the Jewish sector and 2.3% of all students in the Arab sector; by 1997, these figures had dropped to 3% and 2%, respectively. For the most part, integration has affected children with learning disabilities, deafness or hearing impairment, and blindness or vision impairment. There is no systematic policy of integration regarding children with other disabilities. It is worth noting that, due to the limited allocation of resources to the regular education system, relative to the special education system, the needs of mainstreamed children may not be being adequately met.

Another goal of the master plan for the implementation of the **Special Education Law 1988** is to make special education and paramedical services available to all those who need them, as well as to decentralize the allocation of resources to municipalities and schools. To this end, the Ministry has established 67 local/regional support centers, some of which are located in facilities that also offer paramedical and therapeutic services to disabled children. However, not all regions have a center as yet.

Children with special needs, especially those with learning disabilities who attend regular schools, are eligible for special consideration regarding matriculation examinations, including being given extra time to take the examinations, being tested orally, and being exempted from parts of examinations. The right to such consideration is granted by a special committee, which bases its decision on the diagnosis of a psychologist or an expert in learning disabilities. In recent years, increased awareness of learning disabilities has led to a dramatic increase in the number of requests

for special consideration: In 1996, some 15,000 students petitioned the committee. This will require reorganizing the system of referral, rethinking who should make referrals, and reexamining the criteria for referral.

Special services for children with disabilities – children who attend both regular and special education classes and schools – are also provided under other laws. For example, the **Safe Transportation of Invalid Children Law 1994** stipulates that children ages three to 21 who, due to physical, mental, emotional or behavioral disability are unable to travel by themselves, are eligible for transportation from their home or a proximate location to an educational institution and back, in accordance with their needs and handicaps. It is the responsibility of the local authority in which a child resides to provide this transportation, and to ensure that it is undertaken in a safe vehicle that is adapted for the child’s disability.

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

One issue that has drawn a great deal of public attention is that of the process of placement in special education, which stigmatizes a child as being “exceptional” and, when unwarranted, can impede his opportunities to realize his potential and his right to a suitable type and level of education. Therefore, a child is only placed in a special education framework if it is clear that he cannot benefit from regular education. As noted, eligibility for special education is determined by a placement committee.

Placement committees operate according to guidelines meant to ensure parental participation in the placement process. Each includes a representative of the national special education parents’ committee, so that a layperson can monitor the committee’s decisions from the parents’ perspective and offer a sympathetic ear to the parents of the child under discussion.

Before making a decision, the placement committee must hear the parents and allow them to review all relevant documents. The committee may also hear the child, though this is not mandatory; nevertheless, according to administrative regulations, the committee must at least consider hearing the child. The committee must also inform parents in writing of its decision and the reasons for it. The child, a parent or a representative of a public organization can appeal a committee’s decision within 21 days. Parents may also have their child’s case brought before a committee for review after one year.

The emphasis placed on parents’ rights and involvement in decisions concerning their child’s placement also finds expression in Ministry of Education guidelines: “An ongoing dialogue with parents is desirable, as is the provision of assistance in admitting the child and adopting suitable methods of care” (Ministry of Education, 1992).

By law, parents must be included in the preparation of their child’s personal care and study plan at the beginning of each academic year, and must be given reports of his progress.

There is no systematic information on the extent to which these provisions are adequately implemented. Apparently, this differs depending on the locality and the composition of the placement committee, and the approach of the specific professionals involved in the committee.

There are, however, indications that the law's directives are not being implemented in their entirety. **HILA**, an organization of parents of children in the special education system, helps parents who feel their child has been or is being unjustly placed in special education. According to HILA, committees do not always give preference to the regular system, and in many instances, children from families with low income (or who live in poor neighborhoods or development towns) who have difficulty with their studies or who have adjustment problems are referred to special education. In addition, many parents are unaware of their right under the law to seek a review after one year, to appeal the placement committee's decision, and to be partners in the planning of their child's study plan. Moreover, the HILA official reported that parents are often not involved in setting their child's study plan, remain unaware of efforts to assist exceptional children, and do not receive progress reports that they can understand.

According to HILA, the problem is particularly severe among new immigrants, especially those from Ethiopia who do not understand Hebrew or the special education placement process. Many parents claim that they are not invited to appear before the placement committee, and have no idea what is taking place.

On the other hand, according to professionals, supervisors and parents in the special education system, many schools hold special activities for parents, especially those whose children are in their first year of special education, and include them in all aspects of the special education placement process as well as in making the study plan. Some professionals even claim that the need to protect the rights of parents and include them as partners is not to the children's benefit, and that the system "fears" the parents and "makes no move without them".

The lack of systematic information on this issue impedes an estimate of how prevalent such feelings are. Nevertheless, the system is aware of the difficulties that can arise between parents and professionals during the special education placement process. In recent years, a number of steps have been taken to promote partnership between parents and professionals. The committee for special education of the HILA deals with problems encountered by parents in the special education system nationwide. The committee maintains contact with the Ministry of Education and various institutions, on one hand, and with parents who have "fallen between the cracks", on the other, promoting partnership between parents and the special education system and bridging the gap between parents and both schools and placement committees.

Recently, various efforts have been made to improve the functioning of placement committees and monitor their work. These include the establishment of routine procedures under the law; the

formulation of regulations governing referral to and the work of placement and appeals committees; and the holding of study days and workshops for committee members on the **Special Education Law**, committee work procedures, the mainstreaming of exceptional students, and the rights of parents in the placement process.

In 1994, a pamphlet was published for parents whose children have been referred to a special education placement committee, explaining the care provided to children; the process of referral for psychological testing; the role and functioning of placement and appeals committees; and where to find additional information.

### 3.4 Voluntary Organizations

There are a large number of voluntary organizations that serve people with disabilities. Some organizations serve only children, while others serve children as part of a broader target population. Some organizations advocate for the rights of the disabled, while others provide information and counseling or services, and others do a little bit of everything. We shall refer to some of the organizations that operate nationally.

#### 3.4.1 General Organizations

*Bizchut – The Israel Center for Human Rights of People with Disabilities*, established by the Israel Association for Civil Rights, promotes the rights, welfare and well-being of disabled people of all ages by providing counseling and legal representation concerning education, housing and employment. It also provides information on the rights of the disabled, and lobbies to raise public awareness and promote better legislation.

*The Umbrella Organization of Organizations for the Disabled and of Unaffiliated Disabled Persons* promotes the full social integration of the disabled. It attempts to enhance the disabled persons' self-image and their image in the eyes of others. It works on behalf of all disabled persons and organizations for the disabled in Israel, operating an information center, raising issues in public forums, lobbying for legislation, and conducting information campaigns. It provides free legal counseling for disabled people and makes referrals to other organizations.

*KESHER* was established in 1989 as a pilot project of the Jerusalem Council for Children and Youth. It became an independent, non-profit national organization in 1993. KESHER's professional counselors assist parents, free of charge, through the maze of services and multitude of service providers involved in their child's care. It helps them to sort out difficulties and reconnects them to the relevant services, offers advice about service referrals, and acts as a mediator/advocate for families with community agencies. KESHER's hotline for parents and professionals operates in Hebrew, Arabic, Russian and Amharic. Information on rights, benefits and services is constantly updated via a bi-monthly newsletter, as well as in pamphlets on specific issues. A national network of local branches is being developed.

*HILA* serves the parents of children in special education frameworks and promotes the rights of these children.

### **3.4.2 Physical Disability and Handicap**

*ILAN – The Israel Foundation for Handicapped Children* provides assistance, education and rehabilitation to children with polio, cerebral palsy, and conditions that result in motor dysfunction or impaired mobility. It sponsors a variety of activities, including kindergartens and schools, a Mainstreaming Center, clubs and recreational frameworks for children, sports teams and activities, respite care, vocational training, the procurement of assistive devices, group homes, and community housing for independent living. In addition, ILAN offers children and their families consultations with a social worker, and disseminates information.

### **3.4.3 Hearing Impairment**

*MICHA – The Society for Deaf Children* develops and operates educational, rehabilitation and care frameworks for children newborn to age seven who are hearing impaired and their families, and provides professional counseling and support to the organizations and professionals that serve them. MICHA operates preschool programs and programs in language acquisition for infants identified with hearing loss by family health centers (in cooperation with the Ministry of Health). In addition, MICHA operates programs through regional associations, including special frameworks for young children, care for children in integrated preschools, communications therapy, and psychosocial counseling for children and their families. MICHA's goal is to promote the inclusion of hearing-impaired individuals into education and society.

*SHEMA* operates under the supervision of the Ministry of Education. It identifies and provides educational and rehabilitative services to deaf and hearing impaired children and youth ages six-20. Available nationwide, SHEMA's services include developmental, psychological and social diagnosis; psychosocial care; counseling and training for parents; social clubs and activities; remedial and enrichment lessons; communications therapy; and financial assistance purchasing hearing aids. It also disseminates information and audio-visual materials, and advises professionals. In addition, SHEMA has developed a model for mainstreaming students with hearing impairment, which is currently being implemented.

### **3.4.4 Learning Disabilities, Retardation, Autism and Down's Syndrome**

*ALUT – The Israeli Society for Autistic Children* cares for children from birth onwards who have been diagnosed with varying degrees of autism or P.D.D. (Pervasive Developmental Disorder). ALUT establishes frameworks (settings) for these children, and offers counseling and guidance for parents. It sets up group homes for young children, adolescents and adults. A center for parents provides lectures, parent support groups and raises awareness about autism and P.D.D..

*AKIM – The National Association for the Habilitation of Persons with Mental Retardation* promotes the welfare of mentally retarded individuals of all ages and all levels of retardation, and

their families. It provides therapeutic, educational, occupational, social, sport, cultural, housing, counseling services and respite care for infants age six months, to adults age 30. It develops community housing and social services; offers legal assistance; establishes open-houses for families (which offer individual or group therapy, guidance and enrichment for families, a parent-to-parent program, and a club for parents); operates a social center for retarded adults; offers art education, organized outings, day and holiday camps, and cultural and sporting events and disseminates information. AKIM increasingly encourages mainstreaming.

***YATED – The Association of Parents of Down Syndrome Children*** is a parents' association that provides counseling and guidance; operates an information center; holds conferences and study days for parents and professionals; sponsors family support groups; publishes periodicals; maintains contact with government ministries and public authorities to promote the rights of children with Down's Syndrome and promotes research. This national association contributes to the progress of children and adults with Down's Syndrome, aids their families, changes negative stereotypes about them, and ensures their right to a happy and creative life.

***The Shalem Foundation*** helps establish, finance, enlarge and equip community services geared for retarded individuals, and gives financial grants to local authorities that develop such services. A condition of this assistance is the existence of additional funding partners. The Foundation does not underwrite manpower or operational costs.

***NITZAN – Society for the Advancement of Learning Disabled Children and Adults***, established in 1964, is a voluntary parents' association that serves children, adolescents and adults with learning, adaptive and functional disabilities. NITZAN has 40 branches nationwide, and employs professionals and public figures in its institutions. It provides diagnosis; family counseling and support; paramedical care; psychological counseling; remedial instruction; enrichment classes; assistance to special schools and classes; stipends for low-income families; and information about other service providers. To raise awareness, NITZAN publishes pamphlets, organizes in-service training and conferences for professionals, and sponsors a pedagogic hotline for parents and others.

### 3.5 Discounts and Tax Breaks

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

- ◆ Parents with a physically disabled, retarded, blind or autistic child, or a child with an emotional disorder or chronic illness, are eligible for an income tax credit; they are also eligible for these credits if the child resides in an out-of-home framework.
- ◆ Parents of a child with special needs may receive a discount of up to 25% on their municipal taxes at the discretion of the local authority.
- ◆ Parents of a child who receives a full disability benefit, and parents of a blind child or a child undergoing dialysis are eligible for discounted telephone services. The discounts

include a 50% reduction on regular monthly charges; 60 free telephone units per month for a disabled child and 300 units for a blind child; and a 50% reduction on telephone line installation or transfer charges. Parents with two children who each receive a full disability benefit are eligible for double discounts.

### 3.6 Gaps in Needs and Services

A survey conducted by the National Insurance Institute and the JDC-Brookdale Institute examined the extent to which children's and families' needs are being met by services. The survey revealed large gaps between needs, and the services actually provided:

- ◆ One-third of children with special needs receive paramedical services, such as physical and occupational therapy, on a regular basis.
- ◆ About 20% of the children with special needs meet with a social worker or psychologist.
- ◆ About 80% of these children receive at least one special service from the service system.
- ◆ Eighty-five percent of the children need medical care or supervision on a regular basis, but only 40% actually receive it; 75% require paramedical services, while only one-third receive them; and 83% require the services of a social worker or psychologist, yet only 18% receive them.
- ◆ Exclusive of the universal benefits from the National Insurance Institute, gaps were found between Jewish and Arab towns in the rates of children with special needs who receive services: Larger proportions of Jewish than Arab children receive most services; at times, service provision is two to three times as great in Jewish as in Arab towns.
- ◆ While multi-professional committees recommended that 25% of the children with special needs – or 1.9% of all children in Israel – receive disabled child benefits, only 0.6% of the children in Israel were receiving such benefits at the time of the study, and only 0.7% were receiving benefits in 1999.

### 3.7 Issues Arising from the Complexity of the Service System: Inter-service Coordination and the Availability of Information about Services

As can be seen, care for children with disabilities is provided by a variety of agencies and organizations. Each one's area of responsibility is determined by type of disability, age and type of service provided. Consequently, a child may need services from a number of sources concurrently. For example, he may receive paramedical care from a child development center, counseling from the Educational Psychological Service, respite care from the Ministry of Labor and Social Affairs, and a disabled child benefit from the National Insurance Institute. In addition, responsibility for care is transferred from one authority to another when the child reaches a certain age. For example, responsibility for children with mental retardation passes from the country's sick funds to the education system when the child enters the special education system.

Service providers have a major impact on the lives of disabled children and their families. Due to the multitude of providers, parents often find it difficult to navigate the network of services and to

understand the regulations governing eligibility. The parents bear the responsibility for coordinating the services their child receives so as to ensure continuity of care. Many parents complain that every time a new professional enters the picture, they must relate the history of their child's disability, wrestle with a complicated bureaucracy, and have their child diagnosed yet again. Thus, two issues confront the system of services for disabled children: inter-service coordination, and the availability and accessibility of information to parents.

Professionals, policymakers and parents of disabled children repeatedly emphasize the need to coordinate and define more clearly the roles of various organizations on behalf of their respective target populations; and to establish mechanisms for transmitting information among professionals from different organizations who care for individual children, and among those who care for children at various points in time and in transition from framework to framework.

At present, the JDC-Brookdale Institute is conducting a comprehensive study of mechanisms for the coordination of services for disabled children of all ages. The study is focusing on policy, as well as on the coordination of care for individuals. Its findings will provide insight into the advantages and disadvantages of existing coordination mechanisms. The study is being monitored by a steering committee, whose members represent a range of organizations.

As may be seen from the description of the system of care, many organizations attempt to provide parents with information on services and rights. KESHER periodically publishes an "Information Notebook", the National Insurance Institute periodically publishes a guide to the rights of disabled children, and other organizations use a variety of means to inform parents about specific disabilities.

In order to meet the need for up-to-date information on the rights of parents and professionals to services, JDC-Israel established a computerized data base on rehabilitative services for people with disabilities, including children. The data base is now managed by the Henrietta Szold Institute.

#### 4. The Accessibility of Public Areas and Services

Accessibility to one's environment is the key to true social integration and equal opportunity. For the disabled, accessibility is essential if they are to fully participate in society. The public commission for the comprehensive examination of legislation concerning persons with disabilities emphasized an additional aspect of accessibility: the visibility of the disabled in society. Accessibility enables the disabled to be present in the community, and creates contact and recognition between them and others. This can promote the participation of children with disabilities in the community. Several laws deal in a limited manner with accessibility for the disabled.

In addition, a number of dispensations for the families of disabled children are meant to ease access. For example, special parking permits are given to the parents of children who have lower extremity

motor disorders or who need a respirator; these permits allow them to park in spaces designated for disabled drivers, as well as to park free of charge in areas where parking is available for a fee. The parents of children with mobility problems (i.e., who have been granted a 60% disability rating by the district health bureau or have been designated by a physician as having a disability that requires a motor vehicle for purposes of mobility) are exempt from annual motor vehicle registration fees.

Despite laws pertaining to accessible planning and construction, many buildings in Israel are inaccessible to wheelchair-bound persons. In a spot-check conducted by the Ministry of Economic Planning in 1995, 40% of the structures examined were found to be inaccessible. In general, schools, shelters and public transportation are inaccessible to wheelchair-bound individuals. Many city sidewalks have not been lowered despite provisions in the **Municipalities Ordinance**. The results of a survey conducted for the City of Tel Aviv-Jaffa in 1993 and presented to the public commission on legislation on the rights of persons with disabilities in Israel reveal that the majority of municipal structures (hospitals, preschools and schools, colleges and universities, museums, cultural and community centers, clubs, sports centers and swimming pools, sick fund clinics and movie theaters) are inaccessible to the disabled: Only 17 of the 167 structures examined were found to be accessible.

Problems of physical accessibility are compounded for some disabled people by problems of sensory accessibility. Most services provided by local authorities (e.g., information and service counters) are inaccessible to people who are blind or deaf. Most television broadcasts are inaccessible to the deaf. Even in times of emergency (such as war) or particular public interest (elections), the country's television networks do not provide close-captioned or signed broadcasts for the deaf. Few traffic signals emit an audible sound that would enable the blind to cross the street unassisted.

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

An Israeli Supreme Court's ruling dealt specifically with this issue ((Petition to the) High Court of Justice 7081/93 *Botzer v. Maccabim-Reut Local Council*, P.D. 50(1) 19). In this case, a wheelchair-bound youth suffering from multiple sclerosis petitioned the court to require his school to install an elevator, which would enable him to use the lavatory, which was not on the same floor as his classroom. The local authority had refused to install the elevator because of the high cost involved. The court found in favor of the youth, stating that legislation concerning the accessibility of public institutions had been passed to enable the disabled to become integrated into society; it ruled that

the local authority must comply with the letter of the law, despite the considerable financial expense.

The accessibility of cultural and recreational facilities is also particularly crucial for disabled youth. As noted, there is evidence that many such facilities are inaccessible to children and youth with disabilities. According to the chairman of the Knesset culture and recreation sub-committee, thousands of children and youth with special needs are unable to join youth movements or participate in nature and sports activities. Nevertheless, according to the director of the culture and arts division of the Ministry of Education, the Ministry has no national plan or special budget for the disabled.

The report of the public commission on comprehensive legislation on the rights of persons with disabilities in Israel recommended that the right of the disabled to access to public spaces and services be grounded in law. It also recommended that this right be “translated” into detailed regulations that ensure the law’s implementation, and that implementation be effectively enforced. The commission also proposed that the initiation and development of cultural and recreational activities for the disabled become mandatory for the Ministry of Education, the Ministry of Interior and the local authorities, and that preference be given to mainstreaming disabled children into activities for non-disabled children.

In recent years, JDC-Israel, in cooperation with the Association of Community Centers, has been implementing a program promoting accessibility, focused on public recreation sites and national parks and shrines. As a basis for this program, a comprehensive survey was conducted and a data base established on cultural, recreational and vacation sites for persons with impaired mobility. The data base covers nature reserves, holy sites, national parks, archaeological sites, museums, hotels and inns, and vacation and sports facilities. It contains important information about parking and entry, a site’s accessibility and suitability for people with impaired mobility, hearing or vision, the accessibility of public restrooms, and so forth. This information helps families of children with disabilities plan vacations and recreational activities. Despite the recent interest, the expansion of accessibility represents a major challenge that needs to be addressed.

## Health and Health Services

### Articles 6 and 24 of the Convention

This section will review primary health indices for children in Israel, the system of primary and preventive health services, efforts to promote the health of the population in general and that of vulnerable groups in particular, and the accessibility of health services. In addition, it will address the extent to which the provision of health services considers the views of children.

## 1. Basic Data on the Health of Children and Youth in Israel

The health problems of children and youth in Israel are similar to those of children elsewhere in the western world. According to indices such as life expectancy, infant mortality, public expenditures on health, and number of practicing physicians, Israel holds a respectable rank among western industrialized nations. Following we present data on mortality rates for women in childbirth, infant and child mortality rates, underweight births, the prevalence of infectious diseases among children, injuries caused by accidents, adolescent health behavior, and traditional customs that may have an impact on children's health.

### 1.1 Mortality Rates of Women in Childbirth, Infant Mortality and Underweight Births

The mortality rate for women in childbirth in Israel has declined steeply during the past 50 years. At present, it equals the rates for the most developed nations: 0.6-0.8 per 10,000 births, with no variance among sub-populations.

Progress in medical knowledge and technologies and changes in lifestyle and health behavior have caused infant mortality rates to drop significantly. If at the end of the 1970s Israel's infant mortality rate was 18.7 deaths for every 1,000 live births, by 1998, it was 5.8 deaths for every 1,000 live births. However, there was variance among population sub-groups: 4.2 deaths for every 1,000 live births among Jews, 3.6 among Christians, 9.3 among Druze, and 8.7 among Moslems. It should be noted that the difference in the mortality rates of Jewish and Arab infants remains stable, despite the decline in overall infant mortality rates. Table 1 shows the gradual decline in infant mortality rates in Israel during the 1980s and 1990s.

The most prevalent causes of infant mortality are birth defects and perinatal complications. The mortality rate due to birth defects is higher among Arabs than Jews (3.6 per 1,000 births and 1.5 per 1,000 births, respectively, in 1993-1997). This is due, at least in part, to the higher incidence of such defects.

**Table 1: Infant Mortality per 1,000 Live Births, by Population Group, 1979-1996**

Year	Total	Moslems	Druze*	Christians*	Jews
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1979	18.7	24.6	24.8	16.8	12.9
1983	15.1	21.2	20.1	15.0	10.9
1987	11.1	18.4	18.1	11.8	8.9
1991	9.2	14.5	13.9	11.1	7.2
1996	6.3	10.0	8.9	4.1	5.0
1998	5.8	8.7	9.3	3.6	4.2

\*It should be noted that the Druze and Christian Arab populations in Israel are small, and that there are significant fluctuations in infant mortality among these populations annually.

Source: Ben-Arie and Zionit, 1999

In 1998, 92% of the babies born in Israel weighed more than 2.5kg, and 5% weighed between 2.0kg and 2.4kg. The figures were similar for both Jews and Arabs. (It must be noted that in recent years there has been a slight increase in the percentage of underweight newborn babies, due to an increase in the use of fertility treatments, which may result in multiple births.)

The Department of Health Service Studies at Tel Hashomer Hospital near Tel Aviv, which is a support unit of the Ministry of Health, is participating in an international study of the causes of infant deaths and ways to reduce them. Along with hospital pediatric wards, the department is also participating in a study of underweight newborn babies. The results of these studies will be used in designing health policy.

## 1.2 Child Mortality

In 1997, the child mortality rate in Israel was 0.4 per 1,000 children age one-four, 0.2 per 1,000 children ages five-14, and 0.6 per 1,000 children ages 15-19. Table 2 shows the causes of death for children age one-14 in 1996. Beginning at age one, accidents are a significant cause of child deaths.

**Table 2: Causes of Death among Children Ages One-14 in 1996, by Population Group (in %)**

Cause of Death	Total		Jews		Arabs	
	Age		Age		Age	
	1-4	5-14	1-4	5-14	1-4	5-14
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
Accident	19.6	21.3	18.8	23.1	20.0	19.0
Suicide	-	1.4	-	2.5	-	-
Other external causes	8.2	11.8	5.8	13.2	9.6	10.0
Birth defect	16.3	6.3	14.5	8.3	17.4	4.0
Infectious disease	1.6	3.2	2.9	3.3	0.9	3.0
Cancer	9.2	15.8	18.8	17.4	3.5	14.0
Illness or other cause	45.1	40.3	39.9	32.2	48.7	50.0

Source: Ben-Arie and Zionit, 1999

### 1.3 Infectious Diseases

Data regarding the prevalence of infectious diseases are based on reports of the Ministry of Health. The data in Table 3 indicate a greater prevalence of some diseases among Jews. However, as the extent of reporting is not uniform (there are gaps in reporting in the Arab sector), the prevalence of infectious diseases among Arab children may actually be greater than is indicated by the data. In addition, as some diseases (such as measles) are epidemic, and break out every few years, it is difficult to identify trends in the prevalence of disease in recent years. It should be noted that almost every child in Israel has been inoculated against measles, rubella and tuberculosis.

**Table 3: Contagious and Infectious Diseases among Children Newborn to Age 14 in 1996, by Age and Population Group (per 100,000 in Each Age Group)**

Disease	Population Group	Age			
		Newborn	1-4	5-9	10-14
Rubella	Jews	0.0	0.9	0.2	0.2
	Arabs	0.0	0.0	0.0	0.0
Measles	Jews	0.0	2.1	0.0	0.5
	Arabs	0.0	0.8	0.0	0.0
Salmonella	Jews	273.5	398.0	88.8	39.9
	Arabs	80.3	90.4	9.8	4.9
Campillo-bactereosis	Jews	32.5	74.8	18.3	10.8
	Arabs	8.4	9.0	0.0	0.0
Tuberculosis	Jews	1.2	1.5	1.0	1.0
	Arabs	0.0	0.8	0.0	0.8

Source: Ben-Arie and Zionit, 1999

Infant mortality in Israel from intestinal and other infectious diseases is low. In 1996, infectious diseases were responsible for 1.5% of all infant deaths in Israel, 1.6% of all deaths of children ages one-four, and 3% of all deaths of children ages five-14.

### 1.3.1 Preventive Care and Control of Epidemics

District health bureaus are responsible for the surveillance of sanitary conditions at institutions for children, and for preventing the outbreak of infectious diseases. If there is an outbreak of meningitis or hepatitis A, everyone who has come in contact with the patient receives free preventive treatment from the district health bureau.

### 1.3.2 AIDS

By 1995, there were 83 cases of children with the HIV virus, who were born to HIV-positive parents in Israel; 11 of these children eventually contracted AIDS, and seven of them died. As of late 1998, there were 96 HIV-positive children in Israel. As can be seen in Table 4, there was no trend of increase in the rate of new cases identified during the 1990s.

**Table 4: New Cases of AIDS among Children Newborn to Age 14 (per 100,000 Children) in Israel, by Year**

Year	Number of Cases
1990	0.7
1991	0.6
1992	0.7
1993	0.9
1994	0.6

Source: Central Bureau of Statistics, 1998

The **Detection of the AIDS Virus in Minors Law 1996** allows a minor to undergo voluntary testing for HIV without the consent of his parent or guardian. The physician at the medical institution conducting the test must fully explain it and its implications to the minor, as well as how the disease is transmitted and methods of prevention, and must verify that the minor opposes seeking the consent of his parent or guardian. The physician must be convinced that, in light of the minor's age, emotional maturity and ability to form an opinion, it is in the minor's best interest to be tested without the consent of his parent or guardian. If the minor is under age 14, a team comprising a social worker and physician must consent to the test. If the test is negative, the results are given to him by a specially trained physician, nurse or social worker. If the test is positive – that is, if the minor is found to be carrying the AIDS virus – the results are reported to him by the above-noted team, in the presence of a welfare worker, who then asks if he wishes to inform his representative of the test results. If the minor refuses to inform his representative, he is given guidance and instruction about methods of treatment. The law requires that everyone involved in this process preserve the minor's right to confidentiality.

## 1.4 Accidents

The Israeli public has recently become more aware of the issue of injuries to children and youth due to accidents in the home, on the road and at school. A number of agencies provide information on accidental injuries to children. The Ministry of Health maintains a central data base on child hospitalizations. In 1997, the National Council for the Child initiated and funded ground-breaking research on the referral of children to emergency rooms, and their hospitalization following accidents. The goal of the study was to estimate the annual rate of referral of children and youth to hospital emergency rooms in Israel, and to identify risk groups. The study examined data on referrals in 1994 and, after weighting, estimated that the annual number of injuries from accident was 131,643, or 693 injuries per 10,000 children per year. The injury rate is higher among boys than girls, and among Jews than Arabs. The highest rate of injury from accident is among children newborn to age four. Traffic accidents are particular cause for concern: According to Israel police data, in 1998 some 7,200 children and youth – most of them passengers of vehicles or bicycle riders – were injured in traffic accidents. More than 6,000 of them were slightly injured, about 700 of them suffered severe injuries, and 76 were killed. The Ministry of Transportation and the Police Force conduct information campaigns in the media and schools to encourage traffic safety among children and youth, which stress the importance of wearing a helmet when riding a bicycle and not driving after drinking.

The Ministry of Health conducts administrative follow-up of accidents. A memorandum from the director-general of the Ministry stipulated that schools must report any injury occurring on school grounds or on the way to or from school. During the 1997/98 school year, 14,042 injuries were reported, representing 0.9% of all students. A survey conducted in 1994 and 1998 on the health and health behavior of youth covered the subject of accidents in depth. (This survey was part of the international *Health Behavior in School-age Children (HBSC)* survey project of the World Health Organization (WHO), which facilitated comparison of the health and risk behavior of school-age children from 23 countries. Israel's participation in this international framework indicates its commitment to long-term, comprehensive monitoring of the health of children and youth.) It found that, as in other countries, a much greater number of injuries was reported by the youth in the survey than by the Ministry of Education and the Ministry of Health. This may be explained in part by differences in methodology and criteria: Information was gathered from youth using anonymous self-reporting, and the HBSC survey covered injuries that were less serious than those that require hospitalization or reporting by the Ministry of Education. According to the findings of the 1998 HBSC survey, some 55% of the sixth and tenth grade students who were interviewed said they had received an injury requiring medical attention at least once during the 12 months prior to the survey; this was the highest rate among the 12 nations that included this index in their study. Nevertheless, the rate of serious injury was relatively low in Israel, compared to other countries. According to the researchers, this reflects relatively high rates of use of and accessibility to health services (e.g., school nurses) in Israel for slight injuries, compared to other countries.

An inter-ministerial, multidisciplinary work group is comparing HBSC data with data from the Ministries of Education and Health, with the aim of developing a national strategy to significantly reduce injuries among children and youth.

Accidents are a primary cause of death among children over the age of one year in Israel: In 1996, about 20% of all deaths of children ages one-four and 21% of all deaths of children age five-14 were caused by accidents. The most frequent causes of accidental death were traffic accidents, drownings, falls and traumatic injuries, suffocation, poisoning and burns.

The Interdisciplinary Center for Child Education, Health and Safety at the children's hospital in central Israel conducts research, disseminates information, and makes policy recommendations aimed at reducing child injuries due to accident.

## 1.5 Adolescent Health Behavior

In recent years, adolescent health has been the focus of much attention in Israel. In 1994, a survey was conducted by Bar-Ilan University and the JDC-Brookdale Institute in conjunction with the Ministry of Health and the Ministry of Education as part of the HBSC project (Harel et al., 1997). Its findings have been widely disseminated and discussed, and inform efforts to prevent injury and risk behavior among adolescents. This survey was based on the self-reports of some 8,000 Jewish students in grades six through 11. In 1998, a follow-up survey was conducted that included a similar number of Israeli Jewish and Arab youth in grades six through ten. Below we present a number of findings from these two surveys, and indicate the trends they revealed regarding the health habits of youth in Israel.

### 1.5.1 Nutrition and Physical Exercise

Both surveys found that 90% of the youth in Israel eat fruits and vegetables at least once a day – the highest percentage among all of the participating countries. On the other hand, the proportion of youth in Israel who consume food and drink that is rich in sugar or fat was large, compared to that in other countries. The amount of physical exercise engaged in by Israeli youth was relatively low, although many youth reported participating in passive activities such as watching television and playing computer games. Many girls in Israel reported that they did not engage in any physical activity, although they did report dieting to lose weight at a higher rate than did girls in any other participating country; most of them did this without professional supervision.

### 1.5.2 Smoking, and Alcohol and Drug Use

The rates of smoking among Israeli youth are lower than those among European youth. Nevertheless, 13% percent of the boys and 6% of the girls in 11<sup>th</sup> grade reported smoking at least once a week. Twenty-five percent of the boys and 13% of the girls in tenth grade reported smoking regularly. It was of particular concern that 8% of the boys and 2.5% of the girls reported smoking at least once a week by the sixth grade. These percentages were much higher among the Arab

population, where 14% of the boys and 5% of the girls reported that they smoke. In addition, there is a trend of decline in the age at which adolescents begin smoking.

The percentage of students who reported drinking alcoholic beverages at least once a month was already high in the lower grades (36% of the boys and 20% of the girls). This percentage increases with age, so that by tenth grade, 46% of the boys and 24% of the girls reported drinking alcohol at least once a month. Seventeen percent of the boys and 6% of the girls reported drinking heavily (five or more alcoholic drinks within a few hours) during the past month, and similar percentages reported having been drunk at least once in the past. (It should be noted that these were the lowest rates found among all of the countries that participated in the survey.) The rates of drinking and the amounts of alcohol consumed were higher for boys of all ages than for girls, although this gap narrows as age increases. In comparison with other participating countries, students in Israel begin drinking alcohol at an earlier age. However, as age increases, the percentage of those who drink grows slowly, such that adolescents in Israel have one of the lowest drinking rates of adolescents in all of the participating countries.

The 1994 survey revealed that 10.5% of the tenth and 11<sup>th</sup> grade students in Israel's State school system had used some type of illegal drug or pills during the past year (4.7% had smoked hashish or marijuana, 2.5% had taken L.S.D., 5.9% had taken speed or diet pills, 6.9% had taken sleeping pills or tranquilizers, 2.5% had used methadone, 2.8% had used opium, heroin, or "black tar", and 2.6% had used crack or cocaine). Some reported using the drug only once, while others reported wider use. For example, of those who reported using hashish, 33% said they had used it 25 times or more during the past year. The tendency to use drugs was found to be greater among students from a very good or a poor economic background, than among those from a middle-class economic background. The survey findings corroborate those of a national survey on the use of addictive substances conducted in 1998 by the Drug Prevention Authority, a government agency that designs policy and disseminates information concerning the prevention of drug abuse (Drug Prevention Authority, 2000). According to the 1998 survey, 9.8% of all youth in Israel reported using some drug during the past year, while 87% of them reported being unwilling to try any drug. Among youth who neither attend school nor work, 31.6% reported using some drug during the past year, while only 57% reported being unwilling to try any drug.

### **1.5.3 Sexual Behavior and Birth Control**

The 1994 survey also examined the sexual behavior of youth in Israel. It found that 20% of the students in the tenth and 11<sup>th</sup> grades had already engaged in sexual intercourse, close to half of them with more than one partner. This rate was low, relative to the United States, where 50% of the youth reported thus. The survey also examined the practice of safe sex. Forty-three percent of the boys and 20% of the girls who were sexually active reported that they did not use a condom the last time they had sexual intercourse; 13% of the boys and 16% of the girls reported that they used no birth control measures whatsoever the last time they had intercourse.

The number of teenage pregnancies in Israel is low. An international comparison of live births among girls ages 15-19 revealed that the rate of girls in this age group who give birth in Israel is among the lowest of the countries participating in the study – an average of 6.0 births per 1,000 girls between 1990 and 1995 (Ben-Arie and Zionit, 1999). In 1998, some 700 minors gave birth in Israel, most of them Arabs. There were no births among minors under the age of 15. It appears that most of the minors who give birth are age 17 or 18, at which point they are legally entitled to marry. Most of the girls who give birth at a younger age are also married. (For information on permission for pregnant minors to marry, see Chapter 4.) It should be noted that in 1997 more than 1,000 girls age 18 or under applied to committees to terminate a pregnancy; more than half of them were under the age of 16, and most of them were unmarried.

**Table 5: Live Births among Minors in 1998, by Age, Population Group and Marital Status**

	Total*	Age		
		15	16	17
<b>Total</b>	<b>725</b>	<b>36</b>	<b>164</b>	<b>525</b>
Population Group				
Jewish	181	10	41	130
Arab	540	26	123	395
Marital Status				
Unmarried	272	23	90	159
Married	424	13	70	341

\*Includes cases where religion or marital status are not known.

Source: Ben-Arie and Zionit, 1999

### 1.5.4 Emotional Well-being

The HBSC survey also examined the emotional well-being of youth. Nineteen percent of the youth reported that they were not at all happy – the highest rate of all participating countries. About one-fifth reported being very happy.

Eighteen percent of the youth reported experiencing emotional symptoms (anger, nervousness, a bad mood) almost every day, and 40% reported experiencing physical symptoms (headaches, stomach aches, backaches, dizziness) more than once a week. Moreover, about one-fifth reported having difficulty falling asleep almost daily, and 28% reported feeling sleepy in the morning on their way to school at least four times a week. Israel was ranked sixth of 28 countries for this index. Rates of some of the physical and emotional symptoms reported by Arab youth were high enough to be cause for alarm. For example, half of the Arab youth reported experiencing physical symptoms, and one-third of them reported experiencing emotional symptoms.

The 1994 survey examined suicidal thoughts and acts among tenth and 11<sup>th</sup> grade students. The findings reveal that a relatively large percentage (17%) of boys and girls had seriously contemplated suicide during the previous 12 months. Nine percent reported devising a plan to take their life

during that period, and 6% reported actually attempting to take their life at least once. As this subject was not part of the international survey, it is not possible to compare Israeli youth to those in other countries.

In 1997, 15 teen suicides and 234 attempted suicides (30 girls, 190 boys, and the remaining genders unknown) were reported to the Ministry of Health. It is assumed that the actual totals were higher, as not every attempted suicide is identified and reported as such.

## 1.6 Dental Health

In a number of surveys conducted from the late 1980s to the early 1990s, it was found that the average number of teeth affected by tooth decay among children up to age seven ranged from 2.7 to 3.6; among children ages 12-13 it ranged from 1.9 to 3.0. This is recognized as a major area of concern. It should be noted that, in recent years, efforts to fluoridate Israel's drinking water have increased; by 1996, 47% of Israel's population resided in towns that had optimum levels of fluoride in their drinking water (Ministry of Health, 1997). It should be noted that there are no public dental insurance programs in Israel, although there are some subsidized clinics.

## 1.7 Traditional Customs that May Affect a Child's Health

Although no definite information exists on its prevalence, female circumcision is apparently an accepted practice among a number of Bedouin tribes in southern Israel. Recently, a bill was proposed to forbid female circumcision. Almost 100% of the country's Jewish and Moslem newborn males are circumcised for religious reasons. Some Christian infants are circumcised for health reasons. Most circumcisions are conducted by ritual circumcisers, in some cases with medical supervision. Injuries to the child's health due to circumcision are apparently rare. Nevertheless, there have been calls to raise the standards for licensing, training and supervising ritual circumcisers.

# 2. Health and Preventive Services for Children

This section will examine the extent to which Israel's health system complies with the Convention's stipulations for meeting the health needs of children, and the extent to which health services are accessible to children.

## 2.1 The Legal and Organizational Status of the Health System in Israel

Health services in Israel are provided under the **National Health Insurance Law**, which was first implemented in 1995. However, the existing health system can trace its roots to the 1920s, well before the founding of the State in 1948.

Before **National Health Insurance Law 1994**, 97% of Israel's population had health insurance coverage through one of four sick funds (Rosen, 1994). According to estimates, between 200,000

and 300,000 people (including 90,000 children) did not have health insurance, some because they could not afford it, and others because they preferred private insurance. Health services, as well as health insurance, were provided by Israel's four sick funds, which were established prior to 1948. The services provided by the sick funds were financed by membership fees, payments by employers, and government subsidies. The Ministry of Health supervised the provision of services, and itself provided some of the country's hospital, public health, preventive, mental health, and long-term care services.

The **National Health Insurance Law** stipulates that all of Israel's residents are eligible for health services based on principles of justice, equality, and mutual assistance. The law mandated the provision of a basket of health services, which are largely provided by sick funds – non-profit corporations whose income is used to provide these services. The government finances health services, primarily through an earmarked, progressive tax paid by all residents. Nonetheless, non-payment or late payment does not exempt the sick funds from their obligation to provide health services. Sick funds are forbidden to reject applicants on the basis of age, health status or place of employment. The law further stipulates that health services must be provided while maintaining human dignity and the patient's right to privacy and medical confidentiality. Residents age 18 and over must register themselves and their minor children with a sick fund of their choice. Sick funds receive payment from the government for each individual member, regardless of his family's income. An age coefficient sets a higher rate of payment for preschool children and the elderly, who make greater use of health services. This was meant to give the sick funds an incentive to address the needs of large, low-income families, many of which are minorities.

Following public debate, the Knesset finance committee allowed sick funds to charge their members supplemental fees, so as to increase competition and curb the wasteful use of health services. People with low income are exempted from paying supplemental fees, although the exemption does not cover the entire low-income population – especially large families in which the head(s) of the household are employed. This arrangement gives the sick funds an incentive to serve populations that can afford to pay the supplemental fees. The implications of this for children have yet to be studied.

Studies conducted following the implementation of the **National Health Insurance Law** revealed that 40% of the respondents sensed an improvement in health services (Berg et al., 1996, 1998; Farfel et al., 1997). (A small proportion reported sensing a decline in health services, while the remainder sensed no change.) Arab respondents reported the most significant improvement, corroborating findings regarding the increased competition among sick funds in development towns and Arab towns and villages.

Under section 6a of the law, the basket of services must cover the following areas of health service:

1. Individual preventive care and health education
2. Medical diagnosis

3. Ambulatory medical care, including psychiatric care, whether in a clinic, at home, or in an institution (e.g., old-age home, day care center)
4. Acute, psychiatric, and psycho-geriatric hospitalization, and chronic nursing care
5. Rehabilitation, including medical and psychological rehabilitation, physical, speech, and occupational therapy, and social work in the area of speech
6. Medications
7. Medical instruments and assistive devices
8. Preventive dental care for children up to an age specified by regulations
9. First aid and transportation to a hospital or clinic
10. Medical services at work
11. Medical and psychological care for addicts and alcoholics undergoing rehabilitation.

Some aspects of the law are still being implemented.

In 1998, the national expenditure for health was 8.4% of Israel's Gross Domestic Product, compared to 7.5% in 1991. Health services are provided through two large sub-systems of equal size: the ambulatory system (i.e. clinics and preventive services), and the hospital system. Community health services are provided by the sick funds through neighborhood clinics. At the end of 1997, there were 3.8 physicians per 1,000 residents in Israel – one of the highest ratios in the world (Kop, 1999).

In 1995, Israel had 15.7 pediatric beds in general hospitals per 1,000 children age 14 and under (Ministry of Health, 1998). A number of years ago, a children's hospital was established in central Israel; it also serves as a multi-regional center. Nevertheless, there was a decline in pediatric beds, hospital days, and the average length of hospital stay as a result of the system's efforts to transfer pediatric care to clinics in the community. As part of this trend, sick funds have established child health centers, which are staffed by pediatricians, and various hospitals around the country have established special children's centers to treat children at risk (e.g., the Child Welfare Unit at the B'nei Zion Hospital in Haifa). In addition, sick funds have established a system of after-hours emergency services in the community, which they hope will reduce public reliance on emergency rooms. Although this service is provided for a fee, children pay less than do adults.

## 2.2 Preventive Services

### 2.2.1 Preventive Services for Young Children

As noted elsewhere in this report, family health centers attend to the welfare of pregnant women and children from birth to age five, offering pre-natal examinations, inoculations, early detection of physical and emotional disabilities, health education, and counseling. In addition, they identify families that are unable to provide proper care for their children and refer them to the social welfare system. There are about 1,000 such centers throughout Israel, most of them under the purview of the Ministry of Health or the municipalities, and some under the purview of the sick funds. Family

health centers are staffed by nurses, gynecologists and pediatricians. Most routine work is performed by the nurses, who have been trained in public health. One nursing position is budgeted for every 180 infants born annually in a center's jurisdiction, such that nurses are responsible for pregnant women and a total of about 600 infants and young children newborn to age five. Service is universal and contingent upon payment of a health fee that covers part of the cost of the service. Parents who are unable to pay may obtain an exemption. Family health centers are located in and are accessible to the community. Most of the nurses become acquainted with the families during pregnancy and the early stages of child development. Families perceive these centers to be a source of support, and nearly the entire population uses them. It is estimated that 95% of all families of child rearing age visit a family health center from the beginning of pregnancy through a child's first two years of life; the rates of use decline after a child has reached the age of two and a half.

Family health centers provide a pregnant woman with preventive care by monitoring her weight, blood pressure, urine, and blood count; screening for birth defects; and counseling her regarding nutrition, smoking, and preparation for birth and motherhood. Preventive care for the infant includes inoculations, nutrition counseling, testing and counseling concerning child development, identifying hearing and vision problems, and health education.

In 1997, between 92% and 95% of all two-year-old children received their four primary inoculations at a family health center. Since some children are under the care of a private clinic, it is assumed that the actual rate of inoculation is even higher. The rates of inoculation were similar among Jews and Arabs.

When developmental problems are suspected or identified by a center's primary care physician or nurse, the children are referred to a center for child development. Centers for child development offer early diagnosis, counseling and care for children up to age five (and, in special cases, older children) who may have a developmental or functional disability. Their multi-professional staffs provide diagnostic and paramedical services, and sometimes support and training for parents. Children over age five who need care are usually referred to a special education or other medical framework.

### **2.2.2 Preventive Programs for Special Populations**

***Programs for New Immigrants:*** From the beginning of the 1990s to the end of 1998, some 900,000 immigrants, about 230,000 of them children, arrived in Israel from the former Soviet Union and Ethiopia. A number of special programs were developed for these immigrants. Health programs for women and elderly people from the former Soviet Union were prepared in Russian, and family planning clinics were provided with additional, Russian-speaking staff.

A significant number of Ethiopian immigrants arrived in the 1980s, and an additional group of immigrants from Ethiopia arrived in 1992. In all, there are some 70,000 Ethiopian immigrants now in Israel, approximately 60% of them under age 18. As most of this population came from rural areas in Ethiopia, special effort was required to acquaint them with the Israeli health system and

teach them health habits suited to their new environment. This effort was stepped up in the 1990s on the initiative of the Ministry of Health and JDC-Israel, which developed a number of programs that were operated through district health bureaus and family health centers. Outreach to the Ethiopian immigrant community using “facilitators” fluent in Amharic and familiar with culturally sensitive terminology that the immigrants could understand emphasized preventive services for pregnant women and children. Health education programs are now being implemented by skilled individuals from the Ethiopian community who have been in Israel for a decade, speak both Hebrew and Amharic, and understand Ethiopian culture. These programs increase the response rate to inoculations and preventive care, and are changing health behaviors (e.g., improving nutrition, preventing home accidents), especially among children.

