

CHILD SOLDIERS

INTERNATIONAL

“Working to stop the use of child soldiers worldwide”

Israel

**Report to the Committee on the Rights of the Child in advance of
Israel’s second periodic report under the Convention on the
Rights of the Child**

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Who are child soldiers?

Child Soldiers International considers the term child soldier to be equivalent to the following description of children associated with armed forces or groups:

A child associated with an armed force or armed group refers to any person below 18 years of age who is, or who has been, recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes. It does not only refer to a child who is taking, or has taken, a direct part in hostilities.

Child Soldiers International was formerly the **Coalition to Stop the use of Child Soldiers**. Child Soldiers International is an international human rights research and advocacy organization. Child Soldiers International seeks to end and prevent the military recruitment and use in hostilities of child soldiers (boys and girls below the age of 18), and other human rights abuses resulting from their association with armed forces or groups. It seeks the release of child soldiers from armed forces or groups, promotes their successful return to civilian life and accountability for those who recruit and use them. Child Soldiers International promotes global adherence to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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Introduction and principal recommendations

Child Soldiers International submits this report in advance of the Committee on the Rights of the Child's (the Committee) consideration of Israel's second periodic report under the Convention on the Rights of the Child (the Convention) in October 2012. In light of Israel's reporting obligations and the information contained in its periodic report, the Committee is expected to assess Israel's implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC).

This report was compiled through desk-based research of available secondary sources, and through communications with the Israeli Ministry of Foreign Affairs,¹ and NGOs in Israel and the Occupied Palestinian Territory. Child Soldiers International wishes to thank in particular New Profile,² an NGO based in Israel, who was key in providing a necessary insight into the policies and practices of Israel's Defence Forces and other actors covered in this report.

On the basis of the information gathered, this report summarizes Child Soldiers International's concerns about Israel's implementation of some of its obligations under OPAC including in relation to:

- The possibility that under-18s in the Israel Defence Forces and Civil Guard are exposed to activities that amount to participation in hostilities in violation of article 1 of OPAC, and are stationed in the West Bank or Gaza Strip.
- The compulsory recruitment of under-18s through programs such as the elite units and the border police.
- The low minimum voluntary recruitment age, which effectively stands at 16 and a half due to the use of the Jewish calendar in calculating age.
- The high number of Israel Defence Force-run military schools in Israel, and the possibility that under-18s in these schools could be trained to use firearms.
- The lack of legislation explicitly criminalizing the recruitment and use of under-18s by armed forces or armed groups, in times of both peace and war.
- The export of small arms and light weapons to countries where children are known to be recruited or used in hostilities.

In light of these concerns, Child Soldiers International makes the following recommendations for immediate action by the government of Israel:

- Review and revise its law and policies on the deployment of under-18s to ensure that they are in conformity with article 1 of OPAC and that children are not exposed to the risk of taking part in hostilities.
- Revise its laws and policies to ensure that under-18s in the Israel Defence Force and border police have the right to leave military service at any point, and that their joining and continued presence is genuinely voluntary.
- Raise the current voluntary recruitment age into the Defence Forces to 18 years, as calculated by the Gregorian calendar.
- Pending such reform, calculate the age of voluntary recruitment by the Gregorian calendar, and explicitly introduce a right to leave the armed forces for under-18s.

¹ Letter from State of Israel, Ministry of Foreign Affairs, Legal Division to Child Soldiers International, 13 June 2012.

² <http://www.newprofile.org/english/>.

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- Include in the Penal Code provisions which explicitly criminalize violations of the provisions of OPAC regarding the recruitment and involvement of children in hostilities by armed forces and armed groups, in both peace and wartime.
 - Review its legislation in order to explicitly establish extraterritorial jurisdiction for the crimes of unlawful recruitment or use of children in hostilities.
 - Expressly prohibit in its legislation, the sale of arms when the final destination is a country where children are known to be, or may potentially be recruited or used in hostilities.

