**The Government of Israel's Reply to the Call For Inputs by the Special Rapporteur on the Sale and Sexual Exploitation of Children, Including Child prostitution, Child pornography and other Child Sexual Abuse Material**

**October 2019**

1. **Context, awareness and attitudes underpinning the sale and sexual exploitation of children**
2. ***The Child Online Protection Bureau:*** A national program for the prevention of violence and crime against children and teenagers online was initiated in February 2018. It was established as part of Government Resolution No. 1006, from January 17th, 2016 and Government Resolution No. 1972, from September 27th, 2016. The program includes, among other things:
* The establishment of a dedicated police unit for crime against minors on the internet, including pedophilia and prostitution
* A national center for child protection, to receive and coordinate inquiries 24/7 on bullying and cyber-crimes
* A prevention and advocacy division, to promote and work to raise public awareness;
* An immediate hotline providing toll-free calls from all over the country and from any phone - the hotline, which can be reached by dialing 105, was launched in a limited capacity in February 2018, and was launched to the public and transferred to a full working format (24/7), in November 2018.
* The program includes representatives of the Police and Ministry of Public Security, and also representatives from the Ministries of Education, Justice, Labor, Social Affairs and Social Services and Health.
1. ***Inter-ministerial roundtable forums on prostitution of minors****:* In 2018, the Ministry of Public Security (MOPS), the Health Ministry, Education Ministry and the Ministry of Labor, Social Affairs and Social Services (MOLSSAS), led by the Ministry of Justice, finalized inter-ministerial principles for roundtable forums on Prostitution of Minors, to be held at a municipal level with the support of The National Anti-Trafficking Unit (NATU). To launch the inter-ministerial principles, the MOPS held a day long seminar on prostitution of minors, with the participation of Police Officers and MOLSASS social workers, as well as NATU, the Deputy Attorney General's Office (Criminal), the State Attorney's Office and NGO representatives – including ELEM and the Task Force against Trafficking in Women. Lately (2019) a senior official from MOLSASS was appointed to address the issue of prostitution in general and prostitution of minors in particular and he will be leading the pilot inter-ministerial program starting October 2019. The four tables will convene for their first meetings, in the near future, and no later than December 2020, and consequently once a month.

**Risk factors and children's vulnerability to sale and sexual exploitation**

***Surrogacy***

1. In 2018 there have been deliberations on the highest levels of the Ministry of Justice, together with other relevant Ministries, regarding the phenomenon of children growing up in Israel without genetic, biological and legal affinity for those who raise them. This phenomenon raises severe concerns regarding child sale and trafficking. The accumulation of cases of this kind is troubling. The approach of the State of Israel in this regard is that a demand for biological or genetic affinity between a child and an alleged parent is necessary to reduce trafficking in persons concerns which occur around surrogacy, and this approach was confirmed by the Supreme Court in several key decisions.
2. **F.M.Rq.1118/14 *Anonymous v. The Ministry of Labor, Social Affairs and Social Services* (01.04.2015):** On April 1, 2015 a landmark decision was rendered by the Supreme Court regarding the issue of sale of children. In that case, the applicant was physically unable to get pregnant. Therefore, she initiated a complex surrogacy procedure which involved linking different persons, in order to bring a child to the world; she bought an ovum and a sperm donation from two (2) different countries, and subsequently a fertilization process took place in another state, while her niece agreed to be the surrogate mother. When the baby was born, the applicant asked the Court to recognize her as the mother of the child. The Court denied the applicant's request. It emphasized the importance of the boundaries set by the law on the definition of parenthood, especially in such sensitive situations, where according to Israeli law the applicant is not considered the parent of the baby. The Court emphasized that the fact that the applicant had initiated the process, cannot and must not, be legitimized as establishing parenthood, because it can potentially create a "baby market" where a baby can be "bought" or "created" without going through the process set by the law. When such a process is based on private arrangements, absent formal legislative recognition under domestic law and therefore without being supervised and monitored by a regulatory body, it significantly increases the risk and concerns for exploitation and for violation of the child's best interest.