As the proportion of people with the AIDS virus is relatively high among Ethiopian immigrants, efforts have been made to prevent contagion within the community and to treat those who are HIV-positive. Educational materials have been prepared in Amharic, and Ethiopian immigrants have been trained to instruct youth and adults. In 1997, the decision was made to use “facilitators” from the Ethiopian immigrant community to make contact with Ethiopian immigrants who have AIDS or are HIV-positive; the facilitators help these patients communicate with the professional staff at AIDS treatment centers and teach them how to keep from spreading the disease. In addition, funds have been invested in a health education program on AIDS used in schools and the army, and seminars on Ethiopian culture that are meant to help teachers, social workers, physicians and nurses serve this population more effectively.

***Programs for Bedouin:*** Special programs have been developed for the Bedouin population, the majority of which resides in the south of Israel. One noteworthy project is an educational program sponsored by the Ministry of Health, which aims to reduce the birth rate among very young women and to reduce infant mortality among risk groups. The project attempts to increase awareness of the dangers inherent in intra-family marriage (which is prevalent in this population), the need to monitor pregnancies, and the need to inoculate children.

### **2.2.3 Additional Programs**

Health education programs on preventing accidents in the home, at school and on the roads are conducted at family health centers. In addition, some of the centers offer enrichment programs, programs to improve children’s cognitive development, and parenthood preparatory programs, in cooperation with social welfare services. Special programs designed to increase the centers’ effectiveness in their work with families and children at risk are presently being implemented nationwide.

### **2.2.4 Promotion of Breastfeeding**

The State of Israel is a cosignatory of the 1990 WHO- and UNICEF-sponsored “Innocenti Declaration”, whose aim is to promote breastfeeding. In compliance with the declaration, Israel has placed limits on advertisements for and efforts to market baby formula in maternity wards, although

these are apparently not strictly enforced. Between 1994 and 1996, the Department for the Mother and Child of the Ministry of Health conducted a comprehensive survey of hospital support for breastfeeding. The survey revealed that only eight of the 29 hospitals exceeded the international average score for following the recommendations of the Innocenti Declaration. On the other hand, the survey found that two-thirds of the mothers were allowed to hold their babies immediately after birth. All of the hospitals reported having informational material on breastfeeding, though it was not of uniform quality and contained inaccuracies. Also, hospital counseling and instruction for mothers was found to be ineffective. An independent association at the Interdisciplinary Center for Child Education, Health and Safety at the children's hospital in central Israel is working to improve the situation by preparing a kit for nurses with the latest information on breastfeeding. Also, a WHO course on breastfeeding has been approved and will be taught to public health nurses. A special committee at the Ministry of Health is formulating a change of policy on breastfeeding. The Ministry is also working to ensure that there is a salaried breastfeeding counselor in every hospital.

In 1998, the National Commission on Child Medicine, which operates within the Ministry of Health and examines policy concerning children's health, established the committee for the promotion of breastfeeding, whose goal is to encourage breastfeeding, in part by creating conditions that will make it easier for mothers to breastfeed their children (e.g., longer maternity leave, private rooms in work places where mothers can pump milk, etc.).

### **2.2.5 Preventive Services for School Children**

Health services for elementary and secondary school students in Israel are financed by the State. The Supreme Court has ruled that the State may hire contractors through public tenders to provide these services.

Health services are provided in elementary schools by public health nurses and physicians. Officially, one public health nurse is employed for every 1,800 students, and one physician for every 6,000 students. In elementary schools, the nurses conduct routine examinations, such as testing vision and hearing and measuring height; give inoculations; and teach nutrition, personal hygiene, and sex education. Although the Ministries of Education and Health stipulate that health education lessons be held weekly, a shortage of nurses impedes this.

The health services provided in secondary schools are primarily educational and focus on preventing drug and alcohol addiction and communicable diseases such as AIDS, and on safety and accident prevention.

Despite government financing, parents are charged a fee for dental health services. There are reports, however, that local authorities with populations of limited means and little awareness of the importance of preventive dentistry find it difficult to collect this fee; consequently, services are not provided.

In addition to the health services provided at schools, preventive services are offered to adolescents through specialty service centers, which are financed by the Ministry of Health, social welfare agencies, and Clalit Health Services. These centers specialize in adolescent health and provide sex education, medical testing, and treatment of problems that arise during adolescence, such as acne and weight problems.

In recent years, youth counseling centers have been established throughout the country to provide youth with instruction, counseling and referral in a variety of areas, including health.

### 2.3 Psychiatric Services

Psychiatric services, including diagnosis, counseling, psychotherapy and parental guidance, are provided by mental health clinics for the child and adolescent, or by hospital outpatient clinics serving special areas. The clinics usually operate free of charge or charge a nominal fee. Nevertheless, professionals have noted serious gaps between available psychiatric services and the needs of the community. Moreover, it has been an issue of some debate that existing clinics primarily serve middle class families, and are unavailable to those who truly need them or are in distress. This is primarily because these clinics do not reach more problematic populations, including families that do not cooperate or that have multiple problems. In recent years, the Ministry of Health has made an effort to improve psychiatric services for children and youth. For example, it has established two child psychiatric centers in two cities in the south, to remedy the lack of services in this region. This represented a commitment to inter-organizational cooperation, as well as to work with at-risk and distressed populations.

Every year, a small number of children are hospitalized in special wards at psychiatric hospitals (in 1998, 230 children were admitted to psychiatric hospitals). In recent years, following criticism over the unnecessary hospitalization of youth and the lack of alternative frameworks, health and social welfare services have begun to cooperate in establishing out-of-home frameworks as an alternative to hospitalization.

### 2.4 The Accessibility of Services

The physical accessibility of services is expressed in data on the geographic distribution of physicians in Israel, which greatly corresponds with the distribution of hospital beds and medical infrastructure in general. Data from the Central Bureau of Statistics reveal that the north and south of the country have a smaller number of physicians per 100,000 population, and that children newborn to age four in these regions visit physicians less frequently than do their peers elsewhere in the country. The findings of an analysis conducted in 1996 support the assumption that the number of physician visits is related to the availability of services, and that these two variables are linked to income or the socio-economic status of a given town or region.

**Table 6: Distribution of Physicians and Number of Physician Visits by Children Newborn-Age Four in 1993, by Area of Residence**

Area of Residence	Children's Visits to a Physician during a Three-month Period, per 100,000 Population	Number of Physicians per 100,000 Population
Jerusalem	290	485.4
North	378	266.0
Haifa	436	482.7
Central Israel	531	475.0
Tel Aviv	543	517.3
South	379	323.9

Source: Kop, 1997

Data from the early 1990s reveal gaps between health services in the Jewish and Arab sectors, for indices such as the number of physicians per 100,000 population and the level of services. However, it should be noted that since 1993, the Ministry of Health has earmarked funds for the construction of new family health centers in Arab towns and villages, and for “closing the gap with the Arab sector” in preventive care. As noted, one of the main implications of the **National Health Insurance Law** was an increase in the incentive to provide services to low-income populations; a survey of sick fund members on the improvement of services since implementation of the **National Health Insurance Law** found the greatest level of improvement reported by the Arab population.

One group with particular problems gaining access to medical services is that of the Bedouin who reside in villages that are not recognized by the government. Only four clinics serve the nearly 50,000 people who reside in these villages. Not one of the villages – one-quarter of whose population are children age four or less – has a family health center. Under contract to the Ministry of Health, the *Galilee Society – The Arab National Society for Health Research and Services* has been operating a mobile clinic in these villages; however, the Ministry of Health has not approved extension of the contract. In response, a petition has been filed with the Supreme Court, in its role as a high court of justice, to force the State to construct permanent clinics. The Ministry of Health has countered that 84% of the infants in these villages receive preventive medical care, and that residents can receive services at centers located six kilometers away. The Ministry further responded that because the villages are illegal, it is under no obligation to provide services within their boundaries, and that the residents therefore have no legal basis to claim discrimination. The Supreme Court justices refused to accept the claim that children need not be provided with preventive medical services merely because they reside in unrecognized settlements. Following the court's decision, the Ministry of Health agreed to construct six family health centers in these villages; however, this has yet to be done. The Ministry of Infrastructure has begun efforts to find a comprehensive solution to the problems of these villages, which will presumably also solve the problem of provision of health services.

An additional problem in implementing the **National Health Insurance Law** concerns the children of residents of East Jerusalem (whose population is Arab). The 1997 report of the Ombudsman for the **National Health Insurance Law** lodges a number of complaints concerning children, especially in cases where one parent resides in East Jerusalem and the other in territories controlled by the Palestinian Authority. While the **National Health Insurance Law** covers all residents of the Israel, approval of residency by the National Insurance Institute can take time (an average of 59 days, according to the ombudsman's report); in the interim, the child does not receive health services. It is the opinion of the ombudsman that the sick funds must provide health care during this period, particularly for children, and especially if failure to provide health services endangers the child's life. It should be noted that in 1997, the ombudsman's office intervened in a number of cases in which children's lives were endangered due to a lack of medical care; ultimately, care was provided free of charge. The ombudsman favors the long-term solution proposed by the head of the Ministry of Health's Division of General Medicine, according to which a child born to a mother who resides in East Jerusalem and a father who resides in an area controlled by the Palestinian Authority will automatically be eligible for all services provided by the mother's sick fund, including preventive services, until his residency is approved by the National Insurance Institute. In response to a petition by several civil rights organizations, the Supreme Court recently instructed the National Insurance Institute to make administrative arrangements that will enable the children of such parents to receive medical care from birth.

In recent years, a great many foreign workers have come to Israel. Some of them live and work in Israel legally, while others do not. It is estimated that they have a total of between 2,500 and 3,000 children, who live with them in Israel. The **National Health Insurance Law** does not cover these workers or their children, regardless of whether they are in the country legally or illegally. Some workers are insured by their employer, through a commercial insurance agency. Many of their children have no health insurance whatsoever; medical care exclusive of emergency treatment is usually provided for fees that the workers cannot pay. Family health centers provide preventive treatment to foreign workers who are mothers, and their children. In Tel Aviv, where most of the foreign workers reside, Physicians for Human Rights has established the country's first clinic for foreign workers. Family physicians, pediatricians and general practitioners, as well as hospital and sick fund nurses, volunteer their time at this clinic, which is open three days a week and offers low-cost primary medical care to legal and illegal foreign workers.

Human rights organizations, including the National Council for the Child, Physicians for Human Rights, and the Association for Civil Rights in Israel, have asked the Minister of Health to use his discretionary power to extend national health insurance coverage to the children of all foreign workers. They believe the Minister should declare that the rights accorded by law extend to all children born in Israel, for as long as the child resides in the country, regardless of his parents' status, as well as to any child who stays in Israel longer than three months.

In July 2000, the **Foreign Workers' Law** took effect. Under this law, the Minister of Health must define a basket of services that insurance companies will be required to provide foreign workers. Guidelines for defining the basket have yet to be formulated. A contractor has been chosen to provide health care to the children of foreign workers. A Knesset committee is monitoring the provision of health care to foreign workers and their children, and will determine if additional steps need to be taken.

### 3. Environmental Factors that Affect Health

Environmental regulation is the responsibility of the Ministry of Health and Ministry of the Environment.

#### 3.1 Water Quality

Virtually every home (99.8%) in Israel is connected to the country's central water network. Great effort is invested in preventing water contamination, with monitoring that includes routine examinations for salinity and chemicals according to standards recommended by the WHO. In recent years there has been a downward trend in the percentage of bacterially contaminated drinking water samples, from 7.6% of all samples in 1990 to 2.3% in 1995 (Ministry of Health, 1998b).

The individual dwellings of the 50,000 Bedouin who reside in unrecognized settlements are not connected to the water system. Every Bedouin encampment that requests water is linked to the national network; residents pump water from central holding tanks and bring it home by automobile or camel, or on foot. The following steps are taken to avoid water contamination in this region:

- ◆ Routine testing is conducted
- ◆ Running water is provided in every Bedouin school
- ◆ Pamphlets on the prevention of water contamination are distributed.

The issue of drinking water will be addressed as part of the initiative to find a comprehensive solution to the problems of unrecognized Bedouin settlements.

#### 3.2 Air Pollution

Awareness in Israel is increasing of the harmful effect that the release of pollutants into the air has on health, especially that of children. The level of air pollution is not uniform nationwide: Between 1986 and 1993, a number of geographic areas were found to have exceptionally high levels of sulfur dioxide, nitrogen dioxide, ozone and ash. In 1994, new national policy regarding air quality was introduced, including the legislation and enforcement of air quality standards, continuous monitoring of air quality, and a reduction in sources of pollution. As of 1994, 63 monitoring stations were in operation; however, this was not sufficient basis for a national air pollution program. Consequently, Israel is formulating plans for 50 additional monitoring stations and a central data base (Ministry of Health, 1998b).

## 4. Considering the Views of the Child in the Medical Process

According to article 12 of the Convention, “a child capable of forming an opinion should be given the right to freely express it for any issue concerning him, with due weight being given his opinion based on his age and level of maturity” (see Chapter 4).

### 4.1 Medical Ethics

While ethical guidelines issued by the Israel Medical Association cover all human beings who require medical care, including children, they also specifically address children. Section 32 of the guidelines stipulates that, in an emergency, a physician must provide medical care to a minor even without the express permission of his parent or guardian, and must consider the minor’s opinion if he is able to express it. Section 33 of the guidelines requires a physician to consult with the authorities, and in exceptional circumstances to use his own judgment even if he cannot consult with the authorities, if a parent or guardian refuses to allow a minor to receive treatment and the physician is convinced that non-treatment will endanger the minor’s life.

The Israel Medical Association helped draft a proposed declaration on the rights of the child patient, which was sent to the World Medical Union. The declaration, based on the UN Convention on the Rights of the Child, emphasizes a child’s right to life and health, and respect for his views regarding medical procedures.

## Social Security

### Article 26 of the Convention

During the 50 years since its establishment, Israel has gradually developed as a welfare state. During this period, Israel has managed to build an extensive system of social security and income support, as well as a national system of welfare services in the framework of the health and education systems, to meet the needs of vulnerable populations. These are described in the various sections and chapters of this report.

This section will examine the degree to which children in Israel benefit from the right to social security, while taking into consideration the situation of the child and that of the people who are responsible for his livelihood, according to article 26 of the Convention. In this section, we will describe the social security and other mechanisms that secure a reasonable standard of living for children. (See Chapters 7 and 9 for further information about services and institutions that help working parents care for their children (article 18(3) of the Convention).)

## 1. The National Insurance Institute

The National Insurance Institute is a statutory corporation charged with implementing the **National Insurance Law [Consolidated Version] 1995**, and other laws that grant residents of the State social benefits and other transfer payments. The National Insurance Institute collects social security payments from the public, and pays benefits to people eligible for them by law. Some of these are short-term benefits meant to replace the salary of a person who temporarily finds himself outside the work force (whether because he has been fired or injured on the job, has given birth, or is doing reserve army duty). Others of these are long-term benefits intended to ensure a minimum standard of living for people who have been forced to permanently leave the work force (because of age or disability), surviving relatives who have been left without a primary breadwinner, and families that cope with the economic burden imposed by raising children. Benefits that replace salary are set as a (fixed or progressive) proportion of the salary of the beneficiary prior to the event that made him eligible for the benefit, such that its level changes from one individual to the next. Long-term benefits, in contrast, are set as a certain proportion of the average market wage, with the exception of child allowances, which are set at fixed rates that are linked to the Consumer Price Index. The level of these allowances depends on the composition of the family. Families of limited means, whose allowance is very low or who do not meet the eligibility criteria for this benefit under the **National Insurance Law**, are eligible for an income support benefit under the **Assurance of Income Law 1980**. This law was intended to be an economic safety net for those needy who cannot, either by themselves or with the help of some benefit, meet their basic needs. The law created a continuum of eligibility for receipt of payments from the social security system, and ensures a minimum income for every family in Israel, whose amount is set as a fixed percentage of the average wage as determined in the **National Insurance Law**.

Social security payments are collected from salaried employees, from employers, from the self-employed, and from those who are not employed. The government also participates in some branches of insurance and finances in full the benefits that are paid *not* under the **National Insurance Law**, for which social security payments are not collected.

In 1999, collection from the public for the various branches of social security was 4.5% of the Gross Local Product. During that year, the primary branch of the National Insurance Institute was that of aging and surviving relatives (34% of the Institute's payments were to recipients of old age and survivors' benefits). Children's allowances were second in size, reaching 18.8% of all benefit payments in that year. (All of the data in this section were taken from the National Insurance Institute Statistical Annual, 1999.)

## 2. The System of Benefits

Below we will describe the benefits relevant to the social security of children, including the conditions of eligibility, the populations that benefit, and the percentage of recipients. Some of the benefits are paid directly to families for the support of children; others are paid to the person eligible due to temporary or permanent loss of salary, but are also intended to support his dependents, including children. We will then discuss eligibility for social security and realization of rights. Lastly, we will address the degree to which all benefits, alongside other arrangements, help children and their families to maintain a basic standard of living.

Most benefits are paid independent of income on a universal basis. This is for fear of the disturbance of social solidarity caused when the entire population makes social security payments, but only some of the population receive benefits; the affront to dignity caused when social security, health and welfare services are limited to the poor only; and the fear that the necessity of meeting an income test in order to be eligible for benefits will prevent the weaker strata of society, which are most in need of benefits, from realizing their right to them.

### 2.1 Benefits Directly Related to Children

**Children's allowance:** The children's allowance is a monthly allowance paid to a family according to the number of children in it. The allowance is determined according to benefit points assigned per child. At the end of 2000, a law was passed that increased the number of benefit points per child for families with four or more children, beginning with the fourth child. This change has aroused much public debate. Since 1987, the benefit points have been updated for the full increase in the Price Index at the beginning of every year (January) and whenever a cost of living increase is paid to all of the employees in the market. In order to ease the burden on families, the hospital automatically informs the National Insurance Institute of every birth; payment of the children's allowance is transferred to the mother's bank account. Since close to 100% of the mothers in Israel give birth in the hospital, this mechanism ensures maximum fulfillment of the right to the benefit. In 1999, about 890,000 families received children's allowances every month, for 2,000,000 children.

**Disabled child allowance:** This allowance is intended for families that care for a disabled child, to ease the burden of personal and nursing care. The levels of the allowance are determined by the child's level of dependence on his parents in order to function, the child's age, school attendance/education, and the type of illness or disability from which he suffers. About 14,100 children received this benefit in 1999. (See the section on children with disabilities, above.)

**Maternity insurance:** as part of maternity insurance, women who have given birth are entitled to the following benefits:

1. hospitalization grant – this is meant to cover the expenses of the birth, and of the hospitalization of the mother and baby (including premature babies); it is paid directly to the hospital. A woman who gives birth abroad is also eligible for the grant, which is paid directly to her after she has filed a claim. A woman who is not a resident of Israel but who has worked in Israel, or whose spouse has worked in Israel for at least six months prior to the birth, and who gave birth in Israel, is also eligible for this grant. The sum of the payment is updated according to the cost per hospital day, which is determined by the Ministry of Health.
2. maternity benefit – this benefit is paid for 20 months to families in which three or more children are born during one birth (that is, triplets or more), in order to help the family cope with economic hardship. The mother is eligible for a monthly maternity benefit for nine months.
3. equipment grant – this grant is intended to cover initial equipment for the baby, and is paid directly to the mother. The grant is 20% of the average wage. When two or more children are born during one birth and remain alive for a period of time determined by law, the equipment grant is higher: for twins, 100% of the average market wage, and for each additional child, 50% of this wage.
4. maternity leave allowance – this is an income replacement allowance. It is meant to compensate the working mother for the loss of wages during her maternity leave, which she is required to take under the **Employment of Women Law**. Women who are eligible for this allowance are mothers who work for a salary, who are self-employed, or who are undergoing vocational training and for whom, during the period prior to the birth, social security payments were made for periods of time determined by law. The maternity leave allowance is paid for six or 12 weeks, depending upon the length of time a woman paid into social security prior to taking maternity leave. As of October 1994, maternity leave allowances were 75% of a mother's average daily wage during the three months that preceded her cessation of work. Since November 1994, the maternity leave allowance has been paid according to 100% of a mother's average daily wage during the three months that preceded her cessation of work, minus income tax, social security and health tax payments. As a result, the real level of the average maternity leave allowance per day in 1995 was 53% higher than it was in 1994.
5. pregnancy benefit – this is an income replacement benefit, which is intended to support employed women who for reasons related to their pregnancy are forced to cease working for 30 days or more and for whom no social security payment is being made by their employer or any other agent. The rate of the benefit is the woman's average wage during the three months that preceded her cessation of work.

In 1999, hospitalization and equipment benefits were paid to 129,000 mothers. During that year, 65,000 women received a maternity leave allowance.

## 2.2 Benefits for Eligible Persons and Their Dependents

**Unemployment benefits:** Unemployment insurance grants eligibility for unemployment benefits to people who worked for a minimum of six months during the year that preceded their unemployment, or for a year and a half prior to their unemployment. Claimants are eligible to receive unemployment benefits for a maximum of 138 days, or 175 days if they are age 45 and over or have at least three dependents. The amount paid per day is calculated at rates determined by law on the basis of the average daily wage of the beneficiary during his last 75 days of employment.

In 1998, about 112,000 children lived in families in which at least one of the parents received unemployment benefits. These children represent 5.4% of all of the children in Israel. In recent years, there has been an increase in the percentage of children who live in families that receive unemployment benefits.

**Work injury benefits:** Work injury benefits grant an individual who has been injured on the job the right to receive benefits based on the outcome of the injury. Also in this framework, a benefit is paid to relatives of people who were killed on the job, if those relatives were dependent on the deceased for their income. The full amount of this dependents' benefit is 75% of the deceased's salary. The partial amount of this benefit depends on the number of dependents: A widow with three children is eligible for the full benefit.

**General disability pension:** The disability pension is paid to individuals who as a result of a physical, mental or emotional disability can not and do not earn a salary that exceeds 25% of the average wage. A supplement of 10% is provided for each of the two first children.

**Survivors' pension:** This pension is paid to survivors of individuals who have died. The rate of the pension is paid as a fixed percentage of the average wage, according to the composition of the family: A widow or widower with one child receives 16% of the wage; an additional 7.5% is paid for each additional child. A child who does not have parents, or whose living parent does not live in Israel, receives 10% of the wage. If both of his parents have died, the child is eligible to receive two survivors' pensions. In addition, living expenses are paid at a rate of between 6.5% and 9% of the average wage to orphans who spend the majority of their time in secondary school or vocational training.

**Income maintenance:** Income maintenance is intended to be a safety net for individuals and families whose level of income, with or without the other income replacement benefits, does not enable them to maintain a minimal level of existence. This benefit is provided under the **Assurance of Income Law 1980**. Among those eligible for the benefit are families with no wage earner, and families whose wage-earners work for low wages. Eligibility for the benefit is conditional on both

a means test and an employment test: Recipients of the benefit are required to make an effort to become integrated into the work force. Only women with young children (under age 7) are exempt from the employment test. Pregnant minors and orphaned or neglected children are also eligible for this benefit. The benefit rate is dependent on family size and composition. The maximum benefit – paid to a widow(er) with at least two children – is equivalent to 52.5% of the average wage.

In 1998, 190,488 children (9.2% of all of the children in Israel) lived in families that received an income support benefit. Forty-eight percent of these children lived in families that received this benefit because they had no wage earner. About 21% of them lived in families that received this benefit because of low wages. Between 1990 and 1998, there was an increase of 133% in the number of children living in families that receive income support benefits, which is explained primarily by the mass immigration during this period.

***Alimony insurance:*** The **Maintenance (Assurance of Payment) Law 1972** ensures payment to women who are divorced, separated or in other circumstances, and to whom the court has awarded alimony but who are not receiving said alimony because the individual required by law to pay it is not fulfilling his obligation. A child is also eligible for this benefit if an alimony ruling has been made in his favor and he is not in the custody of his mother, and his maintenance is not being paid by the State or a local authority. The rate of payment is determined as in the alimony ruling, but is not to exceed the amount set in the regulations. The rate of alimony payments set in the regulations is equivalent to the rate of the income support benefit for widows, depending on the number of children in her custody.

## 2.3 International Conventions

Israel is a party to multilateral international conventions with most of the European countries, which ensure the payment to residents of those countries who migrate from one country to another, and in some cases to stateless refugees. In addition, Israel has signed a multilateral convention on the preservation of the right to benefits of migrants, and a multilateral convention on the legal equality of citizens and non-citizens in social security.

## 3. Recent Changes in Benefit Payments

Benefit payments often undergo changes. Some of these changes are a result of the desire to reduce the public expenditure involved in payment, while others are directed at ensuring the efficiency of the benefits in maintaining a basic standard of living for the entire population. Following are the primary changes that have been made in recent years.

### 3.1 Elimination of the Means Test for the Children's Allowance

In 1985, the decision was made that families with up to three children whose level of income was above a certain threshold would not receive a benefit for their first child, and in 1990, the decision

was made to eliminate this benefit for the second child, as well. In 1993, the payment of the benefit to all small families was renewed, without a means test. As a consequence, in that year the number of families and children who received such benefits increased by 50%.

### 3.2 Equalizing the Children's Allowance for People Who Did Not Serve in the Army

In the past, a supplement to the children's allowance was paid to families in which at least one member had served in the army. The "eligibility points" provided for the fourth child and additional children thereafter were higher for families in which at least one member had served in the army. Since most of the Arab population is exempt from military service, the benefits that were paid to that population were lower than those paid to the Jewish population. In addition, the families of new immigrants, some of which (especially those from Ethiopia) had many children, also did not benefit from the supplement.

In January 1994, a process was begun of unifying the children's benefits for all families that receive them, unconditional upon military service. This change, which was completed in 1997, equated the level of the benefit for all families, by increasing the level of the benefit paid to about 100,000 families with three or more children (for example, a family with four children now receives a benefit that is 60% larger than in the past).

### 3.3 Benefits to Low Income Groups

In recent years, legislative efforts have been made to reduce the extent of poverty among children by increasing selected benefits. Following the **Reduction of Poverty and Income Disparity Law 1997**, and the **Reduction of Poverty (Supplementary Measures) Law 1995**, benefit points were increased for the fourth, fifth and sixth child in a family, and supplements were increased for the first and second child in about 50,000 "special" families (e.g., in which someone was disabled, the woman was receiving alimony, there was only one parent). In addition, payment of the supplement for a child, which is granted to recipients of the survivor's pension, was expanded to each child (without limitation on their number), and disability benefits were increased for approximately 90,000 families of disabled persons. Finally, the level of benefits paid to single-parent families in which the parent is not defined as being the sole parent (e.g., women who are separated, or who have been abandoned, or whose husbands are in prison) were brought up to the increased rate, such that almost all (*de jure* and *de facto*) single-parent families became eligible for an income supplement at the increased rate. As a result, about 3,000 single-parent families benefited from a supplement to their benefit of up to 50%.

As noted, the children's allowance is paid on the basis of "eligibility points", which are allocated to each child in a family. The greater the number of children in a family, the more "eligibility points" the family receives, both because of the large number of children and because of the larger number of "eligibility points" allocated to each successive child, beginning with the third child. One of the

main problems with the children's allowance is its inability to maintain its value over time, relative to market wages, as it is linked to the Consumer Price Index and not to the average market wage, like the other benefits. Thus, its ability to maintain a given relative income standard has declined very significantly. According to data from the National Insurance Institute, in 1975 the value of an eligibility point was 4.4% of the average wage, while in 1990 it was worth 3.0% of the market wage, and by 1997 it was worth only 2.7% of the market wage.

## 4. Additional Mechanisms that Ensure a Minimum Standard of Living for the Employed

### 4.1 Minimum Wage

The system of ensuring a reasonable standard of living for employees (including employees with children) is the minimum wage, which was instituted in Israel by the **Minimum Wage Law 1987**. The rate of the minimum wage is presently 47.5% of the average market wage. However, this law has not been sufficiently enforced, and there are many employees who earn less than is stipulated by the law.

### 4.2 Tax Breaks

The tax system in Israel is progressive. In addition, the tax system provides discounts, dispensations, and tax breaks to working women, single-parent families, and so on.

## Standard of Living

### Article 27(1)-(3) of the Convention

Below we will examine the degree to which the State of Israel recognizes the right of every child to a standard of living that is adequate for his development, the degree to which the mechanisms described in the previous section help ensure this right, and the degree to which additional steps are taken to assist those who are responsible for the child, especially regarding nutrition, clothing and housing, as required by article 27, sections 1-3 of the Convention on the Rights of the Child. We will also examine efforts to ensure this right to all segments of the population.

## 1. Recognition of the Right to an Adequate Standard of Living

The right – especially that of children – to an adequate standard of living has earned recognition in Israeli law. A number of legislative and administrative mechanisms, among them the social security payments described above, are meant to promise an appropriate standard of living for all. The constitutional right to dignity, under sections 2 and 4 of the **Basic Law: Human Dignity and**

**Liberty**, is commonly believed to subsume the right to a basic standard of living. Case law also recognizes the right to a minimum standard of living. Thus, for example, the Supreme Court has ruled that causes that would normally incur non-payment of alimony to children, such as inappropriate behavior of children toward parents, will not be upheld if withholding alimony would deny the children a basic standard of living. Nevertheless, to date, the right to a basic standard of living has not been explicitly grounded in law.

## 2. Poverty

### 2.1 Measuring Poverty

Poverty, as a rule, and among children in particular, is increasingly recognized in Israel as a social problem that must be addressed. Data on poverty in Israel have been collected and published since the 1970s by the National Insurance Institute. An annual report on the state of poverty is presented to the government and garners extensive media coverage. Since the 1970s, Israel has adopted a relative definition of poverty that reflects the general standard of living. According to this definition, a family is considered poor when its living conditions (as reflected in family income) are significantly inferior to the accepted living conditions of a society. Poverty is measured on the basis of income; the means used to measure poverty do not take into consideration a family's other financial resources or in-kind services provided by the State or other agencies. The "poverty line" is defined in Israel as being 50% of the median net income per "standard" capita, based on a scale that matches income to family size, so as to facilitate comparison of the standard of living of families of different sizes. (For example, according to this scale, two individuals are equal to two standard individuals, three individuals are equal to 2.65 standard individuals, and seven individuals are equal to 4.75 standard individuals.) A family in Israel is considered poor when its income, divided among the number of "standard" individuals in that family, is below the poverty line for a standard individual. Thus, for example, the poverty line for a family of four is 62% of the median wage; a family of eight will be defined as living below the poverty line if its available income is 100.7% of the median wage.

Measures of poverty are calculated based on annual income surveys conducted by the Central Bureau of Statistics. The population surveyed includes the households headed by an employed or unemployed person (but not households headed by someone who is self-employed), in urban settlements with a Jewish or mixed population of 2,000 or more residents. Up to 1994, the income surveys included settlements with 10,000 or more residents. Beginning in 1995, the surveys were expanded to include settlements with between 2,000 and 10,000 residents (many of which are Arab). The population surveyed in 1995 encompassed about 88% of all of the households in Israel (as opposed to 80% of all households in 1994).

Below we present recent data on the extent of poverty among children in Israel, and among specific groups of children. We then present data on the effect of the various mechanisms reviewed in the previous section on the reduction of poverty.

## 2.2 The Extent of Poverty among Israel's Children: Changes Over Time

The introduction of children's allowances in the 1970s brought about a dramatic reduction in the incidence of poverty among children during that period. About 8% of the children in Israel were living below the poverty line in the mid-1970s. However, poverty rates rose throughout the 1980s and early 1990s, reaching 23.2% by 1995. A decline was observed in the percentage of children living below the poverty line for the first time in 1996, when 21.4% of Israel's children lived below the poverty line (see Table 3). This trend was ascribed to the implementation in 1994 of a government program to prevent poverty, which included a change in the payment of children's allowances. However, an increase in the percentage of children living below the poverty line was again observed in 1998, when it reached 22.8% of all children. This increase was attributed in part to an increase in unemployment, and in part to changes in the method of income survey: As of 1997, income surveys included smaller Arab villages, whose populations are poor. Data for 1999, which were just released, indicate that poverty among children has reached a new peak (26%).

## 2.3 The Extent of Poverty among Different Groups

Table 1 presents the incidence of poverty among children in different groups in 1998. As the Table indicates, the poverty rate is particularly high among a number of groups: Arab families, families with four or more children, and single-parent families. For years, the extent of poverty among new immigrants (who arrived in Israel in or after 1991) was higher than in the general population. However, in 1998 it was only 18.1% – a smaller percentage than that in the general population (although still slightly higher than that of children in the Jewish population, 16.3%).

It should be noted that between 1995 and 1996, there was a significant decrease in the percentage of children in Arab families who lived below the poverty line; this was explained by the extension of benefits for families whose members had served in the army to families whose members had not served in the army, which primarily affected Arab families. However, beginning in 1997, there was again a rise in the percentage of children in Arab families living below the poverty line. As noted, this may be due in part to changes in the method of income survey.

**Table 1: The Incidence of Poverty among Children in Different Groups in 1998 (in %)**

Group	Incidence of Poverty among Children
Total population of children	22.8
Families with four or more children	34.9
Single-parent families (1997)	36.5
Immigrant families	18.1
Arab families	42.7

Source: National Insurance Institute, 1999

Although there is a wealth of data on the extent of poverty and its distribution among various population groups, there is little data on poverty's implications for and influence on the well-being of children and youth. For example, there are limited data on the extent to which poor children are precluded from participating in the activities and social experiences that are accessible to the majority of children in Israel, or on the prevalence of undesirable behaviors (such as involvement in crime) among poor children. It is clear, however, that poverty affects the welfare of children and families, and serves as a background to other problems. Existing data indicate that children from families with low income are over-represented among those who suffer from abuse and neglect, underachievement and inability to attain a minimum level of education, dropping out of school and involvement in criminal activity (Dolev et al., in Primak, ed., 1998).

#### 2.4 The Effectiveness of Mechanisms to Reduce the Extent of Poverty

The main reduction in the incidence of poverty is accomplished by transfer payments (most of them social security benefits). In addition, since poverty is defined relatively, progressive taxation improves the relative status of the poor. In this section we will examine the efficiency of transfer payments and taxes in the reduction of the extent of poverty among children in general, and among specific groups. Table 2 presents the proportion of poor children among all children in Israel for different years, prior to and following transfer payments and taxes. The Table indicates that while in 1980, taxation and transfer payment mechanisms managed to extricate nearly half of the poor children of Israel from poverty, the efficacy of these mechanisms was sorely damaged during the 1980s. During the 1990s, there was some improvement in the efficiency of transfer payments and taxes, apparently as a result of deliberate policy. Nevertheless, most poor families remained below the poverty line despite government assistance. Moreover, most of the families whose income rose above the official poverty line continued to experience significant financial difficulties, and to need additional help.

**Table 2: The Incidence of Poverty among Children, 1980-1998 (in %)**

Year	Prior to Transfer Payments and Taxes	After Transfer Payments and Taxes	Percentage Removed from Poverty
<b>1980</b>	15.4	8.1	47
1990	31.4	22.3	29
1993	33.0	22.1	33
1994	34.5	22.8	34
1995	35.2	23.2	34
1996	33.4	21.4	36
1998	38.2	22.8	40

Source: National Insurance Institute 1999

Table 3 presents the influence of transfer payments and direct taxation on the incidence of poverty among children in various groups. As may be seen in the Table, despite favoring large families, transfer payment and taxation mechanisms have had only slightly greater success in extricating large families from poverty than small families: In 1998, transfer payments and taxation extricated about 41% of the children in large families from poverty, compared to 40% of the children in small families. This was nevertheless an improvement over 1995, when only 31.8% of the children in large families were removed from poverty, compared to 37.5% of the children in small families.

It is interesting to note that transfer payments and taxes were more effective in extricating children in single-parent and immigrant families from poverty. In 1998, transfer payments and taxes managed to remove about 55% of the children in immigrant families and 43% of the children in single-parent families from poverty. It should be noted, however, that in 1996, more than half of the children in single-parent families were removed from poverty. The decline in the effectiveness of these mechanisms may be attributed to the vulnerability of single-parent families to rising unemployment.

**Table 3: The Percentage of Children in Different Groups Living Below the Poverty Line or Removed from Poverty by Transfer Payments and Taxes in 1998**

Group	Prior to Transfer Payments and Direct Taxes	After Transfer Payments and Direct Taxes	Percentage of Children Removed from Poverty
All children	38.2	22.8	40.0
Single-parent families (1997)	64.0	36.5	43.0
Immigrant families	40.6	18.1	55.4
Large families	59.6	34.9	41.4
Small families	24.5	14.8	39.6

Source: National Insurance Institute, 1999

## 2.5 The National Council for Narrowing Social Gaps and Reducing Poverty

In August 1996, the government established a national council for narrowing social gaps and reducing poverty, which began its work in May 1997. The council was to examine all aspects of economic and social hardship, including education, housing and health, and to suggest ways of reducing it. It was also charged with redefining poverty and its measurement, in light of the support services provided to poor families.

In December 1999, the council presented its final recommendations for social service policy. It stressed the importance of identifying populations at risk and their needs, and allocating earmarked resources to vulnerable segments of the population and to peripheral geographic areas, with the aim of developing innovative projects, primarily at the local level.

## 3. Additional Assistance with Basic Living Conditions for Families with Children

In Israel, individual welfare services, including those for children and youth, are provided under general welfare legislation that requires local authorities to supply welfare services to individuals and families who need them. In the past, social welfare departments provided financial support to needy families. Since 1982, support has been paid to families through National Insurance Institute benefits, under the **Assurance of Income Law**. Social welfare departments continue to provide counseling, personal services, and emergency financial aid. Social welfare departments are also responsible for investigating reports about children who may not be getting appropriate care from their parents, or whose living conditions endanger their welfare and well-being (see Chapter 7). The direct financial support that the departments provides is limited, temporary, and reserved for families in severe financial distress; it includes help purchasing basic household equipment (35,000 families received such assistance in 1995), and temporary assistance with housing expenditures.

## 4. The Right to Adequate Housing

Since its establishment, the State of Israel has seen itself as responsible for providing adequate housing to its residents. This right is not anchored in legislation, but rather is realized primarily through administrative programs.

Information on the housing situation in Israel is based primarily on the household expenditures surveys conducted by the Central Bureau of Statistics. The 1997 household expenditures survey indicated that 69% of the heads of households owned their apartment, while about one-quarter of them rented their apartment. Most of the home owners purchased their apartment during their first three years of marriage.

There has been a consistent improvement in housing conditions over time, with the percentage of three or more people per room declining steadily. Arab households are more crowded than Jewish

ones. In about 9% of Arab households there is crowding of more than three people per room, compared to 1.5% of Jewish households. This is in part due to differences in family size.

#### 4.1 Assistance for Owners of Inadequate Housing

The State implements various programs that aim to provide all of its residents with appropriate housing. For example, in order to ensure an adequate supply of apartments, the Ministry of Housing plans new cities and neighborhoods.

The State employs the following measures to help residents obtain housing:

- ◆ **government subsidized mortgages:** The first criterion for receiving a mortgage is that no one in the household owns an apartment or has received a mortgage in the past. Those who are eligible for a mortgage according to this criterion are classified by resident status (new immigrant versus long-time resident) and marital status (unmarried, married, single-parent family). The level of assistance is determined according to variable criteria (number of years of marriage, number of children, size of the spouses' families) and socio-economic criteria. Special assistance purchasing an apartment is provided to single-parent families and soldiers who have been discharged from the army, under the **Single Parent Families Law 1992** and the **Discharged Soldiers Law 1949**. In addition, assistance with housing is influenced by the geographic location of the apartment: Israel was divided into four areas according to national priority, with greater assistance provided for housing in peripheral areas and development towns. The 1990s saw an increase in the number of young couples who applied for a government-subsidized mortgage. The greatest increase was registered among young couples in the Arab and Druze sectors. According to Ministry of Housing data, in 1996 more than 52,000 residents took advantage of their right to apply for a government-subsidized mortgage.
- ◆ **government rent subsidies:** This program was meant to help people of limited means – including new immigrants, single-parent families, families with low income, and people in the process of divorce who are responsible for children – rent an apartment on the private market. It is meant to provide temporary assistance for between one and three years, although families with exceptionally low income are eligible for a rent subsidy for an unlimited time. In 1996, 140,000 households received a monthly rent subsidy. Eighty percent of them were new immigrants, and 9% of them were young couples.
- ◆ **public housing:** Preference in the provision of public housing is granted to single-parent families with three or more children, families that have a member with a physical disability, and families with particularly low income. Residents of public housing pay a low monthly “rent”. About 120,000 housing units around the country (7.5% of all of the housing units in the country) belong to public housing companies – two of them large public housing companies, and the remainder public-municipal housing companies. Many families are waiting to receive public housing. Recently, a law was passed that enables families living in publicly-owned housing to purchase their apartment under advantageous conditions.

Claims have been made that these forms of assistance are insufficient. Specifically, it has been claimed that the government-subsidized mortgage is not ample enough to allow purchase of an apartment, that rent subsidies do not keep pace with inflation, that there is no new public housing, and that existing housing is in poor condition.

Assistance is also provided to families that live in extremely crowded conditions, or poor housing conditions that may endanger their health (as determined by a medical committee). For example, assistance is provided to households in which the crowding is more than 2.2 individuals per room.

The Ministry of Labor and Social Affairs, through its social welfare departments, provides temporary assistance to families that need help paying rent, making home repairs, or moving. Such assistance is a “safety net” for people who are undergoing a temporary housing crisis. It is provided for a maximum of two months; eligibility criteria are similar to those of the Ministry of Housing. The decision to grant assistance is made on the basis of a social worker’s report.

## 4.2 Assistance to the Homeless

In recent years, awareness has grown of the problem of homelessness. It is estimated that some 3,000 homeless people, most of them childless adults, live in Israel. A number of local authorities, in cooperation with government ministries, have developed a network of services for homeless people, which includes shelters and rehabilitative services.

Another serious problem is that of youth who have nowhere to live, or who have run away from home and find it difficult to return and reestablish contact with their parents. ELEM – Youth in Distress, in cooperation with other agencies (such as ASHALIM) supports these young men and women through two shelters for homeless youth in Tel Aviv and Jerusalem, a network of therapeutic “coffee houses”, and a mobile unit that travels to the meeting places of homeless youth in large cities (see Chapter 10).

## 4.3 Population Groups with Special Housing Problems

### 4.3.1 New Immigrants

Almost 70% of the new immigrants who came to Israel from the former Soviet Union between 1989 and 1994 have purchased an apartment. Special attention has been devoted to housing for Ethiopian immigrants. At present, approximately 60,000 immigrants from Ethiopia live in Israel; the percentage of children among them is large – about 60%. These immigrants arrived during two waves of immigration: during the 1980s, and the 1990s. Most of the immigrants who arrived during the 1980s were settled in public housing, and have remained in the towns where they were first settled. During the second wave of immigration, in the early 1990s, public housing was not in sufficient supply; consequently, the immigrants were housed in hotels, and later in caravans (mobile homes) at 22 temporary housing sites that were also home to immigrants from the former Soviet Union. After a number of years, the decision was made to encourage the immigrants to move to

permanent housing by offering them large, subsidized loans to purchase an apartment. This effort proved to be fruitful; at the end of 2000, only about 100 families remain at temporary sites.

**Table 4: Number of Immigrant Families Residing in Temporary Housing, by Year**

Site	September 1992	April 1996
Temporary site (mobile homes)	3,720	450
Absorption centers	1,460	250
Hotels	157	-
Total	5,337	700

Source: Ministry of Immigrant Absorption data

### 4.3.2 The Bedouin Population in Unrecognized Villages

A special housing problem is posed by Bedouin living in encampments that are not recognized by government urban and rural planning frameworks. Most of these “settlements” are in the south of the country, although 3,000 people (Bedouin and non-Bedouin Arabs) live in unrecognized villages in the north. In the 1960s and 1970s, as part of a national program to address this problem, seven small towns were planned and established in the south for the Bedouin population. Although 40,000 Bedouin moved to these towns, more than 50% of them refused to move, such that at present, 50,000 people remain in unrecognized villages. These villages are not connected to infrastructure, and all construction in them is illegal; about 54% of their residents are children under the age of 14 – a particularly high percentage. Israel has come to understand that it cannot force an urban lifestyle on the Bedouin. Since 1993, an attempt has been made to change policy; between 1993 and 1995, the Ministry of Housing invested NIS 138 million in improving the standard of living of the Bedouin without disturbing their traditional lifestyle. In 1996, a special Knesset committee recommended that the government compromise by recognizing some of the illegal villages, and indeed, eight of the 40 unrecognized settlements have been recognized. Residents of villages that have not been recognized will be compensated. The committee also recommended planning villages and towns for Bedouin in a way commensurate with their needs and traditions.



## Chapter 9

# Education, Recreation and Cultural Activities



## Articles 28 and 29 of the Convention

### Introduction

In this chapter, we present the education system of Israel. We will describe the laws and principles on which it is founded, as well as its organizational structure and infrastructure. We will also present data on the allocation of funds, and indicators of its success, such as attendance and drop-out rates.

We will then discuss the extent to which the main principles of the Convention are implemented in the Israeli education system: the steps taken to ensure education for all; the way in which education is made possible for each religious, national, cultural and linguistic sector; and the degree to which the education system expresses the cultural and religious differences of Israel's heterogeneous population. We will cite the agencies and mechanisms that facilitate freedom of speech, teach self-expression, and increase awareness of human rights. We will also cite programs that encourage the participation and involvement of children in the community. We will survey the agencies that provide cultural and recreational services to children and youth, and discuss government involvement in their promotion, as well as data on participation rates in different sectors. We will describe disciplinary regulations and practices for enforcing them, and will address the mechanisms for reporting and addressing deviations from them.

In December 2000, the Knesset passed the **Pupils' Rights Law 2000**. The aim of this law, as defined in its first section, is to determine principles for students' rights, in the spirit of human dignity and of the UN Convention on the Rights of the Child, while preserving the uniqueness of the various education frameworks as defined in the relevant laws. According to the **Pupils' Rights Law**, every child and youth in the State of Israel has the right to an education according to all instructions of the law.

### 1. The Constitutional Right to Education

In Israel's fundamental human rights laws, which the Supreme Court has ruled have constitutional status, the right to education is not mentioned. However, some believe that the right, or aspects of the right, to an education is subsumed in the right to human dignity established by sections 2 and 4 of the **Basic Law: Human Dignity and Liberty**. Although one Supreme Court justice opposed this view, the justices who sat with him wished to cite this as requiring study, and the matter was not decided ((Petition to the) High Court of Justice 1554/95 "*SHOHAREY G.I.L.A.T.*" *Association v. Minister of Education, Culture and Sport*, P.D. 50(3) 2).

Another question which has yet to be decided in Israel is whether the right to an education is a fundamental one according to “accepted legal standards” – that is, whether the administrative authorities are obligated to provide education.

In any case, the practical importance of these questions is relatively limited, as a long list of specific laws and regulations ensure extensive rights to an education. As noted, the recently enacted **Pupils’ Rights Law 2000** stipulates that “every child and youth in the State of Israel has the right to an education according to all instructions of the law”. Some of these will be reviewed below.