In this report Child Soldiers International focuses on the policies and practices of recruitment of members of the Israeli army and other security forces and the risks that some of their underage recruits may face. However, Israel's obligations under OPAC also extend to the Occupied Palestinian Territory. Recent information published by DCI-Palestine points to the continued violation of Palestinian children's rights by the Israel Defence Forces, with consistent reports of Palestinian children being used as human shields and informants, and of their serious mistreatment whilst in detention.³

With regards to the treatment of Palestinian children in the Occupied Palestinian Territory, Child Soldiers International makes the following recommendations for immediate action by the government of Israel:

- Ensure strict compliance with humanitarian law; abide by the ruling of the Israeli High Court of Justice in *Adalah et al. v. Commander of the Central Region et al.*;⁴ and bring about an immediate cessation to the use of children as human shields and informants for intelligence purposes.
- Accordingly revise the Defence Services Law No. 5746- 1986 to prohibit the use of under-18s as human shields or informants.
- Promptly and impartially investigate reports of such crimes and ensure that those responsible are duly prosecuted and sanctioned with appropriate penalties.

³ In June 2012 DCI-Palestine reported that: since 2004 there have been 19 documented cases of Palestinian children used as human shields by the Israeli army, with 18 of these incidents occurring after the 2005 Supreme Court ruling; and since 2006 there have been 20 documented cases where the State has attempted to recruit Palestinian children as informants under some form of coercion or inducement: Defence for Children International - Palestine section, *Alternative Report for Consideration Regarding Israel's Second Periodic Report to the UN Committee on the Rights of the Child*, 4 June 2012, paragraphs 2.46 – 2.57; Office of the High Commissioner for Human Rights, *UN Committee on Israeli practices concerned about treatment of Palestinian children in detention*, 19 July 2012, available here:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12375&LangID=E>

⁴ High Court of Justice (HCJ) 3799/02, Judgement of 23 June 2005

Prevention

Article 1

Direct Participation

The term ‘direct participation in hostilities’ is not defined in Israeli law, and whilst the concept has been extensively examined by the Israeli Supreme Court it has deemed that the circumstances and possibility of direct participation be interpreted on a ‘case-by-case’ basis. According to the Ministry of Foreign Affairs, the Israel Defence Forces (IDF) understands that those posts and assignments that they classify as ‘combat duty’ would be considered to qualify as ‘direct participation’.⁵ This is also reflected in Israel’s declaration under article 3.2 of OPAC: ‘persons under 18 years of age...may in no case be posted to combat duty’.⁶ However, no clarification on what specific activities are encompassed under the term ‘combat duty’ has been provided.

Israel’s restriction on deploying under-18s to ‘combat duties’ does not seem to cover the range of activities that are likely to amount to direct participation in hostilities, or that would expose child recruits to the risks associated with participation in armed conflict. These risks are not limited to the role of active fighting but extend to a range of supporting positions, as stressed in the first judgment of the International Criminal Court in March 2012.⁷

Child Soldiers International has received reports that IDF basic training requires recruits, including under-18s, to man checkpoints and patrol and guard military bases, some of which are located in the West Bank, whilst in uniform. It is unclear to Child Soldiers International whether those under-18s would be required to handle a firearm, or if any official measures are in place to prevent this. Guarding checkpoints and other military targets have been interpreted as amounting to taking an active part in hostilities by the International Criminal Court and the Special Court for Sierra Leone.⁸ Furthermore, these practices would put under-18s at risk of attack and injury.

In addition, Israel’s elite units are specifically combat focused and are open to 17-year-olds, according to calculations based on the Jewish calendar (meaning that 16 and a half year olds could be permitted to voluntarily join). Israel’s initial report states that unit commanders are given clear instructions prohibiting under-18s from participating in combat duty, and insists that the majority of recruits will be over the age of 18 on completion of their training.⁹ However, these instructions are not publically available, and without a clearer definition of what ‘combat duty’ entails it is impossible to determine whether these measures fully protect under-18s from use in hostilities, as required under article 1 of OPAC.

⁵ Letter from State of Israel, Ministry of Foreign Affairs, Legal Division to Child Soldiers International, 13 June 2012.

⁶ Section (b)(5), see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-11-b&chapter=4&lang=en.

⁷ International Criminal Court, Trial Chamber judgment, The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, 14 March 2012, paragraph 628.