***Underage marriage***

1. In recent years, we have been exposed to a few cases of underage arranged or forced marriages which raise concerns to trafficking in the minors involved. The GOI is making efforts to increase the identification and detection of such cases, and enforcing the relevant criminal laws. In addition, steps were taken to strengthen working relations with the Civil Administration and the Palestinian Authority to enhance enforcement. Follows is an example for such case.
2. **F's** **case** – F' a 14-year-old Palestinian minor, reached one of the border crossings from the West Bank to Israel in 2017 asking for protection from her father and husband. The minor was questioned by a police officer, and her story revealed that in the same year her father forced her to marry an Israeli resident who was more than 15 years older then her in exchange for money that her father received from that man. From the first day of her marriage, 14 year old F' suffered from difficult physical, mental and sexual abuse from the husband. He and his family also forced her to work long hours every day in farming. She said she obeyed him out of fear and was treated like a slave.

As a result, her mental state deteriorated and she stopped eating and drinking. When she met her father, she told him about the difficult experiences she had in the marriage, but he told her that if she divorced her husband he would marry her to another 45-year-old man. Several months later, and after several failed suicide attempts, she arrived at the border crossing asking for assistance from Israel. **F' was recognized as trafficking victim and was entitled to the full range of rights and protections given to trafficking victims in Israel.**

***Polygamy***

1. Polygamy has many harmful characteristics and consequences. Among its characteristics is the phenomenon of underage marriage. Many of the features that exist regarding polygamy also exist in relation to underage marriage, and the main sufferers are the women and children in these marriages. Here too, it is a criminal prohibition that faces cultural and social patterns that exist in more traditional parts of Israeli society.
2. Like underage marriage, polygamous marriages, comes to the notice of the authorities in retrospect – mostly through the procedures for ratifying the marriage in the Shari'a courts in Israel.
3. Section 176 of the *Penal Law* prohibits Polygamy in Israel, and sets a punishment of five (5) years imprisonment.
4. In recent years the GOI has been enhancing its efforts to eliminate polygamy. The issue has been highly prioritized and accordingly, many efforts are invested in this field. These efforts include a comprehensive Government Resolution, followed by the establishment of an inter-ministerial committee, and a notable Attorney General Guideline**,** in addition to continued enforcement efforts by the Police.
5. **Government Resolution - "Coping with the polygamy Offence":** On January 29, 2017, the GOI accepted Resolution No. 2345, which established an Inter-Ministerial Committee designated for the issue of polygamy. The Resolution further calls for the establishment of a wide-ranging inter-ministerial team tasked with forming a strategic plan to encounter this phenomenon, and accordingly the Government will allocate the appropriate budget in the annual state budget of 2019-2020. The Committee includes the following Ministries: Education, Justice, Labor, Social Affairs and Social Services, Interior, Health, Agriculture and Rural development, and Public Security. The inter-ministerial committee included representatives of several NGOs, men and women. The team concluded its discussions, and submitted its report to the GOI. **The implementation team** is currently working on finalizing its recommendations which will relate to empowerment of women, development of solutions in the fields of health, education and treatment of women in polygamous marriages, and solutions for their better integration in Israeli society. **A sub-committee**, headed by the Ministry of Public Security, was formed to discuss specific issues arising from the phenomena of polygamous marriages with Palestinian women, and **another subcommittee**, headed by the anti- human trafficking coordinator, was appointed by the Director General of the Ministry of Justice, to enhance enforcement efforts, in the southern district. Both sub-committees have concluded their discussions and submitted recommendation to the GOI.
6. **Attorney General Guideline - Eliminating Polygamy:** The Attorney General Guideline No. 41112 titled *"The polygamy offence"* was published on January 23, 2017. The purpose of this Guideline is to enhance effective enforcement of the polygamy offence, according to Section 176 of the *Penal Law* and to augment its appropriate punishment. The rational, as described in the Guideline, refers to the destructive implications polygamy has on women and children, *inter alia*, due to the impact on the child's well-being and her/his development, the economic and emotional implications on women and the negative impact that it has on the status of women in society in general.
7. **On September 19, 2019 the Be'er-Sheva District Court ruled in an appeal in the 25462-04-18‏ *Iman Abu Sakik v. The State of Israel* case**, and accepted the GOI's appeal on the conviction in the first case to be prosecuted, according to the new guidelines mentioned above. The District Court had convicted the accused, charged with marring a second wife, and sentenced him to community service and a fine, accepting the defendants claim that he was unaware this was a crime, due to the authorization given by the Shari'a Religious Court, that the second marriage was valid, according to Shari'a Law. The State appealed on both counts, claiming that the sentence, that did not include imprisonment, was too lenient and did not reflect the severity of the offence as intended, and also claiming that the confirmation of the religious court is not an authorization of the marriage, rather a technical confirmation that indeed a valid marriage has taken place, and this was reported by the court to the Police as it constitutes a crime, and was clearly stated in the same authorization issued. The appellate court accepted all the State's claims, and sentenced the defendant to seven (7) months in prison and a 25,000 NIS (7,098 USD) fine. **This case is the first case in Israel in which a prison sentence was set for the crime of polygamy. Recently, a request for further appeal, submitted by the defendant, was rejected by the Supreme Court, who reiterated the importance of combatting polygamy, including by issuing severe punishment to the offenders, as appropriate to the severity of the crime.**