One problem that has no satisfactory solution at present is that of education for the (estimated 3,000) children of foreign workers who are in Israel legally, and illegally. Although the Ministry of Education recognizes its responsibility to provide education to all children residing in the country, it appears that some of these children, particularly those whose parents are in Israel illegally, do not regularly attend school. Many of the younger children spend a large part of the day in poorly-organized, unsupervised frameworks. Children of foreign workers are not entitled to supplementary services, such as special Hebrew languages classes like those provided to new immigrants. Several Knesset committees are engaged in seeking solutions to these problems.

## 2. Legislation

### 2.1 Government Education

The **State Education Law 1953** stipulates that, in Israel, education will be provided, as a rule, by the State on the basis of an educational program that is supervised and approved by the Ministry of Education.<sup>1</sup> The law recognizes two streams of education: State education, and State religious education. The law allows the Minister of Education to approve, at the request of 75% of the parents of students in State or State religious schools, an additional or special educational program. The law also sanctions non-government education institutions, recognized but not official institutions that are supervised by the Ministry of Education, and independent institutions that are not supervised by the Ministry.

Section 10 of the law stipulates that parents have the right to choose the stream of education which their children will attend. However, parents who request that their children attend a State or State religious school are not allowed to choose the specific school their children will attend. The local school board refers children to schools, first and foremost in accordance with the policy of social integration, which is imposed upon parents and children.

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<sup>1</sup> On September 5, 1999, matters of culture and sport were transferred from the care of the Ministry of Education to that of the Ministry of Science.

The law prohibits discrimination in the provision of education due to ethnic background, nationality, or disability. Cases brought before the courts have resulted in rulings in favor of citizens.

## 2.2 Compulsory Education

The **Compulsory Education Law 1949** stipulates that education in Israel is compulsory for children ages three to 15 inclusive, or until the completion of ten years of schooling. In effect, as will be discussed below, in most regions compulsory education is enforced beginning at age five. The law allows the Minister of Education to grant an exemption from compulsory education in special cases, such as when a child is educated privately, or cannot be integrated into a regular school.

Responsibility for the regular school attendance of each and every child falls on parents, the State, and the local authorities. According to section 4(a) of the **Compulsory Education Law**, parents (or guardians) must register their school age children at an education framework and ensure that they attend it regularly. Parents who do not fulfill this obligation are committing a criminal offense. School principals, homeroom teachers, guidance counselors, and truant officers are responsible for enforcing regular school attendance on behalf of State and local authorities.

## 2.3 Free Education

According to the **Compulsory Education Law 1949**, children and youth age three to 17 have the right to free education. Local education authorities are responsible for the education of the children and youth who live under their jurisdiction; ultimate actual authority rests with the mayor or head of the local authority. The Supreme Court enforces this obligation.

Parents are required to purchase books and school supplies for their children, and sections 6-8 of the law allow a local authority to charge fees for services provided to pupils. In addition to mandatory fees, the school is authorized to collect optional fees for special services, if these are approved by a parents' committee. However, school registration and attendance are not conditional upon any payment.

Complete implementation of free education for children ages three-four has been deferred for budgetary reasons; free education for children age three-four is only provided in some towns and neighborhoods, although their number has expanded recently under the **Compulsory Education (Implementation in Nursery Schools) Ordinance 1999**. Under this ordinance, free education is provided from age three in some towns and neighborhoods, and from age four in others. In the remaining towns, free education is provided from age five, although the local authorities in these towns provide pre-compulsory education from age three-four for a fee. This preschool tuition is progressive, and is set according to socio-economic criteria.

Some expansion of free education is anchored in Ministry of Education policy. For example, the State finances the education of technicians and junior grade engineers for two years beyond 12<sup>th</sup> grade (i.e. grades 13 and 14). It also provides financial assistance to students whose parents cannot pay for school services that supplement those required by law. In order not to place any student at a disadvantage, a committee comprising representatives of schools, parents' organizations and the local authority determines which families are eligible for assistance, discounts or exemptions because of their financial situation or because they have more than one child in school.

#### 2.4 Extended School Day and Enrichment Programs

The **Extended School Day and Enrichment Education Law 1997**, which orders the extension of school hours, is intended to increase equal opportunity in education and to enable children to fulfill their potential. The law stipulates that at least four school days a week will be eight-hour school days. It is being implemented gradually, first in neighborhoods and towns whose education systems need reinforcement. The law should be implemented in the entire education system by 2001.

#### 2.5 Special Education

Education services were also significantly expanded by the passage of the **Special Education Law** in 1988. This law establishes the right of children with physical, mental, emotional or behavioral disabilities to an education suited to their needs and development, and ensures that education frameworks are adapted appropriately.

The law stipulates how eligibility for special education is to be determined, and that an individual study plan is to be made for each and every child, so as to enable him to fulfill his potential.

The law also expands the type and scope of services provided in the framework of special education. Under the law, special education is provided to children and youth ages three through 21; the law also increased the number of special education hours, lengthened the school day and year (special education schools are open during vacations), and established the right of children to paramedical services (e.g., physical, occupational, and speech therapy), expressive therapies, and assistive devices.

The **Special Education Law** has been implemented gradually during the past decade. The law itself does not determine the sources or the extent of funding for its implementation. Consequently, implementation of its various provisions has required the development of master plans and negotiation between the Ministries of Education and Finance. Provisions of the law that are clearly defined, such as longer school days and extending coverage from age three to age 21, have been implemented. Other provisions of the law, which were more ambiguous (such as the extent of paramedical services or equipment required), have yet to be implemented. Negotiations between the Ministries are continuing.

In addition, the law expresses a deliberate policy of integrating disabled children into regular schools to the extent possible, by requiring that children be given the assistance they need in the “least restrictive environment”. However, services provided under the law are allocated mostly to children in special education schools and classes, while funds allocated to children who have been mainstreamed are limited and considered insufficient (for additional information, see Chapter 8).

The **Rehabilitative Day-care Centers Law 2000** is meant to ensure toddlers ages one-three, who suffer from a disability, mental retardation, or some other handicap, an appropriate rehabilitative, therapeutic and educational framework, financed by the State.

### 3. The Goals of Education in Israel

Israeli society views education as important both to ensuring social mobility and equality, and to enabling every child to realize his ability to become integrated into the labor market as an adult.

The goals of State education, as defined in section 2 of the **State Education Law 1953** and recently amended, are as follows:

1. to educate the individual to love others, his people and his country, and to be a loyal citizen of the State of Israel who respects his parents and family, his heritage, his cultural identity and his language
2. to impart the principles embodied in the Declaration of Independence of the State of Israel and the values of the State of Israel as a Jewish and a democratic State, and to foster respect for human rights, fundamental liberties, and democratic values; obedience to the law; preservation of one’s culture and respect for the opinions of others; and commitment to working for peace and tolerance among individuals and between nations
3. to teach the history of the Land of Israel and the State of Israel
4. to teach the *Torah* of Israel, the history of the Jewish people, the heritage of Israel, Jewish tradition, the memory of the Holocaust and heroism, and respect for these
5. to develop the personal character, creativity and diverse talents of every boy and girl, so that they may fully realize their abilities as human beings and live lives of quality and meaning
6. to ground their knowledge in the various fields of science and all manner of human creativity over the centuries, to impart the basic skills that will be required of them during their lives as adult human beings in a free society, and to encourage physical education and recreational culture
7. to reinforce in them sound judgment and critical faculties, to cultivate their intellectual curiosity, independent thought and initiative, and to develop their awareness of and alertness to change and innovation
8. to grant equal opportunities to each and every child, to enable them to develop in their own way, and to create an atmosphere that encourages and supports individuality

### *Education, Recreation and Cultural Activities*

9. to cultivate involvement in Israeli society, a willingness to accept and fill roles with dedication and responsibility, a desire to provide mutual assistance, contribute to the community, volunteer, and work for social justice in Israel
10. to foster respect for and responsibility toward the natural environment, and a bond with the land, landscapes, flora and fauna
11. to teach the language, culture, history, heritage and tradition unique to the Arab population and other population groups in the State of Israel, and to recognize the equal rights of all citizens of Israel.

It is the policy of the Ministry of Education to encourage every youth to complete 12 years of school and matriculation examinations. Special effort is invested in helping students from vulnerable population groups, promoting and improving Arab education, absorbing immigrants into the education system, and implementing the **Special Education Law** for populations with special needs.

## 4. Resources in Education

### 4.1 National Expenditures on Education

The expenditure on education is the largest of the government's expenditures on social services, and represents the second largest expenditure (after security) in the national budget. Public expenditure on education grew steadily during the past decade, from 6.5% of the Gross National Product in 1990 to 8.4% of the GNP in 1998.

### 4.2 Number of Classes, Number of Students per Class, and Number of School Hours

In 1999/2000, the education system included approximately 45,000 classes, about 80% of them in the Jewish sector and 20% of them in the Arab sector. The number of students per class and the number of school hours influence both the extent of education provided to students, and its quality. Despite the large investment of resources in education, the system is characterized by relatively large classes.

**Table 1: Average Number of Students per Class, by Sector**

Year	Total	Average Students per Class	
		Jewish Sector	Arab Sector
1980	26.7	25.8	31.1
1990	27.8	27.1	30.9
1995	28.1	27.4	30.9
1998	29.0	27.0	31.0

Source: Ben-Arie and Zionit, 1991

The accelerated development in the number of classes has not matched the increase in the number of students; consequently, the average number of students per class is on the rise: from 26.7 in 1980

to 29 in 1998. This rising trend in the number of students per class is characteristic of elementary education in the Jewish sector. Although the average number of students is higher in the Arab sector, the average number of students (31) per class in the Arab sector has remained stable during the past decade.

As the **Extended School Day and Enrichment Education Law 1997**, which requires extending the school day, has yet to be implemented in full, most of the pupils in pre-kindergarten and elementary education attend school for between four and five hours a day; older children attend school up to seven hours a day only.

### 4.3 The Quality and Training of Teaching Staff

Another factor influencing the quality of education and the ability of children to make the most of it is the quality of teachers and teaching. Table 2 presents the level of education of teachers in 1981 and 1998, by sector. As may be seen, there has been an improvement in the level of education of teachers in both the Jewish and Arab sectors. However, as the Table indicates, teachers in the Arab sector are less educated than those in the Jewish sector.

**Table 2: Level of Education among Teachers, by Sector (in %)**

Education Framework	Jewish Sector		Arab Sector	
	1981	1998	1981	1998
Elementary Schools				
University degree	14	38	9	25
Senior	22	40	6	52
Certified	48	6	58	12
Non-certified	16	6	27	11
Secondary Schools				
University degree	58	72	53	62
Senior	12	16	10	22
Certified	27	10	33	12
Non-certified	3	2	4	4

Source: Sprintzak et al., 2000

During the 1997/98 school year, 38% of the elementary school teachers and 72% of the secondary school teachers in the Jewish sector were university graduates, compared to 25% and 62%, respectively, of their colleagues in the Arab sector.

## 5. The Structure of the Education System

### 5.1 Description of the System

The education system in Israel is under the surveillance of the Ministry of Education. During the past 20 years, there has been a constant increase in the number of students attending school, particularly secondary schools, preschools, and schools in the Arab sector.

The education system comprises preschools, elementary schools (grades one through six), and secondary schools, which comprise two organizational structures of three years each: middle schools (grades seven through nine) and high schools (grades ten through 12). In certain towns, elementary schools provide eight years of education (through grade eight).

**Table 3: The Structure of the Education System: The Number of Students in the Education System, by Type of Framework, 1998/99**

Type of Framework	Number of Students
Early Childhood Education (preschools for ages 2-5)	350,887
Elementary Education (grades 1-6)	725,745
Elementary schools	676,865
Special schools	17,606
Other institutions ( <i>Talmud-Torah</i> “ <i>cheder</i> ”)	31,274
Secondary Education (grades 7-12)	550,148
High school (grades 10-12)	238,165
Middle school (grades 7-9)	296,983
Other institutions	15,000

Source: Ben-Arie and Zionit, 1999

Israel’s education system comprises two main sectors, which are operated as two separate systems: the Jewish sector (which serves 81.5% of the students) and the Arab sector (which serves 18.5% of the students, who are Moslem and Christian Arabs, Druze, Circassian, etc.). Each of these sectors has its own institutions and curricula.

The structure of educational institutions and the content of study in the Arab sector are similar to those in the Jewish sector, with differences that reflect the different cultures of the two populations. Studies of the educational institutions in each sector are conducted in the mother tongue of the population that attends the institution.

The Jewish sector is divided into three streams or “types of surveillance”: State (with a secular orientation), State religious (with a moderate orthodox orientation) and independent-“*haredi*” (with an ultra-orthodox orientation). Each of these streams has its own schools. State religious schools follow the same format as do State schools, but their curriculum includes studies with a religious

emphasis. Independent schools (“exempt institutions”) that are affiliated with the *haredi* stream are not under the surveillance of the Ministry of Education.

In 1998, 66% of all elementary school students attended State schools, 21% attended State religious schools, and 13% attended independent schools. In that year, three-quarters of all secondary school students attended State schools, 18% attended State religious schools, and 9.8% attended independent schools.

Almost all of the children attend “public” schools that are under the surveillance of the Ministry of Education and are financed by the Ministry and the local authorities. A few schools are operated by private associations but are financed by and under the surveillance of the Ministry. Educational frameworks that are completely private and that function outside of this system are rare. Such schools are more prevalent in the Arab sector, and in the *haredi* segment of the Jewish sector.

The division of educational institutions into Jewish and Arab sectors and according to level of religious observance enables each sector to maintain its linguistic and cultural uniqueness, and limits cultural tension among students within the schools themselves. However, this separation limits opportunities for a meeting of the minds and mutual acquaintance among the different groups.

In addition, since there is a strong correlation between choice of the State religious stream and low socio-economic status in the Jewish sector, and even lower socio-economic status in the Arab sector, the separation among the sectors may intensify discrepancies in the levels of scholastic achievement and perpetuate the social dissociation among these groups. Moreover, a disproportionate percentage of the better students in the State religious stream choose to attend yeshivas and boarding schools for grades ten through 12, leaving the State religious schools in the community to the weaker students.

## 5.2 Early Childhood Education (Newborn - Age Five)

A large proportion of Israel’s children attend public or private preschools. In 1998/99, 351,000 children ages two-five who attended public preschools operated by local authorities and supervised by the Ministry of Education, and private day care centers. Table 4 presents the percentages of preschool attendance by sector.

As the Table indicates, attendance at preschools and day care centers is almost universal among children ages three to five in the Jewish sector. In fact, nearly 70% of children age two already attend preschools; by age three, the attendance rate has risen to 95%, and by age five, when education becomes compulsory, attendance has reached 99.5%.

**Table 4: Preschool Attendance,\* by Sector, 1997/98 (in %)**

Age	Preschool Attendance	
	Jewish Sector	Arab Sector**
2	68.6	No data available
3	95.0	44.0
4	99.0	71.0
5	99.5	90.0

\* Attendance rates at preschools under the surveillance of the Ministry of Education; does not include data on children attending preschools under the surveillance of the Ministry of Labor and Social Affairs or the Ministry of Religion.

\*\* Not including private preschools and schools in East Jerusalem.

Source: Ben-Arie and Zionit, 1999

In the Arab sector, preschool attendance is relatively low: 44% of the Arab children age three and 71% of the Arab children age four attend preschools. The attendance rate at kindergarten, which is compulsory, is lower among Arab children (90%) than among Jewish children.

These data indicate that although free education from age three is not implemented due to budgetary limitations, the State of Israel has attained nearly universal participation in pre-compulsory education (ages two to four) in the Jewish sector. The high level of participation in early childhood education in this sector is a result of investment of resources in the construction of preschools and day care centers and the training of teachers and aides, which was accelerated during the 1970s in recognition that beginning education at the earliest possible opportunity promotes equality and equal opportunity. This recognition is also reflected in the efforts made to enable families with little means to send their children to such frameworks.

As noted, one of these means is that of progressive tuition in public preschools (for children ages three to four) and day care centers (children up to age three) according to household income per capita. Fees are set by the Ministry of Labor and Social Affairs, which determines the rate of tuition for day care centers and family child care, and the Ministry of Education, which determines the tuition for preschools. Discounts for preschool education are also given on a geographic basis. Towns with a concentration of weak populations sometimes exempt them from paying for early childhood education.

### 5.3 Elementary Schools (Ages Six – Twelve)

About 700,000 pupils attended elementary schools in 1998. In the Arab sector, the number of pupils in the elementary school system was about 163,000.

**Table 5: Elementary School Attendance Rates (Ages Six – 12), by Sector (in %)**

Attendance Rates	1992/93	1998
Jewish sector	95.1	96.3
Arab sector	95	95.7

Source: Ben-Arie and Zionit, 1999

Elementary school attendance rates are very high and are increasing. Table 6 indicates that nearly all children ages six to 12 in the Jewish (96.3%) and in the Arab (95.7%) sectors attend school.

State and State religious elementary schools function on a neighborhood basis, and therefore usually enroll an economically and culturally homogenous population. Independent schools are organized according to religious community affiliation.

In some (State, State religious and Arab) elementary schools, the Ministry of Education operates a separate section for kindergarten through grade two; this is meant to ease the children's transition from kindergarten to first grade.

## 5.4 Secondary Schools

### 5.4.1 The Structure of the Secondary School System

In Israel, the majority of schools in the secondary system are under the surveillance of the Ministry of Education. In some towns, all secondary education takes place in one framework, which comprises grades nine through 12. However, secondary education usually lasts six years (from grades seven through 12), and is divided into two organizational frameworks, each of which lasts three years: middle school (grades seven-nine) and high school (grades ten-12).

Middle schools were part of a reform of the education system that took place in 1968 and that changed the structure of the system: Neighborhood elementary schools that ran from first through eighth grade were replaced by elementary schools that ran from grades one through six and middle schools that ran from grades seven through nine. The establishment of middle schools was meant to increase integration – that is, contact among students from different neighborhoods and cultural backgrounds – thereby closing gaps in scholastic achievement among students from different elementary schools. The law requires that classes in middle schools be heterogeneous with the exception of certain subjects, such as English and mathematics. This reform has to date encompassed close to 70% of all secondary school pupils in the Jewish and Arab sectors.

### 5.4.2 Educational Tracks in High Schools

Students in elementary and middle schools study according to the same curriculum. In high school, students may choose between an academic or a technological/vocational “track”. Another product of the reform of the education system was the “comprehensive” secondary school, which offers both academic and technological/vocational tracks at a variety of levels for students in grades seven through 12. In establishing these schools, policymakers hoped to enable the maximum number of students to complete 12 years of education. Alongside comprehensive schools are high schools that

offer only one track (either academic or technological/vocational). At present, 58.7% of high school students study in an academic track and 41.3% study in a technological/vocational track. In addition, about 16,000 youths ages 14-17 attend technological and industrial schools that are under the surveillance of the Ministry of Labor and Social Affairs. These schools integrate academic studies with vocational training, and apprenticeships outside of school in the upper grades.

The placement of students in tracks was intended to improve education and its outcomes, and to facilitate designing curricula that are suited to students' needs and goals, whether these be to attend college or university (students in academic tracks), or to enter the labor force or obtain post-secondary technological education (students in technological/vocational tracks). The level of education offered to students in technological/vocational tracks varies widely from school to school. Some technological tracks are on a very high level and prepare students to take matriculation examinations, which are a condition for acceptance to institutions of higher education, while others provide only low-level vocational training, and prepare students for matriculation examinations only in part, if at all.

In preparation for the transition to high school, some middle schools offer vocational guidance that includes information about high school programs and admission requirements. Students are referred to placement examinations that test their abilities and natural inclination. The results are then matched to the educational tracks appropriate for each student. School guidance counselors are required to report the results of the examination to the student and his parents. Some secondary schools base acceptance on the results of these examinations, as well as on the student's scholastic achievements.

Critics of the track system have claimed that it sustains and even reinforces discriminatory social processes by creating homogenous groups of students with similar abilities and achievements. They warn that this is liable to transmit a negative message to weaker students about their ability, to deter them from trying to succeed in school, and even to block them from important educational opportunities. For example, data show that the drop-out rates of Jewish students in technological tracks are twice those of students in academic tracks (8.4% versus 4.1%, respectively; Central Bureau of Statistics, 1997). Awareness of the problematic nature of placement in tracks has led some schools to make the placement system more flexible, allowing students to transfer between tracks for some or all of their subjects of study if their scholastic achievements enable them to do so.

### **5.4.3 High School Attendance Rates**

Israel has a clear policy of continuing the education of youth until they have completed 12 years of schooling, parallel to their reaching the age of 17 or 18. Data from 1998 indicate that more than 95% of Jewish youth ages 14-17 attend high school. Since 1989, attendance rates have risen by about 6%.

**Table 6: Attendance Rates of Students Ages 14-17 at High Schools under the Surveillance of the Ministry of Education,\* by Sector (in %)**

Year	Jewish Sector	Arab Sector
1989/90	90.5	62.8
1994/95	95.9	67.3
1997/98	94.5	78.9

\* Data do not include private schools, schools in East Jerusalem, or schools under the surveillance of the Ministry of Labor and Social Affairs.

Source: Ben-Arie and Zionit, 1999

The discrepancy between the rates of attendance in the Jewish and Arab sectors is notable. Many (20%) Arab youth do not attend schools under the surveillance of the Ministry of Education. While the increase in the rate of attendance has occurred in both sectors, there is still a significant difference between them (see the section below on the Arab sector).

Table 7 reveals that attendance rates decrease consistently with age, as might be expected: In the Jewish sector, the attendance rate of students ages 14-15 (who are still subject to the **Compulsory Education Law**) is close to 100%, while the attendance rate of students age 17 is less than 90%. In the Arab sector, attendance rates also decline with age, though far more sharply: The attendance rate of students age 14 is 90%, while that of students age 17 drops to 67%.

**Table 7: Attendance Rates at High Schools under the Surveillance of the Ministry of Education,\* by Age and Sector (in %)**

Age	Jewish Sector	Arab Sector
14	98.6	90.4
15	98.0	83.0
16	94.3	73.8
17	88.8	67.4

\* Data do not include private schools, schools in East Jerusalem, or schools under the surveillance of the Ministry of Labor and Social Affairs.

Source: Ben-Arie and Zionit, 1999

The attendance rates of girls ages 14-17 are higher than those of boys in both the Jewish (97.3% of the girls, compared to 91.9% of the boys) and the Arab (82.5% of the girls, compared to 75.5% of the boys) sectors (data are for 1995/96). Table 8, which is based on an analysis of data from 1993, highlights differences in attendance rates by socio-economic composition of town of residence: In general, attendance rates are lower in weaker towns, which are often also geographically peripheral.

**Table 8: Attendance Rates of Students Ages 15-18, by Sector and Socio-economic Level of Town of Residence, 1993 (in %)**

Sector	Socio-economic Level of Town of Residence	Attendance Rates*
Jewish	middle or upper class	99
	lower class	81
Arab	middle or upper class	81
	lower class	59
Bedouin	lower class	31

\*Data are estimates.

Source: Brandes, 1996

### 5.5 Boarding Schools

Boarding schools began to be developed and established as a legitimate and normative education framework in Israel even prior to establishment of the State. In 1933, Youth Aliyah was established as a department of the Jewish Agency in order to rescue Jewish youth from Nazi Germany. Many youths were brought to Israel prior to the Second World War and educated in Youth Aliyah boarding schools. After the war, more young people came in their wake, many of them Holocaust survivors. Since these young people usually arrived in Israel without their parents, boarding schools were an efficient way to care for them and absorb them into Israeli society.

The absorption of children and youth who are immigrants or refugees in a group framework, outside their parents' home, continued during the mass immigration of the 1950s, when boarding schools absorbed both children who arrived in Israel alone, and children who arrived with their parents. Because they quickly and effectively inducted these children into the nascent society, boarding schools and "youth societies" also eased the absorption of the children's parents. Boarding and group education also came to be highly regarded by the social elite during this period.

As the large waves of immigration abated and social values changed, the role and status of boarding schools was transformed. Gradually, the boarding school population changed from one of refugees, immigrants and the social elite, to one of children and youth who were at risk or in danger, or who could not find their place in community schools and their parents' homes. However, because of the social and historical circumstances that led to the development of boarding schools, many – including children and parents – still perceived boarding school education as being prudent, rather than as an extreme measure requiring a child to be rent from his parents' custody.

At present, about 67,000 (or 3%) of Israel's children and youth live and are educated outside their homes in approximately 500 boarding schools, "youth societies" on kibbutzim, and in foster families. The exact number of children and youth who live outside their families can not be calculated due to insufficient data on the number of children who live and are educated in yeshivas, particularly in the *haredi* sector, and on the number and nature of these settings.

About 40,000 of the children living in boarding schools are ages 14-17. These young boys and girls represent 9.6% of the students in the secondary education system. For the purpose of comparison,

fewer than 1% of the youth these ages in the United States, and fewer than 2% of those in England, reside in boarding schools. At the same time, it is important to note that the percentage of students in boarding schools has been declining in the past two decades. In 1980, 13% of all secondary school students attended boarding schools. Many of the boarding schools for youth are operated by Youth Aliyah, which merged with the Boarding School Department of the Ministry of Education in 1996.

For several groups in Israeli society, boarding school education is more accepted. About two-thirds of the youth who attend boarding schools are affiliated with a religious education stream (48.9% with State religious schools and 22.8% with independent schools). Examination of the patterns of participation of youth in boarding school education between 1979 and 1997 indicates a 61% increase in the students attending boarding schools in the State religious sector, and a more than 200% increase in those attending boarding schools in the independent sector. During the same period, the percentage of students attending State boarding schools decreased (by 13.2%). Current data from the Department of Personal and Community Services of the Ministry of Labor and Social Affairs indicate that the percentage of religious and *haredi* children among the children referred to boarding schools by that Ministry is 55.5% (33.2% *haredi*) – significantly higher than their percentage in the population. This reflects the acceptability of boarding school education in religious sectors. In fact, boarding school frameworks such as yeshiva high schools and, in recent years, similar frameworks (“*ulpanas*”) for girls, are perceived by the religious-Zionist public as prestigious and as a hothouse for the cultivation of social leadership. Among the *haredi* public, boarding school education is not only acceptable but is even perceived as desirable for families that find it difficult to bear the burden of raising or educating many children.

Boarding schools have also once again become a solution for immigrant youth. Following the waves of immigration of the 1990s, Youth Aliyah boarding schools developed various programs for the absorption of immigrant youth from the former Soviet Union and from Ethiopia (see the section on immigrants).

Between one-quarter and one-third of the youth who attend boarding schools are not affiliated with any of the sectors cited above. Most of them attend boarding schools out of choice – either theirs or their parents’. For many of them, the boarding school framework is a solution to personal or family problems, difficulties adjusting to an education framework, or social or behavioral problems. Some of these children are in fact placed in boarding schools by the Service for Children and Youth, which pays their tuition. Regretfully, we do not have information on the characteristics of these youth or the reasons for their studying outside their homes. Neither do we have information on the solutions provided to these youth in education or other frameworks, or the degree to which these solutions suit their characteristics or needs. Recently, with the transfer of responsibility for Youth Aliyah from the Jewish Agency to the Ministry of Education, policymakers have expressed a need for such data, as a basis for examining the efficiency of out-of-home placements for these youth.

In addition, some younger children are referred to boarding schools by their local social welfare department, through the Service for Children and Youth. These children attend boarding schools primarily because of serious family problems, their own severe behavior problems at school, or large gaps in their scholastic achievements. For many of these children, the boarding school system is an alternative to other forms of placement, such as a foster family. About 8,000 children ages six to 14 (or 1% of the children in this age group) attend 85 such institutions (see Chapter 7).

The few boarding schools in the Arab sector are geared for children and youth with serious emotional, behavioral and scholastic problems. (For information on schools and curricula in Youth Protection Authority institutions see Chapter 10, and in institutions for children with disabilities see Chapter 8.)

## 5.6 Scholastic Outcomes of High School Education

One of the primary goals of the Ministry of Education is to increase the percentage of students who successfully complete matriculation examinations. In Israel, having successfully matriculated, which involves passing a number of standard examinations, is a pre-condition for obtaining higher education. The Ministry of Education uses a variety of means to achieve this goal (see section 6.5 below).

**Table 9: Percentage of Students Age 17 Eligible for a Matriculation Certificate, by Sector and Selected Demographic Characteristics, 1987-1997**

Characteristic	1987	1992	1997
Total population	29	33	39
Jewish sector			
Total	34	38	44
Gender: boys	30	32	38
girls	39	43	50
Ethnic origin (parents' birthplace)			
Israel	45	49	48
Asia-Africa	23	28	37
Europe-America	42	40	45
Arab sector			
Total	14	16	21
Gender: boys	14	15	18
girls	13	16	25

Source: Sprintzak et al., 2000

Table 9 indicates changes in the percentages of students eligible for a matriculation certificate between 1987 and 1995 in the Jewish and Arab sectors, by significant demographic characteristics. The percentage of Jewish students age 17 who were eligible for a matriculation certificate increased from 34% in 1987 to 44% in 1997. The percentage of Arab students age 17 who were eligible for a matriculation certificate increased from 14% in 1987 to 21% in 1997. The rates of success on

matriculation examinations in the Arab sector are much lower than those in the Jewish sector. In addition, the percentage of students age 17 who sit for matriculation examinations is much smaller in the Arab than in the Jewish sector: In 1997/98, 59% of all Arabs age 17 and 33% of Bedouin Arabs age 17 sat for matriculation examinations, compared to 70.3% of all Jews age 17.

The matriculation success rate of girls is significantly higher than that of boys: 50% of the girls in the Jewish sector and 25% of the girls in the Arab sector received a matriculation certificate, compared to only 38% and 18% of the boys, respectively.

Differences in the rates of success on matriculation examinations among ethnic groups in the Jewish sector that were recorded during the early years of the State were still present in 1997. The percentage of students whose parents immigrated from Asia-Africa who were eligible for a matriculation certificate was lower than that of students whose parents were born in Israel or in Europe-America. Nevertheless, the gap is diminishing.

As with rates of attendance (see above), so it is with eligibility for matriculation based on the socio-economic status of a student's town of residence. According to data from the Central Bureau of Statistics, which are based on a division of the towns in Israel into ten socio-economic clusters, 38% of the 12<sup>th</sup> grade students in clusters 1-2 (towns with the lowest socio-economic status) were eligible for a matriculation certificate, compared to 70% of those in clusters 9-10 (towns with the highest socio-economic status). It is nevertheless interesting to note that the rates of success on matriculation examinations in State religious schools are similar to those in State schools, even though a weaker socio-economic population attends State religious schools.

Students in technological schools (under the surveillance of the Ministry of Labor and Social Affairs) have the opportunity to take vocational qualification examinations, and thereby obtain an authorized vocational certificate. However, in reality, the young people who are referred to technological schools usually have relatively poor scholastic achievements, and find it difficult to obtain a certificate of completion of technological education. In fact, data from 1992 indicate that only 30.4% of the Jewish students and only 10.4% of the Arab students who took these examinations were eligible for a certificate of completion of technological education.

Since many students fail matriculation examinations, experts in the field of education have been debating the possibility of enabling students to receive a lower-level certificate of scholastic achievement. This issue is controversial, as educators and laymen alike fear that institutionalizing the granting of a lower-level certificate will reduce the overall level of scholastic achievement, and defer efforts to help many more students obtain a matriculation certificate.

At the same time, recent years have seen an increasing trend toward letting students sit for some of the matriculation examinations, even if they do not study in a program or track that is geared toward full matriculation. In fact, students in industrial (the lowest-level) schools are allowed to sit for matriculation examinations if their scholastic level makes this possible.

## 6. Equal Opportunities in Education, Preventing Dropping Out, and Programs for Special Populations

### 6.1 Equal Opportunities in Education

The State education system is perceived as a tool for obtaining social equality among various groups in the population. It is therefore not surprising that many of the policy initiatives taken in the education system are meant to achieve this goal, and that many mechanisms are directed toward creating the greatest possible degree of equal opportunity. First, providing free compulsory education to all students through a uniform curriculum under the surveillance of the Ministry of Education indicates concern for accessibility to education. In addition, the stated goals of the Ministry of Education of reducing drop-out rates and improving students' achievements (especially increasing the number of students eligible for a matriculation certificate) also reflect its commitment to creating equal opportunity. Further, the development of a universal system of public surveillance of pre-compulsory preschools, the subsidization of attendance fees at these schools, the emphasis placed on special programs for weak students of all ages, and efforts to prevent students from dropping out of high school all indicate that the education system views ensuring equal opportunity as being of supreme importance.

Nevertheless, despite all of these mechanisms, throughout Israel's existence, the education system has coped with gaps in the level and outcomes of education. These gaps exist between various groups: between Jewish and Arab students, immigrant and more veteran Israeli students, students in central and peripheral geographic regions, and students with different socio-economic backgrounds.

A number of factors have influenced the creation of these gaps in the Israeli education system. As noted, the socio-economic differences among sectors, coupled with the relative homogeneity of schools, has led to gaps in achievements among different groups. Section 8 of the **State Education Law 1953** authorizes the Minister of Education to approve an addition of up to 25% of the school hours in the curriculum, with expenditures arising from this to be paid by parents, if 75% of the parents of students at a given school request this. Consequently, many parents who feel that the school week and school activities are insufficient pay a supplemental fee, which is used to implement educational and recreational programs, reduce the number of students in a class, add class hours in the fundamental subjects, and enrich the infrastructure and assistance available to the school. However, this increases the social inequality among population groups, as families from poor neighborhoods cannot give their children the same level of support that more financially comfortable parents can afford. Similarly, the differential investment of parents in private lessons

and extracurricular enrichment classes contributes to gaps. In addition, gaps arise from the differing investments of local authorities in the education system, as a supplement to the resources provided by the Ministry of Education.

Below we will describe a number of mechanisms and programs designed to increase the equality of educational opportunities. Additional discussion of special groups, such as immigrants and Arabs, may be found in other sections of this chapter. (For information on educational services for children with disabilities, see Chapter 8).

## 6.2 The Extended School Day

One means of improving the equality of education is the extended school day, which both provides educational enrichment to students who need it, including immigrants, and enables parents to work without having to pay for after-school child care. In 1990, the extension of the school day was begun on an experimental basis in a limited number of towns and neighborhoods. By 1993, the extended school day had been implemented in development towns and towns along the northern border of Israel, in disadvantaged areas and neighborhoods with a high rate (over 35%) of children in distress, and in schools with a large percentage (over 20%) of immigrants. The extended school day has been implemented in all of the classes at a total of 785 schools.

The extended school day has aroused public debate. Opponents claim its implementation requires investing many resources, even though the inputs it will provide are not necessary for most students. They also claim that implementing the extended school day in all schools will do nothing to increase equality as long as it is universal, rather than focused on weaker pupils. Furthermore, opponents of the extended school fear that it will lower the level of teaching, due to the need it will create to hire a large number of teachers. Despite these criticisms, and contrary to the recommendations of a 1996 public committee, the **Extended School Day and Enrichment Education Law** was passed in 1997, and steps are being taken for its broad implementation.

## 6.3 The Disadvantage Index

Another strategy for improving the equality of educational opportunities and promoting weak populations is the introduction into elementary and middle schools of an index of disadvantage, which is meant to compensate for educational deficiencies arising from social and family circumstances. In 1994, a new method was introduced of distributing resources among schools, based on an index of disadvantage that measured general characteristics of a school and its population: family income, parents' education, family size, the percentage of new immigrants in the school, and the geographic location of the town. Resources are allocated to each school according to its relative rank on this index. In 1995, an index of disadvantage was devised for elementary and middle schools serving Arabs, Druze and Bedouin. Development resources were used to improve the scholastic achievements of weak students, promote excellence, help underprivileged students make use of their talents, prevent dropping out, and improve the social climate and communication in schools deemed eligible by their rank on the index.

## 6.4 Preventing Dropping Out

Reducing drop-out rates by increasing the proportion of students who complete 12 years of education is one of the main goals of the education system. In a special memo from 1994 devoted to policy regarding dropping out, the director-general of the Ministry of Education noted that “retaining students until they complete 12<sup>th</sup> grade, and reintegrating students who have dropped out, are cornerstones of the policy of the education system of the State of Israel”. The memo emphasized the importance of preventing visible and hidden dropping out, and demanded that schools completely abandon the practice of expulsion, and instead try to retain students and prevent them from dropping out. If the good of the student requires his being placed in another education framework, the director-general asked that the school help him find an appropriate one. In recent years, the government has increased its commitment to this issue, and has allocated resources to develop a new system of reporting and to provide incentives to schools that prevent dropping out.

“The policy of the Ministry of Education is to increase attendance rates by setting a number of operative goals:

1. Creating educational and scholastic conditions that enable a student to become integrated into school at the level and to the extent appropriate to his ability, and that help him realize his potential.
2. Preventing students from dropping out by making school staff aware of the importance of strictly enforcing regulations and by implementing special programs on the issue.
3. Maintaining contact between the school and parents.
4. Creating a system of support in the community for identifying, diagnosing and placing youth who have dropped out of and severed ties with the education system.”

Regular attendance is enforced by many people in the education system. According to the **Compulsory Education Law**, municipal regulations, and a 1994 memo of the director-general of the Ministry of Education, “the school principal, homeroom teacher, teachers and guidance counselors of a school, the local authorities, the truant officer, the educational psychologist and the school nurse, the general supervisor and the truant supervisor, the youth promotion unit, the Ministry’s legal counsel, and the social worker are responsible for the educational and legal aspects of dropping out, and are instructed to prevent students from dropping out of school and to increase attendance rates during all stages of education”.

Truant officers play a key role in addressing the problem of irregular attendance. They deal with students who find it difficult to function in a formal education framework, students who are at high risk for dropping out, students in transition between education frameworks, and immigrant students who display adjustment difficulties. Their job is to reduce dropping out by identifying and reporting visible and hidden dropping out, by returning students who have dropped out to school, and by involving educational and therapeutic agents in preventing students from dropping out.

Nevertheless, the 1995 State Comptroller's Report criticized the Ministry of Education for not having reliable, current drop-out rates, which could make a valuable contribution to identifying students at risk. According to the protocols of the parliamentary commission of inquiry into the dropping out of youth and the illiterate 1994, the laws concerning the identification of drop outs. In recent years, the Ministry of Education has begun to manage a computerized data base on school drop outs have not been enforced. However, it is not sufficiently up to date, and therefore is of limited use.

It should be noted that while the improvement in attendance rates described above indicates a positive and very significant trend, it does not in itself reflect an improvement in the level of studies or quality of education. Educators have cited the phenomenon of "hidden dropping out" – that is, students who have not formally dropped out but who do not regularly attend school, or who do not actually study even though they attend school. Despite the obligation to report students who do not regularly attend school to a truant officer, data on the extent of school absence are incomplete. A health behavior survey conducted in 1998 among students in grades six through ten found that about one-quarter of them had cut classes or school at least three times during the past school year (i.e. not due to illness or vacation). These were among the highest percentages in the countries that participated in the study (Harel et al., forthcoming).

## 6.5 Educational Services and Programs for Students with Adjustment or Other Difficulties

Enabling the majority of students to complete 12<sup>th</sup> grade and become eligible to sit for (at least some) matriculation examinations, preventing students from dropping out of high school, and reintegrating students who have dropped out into the education system are, as noted, important goals of the education system. To realize them, Israel's education system employs a wide and rich variety of services and programs in and outside of schools.

Below we will briefly review some of the more outstanding programs and services that have been developed over the years to help children with special difficulties.

### 6.5.1 Support Services

The education system offers support services to children and youth who have difficulty adjusting to the school environment. These services are provided by a large number of units and departments in the Ministry of Education and the local authorities. In middle and high schools, and to a lesser extent in elementary schools, guidance counselors help students who have scholastic, behavioral or emotional problems. Most of the students are referred to the counselors by their teachers, although some are referred by their parents, and others seek out the counselors themselves.

Students who suffer from more serious problems are usually referred to other psychological services within or outside the education system. Educational psychology services offer assessment,

diagnosis and limited intervention for children referred to them by a school. School psychologists advise teachers how to address the problems of these children in the classroom.

Table 10 presents the distribution of such services in schools throughout Israel for the 1994/95 school year, based on a survey conducted in that year. The Table reveals that most of the Jewish schools in Israel maintain guidance counseling and psychological counseling services. There is over 90% coverage of secondary schools by guidance counselors, and more than 90% coverage of elementary schools by psychological counseling services. There are significant gaps in the Arab education system, regarding both guidance and psychological counseling.

There are also gaps in the availability of these services according to the socio-economic status of the student population (as measured by the Ministry of Education's index of disadvantage). According to a report of the Committee of Inquiry into the Ability of Students with Learning Disabilities to Fulfill their Potential 1997, guidance and psychological services are more readily available in affluent schools, although it may be assumed that the need for these services is greater among the populations of less affluent schools.

**Table 10: Guidance and Psychological Counseling in Schools: The Percentage of Schools in Which Counseling Was Provided in 1994/95**

School	Guidance Counseling		Psychological Counseling	
	Jewish Sector	Arab Sector	Jewish Sector	Arab Sector
Elementary	67.4	18.7	91.3	44.4
Middle	95.7	64.4	81.0	27.4
High	94.0	74.4	65.8	34.8

Source: Central Bureau of Statistics, 1997

Both psychologists and guidance counselors often handle a great many cases, and therefore cannot intervene intensively. A 1994 survey of the psychological services in two cities indicated that only 25% of the children who were referred to the services benefited from personal intervention; in most cases, only diagnostic and assessment services were provided, or consultation for the student's teachers.

The Ministry of Education's *truant officers* are responsible for monitoring and intervening with children who do not regularly attend school. It is their job to enforce the **Compulsory Education Law**, and to ensure that others in the system responsible for preventing students from dropping out (primarily the principal and his staff) perform their duty. Truant officers do the following:

- ◆ Identify students who have dropped out or who are in danger of dropping out, and returning them to school.
- ◆ Implement educational intervention programs in and outside of schools, in accordance with students' needs.
- ◆ Care for individual students, represent them and mediate on their behalf before professional committees.

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- ◆ Report data.

In addition to working directly with children and their families, truant officers can make referrals to other services, if necessary. It should be noted that the Ministry of Education reports a shortage of truant officers (25% of the positions for truant officers remain unfilled).

Social work services are also available in some schools; they are usually provided by the municipal social welfare department to children from problem families.

Several agencies serve youth at risk: youth promotion units, which are operated by the Youth Advancement Department of the Youth and Society Administration of the Ministry of Education through local authorities; and the Service for Young People, Women and Girls operated by local social welfare departments under the surveillance of the Ministry of Labor and Social Affairs. Youth at risk, in this context, are defined as young men and women who are neither working nor attending school, who are working but are not attending a supportive educational framework, who are enrolled in school but are at risk of dropping out, or who are at risk of deteriorating because they are recent immigrants, or because they are exposed to marginal or even criminal behavior. These services aim to prevent the alienation and dissociation of youth at risk, and to reintegrate them into school, work, the community of their peers, and normative society.

These services function in the community and offer a variety of personal and group interventions for youth, such as centers for supplemental basic education (the HILA Program); information and counseling centers for youth; and municipal services for immigrant youth at risk. Additional programs include “life without drugs”, a program to prevent and reduce the abuse of drugs and alcohol; “I’m against violence”, to prevent violence; and programs that prepare youth for compulsory military service.

In 1997, a survey was conducted of the characteristics, needs and attitudes of youth in the care of the Youth Advancement Department, and of the department’s programs (Kahan-Strawczynski, 1999). The survey was the first to examine needs by sub-group: immigrant youth from the former Soviet Union, Arab youth, and veteran Israeli youth. The survey found that, during the past decade, the populations served by youth promotion units had changed. In addition to veteran Israeli boys, the units now served girls (18%), Arabs (5%), and immigrants from the former Soviet Union (22%) and Ethiopia. The survey further indicated that the units must vary the solutions they offer and adapt them to the unique needs of each of these groups. For example, it was found that a relatively large percentage of Arab youth reported feeling lonely and lacking recreational frameworks; a large percentage of immigrants from the former Soviet Union reported abusing drugs and alcohol; and a large percentage of girls reported seeking help from the unit with family problems. The survey also discovered that one-third of the youth in the care of units attend regular schools and do not work, and that an additional 15% both work and attend school. These findings indicate the need to

reinforce contact with the schools the youths attend. The survey's findings have been presented to professionals and policymakers.

### **6.5.2 Special Programs for Students at Risk**

A variety of services have been developed for students who have difficulty with their studies or who are at risk of dropping out, most of them under the auspices of the Department of Education and Welfare Services or the Youth and Society Administration of the Ministry of Education. Below we present the programs for students who have adjustment problems.

Several thousand children from multi-problem families attend boarding schools and after-school centers. Some of these are operated by the Department of Education and Welfare Services, while others are operated by local social welfare departments. During the past two years, the Ministry of Education and the Ministry of Labor and Social Affairs have cooperated to develop this service, which has consequently undergone significant expansion. These frameworks offer remedial tutoring, enrichment, social activities, meals, supervision, and access to therapeutic services if needed. The after-school centers serve children from families in distress who are at high risk of dropping out without necessitating their going to boarding school, which would involve their separation from their families and natural environment.

The Department of Education and Welfare Services also operates remedial classes and youth centers, beginning in ninth grade. Because these frameworks receive earmarked funds, classes remain small, enabling participants to receive special attention. It is currently estimated that some 25,000 children participate in remedial classes and youth centers.

The *OMETZ Program* was established to help students who have completed middle school but who cannot be admitted to the high school of their choice because of their poor scholastic level. This program lasts four months, and prepares students to make the transition to high school-level studies.

The *New Educational Environment*, developed by JDC-Israel, aims to prevent students from dropping out and help them improve their study habits and scholastic achievements. To date, the program has been implemented in schools throughout Israel, primarily municipal high schools and technological schools. The program strives to change the attitudes and actions of teachers; it also reorganizes the learning environment. In 1997/98, 3,000 students participated in the program, whose dissemination is continuing with the help of the Department of Education and Welfare Services.

In addition to developing and disseminating specific programs, initiatives are taken based on local planning. Policymakers have realized that in order to significantly improve the education system, extensive, comprehensive action is necessary. This led to the formulation of the *30 Settlements Program*, which received earmarked funds to develop "holistic" projects in 30 towns that have a low socio-economic profile (and that are geographically peripheral or in the Arab sector). Through this program, intensive assistance is provided for three or more years to all of the educational

institutions in the chosen town, in cooperation with local educational leaders. The program identifies and solves problems, improves students' scholastic achievements, and develops local leadership.

Among the variety of other programs is the youth movements' "grade 13" program, in which young people volunteer for a year after completing high school (for example, working in a disadvantaged neighborhood or with children and youth at risk).

The Israel Defense Forces (IDF) implements special programs for youth in distress who join its ranks. In addition, it prepares youth for army service by implementing programs for the general population, in cooperation with schools, and for special populations, in cooperation with youth promotion units.