⁸ International Criminal Court, Trial Chamber judgment, The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, 14 March 2012; Special Court for Sierra Leone, The Prosecutor vs. Brima, Kamara and Kanu (AFRC Case), 20 June 2007.

⁹ Israel’s Initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, UN Doc. CRC/C/OPAC/ISR/1, March 2008, paragraphs 9 and 10.

Beyond the Israeli army, information has been received to indicate that children as young as 14 years old have been permitted to voluntarily join an element of the Israeli Police,¹⁰ called the Civil Guard.¹¹ Activities of this unit include traffic control, patrolling, acting as border guards, detective activities, searching areas for explosives, drug control and the prevention of terror acts and crimes.¹² The Civil Guard operates in many neighbourhoods, including the West Bank.¹³ It is unclear exactly which of these tasks could be assigned to under-18s, but information on the Israeli Police website states that ‘part of the civil guard activity within the community is carried out by teenagers’,¹⁴ and a 2010 report by New Profile and DCI-Palestine indicates that under-18s would be in possession of unloaded firearms during civil guard patrols.¹⁵ One element of the Civil Guard is called the Emergency Squad program, members are permitted to take their firearms home and are on stand-by for immediate deployment should an emergency arise, for example if there were an attack on a settlement.¹⁶ High school pupils have been linked to these squads in the past.¹⁷

Additionally, various ‘Area Defence Brigades’ have been created to maintain the security of Jewish settlements in the West Bank. These brigades were set up by the settlements and local organizations, with support from the state, and appear to fall under the auspices of the IDF.¹⁸ Formal members of these brigades are required to be over the age of 18. However, Child Soldiers International has been informed that these brigades often work in tandem with local ‘alertness squads’, which are made up of volunteers from the community. It has been reported that some of these volunteers are aged between 15 and 18 years, and that, in the past, their activities have included armed patrols and protection services around the settlements.¹⁹ Information indicates that these squads are trained by, and receive orders and weapons from, the IDF.²⁰

Child Soldiers International is concerned that under-18s may be associated with these forces and carry out activities that could amount to participation in hostilities, in violation of article 1 of OPAC.

¹⁰ Whilst the Police is not officially part of the Israeli military, the insecurity in Israel ensures that many of its functions are militaristic in nature: The Police Act of 1971, section 8 is entitled ‘The Israeli Police Force in Military Functions’; article 92(a) states that ‘At times of war or emergency the Minister is entitled, if the government agrees, to declare the Israeli Police Force or part of it as a military force, which might be employed in military functions for the protection of the State’, information from New Profile; see also the functions listed here: <http://mops.gov.il/English/PolicingENG/Police/Pages/default.aspx>.

¹¹ Correspondence with New Profile, 10 July 2012.

¹² Israeli Police website: http://police.gov.il/English_%20contentPage.aspx?Pid=9; New Profile, *Child Recruitment in Israel*, 29 July 2004, pages 36-40.

¹³ Correspondence with New Profile, 23 July 2012.

¹⁴ Israeli Police website: http://police.gov.il/English_%20contentPage.aspx?Pid=9.

¹⁵ New Profile and Defence for Children International Palestine section, *Response to the List of Issues prepared by the UN Committee on the Rights of the Child in connection with the consideration of the initial report of Israel considered during the Committee’s 53rd session on 19 January 2010*, December 2009, page 8; New Profile, *Child Recruitment in Israel*, 29 July 2004, page 39 indicates that the firearm may be loaded.

¹⁶ Information provided by New Profile, July 2012.

¹⁷ New Profile, *Child Recruitment in Israel*, 29 July 2004, page 40.

¹⁸ Correspondence with New Profile, 27 June 2012; Isabel Kershner, *Israel Intensifies Training of Settler Security Teams*, 30 August 2011, New York Times, <http://www.nytimes.com/2011/08/31/world/middleeast/31israel.html>; Chaim Levinson, *IDF training Israeli settlers ahead of ‘mass disorder’ expected in September*, Haaretz, 30 August 2011 <http://www.haaretz.com/news/diplomacy-defense/idf-training-israeli-settlers-ahead-of-mass-disorder-expected-in-september-1.381421>.

¹⁹ Correspondence with New Profile, 23 July 2012.