***Underage work and child slavery***

1. In recent years, the phenomenon of Underage work of children and youth, in situations of forced labor, trafficking and slavery, has been identified in Israel, mainly among Bedouin society, but also among other vulnerable populations. The children are employed in dangerous and forbidden jobs for children and youth, characterized by difficult physical conditions, unusual working hours and low wages.
2. The MOLSASS Enforcement Administration collected information that indicated there is an abusive and dangerous employment of children and youth in the agricultural field, in the slaughterhouse and meat processing plants, in packing houses, and in the bakery field.
3. The problematic characteristics of employment in these industries include the work of young children and youth, ages 8-15; Working without protective gear and under dangerous conditions; Work in hard jobs that are not allowed for child labor and there is difficulty in recruiting for this work; Daytime work and night shift work, which prevents children from coming to schools and sometimes makes them drop out; Wages are often not paid or lower than minimum wages, where in most cases the wages are passed directly to the parents and not to the children themselves, and in some cases the children stated that they do not receive any wages.
4. It is likely that the children do not have a real possibility of refusing to work, bargain their conditions or leave, if they know where they are held during work, and whether they have complete dependence on the contractor and driver in the workplace. Another problematic element is that in many of these cases parents or other family members are involved. It should be noted that there is a doubt about the ability of parents to refuse or oppose this norm in light of the pressure from the extended family and community to send the children to work, and sometimes, the family's financial distress.
5. **The GOI is making many efforts to eradicate this phenomenon.** The legal framework:*Youth Labor Law* 1953 is one of the existing protective laws in the State of Israel. Its purpose is to regulate the rights of working youth and prevent damage to their lives: their studies, health or normal development. The law stipulates the minimum age for employment of children, children's work days, night work prohibitions, prohibited work for youth employment, and more. The law is under the umbrella of labor law and includes criminal offenses that are enforced by the Criminal Enforcement Department of the Ministry of Labor. **These provisions are not intended to deal with the enforcement of serious criminal offenses, such as human trafficking, slavery and forced labor, which are included in separate sections of the Penal Code.** *The Compulsory Education Law* 1949 - applies to every child living in Israel, regardless of his or her status, from the age of 3 to the age of 18. The responsibility for the presence of a pupil in an educational institution, by law, is that of the educational institution. The principal must report a on pupils' attendance to school; And Ministry of Education officials are responsible to oversee his/her activities. A parent who does not send his/her child to school is subjected to criminal sanctions.
6. **Establishment of an inter-ministerial committee:** Following the recent rise in the phenomenon, it was decided to establish an inter-ministerial committee to strategy prevention, enforcement and treatment policies in the field of child labor. The committee will be led by the National anti trafficking coordinator and will include representatives from the Ministry of Justice, the Attorney General's Office, the Ministry of Labor, the Ministry of Social Affairs and Social Security, the Ministry of Education and the Legal Aid Administration.
7. **Prosecution:** Om March 2019, the Southern District Attorney's Office indicted a man who employed his minor cousins ​​in a bakery run in the city of Rahat, in which he was charged, among other things, with holding them in slavery conditions. The bakery operated without a business license, 24 hours a day, seven (7) days a week using various industrial machines without the necessary safety measures. Two of the minors (born in 2005 and 2006) were employed in the bakery for about a year, seven (7) days a week. They were forced to work all night from 10pm and sometimes until 2pm on the following day, they did not receive a weekly rest day or breaks during work and were forced to leave school regularly to work. The minors were subject to violence on the part of the defendant and another person who included emotional abuse along with daily use of very severe violence which often caused them severe bodily harm. For their work, minors were paid, and not regularly, a meager salary of NIS 15-20 per day. The case was revealed last February (2019) when one of the minors arrived at the hospital with three (3) of his fingers cut off after they were caught and cut in the dough cutting machine.
8. The indictment states that the defendant held the minors in slavery for work purposes while exercising control over their lives and denying their liberty. In addition, he was charged with abuse of a minor, assaulting a minor causing actual injury and negligence of the machine under his supervision. The case is pending.
9. **Legal-normative framework, commitment and institutional capacity**