### **6.5.3 Programs that Help Students Matriculate Fully**

The Ministry of Education implements many programs to strengthen weaker students and improve their chances of completing all matriculation examinations. To increase the proportion of students eligible for a matriculation certificate, the Ministry of Education acts in four ways: it encourages students to take matriculation examinations; provides intensive assistance to students who need it; creates post-secondary continuing education frameworks; and pays for students who lack only one or two examinations to study to complete matriculation. The Ministry has earmarked resources for allocation to schools that wish to take initiative in this matter, at their own discretion. However, schools are not required to provide special programs, and no one program is available throughout the system. Below we give examples of some of the main programs in this area.

**MABAR** ("transition to matriculation") promotes students who ordinarily would not meet Ministry of Education criteria for taking matriculation examinations. MABAR establishes small classes and invests extra effort in their participants; in addition, classes focus on the curriculum covered by the examinations. As a consequence, most participants of MABAR do acquire a matriculation certificate. During the 1996/97 school year, about 10,000 students studied in MABAR classes.

**MICHAEL** ("fulfilling potential and striving for excellence") encourages success on the matriculation examinations by imparting tools for effective learning and strengthening good study habits. During the 1995/96 school year – the third year of the program's operation – approximately 6,000 students participated in MICHAEL.

**MALBAM** ("transition to modular matriculation") integrates students from weaker educational frameworks (e.g., remedial classes, youth centers) into matriculation programs. MALBAM attempts to increase these students' motivation to study and achieve, while teaching good study habits and bolstering the students' self-image. In 1995/96, 640 students participated in this program.

**External Schools** are also an avenue to a full secondary education and a matriculation certificate, primarily for students who have left a regular school after age 16. External schools are unofficial institutions, and are usually established on the initiative of a private-educational network, which

operates them for profit; nevertheless, they are under the surveillance of the Ministry of Education. Between 1,300 and 3,000 students attend external schools. Although the success rates at these schools are low, they are an important “stopgap”, which prevents students from completely dropping out of the education system.

The “*Second Chance*” Program (13<sup>th</sup> Grade) is geared for students who have completed 12<sup>th</sup> grade but have not yet taken all of the examinations required to receive a matriculation certificate. During the 1997/98 school year, about 3,000 students in 80 education centers around the country participated in this program. In addition, pre-academic study programs, usually offered at or in cooperation with an institution of higher education, offer a “second chance” to young people who have completed their military service and want to receive a matriculation certificate, so as to improve their chances of being accepted into one of these institutions.

Despite the efforts to advance weak students and help them matriculate, there is consensus that large numbers of youth still fail to realize their full potential. This is due, at least in part, to the insufficient coverage provided by these programs, particularly in the Arab sector.

#### **6.5.4 Alternative Education Frameworks for Weaker Students and Students with Adjustment Difficulties**

*Technological (industrial) schools under the surveillance of the Ministry of Labor and Social Affairs.* Along with high schools under the surveillance of the Ministry of Education, there are technological and industrial schools administered by various public agencies and under the surveillance of the Ministry of Labor and Social Affairs, as stipulated by the **Apprenticeship Law 1953** and the **Youth Employment Law 1973**. These schools developed as an alternative to the principal, regular system, and provide vocational training and basic education to young people ages 14-17 who find it difficult to adjust to the regular system, either because of behavior problems or poor achievements, or who wish to receive vocational training in a setting that integrates study with salaried employment. Over 80 vocational schools are scattered throughout the country, most of which provide three or four years of education (from ninth or tenth through 12<sup>th</sup> grade); about 16,000 students, or 4% of all youth ages 14-17, attend such frameworks.

The approach of these schools is based on the assumption that the problems that make it difficult for the youths to adjust to school, may also make it difficult for them to adjust to a place of employment. Consequently, they are given supervision and guidance, and are taught good work habits alongside vocational skills and basic academic subjects.

In recent years, technological schools have undergone many changes. Most of them began as apprenticeship frameworks, in which students worked five days a week and attended school only one day a week. With time, they became full-fledged schools, which provide a full week of education in the lower (ninth and tenth) grades, and combine education with a job placement (three days of work and three days of school) in the upper grades. Students who successfully complete

their studies and pass external examinations given by the Ministry of Labor receive a vocational qualification certificate. Those who complete 12<sup>th</sup> grade and meet certain standards also receive a certificate of 12 years of education. In recent years, some of the students in these frameworks have also begun to take matriculation examinations.

Critics have claimed that the technological education system does not sufficiently train its graduates to enter the labor force, as some of the vocations taught and the equipment used in the schools are not adapted for the current needs of industry. The claims made against the track system are also leveled against technological schools, which “segregate” weaker students in separate institutions. When the two tracks (e.g. academic versus technological/vocational) are offered in separate institutions, social alienation may result among the populations that attend different frameworks. Conversely, proponents of this system claim that technological schools are essential to meeting the needs of weaker students and enabling them to complete some form of secondary education.

### **6.5.5 Special and Therapeutic Alternative Frameworks**

*Youth Centers and Education Centers*, which are operated by the Department of Education and Welfare Services of the Ministry of Education, serve youth who have dropped out of the regular education system. Youth Centers combine academic study and vocational training in a relatively intimate framework. At present, 44 centers serve approximately 8,000 youth.

“*Miftanim*” are an alternative framework operated by the Youth Rehabilitation Service of the Ministry of Labor and Social Affairs, in cooperation with the Department of Education and Welfare Services of the Ministry of Education and the local authorities. Miftanim teach basic studies, vocational training and good work habits to young people who are unable to adjust to other schools. This program emphasizes the acquisition of social skills, offers therapeutic support, and provides an opportunity to experience a work environment in vocational training workshops. There are 37 Miftanim scattered throughout the country, which serve some 2,400 youth.

The *HILA Program* is a structured learning program developed by the Youth Advancement Department of the Ministry of Education. The Ministry of Education grants a formal certificate to students who complete eight, nine, or ten years of education in this framework. Some 2,500 youth participate in this program at 60 centers.

As the descriptions above indicate, much effort is invested in improving attendance rates and developing programs to prevent or at least reduce the problem of dropping out. In addition to the programs described above, a variety of unique programs with similar aims are operated on a more limited scale. Unfortunately, few data are available on the effectiveness of these programs. Despite the relatively great need for such programs in the Arab sector, these programs are less prevalent there.

## 6.6 Gifted Students

In addition to designing programs for weaker populations, the Ministry of Education devotes attention to students who are especially gifted. The Ministry employs two complementary strategies: One involves providing education instead of or supplemental to the regular curriculum, and the other involves identifying gifted students, primarily those from a poor socio-economic background, and placing them in boarding schools with high standards.

The Department of Gifted Students of the Ministry of Education is responsible for operating enrichment programs for gifted children in community schools. For example, the department sponsors extracurricular enrichment classes during the afternoon, weekly enrichment days, special classes in schools, and enrichment programs in Arab and Druze schools. In 1998/99, 11,584 students participated in the programs for gifted children of the Ministry of Education. In addition, JDC-Israel and the Jewish Agency cooperate with the Ministry of Education on a variety of programs for gifted children in peripheral areas.

The Association for the Advancement of Education operates boarding schools for gifted children from poor socio-economic backgrounds. These include the new Israel Academy of Arts and Sciences, which accommodates 182 students who are gifted in the sciences, mathematics and the arts from 70 different communities; the AMUTA School of Mathematics and Physics in Jerusalem; and the Negev 180 Regional Center for Excellence, which employs regional cooperation to improve the scholastic level of gifted children in the south of the country. Recently, associations and programs for gifted children have been approved in the Arab sector.

## 7. Children's Rights in the Education System<sup>2</sup>

In recent years, children's rights in the education system have received social, educational and legislative attention. The education system recognizes the rights that accrue to children as human beings, which may not be annulled except in extreme circumstances. These rights are set down in director-general's memos – compulsory internal guidelines, principles and regulations of the Ministry of Education – which schools are required to carry out. Heightened awareness of the rights of the child is reflected in the document *Involvement, Partnership and Responsibility*, which was compiled by the Ministry of Education in 1992 and which emphasizes the rights of children in schools and contains programs for use in schools concerning the rights and obligations of schools.

Students' rights recently received legislative attention in the form of the **Pupils' Rights Law 2000**, which addresses a series of situations that call for protection of students' rights. The law prohibits a local board of education from discriminating against students on the basis of socio-economic status,

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<sup>2</sup> For a discussion of the legal rules regarding civil and political rights in the education system, see Chapter 6. The description in this section focuses on existing practices.

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ethnic background, or political views in the registration for, admission to or expulsion from a school, the determination of a course of studies or promotion, the establishment of segregated classes in any one school, or the rights and obligations of the students, including rules of discipline. The law imposes a sanction of one year's imprisonment or a fine for contravention of the prohibition against discrimination.

The law also sets procedures that must be followed before a decision is made regarding the permanent expulsion of a student from school. *Inter alia*, the student and his parents must be given the opportunity to state their claims in the matter, and must be allowed to appeal a decision regarding expulsion before a hearing committee, to be established in each region. Hearing committee decisions regarding appeals may also be appealed to the Court for Administrative Affairs.

The law addresses the implementation of disciplinary measures in schools, and stipulates that discipline must be imposed in a manner commensurate with respect for human dignity; in this context, it is the students' right not to be subjected to corporal or humiliating punishment. The law also prohibits a school from punishing a student because of the omissions or commissions of his parents.

The law requires all schools (with the exception of preschools) to encourage the establishment of a student council, and to determine its activities in consultation with students.

The law addresses the confidentiality of matters involving students, and requires any individual who receives information about a student, in the context of a job he is legally authorized to perform, to keep that information secret and not to reveal it except for the express purpose of performing his job.

All of the law's stipulations apply to every official school. The stipulations also apply to a recognized school that is not official, with the exception of those pertaining to student councils and procedures for permanent expulsion. However, the Minister of Education may impose these stipulations on such institutions in certain conditions and in consideration of the institution's character.

A special section of the law requires bringing its content to the attention of students and their parents within 45 days of its publication.

Below we review the rights of students in schools and their involvement and participation in school life. We also examine how the Ministry of Education and other agencies disseminate and uphold students' rights. Later we review how discipline problems and violence are addressed in Israeli schools, and how the school climate affects students.

## 7.1 The Rights of Students in Schools

The policy of the Ministry of Education, as stated in the Minister of Education's preamble to *Involvement, Partnership and Responsibility*, is that "a school must prepare its students to live as citizens with equal rights in a democratic society... Despite the differences between the obligations and rights of a school child and those of an adult citizen, they nevertheless share a common denominator: At every stage of our lives and in every situation, none of us has rights without incurring obligations...we may not expect an individual to fulfill his obligations if his rights are not respected, if he is not treated with dignity and fairness. This is the dual educational message that...[we] must impart to our students, in word and primarily in deed".

*Involvement, Partnership and Responsibility*, published in 1992 on the initiative of the head of the Pedagogical Secretariat, was prepared by Ministry staff, national student council representatives, teachers, principals, and supervisors. This document – the most progressive in Israel in formulating the rights of school children – upholds the principle of individual freedom and draws a parallel between the rights of an individual in society and the rights of a student in school. The document also drew a parallel between school life and the educational and cultural norms of Israeli society, which are founded on human dignity, equality, individual fulfillment, liberty, and freedom of speech.

Furthermore, the document aimed to uphold the rights of the individual student, while defining his obligations and areas for his involvement, partnership, and responsibility in the planning, organization and implementation of forums concerned with school life. It acknowledges the right of the student to express his opinion, criticize, and suggest improvements concerning school life, and the obligation of the school to provide him with opportunities to do so.

Following are the rights and obligations of children and youth in the education system.

### **7.1.1 Freedom of Speech**

It is the policy of Israel's education system to allow students to express themselves orally and in writing on any aspect of life, and to express personal opinions, even on controversial issues (such as politics and diplomacy), with respect for the rules of debate and polite speech.

The production of a student newspaper in the framework of school is one expression of students' freedom of speech. Student newspapers are published in accordance with the rules, regulations, and professional ethics upheld by the Ministry of Education. Certain restrictions apply to students, as they do to adults: Incitement to violence or racism is forbidden, as are expressions that disturb the public order, insult human dignity or belief, or constitute libel.

The Ministry of Education forbids students from participating in political and social demonstrations during school hours. However, students are allowed to assemble and demonstrate on matters that concern their education. Students have the right to assemble in representative bodies, such as

student councils and committees. According to a 1996 survey conducted by the Central Bureau of Statistics, student councils are active in 65% of secondary schools; they are a venue through which students can express their needs and opinions. Student councils comprise elected representatives, who express the needs and opinions of all students and uphold their rights before teachers and the school administration; they also initiate activities for the good of the student body. The education system supports student councils and attempts to increase their involvement in both the organization and climate of school. During the 1997/98 school year, student councils initiated strikes in some districts, in protest against sanctions imposed by teachers that caused the cancellation of all out-of-school activities (e.g., field trips). The national student council was also involved in making changes in the format of matriculation examinations.

### **7.1.2 Privacy**

In accordance with article 16 of the Convention on the Rights of the Child (preservation of privacy), a student's right to privacy is protected by the guidelines of the Ministry of Education. According to these guidelines, any action or disclosure that is liable to violate a student's privacy must be avoided. Preservation of privacy in school is reflected in the discretion with which a student's personal, medical or academic file, or other data, are handled, and in the confidentiality with which any communication between a student and a teacher, counselor or psychologist, or any knowledge they may have of a student (e.g., his grades, psychological assessment) are treated. Under the **Privacy Protection Law 1981**, authorization to review such confidential documents is granted only to school staff, a student's parents, Ministry of Education supervisors, and other staff so authorized.

Information about a student may not be published or disseminated to an agency that is not authorized to receive it. Further, the use of computerized school data bases is forbidden unless written authorization has been obtained from the education system, the student (once he has reached the age of 18), or the student's parent (if the student is a minor).

Research on students requires the authorization of their parents or of the chief scientist of the Ministry of Education. Providing information about a student to an agent not authorized to receive it is a criminal offense. Any educational professional who publishes information concerning his work is forbidden to use names or otherwise identify students.

When existing information is sensitive (e.g., the pregnancy of a minor, or a criminal offense committed by a minor), the student's permission should be secured before the information is transmitted. If transmission of the information is liable to harm the minor, the school principal will be responsible for handling the matter; he or she is also required to preserve the medical confidentiality of a student who carries the AIDS virus, and is charged with protecting the rights of that student.

A school is obligated to keep all psychological assessments confidential. Referral to psychological testing is conditional upon the consent of a student's parents. A student may initiate consultation

with the school psychologist; the psychologist is only required to tell the student's parents about the student's self-referral if more than two therapeutic consultations take place. The psychologist may report the outcome of psychological tests and assessments to the student's parents only if doing so does not contravene the student's best interests.

As noted, the **Pupils' Rights Law 2000** addresses the obligation to confidentiality in all matters pertaining to students, and requires any individual who receives information about a student in the process of performing a legally appointed job to keep this information secret and not reveal it except for the express purpose of performing his job.

In a memo issued in November 2000, the Director-General of the Ministry of Education addressed the issue of searching a student's belongings for weapons. According to the memo, the principal or vice principal of an educational institution may authorize a search for weapons among a student's belongings by a police officer or guard legally empowered to conduct such a search, if it is suspected that the student is in possession of a weapon or weapons and if no other means has been found of locating said weapons. The memo stipulates that the search must be conducted in a manner that preserves the rights, privacy and dignity of the student, and that it must be limited to a search for weapons only. The reasons for conducting the search, and its outcome, will be recorded on a special form, which will be transmitted to the supervisor of the educational institution.

### **7.1.3 Receipt of Information**

*Involvement, Partnership and Responsibility* emphasizes a student's right to receive information about him that is held by the school. A recommendation has been made to enable students to receive all information about the rules and regulations according to which the school operates. There are no guidelines for students who wish to review director-general's memos, although the court has ruled that any individual may review them. The Supreme Court has ruled that it is important to publish the policy and guidelines that obligate all education frameworks, so that teachers, parents and students may be aware of them.

Copies of director-general's memos are distributed to all schools, pedagogic centers, and the Ministry of Education information center. Claims have been made that students – and even teachers and principals – are unaware that such memos are issued.

The **Pupils' Rights Law 2000** requires that its contents be made known to students and parents at the beginning of every school year. The law also requires informing students and their parents of director-general's memos to schools, and of the memos of school principals regarding the rights and obligations of students, including rules of discipline.

### **7.1.4 The Involvement of Students and Parents in School Life**

The involvement and participation of students and their parents in school life is defined by Ministry of Education policy as being their right. The Ministry of Education's guidelines encourage the

implementation of article 12 of the Convention, which stipulates that a student must be ensured the right to express his opinion regarding all matters concerning him; his opinion must also be given due weight. In other words, students must be informed of decisionmaking processes concerning them, and must be allowed to appeal both the process and the decision. To this end, the school must allow students to be heard regarding decisions of concern to them, such as their placement in a class, the development of study tracks, the level of education, grades on matriculation and other examinations, punishment and suspension, and cheating. The hotline established by the ombudsman for students, described below, reflects the Ministry's commitment to enabling students to realize this right. In addition, the Ministry encourages students and parents to become involved in the planning and organization of school life. *Involvement, Partnership and Responsibility*, as noted, defines areas for the participation, involvement and responsibility of students in making and enforcing decisions concerning schools and pedagogic centers.

Students and their parents are partial partners in decisions concerning schools. Under the **State Education Law**, the curricula in formal educational institutions are set in accordance with Ministry of Education guidelines and the unique character of each school. Students and parents may influence aspects of the curriculum through supplemental programs, which represent 35% of the total school curriculum. *Involvement, Partnership and Responsibility* suggests letting students and parents become involved in determining the subjects of study (choice of trends, tracks and levels of study, elective courses), as well as taking into consideration the students' capabilities when determining these. Nevertheless, only a few students and parents realize this right.

Greater openness to the involvement of parents in school activity is a feature of community schools, whose curriculum is determined by school staff in cooperation with parents. Community schools require, and hence facilitate, joint decisionmaking regarding school policy among representatives of the school's school administration, teachers, parents, and students, the local authority and other community institutions. Community schools are founded on the belief that parents have the right, and the obligation, to be partners in their children's education.

According to Ministry of Education guidelines, every school must publish regulations regarding the rights and obligations of students and disseminate them among students and parents. According to *Involvement, Partnership and Responsibility*, students must be allowed to help set regulations and express their opinions and needs.

A 1995 analysis of 70 sets of elementary and secondary school regulations revealed a gap between the recommendations of the Ministry of Education and actual regulations: Most school administrations perceive regulations as a set of instructions to students regarding the rules of behavior that enable the school to be run efficiently. Often, regulations do not emphasize the rights of students or the obligations of the school. This would indicate that the Ministry's recommendation that regulations present the individual as having both rights and obligations has not been fulfilled (Zidkiyahu, 1995).

## 7.2 Dissemination and Implementation of Individual Rights in the Education System

The Ministry of Education and agencies that field public referrals or address civil rights are working to disseminate the rights of the child and implement them in the education system. Since publication of *Involvement, Partnership and Responsibility*, tens of schools have begun to implement the school convention that is based on that document. The convention does not obligate the schools as do director-general's memos, but rather makes recommendations, which schools may accept or reject.

The Ministry of Education has developed an educational study program, entitled "Rights for All Ages", which disseminates to secondary school students their rights and obligations within the school system. The program defines students' rights in various social frameworks (family, school, peer group, society) and clarifies the limitations of their rights in these frameworks; it provides information on agencies and individuals that help children and youth whose rights have been violated; and it encourages youth to become involved in making sure their rights are duly considered. This program is used informally and in civics classes. Since the program is not compulsory, there are no data on the extent of its implementation.

In 1990, the Ministry of Education established a "hotline" to promote the needs and rights of students in the education system. The hotline handles specific complaints about injustice or discrimination against students (e.g., unfair treatment, unjustified punishment, physical or verbal violence). The hotline serves children of all ages, from preschool through college, and enables students to maintain their privacy and avoid discrimination or harm that might arise if they turned to someone at their school. A student may call the hotline himself or may ask someone else to call on his behalf. Hotline staff are obligated to maintain confidentiality and privacy.

The hotline staff is composed of educators, teachers, counselors, psychologists, supervisors, and administrators. They must comply with the Convention on the Rights of the Child. In addition to meeting the needs of students, the hotline serves the system by increasing staff awareness of the rights of children; helping design educational policy, change regulations and write director-general's memos; writing the convention that regulates relations between teachers and students in secondary schools; and proposing legislation and regulations regarding the welfare and well-being of children. The hotline holds workshops for school staff and student council members, which inform, change attitudes, and intervene concerning children's rights.

In addition, the hotline published a compilation of director-general's memos, entitled *School Regulations – The Rights and Obligations of Teachers, Students and Parents*. The goal of this publication was to implement the right of students to information (article 17 of the Convention on the Rights of the Child) and to make educators aware of Ministry regulations and of their obligations to students. At the same time, the hotline disseminated the full UN Convention. In 1998/1999, the central theme of the school year was "the right and the obligation to respect". The

hotline was a partner in the steering committee established by the Pedagogical Secretariat to implement this theme.

There has been a steady increase in the number of calls to the hotline: from about 300 calls in 1990 to 4,719 calls in 2000. Students, parents, education and welfare staff, and counselors call the hotline. To date, there are still more calls from parents than from students: 40% of the calls are made by parents, while only 35% of the calls are made by students and 25% of the calls are made by others. Nevertheless, the data indicate an increase in the percentage of calls made by students, from 18% in 1998 (Ministry of Education, 2000). The issues most commonly raised are truancy, teaching and studying, students with special needs, new immigrants, violence, sexual harassment, behavior, discipline and punishment, and personal problems.

In 1995, the National Council for the Child published a guide to the rights and obligations of students in educational institutions, based on director-general's memos. It was hoped that dissemination of the guide would increase the awareness and knowledge of students, school staff, and parents regarding the rights and obligations of students.

Information about students' rights is also disseminated through information centers for children and youth operated by several agencies, including the Ministry of Education, the National Council for the Child, and the International Organization for the Rights of the Child. These centers empower children by informing them of their rights and channels of action, counseling them about their rights in schools and other settings, and providing information to the agencies that serve them. The centers ensure that the legal rights of children are respected and preserved.

Students can receive information about their rights in school from other agencies, such as the information center on the rights of the child established by the Israeli section of *Defense for Children International (DCI)*, which provides students with information and legal consultation regarding difficulties that arise in the school system.

The *Ombudsman for Youth* of the National Council for the Child is yet another address for students and the agencies that serve them, which protects and helps realize children's basic rights. About one-quarter of the referrals to the ombudsman in 1998 concerned education. There has been an increase in the number of children who seek the assistance of the ombudsman, due to advertisements and articles in children's magazines, lectures, and the distribution of leaflets at schools. Young children usually seek redress for infringement of their rights at school. Other referrals concern the lack of an appropriate educational framework for some children, who may be precluded from attending school for months; and the inappropriate attitude of educational staff toward students. Specifically, students complain about physical, mental and emotional violence on the part of preschool, elementary and secondary school teachers, principals, and others. In one case, a parent's complaint about a teacher's physically harming his child was investigated by the police. Students also lodge complaints against teachers who have insulted or humiliated them. The National

Council for the Child, in cooperation with an industrial corporation, has established a mobile rights unit, which visits schools and disseminates the rights of children (see Chapter 3).

### 7.3 Discipline and Punishment in School

According to article 29 of the Convention on the Rights of the Child, the disciplinary regulations implemented in schools must respect children. The Ministry of Education has anchored in law a teacher's authority to impose punishment, and has published guidelines regarding alternative ways of addressing disciplinary infractions, as well as the rights of students suspected of such.

According to these guidelines, a school is forbidden to infringe on these rights; students and parents must be informed about students' suspected of breaches of discipline, and the essence of the alleged offense. They and their parents must be allowed to explain their behavior. In addition, parents must be informed before severe punishment is meted out; such punishment must also be authorized by the principal or a Ministry supervisor. A school is forbidden to permanently expel a student of compulsory school age; if it wishes to expel a student, the school must inform the parents of its intention, and help find an alternative framework for that student.

The **Compulsory Education Law 1949** forbids an educational institution from punishing a student for an act or infraction committed by his parents (such as failure to pay a fee to the school).

According to the guidelines of the Ministry of Education, teachers are forbidden to use corporal punishment of any kind as a means of discipline. In addition, teachers are forbidden to utter verbally violent expressions (insulting or humiliating comments). The Ministry of Education views any expression of violence by a teacher as a crime. In a ruling handed down in 1994, the Supreme Court declared that "physical violence toward a student is forbidden...his body and soul may not be dealt with wantonly. His dignity as a human being is offended if his teachers use physical violence against him...". As stipulated by the **Pupils' Rights Law 2000**, discipline must be imposed in a manner commensurate with respect for human dignity. In this context, students have the right not to be subjected to corporal or humiliating punishment.

Principals are required to report to a Ministry supervisor and district board of education chairman any physical violence perpetrated by a teacher against a student. Referral of the case to the police does not exempt the principal and supervisor from their obligation to educationally and professionally address the event. Disciplinary action against a teacher who has committed an act of violence is taken under the provisions of the **Civil Servants (Discipline) Law 1963**, which allows for the suspension of a teacher. Corporal punishment is a more prevalent means of discipline in Arab and *haredi* schools than in other Jewish schools.

### 7.4 The School Climate and Violence in Schools

Studies indicate that the school climate affects the physical and mental health of students in the present and future. The interaction between teachers and students and among students, and the

students' perception of school rules and regulations are only a few of the factors that influence the welfare and health of students. Studies have shown that students who do not feel they belong in their school or who are not involved in the decisionmaking process are less satisfied with their school. Students who sense that they do not "belong" tend to avoid participating in school activities.

Surveys of social welfare, health and risk behaviors conducted in 1994 and 1998 (see Chapter 8) examined the implications of school climate for students. They revealed that Israeli youth have a more negative attitude toward their school system than do youth in most of the other countries that participated in the survey. Not surprisingly, then, Israel is ranked among the countries in which only a small percentage of students like their school.

Israel's youth's perception of school is complex; a relatively large percentage (38%) of Israeli youth feel they are involved in setting their school's rules and regulations, and that these rules are not too strict (34%). Nevertheless, the percentage of students in Israel who feel that their school's rules are fair is low (44%), compared to students in other countries.

In contrast, relatively large percentages of Israeli students reported that their teachers take an interest in them as people, and encourage them to express their opinions in class (53% and 60%, respectively). For these measures, Israel was ranked in the top one-third of the countries participating in the surveys. The percentage of students who felt they could receive additional help if they needed it (71%) was moderate, compared to the percentage of students from other countries. The percentage of Israeli students who perceived their teachers' attitude toward them as being fair (about 51%) was lower than that of students in other countries. This is consistent with the students' perception of the fairness of school rules.

These findings indicate a need for in-depth consideration of how to improve the relationship between students and their schools.

The surveys examined risk behaviors and injuries among Jewish students in grades six through 11 in State and State religious schools. The surveys revealed severe verbal and physical inter-personal violence in schools: More than 50% of all of the students in grades six through 11 suffered at least once during the school year from bullying, while one in every five students experienced aggression three or more times during the school year (data from 1994 and 1998 are similar).

Close to half of the students participated in bullying, harassment or teasing toward another student during the school year. Seventeen percent reported that they participated in such an act three or more times during the school year. The percentages of experience with or participation in violent incidents gradually decline with age, and are smaller among high school students. The prevalence of these phenomena is relatively great in Israel, which was ranked between fifth and seventh (depending on the indicators) among the countries that participated in the survey.

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A 1994 director-general's memo dealing with violence determined that the school, as an agent of education, must prevent violence among students in and outside its grounds. Schools are charged with prohibiting expressions of violence, ensuring the physical and psychological well-being of their students, and swiftly and effectively addressing violent incidents in which students are involved, even if they do not take place during school hours or on school property.

A recent study (Habib et al. 1998) of police treatment of minors and youth uncovered dissatisfaction with the rates of reporting by schools of violent incidents that take place on their grounds. It was claimed that some schools refrain from reporting violent incidents, out of fear for their reputation. Nevertheless, in recent years there has been an increase of 53% in the reporting of violent incidents among youth at schools; this may be due to increased willingness to report such incidents, rather than to an increase in their number.

In addition to reporting violent incidents to the police, schools are themselves required to address them. A school must inform the parents of the student involved in the incident and involve them in decisions regarding their child. If the best interest of the child requires not informing the parents of the violent incident or of the involvement of the police, the decision not to inform them is made by the school principal and another professional (psychologist, social worker, police officer).

To protect students' safety, it is forbidden to carry weapons and dangerous objects on school grounds. In a 1998 survey of health behavior conducted among students in grades six through ten, about one-quarter of the boys and the girls reported carrying a weapon (such as a knife, club or pistol) during the past month, for self-defense. Forty-four percent of the boys and 30% of the girls claimed that they had seen someone in their class carrying a weapon during the past three months.

A parliamentary committee of inquiry (the Vilnai Committee) into violence among youth found that daily violence among youth in Israel is serious in its scope and characteristics, and that action must be taken quickly to identify the causes of violence and develop programs to prevent it. The committee presented its recommendations in 1999; they concerned the authority of the school principal, the development of programs to reduce and prevent violence, guidelines for preventing weapons from being brought onto school grounds, and the establishment of a national system to monitor and periodically assess the attainment of these goals. Pursuant to the committee's work, a Director-General's memo was disseminated, which addressed some of the committee's recommendations. However, recommendations that would incur expense are not cited in the memo and have not been implemented.

Concurrently, the Ministry of Education allocated resources for the development of a program to prevent violence among youth. Experimental implementation of a program to improve the school climate and prevent violence was begun (in five schools). This program is based on the constant distribution to students of questionnaires on the level of violence and their sense of security at school; on setting clear rules for dealing with violent incidents; on involving the students, teachers

and parents in making these rules; on organizing activities to improve the climate at school; and on establishing school committees (comprising students and staff) to address violent incidents. The Ministry of Education is preparing for broader implementation of the program. The Educational Psychology Service is also developing a series of lessons on coping with violence, teaching non-violent conflict resolution, and the like.

## 8. The Integration of Immigrant Children and Youth into the Education System

Since 1990, about 800,000 immigrants have arrived in Israel, increasing Israel's population by 17%. While most of these immigrants came from the former Soviet Union, a unique group of some 70,000 immigrants came to Israel from Ethiopia. In addition, immigrants have recently arrived from several Eastern European and Eurasian countries. Between January 1990 and December 1998, 231,000 children up to age 18 arrived in Israel, representing 26% of the immigrants. Of them, 21,000 were born in Ethiopia; they represent 58% of the immigrants from that country.

The integration of immigrant children and youth into the education system is a unique and important challenge for both the schools absorbing them and the children and their families. As of late 1999, about 120,000 immigrant children (ages six-17) were studying in the education system.

The process of immigration, characterized by a sharp and sudden transition from familiar social and cultural norms to unfamiliar ones, exposes the immigrant to many potentially stressful situations. The obstacle presented by a new language, the inability to understand accepted behavioral norms, and the shattering of traditional support systems, in addition to changes in employment and economic status, are all liable to cause tension, anxiety, and adjustment difficulties. Children and adolescents often confront even greater difficulties: The need to cope with the demands arising from immigration, while struggling with inner processes of maturation and forming a stable identity, make them even more vulnerable. Immigrant children and the education system that absorbs them face the challenge of knowledge acquisition in a new language and culture, and the imperative of social integration.

This section will examine the integration of immigrant children into the education system. We will present the main issues arising from the need to successfully absorb these children, the steps taken by the education system to this end, and trends in the improvement of the assimilation of immigrant children into the education system.

### 8.1 The Integration of Immigrant Children into the Education System

As noted, immigrants who arrived in Israel during the 1990s may be divided into two main groups: immigrants from the former Soviet Union, and immigrants from Ethiopia. Children in these groups face different problems of absorption.

### **8.1.1 The Integration into the Education System of Immigrant Children from the Former Soviet Union**

In general, immigrants from the former Soviet Union are characterized by particularly high educational and vocational levels, relative to the population of Israel. Difficulties arise primarily among adolescents, usually during the last two years of high school. Although the matriculation success rates of immigrant youth who complete 12<sup>th</sup> grade are similar to those of veteran Jewish youth, their drop-out rates are higher; consequently, the success rates of a given class/year appear to be lower.

A study conducted by the JDC-Brookdale Institute between 1994 and 1996 examined the integration of immigrant youth from the former Soviet Union into the school systems of five towns. The study found great variance in the percentages of youth who do not attend school in each of the towns that participated in the study – between 8% and 23%. The percentage of youth age 17 who do not attend school ranged between 20% and 40%.

Another problem which has attracted public attention is the rate of delinquency among immigrant youth from the former Soviet Union. In recent years, there has been concern surrounding the constant increase in the numbers of these youth who have criminal records; the proportion of immigrant youth who have a criminal record is greater than that of veteran Israeli youth (see Chapter 10).

Immigrants from the Caucasus mountains are unique among all of the immigrants from the former Soviet Union, in their background and culture and in the difficulties they face in the absorption process. Reports on the distress of immigrants from the Caucasus led to the establishment of an inter-ministerial committee on these immigrants in the mid-1990s. The committee addressed the needs of this population from a comprehensive perspective, and formulated a plan to improve the scholastic achievements of immigrant children and youth from the Caucasus.

To augment the work of the committee, a national survey of immigrant children and youth from the Caucasus was conducted, with the aim of examining their integration into the education system (Ellenbogen-Frankowitz and Noam, 1997). The study revealed that immigrant youth from the Caucasus have particular difficulty learning Hebrew and adjusting to school; they have very high drop-out rates. The study also revealed that 25% of the youth do not attend a framework that is under the surveillance of the Ministry of Education, and that 10% of those ages 14-17 do not attend any framework at all. These percentages are much higher than those for the general Jewish population, only 4% of which does not attend a framework under the surveillance of the Ministry of Education. Furthermore, the percentage of youth who intended to take all of the examinations required for a matriculation certificate represented less than 20% of the entire eligible cohort. (There are no data on the percentage of youth who actually earned a matriculation certificate.) Nevertheless, both the youths and their parents ascribed a great deal of importance to successful

completion of school. Girls were not found to be any less devoted to or interested in studying than were boys.

Some schools with large concentrations of students from the Caucasus have instituted special programs (e.g., “Megashrim” and “Pele”) to promote their integration, which are similar to programs used with the Ethiopian immigrant population.

### **8.1.2 The Integration into the Education System of Immigrant Children from Ethiopia**

Immigrants arrived from Ethiopia in two main waves: “Operation Moses” in 1984-1985, and “Operation Solomon” in 1991. The successful integration of the children of these immigrants poses a challenge to Israeli society. Several unique factors encumber their integration into the education system: First, the majority of these children lived in a non-industrial society in Ethiopia; their parents worked primarily in agriculture or skilled trades such as weaving, potting, or blacksmithing. Most of the children did not attend school, receiving only informal education; the few children who did attend school were sent to the nearest village or town, which was sometimes quite distant. Not surprisingly, a significant proportion of them are illiterate in their mother tongue (Amharic).

In addition to the stress of immigration and the transition to a western-modern society, Ethiopian children and youth have encountered practical factors that have hindered their integration into the education system. For example, these children usually transfer among schools several times within their first few years in Israel, as their families move among temporary residences until settling in a permanent one. Children who arrived during the second wave of immigration, in 1991, have only just settled in permanent housing.

A national study conducted among Ethiopian immigrant youth (ages 12-18) revealed that most of the youth are raised in families with a difficult socio-economic background (Lifshitz et al., 1997a). About 18% of them are raised in single-parent families, and about one-quarter of them live in households with six or more children until they are 18. About half of the youth have fathers who are relatively old (age 55 and over). In addition, parents’ employment rates are low; in about two-thirds of the families there is no breadwinner at all. Older parents also lack command of basic skills in Hebrew, which affects their ability to help their children with school work or communicate with school staff.

The economic hardship that is an outgrowth of this situation is reflected in the lack of text books and resource books owned by Ethiopian children, as well as the lack of a quiet corner in which to do homework; about half of these children lack essential school supplies.

Following “Operation Moses”, two decisions were made that influenced the absorption of Ethiopian immigrant children into the education system. The first decision was to refer all Ethiopian immigrant children, beginning with first grade, to State religious schools. This decision was based on the assumption that the immigrants came from a traditional society. The second decision was to

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refer the majority of Ethiopian immigrant youth to Youth Aliyah boarding schools. This decision was made because many of the youth arrived in Israel without their parents, and even those who arrived with their parents faced financial hardship. All immigrant students who entered the school system shortly after their arrival in Israel attended special *ulpan* classes, where they learned Hebrew and study habits.

These decisions led to large concentrations of Ethiopian immigrant pupils in a relatively small number of State religious elementary schools, particularly in towns where large percentages of these immigrants settled. Many of these towns were themselves poor, and geographically peripheral; some of them became so thronged with Ethiopian immigrants that they struggled to provide appropriate assistance.

As noted, Youth Aliyah boarding schools were thought to be the best and most apt to provide the education, remedial assistance, and living conditions that Ethiopian youth would need to assimilate into Israeli society. Because of their limited educational background, many of the youths were referred to vocational study tracks, and/or to boarding schools with a low academic level. Consequently, the immigrants encountered veteran Israeli students from the most disadvantaged sectors of society. This aroused public debate. Moreover, concern was expressed that removing the Ethiopian youth from their families would dissociate them from their parents and community, depriving their younger siblings of a role model and their parents of aid.

Following "Operation Solomon", the Ministry of Education disseminated a number of guidelines to schools regarding the absorption of immigrant students from Ethiopia. These stipulated that all Ethiopian immigrant students should be integrated into regular classes; teachers who teach the immigrants should be trained in innovative teaching methods, and taught about Ethiopian culture and traditions; the percentage of Ethiopian immigrant students should be limited, so as not to exceed 25% of the class; and, in towns with a large concentration of Ethiopian immigrant students, the immigrants should be enabled to attend schools at a distance from their home, or to attend State schools, according to their parents' preference.

During the past two years, under pressure from voluntary and public organizations and people in the field, efforts have been made to ensure the integration of youth into schools in their community of residence, the referral of youth to boarding schools with a high academic level and matriculation tracks, and the identification and treatment of youth at risk. These efforts have increased the integration of Ethiopian immigrant students into middle and high schools in their area of residence, reduced referrals to vocational, non-matriculation tracks, and promoted referral to better boarding schools.

Reports of the Ministry of Education and findings from a national survey of youth indicate that, in 1998/99, about 25,000 Ethiopian immigrant students attended preschools and schools. About 10,000 youth attended middle and high schools. About half of the older youth (ages 15-18) attended

boarding schools. The majority (78%) of Ethiopian immigrant youth still attend State religious schools under the surveillance of the Ministry of Education. Half of the students are in relatively small classes (of up to 25 students), which allows them to receive individual attention; about one-quarter of them are in classes with a large (51% or more) concentration of Ethiopian immigrant students. This phenomenon is more prevalent in boarding schools. In addition, about two-thirds of the youth attending high schools are in full-matriculation tracks.

### **Scholastic Achievements**

At present, there is no comprehensive information on the achievements of Ethiopian immigrant youth. However, two key studies dealt with aspects of the students' integration into elementary, middle and high schools.

The findings of an evaluation of the *SHILUVIM Project* in elementary schools in the southern school district revealed significant gaps in the achievements of immigrant students (both the more "veteran" and the "newer" immigrants) and those of veteran Israeli students (Lifshitz et al., 1997b).

A national study of the absorption of Ethiopian immigrant youth found that two-thirds of the Ethiopian immigrant students in grades ten-12 were in matriculation tracks, academic tracks (38%) or vocational tracks that lead to full matriculation (28%). However, only one-third (35%) of the students study for the number of points necessary to receive full matriculation. Most of the high school students reported a need for more or any assistance to succeed on matriculation examinations (Lifshitz et al., 1997a).

The national study also revealed variance in the scholastic achievements of the youth. A significant percentage failed key subjects: 19% failed in Hebrew, and 32% failed in mathematics. However, a significant proportion also had good achievements (that is, received a grade of 80 or higher): 35% in Hebrew, and 27% in mathematics. Most of them received special assistance. A significant portion of the more "veteran" immigrants, who are no longer eligible for assistance, had difficulty with their studies. In addition, a significant portion of the students who have difficulty do not receive any assistance at all, for budgetary reasons.

These findings indicate a need for continued remedial assistance to Ethiopian immigrant students, including those who have been in Israel for a longer period of time.

Data from the Ministry of Education indicate that the percentage of Ethiopian immigrants who are "eligible" for a matriculation certificate is increasing from year to year, from 9% in the early 1990s to 28% in 1999. Nevertheless, eligibility is still much lower than that of the total Jewish population in Israel.

### **Dropping Out of School**

The percentage of Ethiopian immigrant youth ages 14-17 who are not attending a school that is under the surveillance of the Ministry of Education is 6.2%. These youth may be divided into three main groups: 2.6% attend frameworks that are under the surveillance of the Ministry of Labor and Social Affairs; 1% do not attend school but are employed; and 2.6% neither study nor work. Drop-out rates are particularly high among boys, and among the more “veteran” immigrants (those who arrived before 1990), reaching 14% of the veteran immigrant boys.

Reasons cited for dropping out of school were the desire to transfer to another boarding school; lack of desire to attend a religious school; social difficulties; and the school’s initiative, following discipline problems or conflict with teachers. About one-third reported that they left school because they did not succeed in their studies. Almost all of the youth who were not attending school, and their parents, reported that they would like to return to an educational framework. It should be noted that the *FIDEL Association* operates a youth information crisis center in the Tel Aviv central bus terminal. The main function of this center is to track down Ethiopian immigrant youth who have left their regular framework, and to re-integrate them.

Two additional phenomena that exist in significant proportions among Ethiopian immigrant students, and that place them at risk, are great mobility among secondary schools (about 20% of the youth) and absence from school for unjustified reasons at least once a week (14%).

However, it should be noted that Ethiopian immigrant youth and their parents display significant motivation and commitment to becoming integrated into high school, succeeding in military service, and acquiring higher education. This motivation hints that, with appropriate assistance, there is a good chance they will indeed obtain an education.

### **Diagnosis of Ethiopian Immigrant Children as Needing Special Education**

Concern has arisen that Ethiopian immigrant children have been referred to special education frameworks because diagnostic tools are not suited to their cultural background. The decision was thus made to conduct special diagnostic tests on Ethiopian immigrant children who were being assessed for placement in the special education system. These tests were conducted using “dynamic diagnosis”, developed by the International Association for the Advancement of Learning Potential (the Feuerstein Institute) to uncover the ability to change following learning.

By law, a translator is present at meetings of placement committees when the presence of (Ethiopian immigrant) parents is required. According to Ministry of Education data, in 1996, about 600 (3%) Ethiopian immigrant children attended special education frameworks; this is similar to the percentage of children in special education in the general population.

## **8.2 Special Efforts of the Education System**

Awareness of the educational, social, economic and other, unique difficulties that confront new immigrants has led the education system to make special effort on behalf of this population.

### *Education, Recreation and Cultural Activities*

Specifically, the education system has taken the following steps: it has opened absorption classes and *ulpan*s in schools, which immigrants attend until they are able to be integrated into regular classes; it has added weekly teaching hours for every immigrant student in a school; it has added remedial classes for immigrants in Hebrew language and language-dependent subjects; it has given dispensation to make matriculation examinations easier and more accessible, for example by allowing immigrants to be examined in their native language; it has allowed immigrants to choose the language of their country of origin as their second language of study; it offers immigrant students special seminars and summer sessions that combine learning Hebrew with learning concepts in Israeli culture, Judaism and Jewish heritage; and it has instituted programs that ease the absorption process. In addition, The Ministries of Education and Absorption help immigrant students finance the cost of education – e.g., textbooks, field trips, cultural activities – which is usually paid by parents.

The distribution of immigrants across schools is not uniform. Some schools have absorbed a few immigrants, while others have a majority of students who are immigrants. The Ministry of Education grants additional assistance to schools with large populations of immigrants, especially when the immigrants' eligibility for special assistance has expired. This includes additional remedial teaching hours; tutorial assistance during the school day and in the afternoon, provided by soldier-teachers; and programs that combine study and socializing, such as the ***SHALHEVET Project*** (integration of immigrants through social activity) and ***Project 75*** (a system-wide project for absorbing immigrants).

In addition, in-service training on absorbing immigrants is provided to teachers; classroom aids are prepared for all teachers, especially those who teach immigrants; a pedagogic center on immigrant absorption has been established; Russian-speaking teachers are being trained; and special teams are being established in the Ministry of Education, in cooperation with other ministries, to deal with the issues of immigration and absorption.

The Ministry of Education also holds activities for immigrant youth from the former Soviet Union and from Ethiopia who have not managed to become integrated into the education system, who have difficulty adjusting to school, or who have dropped out. These activities are provided through youth promotion units of the Youth and Society Administration and the local authorities, particularly in towns with large concentrations of immigrants. They include social activities, supplemental education and language acquisition, reintegration into normative frameworks such as school, and preparation for military service.

As it recognizes the unique difficulties that face Ethiopian immigrants, the Ministry of Education has made care of these students a top priority, allocating more resources for their absorption than for that of other immigrants. The primary perquisites for Ethiopian immigrant students are extension of the period of eligibility for remedial study hours (an additional 1.75 hours of teaching per week), allocated to the school that has absorbed the student, and a financial grant to purchase

### *Education, Recreation and Cultural Activities*

textbooks and other school aids. Ethiopian immigrants receive more hours of education than do immigrants from other countries, and also receive subsidies for school supplies and expenditures for a longer period of time.

During their first year in school, and sometimes for longer, Ethiopian immigrants attend special classes in regular elementary schools. These classes are small in size and attempt to accelerate the process of closing gaps, so that the immigrants may be integrated into regular classes as quickly as possible. Once in the regular classes, Ethiopian immigrant children continue to receive special assistance. Questions have arisen as to the efficiency of these classes and the appropriateness of separating the children from their peers, even for a limited time.

Despite all of the special provisions made for immigrants, it appears their needs are not being sufficiently met. Many immigrant children who need assistance do not receive it at all, or do not receive it in sufficient quantity.

The national study noted above examined the educational and economic assistance provided to Ethiopian immigrant youth at school (Lifshitz et al., 1997). The study revealed that 59% of the youth received educational assistance at school (remedial teaching in some subjects, assistance from teachers after school hours), or in an after-school frameworks. Nevertheless, most (70%) of the students – both those who were receiving assistance and those who were not – reported needing additional assistance to succeed in school. For one, a significant portion of the Ethiopian children do not attend after-school frameworks, even though their parents cannot give them educational support. For another, there appears to be a lack of educational programs adapted to the unique difficulties and needs of Ethiopian immigrant students. The need to increase such assistance and adapt it to needs is thus obvious.