²⁰ Correspondence with New Profile, 10 July 2012; see also, Israel Hayom, *IDF Boosts manpower in West Bank ahead of possible Palestinian violence*, 9 September 2011, http://www.israelhayom.com/site/newsletter_article.php?id=1035 “The IDF ordered the settlements throughout the West Bank to drill and prepare their rapid response teams for intrusion attempts and terror attacks”.

Recommendations

Child Soldiers International recommends that the government of Israel is requested to provide detailed information from official sources on:

- The types of activities that under-18s are required to perform during IDF and elite squad training, and the specific details of the measures and instructions that are in place to ensure that they do not take part in hostilities.
- Whether under-18s in the IDF, the elite combat squads or the Civil Guard are stationed in the West Bank or Gaza Strip, and what measures are in place to ensure their safety.
- The number of recruits who are still under 18 years upon completion of their training in the elite units, and the specific measures in place to ensure that they are not then deployed in hostilities.
- The measures in place to ensure that under-18s are not permitted to volunteer in the alertness squads.

Child Soldiers International recommends that the government of Israel is encouraged to:

- Review and revise its law and policies on the deployment of under-18s to ensure that they are in conformity with article 1 of OPAC and that children are not exposed to the risk of taking part in hostilities.

Article 2

Compulsory recruitment

Section 13 of the Israeli Defence Service Law establishes that the IDF can enlist men and women who have been found fit for service from the age of 18 years.²¹ In the past the calculation of age for both compulsory and voluntary recruitment was based on the Jewish calendar,²² which led to the conscription of 17 and a half year olds. In 2004 this was amended for compulsory recruitment in order to comply with article 2 of OPAC, so that the age for conscription is now calculated according to the Gregorian calendar.²³

There are no legal possibilities to lower the IDF compulsory recruitment age even in times of emergency.²⁴

In addition to this method of compulsory recruitment, there exist several programs that allow an individual to volunteer for early conscription at the age of 17,²⁵ as calculated by the Jewish calendar

²¹ Israel's second periodic report under the Convention on the Rights of the Child, UN Doc CRC/C/ISR/2, 2010, paragraph 704.

²² The Jewish calendar operates by an age presumption, whereby an individual due to turn 17 in the first half of the year is considered to be 17 at the beginning of the year despite only actually being 16 and a half. Whereas someone who turns 17 towards the end of the year would be considered to be that age on the first day of the second half of the year. See Israel's second periodic report under the Convention on the Rights of the Child, UN Doc CRC/C/ISR/2, 2010, paragraph 706.

²³ Initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, UN Doc. CRC/C/OPAC/ISR/1, March 2008, paragraph 17.

²⁴ Initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, UN Doc. CRC/C/OPAC/ISR/1, March 2008, paragraphs 26 – 27.

²⁵ With written parental consent and approval by the IDF Head of recruitment administration, Letter from State of Israel, Ministry of Foreign Affairs, Legal Division to Child Soldiers International, 13 June 2012; Initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, UN Doc. CRC/C/OPAC/ISR/1, March 2008, paragraph 36.

(therefore as young as 16 and a half years of age). One of these is the elite or special combat unit, whose long-term training commences only once a year. Service in these units counts towards an individual's compulsory military conscription. Should a recruit under the age of 18 wish to withdraw from such a unit, they are not discharged from military service and re-conscripted when they reach 'military age'. Rather, they are immediately reassigned to an alternative unit, according to regular IDF placement, in order to complete the remainder of their compulsory service,²⁶ which must last a total of 30 months for men and 24 months for women.²⁷

Another such program is the border police where enlisted members over the age of 18 can be posted, but which also permits voluntary enlistment at 17 years of age, as calculated by the Jewish calendar. Three years service in the border police is deemed equivalent to completing compulsory military service.²⁸ It also appears that, as with the elite units, should an under-18 recruit in the border police wish to leave that unit before their compulsory service has elapsed, they will still be liable to fulfil the remainder of their service in another unit.²⁹

Despite the fact that the initial act of joining these units may have been voluntary, under Israeli law children under 18 years may find themselves required to fulfil their military obligations (i.e. conscription) without their consent. Child Soldiers International believes that this policy is in violation of article 2 of OPAC. It continues despite previous recommendations expressed by the Committee.³⁰

Recommendations

Child Soldiers International recommends that the government of Israel is requested to provide detailed information from official sources on:

- The number of under-18s currently serving in elite units, and other units of the IDF and the border police, including disaggregated data by age, sex, social and economic background, race and ethnic origin.