***Recent Amendments***

1. On December 31, 2018, the Knesset legislated the *Prohibition of Consumption of Prostitution Services Law (Temporary Provision)* 5779-2018, which prohibits the consumption of sexual services. The Law was legislated as part of the ongoing efforts of the State to reduce prostitution and provide assistance and rehabilitation to persons in prostitution. According to the Law, the offense of consumption of prostitution services, which includes the presence in a location which is used for prostitution, is an administrative offense that can be fined for 2,000 NIS (540 USD) for first time offenders and double the sum for repeat offenders. According to the Law, he/she who is present in a location which is principally used for prostitution will be seen as being there for the purpose of consumption of such services, unless proven otherwise. Nevertheless, the Law authorizes the State Attorney's Office to indict an offender, in which case the court could impose a fine of up to 75,300 NIS (20,350 USD). The Law further enables the Minister of Justice to set alternative penalties to fines within the Law's Regulations, by means of indictment. The Law will come into force in 2020 for a period of five (5) years. Its extension will be determined in accordance with research on its effects. In addition, the Ministers of Public Security and of LSASS will conduct periodic reviews of its implementation and the overall progress of the efforts to reduce consumption of prostitution.
2. In June 2018, the Knesset legislated Amendment No. 132 to the *Penal Law* 5737-1977, which criminalizes a proposal to engage in prostitution to both adults and minors (Section 205D).
3. In March 2018, the Knesset enacted the *Blocking of Telephone Numbers for the Prevention of Crimes Law* 5768-2018, which authorizes a police officer to block a publicized telephone number, if he/she has reasonable grounds to believe that this phone number is used for the commission of crime, including by the internet of other technological applications. This further enables the blocking of telephone numbers publishing prostitution services, including that of a minor and drugs and dangerous substances offences.
4. In July 2017, the Knesset legislated the *Authorities for Prevention of Internet Use for the Commission of Offenses Law* 5777-2017, which authorizes courts to issue an order for blocking access to a website or for its removal from the internet. Such an order will be issued if it is crucial for the prevention of an ongoing offense set by the Law, such as offences relating to prostitution, child pornography, gambling and drugs and dangerous substances or terrorism. This law enables courts to issue three (3) kinds of orders: order for restricting the access to the relevant website, order for restricting the possibility of locating the relevant website or an order for the removal of a website from the internet – provided that the relevant site is stored on a server in Israel or is under the control of a person present in Israel. The aim of the Law is to provide law enforcement authorities with additional tools to combat the phenomenon of prostitution of minors in the virtual world.
5. **New and Innovative strategies to effectively prevent and protect children from Sale and Sexual Exploitation**

***Activities against Websites Advertising Prostitution***

1. Israel's *Law of Powers to Prevent the Execution of Offenses by Means of an Internet Site* 5767 - 2017 came into effect on September 26, 2017. On October 30, 2017, the Cybercrime Department in the State Attorney's Office was authorized by the Attorney General to file applications under the Law. Following the authorization of the Cyber Department, the Department contacted the relevant Police Investigations Unit in the Israel Police, the decision was made to concentrate efforts on requests remove websites or to restrict access to websites that advertise prostitution services in violation of Section 205C of the Israeli *Penal Law*. In 2018, twenty-three (23) websites were closed by a Court order, or had access restricted from Israel, at the request of the Cyber Department. The Cyber Department also contacted platforms (not by way of a request to the court) about websites advertising prostitution services located on it platform, and asked for their removal – leading to the platforms voluntarily choosing to remove them.
2. **Data and Monitoring Systems**