The phenomenon of unmet needs was also found regarding economic assistance. About half of the youths reported receiving various sorts of financial assistance at school, such as subsidies to purchase textbooks, funding for field trips and extracurricular classes, and coverage of medical costs. Nevertheless, about half of them reported needing more financial assistance.

The study also found that only one-third of the teachers of heterogeneous classes (immigrants and non-immigrants) had been specially trained to promote the integration of Ethiopian immigrant students into their class. About half of the teachers felt they needed additional guidance, or constant consultation, to better cope with the problems they encounter during their work with Ethiopian immigrant children.

Special programs were also instituted, with the help of JDC-Israel and the Association for the Advancement of Education, to enable the more gifted Ethiopian students to attend better boarding schools in Israel. For example, some Ethiopian students attend special courses offered at adjunct preparatory institutes and technological schools, which prepare them to take matriculation

examinations. Some attend the preparatory pre-academic programs offered by universities and colleges.

The departments of the Ministry of Education initiate and implement programs that foster the integration of Ethiopian immigrant youth into the education system. Youth Aliyah, which absorbs a significant number of immigrant youth into its boarding schools, has established programs that integrate Ethiopian immigrants into classes of veteran Israeli youth (e.g., *SHILUV*, *MABAR*), and enrichment programs for Ethiopian students that foster young leadership, reinforce Ethiopian Jewish identity and heritage, and teach health education.

The Youth Advancement Department of the Youth and Society Administration develops educational and therapeutic programs for youth at risk, and training programs for youth counselors who are themselves immigrants from Ethiopia, and who work with members of their community.

Recently, various intervention programs have been developed to help government, public, and voluntary agencies cope more efficiently with the needs of Ethiopian children in preschools, elementary and secondary schools. These programs are implemented in schools with large concentrations of Ethiopian immigrant students, and emphasize the teaching of basic skills alongside social integration. In recent years, these programs have also focused on increasing the familiarity of school staff with Ethiopian culture, and on efforts to involve the children's parents. It should be noted, however, that these programs are not implemented in all schools attended by Ethiopian immigrant students.

In order to address the unique problems of Ethiopian immigrant students, the Ministry of Education established the *Steering Committee for Ethiopians in the Education System* in 1995. The Committee, half of whose members are Ethiopian immigrants, formulates and implements comprehensive policy on the absorption of Ethiopian immigrants into the education system. It also coordinates among agencies that serve Ethiopian immigrant children and youth in the field of education; formulates long-term policy on the treatment of Ethiopian immigrant students in the education system; and cooperates with members of the Ethiopian immigrant community and organizations that assist the community.

In preparation for the 1998/99 school year, the Committee formulated an extensive plan of action comprising projects for children and youth that emphasize their self-image, identity, and ties to their heritage. It also comprised increased in-service training for teachers, individual and group work with parents, increased integration of very young children into preschools, involvement of Ethiopian immigrant adults and children in informal frameworks, the hiring of Ethiopian immigrant school aides, and the prevention of dropping out.

The Committee sponsors a number of activities for youths age 12-18, among them enrichment clubs and after-school frameworks, which it hopes will keep the children from dropping out and help

them fulfill their potential. It also runs programs for very young children, system-wide programs in schools with large concentrations of Ethiopian immigrants, and programs for outstanding students.

One of the main problems integrating Ethiopian immigrant children into school is that their parents are not aware of the demands school makes on them, are not involved in their education, and do not have contact with school staff. Lifshitz et al. (1997) found that parents are not sufficiently involved in choosing their child's school or in what happens to their child at school. For example, only 40% of the parents in the study had visited the boarding school that their child would attend prior to registration, and the majority of mothers reported not knowing anything (39%) or very little (47%) of what happens to their children at school. Although about two-thirds of the parents attend parents' meetings, these are problematic, as it is often the children themselves who translate what the teachers have to say; an interpreter is present in only in a small proportion (14%) of cases. Alienation between parents and the education system is even more pronounced at boarding schools. One expression of parents' lack of information regarding their children's education is that 70% of the mothers of adolescents did not know what a matriculation certificate was.

In many schools, Ethiopian immigrant "facilitators" are employed to reinforce the ties among school staff, parents, and the local Ethiopian immigrant community. In addition, the Department of Adult Education has developed a program "bridging old and new", and offers courses for parents that are led by a professional group leader and an Ethiopian immigrant facilitator.

A number of public and voluntary organizations, in which Ethiopian immigrants are also active, intervene to promote the integration of children and youth into the education system. At the head of this activity is the *Coalition for the Advancement of Education for Ethiopian Immigrants*, in cooperation with the Steering Committee. The Coalition was established in early 1997 to set comprehensive educational policy and priorities, and to raise funds. Headed by JDC-Israel, the Coalition comprises government ministries, voluntary organizations and foundations that advance this goal. The Coalition began work in ten towns with large Ethiopian immigrant populations, with the aim of promoting the scholastic achievements and social integration of Ethiopian immigrant children and youth, while coordinating among the agencies in this field and developing comprehensive policy.

The following are among the other agencies active in this field:

- ◆ *ALMAYA – The Association to Promote the Family and the Child in the Ethiopian Community in Israel* implements a number of intervention programs for very young children and involves parents in preschool activities.
- ◆ The *North American Council on Ethiopian Jewry (NACOEJ)* implements projects that promote the integration of children into elementary and secondary schools. These include "finance high school", which gives scholarships to high school students who are interested in remaining in their community of residence; "twin bar mitzvah", which matches Ethiopian immigrant children with children from the Diaspora; and "extended school day", which provides students with remedial lessons and help with homework.

- ◆ The ***Fidel Foundation*** primarily trains Ethiopian immigrants to work as facilitators with school staff, and youth and their parents.
- ◆ The ***Umbrella Organization of Ethiopian Immigrants*** is involved in various projects, and finances the integration of children into preschools.
- ◆ The ***Israel Association for Ethiopian Jewry (IAEJ)*** monitors government activity and lobbies to promote the integration of Ethiopian immigrant children and youth into the education system.

### 8.3 Social Integration

An important goal of Israel's absorption policy is the social integration of immigrants and veteran Israelis, and of different groups of immigrants. A great many programs in and outside of schools promote this goal. Nevertheless, there are many reports of alienation between veterans and immigrants, as well as reports of conflict and violence. Studies conducted by the JDC-Brookdale Institute on immigrant youth from the former Soviet Union, from the Caucasus, and from Ethiopia have provided a glimpse of these youths' feelings and perspective. A distinction should be made between the youths' perception of relations, and their personal relationships. In general, most immigrant youth see relationships with Israelis as being problematic – sporadic, confrontational, and mutually antagonistic. Ethiopian immigrant youth tend to see things in a more positive light than do those from the former Soviet Union, although they do not deny that relations are problematic. On a personal level, in contrast, the youths have a much more positive perspective. Most immigrant youth report having at least one Israeli friend, and viewing the attitude of Israelis toward them as being positive; they do not report being victims of taunting or violence. Many immigrant youth report spending time with Israeli youth outside of school. This would indicate that the goal of integration is gradually being attained, although many difficulties remain. Israel's youth movements, the Society for the Protection of Nature, the Department of Police and the Community, and the Association of Community Centers are working to cultivate leadership and involvement among immigrant youth.

## 9. The Arab Education System

In 1998, there were about 516,000 Arab children up to age 17, constituting 25.3% of all of the children in the State of Israel. Of them, 294,698 Arab children attended school, comprising 18.4% of all school children. In 1998, children in the Arab sector represented 24% of all elementary school children and 17.8% of all secondary school children (Ben-Arie and Zionit, 1999).

A number of factors present special challenges to the Arab education system in Israel. These factors may be divided into two types: intra-social factors, and external factors. Intra-social factors include family size, parents' level of education and socio-economic status, cultural and social changes (social-cultural transition)

External factors include the need of Arab students to learn three languages (Arabic, Hebrew and English), and significant gaps in the investment in education in the Arab and Jewish sectors. These gaps are reflected in both the more limited investment by the government, as well as in the more limited resources provided to the education system by the local authorities and the children's parents. Analysis of information provided by the Ministry of Education revealed that, in 1991, the total investment in education per pupil in Arab municipalities was approximately one-third of the investment per pupil in Jewish municipalities. Government investment per Arab pupil was approximately 60% of the investment per Jewish pupil. The remaining gaps are a result of very limited investment on the part of the local authorities (less than 20% per pupil, compared to the Jewish sector) and the insignificant contribution by parents. The gaps in government allocation are mainly a result of more limited allocation to enrichment and extracurricular activities such as libraries, programs for weaker students, cultural activities, and counseling and support services. The more limited investment by local authorities and parents can be ascribed to the dire financial state of the Arab local authorities, as well as to the higher level of poverty among Arab families. It is important to note that in many cases, allocation of government funding for extracurricular activities, special programs and support services is dependent on matching funds provided by the local authority and parents. As such funds are not available in the Arab local authorities, services of this type are often not implemented in the Arab education system.

Since the establishment of the State, changes have occurred in the Arab education system, which has gradually become open to all segments of the Arab population. There has been an increase in the number of schools, in teacher training, in attendance rates, and especially in the education of girls. Yet despite these changes, gaps in most areas remain.

In this section we will review characteristics of and developing trends in the Arab education system, and discuss attendance and drop-out rates, scholastic achievements, the investment of resources in education, education services, the training and education of teachers, and the special education system.

## 9.1 The Structure of the Education System

Among the Arab population, we may distinguish different patterns of residence (e.g., urban versus rural). The majority of the Arab population lives in villages and small towns, and it may be said that even those who live in larger towns and cities lead a lifestyle that is rural in character.

About 80% of Israel's Arab citizens are Moslems, 11% are Christians, and 9% are Druze. The Arab education system is composed mainly of public schools. Five percent of the schools in this sector are private and are operated by churches, but are open to children of all denominations. These schools are considered "recognized but unofficial" and, as such, are more autonomous and selective, on one hand, and receive more limited government funding, on the other.

### 9.1.1 Early Childhood Education

Attendance rates at early childhood education frameworks (day care, preschools and kindergartens) are very low among Arab children in Israel, compared to their Jewish counterparts. In 1999, only 35% of the Arab children ages two-five attended such frameworks, compared to 86% of Jewish children the same ages. The difference in attendance rates is evident in all age groups (see Table 11). While two-thirds of the Jewish children age two attend preschools, only 5% of the Arab children age two do so. While almost all (93%) Jewish four-year-olds attend preschool, only one-third of the Arab children this age do. As noted, kindergarten for children age five is free and compulsory in Israel. Despite this, the kindergarten attendance rate of Arab children age five is only 81%.

There are a number of reasons for the differences in the preschool attendance rates of Jews and Arabs. The availability of preschools in the Arab sector is relatively limited, and there is a lack of preschool teachers and teacher training programs. In addition, there is no structured preschool program. This is a result of the relatively small government investment in this sector, as well as of the fact that Arab local authorities have to finance the construction of preschools and cover 25% of the tuition for municipal preschools for children ages three-four. As noted, Arab local authorities have financial difficulties and a negative financial balance, and cannot allocate the financial resources necessary to construct preschools.

**Table 11: Preschool Attendance Rates among Different Age Groups, By Sector (in %)**

Age	Jews	Arabs
Total	86	35
2	68	5
3	89	23
4	93	34
5	94	81

Central Bureau of Statistics, 2000

The need for more preschools in the Arab sector is also a result of the increasing number of Arab women entering the work force. Therefore, in 1995/96, the Ministry financed the construction of

100 pre-compulsory preschool classes in the Arab sector. In addition, following the recommendations of a special Knesset committee, training for Arab preschool teachers was expanded: In 1995 and 1996, the number of college classes to train Arab preschool teachers was doubled, the professional surveillance of the Ministry was expanded to cover preschools, professional guidance was improved, and unique curricula were developed.

### **9.1.2 Elementary and Secondary Education**

During the past decade, the number of middle schools in the Arab sector has increased by 43%, and that of high schools has increased by 24%. During the past decade, there has been an increase in attendance rates in the Arab sector, which have risen from 67.3% to 78.9%. There has also been an increase in attendance rates in the Jewish sector, but at a slower pace, such that the gaps between the sectors have decreased. However, in 1997/1998, the drop-out rate of Arab students remained five times as high as that of Jewish students – 20.7% versus 4.5%, respectively (see Table 12).

**Table 12: Attendance Rates of Youth Ages 14-17 in Schools under the Surveillance of the Ministry of Education, by Sector (in %)**

Year	Arab Sector*	Jewish Sector**
1980	51.0	66.8
1995	67.3	95.9
1998	78.9	94.5

\*Not including private schools and schools in East Jerusalem.

\*\*Not including data on attendance rates in institutions under the surveillance of the Ministry of Labor and Social Affairs.

Source: Ben-Arie and Zionit, 1999

By age 17, attendance rates have dropped to 68% among Arabs, while they are still close to 90% among Jews.

**Table 13: Attendance Rates, by Age and Sector, 1997/98 (in %)**

Age	Arab Sector	Jewish Sector
14	90.4	98.6
15	83.0	98.0
16	73.8	94.3
17	67.4	88.8

Source: Ben-Arie and Zionit, 1999

A trend of major significance is the increase in the attendance rates of girls, and the closing of the gap in attendance rates between boys and girls. During the 1980s, 44% of Arab girls attended grades nine-12. Within ten years, their attendance rate had increased to 71%, matching that of boys (70%; see Table 14). By 1998, the attendance rate of girls had clearly exceeded that of boys (82% and 75%, respectively).

**Table 14: Average Attendance Rates of Arab Students in Grades Nine-12, by Gender (in %)**

Year	Total	Boys	Girls
1980	51	58	44
1993	70	70	71
1998	79	75	82

Not including private schools and schools in East Jerusalem.

Source: Sprintzak, 2000

There are notable differences in the attendance rates of groups within Arab society. For example, the 12<sup>th</sup>-grade attendance rate of the Druze is higher than that of all Arabs, while that of Bedouin Arabs is lowest (76.0%, 67.3% and 49.7%, respectively).

**Table 15: 12th-Grade Attendance Rates, by Sector, 1997/98 (in %)**

Sector	Attendance Rate
Arabs	67.4
Bedouin in the Negev	49.7
Druze	76.0
Jews	84.2

Source: Ben-Arie and Zionit, 1999

## 9.2 Scholastic Achievements in the Arab and Druze Sector

The scholastic achievements of Arab children are lower than those of Jewish children: In national examinations conducted in 1991 and 1992, children in the Arab and Druze school systems scored lower than did children in the Jewish sector. For example, the percentage of children in the Arab sector who failed the examination in arithmetic was more than twice that of children in the Jewish sector (Lavi, 1997; Abu-Asbah, 1995).

There is also a gap between the Arab and Jewish sectors in the rates of eligibility for a matriculation certificate: In 1997, about 21% of all Arab (including Bedouin and Druze) youth age 17 were eligible for a matriculation certificate, compared to 44% of their Jewish peers (see Table 9 above). (Differences were also found among segments of the Arab sector. For example, 26% of the Druze, 18% of the Moslems, 44% of the Christians, and only 10% of the Bedouin were eligible for a certificate.) As in the Jewish sector, the rate of eligibility for a certificate is higher among girls in the Arab sector.

## 9.3 Resources in the Arab Education System

There is a great deal of variance in the resources allocated to education in the Arab versus the Jewish sector. These discrepancies are reflected in various aspects of education in the Arab sector, such as physical infrastructure, the average number of students per class, the number of enrichment hours, the extent of support services, and the level of education of professional staff.

In 1991, the government established national and local committees to examine the achievements of Arab students. These recommended reinforcing educational resources in the Arab sector, allocating more teaching hours per student, matching the quality of teaching in this sector to that in the Jewish sector, hiring more teachers in the Arab system, and hiring more supervisors, particularly of Arabic language instruction.

Also in 1991, the Ministry of Education prepared a five-year plan whose aim was to place the budgetary and educational standards of the Arab sector on a par with those of the Jewish sector. To this end, it suggested unified criteria for allocating resources to the Arab sector, relative to the Jewish sector, and proposed integrating the Arab and Druze sectors equally and fully in all new Ministry programs.

In the intervening years, the recommendation to match the budgetary standards of the two sectors has only been implemented in part. Significant gaps in the budgets of the Jewish and Arab education systems have therefore remained.

In 1998, a committee established to prepare a five-year plan, headed by Professor Miriam Ben-Peretz, presented its recommendations, which addressed some but not all of the areas needing improvement. In July 1999, the decision was made to implement the recommendations of this committee for 1999-2003. The various departments of the Ministry of Education reviewed the recommendations relevant to their respective areas of responsibility, and the Ministry began implementing them. The Follow-up Committee on Arab Education claims that the Ministry's implementation has only been partial, and does not encompass all of the recommendations presented in the original five-year plan. According to the committee, a budget of NIS 792 million is still lacking (Follow-up Committee on Arab Education, 2000). In addition, the five-year plan did not at all address informal education, art and culture, despite the extensive need in the Arab sector.

### **9.3.1 Physical Infrastructure**

There has been a large increase in the number of classrooms in the Israeli education system in the past decade: In the Jewish sector, the number of classrooms increased from 29,448 in 1990 to 34,747 in 1998, and in the Arab sector, the number of classrooms increased from 6,720 in 1990 to 8,423 in 1998 (Sprintzak et al., 2000).

According to a 1996 report of *The Follow-up Committee on Arab Education*, the Arab sector still lacks physical resources, especially in the elementary school system, despite the recent increase in the numbers of schools and classrooms. For example, the number of laboratories, workshops and sports facilities is still insufficient. More than one-third of Arab children study in flammable and dangerous structures. The situation is particularly severe in the Bedouin sector, especially in the south of the country and in the unrecognized settlements, where few classrooms have been built.

### 9.3.2 Number of Students per Class and Hours of Instruction

Table 16 presents the differences in the average number of students per class between the sectors. The average number of students per class has remained higher in the Arab than in the Jewish sector throughout the past decade. In 1998, there was an average of 27 students in each class in the Jewish sector and 31 students in each class in the Arab sector. Contrary to a trend of constant increase in the number of students per class in the Jewish sector, the number of students per class (31) has remained stable in the Arab sector over time.

**Table 16: Average Number of Students per Class, by Sector (1980-1998)**

Year	Average Number of Students per Class	
	Arab Sector	Jewish Sector
1980	31.1	25.8
1990	30.9	27.1
1998	31.0	27.1

Source: Central Bureau of Statistics, 1999

Hours of instruction were added to the enrichment basket that, until five years ago, was provided to Jews only. In 1995, an index of disadvantage was introduced, specifically to measure disadvantage in the Arab and Druze sector. The index makes it easier to aptly allocate resources to schools in the Arab sector, so as to cultivate weak populations. In 1996, the average enrichment basket for Arabs had already reached two-thirds of that in the Jewish sector. However, the distribution of hours and budgets per school is not equal in the two sectors, and does not take into consideration the existing gaps between the two sectors.

### 9.3.3 Support Services

Table 17 demonstrates the increase in support services in the Arab education system between 1992 and 1996. The number of truant officers in schools tripled, and the number of extracurricular clubs grew. Positions were added for psychologists, and students from the Arab and Druze sector who had not previously participated in the *MABAR Program* (which offers special assistance with matriculation examinations) were now able to benefit from it.

**Table 17: Allocation of Resources to Different Sectors, 1992-1996**

Resource (in Numbers)	Jewish Sector	Arab Sector (Includes Bedouin)	Druze Sector
Truant officers			
1992	111.5	11.0	2.5
1995	167.0	30.5	7.5
After-school enrichment centers			
1992	118	1	1
1995	412	33	5
Students in the MABAR Program (help with matriculation exams)			
1992	708		
1995	1,078	189	44

Educational psychologists			
1992	475	2.5	1.7
1995	680	43.5	6.5

Source: Brandes, 1996

**Table 18: Percentage of Schools Having Different Support Services, by Sector (1994/95)**

Service	Jewish Sector			Arab Sector		
	Elementary Schools	Middle Schools	Secondary Schools	Elementary Schools	Middle Schools	Secondary Schools
Guidance counselor	67.4	95.7	94.0	18.7	64.4	74.4
Psychologist	91.3	81.0	65.8	44.4	27.4	34.8
Social worker	63.4	60.6	52.7	27.7	23.3	40.8
Truant officer	64.7	72.8	61.1	51.1	64.4	53.5
Mentors*	55.2	10.2	25.0	37.4	5.3	18.5
Computer-assisted learning	55.4	57.7	53.7	26.2	33.3	32.2
Study center	28.7	51.4	31.0	15.0	14.7	8.2
In-service training for staff	88.8	84.9	82.2	59.4	65.3	74.0

\*Such as university students who help elementary school children (*PERAH Program*), volunteers in big brother/sister programs, etc..

Source: Central Bureau of Statistics, 1997

Despite the increase in the number of positions available for support staff (truant officers, social workers, educational psychologists, speech therapists), support services in the Arab sector are still very inadequate, and are still not commensurate with the percentage of Arab children and youth in the population. According to *The Follow-up Committee on Arab Education*, 160 psychologist and guidance counselor positions and 150 truant officer positions remain unfilled in the Arab sector. According to the Committee, this issue has not received sufficient attention in the five-year plan. Table 18 indicates the discrepancies between the support systems in each sector.

### 9.3.4 Manpower in the Education System

The training, development, and level of education of teachers has a very significant effect on their students' levels of achievement. The traditional teaching methods and authoritative relationship between teachers and students that are the norm in the Arab sector have received extensive attention in every discussion of the Arab education system. A comparison of the levels of education of Jewish and Arab teachers reveals that the academic training of Jewish teachers is on a much higher level than that of Arab teachers. In light of the results of feedback examinations and the discrepancy in the failure rates of Jewish and Arab pupils (on tests of reading comprehension and arithmetic) in 1991, a committee established in 1992 recommended immediately reinforcing the educational

resources allocated to the Arab sector. It also strongly recommended that hours of instruction be added for Arab students and that the qualifications and training of their teachers be improved (Lavi, 1997).

Recent years have seen an increase in the number of teachers with academic degrees and a decrease in the number of uncertified teachers in the Arab sector, thanks to the accreditation of the Arab Teachers' Seminary in Haifa in 1996, and the accreditation of the Arab Teachers' Seminary at Beit Berl in 1998. Nevertheless, the percentage of Arab teachers with academic degrees is still low, relative to that of Jewish teachers. According to the *2000 Statistical Abstract* (Central Bureau of Statistics, 2000), in 1997/98, 39.7% of all of the teachers in the Arab education system had an academic degree, compared to 59.5% of their Jewish colleagues. According to Sprinzak et al. (2000), 25% of the elementary school teachers and 62% of the secondary school teachers in the Arab education system had an academic degree, compared to 38% and 72%, respectively, of the elementary and secondary school teachers in the Jewish education system.

The Ministry of Education has established a framework for in-school, in-service professional training in alternative teaching methods. Resources invested in training and development must also take into consideration school administration and supervision, which are crucial to school life. Rather than "settling" for the training of teachers alone, resources should be allocated to train administrators and supervisors to be leaders in education.

### **9.3.5 Special Education**

The attendance rates in special education frameworks in the Arab sector are lower than those in the Jewish sector. This is a result of the lack of special education frameworks and classes, the lack of special education teaching hours, the lack of professional supervision, under-diagnosis of children who need special education, limited awareness in the Arab sector of the importance of education for the disabled child, and insufficient awareness on the part of parents of the needs of disabled children.

The percentage of children with special needs is 7.6% in the Jewish sector, compared to 8.3% in the Arab sector. The percentage of children with special needs in the Arab sector may be an underestimate, due to the lower rate of detection and diagnosis of children with mild disabilities such as learning disabilities or behavior problems in that sector. It is also important to note that the percentage of children with severe disabilities is much higher in the Arab than in the Jewish sector (5.4% and 3.3%, respectively; Naon et al., 2000; see Chapter 8). There are no data available on the number of children in the Arab sector who need to be diagnosed for a learning disability. Key personnel in the Ministry of Education have reported that an inter-university committee was recently established to develop instruments for the diagnosis of learning disability for use in the Arab sector. In addition, an Arab association was recently established at Aabelin College to construct diagnostic tools appropriate for use in the Arab education system.

It should be noted that effort is being made to reduce the gaps in special education between the Jewish and Arab sectors, under the **Special Education Law**. In recent years there has been an increase in the number of Arab students attending special education: In 1997, 6,000 children attended special education schools in the Arab sector, which was double the number who did so in 1985. In 2000, the percentage of Arab children in the special education system was 18% – more fairly representative of their percentage in the total student population (21%). In addition, there has been an increase in the number of special education classes in the Arab sector. For example, between 1999 and 2000 the addition of special education classes in the Arab sector constituted 45% of the entire budget earmarked for the addition of special education classes. Despite the increase in Arab children attending special education frameworks and the increase in special education classrooms, special education classes are still more crowded in the Arab than in the Jewish sector.

Not all Arab local authorities offer extensive diagnosis, due to the lack of educational psychologist positions. Moreover, the lack of special education institutions in the Arab sector often means that placement committee decisions cannot be implemented. Children who have been diagnosed as needing special education do not necessarily receive it. Many disabled children in the Arab sector do not attend a framework appropriate for their needs. The study found that thousands of children who need special education do not receive it, and that hundreds do not attend any framework at all, and remain at home. According to the study, many special education schools in the Arab sector do not meet the minimum level or conditions required of an educational institution. Consequently, special education is “uniform”, and children with differing needs are placed in the same class and receive the same care.

As noted, there is a significant lack of professionals who can care for children with disabilities. This impedes appropriate diagnosis and treatment. A significant proportion of disabled Arab children do not receive the pedagogical, psychological, and paramedical services, or the hours of instruction, for which they are eligible. Many special education teachers lack appropriate training, although their number is diminishing due to the opening of suitable frameworks of study.

It is also still necessary to develop continuing frameworks for children with handicaps (especially the blind and deaf, physically disabled, and those with severe behavior problems); academic and vocational tracks in special schools; and curricula for special education schools in the Arab sector. The Department for Training of Manpower in Education has allocated NIS ten million annually for the years 2001-2006 to train teachers and other staff to work in special education in the Arab sector.

#### 9.4 Programs for Weak Students and Drop Outs in the Arab Sector

As indicated elsewhere, the drop-out rate among Arab youth is high, and remains one of the most difficult problems confronting the Arab education system. Nevertheless, this rate has been declining slowly. One of the implications of the decline in the drop-out rate is that schools must address a population with more educational difficulties. This increases the importance of investing in programs for disadvantaged youth within schools.

As a rule, only a small number of the programs for weak students and drop outs are implemented in the Arab sector. The Arab education system has not received reinforcement hours for projects for weak populations from the Department of Social Welfare. In 1997, the Follow-up Committee on Arab Education, through *Adalah – The Legal Center for Arab Minority Rights in Israel*, appealed to the Supreme Court in its instance as the High Court of Justice to instruct the Ministry of Education and the government of Israel to implement these programs in Arab towns and villages. The State reported that it would implement the programs gradually during the coming five years; this was reflected in the 1998 budget for education. It should be noted that the Ministry of Education employs two different indices of disadvantage for the Jewish and Arab sectors. In order to address the needs of weaker Arab students, these indices should be unified, and a policy instituted of differential distribution of hours of instruction, based on the needs of the individual student (see Kahan and Yelenick, 2000).

### 9.5 The Education System in the Bedouin Sector

The Bedouin sector in the south of the country is the weakest of all of the population groups in Israel. The largest gaps in education may be found in this sector, which suffers from dire problems that prevent it from developing and improving the level of services. The extremely high natural reproduction rate of the Bedouin requires swift expansion of the education system, which involves building classrooms and adding appropriately-trained teachers. It is important to distinguish between the situation of the Bedouin in the north and in the south, as that in the south is more desperate.

That a significant portion of the Bedouin population does not live in permanent settlements adds hardship to legal and organizational difficulties (see Chapter 8). Schools attended by Bedouin children are located both in permanent settlements (where they were established by the State), and in unplanned, unrecognized encampments and settlements. The latter are well below par: Their budgets are low, they lack appropriate buildings or even electricity and water, in some cases, and they lack appropriate supplies and equipment. Schools in permanent settlements are better equipped and in better physical condition, but they lack equipment such as laboratories, and the level of crowding in them is very high. There is a severe shortage of compulsory kindergartens or preschools for this population.

The Bedouin education system also lacks teachers with suitable training. According to the Ministry of Education, in 1994, 23% of the teachers in Bedouin schools were uncertified. As it is not currently possible to find an appropriate number of teachers from within the Bedouin population itself, Arabic-speaking teachers are often recruited from the north of the country. However, these teachers do not persevere in their work in the south, and this also reduces the level of education. Opening preparatory courses for graduates of 12<sup>th</sup> grade from the Bedouin sector and providing additional incentives to teachers from the north may help, although it will not meet all needs. The new five-year plan developed for the Bedouin population, which began to be implemented in 1998, addresses this issue.

The low level of education is related to many factors: the limited resources available for education in the Bedouin sector, especially in unrecognized villages, the destitute financial state of the Bedouin community, and the lack of programs to increase the community's awareness of the importance of education. According to a report from 1996, the percentage of Bedouin students eligible for a matriculation certificate in 1994/95 was 6% (Abu-Saad, 1998).

## 9.6 The Status of Arabic Language and Culture

Arab children and Jewish children attend separate schools. The instruction in Arab schools takes place entirely in Arabic. Hebrew is taught as a second language beginning in the third grade, and English is taught beginning in the fourth grade. The curricula for the maths and sciences used in the Jewish sector are usually translated into Arabic. A number of unique curricula, such as history, Arabic language, and Arab heritage are taught in all segments of the Arab sector; several hours per week are set aside for the study of religion (Islam, the Druze religion, Christianity) by each segment of the population.

## 10. Informal Education

In addition to what is taught in schools, a great deal of emphasis is placed on “informal” education in Israel. The goals of informal education are to teach positive values, promote social skills, increase involvement in and identification with the community, provide an opportunity for social integration and social-cultural enrichment, and offer supplementary academic assistance.

The Youth and Society Administration of the Ministry of Education is responsible for implementing informal education programs in and outside of schools. Public agencies such as community centers and youth movements are also part of the informal education system, and receive budgetary and professional support from the Administration.

In this section, we will review the informal education system in Israel. First, we will review informal education programs in schools, and then we will review informal education programs outside of schools.

### 10.1 Informal Education in Schools

Informal education in schools encompasses a variety of programs.

#### **10.1.1 Weekly Homeroom Hour**

At all schools under the surveillance of the Ministry of Education, one hour a week is “homeroom hour”. During this hour, the homeroom teacher raises issues and engages the class in activities that are outside the scope of the curriculum. Homeroom hour may be devoted to social issues that affect

the class, issues of national concern, or inter-personal issues of interest to the students. Activities are adapted to the students' grade level.

The Youth and Society Administration of the Ministry of Education has developed a variety of structured programs, which are meant to help teachers engage their class during homeroom hour. The programs address complex issues, and guide teachers in fostering an open dialog with their students, which will enable the students to openly express their opinions and feelings. Programs deal with preparation for military service, the rights and obligations of students, student and youth leadership, and the like. They are meant to cultivate fairness in the school environment; open channels of communication and engender mutual respect; impart the social skills needed for life in a democracy and enable students to experience democratic processes and leadership; and enrich the students by exposing them to culture and art.

### **10.1.2 Special Social Programs**

In most schools, social programs are implemented to reinforce positive values (e.g., democratic values) and social skills, and prevent the development of problematic social phenomenon (e.g., violence, drug abuse). One example is the "life skills" program, which was developed by the psychological counseling service, the Curriculum Department, the Department of Elementary Education and the Department of Religious Education of the Ministry of Education. The "life skills" program encourages dialog between teachers and students, inculcates decisionmaking skills, and gives students a deeper understanding of themselves, others, and current events. The "life without drugs" program is implemented in schools by the Youth and Society Administration, in cooperation with the Authority to Fight Drugs. Because the choice of using this program rests with the school principal, its implementation varies from year to year.

Another program offered by the Youth and Society Administration and implemented in many schools around the country is the SHELACH (Nature, Land and Society) Program. SHELACH fosters a sense of belonging to the country and the State, and encourages youth to fulfill their national and civic obligations. SHELACH comprises a variety of activities outside the classroom (e.g., nature hikes), including activities conducted in cooperation with the IDF to prepare youth for their military service. In 1996, SHELACH activities were held in 671 schools.

The *CRB Foundation* facilitates the implementation of enrichment, tutorial, and social action programs in schools. Close cooperation among schools, parents and program directors determine which programs will be implemented. In 1996, CRB-funded programs were implemented in 400 schools and 700 preschools. However, implementation of these programs has decreased in recent years.

### **10.1.3 Encouraging Youth Participation in the Community and School, and Developing Youth Leadership**

Informal programs in the education system also encourage youth to get involved in school and community life. For example, the “personal commitment” program, implemented in schools throughout the country, requires students to volunteer for several hours each week at a community service. After undergoing training that familiarizes them with the needs of the population they will assist, the youths volunteer at community centers, or work with disabled children, or children from families in distress, or in clubs or institutions for the elderly. This program imparts basic coping skills and cultivates sensitivity to the needs of others. In 1996, 65,000 students participated in the “personal commitment” program.

The development of leadership among youth has garnered special attention. The Youth and Society Administration implements three leadership development programs: Student and Youth Councils, the Youth SHELACH Leadership Program, and the Youth Leadership Program, which are implemented in cooperation with the Association of Community Centers and the local authorities. Aspects of these programs take place outside of school, and require participants to invest time and energy in them. Student and youth councils and the youth leadership program allow youth who are not in the formal education system to participate. All three programs enable youth to take leadership roles, learn from experience, and experience the democratic process. Participants learn how to formulate a plan of action, make decisions, resolve conflict, be assertive, represent and report to others, and the like. They are trained in preparation for the roles they fill in these programs.

*Student and Youth Councils* are a democratically elected body of students and youth that provide a channel for dialog and cooperation between teachers and students, and between the school and the community; they represent students of all ages before the school and education authorities. The councils act on four levels:

1. *School councils* are elected in every school that participates in the student councils program. According to the staff of the program and council representatives, the goal of school councils is to represent students to the school administration and take responsibility for their welfare. Advisors see the councils as a sort of “union” for students.
2. School councils choose from among their members a representative to the *local authority council*. These councils also comprise members who were not elected by students, but who represent groups of youth who are active in other organizations, such as community centers and youth movements. In this way, the program enables youth who are not in a regular education framework, or who do not attend any framework at all, as well as youth who are interested in leadership roles but who were not elected by the students in their school, to take part in the program and experience a leadership role. In 1996, student and youth councils were active in 95 local authorities. The local authority councils represent youth before the community and the local authority. They initiate and organize activities for children and youth in the community, work for the welfare of children, and help the community. Some local

authority council representatives see their role as being a broad one that involves helping all residents of the community.

3. Representatives from the local authority councils are elected to the **regional council**. At present, there are regional councils in all regions of the Ministry of Education in Israel. In 1998, 408 young people served on regional councils, representing their peers before the Ministry of Education and other government and public organizations. Regional councils follow regulations formulated by the council members together with their advisors and other staff in the education system. The regional councils comprise committees that are responsible for writing regulations and monitoring their implementation, disseminating information about the councils and their activities, initiating social activities for students, and fielding referrals and complaints from students concerning infringements of their rights by the education system or others.
4. Representatives from each regional council are elected to the **national student council**, which is the highest representative body of students. Representatives of the national council participate in meetings of the Pedagogic Center of the Ministry of Education and the education committee of the Knesset. They initiate activities at the national level to promote the interests of students.

Elected representatives of student councils are trained in leadership skills during a five-day summer course, which teaches them how to present a position, lead a discussion, plan and organize programs, market an idea, and cope with conflict. In addition, each student or youth council has an advisor appointed by the Youth and Society Administration, whose job is to guide and facilitate their work.

The **Youth SHELACH Leadership Program** trains youth who have completed grades nine and ten to lead field trips alongside SHELACH teachers at their school, help organize SHELACH activities at school and in the community, teach lessons on the land of Israel and lead nature observations, implement leadership programs in the community, and fill various roles in school and community activities, based on their talents and interests. Youth SHELACH leaders work according to the structured annual plan developed by SHELACH teachers.

Candidates for this role are selected by the school administration and the SHELACH teacher in consultation with the homeroom teacher. The final selection of candidates for the training course is made by a regional selection committee. Training for youth SHELACH leaders prepares them to guide and manage field trips and SHELACH activities in and outside of school, under the guidance of a SHELACH teacher.

SHELACH training has several stages: a preparatory course, prior to the basic course; a basic training course at a summer camp; continued training in the regions during the school year; a course in field navigation and camping (one year after the basic summer course); a course in survival

training; and conferences and practice workshops. In 1997, 903 young people participated in the basic summer training course.

For the **Youth Leadership Program**, students are recruited from the ninth grade. Unlike student and youth councils and SHELACH activities, all youth leadership activities take place outside of the school system and are sponsored by local authorities and community centers. The main role of the youth leader is to lead younger children (from grades three and four through six) who participate in activities organized by community centers, clubs, or other local organizations. The youth leaders also contribute to the community by volunteering, and planning and implementing community or neighborhood programs (e.g., painting fences, helping children, organizing social activities for the public).

Candidates are selected for this program in two stages: First, they are personally interviewed by the youth coordinator to clarify their motives for joining the program, and their personal ability. Then the youth coordinator and the regional advisor judge the candidate on his personal and group behavior during a training session.

The training of youth leaders also has two parts: The first is a local course (60-90 hours) held weekly or biweekly during the school year; and the second is a regional, week-long seminar held at a summer camp. In 1997, 1,401 youth leaders attended the regional summer course. The youth coordinator, the department of youth, the community center, or the youth department of the local authority oversee the activities of youth leaders.

In 1998, a comprehensive study was conducted of these three leadership programs, which focused on their activities and youth participation (Kahan-Strawczynski et al., 2000). The study examined the characteristics of program participants, their attitudes and values, their patterns of activity, and their view of the programs' contribution to them and to their community and school. Between 60% and 90% of the participants reported that their participation in one of these programs improved their self-confidence to a great or very great extent, taught them new skills (such as guidance and administration), and increased their knowledge about and concern for the community and the country. Discussions with youth leaders revealed that that program induced some of them to adopt new norms of recreational activity, which have a preventive ("gives me a framework") or even a therapeutic ("keeps me off the streets") nature. In addition, it was widely reported that the activities of these programs contribute to the systems in which they operate.

All three of these programs are also implemented in the Arab sector, to a limited extent.

#### **10.1.4 Community Schools**

Community schools promote the approach that the meaning of education extends beyond the curriculum, to social and cultural values and involvement in the community. Community schools create a link between the goals of the formal education system, which are primarily to impart knowledge, and the goals of informal education systems. They do so by fostering openness and

mutual influence among the school, community and parents. In other words, community schools are open to the influence of parents and the community, and attempt to generate openness in the community to the influence of the school. The physical and educational environment of the school is available to the community, and parents, other residents, and community organizations contribute their expertise and experience to the school. In this way, students are educated to become active citizens involved in their neighborhood.

Interaction between these schools and the community is reflected in the following:

1. Cultural-educational activities: recreational activities, enrichment courses such as “the science of family”, “industry and the community”, “open minds”, and “dilemmas during adolescence”.
2. One-time community activities: a community sports day, a health day, activities to prevent traffic accidents.
3. Activities during the school day: lectures of parents on educational topics, development of curricula by parents and members of the community.
4. Activities in which the community is perceived as an experiential and learning site: students helping people and institutions (Magen David Adom, old age homes, hospitals, absorbing immigrants); expansion on subjects of study through assistance to people and institutions (e.g., learning about the customs and ceremonies of local ethnic groups, the history of the community, etc.).

In Israel, there are both elementary and secondary community schools. Community elementary schools are operated through the Association for the Advancement of Community Schools, in cooperation with the Department of Welfare Services of the Ministry of Education, the Association of Community Centers, and JDC-Israel. The Association for the Advancement of Community Schools began implementing this program in 1978 in five elementary community schools. At present, there are 250 such schools (70 of them in the Arab sector).

The programs implemented in elementary community schools vary from one school to another and may include joint activities for parents and children, activities to develop community student and youth councils, recreational activities, and programs in good citizenship and values education. These programs may be part of the curriculum, or extracurricular. The outlook of the community school is also reflected in its administration: Each school has a public committee comprising parents, and representatives of community residents and organizations, the local authority, and the school. This committee identifies the needs of the school and the community, translates ideas into operative goals, and helps school staff construct a budget that is in keeping with these.

Community secondary schools are operated by the Youth and Society Administration of the Ministry of Education. These schools began to be established in the 1980s. As their student population is more mature, secondary community schools emphasize cooperation between teachers and students, in addition to cooperation and mutuality between the school and the community. Community secondary schools also define the community in which they are active. Unlike

community elementary schools, most of which are in the neighborhood where students and parents live, community secondary schools cover a wide geographic area, sometimes even serving an entire or several regions. Community secondary schools also define their activities in accordance with the needs of teachers, students, parents and others in the community; their activities are therefore varied, involving community leaders and laymen in the school, as well as involving students and teachers in community projects. Community secondary schools are also administered by a public council, which comprises student representatives (usually the school's student council, or the youth council of the local authority). The Youth and Society Administration offers in-service training to the students, teachers and other school staff, parents and community leaders who are involved in making the community school work. In 1996, 82 schools functioned as community secondary schools.

## 10.2 Informal Education Outside of Schools

Informal education for children and youth outside of schools takes place in many settings, including community centers, youth clubs and youth movements.

### 10.2.1 Community Centers

Israel has a network of more than 170 community centers, located in cities and towns throughout the country but concentrated in areas with residents who have low income. Most of the community centers are operated by the Association of Community Centers, and offer residents of all ages, particularly children and youth, a variety of recreational activities.

Community centers aim to improve the quality of community life. They are involved primarily in the social absorption of immigrants, community communication (local radio, community television, local newspapers, and computerized communication), learning centers, art and culture, health and sports, science and technology, active creativity for the disabled, and international cooperation with like organizations. They also maintain ties with Jewish youth movements in the Diaspora, sometimes hosting joint summer camps, student exchanges, and the like. A sizable portion of the budget of the Association of Community Centers is provided by the Ministry of Education.

Community centers offer youth a variety of cultural activities that enable them to experience, enjoy, initiate and learn. The cultural-educational activities of the centers emphasize positive social messages, such as personal and social responsibility, love of Israel, community involvement, individual growth, and the like. Most of these activities take place among peer groups, local youth movements, and the youth leadership program. Community centers also offer culture clubs for youth, community television, computer, dance and drama classes, sports, and occasional activities such as field trips, ceremonies, and community celebrations.

Community centers also operate a program that prepares immigrant youth and their families for the young people's military service, and clubs for immigrant youth, which offer activities for youth from specific areas (Ethiopia, the former Soviet Union, the Caucasus, Bukhara).

Data from a 1991 Central Bureau of Statistics survey of students in grades nine through 12 indicate that 21% of Jewish students and 25% of Arab students participate in some activity at a community center. It must be noted that the lower school attendance rates of Arab youth do not have any bearing on the relative participation of Arab and Jewish youth in community center activities.

Community schools (see above) function as community centers after school hours. Many of these schools offer students an opportunity to participate in activities that are not part of the curriculum. Nearly all of the activities offered by community centers, community schools and schools are offered for a fee, although discounts are available for special groups (e.g., large families, single-parent families).

### **10.2.2 Youth Movements**

Traditionally, youth movements were an important experience for many young Israelis. The roots of Israel's youth movements lie in Europe, prior to the establishment of the State; many young immigrants found a path to Israel through socialist, Zionist, or religious youth movements. Beginning in the 1920s, youth movements, under the auspices of political parties, were central to the ideological and values education of young people everywhere. They were the harbingers of a unique youth culture, autonomous in part, which functioned as a society of equals and which served as an agent of political socialization and a channel of political mobility.

At present there are 12 youth movements in Israel, representing different sectors. Some of them are tied to political parties, while others are not. All of them promote individual responsibility, involvement in society, and commitment to national values, while stressing their ideological positions. The movements are active in political and civic education, building a tie between the youth and their country, and cultivating a sense of belonging to and love for the homeland.

Youth movements also offer their members a variety of informal educational and recreational activities, including field trips and hikes, summer camps, sports and cultural-values activities. The youth movements encourage their members to volunteer to help absorb immigrants, work in a disadvantaged neighborhood or development town, or otherwise contribute to their community.

The youth movements provide an opportunity for leadership development, enabling teenagers to serve as counselors and group leaders for younger children, or to progress in the hierarchy from junior to senior counselor, to advisor. Members perform various organizational tasks and initiate movement activities (such as being responsible for a cultural activity, for equipment, for a field trip, etc.). Adult coordinators and counselors advise and assist the young participants. Some of these adults may be performing their military or national service, while others may be older, although usually in their 20s or 30s. Youth movement administrations usually comprise representatives of participants, who are party to decisionmaking.

The movements also support youth leadership programs in development towns, and work with youth at risk who have not completed high school by the time of their army enlistment. Some “graduates” of the youth movements do their military service in the framework of NAHAL (as partners in the establishment of new settlements in Israel); others are activists in the fields of guidance, welfare and immigrant absorption.

In recent years, there has been a decline in the popularity of the youth movements, and in the percentage of young men and women who participate in their activities. Nevertheless, youth movements continue to be influential among many youth, and are still the largest framework for informal education. A 1997 estimate of their relative size made by the Ministry of Education indicated that 257,408 (or 26.9% of) Jewish children ages nine-18 participated in youth movement activities, and 23,815 Jewish youth participated as counselors.

### 10.3 Informal Education in the Arab Sector

The Ministry of Education, through the Youth and Society Administration in the Arab sector, develops and implements informal education programs for Arab youth. Most of the programs described above chapter are also implemented in the Arab sector, although the majority of them are not as prevalent as they are in the Jewish sector. These programs are adapted or redeveloped for the Arab sector.

One program unique to the Arab sector is school scouts. The scout movement operates in cooperation with the Youth and Society Administration in some Arab schools, and its activities are part of the curriculum in those schools.

The CRB Foundation promotes education in the Arab sector, as well. Its programs generate dialog and cooperation among schools, parents and local authorities in order to maximize the children’s potential, teach them better skills and study habits, and empower local agencies. The CRB Foundation has been active in Arab schools since 1993; in 1996, it implemented programs in 30 schools in 14 villages and two cities. During that year, 12,000 of the 165,000 Arab school children in the country participated in these programs. However, as noted, the Foundation has curtailed its activities in recent years.

At times, it has been difficult to implement programs in Arab schools and local authorities because of the requirement that parents and local authorities help finance them, and because school and local staff are not always forthcoming about generating dialog with parents. Nevertheless, some schools have succeeded in enlisting the cooperation of parents and involving them in school life. These schools have benefited from a variety of enrichment programs, some of which have been integrated into the curriculum. A few schools have been able to offer in-service training for teachers and principals, including guidance days on changing teaching methods.

