Date: November 22, 2022

Cheshvan 28, 5783

To: Ms. Mama Fatima Singhateh, Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material

Subject: **The State of Israel's Submission to the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material's report on reparation for child victims and survivors of sale and sexual exploitation**

The State of Israel respectfully submits its contribution in relation to the above-mentioned questionnaire.

**Duty Bearers' Responsibility to Define, Implement and Provide Reparations to Child Victims and Survivors**

Compensations under the *Penal Law* 5737-1977

1. Israeli legislation provides the same monetary compensation regime and relevant rules for all victims; irrespective if they are victims of an offence whose circumstances are related to trafficking in persons or a minor.
2. In general, according to Section 377C of the *Penal Law*, in the Offences of Trafficking in Persons and Holding under Conditions of Slavery, the Court must explain its decision to abstain from awarding compensation in the verdict - making compensation the default.
3. Section 77 of the *Penal Law* authorizes the courts to include as part of sentencing, monetary compensation to the victim of an offence, up to the limit of 258,000 NIS (67,716 USD). The victim has a right to write a Victim Impact Statement which describes her/his damages including relevant documentation according to Section 18 of the *Rights of Victims of Crime Law* 5761 - 2001. Furthermore, the prosecutor may, when necessary, inform the victim as to ways to obtain the documentation and evidence required for determining the damages.
4. A convicted person can be required to pay compensation for the damage or suffering caused to the victim, depending on the offences which were committed, the extent of damage or injuries caused and other relevant circumstantial factors of the case. The amount of compensation to be provided will be the larger of either the value of the damage or suffering caused on the day the offence was committed, or alternatively the value of such damage and suffering on the day the decision of compensation is rendered. For purposes of collection, compensation under this Section is considered similar to a fine. Furthermore, any amount paid or collected due to a fine when compensation is also due, shall foremost be allocated to compensation.
5. A convicted person who is required to pay compensation according to Section 77 of the *Penal Law* does not pay directly to the victim of the crime, but rather through the Court. Hence, there is no direct contact created between the perpetrator and the victim. If the convicted person fails to pay the compensation on schedule, the Center for Collection of Fines, Fees, and Expenses, an auxiliary unit of the Ministry of Justice, proceeds to collect the relevant sum and the victim is not required to take action through the Executions Office.
6. The provision of compensation as part of sentencing is aimed to ease the victim's suffering and to prevent the need to conduct a separate civil procedure for compensation and from enduring once again the difficulties of the legal process, including testifying and cross-examination.
7. Since January 2013, according to section 3A of the *Center for Collection of Fines, Fees, and Expenses Law* 5755-1995, if the Court includes in its verdict compensation under Section 77 of the *Penal Law* to a minor victim, the Center for Collection of Fines, Fees, and Expenses will pay up to 10,000 NIS (2,624 USD) immediately to the victim, regardless of whether the offender paid the money.
8. Compensation available under Section 77 of the *Penal Law* does not restrict the victim's right to seek compensation under any other laws, such as under the *Tort Ordinance [New Version]* 5728-1968. More so, Section 77 does not restrict a victim from receiving representation from the Legal Aid Administration in such civil suits (depending on eligibility criteria).
9. If a victim of an offence considers that the amount of compensation the Court awarded under Section 77 of the *Penal Law* is inadequate, and wishes to file a civil lawsuit against the convicted person, with or without others, she/he is entitled to do so through two different procedures. First, the victim may file a civil lawsuit according to Section 77 of the *Courts Law*. Such a lawsuit can be filed only against the convicted person and is submitted to the court that convicted the perpetrator and to the same judge. All factual determinations made during the criminal proceedings are admissible in the civil case without the need for the victim to reprove them. The second option is to file an ordinary and independent civil lawsuit, whether against the convicted person or against him/her and others parties who might also be liable for compensation to the victim.

The Legal Aid Administration

1. The Legal Aid Administration, operating under the auspices of the Ministry of Justice, represents trafficking victims and victims of slavery, "holding a person under conditions of slavery" offense in Israeli Courts**.** Legal aid is granted free of charge, and the victims are exempted from the economic eligibility test as set by the *Legal Aid Law* 5732-1972, usually required in order to prove one's entitlement for free legal aid services.
2. Its services to the victims are provided in damages and monetary claims against the offenders and in procedures in accordance with the *Entry into Israel Law* 5712-1952,which includes requests for a one (1) year stay permit for the purpose of rehabilitation, and requests for release from detention and for receiving a legal status in Israel.
3. In addition, since 2017 the Legal Aid Administration has represented victims of sex offences in criminal proceedings - assisting them in realizing their rights in the criminal process, and in related administrative processes - in some cases, this has meant victims of trafficking also received representation in the criminal process.
4. The State Attorney's Office recognizes the importance of compensation for the victims, and works to ensure it is being paid in practice. To that end, when making a plea bargain in those cases, the prosecution requires the funds for victim compensation be deposited ahead of time.