***Prosecution***

1. The State Attorney's Office gives special emphasis to cases in which the victims of crime are minors, due to their particular severity. Steps taken in recent years include:
2. A letter from The State Attorney to the Head of the Investigations and Intelligence Division, reiterating the need to enhance enforcement efforts and make them a priority;
3. Meetings between the prosecution and the police representatives and NATU – in order to examine the existing difficulties and explore other possible courses of action;
4. The State Attorney's office conducted an examination of investigation files where an indictment was not submitted for the purpose of drawing conclusions and a forward-looking examination.
5. In the past few years the Israeli authorities dealt with two (2) complex cases regarding trafficking for purposes of child pornography:
6. ***The State of Israel v. Anonymous (S.Cr.C 22534-08-17, Be'er-Sheva District Court)* -** On August 10, 2017, a precedential indictment was filed by the Cybercrime Unit in the State Attorney's Office, against the defendant including charges of TIP, sex offences, using a minor for pornography and other offences. The defendant was charged with committing sexual offences in his 4-year-old daughter while she slept, recording the acts visually and publishing them online, through Skype, to others who had paid the defendant in return to his account, and in several cases performed acts on his daughter following the specific instructions of the users watching and paying. In May 2018, the Defendant was convicted of the offences attributed to him – including a precedential conviction of trafficking in persons – due to the commercial and objectified nature of the acts, preformed "on demand", and despite the fact that the victim never left her home and never saw the "buyers". The Defendant was sentenced to fifteen (15) years imprisonment and suspended imprisonment, as well as compensation to the victim. The Defendant appealed his sentence, and the Supreme Court Appeal is pending.
7. ***The State of Israel v. Teddy Ness* (15.01.2015)), Cr.A. 2375/15 *The State of Israel v. Teddy Ness* (22.02.2018)) -** On May 2013, the Tel-Aviv District Attorney charged the defendant with multiple charges of trafficking in persons, rape, multiple charges of indecent acts, publishing an obscene publication that includes the likeness of a minor (multiple charges), utilizing the body of a minor in order to advertise an obscenity (multiple charges) and possession of an obscene publication that includes the likeness of a minor (multiple charges).The defendant, an Israeli citizen, met the mother of the complainant's, a ten (10) year-old minor, through a Russian website. The defendant forged a relationship with the complainant's mother, and transferred monthly payments to her in exchange for using the minor’s body for the purpose of creating obscene materials and performing sexual acts. On two (2) occasions, the defendant came to a hotel in Tbilisi (the mother’s and the minor’s place of residence) - where he took numerous obscene photographs of the minor and committed severe sexual acts on the minor while documenting everything with cameras used by him and by the minor’s mother.
8. On January 15, 2015 the Tel Aviv-Jaffa District Court convicted the defendant of the above-mentioned charges. On February 25, 2015 the Court sentenced the defendant to 16 years imprisonment, one (1) year suspended imprisonment and compensation for the victim of 100,000 NIS (26,700 USD). On April 2, 2015 the State filed an appeal to the Supreme Court against the leniency of the sentence (Cr.A. 2375/15). The defendant also filed an appeal both in respect of the verdict and the sentence (Cr.A. 2377/15).
9. On February 22, 2018 the Supreme Court published its decision – rejecting both appeals, and most importantly upholding the State's interpretation of the offence of trafficking in persons (S.Cr.C. 10836-05-13 *The State of Israel v. Teddy Ness* (15.01.2015)), Cr.A. 2375/15 *The State of Israel v. Teddy Ness* (22.02.2018))

***Protection of victims***

1. **The Heart 24/7 -** The Heart 24/7 operating since 2014 and offering 24/7 support for minors in prostitution in the Tel Aviv-Jaffa area. The program offers two main treatment tracks: damage reduction, and treatment and rehabilitation.
2. **Damage reduction**: a 24/7 center operated by staff and volunteers. Services include meals, hygiene needs, showers, laundry, medical assistance, consultations, and a place to stay and rest. Besides this form of aid, the center also offers numerous workshops.
3. **National helpline**: the helpline operates on a 24/7 basis and assists youth and young adults along the prostitution spectrum in listening and crisis management; it also provides referrals to professionals when necessary.
4. **Assistance with education and employment**: the program provides assistance and support with education and employment, to assist in building a future.
5. **Personal support**: the youth and young adults are each assigned a mentor who accompanies them personally through the process, providing them with support and a safe person with whom to discuss safe sex, sexual identity, drug use, relationships, personal difficulties and more.
6. **The Heart – Open Centers for Girls and Young Women in Commercial Sexual Exploitation in Municipalities** - The open centers serve as a safe and protective alternative to the street or to an abusive home, and give basic aid in the form of meals, a place to shower, and preliminary support. The girls and young women also receive personal mentoring and mediation with services available in the community, allowing them access to other means of receiving support and aid.