The “creativity program”, unique to the Arab sector, aims to improve the climate in Arab schools, which, due to teacher burn-out and conservative teaching methods, can be an unattractive place for

students. Developed by the Follow-up Committee on Arab Education and Insann and first implemented in 1992, the program develops students' creativity. Initially, creative writing was chosen as the focus of the program, and writing groups were led in participating schools by renowned Arab authors and poets. The success of the program led to its expansion to additional schools and additional areas of creativity.

### **10.3.1 Extracurricular Activities**

Some claim that a lack of informal education activities, including sports, is a major problem in the Arab sector. Research has found a lack of sports and games facilities for elementary school children, for whom the streets are a favored playing field. Until recently, financing for extracurricular activities was insufficient, and unlike many Jewish parents, most Arab parents are still unable to pay the fees required of them. Nevertheless, interviews conducted with field staff and researchers working in the Arab sector reveal that, recently, there have been significant changes. Informal education within schools has increased, and resources have been allocated for extracurricular activities. Nevertheless, a seminar conducted in late 1996 to define the main issues confronting Arab children and youth raised the need to increase informal activities and recreational frameworks, primarily given increasing concern about undesirable social phenomena, such as violence, crime, and drug abuse.

The Association of Community Centers is very active in implementing after-school recreational programs for Arab youth. In recent years, a network of community centers has been established in Arab towns and villages; many attempts have been made to plan activities appropriate to the culture and needs of Arab children and youth. Professionals at the community centers and their partners have discovered an urgent need to increase both physical infrastructure and manpower so as to expand recreational and cultural activities for Arab youth. This corroborates the finding that Arab youth tend to explain their lack of involvement in informal activities as being due to a lack of services, and not a lack of interest.

## **11. Leisure, Recreation and Cultural Activities**

In this section we will discuss the funds allocated for cultural, recreational, and artistic activities, cultural programs for children in and outside of education frameworks, and efforts to preserve the traditions and cultures of unique groups. We will then present data on the participation of children in recreational and cultural activities.

### **11.1 The Budget for Culture, Entertainment and Sport**

The State of Israel invests a significant percentage of its resources in promoting participation in cultural and recreational activities. Directly and indirectly, the government supports a variety of public and private cultural activities. The Ministry of Education and the Ministry of Science, Culture and Sport financially aid 300 artistic and cultural institutions, projects, and initiatives in culture and the arts, as well as initiating activities around the country and helping ethnic groups

preserve their culture. The Ministry of Foreign Affairs and the Ministry of Science, Culture and Sport also promote cultural relations and exchanges between Israel and other countries.

In 1997, the national expenditure on culture, entertainment and sport was 6% of the Gross Local Product. Public expenditure is 1.5% of the Gross Local Product. In 1999, about 4.5% of the Ministry of Education's budget was devoted to culture, sports, and educational television. In 2000, care for most of these matters was transferred to the Ministry of Science, Culture and Sport. We have no information that would make it possible to estimate what part of this expenditure is devoted to recreational and cultural activities for children.

The allocation of resources for cultural activities is determined by the Ministry of Education, the Ministry of Science, Culture and Sport, or the local authorities. Public and private foundations, private individuals and organizations, and commercial businesses also support cultural endeavors (e.g., the Foundation to Promote Quality Israeli Cinema, the Documentary Film Foundation).

The Department of Culture in the Ministry of Science, Culture and Sport promotes culture and art, religious Jewish (*Torah*) and orthodox Jewish culture. It formulates long - and short-term policy. Three public councils work alongside the Department of Culture: the Public Council on the Arts, which makes decisions, sets processes, and determines budgets for various arts; the Council for Public Libraries, which sets criteria for the proper management of libraries; and the Museums Council, which sets criteria for distributing budgets to museums. In addition, the Public Council for the Promotion of Art and Culture in Neighborhoods and Development Towns sponsors activities for weaker populations.

## 11.2 Cultural Institutions that Hold Activities for Children

There are a variety of cultural institutions in Israel, most of which have activities for children.

### 11.2.1 Museums

There are 180 museums in Israel in the fields of art, nature, science, archaeology, history, and technology. Some of these museums hold special activities for children and youth during the afternoon, as well as special events and camps during the summer and vacations. Also, special programs have been developed to enable school children to attend enrichment activities at museums.

### 11.2.2 Literature, Libraries and Print Media for Children

Israel has an extensive range of literature for children and youth. Once a year, the "Hebrew Book Week" fair is held, during which a variety of children's and youth books are sold at reduced prices. In the Arab sector, private agencies hold an annual book fair in major population centers.

In the Jewish sector there are a variety of newspapers and journals for children and youth. These include journals geared for young children ages five to seven (e.g., "First Reader", "*Maariv* for

Children”), and for teenagers (e.g., “All of Us”, “Young *Maariv*”). In some cases, children and youth themselves write and prepare articles for publication.

The **Public Libraries Law 1975** requires the State to establish public libraries, and sets criteria for recognizing a library as a public library. There are 950 public libraries in Israel, as well as school and other libraries. Practically every town in Israel has at least one library, with the exception of a few small settlements. The libraries house books in the following languages: Hebrew, Arabic, English, Russian, French, Romanian, Hungarian, Polish and Yiddish. There are also mobile libraries which bring books to small and far-flung settlements.

Public libraries have a children’s wing, with books for children and youth. In addition to loaning books, public libraries offer young readers a variety of journals for children and youth, and enrichment activities such as story hours, guest lectures by authors, and the like.

### **11.2.3 Theater, Music and Dance**

Israel offers a great deal of theater, music and dance for children, and in which children participate. A number of publicly-funded theaters in Israel present plays for children. In addition, private theaters and theater groups produce musicals, plays, magic shows, dance productions, circuses and the like for children.

Many local authorities sponsor and fund a children’s dance troupe; some also sponsor and fund a youth orchestra or band.

“Art for the People” is a unique Israeli organization that brings artistic and cultural activities to residents of peripheral areas and development towns. The organization also promotes art education and appreciation. For example, it “adopts” some 12,000 artistic productions a year, and makes sure they travel around the country. It also provides a “cultural basket” to schools (see below).

### **11.2.4 Enrichment Activities in the Sciences and Technologies**

The Ministry of Science, Culture and Sport supports a variety of programs that promote technology among the public, while giving preference to educating children and youth who live far from the main urban centers. This Ministry supports extracurricular activities, which cannot be held in schools due to budgetary limitations; programs for populations with limited opportunities for enrichment; programs for disabled and handicapped populations; and programs for the Arab and Druze sectors. For example, in 1997 the Ministry funded science workshops, summer seminars and science trips for children and youth, and a new science journal in Arabic.

The computerization of Israel’s education system received a significant push following the 1992 publication of a report of the senior committee on science and technological education. Learning with computers is perceived as being advantageous for the entire student population, and particularly beneficial for weaker students. Educational programming has been developed to aid the study of certain subjects and train teachers in using computers.

Since 1994, the “Today 98” Program has been implemented to computerize all schools and integrate computers into teaching. Recently, the Ministry of Education initiated development of an internet and intra-net network, to which 1,400 of Israel’s 3,800 schools have already been connected. With the help of the National Lottery, the Ministry is striving to connect all schools to the computer network. In addition, computers are being used to set up specific sites, establish virtual communities, introduce distance learning and guidance, and provide educational support for children who are home-bound or in the hospital, in cooperation with schools around Israel and abroad.

The belief that scholastic achievement is not only a consequence of what happens in school has led to the establishment of innovative community projects. “A computer for every child” was established with the understanding that, in today’s world, information technology skills are essential to the advancement of every child, yet economic hardship makes it difficult for many families to purchase a computer, and hence widens the gap between segments of society and increases inequality. As part of this program, children from poor families or from towns with limited resources are given a computer, computer programs, guidance using computers, and the continuing support of a mentor. A computer is brought to each child’s home, and parents are given guidance so they can help their child use it. By early 2000, about 10,000 computers had been distributed to children in this manner.

### 11.3 Cultural Institutions in Education Frameworks

At all levels of the education system (preschool, elementary and secondary school), subjects such as literature, foreign languages, arts, photography, and theater are taught as part of the curriculum, and as elective courses. In addition, various initiatives promote exposure to culture, cultural studies, and arts and crafts. Following are several examples.

Art high schools, which are part of the secondary school system, emphasize the arts alongside the regular curriculum.

Cultural enrichment is an important subject in every school. Schools receive a “cultural basket” (sponsored by “Art for the People”; see above), which includes attendance at between five and seven productions for each student throughout the year. A variety of cultural activities are held in the schools themselves, such as student choirs and bands, and dance and theater groups. The government, with the assistance of the National Lottery, is building arts and science centers in middle schools around the country, with the aim of developing an inter-disciplinary curriculum in the arts and sciences. These centers offer music, dance, ceramics, science and similar activities.

### 11.4 The Role of the Media in Promoting the Participation of Children in Cultural Life

Television plays an important role in Israel's cultural life. Radio stations and television programs are devoted to literature, art, Jewish culture and the cultures of minority groups. Certain programs address art and cultural activities, and report on festivals and productions. Special radio programs on culture, the arts, and educational subjects are devoted to children. Newspapers are a source of information on cultural topics, and contain special sections and supplements devoted to culture and the arts. Families that own a computer, usually also have access to the internet.

The Ministry of Education is responsible for educational television. By law, educational television must receive air time on public and private channels. Educational television educates, provides information, teaches about arts and culture, the sciences, communications and other topics, increases involvement in education and in the arts and culture, expresses Jewish culture in Israel and the Diaspora, and both reflects and teaches about the cultural traditions of all citizens of the State. Educational television broadcasts "teaching programs" during the morning, which are sometimes viewed by school children, and enrichment, family, current events, and more broadly educational programs in the evening. Israeli educational television also produces original educational and enrichment programs for children of all ages. Two television channels set aside time for children's programs. The cable television companies also produce a children's channel, which broadcasts programs for children during most of the day and evening, and "imports" scientific, cultural and educational programs from other countries. The Open University also broadcasts educational programs on radio and television. It should be noted that Israeli television and radio programs are broadcast in Hebrew, Arabic, English, Russian and Amharic.

### 11.5 Preserving Cultural Identity and Traditions

As a multi-cultural society, Israel helps various groups preserve and promote their culture by financially supporting ethnic artists. A number of museums are devoted to preserving various cultures, such as the Diaspora Museum, which presents the tradition and history of the Jewish people; the Babylonian Tradition Museum, which presents the history and folklore of Jews from Iraq; the Arab Folklore Museum; an institution for Arab art; the Joe Allon Center for Bedouin Culture; and a Center for Sephardi Jewish Culture, which promulgates Sephardi heritage. Students visit these museums and participate in workshops and special activities that increase their awareness of other cultures and educate them to respect other cultures.

It is the policy of the Ministry of Education to support cultural heterogeneity; it therefore funds professional and amateur dance troupes, singers and musicians who preserve the ethnic and cultural traditions of Israel's various immigrant communities. Within the Jewish sector, a variety of cultural activities for children from different backgrounds are supported by community centers, which also host amateur folk dancers and singers who preserve various traditions.

The State also helps preserve the heritage of its Arab, Druze and Circassian citizens, by supporting traditional dance troupes, ethnic music groups, museums and theaters. A number of museums preserve Arab and Islamic culture, most notably the Islamic Art Institute and the Arab Folklore

Museum. In the Druze community, the State supports a number of amateur and professional theaters, music centers, and dance troupes. Infrastructure is being established for the construction of museums about the Druze community; at present, there is a library in every Druze village in Israel.

**11.6 Patterns of Recreational and Cultural Activity among Children and Youth**  
In recent years, a number of studies have been conducted of the participation of youth in cultural and recreational activities. This section presents their findings.

**11.6.1 Participation in Cultural Activities and Entertainment**

In 1997, the Public Council on Art and Culture conducted a survey to determine the consumption of culture of Jewish youth ages 13-17 who attend school. Table 18 presents the patterns of culture consumption found by the survey. The Table indicates that cinema is the cultural activity most popular among youth. About 72% of them reported visiting the cinema at least once during the past month, and only 5% reported that they had never been to the cinema.

**Table 19: Frequency of Attendance at Cultural Performances and Exhibitions, 1997 (in %)**

Frequency	Cinema	Theater	Other	Music	Dance	Pop Music	Museum
During the past month	72	26	12	5	7	12	13
Within the past 3 months	10	19	8	3	4	6	7
Within the past 6 months	4	9	7	2	4	8	6
More than 6 months ago	9	24	18	15	15	33	27
Never	5	22	55	75	70	41	47

Source: Ben-Arie and Zionit, 1999

The percentage of youth who had participated in other cultural activities was much lower: About one-quarter of the youth had been to the theater at least once during the past month, 12% had enjoyed another type of entertainment, and a similar percentage had been to a museum. Only a minority reported having attended a music or dance performance at least once during the past month, and most reported that they had never been to such performances.

**11.6.2 Exposure to the Media, Books and Computers**

An “exposure” survey conducted by the Israel Association of Advertisement Agencies is conducted every year to determine the media to which young people are exposed, for the purpose of advertisement and marketing. The survey is conducted only among Jewish youth ages 13-18. It indicates that 84% of these youth read a newspaper on at least one of the five days that precede the survey; about three-quarters of them read a weekly magazine during the month that precedes the survey; and only one-quarter of them read a monthly magazine during the four months that precede the survey. Fewer than half (44%) of the youth reported listening to the radio on the day preceding the survey, and 15% reported that they never listen to the radio.

**Table 20: Exposure to the Media among Jewish Youth ( in %)**

Type of Media and Frequency of Exposure	Percentage
Read a daily newspaper during the past five days	84
Never read a daily newspaper	15
Read at least one weekly magazine during the past month	75
Never read weekly magazines	18
Read at least one monthly magazine during the past four months	30
Never read monthly magazines	53
Listened to the radio yesterday	44
Never listens to the radio	15

Source: Ben-Arie and Zionit, 1999

In 1991, the Central Bureau of Statistics conducted a survey for the Ministry of Education, which examined the patterns of recreational activity of Jewish and Arab students. No such survey has been conducted since. The findings of that survey indicated that 58% of the Jewish students had read one book during the month that preceded the survey, compared to 74% of the Arab students. This gap may be explained in several ways: First, the survey was conducted among students in grades nine through 12 in the two sectors. Since school attendance rates in the Arab sector are lower than those in the Jewish sector, it is possible that the findings do not reflect reading patterns among all Arab youth, and that Arab youth who attend school are more likely to read than are those who do not attend school. Second, it is possible that Arab youth read books because a wider variety of recreational activities is not available to them. Support for this may be sought in the finding that only one-third of the Arab students viewed a movie on a VCR during the day preceding the survey, compared to 46% of the Jewish students. In addition, one-third of the Arab students, compared to half of the Jewish students, used a personal computer during the month preceding the survey (see Table 20).

**Table 21: Types of Recreational Activity of Ninth-12th Grade Students in 1997, by Sector (in %)**

Activity	Total	Jews	Arabs
Viewed a movie on a VCR*	44.2	46.4	33.1
Read a book**	60.8	58.1	74.1
Used a personal computer	46.4	48.7	43.8

\* On the weekday preceding the survey.

\*\* During the month preceding the survey.

Source: Ben-Arie and Zionit, 1994

### **11.6.3 Recreation Outside the Home**

It is possible to divide the recreational activities of youth outside the home into two main categories: unorganized activity, such as going to a coffee shop, restaurant, pub or discotheque; and organized activity, such as participating in extracurricular classes (see the section on informal education, above).

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Table 21 presents information on the participation of Jewish and Arab students in these two types of activity. The Table is based on data from the survey conducted by the Central Bureau of Statistics in 1991 (as noted, no more up-to-date information is available). The Table indicates that larger percentages of youth in both sectors participate in unorganized than in organized activities. The most prevalent unorganized activity is going to a coffee shop or restaurant: More than three-quarters of the respondents engaged in these activities at least once during the month prior to the survey. Close to 40% of the youth went to pubs, discotheques, or game arcades.

**Table 22: Youth Participation in Recreational Activities Outside the Home during the Past Month, by Sector, 1990/91 (in %)**

Activity	Total	Jews	Arabs
<b>Unorganized Activity</b>			
Coffee shop or restaurant	78.7	82.4	60.3
Pub	43.7	48.7	19.0
Discotheque	38.8	42.9	15.4
Game arcade	41.1	42.5	34.0
<b>Organized Extracurricular Classes</b>			
Drama, dance or music	20.0	21.3	14.1
Painting, sculpture or photography	7.4	6.3	13.1
Arts and crafts	7.8	6.3	15.4
Science, technology and computers	10.3	9.0	16.6
Sports	38.0	37.5	40.7
Nature and Land of Israel	9.6	6.9	22.8
Other academic subjects	6.3	5.6	9.6
Foreign languages	4.9	4.2	8.4

Source: Ben-Arie and Zionit, 1994

The comparison between the Jewish and Arab students indicates that the Arab students spend less time in all of the unorganized activities than do the Jewish students, although the most popular recreational activity among them was going to a coffee shop or restaurant (60.3%). However, much smaller percentages of them went to pubs and discotheques; this may be explained by the sanction against the consumption of alcohol imposed by the Moslem religion. About one-third of the Arab students spend time in game arcades.

While the Arab youth participate less in all of the unorganized activities, they participate more, and in greater proportions, in many types of extracurricular class and activity – with the exception of drama, dance and music. Similar percentages (about 40%) of Arab and Jewish youth participate in sports; these classes have the highest participation rates.

The greater participation in extracurricular classes of the Arab students would seem to contradict the reports of fewer facilities and appropriate infrastructure for recreational activity in Arab towns and villages (see the section on informal education). However, it is important to remember that the information was gathered among students only; it is possible that, as a result of the low attendance rates of Arab students, the information does not reflect the behavior of all Arab youth, as it is reasonable to assume that youth who attend school are more apt to participate in such classes, and have more opportunities to do so than youth who do not attend school.

Chapter 10

**Special Protection Measures**



This chapter addresses the protection of children involved with the criminal justice system (as suspects, defendants, or convicted wards or prisoners); children who have been subjected to economic or sexual exploitation; children exposed to injury from armed conflict; and children seeking asylum (see also Chapter 7). This chapter also presents a summary discussion of issues concerning minority children, as raised in previous chapters.

## Children Involved in the Juvenile Justice System

### Article 40 of the Convention

#### 1. Age of Criminal Responsibility

As stated in Chapter 4, children under the age of 12 are not criminally liable. A child under age 12 may not be arrested, interrogated as a suspect or brought to trial. Generally, such children are put in the care of the child protection services, and their acts are likely to constitute grounds for determining that the minor needs protection under the **Youth (Care and Supervision) Law 1960**. Section 2(3) of the aforesaid law stipulates that “a minor is in need of protection if...he has performed an act that is a criminal offense, but has not been brought to trial” (see also Chapter 7).

Section 3(b) of the Police Directives - 14.01.05, Police Work with Minors (section 3(b); hereinafter Police Directives - Minors), addresses minors who have not yet reached the age of criminal liability, and states the following:

1. “An unpunishable minor who is suspected of committing an offense must be treated as a witness: He is not to be arrested or charged, nor fingerprinted, nor is a form bearing information about his identity to be completed.
2. An unpunishable minor may be detained for the purpose of clarifying his identity or bringing him to the attention of a child protection officer, who will be summoned to the police station.”

#### 2. Principles for Dealing with Children in the Criminal Justice System

In the State of Israel, criminally liable minors (i.e. youths between the ages of 12 and 18) are treated differently than are adults. The following are the principal laws prescribing how they are to be treated: The **Penal Law 1977**; the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** and regulations enacted thereunder; and the **Probation Ordinance [New Version] 1969** and regulations enacted thereunder. The **Youth (Trial, Punishment and Modes of Treatment) Law** pertains to Juvenile Court, arrest and pre-trial proceedings, procedure, punishment and modes of treatment (see below for further detail).

**2.1 Application of the Youth (Trial, Punishment and Modes of Treatment) Law**  
Under the **Youth (Trial, Punishment and Modes of Treatment) Law**, a minor is a person who has not yet reached the age of 18 on the date an indictment is filed against him. The Supreme Court has held that this rule applies even if the accused has reached the age of 18 by the time of trial.

Section 226 of the **Criminal Procedure Law [Consolidated Version] 1982** provides that the Youth (Trial, Punishment and Modes of Treatment) Law will not apply to offenses punishable by a fine (such as traffic offenses), with the exception of Section 5 thereof (which deals with punishment and modes of treatment). Section 45B of the **Youth (Trial, Punishment and Modes of Treatment) Law** further limits its application to traffic offenses. For some traffic offenses, minors will be tried by a traffic judge (and not a Juvenile Court judge); only some of the special rules that apply to minors in criminal proceedings will apply to them in traffic cases. Nevertheless, under section 45B(d) of the law, “A traffic judge may, on special grounds, which will be recorded...[and] if he deems it necessary and in the best interest of the minor, transfer the hearing to Juvenile Court”.

## 2.2 The Framework of Action and General Principles

The following agencies, by law, deal with minors suspected of having contravened the law: the Police Force; the Youth Probation Service (a State social welfare service acting under the auspices of the Ministry of Labor and Social Affairs); the Public Defender’s Office; the courts; the Youth Protection Authority (also under the auspices of the Ministry of Labor and Social Affairs, and responsible for juvenile residences); and, in a few cases, the Prison Authority. These agencies are governed by a series of laws, regulations and directives, which are founded on the principles of avoiding the labeling of a minor as a result of his interaction with the criminal justice system, and providing for his rehabilitation. In most cases, minors are handled by people who are specially trained for the task. In all systems, there are rules that aim to provide special protection for minors, including protection of their privacy and prevention of their stigmatization as criminals. A minor is accompanied by therapeutic professionals from the initial stages of criminal proceedings; the majority of decisions regarding the fate of the minor are made in consultation with these professionals, and with preference given to treatment and rehabilitation. Section 2(b) of the Police Directives - Minors states:

“Police policy regarding youth is anchored in the distinction between young people whose delinquency is a way of life, and young people who have committed a random offense that is not a felony, and who should be extricated as quickly as possible from the cycle of criminal behavior. This policy is reflected in the efforts made to prevent the minor from being labeled a criminal, and to prevent his involvement with the police from being known to the public.”

## 3. Minors as Suspects or Defendants

### 3.1 Basic Rights

Beyond the rights accorded to minors, to be specified hereunder, a number of basic rights are due all suspects and offenders in criminal proceedings in Israel.

#### **3.1.1 Indictment Only for Acts Prohibited by Law**

Section 1 of the **Penal Law** determines that "there is no offense, and no penalty therefore, unless prescribed by statute or in accordance therewith".

#### **3.1.2 Presumption of Innocence**

Under section 34I of the **Penal Law**, a defendant in a criminal trial is presumed innocent, unless his guilt is proven beyond a reasonable doubt. The legal process is so structured as to impose the burden of proof on the prosecution; a defendant may, by entering a plea of "not guilty", force the prosecution to bring proof of the charges against him (section 152a of the **Criminal Procedure Law**).

#### **3.1.3 Defense against Self-incrimination**

A suspect in a criminal investigation and a defendant on trial have the right to remain silent. The **Criminal Procedure (Witnesses) Ordinance 1927** determines that "a person interrogated [at a police station]...is required to respond correctly to all questions posed to him during the investigation by the police officer in question, or any other authorized officer, with the exception of questions the answer to which may put him in danger of incriminating himself". During trial, the court is obligated to notify the defendant that he has the right not to testify or to testify, in which case he may be cross-examined (section 161 of the **Criminal Procedure Law**). The court is also obligated to explain to the defendant that a decision not to testify is likely to be considered in support of any other incriminating evidence (*supra*, section 162). Failure to explain his rights to a suspect or defendant may, under certain circumstances, constitute cause to disqualify an admission which the suspect made during investigation.

#### **3.1.4 The Right to an Immediate Trial**

Under sections 59-61 of the **Criminal Procedure (Enforcement Powers - Arrests) Law 1996**, a suspect must be released if an indictment has not been filed against him within 75 days of his arrest; if a trial has not commenced within 30 days of filing the indictment; and if sentencing has not been passed within nine months. These periods may be extended by the Supreme Court in special circumstances. When an indictment has been filed, the court must set the earliest date possible for commencement of the trial (Regulation 19 of the Criminal Procedure Regulations 1974). In the case of a minor, section 14 of the **Youth (Trial, Punishment and Modes of Treatment) Law** stipulates that, "save with the consent of the attorney general, a minor will not be brought to trial for an offense if a year has passed since its commission". The Supreme Court has held that this limitation does not apply if the minor became an adult within the year determined in section 14, in which case the general statute of limitations on the specific offense committed would apply to him.

### 3.2 Conducting the Investigation

The police are usually the first to come into contact with a minor accused of an offense against the law. The police have special instructions regarding the modes of treatment of minors accused of having committed an offense.

In most cases, contact with a minor suspected of committing an offense against the law is made by youth units, which exist in every police station (section 2(3) of the Police Directives - Minors). The units are composed of police officers who undergo special training and in-service refresher courses on interrogation of youth, and who receive information on the distinct laws and procedures for handling youth and on community services for minors and youth. The Youth Department at Police Headquarters is responsible for the professional activities of these units.

The Police Force has set criteria for the appointment of youth workers; these include having completed at least 12 years of study and obtained a matriculation certificate. Preference is given to college graduates who majored in the social sciences. However, an internal study conducted by the Police Force revealed that, despite an increase in the number of educated investigators in recent years, at least 40% of the youth workers still do not have a matriculation certificate (although the majority of them have completed 12 years of study), and only one-quarter of them have higher education. In a study conducted in 1998 (Habib et al., 1998), the majority of respondents – senior staff on the Police Force and in services that work with the Police Force – reported the high quality of the personnel dealing with youth, particularly the dedication and sensitivity of youth workers. However, some of the respondents expressed dissatisfaction with the hiring of youth workers, claiming that assignment are sometimes based on shortages of manpower, rather than on the candidate's suitability for the position. It should be noted that a significant number of new staff have been hired in youth units during the past two years. The units are being reorganized, and much effort is being invested in increasing their professional level – including hiring people to fill specific positions (e.g., prevention officers), most of whom have academic degrees and a great deal of experience.

In many cases, initial contact with a minor suspected of having committed an offense is made by a police officer who is not a youth worker, but rather a patrol officer, detective, or civil defense guard. These officers have the authority to make an initial inquiry into the incident and decide whether there is a need for the case to be further handled by the criminal justice system. (For example, they have the authority to disperse an affray among minors and dismiss them with a warning only.) If further investigation is required, the case is transferred to a youth unit. Police officials estimate that ordinary police officers prefer to transfer the cases involving minors to a youth unit as soon as possible, for fear of violating the special instructions.

### 3.3 Special Protection of Minors in Criminal Proceedings

Many of the rules governing police handling of minors are not defined by statute, but may be found in internal police regulations (Israel Police Force, Minors/Youth Department Directives). As noted, police handling of minors rests mainly with youth workers. According to section 3(a) of the Police Directives - Minors, only a youth worker (as noted, a specially-trained police officer) may interrogate a minor suspect, with the exception of a minor under the age of 14 who is suspected of being involved in a sex offense, who is to be interrogated by a youth interrogator (a social worker from the Youth Probation Service). Many sections of the Police Directives are designed to protect a minor's privacy and prevent his being labeled as a criminal. For example, youth workers must wear civilian clothing and travel in unmarked vehicles, rather than in police vehicles (section 2(e) of the Directives). Youth workers are prohibited (except in urgent cases) from interrogating or arresting a minor at night or at his place of study or work (section 2(d) of the Directives); if this is nevertheless imperative, the interrogation must be coordinated with the school principal, and measures should be taken to avert unnecessary attention (section 3(2)(b) of the Directives). Interrogation at a police station should be conducted in a separate room, in which no adults are being interrogated. It is prohibited to shackle a minor, except in exceptional cases (section 4(c) of the Directives). A minor under the age of 14 may not be examined by polygraph, and a minor ages 14-16 may only be examined by polygraph with his consent and that of his parents (section 3 (e) of the Directives). There are limitations on photographing and finger printing a minor suspected of having committed an offense (section 3(g) of the Directives).

### 3.4 Special Protection of Minors in Criminal Proceedings: Implementation

A study of police handling of minors revealed that the rights of minors in criminal proceedings are not always strictly protected (Habib et al., 1998). The Police Directives allow for exceptions, in which it is possible not to comply with the stipulation to protect these rights: For example, a regular police officer may interrogate a minor if a youth interrogator cannot be found and it is feared that any delay will impede the investigation. However, the Directives stress the need to reduce non-compliance where possible. As part of the study, the heads of investigation departments in police stations around the country were asked to estimate the prevalence of non-compliance with the Directives.

The Table reveals that some of the heads of investigation departments reported frequently or always violating most of the Directives. It is interesting to note that the injunction against interrogating or arresting a minor at school or work was violated infrequently, if at all. This indicates that police staff are sensitive to the minor's privacy, and tend to protect it from friends and teachers when making an arrest or conducting an interrogation. Conversely, the directives most frequently violated were transporting a minor in a (not unmarked) police vehicle (42%); interrogation or arrest of a minor by a police officer who is not a youth worker (33%); and transporting an arrested minor by a police officer who is not a youth worker (26%). At 74% of the police stations studied, the injunction

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against shackling a minor’s arms and/or legs is violated from time to time. Although only a small percentage of the heads of investigation departments reported that the instruction to separate minors from adults is always or often violated, about one-quarter of them did confirm that it is violated from time to time. These findings corroborate information obtained through interviews with senior police personnel, and are generally explained by a lack of the manpower, resources and infrastructure (such as unmarked cars, interrogation rooms) that would facilitate compliance.

**Table 1: Investigation Department Heads Reporting Violations of the Instructions for Handling Minors at Their Police Station, by Frequency of Non-compliance (in %)**

	Always/ Often	Rarely	Never	NA
Transportation of an arrested minor by a police officer who is not a youth worker	26	72	2	
Interrogation or arrest of a minor by a police officer who is not a youth worker	33	60	7	
Interrogation and detention of a minor in a room with or adjacent to one with adults	11	23	66	
Transportation of a minor in a police (not an unmarked) vehicle	42	51	7	
Transportation of an arrested minor in a vehicle with an arrested adult	12	23	65	
Arrest or interrogation of a minor at night	16	84		
Interrogation of a minor at school, work or “hangout” for youth	--	40	60	
Arrest of minor at school, work or “hangout” for youth	--	65	35	
Shackling the arms and/or legs of a minor	14	60	19	7

Source: Habib et al., 1998

Also as part of this study, youth workers, heads of investigation departments, and police station superintendents were asked their attitude about protection of the rights of minors in criminal proceedings. Table 2 reveals that 85% of the superintendents and 66% of the youth workers believed that the police must make sure that minors are aware of their rights. A larger percentage of those youth workers educated in a related field agreed that the police must inform youth of their rights. It is interesting to note that, despite their belief in the importance of informing a minor of his rights, the majority of superintendents (82%) and of heads of investigation departments (72%) believed that minors are not usually aware of their rights in criminal proceedings. Only one-half of the youth workers agreed with their assessment. Thirty-nine percent of the superintendents, 37% of the heads of investigation departments, and 31% of the youth workers agreed that minors’ knowledge of their rights would interfere with investigation. This clearly reveals the tension

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between acknowledgement of the need to inform minors of their rights, and concern that doing so will impede police work.

**Table 2: Police Officers Responding “Agree” or “Definitely Agree” with Statements Concerning the Rights of a Minor in Criminal Proceedings, by Respondents’ Position**

	Position		
	Station Superintendent	Investigation Department Head	Youth Worker
Police must inform minors of their rights	85	81	66
A minor’s knowledge of his rights will impede investigation	39	37	31

Source: Habib et al., 1998

The senior police personnel interviewed were willing to accommodate to new legislative initiatives concerning the rights of minors (e.g., the amendment to the **Arrests Law**; the bill on representation of minors in legal proceedings). At least in word, the senior officers were willing to admit that the initiatives were part of a natural process to which the Police Force will have to adapt. Senior staff of social services that work with the Police Force reported that, indeed, police officers are increasingly aware of the rights of minors and are increasingly apt to enforce directives, whose violation is treated with severity (by the Police Force and the Ministry of Justice) due to the public’s sensitivity to this issue. For the record, many on the Police Force appear to accept the idea of minors’ rights and the directives meant to protect them. However, many are concerned that respect for these rights will take a toll on the efficacy of police work. This indicates a need to improve the ability of the Police Force to follow directives meant to preserve the rights of minors, while effectively doing their duty.

Children's rights organizations, such as *DCI - Defense for Children International* and the *National Council for the Child*, are also a source of information on violation of Police Directives. Activists in these organizations criticize the failure of the Police Force to cooperate with attempts to distribute information to police stations about the rights of minors in criminal proceedings; only after pressure was exerted did the police agree to publish the directives concerning the handling of minors. Children’s rights organizations would like to anchor these directives in legislation, which would be binding and open to public criticism. The proposed amendment to the **Youth (Trial, Punishment and Modes of Treatment) Law** is meant to address this issue.

Every year, children’s rights organizations receive complaints about infractions of the Police Force, whether these be violation of the instructions regarding minors (such as shackling their hands and/or feet) or disorganization (such as failure to inform a minor’s parent or guardian of his release from detention). Complaints of improper behavior toward a citizen by a police officer are addressed by

the Police Investigation Division of the Ministry of Justice. (The way in which the Division collects data does not allow for separate presentation of complaints relating to treatment of minors.)

### 3.5 Representation of Minors in Criminal Proceedings

#### **3.5.1 Court Appointment of Defense Counsel**

The **Public Defenders' (Entitlement of Additional Minors to Representation) Regulations 1998** entitle a minor under arrest or involved in legal proceedings to representation by a public defender. In addition, section 18(a) of the **Youth (Trial, Punishment and Modes of Treatment) Law** empowers a Juvenile Court to appoint counsel for the defense of a minor, if it believes this to be in the best interest of the minor. It has this authority throughout all stages of the criminal process, including investigation. However, a minor does not have the right to the presence of legal counsel during interrogation.

#### **3.5.2 Representation by a Parent or Guardian**

Under section 15 of the **Guardianship and Legal Capacity Law 1962**, "parental guardianship [over a child] includes...the authority to represent him". According to the Police Directives, a parent or guardian must be allowed to be present at the interrogation of a minor under the age of 14 (section 3(c)(c) of the Directives). This rule may be disregarded if it is suspected that the parent's presence may cause the minor harm or interfere with the investigation (section 3(c)(d) of the Directives). If a minor is over the age of 14, parents have no right to be present at the interrogation, unless the police decide otherwise (section 3(c)(c) of the Directives). However, police staff report that if a parent asks to be present and there is no reason not to allow it, his presence is allowed; in fact, the parent's presence may even be used to clarify for the minor the severity of his offense. On the other hand, police staff report that a parent's presence during questioning may influence a minor not to admit to an offense, if he fears the parent. Since most minors suspected of having committed an offense are over the age of 14, parents are not present at most interrogations. Critics feel that the existing instructions favor the investigation at the expense of the minor's best interest, and that, as they are mere directives not anchored in law, they give the police too much latitude.

Even when a parent is present during questioning, he is not always able to ensure that the rights of the minor being investigated are being safeguarded. Some fear that this causes minors (who are not even considered legally competent to conclude a contract) to unwittingly waive their rights, and even make false confessions. It has been claimed that minors often have difficulty understanding the language of a warning and the information given them about their rights.

In a presentation to a committee examining this issue headed by a Supreme Court justice, the National Council for the Child proposed stipulating a minor's right to his parents' presence, as well to the presence of an attorney, and requiring the presence of an attorney during the signing of a confession. For minors not mature enough to instruct counsel, the Council proposed appointing a legal guardian (a parent or, where there is a conflict of interests, another adult). (For more

information on the appointment of a legal guardian, see Chapter 4.) In addition, a proposal has been made to establish other conditions for the admissibility of a minor's confession. This and similar matters are at issue in a proposal for extensive reform of the **Youth (Trial, Punishment and Modes of Treatment) Law** (see below).

### 3.6 Opening a Criminal File and Filing an Indictment

Youth units are responsible for investigating offenses when the suspects are minors. It is their responsibility to decide, in cooperation with the Youth Probation Service and the police prosecutor or the district attorney, the fate of the file – that is, whether to open a criminal case or decide on no-prosecution proceedings, whether to close a file due to the suspect's innocence or to lack of evidence or public interest, or whether to file an indictment.

The police may decide, at their discretion, not to open a criminal file for a minor, even before the investigation has been completed, and even if it is found that the minor committed the offense. In such a case, “no-prosecution” – a proceeding that does not impose a criminal record – will be the course of action. Section 3(b)(d) of the Police Directives - Minors states, “a decision...to use the no-prosecution proceeding will be made in light of a minor's prior police record and the recommendation of the youth worker handling the case”. The Police Directives instruct using the “no-prosecution proceeding” for a first or petty offense of a minor who admits his act, expresses regret for said act, and seems to be a candidate for rehabilitation. It should be noted that approximately one-quarter of the files opened annually are later closed due to insufficient evidence, lack of public interest, and the like; this should not be confused with the no-prosecution proceeding, which is an alternative to opening a criminal file and does not establish a criminal record.

#### 3.6.1 Police Considerations for Opening a Criminal File

In an attempt to allow a minor's personal circumstances to be taken into consideration, and to facilitate rehabilitation, the police are given a wide berth in making decisions concerning the prosecution of minors. Critics fear that the “no-prosecution proceeding”, though designed to prevent a minor from being labeled a criminal and to contribute to his rehabilitation, does in fact infringe upon his right to prove his innocence, as minors sometimes admit to an offense they have not committed so as to forestall criminal proceedings against them (even though they are made to sign a form explaining the nature of the no-prosecution proceeding). Others claim that the discretion granted the police in the use of the no-prosecution proceeding is susceptible to bias, to the detriment of minorities. A 1997 study revealed that the no-prosecution proceeding was used in cases involving minors who were repeat offenders or who had committed a felony (Habib et al., 1998). The study also highlighted inconsistencies in the criteria used when considering the no-prosecution proceeding for different groups (for example, this proceeding is invoked more often for girls than for boys, and for Jews than for Arabs, even when the severity of the offense and the minor's criminal record are similar). In 1998, the Police Directives were clarified to emphasize that the no-prosecution proceeding should only be invoked for first-time offenders, unless there are special

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circumstances that justify its being invoked for a repeat offender. Preliminary data reveal that, since this amendment to the Directives, the use of the no-prosecution proceeding has decreased, from in approximately 60% to in approximately 40% of the cases involving minors. In most of these cases, the offense for which the no-prosecution proceeding was invoked was classified as a contravention or misdemeanor, for which penalties are statutory and relatively mild (up to three months' imprisonment and up to three years' imprisonment, respectively). According to the instructions of the attorney general, the police and the district attorney also have the authority to invoke a no-prosecution proceeding for more serious offenses, classified as felonies. In felony cases, the police must obtain the report of an officer of the Youth Probation Service (for less serious offenses, no such report is required).

Special instructions set down by the attorney general apply to drug offenses: In an investigation of a minor suspected of using or possessing for the purpose of self-use (excluding injecting or snorting) a dangerous drug, the police will weigh initiating criminal proceedings against invoking the no-prosecution proceeding. According to these instructions, the police will refrain from initiating criminal proceedings against a minor suspected of such offenses, if all of the following conditions have been met: There is no indication of previous drug use; the minor admits to having committed the offense, and agrees to undergo treatment; the minor does not use drugs on a regular basis, did not initiate the purchase or distribution of the drugs, and did not solicit other minors to use drugs; the minor discloses the source of the drugs to the interrogator. No-prosecution may also be invoked if the chief investigating officer is convinced that the minor is either unaware of or afraid to reveal the source of the drugs.

These instructions have been distributed to schools, in an effort to encourage them to report drug use among students and to involve them in constructing a rehabilitation program for minors, with the assistance of the Educational Psychological Service.

### 3.7 The Role of the Youth Probation Service during Investigation and Trial

According to section 12 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, the police are under obligation to inform the Youth Probation Service about any minor whom they feel may be tried: "If a criminal investigation has revealed grounds for bringing a minor to trial, the police will notify a probation officer, who may thereupon exercise the authority of a child protection officer under the **Welfare (Procedure in Matters of Minors, Sick Persons and Absent Persons) Law 1955**, even in the absence of a court order".

Every minor against whom the police intend to file an indictment is referred to the Youth Probation Service, which performs a psycho-social assessment. The assessment constitutes the beginning of the rehabilitative-treatment process. It is also the basis for the report that the Service will make to the court, which will inform court's decision regarding the appropriate mode of treatment and punishment, if it determines that the minor has indeed committed the offense attributed to him (section 22 of the **Youth (Trial, Punishment and Modes of Treatment) Law**).

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Since the 1990s, data on minors for whom the no-prosecution proceeding has been invoked are also transferred to the Youth Probation Service, and the minor is made to sign a release indicating that he knows the data have been transferred. The Youth Probation Service may summon the minor to determine whether intervention (by the Youth Probation or another service) is called for. However, the minor is under no obligation to appear.

The Youth Probation Service also submits a report prior to a decision to close a file, and sometimes prior to a decision to invoke the no-prosecution proceeding. An indictment may not be filed against a minor under the age of 13 without having received a report from his youth probation officer (section 12(b) of the **Youth (Trial, Punishment and Modes of Treatment) Law**).

Several years ago the Youth Probation Service was allocated a few positions for staff who would compile reports on minors residing in the Palestinian Authority. They prepare their reports based on an interview with the minor and a report on his family received from the Palestinian Authority.

A youth probation officer should maintain contact with a minor and his parents. After an indictment has been filed, the officer should explain the significance of the court hearing to them (see section 13 of the Bringing Offenders to Probation (Probation Services) Regulations 1959).

The Youth Probation Service is developing alternatives to indictment, such as an experimental program to begin treatment rather than filing an indictment, which has been implemented by the police in Beer Sheva. As part of this program, “mediation” is conducted between the offender (usually a minor who has committed a crime against property) and the victim, whose aim is to arrive at an agreement regarding compensation of the victim. Another program now being formulated is that of the “family conference”, in which the police, the Youth Probation Service and other therapeutic agents, together with the minor and his family, are in some cases authorized to set a rehabilitation program for the young offender (which sometimes includes determining compensation for the victim), as an alternative to filing an indictment. In July 2000, this program was implemented experimentally in two police stations, one in Ashdod and one in Jerusalem.

#### **3.7.1 Data on Minor Suspects**

In 1998, the police handled 27,187 cases involving minors and youth. In 12,599 (about 46%) of the cases, criminal files were opened. The remainder (about 54%) of the cases concluded with a no-prosecution proceeding. According to reports of the Youth Probation Service, in recent years, 2.4% of youth are suspected of having committed an offense.

Table 3 presents the offenses that minors were suspected of committing in 1998.

In 1998, minors were suspects principally in property offenses (42%), offenses against the public order (20%), and offenses against the person (21%). Offenses against the public order and offenses

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against the person were mainly violent crimes, such as assault of a layman or police officer, threats, grievous bodily harm and affray. The most prevalent offenses against property were theft of or breaking into a vehicle, and breaking and entering into a home or business. Nine percent of the offenses were drug-related, most of them surrounding drug use, and 2.5% of the offenses were sex and morality offenses. In recent years, concern has been expressed over the increase in violent and drug-related offenses committed by young people.

**Table 3: Juvenile Files in 1998, by Type of Offense**

Type of Offense	All Files	Criminal Files	No-prosecution Proceeding Files
<b>Total</b>	<b>27,187</b>	<b>12,599</b>	<b>14,588</b>
Offenses against human life and security	258	215	43
Offenses against the person	5,811	1,415	4,396
Offenses against public order	5,359	2,269	3,090
Sex and morality offenses	684	244	440
Drug-related Offenses			
Drug use	1,773	894	879
Drug trafficking	381	353	28
Possession of drugs	228	199	29
Property			
Breaking and entering a home or business	1,849	1,374	475
Theft of or breaking into a vehicle	2,864	2,243	621
Other property offenses	6,721	2,628	4,093
Other Offenses	1,259	765	494

Source: Israel Police Force, 1999

The police and the Youth Probation Service are collecting and publishing data on the minors in their care. Some of the data concern all minors suspected of having committed an offense, and some concern only those minors against whom criminal charges have been brought (see the Tables 4 and 5). The data reveal that the majority of minors suspected of having committed a crime are men, and are ages 16-17. Moreover, young immigrants from the former Soviet Union and Ethiopia comprise a larger proportion of offenders than their proportion in the population. The number of Arab youth with criminal files also exceeds their proportion in the population.

**Table 4: Principal Demographic Characteristics of Minors with a Criminal File, 1996**

<b>Total</b>	<b>7,226</b>
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Percentage of boys	94
Percentage of youth age 16-17	71
Population sub-groups (in numbers)	
Jewish (native born)	3,583
Immigrants from the former Soviet Union	884
Immigrants from Ethiopia	183
Arab residents of Israel	1,899
Arab residents of the West Bank and Gaza	677

Source: Habib et al., 1998 (analysis of Israel Police Force data)

Youth Probation Service data from 1996 reveal that the majority of minors (residents of Israel) with a criminal file come from large families or broken homes; many of them also have family problems or learning difficulties. For example, 50% of the Jewish minors with a criminal file came from families with at least four children, compared to 27% of all Jewish children in Israel; 91% of the Arab minors with a criminal file came from large families, compared to 63% of all Arab children in Israel. Twenty-five percent of the Jewish and 13% of the Arab minors with a criminal record came from families in which the parents do not live together, compared to only 8% of the total population of children in Israel. Similarly, 15% of the minors with a criminal file have a sibling or parent who has committed a criminal offense.

**Table 5: Family Characteristics of Minors with a Criminal File Who Were Referred to the Youth Probation Service in 1996, Compared to All Children in Israel (in %)**

Family Characteristics	Has a Criminal File and Was Referred to the Youth Probation Service	General Population of Children (Ages 0-17)
Family has 4 or more children (Jewish)	50	27
Family has 4 or more children (Arab)	91	63
Lives with one parent only (Jewish)	25	8 (both Jews and
Lives with one parent only (Arab)	13	Arabs)

Source: Youth Probation Service, 1999

In general, the level of education of minors with a criminal file is significantly lower than that of their peers in the general population. In 1996, 43% of these minors attended a class that was two grades lower than the class in which they ought to have been placed, according to their age. Approximately 70% of these minors attended some kind of school (elementary or secondary school, or a vocational training or special education framework). Twenty-three percent of them worked full or part time. Seven percent neither worked nor attended school.

**Articles 37(a) and 39 of the Convention**

## 4. Sentencing, Punishment and Modes of Treatment

### 4.1 General Principles

The **Criminal Procedure Law** and the **Penal Law** apply to every legal hearing concerning minors, unless there is an express provision to the contrary in the **Youth (Trial, Punishment and Modes of Treatment) Law**. As a rule, the provisions of the **Youth Law** are designed to augment and not detract from the authority granted in other legislation. The Supreme Court has held that where the legislature wished to bring specific and unique provisions into the **Youth Law** to supplant corresponding legislative provisions, it has done so expressly.