**Civil Society Organizations and Victims’ Groups Role in Devising, Consulting and Developing Various Reparation Measures and Programs**

1. In 2018, the Ministry of Public Security and the Ministry of Welfare and Social Affairs finalized the 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 and the Ministry of Public Security.
2. To launch the inter-ministerial principles, the Ministry of Public Security held a day long seminar on prostitution of minors, with the participation of Police Officers and The Ministry of Welfare and Social Affairs' social workers, as well as the National Anti-Trafficking Unit, 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.
3. In order to promote those abovementioned goals and fully implement the new national plan in accordance with the Government Resolution from January 2019, the Committee of Directors General, headed by the Director General of the Ministry of Justice, authorized the establishment of 4 (four) inter-ministerial teams dedicated to forming recommendations of key elements of the new National Plan: an Enforcement and Identification Team, a Prevention Team, a Protection Team and a Research Team. All the teams incorporated into the discussions various stakeholders from Civil Society, NGO's, Academia, Work Unions, Business and financial sectors, Trafficking Survivors and others.
4. On September 18, 2022 the Government passed Resolution No. 1862, to adopt the implementation program as constructed by committee of Directors General. This Resolution had instructed the different Ministers in the implementation plan to continue its implementation and authorized the above-mentioned inter-ministerial teams to act as monitoring teams on the relevant issues.

The Heart 24/7 and Open Centers for Girls and Young Women in Commercial Sexual Exploitation

1. The Heart Care Settings program is aimed to provide a safe space to girls and young women aged 13–25 who are on the continuum of prostitution and in situations of sexual exploitation in exchange for prostitute's fee. One care setting – in Tel Aviv-Jaffa, provides solution to applicants of all genders. Response provided in the care settings includes initial assistance as shelter, food, shower, hygiene products and clothing; assistance with exhausting rights vis-a-vis state entities such as the National Insurance Institute and the Ministry of Construction and Housing; in-depth treatment of coping with the sexual exploitation trauma; assistance with integration into studies or vocational training and integrating into work for a friend employer aiming to exit the cycle of prostitution.
2. An additional care setting operates in Tel Aviv-Jaffa continuously (24/7), and is designated to those aged 13–21 of all genders. In addition to the services provided in all care settings, the Tel Aviv-Jaffa Care Setting also runs the "Mantle" Program for individual support of service recipients. In the framework of the "Mantel" Program, beyond the incremental regulation, there is a dedicated budget to provide individual assistance per month for each service recipient in accordance with their needs. The cost of operating the Tel Aviv-Jaffa Care Setting (including the Shell Program) is 5.8 million NIS per year, of which approximately 1.5 Million NIS (432,644 USD) granted as part of the implementation of the anti-prostitution program.

**Good Practices for Reparations**

Compensation Mechanisms for Trafficking Victims - The Forfeiture Fund

1. The *Anti-Trafficking Law* (Legislation Amendments) 5767-2006 established a special Forfeiture Fund, where forfeited property and fines from trafficking in persons and slavery offenses are deposited and are dedicated to various causes in combating trafficking in persons - with a special emphasis on victim protection and compensation. Institutions, government bodies and NGOs may apply for funds, as well as - uniquely - victims of the offences, who may ask for funds for the purposes of rehabilitation, as well as to request court ordered compensation, which they have been unable to collect from the offenders. The Law gives precedence to victim protection, ordering that at least half of the funds each year be allocated to that purpose.
2. Over the years, the fund provided allocations to victims who were abused as minors, including those abused in slavery-like abusive cults. It has also given over 200,000 NIS (5,768 USD) to a minor daughter of a victim of sex trafficking who committed suicide – and who held a verdict for two Million NIS of which only 27,000 NIS (7,787 USD) was collected, due to the defendant filing bankruptcy.

Compensation to Trafficking Victims in Criminal Procedures

1. On May 27, 2018, The Supreme Court delivered its ruling in the first case in which it was requested to analyze the crime of holding under conditions of slavery, where the defendant did not have a relationship of physical control over the victims, and where the victims consented to the acts constituting the charge and were even physically free at times. The Court rejected the Appeal, upholding the conviction for numerous offences of Holding a Person under Conditions of Slavery, and the sentence for twenty-six (26) years of imprisonment, conditional imprisonment for an additional two (2) years, a compensation of 100,000 NIS (25,000 USD) for the victims (among them, minor victims who were the defendant's biological or step children), analyzing in depth the elements of the crime of holding a person under conditions of slavery, including precedential and advanced legal interpretation of the Law (C.A.8027/13, 8104/13 *The State of Israel v. Anonymous*).