A “minor” is defined as a person who, on the day on which an indictment is filed against him, is under 18 years of age (see section 1 of the **Youth (Trial, Punishment and Modes of Treatment) Law**). According to section 3 of the law, a minor charged with an offense will be tried in a Magistrates’ (Circuit) Court or a District Court, depending on the gravity of the offense, sitting as a Juvenile Court. The trial is to be conducted by a juvenile judge – that is, a judge assigned by the chief justice of the Supreme Court, with the consent of the Minister of Justice (section 2 of the law).

As a rule, a minor will not be brought to trial together with an adult, save with the consent of the attorney general (section 4(a) of the law). However, where a minor is brought to trial together with an adult, and the court decides to continue hearing the matter, the court will deal with the minor as if it were a Juvenile Court (section 4(b) of the law). If at any stage before the conclusion of a trial it is discovered that a minor has erroneously been brought before a court that is not a Juvenile Court, the court must transfer the case to a Juvenile Court (section 5(a) of the law), unless it perceives special circumstances that justify its not doing so, in which case the court is allowed to continue hearing the case, although from that point onward it will proceed as if it were a Juvenile Court, and will have the authority granted a Juvenile Court (section 5(b) of the law). If the error is detected after a judgment has been handed down, the court will continue to handle the case as if it were a Juvenile Court (section 5(c) of the law). The chief justice of the Supreme Court has the authority to order a retrial, if grave miscarriage of justice has been caused by bringing the minor to trial before a regular court (section 7 of the law).

### 4.2 Hearing Procedures for Juvenile Court

A Juvenile Court will, to the extent possible, hold its hearings in a place where other trials are not being held, or in a place where other hearings are held, but at a different time (section 8(a) of the **Youth (Trial, Punishment and Modes of Treatment) Law**). To the extent possible, minor defendants will not be transported to and from court together with adult defendants (section 8(b) of the law). According to Juvenile Court judges, these procedures are not always complied with. As a rule, hearings involving a minor should be held *in camera* (section 9 of the law). This duty does not apply automatically with regard to a hearing concerning detention for the purpose of investigation, although the judge may direct that the hearing be held *in camera* pursuant to the provisions of

section 68 of the **Courts Law [Consolidated Version] 1984**. This duty also does not apply to hearings held in the Supreme Court when it sits as an appellate court on the decision of a Juvenile Court, nor to a hearing concerning the detention of a minor conducted in a court that is not a Juvenile Court. Section 17 of the law allows for part of the hearing to be held in the absence of the minor. Some claim that this section constitutes a material infringement of the minor's right as a defendant; this claim has yet to stand the test of case law. In any event, this section is rarely invoked. This matter has also been addressed in the proposal to reform the **Youth Law** (see below).

### 4.3 Representation of Minors in Court

#### 4.3.1 Appointment of Defense Counsel by the Court

For adults, the duty to appoint defense counsel applies only in felony cases, or if the defendant has a handicap that prevents him from representing himself (see section 15 of the **Criminal Procedure Law [Consolidated Version] 1982**). Section 15 of the **Criminal Procedure Law** also establishes the duty to appoint defense counsel for a defendant who has not yet reached the age of 16 and who has been brought before a court that is not a Juvenile Court. This duty is not generally invoked, as many judges are authorized to act as juvenile judges. According to section 18(a) of the **Youth (Trial, Punishment and Modes of Treatment) Law**, a Juvenile Court may appoint defense counsel for a minor if it considers that the interest of the minor so requires. In any case, it seems that the problematic nature of the right to representation has been resolved by the **Public Defenders (Entitlement of Additional Minors to Representation) Regulations 1998**, which stipulate that a minor against whom an indictment has been filed, excluding an indictment filed before a traffic judge for an offense that is not a felony, is entitled to representation by a public defender. In actuality, no systematic data are available on the extent to which minors are represented; however, professionals in the court system estimate that a large proportion of the minors brought to trial are still not represented by a lawyer.

#### 4.3.2 Appointment of a Legal Guardian

Both Juvenile Court and Family Court have the legal authority to appoint a legal guardian for a minor (see Chapter 4).

#### 4.3.3 Self-appointment of Defense Counsel by a Minor

Section 18(d) of the **Youth (Trial, Punishment and Modes of Treatment) Law** stipulates that its provisions will not derogate from the right of a minor to be represented by an attorney, as instructed by the **Chamber of Advocates Law 1961**. Under section 18(c) of the law, if a minor has no defense counsel, the court will help him question the witnesses.

#### 4.3.4 Representation by a Parent

Under section 19 of the **Youth (Trial, Punishment and Modes of Treatment) Law**, the parent of a minor defendant is entitled to be present in the court at the time of the hearing, unless the court

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determines otherwise; the parent may file a motion or petition on behalf of the minor, question witnesses, and make a plea or argument on behalf of the minor.

#### 4.4 The Right to an Interpreter

Under section 140-142 of the **Criminal Procedure Law**, if the court finds that a defendant does not understand Hebrew, it is required to appoint an interpreter for him at the expense of the State Treasury, or else the judge must act as an interpreter. In addition, testimony heard in a language other than Hebrew must be translated into and recorded in Hebrew, unless the court instructs otherwise. The proposed reform of the **Youth (Trial, Punishment and Modes of Treatment) Law** would make the presence of an interpreter obligatory during interrogation, as well.

#### 4.5 Prohibition against the Publication and Transfer of Information, and the Statute of Limitations

As noted, hearings in Juvenile Court, as well as other criminal proceedings involving a minor, are conducted *in camera*. Section 70 of the **Courts Law [Consolidated Version] 1984** provides that a person may not publish anything concerning a hearing that has been held *in camera* in any court, save with the permission of that court. The section also prohibits taking photographs in a courtroom and publishing a photograph so taken, save with the permission of the court.

Section 70(c) of the law provides that a person may not publish the name, photograph, or any other detail that may lead to the identification of a minor defendant in a criminal trial. This section applies to courts of all instances and is not contingent on the proceedings being held *in camera*.

Recently, for the first time, the Supreme Court permitted publication of the names of adults suspected of committing offenses while they were adults, even though publication led to their being identified as having been convicted of murder when they were minors. The court held that the grave circumstances of the case required that the principles of publicity of trial, the public welfare, and the right of the public to be warned about offenders convicted in aggravated circumstances, be given priority over the desire to protect the interests of minors.

Section 24 of the **Youth (Care and Supervision) Law 1969** protects a minor from the publication of any detail that would impute an offense or moral corruption to him. Similarly, section 13 of the **Crime Register and Rehabilitation of Offenders Law 1981** restricts the transfer of information about an offense committed by a minor who has not yet reached the age of 14; about a misdemeanor committed by a minor between the ages of 14 and 16; about any ruling or order handed down in accordance with section 24 of the **Youth (Trial, Punishment and Modes of Treatment) Law**; and about a probation order, an order of recognizance to abstain from an offense, or an order to perform community service made without a conviction. The law allows for such information to be transferred only to the specific persons and agencies that require it in order to discharge their duty. The list of such persons and agencies is fairly long, and includes, *inter alia*, the attorney general, the

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military prosecutor, a committee investigating the criminal record of a soldier, and so forth. Information on no-prosecution proceedings may not be stored by the police in a computerized form, and may not be transmitted to any external entity.

The **Crime Register and Rehabilitation of Offenders Law** sets a statute of limitations for offenses committed by minors. As a rule, the period of limitation at the end of which no information about a conviction may be delivered is significantly shorter for offenses committed by a minor than for offenses committed by an adult. In addition, there is a hierarchy of limitation periods for minors, based on the severity of the penalty imposed.

#### 4.6 Rehabilitation versus Punishment

The **Youth (Trial, Punishment and Modes of Treatment) Law 1971** takes a rehabilitative-treatment approach, and defines the punishments and modes of treatment that may be imposed upon a minor whom a court has determined has committed the offense with which he was charged. Initially, a court will not convict a minor, but will determine whether he committed the crime with which he was charged (sections 21 and 24 of the law). A court that determines that an adult defendant has committed the crime imputed to him must, as a rule, convict him. This is not so for a court that hears the case of a minor. If a court finds that a minor has committed an offense, it will instruct a probation officer to submit a report and, where necessary, it may direct that examinations and investigations be carried out, as stipulated in section 22 of the law. The court then uses these findings to determine the minor's fate. At this stage, the court may choose one of the three alternatives set down in section 24 of the law.

First, the court may decide to *convict and sentence the minor*. If the court decides to act in this manner, it may impose any punishment on the minor, subject to the provisions of section 25 of the law (which specifies modes of punishment).

Second, the court may decide to *order one or more of the measures and modes of treatment* enumerated in section 26 of the law. If the court chooses this alternative, it will not convict the minor, but will order that these measures and modes of treatment be used.

Third, the court may decide to *discharge the minor without an order*, as noted, but with a warning only. In this case, the court will neither convict the minor nor impose on him any measure or mode of treatment.

The Supreme Court has noted that the last two alternatives are meant to deflect the stigma attached to a conviction, in consideration of the minor's young age, the nature of his offense, or some other reason, such as the court's feeling that the offense was a one-time error, which the minor regrets, and that the minor's general functioning is normal.

#### 4.7 Modes of Punishment

As noted, if a court finds a minor guilty of the offense imputed to him, it may choose to discharge him without an order, impose a punishment, or order treatment. The alternatives available to a court that decides to convict a minor include most of those available with regard to adults: actual imprisonment, a suspended prison sentence, placement under the surveillance of a probation officer, a fine, compensation and public works. In addition, there are alternatives exclusive to minors, such as placement in a closed residence instead of imprisonment.

#### 4.8 Modes of Treatment

Following are the modes of treatment without a conviction that a court may order under section 26 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**: (a) committing the minor to the care and supervision of a fit person other than his parent (such as an employer, social worker or educator) for a period to be prescribed by the court, and the restriction of his parent's rights as his guardian during said period; (b) placing the minor under the supervision of a probation officer; (c) obtaining an undertaking, from the minor or his parent, as to the minor's future behavior; (d) requiring the minor to report to a day residence for a period prescribed by the court; (e) keeping the minor at an open or closed residence during a period prescribed by the court; (f) requiring the minor or his parent to pay a fine or the costs of the proceedings; (g) requiring the minor or his parent to pay compensation to a person who sustained damage as a result of the minor's offense; (h) any other order that the court feels is necessary to the treatment of the minor. This last alternative is extremely varied and encompasses all orders and educational measure that the court deems necessary to the minor's treatment, including undergoing psychological counseling, requesting pardon from the victim, making a donation and the like. In one case, a court obligated a minor to write an essay on violence and its effects.

The Youth Probation Service uses a variety of treatment methods with convicted minors including individual, group and family methods and special programs, such as those for treatment of sex offenders. Even modes of treatment that are not implemented by the Youth Probation Service will in most cases be implemented under the supervision of a probation officer, who may petition the court to change the mode of treatment based on changes in the minor's condition. It is important to note that the minor himself does not have the right to request a change in his treatment method.

Some of these alternatives – such as placement under the supervision of a probation officer – may be used both in the framework of a conviction and punishment, and as a mode of treatment without a conviction. As noted, a mode of treatment imposed without a conviction is likely to be less detrimental to the minor's future.

#### 4.9 Court Considerations and Verdicts

When sentencing a minor, courts stress the importance of his need for special consideration. The younger the child, both at the time the offense was committed and at the time of sentencing, the more his being a minor will factor into the considerations of the court.

Considerations regarding minors brought into the criminal justice system are significantly influenced by the prospect of rehabilitation. Research published in 1997 (Hassin, 1997) revealed that the decisions of Juvenile Court judges are influenced primarily by a rehabilitative approach: In most cases, the judge notes that his decision was made “in the best interest of the minor” or “for his rehabilitation and to modify his behavior”. In recent years, the question has arisen in Israel as elsewhere as to whether this emphasis on rehabilitation does not diminish the deterrent power of the law enforcement system. Only a very few verdicts address punishment as a deterrent to or restriction on criminal behavior, or as an expression of the priority of the public good. This can be seen in court decisions: In 1997, 44% of the 8,882 criminal files opened against minors were closed by the police and the public defender’s office without ever receiving a court hearing, due either to lack of public interest or lack of evidence. This year the courts heard 4,940 cases involving minors. Of them, 1,182 minors received a verdict of a fine and compensation or guarantees (i.e. obtaining an undertaking of future good behavior); 617 minors were placed under the surveillance of a probation officer; 291 minors were actually imprisoned; and 159 minors were placed in an open or closed residence. In addition, the courts imposed suspended prison sentences on 538 minors. Analysis of data from 1996 by age reveals that the courts prefer verdicts that order treatment for younger minors, and verdicts that impose a penalty for older minors. Incomplete data from 1997 show a similar trend.

**Table 6: 1996 Court Verdicts in Cases Involving Minors, by Minor’s Age**

Verdict	Age		
	Up to 14	15-16	17+
Number of Minors	197	1,105	2,291
Total Percentage	100	100	100
Imprisonment and suspended prison sentence	30.0	8.9	16.8
Open or closed residence	16.7	6.7	2.1
Care and supervision order by a fit person	30.4	23.8	13.4
Fine and guarantee (undertaking of good behavior)	31.9	38.4	43.0
Revocation of driver’s license and “any other order”	15.2	19.7	2.2
Discharge without an order and acquittal	2.5	2.6	2.9

Source: Youth Probation Service, 1999

A 1997 study (Hassin, 1997) revealed differences in the verdicts handed down for Jewish minors and Arab minors (who were residents of Israel). For example, larger percentages of Arab minors received a sentence of actual imprisonment, or a suspended prison sentence. In 1994, the last year in which such an analysis was made, actual imprisonment was imposed on 20% of convicted Arab

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minors, compared with only 1.5% of the Jewish minors brought to trial. The percentage of Arab minors who received a suspended prison sentence was 8.2%, compared to 5.7% of the Jewish minors. Accordingly, smaller percentages of Arab minors received treatment verdicts such as supervision orders (18.4% of Jewish minors versus 7.1% of Arab minors) or residence orders (3.5% of Jewish minors versus 2.8% of Arab minors). In 1994, 246 minors received prison sentences. Of them, 166 (two-thirds) were Arab residents of East Jerusalem, 37 (15%) were Arab residents of Israel (exclusive of East Jerusalem), and 46 (18.7%) were Jewish residents of Israel. Similarly, the majority of verdicts for Arab minors were “with a conviction” – namely, they were more grave, as they gave the minor a criminal record that would dog him for years to come. The study’s analysis of the data reveals that the breakdown of the offenses committed by Arab minors does not justify the variance in court verdicts. One reason for this variance was a shortage of closed residences for Arab youth; one such residence was established in 1999, following a petition of the National Council for the Child to the Supreme Court ((Petition to the) High Court of Justice 1070/96 *National Council for the Child v. Minister of Labor and Social Affairs* (not yet published)).

#### 4.10 Appeal of Judgments

Every defendant has the right to appeal a judgment before a court of higher instance (see sections 41 and 52 of the **Courts Law [Consolidated Version] 1984**). Both the verdict and the sentence may be appealed. The judgment of a Juvenile Magistrates’ (Circuit) Court may be appealed to a juvenile District Court. Further appeal to the Supreme Court requires obtaining leave to appeal. In either instance (appeal by right or appeal by leave), the court must explain the right of appeal and the time limitation set on it to the defendant.

### **Article 37(b)-(d) of the Convention**

#### 5. Children Deprived of Their Liberty, Including Arrest, Imprisonment and Placement in a Residence

##### 5.1 Considerations in Court Decisions to Deprive a Minor of His Liberty

Juvenile Court case law indicates that the courts regard the deprivation of a minor’s liberty as more harmful for the minor than it would be for an adult. For example, the Supreme Court has ruled as follows:

“The conditions of detention and prison, even without the characteristics of such places, are liable to cause severe emotional shock and trauma. More often than not, a minor is liable to encounter a world of drugs and serious crime. The court must become a ‘father to minors’, and preserve them – whenever possible – from this experience” (Miscellaneous Criminal Applications 1363/93 *Y.Z. (Minor) v. State of Israel*, P.D. 47(2) 71).

Another Supreme Court judgment held that before lending its hand to the incarceration of a youth age 15, albeit for a grave crime, the court would first have to be convinced that his incarceration was necessary to the protection of the public welfare, or – though this is essentially the other side of the same coin – to the prevention of his recidivism (Miscellaneous Criminal Applications 537/75 *Anonymous Plaintiff v. State of Israel*, P.D. 30(2) 51). The court nevertheless held that being a minor did not establish absolute immunity from arrest and imprisonment (Miscellaneous Criminal Applications 7136/93 *Anonymous Plaintiff (Minor) v. State of Israel* (31.12.93 not yet published)).

## 5.2 Arrest

### 5.2.1 Arrest for the Purpose of Investigation

Some minors are arrested for the purpose of investigation. The **Youth (Trial, Punishment and Modes of Treatment) Law 1971** prescribes that a minor who has not yet reached the age of 14 may not be kept under arrest for a period exceeding 12 hours without a warrant from a judge. However, if it is not possible to bring the minor before a judge within 12 hours, a police officer in charge of a police station may order the continuance of his arrest for a further period not to exceed 12 hours, provided that it is necessary to do so for the safety of the public or the minor's personal safety, or to keep him away from an undesirable person, or because the minor is suspected of having committed a felony punishable by seven or more years' imprisonment and his release may lead to the concealment of evidence; the police officer will record the reason for extending the arrest, and such reason will be brought to the attention of the judge before whom the minor is brought (section 10(2) of the law).

A minor who has reached the age of 14 may not be kept under arrest for a period exceeding 24 hours without a judge's warrant; under special circumstances, a police officer may order the continuance of his arrest for a further period not to exceed 24 hours. If he does so, he will record the reason for extending the arrest, and such reason will be brought to the attention of the judge before whom the minor is brought (section 10(1) of the law). Police sources report that in actuality, the right to extend a minor's incarceration without a warrant is rarely invoked. At present, following recent changes in the **Criminal Procedure (Enforcement Powers – Arrests) Law**, the period of arrest for minors over the age of 14 is the same as that for adults.

Under section 10(4) of the **Youth (Trial, Punishment and Modes of Treatment) Law**, Juvenile Courts are authorized to order that a minor be kept under arrest for a period not to exceed ten days, and to extend such period from time to time for additional periods not to exceed ten days each. A minor suspect may not be kept in custody continuously for the same incident, including arrest without a warrant, for a period exceeding 20 days, unless the application for further arrest was submitted with the approval of the attorney general. From this point henceforth, the law regarding the duration of arrest is the same with respect to a minor as it is with respect to an adult. In other words, a suspect who has been in custody for 75 days continuously without charges being filed

against him must be released from custody. However, the court may make his release conditional on provisions it will prescribe.

### **5.2.2 Arrest until Termination of Proceedings**

The **Youth (Trial, Punishment and Modes of Treatment) Law 1971** makes no express reference to arrest until the termination of proceedings. However, the provisions in chapter three of that law, titled “Arrest, Release and Pre-Trial Proceedings”, which concern holding minors in detention, also apply to the arrest of minors until the termination of proceedings. The Supreme Court has held that a suspect’s being a minor must be considered when deciding upon arrest until the termination of proceedings, although this does not in itself create grounds for immunity (Miscellaneous Applications 190/79 *State of Israel v. Doron*, P.D. 33(3) 589).. The Supreme Court has also held that there is no obligation to keep a minor under arrest until the termination of proceedings, even in the case of murder (Miscellaneous Criminal Applications 23/89 *Ben Shimon v. State of Israel*, P.D. 42(4) 770). Conversely, the Supreme Court has held that a minor under the age of 14 may be arrested until the termination of proceedings, even though imprisonment may not be ordered for a minor of this age (Miscellaneous Criminal Applications 6074/97 *Anonymous Plaintiff v. State of Israel* (22.10.97 not yet published)). At a petition to imprison a minor until the termination of proceedings, the minor must be represented by defense counsel.

### **5.2.3 Hearing of a Petition for Arrest**

A petition to arrest a minor is not generally heard by a Juvenile Court judge, but rather by an ordinary arrests judge (duty judge). According to existing law, the court is not obligated to receive a preliminary or full report from the Youth Probation Service before handing down a decision regarding a petition to extend arrest for the purpose of investigation or until the termination of proceedings. However, this has been proposed as part of the reform of the **Youth Law** (see section 8 below).

### **5.2.4 Appeal**

All court decisions regarding the extension of arrest, bail, or other release conditions may be appealed to a higher court (section 52 of the **Criminal Procedure (Enforcement Powers - Arrests) Law 1996**).

### **5.2.5 Arrest to Ensure a Minor’s Personal Safety**

Section 10(3) of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** prescribes that “a judge before whom a minor has been brought may order his arrest if it is necessary to ensure the minor’s personal safety or keep him away from the company of an undesirable person”. This section has been criticized, and in practice it is rarely used. The **Youth Law** reform bill addresses this issue.

### **5.2.6 Notification of Arrest**

Section 11 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971** provides that the officer in charge of a police station to whom an arrested minor has been brought must notify one of the minor's parents or, if this is not possible, any person close to the minor, as soon as possible after the arrest. However, if the officer apprehends that such notification may prejudice the welfare of the minor, he will notify a probation officer only. As noted, the Youth Probation Service must be notified of the arrest of any minor, or when there are grounds for bringing a minor to trial.

In recent years, the Youth Probation Service has been operating a "club" in one of the detention centers, where it holds meetings and interviews with arrested suspects, and social activities. At some detention centers, a probation officer is present on a permanent basis (duty service); his role is to mediate on behalf of minors, examine options for commencing rehabilitation, protect the rights and physical and emotional welfare of minors, and provide them with information on the legal processes awaiting them. Since implementation of the **Public Defender's Regulations 1998**, the police have developed procedures whereby they inform the Public Defender's Office whenever a minor is arrested, and allow a public defender to meet with the minor in detention.

### **5.2.7 Conditions of Arrest**

Under the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, a minor may only be detained in a separate detention center for minors, or in a wing of a general detention center that is separate, intended for minors only, and allows no access or visual communication with the other wings of the detention center or their inmates. Notwithstanding this, a minor may be held, for the purpose of investigation only, at a police station, provided he is held separately and there is no contact between him and adult suspects or arrested persons. If the police station is located in or near a detention center for minors, the minor may be kept overnight in that detention center only (section 13 of the law). Internal police procedures also recommend separating minors of different ages; minors who are persistent offenders and minors who are first-time offenders; and minors who are persistent offenders, or who are known to be violent, or who are suspected of having committed a felony or a violent or sexual offense, and all other minors (section 4(I)(3) of the Police Directives – Minors).

A significant portion of the criticism surrounding the protection of the rights of minors involved in criminal proceedings concerns the conditions of arrest. It has been claimed that due to overcrowding in detention centers and the unsuitability of their physical structure, the separation between minors and adults, first-time offenders and recidivists, etc. is not always maintained. Similarly, the physical conditions in some detention centers are inadequate, and minors are not kept occupied or educated during their free time (this is particularly important during longer terms of arrest).

Over the years, some of these faults have been remedied. For example, often a minor who has been arrested until the termination of proceedings is transferred to a juvenile prison, where conditions are

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much better than in detention centers. In some cases, the minor is placed under house arrest on condition of bail; for the minor, house arrest is preferable to detention in a juvenile prison. However, the police claim that this solution is problematic in the case of minors whose families have difficulty supervising them.

By law, the Minister of Labor and Social Affairs is allowed to declare a closed residence (used for the custody and rehabilitation of juvenile offenders) a detention center. The purpose of this would be to ameliorate the physical and psychological difficulties associated with incarceration in a detention center. However, no such declaration has ever been made, as professionals fear that housing minors who have been sent to detention with minors who have been sent for treatment and rehabilitation will both obstruct the therapeutic process and turn the closed residence into a detention center. The Ministry of Public Security and the Ministry of Labor and Social Affairs are currently discussing the possibility of jointly establishing a detention center.

The conditions of arrest at police stations are also unsatisfactory. A 1998 study (Habib et al., 1998) found that only 12% of the police stations in Israel reported fully complying with the rules regarding arrest, such as separating minors of differing ages, and new from repeat offenders. Children's rights organizations have claimed that there are false arrests and arrests that extend beyond the time required for the purpose of investigation. As noted, the new legislation regarding arrest has increased the courts' surveillance of police practices.

#### **5.2.8 Alternatives to Arrest**

Cooperation among the court, the public defender's office and the Youth Probation Service promotes the possibility of finding alternatives to arrest, which are always considered preferable (see section 13(b) of the **Criminal Procedure (Enforcement Powers - Arrests) Law** and sections 5 and 8 of the **Basic Law: Human Dignity and Liberty**), particularly with regard to minors; this preference is also reflected in case law (Miscellaneous Criminal Applications 604/88 *Tamir v. State of Israel*, P.D. 42(3) 617; Miscellaneous Criminal Applications 2955/91 *Danino v. State of Israel*, P.D. 45(3) 832).

Once an indictment has been filed, a court may order a minor to be sent to an open or closed residence for observation and diagnosis for a period not to exceed 90 days (section 20(a)(1) of the **Youth (Trial, Punishment and Modes of Treatment) Law**). On the petition of a probation officer, the superintendent of residences, or the minor, a Juvenile Court may vary the observation order, issue any instruction necessary for its implementation, extend it for an additional period not to exceed one month, or revoke it (section 20(b) of the law). The observation order must be made with prior coordination with the superintendent of residences and the probation officer, to ensure that a suitable residence is found for the minor, and that the residence has room to admit him. Although observation is also an alternative to detention, professionals agree that it should be used in exceptional cases only, and that the need remains to develop a special framework that is expressly an alternative to detention.

### 5.2.9 Data on the Arrest of Minors

According to police data, 4,131 minors were arrested in 1998. Twelve percent of the arrests lasted for up to 12 hours, an additional 31% of them lasted for between 12 and 24 hours, 11% of them lasted for between 24 and 48 hours, 26% of them lasted for between two and seven days, 14% of them lasted for eight or more days, and 5% of the arrests extended until the termination of proceedings. In two-thirds of these cases, the minors arrested were ages 16-17.

**Table 7: Arrest of Minors and Duration of Arrest in 1998, by Age (in Numbers)**

	Duration of Arrest						
	Total	Up to 12 Hours	12-24 Hours	24-48 Hours	2-7 Days	8 or More Days	Until the Termination of Proceedings
<b>Total</b>	<b>4,131</b>	<b>514</b>	<b>1,277</b>	<b>442</b>	<b>1,083</b>	<b>599</b>	<b>216</b>
<b>Age</b>							
12	32	7	11	3	8	2	1
13	115	17	31	12	30	20	5
14	450	70	124	64	109	64	19
15	851	90	263	99	230	127	42
16	1,213	161	368	120	316	190	58
17	1,469	169	480	144	389	196	91

Source: Ben-Arie and Zionit, 1999

### 5.3 Open and Closed Residences

A closed residence, as defined in section 1 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, serves as an out-of-home residence or locus of custody for minors who have been referred to them by the superintendent of residences.

A minor may be sent to a closed residence by the court in any of the following instances: (a) under the **Youth (Care and Supervision) Law 1960**, as a means of providing care and supervision to a minor who has been declared in need of protection (see also Chapter 7); (b) under the **Youth (Trial, Punishment and Modes of Treatment) Law**, as punishment following conviction within the ambit of section 24(1) of that law; or (c) as a mode of treatment as determined under section 24(2) of said law. The judge must decide *a priori* which alternative he will choose. The distinction between being sent to a closed residence with a conviction, or being sent to one as a mode of treatment, is very significant, and will be noted in the crime register accordingly. The Supreme Court has instructed that punishment for a felony in the form of incarceration in a closed residence should be handed down with a conviction, so to emphasize the severity of the offense (Criminal Appeal 403/88 *Anonymous Plaintiff v. State of Israel*, P.D. 42(3) 570).

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The residences that house minors who have been convicted of committing an offense are operated by the Youth Protection Authority of the Ministry of Labor and Social Affairs. The Authority's residences exist along a continuum, and include closed residences, open residences in the community, and crisis intervention centers. As noted, these frameworks also serve minors in need of protection. Most of the minors who are sent to a residence for an infraction of the law are sent to closed residences, which are relatively small (housing between 30 and 40 minors) and offer educational and therapeutic services. The existence of a continuum of services allows for a minor to be transferred from a closed to an open residence toward the end of his sentence or period of confinement, in preparation for his return to the community. This is also stipulated by section 31 of the **Youth (Trial, Punishment and Modes of Treatment) Law**: "When a Juvenile Court has ordered a minor remanded to a closed residence, the superintendent of residences may remove him therefrom to an open residence, provided he has spent a reasonable period of time in the closed residence and circumstances justify his transfer". To improve the efficiency of the transfer of inmates between residences, the Youth Protection Authority together with JDC-Israel and ELEM has established facilities with both an open and a closed wing.

Under section 25(a) of the **Youth (Trial, Punishment and Modes of Treatment) Law**, the court may not order a convicted minor to serve a sentence in a closed residence that is in excess of the sentence prescribed for the offense of which he has been convicted. However, a remand to a residence as a means of treatment must take into account the convicted minor's treatment and rehabilitation needs as assessed by the probation officer, such that the duration of the sentence takes these into account. Further, such a sentence is contingent on finding a residence that can admit the minor, so as to afford him the proper conditions for rehabilitation.

Also under section 25(a) of this law, a closed residence may be an alternative to imprisonment, but cannot itself be considered imprisonment. The Supreme Court has held that when a court convicts a minor and sentences him to imprisonment, it is not authorized to order the minor to serve his prison sentence in a closed residence (Miscellaneous Criminal Applications 1316/90 *Anonymous Plaintiff v. State of Israel*, P.D. 45(1) 309).

Under section 42 of the law, a minor remanded to an open or closed residence who escapes therefrom, or whose release therefrom has been canceled, or whose leave therefrom has expired, may be arrested by a police officer without a warrant (as he has escaped from lawful custody, which is grounds for arrest without a warrant) and kept under arrest until he has been returned to the residence. The police must immediately notify the superintendent of residences of the arrest, and act to ensure the swift return of the minor to the residence.

#### **5.3.1 Periodic Review of Placement**

According to the Youth (Trial, Punishment and Modes of Treatment) (Conditions of Minors in Residences) Regulations 1976, the case of any minor who has been placed in an open or closed residence will be reviewed by a special committee at least twice a year; the committee will assess

his condition and determine an education program for him (regulation 17). Wherever possible, the director of the residence will summon the minor or his parent to appear before the committee and make a statement (regulation 19). In recent years, the Youth Protection Authority has developed a clinical follow-up to evaluate the status and progress of the residents.

### **5.3.2 Release from a Closed Residence**

A minor held in a closed residence may be released after one year or, in special circumstances, before this time, at the discretion of a release committee (see section 36 of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**). Regulation 3 of the **Youth (Trial, Punishment and Modes of Treatment) (Procedures in Release Committees) Regulations** states that “A petition for release from an open or closed residence pursuant to section 36(a) of the law may be filed by the minor, his parent, the superintendent of residences, or the minor’s representative”. Regulation 6 provides that “the [release] committee may hear a case not in the presence of the minor, although if the committee finds that there is no *prima facie* reason for releasing the minor, it must hear the case again after granting the minor or his parent an opportunity to state his claims”. Regulation 11 makes similar arrangements with regard to petitions to change conditions.

The Juvenile Court may, on the petition of the superintendent of residences and after having heard the minor and his parent, extend for a further year the period that a minor may remain in a residence, if it deems this to be in the minor’s best interest, or continue his treatment or vocational training (section 33 of the law). The authority to treat a minor in a closed residence extends until the age of 20 (section 34 of the law). Some see in the ability to extend a minor’s stay in a closed residence for the purpose of treatment an infringement on his rights, given that a minor’s stay in a closed residence for the purpose of punishment may not be extended.

### **5.3.3 Rehabilitation and Reintegration into Society**

The Youth (Trial, Punishment and Modes of Treatment) (Treatment Follow-up) Regulations 1976 define the role of the follow-up officer with regard to minors in residences. Regulation 5 prescribes that “the follow-up officer will begin handling a case six months prior to the lapse of the warrant placing the minor in the residence, or earlier, at the discretion of the superintendent of residences”. A minor who has been released from a residence will remain under the supervision of the follow-up officer for at least one year (section 38 of the **Youth (Trial, Punishment and Modes of Treatment) Law**). According to regulation 6, “should the follow-up officer be of the opinion that the period of treatment should be extended for more than one year after the date of release, he will make a reasoned petition to the superintendent of residences, who will then notify the follow-up officer and any person under his care of his decision by no later than one year after release”.

Regulation 4 of the **Youth (Trial, Punishment and Modes of Treatment) Regulations 1976** defines the role of a follow-up officer as follows:

“In performing his role under section 39 of the law, a follow-up officer will ensure the physical and emotional well-being, professional rehabilitation and absorption into society of the person under his care, taking into account the attributes of the person under his care”.

#### **5.3.4 Conditions and Rights of Minors in Residences**

The Youth (Care and Supervision) (Conditions of Minors in Residences) Regulations 1976 prescribe the conditions under which a minor is to be kept in a residence. *Inter alia*, they require the director of a residence to notify a minor arriving therein of his rights and obligations; to inform the minor’s parent on the minor’s arrival at the residence (unless this is not in the minor’s best interest); to provide educational, social, and recreational activities and medical treatment; to make provisions for religious observance; and to arrange for the reception of visitors and the exchange of mail (regulations 5, 6, 8, and 9).

The regulations allow the person in need of protection to submit a complaint about the conditions of his residence, and require the director of the residence to convey this complaint to the appropriate State authorities with due haste (regulation 10). The disciplinary measures to be used in residences are to be solely educational; emotional and corporal punishment and denial of food are prohibited; no penalty that is liable to cause physical or emotional harm may be imposed on the minor in need of protection, nor may he be placed in solitary confinement (regulation 13). The staff of the residence may only deprive a person in need of protection of his rights, use force against him, or place him in solitary confinement if educational considerations make this imperative, or in self-defense, or to restrain a person in need of protection who is causing a disturbance (regulations 14-16). Regulations 14-16 also prescribe the procedures for authorizing and reporting these acts.

Keeping a minor in a residence is subject to the Supervision of Residences (Keeping Children in an Ordinary Residence) Regulations 1965. During the past two years, the Youth Protection Authority has been working to improve surveillance of the residences it operates (see Chapter 7).

#### **5.3.5 Lack of Space in Residences**

Until recently, referral to a closed residence was not available to the entire population of youth in Israel. This denied a segment of this population an appropriate rehabilitative option, and forced the courts to either impose imprisonment, or refrain from imposing any sanction. As noted, a closed residence for Arab youth was only established in 1999, after the National Council for the Child had petitioned the Supreme Court. In two rulings in this matter, the court iterated the necessity of establishing a closed residence for Arab youth ((Petition to the) High Court of Justice 3437/92 *National Council for the Child v. Minister of Labor and Social Affairs*, P.D. 47(1) 148; (Petition to the) High Court of Justice 1070/96 *National Council for the Child v. Minister of Labor and Social Affairs* (13.7.97 not yet published)). Similarly, the number of places for girls in closed residences does not meet requirements. At present, additional places are being designed for the purposes of diagnosis and crisis intervention in a closed residence for girls.

## 5.4 Imprisonment

In July 1999, 133 minors were in prison. Of them, 64 had been sentenced to up to 12 months in prison, 44 had been sentenced to between 12 and 24 months in prison, and 25 had been sentenced to over two years in prison. This was a first prison sentence for 81 of these minors.

### 5.4.1 Terms of Imprisonment

Under section 25(e) of the **Youth (Trial, Punishment and Modes of Treatment) Law**, “A minor on whom imprisonment has been imposed may not be held in prison together with a person who is not a minor”. Minors are held in only one prison, in a special wing, away from the other prison wings. Minors under arrest may also be held in this wing. At any given time, there are some 130 youth ages 14-18 in the minors’ wing, most of whom have been sentenced, and some of whom are under arrest. The wing is divided into three sub-areas: the reception and selection area, the advanced area, and the rehabilitation area. The minors are usually held in cells of two people, although some cells accommodate between four and six people. A set schedule governs the youth wing, which includes four hours of formal study (sometimes combined with work) at the education center in the wing, and enrichment and leisure activities. The staff of the youth wing comprises education officers, social workers and a psychologist. Each minor who arrives on the wing has a treatment plan. In addition, there are various therapy groups, such as a group that is preparing for release, a communication group, a group that works on improving conflict resolution skills, and so forth. In 1999, a new project was initiated by the Rehabilitation of the Offender Authority, in cooperation with the Youth Probation Service and the Prison Authority, in which each minor has a rehabilitation plan drawn up for him while he is in prison; in cooperation with community services, the minor continues to receive assistance two years after his release from prison.

## Article 37(a) of the Convention

## 6. Sentencing of Children, Capital Punishment, and Life Imprisonment

Under section 25(d) of the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**, a court may not impose a prison sentence on a minor who is under the age of 14 at the time of sentencing. When an offense has been committed by a person who was a minor on the day he committed it, the death penalty may not be imposed. In any case, the death penalty is not imposed in Israel, even on adults. (Since establishment of the State, the death penalty has only been used once: against Nazi war criminal Adolf Eichmann.) Under section 25(b) of the law, it is not mandatory to impose a life prison sentence, a mandatory prison sentence, or a minimum penalty on a minor (even if these are so prescribed by law for offenses the minor is convicted of having committed). Unlike the death penalty, there is no absolute prohibition against imposing a life prison sentence on minors. The Supreme Court has held, in a majority decision, that the court has the

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discretion to review each case on its merits; should it reach the conclusion that the appropriate punishment is life imprisonment, and should it consider that this punishment is just and necessary, it may sentence a minor to life imprisonment (Miscellaneous Criminal Applications 530/90 *John Doe v. State of Israel*, P.D. 46(3) 648). One Supreme Court justice, basing herself, *inter alia*, on the Convention, expressed the view that life imprisonment should only be imposed on a minor in exceptional cases; however, her opinion was deemed as “needing further study” by the justices who sat with her (Miscellaneous Criminal Applications 3112/94 *Abu Hassan v. State of Israel* (11.2.99 not yet published)). In practice, life imprisonment is imposed on minors very rarely; to date, it has been imposed on three 17-year-olds who stabbed a bus passenger to death as part of the “initiation rite” of a terrorist organization; and on a youth age 17 and 10 months who strangled his employer to death after she commented on his work and delayed payment of his salary for two days.

## Article 39 of the Convention

### 7. The Rehabilitation and Reintegration into Society of Youth Offenders and Youth at Risk of Becoming Offenders

As discussed above, many of the alternatives for the rehabilitation of juvenile offenders exist within the modes of treatment prescribed by the **Youth Law**, and implemented by the Youth Probation Service and the Youth Protection Authority. However, most of these alternatives exist for minors who have already been charged, or for whom a criminal file has been opened. In addition, a number of other services help minors who are in trouble or at risk of criminal behavior; they work in cooperation with the Youth Probation Service in treating youth suspected, accused or convicted of committing an offense. The Youth Advancement Department of the Ministry of Education, the Service for Children and Youth and the Service for Women and Girls of the Ministry of Labor and Social Affairs help disaffected youth who have dropped out or are at risk of dropping out of school or work (some of whom are already involved in delinquent activity). The Service for Children and Youth reports serving about 10,000 young people a year, through 260 social workers; the Service for Women and Girls reports serving some 7,000 girls and young women ages 13-22. The Youth Advancement Department of the Ministry of Education reports serving 13,500 young people ages 14-18 through municipal social welfare departments throughout the country. These services offer diverse educational, preventive and therapeutic programs (e.g., programs for completion of matriculation, support with job integration, preparation for military service, drug prevention programs), using individual and group methods. The *Al-Sam Association* offers counseling, treatment and rehabilitation at centers throughout the country for young people involved with drug abuse, and operates a number of projects (primarily in conjunction with the education system) to prevent the use of drugs. Table 8 presents the principal agencies that help such minors, by organizational affiliation, contact with the police, primary functions, and target population.

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**Table 8: Principal Agencies Treating Minors Suspected of Having Committed an Offense**

Agency	Organizational Affiliation	Is contact with the police mandated by statute?	Primary Functions	Target Population
Youth probation officers	The Youth Probation Service, Ministry of Labor and Social Affairs	Yes	<ul style="list-style-type: none"> <li>- Receive report from police on files opened, arrests, releases</li> <li>- Report to police before the fate of a file is sealed</li> <li>- Provide and supervise treatment: no-prosecution of crime, drugs; mediation between offender and victim</li> <li>- Maintain contact with arrested minors; treat, rehabilitate and supervise minors during their involvement in the criminal system</li> </ul>	Minors (age 12-17) suspected of having committed an offense under the law
Youth interrogators	Youth Probation Service, Ministry of Labor and Social Affairs	Yes	Coordinate investigation of minors (conducted by police)	Minors (under age 14) suspected of having committed a morality offense
Youth Protection Authority	Ministry of Labor and Social Affairs	Yes	Assess, treat and supervise minors under court order	Convicted minors sentenced to a closed residence; minors in need of protection

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**Table 8: Principal Agencies Treating Minors Suspected of Having Committed an Offense (cont'd.)**

Agency	Organizational Affiliation	Is contact with the police mandated by statute?	Primary Functions	Target Population
Child protection officers under the Youth Law	Service for Children and Youth, Ministry of Labor and Social Affairs	Yes	Treat minors not criminally liable (under age 12) who are suspected of having committed an offense	Minors not criminally liable (under age 12) suspected of committing an offense
Schools	Ministry of Education	No	Disseminate information, implement crime prevention projects	Minors suspected of having committed an offense; minor victims
Psychological counseling service	Ministry of Education	No	Develop programs to prevent violence and drug abuse	Students and school staff
Service for Children and Youth	Correctional Services Department, Ministry of Labor and Social Affairs	No; procedures exist for reporting offenses	Treat minors at risk of criminal behavior	Minors suspected of or at risk for committing an offense
Youth Promotion Units	Youth and Society Administration, Ministry of Education		Develop crime prevention programs	
Al-Sam	Registered association	No	Treat minors referred for treatment; implement drug prevention projects	Minors who abuse drugs
Drug Prevention Authority	Government agency		Set policy concerning drug-related problems; initiate prevention projects (e.g., with the civil guard)	Youth involved in drug use

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**Table 8: Principal Agencies Treating Minors Suspected of Having Committed an Offense (cont'd.)**

Agency	Organizational Affiliation	Is contact with the police mandated by statute?	Primary Functions	Target Population
The National Council for the Child	Voluntary organization	No	Examine complaints of unfair treatment and violations of rights of minors in criminal proceedings; propose laws; raise public awareness	Minors suspected of having committed an offense; victims
Defense for Children International (DCI)	Voluntary organization	No	Examine complaints of unfair treatment of minors in criminal proceedings; propose laws; give legal advice to minors	Minors suspected of having committed an offense
ELEM – Youth in Distress	Voluntary organization	No	Help develop a hostel; raise public awareness; help establish a network of therapeutic coffee houses for youth; operate a mobile unit that locates and assists youth at night	Minors in need of protection or at risk for criminal behavior

## 8. The Proposed Reform of the Youth (Trial, Punishment and Modes of Treatment) Law

The Ministry of Justice has recently been discussing a proposal to amend the **Youth (Trial, Punishment and Modes of Treatment) Law 1971**. The amendments in question would reflect a new approach, in the spirit of the UN Convention on the Rights of the Child: one that would protect the dignity and rights of minors suspected or accused of having committed an offense, and consider their developing abilities and best interests. Like the current provisions of the law, the proposed amendments are based on a desire to reform and rehabilitate minors, through suitable punishment and treatment.

The amendments would ensure that the dignity of any minor involved in criminal proceedings would be safeguarded, and his age considered. Minors would no longer be arrested if the end goal of arrest could be obtained with the least possible infringement of their liberty; an arrest would only be made if the age of the minor and the effect of the arrest on his welfare and development had been taken into account. Arrest would be for the shortest period necessary to achieve its object.

Also under these amendments, if a court hearing a petition to arrest a minor found no grounds for his arrest, yet believed the minor was in danger of death or injury and felt there was no safe place for him, the court would order the arrest of the minor for a period not to exceed 24 hours, for the minor's protection, and to allow a child protection officer to exercise his authority. Further, should the court believe it possible to find a way to protect the minor for more than 24 hours but not exceeding 48 hours, the court would order the minor's arrest for the required period.

The amendments further stipulate that a parent of a minor who is under 14 years of age will be summoned to a hearing on his arrest. If it is not possible to summon the parent, another person close to the minor will be summoned, and this person will be given the opportunity to make a statement. A parent or relative will not be summoned if their presence would be injurious to the minor's well-being. In such cases, an order will be given to a probation officer. A minor suspected of having committed an offense will be summoned to an investigation via his parent, and the parent will be summoned to be present at the investigation of the minor, unless the parent cannot be traced through reasonable efforts.

The proposed amendments detail the procedures for investigating a minor, and present the explicit wording of the warning and explanation of rights that the investigator must declaim to the minor at the commencement of the investigation. The amendments strive to respect the human dignity of a minor held under arrest or imprisoned, and to provide him with conditions suited to his age and needs. The minor will be permitted to maintain contact with the members of his family; the minor's welfare will be specially supervised. The punishment arrangements proposed in these amendments will also apply to an adult who committed a specific offense when he was a minor.

## 9. Summary

Israel's criminal justice system aims to protect children, as reflected in its separate system of investigation, adjudication and punishment for minors, staffed by professionals who are trained to handle minors; its special proceedings and procedures to prevent the stigmatization of minors; and its integration of treatment and rehabilitation into all aspects of legal proceedings. Nevertheless, the system has been criticized severely. First, it has been claimed that the statutory arrangements are meant to protect minors, but not to safeguard their rights. Both legislative initiatives that would ensure suitable representation for minors, and the proposed amendments to the **Youth (Trial, Imprisonment and Modes of Treatment) Law** intend to close gaps in the existing legislation. Second, according to senior officials in the criminal justice system, despite significant improvement in the awareness of children's rights in criminal proceedings and their protection by children's rights organizations, minors' rights are still being violated, and police staff have voiced concern about the implications of having to apply principles arising from the rights of the child. Critics have objected to what they feel is an excessive use of arrest, and to the conditions of arrest of minors. Concern has also been raised that minors' rights are being violated, and the ability to rehabilitate them is being impeded, by the lack of space in closed residences. Lastly, concern has been expressed over the different treatment of Jewish and Arab minors.

### Children in Situations of Exploitation, Including Physical and Psychological Recovery and Reintegration into Society

#### Article 32 of the Convention

#### 1. Economic Exploitation of Children, Including Child Labor

This section will examine the measures taken to prevent the economic exploitation of children and to protect working children, as required by article 32 of the Convention.

##### 1.1 The Legal Situation

The principal law dealing with the employment of minors is the **Youth Employment Law 1953**. Another, supplementary law is the **Apprenticeship Law 1953**, which covers minors who acquire a trade through apprenticeship. The **Youth Employment Law** and the **Apprenticeship Law**, which were enacted at the same time, were designed to protect working minors and set the frameworks and conditions of their employment. In 1998, the **Youth Employment Law** was amended in an effort to adapt it to the standards of the Convention.

Since 1953, Israel has been a party to a number of treaties of the International Labor Organization (ILO): the Conventions on Medical Examinations Concerning the Capacity and Employment of Children and Youth in Industry and Non-industrial Professions (Treaties Nos. 77 and 78, respectively, 1946); the Conventions on Night Labor of Children and Youth in Industrial and Non-industrial Trades (Treaty No. 90, 1948, and Treaty No. 79, 1946). Since 1980, Israel has been a party to the Convention on the Minimum Age of Employment (Treaty No. 138, 1973).

### **1.1.1 Definition of a Working Minor**

The legal definition of a “workplace in which a minor works” is very broad; only a few workplaces are outside the bounds of the definition. Consequently, the blanket of protection provided by the law covers the majority of working minors. For example, the **Youth Employment Law** includes in its definition of work the employment of a minor with his parents for the purpose of their business or occupation even when the business is not for profit, excluding non-industrial work and agricultural work on the parents' farm.

### **1.1.2 Minimum Working Age**

Israeli law considerably restricts the ability of minors to work. Broadly speaking, it prohibits the employment of a minor who is under the age of 15 (section 2 of the **Youth Employment Law**). Section 5 of this law prohibits minors from working in certain places, and section 6 of the law defines types of work that are prohibited. It is prohibited to employ minors who are obligated to be in school under the **Compulsory Education Law 1949**, unless the Minister of Education is convinced that the minor is unable to study in an ordinary manner at a recognized educational institution, or the minor is working as an apprentice under the **Apprenticeship Law**. Since the **Compulsory Education Law** applies to minors up to age 16, in practice minors may only really be employed on a regular basis from the age of 16. However, during official school vacations it is permissible to engage minors over the age of 14 in light work that is unlikely to harm their health or development (section 2A of the **Youth Employment Law**). The most recent amendment to the **Youth Employment Law** repealed the prohibition on peddling.

### **1.1.3 Restriction of Dangerous Work**

The **Youth Employment Law** and the regulations enacted there under provide that even minors who may be employed, may not be employed in every place. The Minister of Labor may prohibit certain types of work, if these are liable to adversely affect the minor’s physical, mental or educational development. The Youth Labor (Prohibited and Restricted Work) Regulations 1954 restrict the employment of minors, and specify places and types of work in which it is prohibited to employ a minor. These include underground work in a mine or quarry, work in a slaughterhouse, the production and assembly of explosives, work involving contact with chemical materials, work in a hospital where there is danger of contracting a disease, work in a microbiology laboratory, work on dangerous machines such as presses, and work on or near machinery that emits radiation. The regulations also specify objects that minors are prohibited from moving without mechanized

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lifting equipment, and restrict the load that a minor is permitted to carry when engaged as a porter (12.5 kilograms for a boy, eight kilograms for a girl, and the number of hours (two) per day during which a minor may work as a porter.

#### **1.1.4 Medical Examinations**

The law stipulates that, prior to employment, a thorough medical examination must be performed on a minor to assess whether he is physically fit to do the work for which he has been hired. The law prohibits employing a minor if he has not yet undergone such an examination and been declared medically fit to do the job in question or a similar job, or if said job will pose a health risk to or require undue physical effort from the minor. In addition, minors are to be examined periodically, to ensure that the work they are doing is not having an adverse effect on their development and health. These examinations are to be conducted by the minor's family physician, at the expense of the State (section 11 of the **Youth Employment Law**). Special procedures are to be followed with regard to work that requires fitness examinations.

Should a medical examination discover that a minor is not medically fit to perform tasks for which a child of his age is generally fit, or that the minor is not medically fit to do the specific job for which he has been hired, or that the work is adversely affecting the minor's health, the examining medical establishment will so inform the Regional Inspector of Labor, through the minor's parents, and the minor's employer (section 13 of the **Youth Employment Law**).

An employer receiving notice as aforesaid must terminate the employment of the minor within ten days of having received the notice (section 14 of the **Youth Employment Law**). Section 16 of the law extends it to young people up to the age of 21, by providing that medical examinations be performed when a young person is employed in work that poses a particular danger to his health.

#### **1.1.5 Hours of Work and Rest**

The law restricts the number of days and hours a minor may work per week. Section 20 of the **Youth Employment Law** stipulates that a minor may not be employed for more than eight working hours a day and forty working hours a week. Under section 22, the employer is obligated to allow a minor to take breaks to rest and eat; the duration of these breaks is determined in the law. In addition, work hours must include short, sanctioned breaks for rest and fresh air (section 20). Section 21 of the **Youth Employment Law** provides that minors may not be employed on the weekly rest day of his religion. Section 25 of the **Youth Employment Law** prohibits a minor from engaging in night work, where "night" is defined, for a minor to whom the **Compulsory Education Law** applies, as being the 12 hours between 20:00 and 08:00, and for a minor to whom the **Compulsory Education Law** does not apply, as being the ten hours between 22:00 and 06:00. The Minister of Labor and Social Affairs may make exceptions to these restrictions, for example by issuing a permit to employ a minor for part of the night, or for the purpose of doing shift work (section 25 of the **Youth Employment Law**). Even when a permit has been granted under section 25, a minor must be guaranteed a rest of at least 14 hours between one working day and the next

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(section 26(a)). Overtime employment of a minor, beyond the hours permitted by law, is a criminal offense, although the minor himself is not regarded by the law as having committed the offense or even as having been an accessory to the offense of his employer. The Supreme Court has held that employing a minor not in accordance with the restrictions set down in law does not prevent the minor from later demanding wages for extra hours worked (AA 150/63 *Mizrachi v. Anstock*, P.D. 17 1361).

#### **1.1.6 Social Security**

Minors are entitled to the same rights that accrue to adult employees, such as sick leave and severance pay. They are entitled to a vacation of 18 days per annum, compared to the annual minimum vacation of 14 days owed to an adult employee under the **Annual Leave Law 1951** (section 27 of the **Youth Employment Law**). Working minors are entitled to a minimum wage, although the minimum wage for a minor is significantly lower than that owed to an adult (see the Minimum Wage (Working Youth and Apprentices) Regulations 1987).

An employer is required to pay social security for the minors he employs. These payments are made at the employer's expense, and should not be deducted from the working minor's salary. In any case, a working minor is entitled to compensation for an injury incurred at work, even if his employer has failed to make social security payments for him.

Minors may be taxed on their income, should they exceed the tax threshold. Minors ages 16-18 have an additional tax break (an amount on which they need not pay taxes), above that for adults.

#### **1.1.7 Studying while Working**

The law encourages working minors, even those who are no longer obliged by the **Compulsory Education Law**, to attend school and acquire an education. Working minors are obliged by law to participate in vocational training one [full] day a week (or three partial days a week), for a total of up to nine hours a week. The object of this is to train the minor in a trade or for a job; training takes place in accordance with a study program determined by the Minister of Labor and Social Affairs. Employers are bound to release minors from their work during study hours, and are prohibited from deducting from the minor's salary the hours during which the minor was absent from work due to studies. Vocational training is provided free of charge (section 27A of the **Youth Employment Law**). Some working minors aim to acquire a particular trade; however, they may only be employed in this trade through an apprenticeship, under the **Apprenticeship Law**. Apprentices may not be given work that is unrelated to the purpose of the apprenticeship; they are entitled to a minimum wage (slightly lower than the minimum wage of a working minor). The employer is obligated to release the apprentice to participate in authorized vocational training, without deducting this time from his salary.

In order to implement the law, special frameworks have been established under the auspices of the Ministry of Labor and Social Affairs, which combine work and study. Approximately 16,000

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minors study in such frameworks. Beginning in 11<sup>th</sup> grade, most of these minors work outside of school, usually for three days a week, and are paid a wage. The frameworks teach vocational studies and give the youth practical work experience in fields such as automobile mechanics, electrical work, carpentry, printing, hairdressing and industrial sewing; the studies are specifically designed for youths age 16 and over. They also teach the students good work habits and help them adjust to a work environment. In addition to payment for their work, the students may be eligible to receive a certificate of completion (see Chapter 9).

Youth Vocational Rehabilitation Centers (“*Miftanim*”) are operated by the Youth Vocational Service of the Ministry of Labor and Social Affairs and the local authorities. These centers offer basic studies, vocational training and work for minors who are unable to continue their studies in the regular education system due to serious adjustment problems. The centers also teach social skills and offer therapeutic support. Approximately 2,500 minors attend 34 Youth Vocational Rehabilitation Centers throughout the country.

#### **1.1.8 Special Jobs**

The **Youth Employment Law** makes special provisions for minors who participate in performances, television advertisements and films (section 4). The general rule is that a child under the age of 15 may not be employed in a public or artistic performance, a performance for the purpose of advertising, or filming for the purpose of advertising. Exceptions to this rule are only made by permit, which the Minister of Labor and Social Affairs may grant to a specific minor for a limited time.

An employer who wishes to obtain such a permit must submit a description of the performance program; the number of hours the minor will need to work; the type of task the minor will be required to perform (e.g., rehearsals, performances, etc.); the consent of the minor’s parent or guardian; a physician’s report that the minor is medically fit to be employed in this manner; and an assessment from the principal of the minor’s school that his participation will not harm his studies (regulation 9). The permit will cite the conditions necessary to preserving the health and development of a minor participating in such a performance (e.g., training hours, the need for an application for night employment, etc.). The individual circumstances, as well as the age, of each minor will also be considered. No information was obtained on the number of permits granted in a given year, or on the characteristics of minors to whom permits were granted.

A recent amendment to the law, which quoted the Convention on the Rights of the Child, determined that a minor who is able to express his own opinion should be entitled to express it regarding the granting of a permit for his employment, and appropriate weight should be given to his opinion, based on his age and level of maturity.

### 1.1.9 Data on Working Minors

Table 1 reveals that 7% of the minors ages 15-17 are employed (7.7% of the boys and 6% of the girls). The percentage of Arab boys who are employed is greater than that of Jewish boys, but the percentage of girls who are employed is smaller among Arab girls. It should be noted, however, that in the Arab sector, particularly in villages, minors engage in work (primarily in agriculture and housework) that is not usually reported. Given this and the high rates of illiteracy in this sector, it is possible that more youth work in the Arab sector than is reported; this may be particularly true of girls. Further, it appears that most of the Jewish youth who are employed also attend school or some other education framework, while most of the Arab youth who work do not attend any education framework (see also Chapter 9).

**Table 1: Work and Study among Youth Ages 15-17 in 1998, by Population Group (in %)**

	Total Population (age 15-17)	Jews	Arabs
Total Youths Employed	6.8	7.5	4.5
Of them: attend school	5.1	6.4	0.6
do not attend school	1.7	1.1	3.9
Boys			
Employed	7.7	7.5	8.4
Of them: attend school	5.1	6.2	1.3
do not attend school	2.6	1.3	7.1
Girls			
Employed	6.0	7.6	0.6
Of them: attend school	5.1	6.6	-
do not attend school	0.9	1.0	0.6

Source: Ben-Arie and Zionit, 1999

### 1.1.10 Minors Employed Illegally

In a 1993 study (Feingold, 1993), interviews were conducted with 45 working children ages eight-15 from several Israeli cities. Of them, 20 were native-born Israelis, 19 were new immigrants from the former Soviet Union, and six were Arabs from the West Bank and Gaza. The interviews revealed that children are being employed for more hours than is permitted by law, and earn less than the minimum wage. Many of the children interviewed had external marks of poor health: injuries, scars, dental problems. They reported suffering cuts, bruises and falls, but did not report having been hospitalized for a work-related injury. The researchers estimated that the number of children under the age of 15 who were unlawfully employed in Israel at that time reached 10,000; most of them were Arabs from the West Bank and Gaza. We may assume that the transfer of a substantial part of these territories to the Palestinian Authority, and the restrictions on the employment of residents of these territories in Israel, have caused this number to drop significantly.

### **1.1.11 Surveillance and Penalty**

Under the **Youth Employment Law** and the **Apprenticeship Law**, councils were established to supervise the employment of minors: the Council on Working Minors and the Apprenticeship Council. Section 32 of the **Youth Employment Law** obligates employers to make the provisions of the law known to the minors in his employ. The **Youth Employment Law** and the **Apprenticeship Law** prescribe penalties of a fine and imprisonment for anyone who employs a minor in contravention of the law and regulations (section 33). The **Youth Employment Law** prescribes penalties for a parent who allows a minor to work in contravention of the law, unless he proves that he did not know his actions were in contravention of the law, or took all appropriate steps to prevent contravention of the law (section 37). A similar liability is ascribed by section 38 of the law to managers, directors or partners of establishments that employ minors in contravention thereof. Special liability is ascribed to agents of performance and film (section 33d). All of these sections, like many other protective labor laws, impose strict criminal liability on the employer.

In 1998, the Law Enforcement Department of the Ministry of Labor and Social Affairs handled 4,181 cases of minors. In 1,101 of the cases, the employer remedied the defect found, and criminal charges were not brought against him. In 3,080 of the cases, criminal charges were brought against the employer. Complaints about the employment of minors are also made to non-government organizations like the Federation of Working and Studying Youth and the National Council for the Child. These organizations also distribute information on the rights of employed minors among young persons.

Minors who work for pocket money in occasional jobs, like waiting tables, are often subject to a violation of their rights or the employer's failure to pay them the minimum wage. Employers have even been known to demand that a minor work for a certain period without salary and then, in contravention of the law, pay the salary based on tips rather than on the minimum wage. Voluntary organizations claim that there is an inadequate number of inspectors and that, consequently, the laws are not sufficiently enforced. Further, these organizations demand more severe punishment of employers who contravene the law.

## Article 34 of the Convention

### 2. Sexual Exploitation and Sexual Abuse

#### 2.1 The Legal Situation: Definition of Offenses

Sexual exploitation is addressed by the **Penal Law 1977**; sections 345-354 of the **Penal Law** deal specifically with the sexual exploitation of minors. The law imposes particularly harsh penalties on sexual contact with a minor, especially if initiated by force, through exploitation of a relationship based on control or authority, or with a minor under the age of 14. The law reflects the belief that a child does not have full legal capacity to form free consent, particularly when the offender is a relative or other individual on whom the child is dependent.

Section 345 of the **Penal Law** prohibits sexual intercourse with a girl under the age of 14, even if the act is engaged in with her consent, and prescribes a particularly serious penalty (20 years' imprisonment) for rape (forced sexual intercourse) of a minor who has not yet reached the age of 16. Section 347 of the **Penal Law** imposes the same penalty for a person who commits an act of sodomy in similar circumstances. Section 346 of the law prescribes a penalty of five years' imprisonment for sexual intercourse with a minor between the ages of 14 and 16 who is not married to the perpetrator of the act, even if it is committed with her consent. Section 353 of the **Penal Law** stipulates that a defendant may claim in his defense that the age difference between himself and the girl with whom he engaged in sexual intercourse does not exceed three years, that the girl consented to the act, and that the act was committed in the context of a relationship based on mutuality, and not through the exploitation of the defendant's status. A recent amendment to the law applies the same criteria to sexual relations between males. A maximum penalty of five years is imposed on a person who has sexual intercourse with a minor over the age of 16, even if she consented to the act, if the act involved the exploitation of a relationship based on control, domination, educational authority or supervision, or a false promise of marriage when the offender is already married. In contrast, section 347 of the law declares that an act of sodomy with a minor over the age of 14 is punishable by five years' imprisonment, regardless of whether the minor consented to the act or the perpetrator exploited his authority or control over the minor. Sections 348 and 349 define as an offense an indecent act (that is, "an act [committed] for sexual stimulation or gratification, or out of contempt") against a minor, under circumstances that also apply to rape and to consensual, unlawful sexual relations. Section 351 defines sexual offenses committed against a minor by a person who is related to the minor as extraordinary offenses; it imposes particularly severe penalties on these offenses.

A 1998 amendment to the **Penal Law** eradicated a distinction that had formerly been made between a boy and a girl minor regarding consensual sexual intercourse. The amendment set a standard age for prohibition of an act of sodomy or of consensual, unlawful sexual intercourse: In both cases, the

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prohibition applies to a person between the ages of 14 and 16. Moreover, the amendment set a minimum penalty of one-quarter of the maximum penalty for severe sexual offenses, unless a court found exceptional grounds for reducing the penalty.

The **Penal Law 1977** prohibits physical, mental and sexual violation of a minor, and prescribes a maximum sentence of seven years' imprisonment for such offenses, or nine years' imprisonment if the perpetrator is responsible for the child (sections 368B and 368C). Special Section F1 of the **Penal Law** is devoted to the harm of minors and helpless persons. The principles underlying the provisions in this section of the law are as follows: First, an offense against a minor is more severe than an offense against an adult. Second, an offense is considered more severe when committed by a person who is responsible for a minor, than by one who is not. Third, any person knowing of an offense against a minor committed by a person who is responsible for that minor is obligated to report the offense.

In Israeli law, prostitution is not an offense, although pimping and soliciting are offenses. A perpetrator of any of the above offenses against a minor is liable to seven years' imprisonment. The law prohibits a person from making an indecent proposal to a minor who has not yet reached the age of 16, or to a woman. Section 209 makes it possible to find a minor guilty of soliciting or abetting an immoral act.

Recent amendments to the **Penal Law** declared the following to be offenses against the law: advertisement of prostitution services provided by minors (section 205A); claiming that a provider of prostitution services is a minor even if this is not true (section 205B); and publication of pornographic material that involves the body of a minor (sections 214(b) to 214(b3)).

A proposal to amend the **Penal Law**, aimed at combating the sexual exploitation of minors and broadening the safeguards available to them, would apply the principle of extra-territorial jurisdiction to offenses of prostitution committed against minors. It would also restrict the protection of perpetrators offered by double jeopardy (that is, it would allow an offense to be tried twice) for offenses of prostitution and pornography committed against minors, to allow perpetrators of such acts to be tried in Israel, even if the acts were committed in a country in which they are not considered offenses.

## 2.2 Treatment and Rehabilitation

The existing system of intervention in Israel for young people at risk or in danger does not include specialized services for addressing the prostitution or commercial exploitation of minors, although a number of services for minors do help minors who have been exploited sexually.

The Ministry of Labor and Social Affairs helps youth in severe crisis situations through the Service for Women and Girls and the Service for Youth and Youngsters, which locate and provide crisis intervention and emergency services to young people who have difficulty adjusting to or

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functioning in normative society; often, such young people neither attend school nor work, instead loitering and roaming the streets, where they are susceptible to crime and exploitation. The Ministry of Education operates youth promotion units, which work with young people who neither attend school nor work, or who attend school sporadically. Treatment may involve individual, family or group intervention, alongside help integrating the young person into an educational or employment framework. The Youth Protection Authority operates residences for youth who have been referred to them by a court order because they have broken the law or because they are exposed to severe distress that necessitates their being removed from their home (under the **Youth (Care and Supervision) Law 1960**). The Youth Protection Authority also operates two frameworks for homeless youth, which offer educational, therapeutic and rehabilitative services. The Youth Protection Authority and other services that refer youth to residences have cited a lack of space in these residences.

In addition, voluntary and public organizations field complaints, initiate legislation, and recommend treatment policy for youth in crisis (see Chapter 3). The commercial exploitation of minors is of great concern to *ELEM - Youth in Distress*, which helps minors who have been sexually exploited for commercial purposes; it also promotes research and initiates legislation in this area. ELEM offers counseling and support services for youth in crisis situations, and runs a “night patrol” that locates children who are wandering the streets. Together with JDC-Israel and the Ministry of Labor and Social Affairs, ELEM is developing a new type of residence for young girls in distress. *SHANI - The Center to Combat Slavery and Exploitation in Israel*, (the Israeli branch of the international organization I.A.F.), is primarily an information and research center.

### 2.3 The Committee to Examine the Commercial Sexual Exploitation of Minors

In September 1996, following the First International Congress on the Sexual Exploitation of Minors, held in Stockholm, Israel’s Ministry of Justice initiated the first professional discussion of its kind on sexual exploitation and prostitution among minors in Israel, with the participation of representatives from government ministries and voluntary organizations. At the conclusion of the discussion, the participants resolved to establish an inter-ministerial and inter-organizational committee to examine this issue and make recommendations for policy directions.

The conclusions of the committee, submitted to the government in May 1997, were based on the consolidation of partial yet diverse information, which drew on field studies (conducted by the staff of ELEM), discussions, and reports received from various sources. For the purpose of the committee’s work, sexual exploitation was defined on the basis of article 34 of the United Nations Convention on the Rights of the Child, but was restricted to commercial sexual exploitation – that is, child prostitution, and trafficking in children for the purposes of prostitution and pornography.

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The committee reported that it was unable to determine the exact number of minors who were subject to commercial sexual exploitation. Nevertheless, from the data obtained, the following view of the phenomenon appeared:

1. Hundreds of the more than 10,000 girls treated by the Service for Women and Girls have been exposed to various types of commercial sexual exploitation, some of them heinous. Scores of young girls in out-of-home treatment (usually at a residence of the Youth Protection Authority) have been victims of sexual or commercial sexual exploitation at some time prior to their admission to placement.
2. ELEM staff on the “night patrol” reported that, at any given time, about 50 boys are prey to sexual exploitation in the city of Tel Aviv. On the basis of this figure, the committee estimated that, at any given time, about 100 boys are subject to sexual exploitation throughout the country.

According to the committee’s report, most of the adolescent minor victims had experienced the sexual exploitation during their young childhood. Many had run away or were turned out of their homes, and had come to Tel Aviv from the suburbs, from poor development towns, and from Arab villages; they work as prostitutes to survive.

The committee uncovered several types of sexual exploitation, including prostitution of minor boys and girls in striptease clubs and massage parlors; street prostitution; and collective exploitation of young girls within groups of teens or street gangs, often to finance drug abuse by other members of the group or gang. Similarly, the committee expressed concern over the relatively recent phenomenon of “importing” women, including young girls ages 16-17, from Eastern European countries and the former Soviet republics, for the purpose of prostitution.

The committee recommended establishing a public, professional forum to monitor these phenomena and implement its recommendations in the areas of legislation, enforcement, education, information and prevention, treatment and rehabilitation, and research. Specifically, the committee recommended implementing information and prevention programs among minors, as well as among potential customers of minors offering sexual services; increasing enforcement against providers of sexual services who exploit minors, and against those who purchase these services; training professionals to locate and individually treat minors who have been exposed to sexual exploitation; and expanding the scope of treatment services currently provided, for example by establishing additional rehabilitative frameworks for young girls and open shelters for young people who live on the streets.

The recommendations were presented to a combined Knesset committee. At the request of the Ministry of Justice, this forum prepared a three-year operative plan to address commercial sexual exploitation of minors, which would receive inter-ministerial and inter-organizational funding. Initially, the plan will cover activities to locate and identify minors who are being sexually exploited; a hotline; legislative activity; and acquisition and dissemination of information. Later,

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the plan will involve developing methods of treating and rehabilitating minors who have been found to have been sexually exploited.

Israel's Police Force has recently made preparations to increase enforcement against people who sexually exploit minors. Sexual exploitation of minors was declared a priority for all intelligence units working in the field: Intelligence coordinators have been instructed to collect information on pornography involving minors, brothels in which minors are employed, and sites where prostitution involving minors takes place. The police have also begun closing sexual emporiums where minors are employed and, in an expedited procedure, filing indictments against the owners of these establishments and against any adults found engaging in sexual intercourse with a minor.

#### 2.4 Protection of Minor Victims of Sexual Offenses in Criminal Proceedings

Israeli law offers unique safeguards for minors who have been victims of or witnesses to a sex offense, or to an offense committed against them by their parent. In a 2000 amendment, these safeguards were expanded to cover some offenses against the sanctity of the body and extended to persons responsible for a minor who are not his parents. However, these extended safeguards have yet to be used in full, due to organizational and budgetary problems.

##### **2.4.1 Minor Victims of Sex Offenses or Offenses Committed within the Family**

Israeli legislation specifically addresses sex offenses against a minor and offenses in which a minor suffers injury within his family. Section 368d of the **Penal Law 1977** stipulates procedures for reporting the abuse of a minor or helpless person, whether in the form of violence, sex, neglect or abandonment. The section imputes a general duty to report to any person who has grounds to believe that an offense has been committed against a minor by the person responsible for him, and a special duty to report to those persons who, by virtue of their role, are privy to intimate information and are likely to know details that would reveal the offender. The latter include medical and other professionals who provide treatment; all those who work in education; police officers; psychologists; the director or staff of a boarding school, other residence, or treatment facility where the minor or helpless person is staying; child protection officers; social workers; etc.. As the law imputes to these individuals a more weighty obligation, the penalties for breach thereof are relatively severe.

If a report of suspected abuse is made to a child protection officer, and the latter is satisfied that the report is well-grounded, he must inform the police, and append his own recommendation for action or inaction. If the child protection officer is of the opinion that reporting the case to the police will disrupt treatment of the family, he may bring the case to an "exemption committee", which includes a representative of the police; the committee will decide whether to authorize the child protection officer's decision not to report the incident.

Conversely, and also under section 368d of the **Penal Law**, any information that reaches the police directly concerning the suspected abuse of a minor will be made known to a child protection officer.

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Suspicion of injury to a minor within the family may be brought to the attention of the police by anyone – a relative, a neighbor, a teacher or physician. (Health and education services have their own procedures stipulating when and how suspicion of abuse must be reported.) The police will not act before consulting with a child protection officer, unless immediate action is required. In any case, even immediate action does not contravene the obligation to inform a child protection officer of the case, so as to prevent further harm to the minor during the investigation. It is the police who investigate such cases, and maintain contact with the minor's school, place of employment, etc., in order to take testimony, question the minor, or examine him medically without his parents' knowledge. Concurrently, the child protection officer collects the information necessary to treat the minor and his family.

It should be noted that the duty to report is unusual, as criminal law does not generally impose a duty to report a crime that has already been committed. The duty to report has both practical and proclamatory importance. Many times relatives, friends and neighbors are torn between the desire to protect the minor, and their feelings of obligation toward the perpetrator of the offense. Professionals often confront a conflict between their desire to help and protect the minor, and their legal obligation to maintain confidentiality. However, the duty to report prevails over the duty of confidentiality prescribed in any law. It thereby resolves this conflict and carries an unambiguous message as to what constitutes appropriate and correct behavior in the eyes of the law.

To increase the special protection of minor victims of a sex offense or an offense committed within the family, the police have decided that these offenses, and the adults suspected of committing them, will be investigated by youth units, which comprise specially-trained police officers (who also investigate minors suspected of having committed an offense). However, minors under the age of 14 who are involved in a sex offense (either as suspected perpetrator or victim), and minors who are victims of a violent act committed by the person responsible for them, will be investigated by a youth interrogator who is not a police officer (see below).

#### **2.4.2 Investigation of Minor Victims of or Witnesses to Offenses of Sex or Violence**

The **Evidence Revision (Protection of Children) Law 1955**, which was recently expanded, prescribes that minors under the age of 14 may not testify concerning sex offenses (so-called "offenses against morality") or most violent offenses ("offenses against the person") perpetrated upon their body, in their presence, or which they are suspected of having committed, save with the permission of a youth interrogator. Youth interrogators are Youth Probation Service employees, social workers who are specially qualified to investigate minors and who are appointed by the Minister of Justice following a recommendation by a committee headed by a judge and comprising representatives of the Ministries of Health, Education, and Labor and Social Affairs, and the police.

Under the law, a minor will not be interrogated by a police officer, but by a youth interrogator. When necessary, and in cases of an offense committed within the family, the minor will be interrogated in coordination with a child protection officer. (In the past, these interrogations were

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recorded on tape; recently, it has become mandatory to videotape them.) Another person may be present at the interrogation, but only with the permission of the youth interrogator (section 5 of the law). The authorization of the youth interrogator is required if the minor must be present at or participate in a lineup, a medical examination, or another event essential to the investigation (section 7 of the law). A youth interrogator is authorized to testify in court in place of a minor, and is also authorized to permit a child to undergo a medical examination and participate in a lineup. A child may not be made to testify if he was a victim of or witness to an offense against morality or against the body, and his testimony is not accepted as evidence unless this is so authorized by a youth interrogator (section 2(a) of the law). If a youth interrogator has permitted a minor to testify, his testimony will be heard in the presence of the prosecutor, the defendant and his attorney, the youth interrogator and any other person the court has allowed to be present (section 2(b) of the law). These stipulations are meant to protect the minor from further emotional harm, to ensure that the investigation is professional, and to facilitate immediate referral of the minor to treatment and assistance.

In the case of a minor (up to the age of 18) who will be testifying against his parent who is accused of having committed a sex offense, the court may direct that testimony be heard in the presence of defense counsel only, and not in the presence of the parent who is the defendant, if it deems this is necessary to protecting the minor from emotional anguish. The law was recently amended to extend this provision to testimony against a guardian or an adoptive parent known publicly as the spouse of a biological parent.

The testimony of a minor concerning an offense against morality or against the body, as well as any record of an interrogation that is made during or immediately after the interrogation by a youth interrogator, are admissible in court as evidence, even though they technically constitute hearsay evidence (section 9 of the law). However, under section 11 of the law, a person may not be convicted on evidence under section 9, unless it is corroborated by other evidence. Under the law, exclusive discretion concerning the testimony of a minor rests with the youth interrogator, and not the court. The prohibition against a minor's testifying without the permission of a youth interrogator is absolute. The Supreme Court has held that a court has no discretion in this matter, nor may it bypass the prohibition; neither can the litigants or their counsel impose any condition on this prohibition (Criminal Appeal 1880/91 *State of Israel v. Anonymous Defendant*, P.D. 45(3) 137).

#### Data on Investigations of Offenses Committed against Minors

The police and the Youth Probation Service publish data on minor victims of offenses. In 1998, 6,228 files were opened concerning offenses against minors. In that year, youth interrogators investigated 3,930 minors, 1,711 of whom were victims of a sex offense, 313 of whom had witnessed a sex offense, and 1,640 of whom were victims of an offense committed in the family (see Table 2).

**Table 2: Police Files on Offenses against Minors Opened in 1998**

	Total	In the Family	Outside the Family
<b>Total</b>	<b>6,288</b>	<b>1,507</b>	<b>4,781</b>
Assault of a minor	3,610	1,011	2,599
Physical or mental abuse of a minor	519	205	314
Sexual offenses against a minor	2,159	291	1,868

Source: Ben-Arie and Zionit, 1999

The sex offenses to which minors were exposed included rape, consensual, unlawful sexual relations, and acts of sodomy (8% of the cases); indecent acts (36% of the cases); obscene language and threats (5% of the cases); embraces and kisses (17%); exposure (10%); and other offenses (24%).

The Youth Probation Service also publishes data on the circumstances surrounding the incident: In 45% of the cases, the perpetrator of the offense was a stranger to the child; in 37% of the cases the perpetrator was a friend, acquaintance or neighbor; and in 19% of the cases the perpetrator was a parent or close relative. In about half of the cases, the incident was committed in the home of the victim or the perpetrator. Half of the sex offenses were one-time incidents.

A large percentage (75%) of the victims of a sex offense investigated by the Youth Probation Service are girls: of them, 45% are under eight years of age, 30% are ages nine-11, and the remainder are age 12-14. Fewer than 6% of the victims of a sex offense investigated by the Youth Probation Service are Arabs, even though their percentage in the population is 20%. Professionals estimate that this does not necessarily indicate a lesser prevalence of sex offenses in this population, but merely a lower rate of reporting.

#### **2.4.3 Testimony of Victims in Court**

Under section 117A of the **Criminal Procedure Law [Consolidated Version] 1982**, if an indictment is filed or an investigation made into an offense to which the **Evidence Revision (Protection of Children) Law** applies, a court may take the testimony of a minor immediately, at the request of the prosecutor or the suspected perpetrator of the offense, with the authorization of the youth interrogator. Testimony is heard according to the rules governing early testimony, which also apply to adults. The court has the authority to discontinue the minor's testimony, if it believes testifying is causing the minor emotional harm

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#### Testimony against a Parent

As noted above, when hearing the testimony of a minor concerning a sex offense committed by his parent, the court may direct that the testimony be heard not in the presence of the parent, if it believes this is necessary to prevent emotional harm to the minor (section 2A of the **Evidence Revision (Protection of Children) Law 1955**). The court may order the discontinuation of the minor's testimony if it forms the opinion, after having heard the youth interrogator, that continuation of the testimony is likely to cause the minor mental anguish (section 2(c) of the law). In such a case, the defendant or the prosecutor may request, and the court may order, that the youth interrogator re-examine the minor. However, the youth interrogator is authorized to refuse to ask all or some of the necessary questions, if he believes these questions will cause the child emotional harm or anguish (section 10 of the law).

#### Testimony against a Stranger

Under section 2B of the **Criminal Procedure Revision (Examination of Witnesses) Law 1957**, in a criminal trial for a sex offense, the court may direct, either on its own initiative or following a petition by the prosecutor, either prior to or during the taking of evidence, that the plaintiff testify in the presence of the defense counsel but not in the presence of the defendant, if the court is convinced that testifying in the presence of the defendant will harm the plaintiff or interfere with his testimony; testimony not in the presence of the defendant will be taken outside the courtroom or in some other manner that will prevent the witness from seeing the defendant. This section of the law is general, and applies to any plaintiff in a sex offense, whether minor or adult. The section expands on section 2A of the **Evidence Revision (Protection of Children) Law** (see above). In light of this expansion, it is possible that a minor may testify not in the presence of the defendant when the defendant is a stranger, and not the minor's parent.

#### Data on the Testimony of Minors

In 1998, youth interrogators permitted 15% of the minors for whom a petition to testify was made to actually testify in court. Twenty-one percent of the minors for whom a petition to participate in a lineup was made were permitted to participate in a lineup. The percentage of permits increases with age.

Youth interrogators indicate that they have two main grounds for refusing to allow a minor to testify. First, they fear that testifying will indeed harm the minor's emotional state, which in any case is usually wretched following the traumatic experience he has undergone. Many youth interrogators believe that allowing a minor to testify in court and exposing him to the defendant and to intensive – and at times aggressive – cross-examination by defense counsel is liable to cause his emotional state to further deteriorate; hence, their restraining minors from testifying in court is, they feel, justified. Furthermore, since months and even years may elapse before a case is heard on its merits, requiring a minor to testify might cause him to recall or relive the traumatic experience, and hinder his emotional recovery.

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Following extensive effort by youth interrogators, social workers, and educators, aided by the media, the public has finally come to understand that minors who file a complaint with the police about a sex offense committed against them do not usually appear in court, as their testimony is submitted by a youth interrogator. Professionals believe this is one of the main reasons for the significant increase in the reporting of these offenses by the minors and their families in recent years.

#### **2.4.4 Minors Over the Age of 14**

There is no special statutory protection of testimony given by a minor over the age of 14 who was a victim of or witness to a sex crime, nor is there special statutory protection of testimony by a minor (of any age) who was a victim of any other offense (with the exception, noted above, that both a minor and an adult plaintiff may testify concerning a sex offense not in the presence of the defendant). A minor who gave testimony to a youth interrogator before reaching the age of 14, and who has reached the age of 14 by the time of trial, may testify without the permission of the youth interrogator. However, the Supreme Court has held that a statement made by a minor to a youth interrogator, as well as the reports of a youth interrogator, will not be disqualified as evidence because the minor has reached the age of 14 (Criminal Appeal 1421/71 *Mimran v. State of Israel*, P.D. 26(1) 281).

#### **2.4.5 Prohibition against Publication**

Section 6 of the **Evidence Revision (Protection of Children) Law** prohibits the publication of anything calculated to reveal the identity of a minor who has been investigated concerning contravention of the law or who has testified in connection therewith, save with the court's permission. Section 24 of the **Youth (Care and Supervision) Law 1960** in its amended form (1998) prohibits publication of any information that will identify a minor who has been brought before a court, or who is under the care of a child protection officer, or who has attempted or committed suicide, or that would attribute to him or his family an offense or moral turpitude, or that would reveal that the minor was a victim of a sexual or violent offense or abuse or any other offense committed by the person responsible for him, or that would reveal his having undergone a psychiatric examination or a test for AIDS.

#### **2.4.6 Initiatives to Improve the Handling of Minor Victims of and Witnesses to Sex Offenses**

An inter-ministerial committee was recently established to review the status of victims of offenses. This committee established a sub-committee, whose task was to propose a plan of action for helping minors who were victims of a sex offense, as well as other types of offense.

This committee has proposed a model of assistance for minor victims of offenses, which would include a national and regional centers. These centers would consolidate and coordinate among the agencies involved in the assessment and investigation of these victims (the police, the Youth

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Probation Service, medical personnel), so as to reduce their suffering and that of their family. The centers would provide immediate crisis intervention, assistance during criminal proceedings, and information on rights.

The National Council for the Child is establishing a project to monitor and support minor victims of and witnesses to an offense, and their families, who are involved in criminal proceedings. The project will offer assistance through an intermediary, either a therapist or lawyer, who handles the flow of information and prepares the minor for the legal proceedings. In 2000, the National Council for the Child and the police began implementing a joint project to help minor victims at two police stations, one in Jerusalem and one in Tel Aviv. The National Council for the Child is also promoting policy and legislation that will give victims status in criminal proceedings – that is, that will provide them with government compensation and the statutory right to information on the progress of proceedings, and that will establish an obligation to hear them prior to a ruling concerning a plea bargain or early release of the suspected or convicted perpetrator. Similarly, the Attorney General's Office has proposed establishing a special unit that would apprise victims of offenses (including minors) of the progress of criminal proceedings involving them.

Recently, a bill has been proposed that would grant victims the right to therapeutic services and compensation.

#### **2.4.7 Rehabilitation**

A number of non-government organizations field complaints and provide immediate help, treatment and rehabilitation to minors who have been exposed to a sex offense. These include *ELI – The Israel Association for Child Protection*, which serves children who have sustained injury from their parents (ELI received 1,000 complaints of sexual assault in 1998); *Meital – The Israeli Center for the Treatment of Child Sexual Abuse*, which serves minor victims of sexual abuse and adults who were victims of sexual abuse in their childhood (Meital received 200 complaints from minors in 1996); and *rape crisis centers* (which received 1,800 complaints from minors in 1998). These and other organizations cooperate with government ministries, initiate advertising and information campaigns against child abuse, and encourage people to report attacks against minors (see also Chapters 3 and 7).

## Article 35 of the Convention

### 3. Trafficking in Children

Section 364 of the **Penal Law 1977** stipulates that “A person who offers or gives compensation for the permission to take custody of a minor who has not yet reached the age of 14, and a person who requests or receives compensation for the right to take custody of a minor is subject to three years’ imprisonment”. Section 367 stipulates that “A person who takes or detains a minor who has not yet reached the age of 14, by fraud or force or enticement, or who receives or hides such a minor...with the intent of depriving his parent, or guardian, or another person legally responsible for him of his custody, is subject to seven years’ imprisonment”. Trafficking in children is not known to exist in Israel.

## Article 33 of the Convention

### 4. Drug Abuse

The possession and personal use of dangerous drugs is a criminal offense in Israel. Furthermore, under the **Dangerous Drugs Ordinance 1973**, a person giving a dangerous drug to a minor, or a person responsible for a minor who allows him to possess or use a dangerous drug, or a person who entices a minor to possess or use a dangerous drug, is liable to 25 years’ imprisonment and a fine (section 21 of the ordinance).

In recent years, concern has been expressed over the widespread use of drugs by young people. Various agencies have increased their efforts to develop prevention and treatment programs for adolescent drug users. As noted, it is the policy of the Police Force and the district attorneys office, in cooperation with the treatment and education systems, to allow minors who are involved in drug trafficking and abuse to be referred to treatment and rehabilitation programs, rather than to the criminal justice system. The Drug Prevention Authority coordinates policy on this topic and, *inter alia*, operates information programs and treatment and rehabilitation services for minors involved in

### *Special Protection Measures*

drug abuse. Together with the civil guard, the Drug Prevention Authority is developing an experimental program that will recruit adult citizens to patrol cities and locate youth who are not attending school and who are exposed to drug abuse. The Al-Sam Association operates treatment and counseling centers for youth involved in drug abuse. Treatment is provided on an anonymous basis, although the young person may ask that his parents or school become involved in his treatment; the young person may also participate in group therapy. The Ministry of Education implements drug prevention programs in schools, as part of the “preparation for life” programs designed for adolescents (some of which operate in cooperation with the Drug Prevention Authority and Al-Sam). Such programs aim to help adolescents cope with the changes they’re going through, make independent decisions, and stand up to peer pressure; they also disseminate information about the ill effect of drugs. The Ministry of Education and the Ministry of Labor and Social Affairs also operate drug prevention programs for youths who do not attend school. In addition, periodic advertising campaigns in the media, aimed at young people, explain the deleterious effects of drug use.

In addition to the sanction against drug use, which applies to adults as well as minors, Israeli law prohibits selling alcohol to a minor or encouraging him to drink alcohol (section 193A of the **Penal Law 1977**). This prohibition applies to the seller, and not to the minor. The proprietor or employee of an establishment that sells alcoholic beverages to be drunk on its premises is forbidden to sell or serve these beverages to a minor and may not encourage him to drink such beverages. The proprietor or employee of such an establishment may demand to see the identification, indicating age, of a patron who wishes to purchase an alcoholic beverage; if the patron refuses to produce said identification, no alcoholic beverage will be served him. As this law is frequently violated, the police have instituted special patrols, with the participation of citizens, to supervise such establishments and prevent them from selling alcohol to minors.

There is no statutory prohibition against cigarette smoking, although a bill has been proposed to this effect, and smoking is forbidden within the bounds of most educational establishments (see Chapter 8).

## Article 36 of the Convention

### 5. Other Forms of Exploitation

#### 5.1 Manipulative Marketing to Minors

Following recent incidents in which minors have been induced to sign documents obligating them to purchase goods or services, the Ministry of Trade and Industry has begun preparing regulations designed to protect minors from such exploitation.

## Children in Emergency Situations

### Articles 38 and 39 of the Convention

#### 1. Children in Armed Conflict

##### 1.1 The Age of Military Draft

Although the age of compulsory military recruitment under the **Defense Service Law [Consolidated Version] 1986** is generally 18 years of age, persons over the age of 17 may make a written request to be inducted into the armed forces with the consent of their parents (or one parent, if there is real difficulty determining the opinion of the other parent) or guardian (See also Chapter 4).

##### 1.2 Defense and Rehabilitation

Owing to the constant security threat, the State of Israel devotes a significant portion of its budget to the defense of its citizens from belligerent acts (e.g., constructing shelters, supplying means of protection against chemical warfare). Furthermore, it takes steps to help rehabilitate citizens (including children) who have been injured as a result of a belligerent or terrorist act. For example, the Ministry of Defense and the National Insurance Institute (the social security administration) have statutory authority to pay benefits to a soldier who was injured during military service and his family; to the survivors of a soldier killed during active duty (including, for example, a benefit that covers the educational and other expenditures of war orphans); and to a person injured as a consequence of a hostile act and his family. Benefits may also include in-kind medical treatment, psychological treatment, social recreation and assistance with rehabilitation (including reintegration into school or work). (See, for example, the **Invalids (Pensions and Rehabilitation) Law [Consolidated Version] 1959**, and the **Fallen Soldiers' Families (Pensions and Rehabilitation) Law 1950**.)

In 1997, there were 1,126 children living in Israel who had lost one parent during active duty in the armed forces. In that year, 360 children received benefits from the National Insurance Institute because they were maimed in a terrorist attack.

Kiryat Shmona, a town close to the Lebanese border which has intermittently been exposed to Katyusha rocket attacks, operates a community stress prevention center. The center develops preventive programs to be used in schools in the north of Israel; trains professionals (psychologists, school counselors, social workers, physicians and nurses, teachers, etc.) in stress and crisis management; and plans and implements emergency intervention teams in schools and towns along Israel's northern border, which offer psychological support during local and national crises (wars,

terrorist attacks). The center has also conducted a number of workshops on individual and group management of crisis situations, and has developed a model of self-help for use in remote towns and villages. The center has trained professionals from the former Yugoslavia, England, Northern Ireland, Cyprus, Greece and Sweden.

## Article 22 of the Convention

### 2. Child Refugees

Since its inception, the State of Israel has been and still is a haven for refugees. Jews and their relatives may obtain Israeli citizenship immediately upon arrival in Israel (the **Law of Return 1950**; the **Nationality Law 1952**). Even today, more than 50 years after the State's establishment, over half of its population is composed of recent immigrants. During the 1990s, Israel absorbed a large number of immigrants – among them 200,000 children – primarily from the former Soviet Union, and from Ethiopia. A large proportion of these immigrants arrived during a period of political and economic distress. New immigrant adults and children are entitled to special financial assistance, help with housing and employment, and educational assistance which is meant to ease their integration into Israeli society (see Chapters 8 and 9).

The State of Israel is a party to the Convention on the Status of Refugees. It is also a party to the 1967 Protocol Relating to the Status of Refugees. On a number of occasions, Israel has offered asylum on a humanitarian basis, for example to Vietnamese boat people, members of the Moslem community of Bosnia, and children injured in the Chernobyl disaster. Some of these children still remain in Israel.

### Children Belonging to Minority Groups

## Article 30 of the Convention

Israeli law does not differentiate among children on the basis of race or religion, and its Declaration of Independence is committed to equality. Nevertheless, the situation of the large minority of Arab nationals who reside in Israel – in education, welfare, health and other areas – differs from that of the Jewish population. One group whose living conditions are particularly harsh is that of the Bedouin, some of whom live in settlements or encampments that are not recognized by the State and hence do not receive all of the services to which the general population is entitled. In recent years, the State of Israel has striven to increase equality and solve these problems. Its efforts, as well as the gaps that persist, are set forth in Chapters 8 and 9.

### *Special Protection Measures*

Another group of children whose rights are often infringed is that of children whose parents are not Israeli nationals. In particular, the children of foreign workers – the influx of foreign workers, particularly illegal ones, has burgeoned in recent years – are at a disadvantage. The **National Health Insurance Law** and the **Compulsory Education Law** do not apply to these children. In actuality, the Ministry of Education enables the children of foreign workers to attend schools in the State education system. Programs to ensure that the children of foreign workers receive medical insurance and treatment are currently being examined. Another group of children whose rights are liable to be infringed is that of Arab children of “mixed-national” couples: that is, one parent is a citizen of Israel, and the other is a resident of the West Bank or Gaza. The status of such families is not always clear, and this can place their children at a disadvantage, relative to children who are Israeli nationals (see Chapters 5, 7, 8 and 9).

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