Child Soldiers International recommends that the government of Israel is encouraged to:

- Revise its laws and policies to ensure that under-18s in the IDF and border police have the right to leave military service at any point, and that their joining and continued presence is genuinely voluntary.

²⁶ Letter from State of Israel, Ministry of Foreign Affairs, Legal Division to Child Soldiers International, 13 June 2012.

²⁷ Initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, UN Doc. CRC/C/OPAC/ISR/1, March 2008, paragraphs 43 and 44.

²⁸ Initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, UN Doc. CRC/C/OPAC/ISR/1, March 2008, paragraph 47.

²⁹ Correspondence with New Profile, 6 July 2012; see for example Defence Service Law (Consolidated Version), 5746-1986, section 26: 'Where the service of a person of military age in the Border Police has ended in accordance with an order under section 24(a) or through the cancellation of the order, and the period of regular service to which he would have been liable but for the order has not yet elapsed, that person shall be liable to regular service until the expiration of that period', available here: http://www.mfa.gov.il/MFA/MFAArchive/1980_1989/Defence+Service+Law+-+Consolidated+Version--+5746-1.htm.

³⁰ CRC Concluding observations on the initial report of Israel, UN Doc. CRC/C/OPAC/ISR/CO/1, January 2010 paragraph 18 and 19.

Article 3.1

Minimum age for voluntary recruitment

According to section 17 of the Defence Service Law, those not required to carry out compulsory service, or who wish to perform additional service either pre or post conscription, can voluntarily apply to the IDF once they reach the age of 17.³¹ However, as stated above, because this is calculated via the Jewish calendar, the presumption of age means that the minimum age for voluntary recruitment actually stands at 16 and a half. Section 17 also states that the time an individual voluntarily serves in the regular service shall be deducted from the length of their compulsory enlistment. It is unclear whether under-18s who have voluntarily joined the IDF have the right to early discharge without subsequent penalty.

Child Soldiers International recommends that the government of Israel is encouraged to:

- Raise the current voluntary recruitment age into the Defence Forces to 18 years, as calculated by the Gregorian calendar.
- Pending such reform, calculate the age of voluntary recruitment by the Gregorian calendar and explicitly introduce a right to leave the armed forces for under-18s.

Article 3.5

Military schools

According to Israel's initial OPAC report the IDF operates six military schools that provide academic and military training for 3 to 4 years, with enrolment open to 13 and a half year olds.³² Yet, data from New Profile indicates that the number of official military schools is in fact much higher, with the Air Force Technical College alone operating 14 secondary schools, one of which is located in the West Bank.³³ The military teaching and training in these schools is provided by IDF personnel and civilians working for the IDF. Whilst students are not officially considered to be members of the IDF, they are obliged to sign an agreement with the Ministry of Defence, committing them to three further years of service after completing their compulsory military obligations.³⁴ Moreover, whilst students are not subject to military law, the conditions and disciplinary methods of each school are determined by the IDF human resources branch. Students are obliged to wear military uniform but do not carry arms, yet it is unclear whether they are trained to use firearms during the course of their studies.

In addition to these officially run IDF schools there exist several other schools that maintain a semi-formal link to the military. It is unclear to Child Soldiers International exactly how many of these schools are currently in operation. However, information of two such schools has been provided by New Profile: the *Amal* High School in Ramat David is linked to the Israeli Air Force and located in the Ramat David air force base, students are trained in military aviation mechanics, employed by the military as part of their vocational training, and are required to serve in the air force upon graduation; and the *Mevo'ot Yam* High School which is linked to the navy, requires students to wear military

³¹ Defence Service Law (Consolidated Version), 5746-1986, section 17.

³² Initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, UN Doc. CRC/C/OPAC/ISR/1, March 2008, paragraphs 52 – 60.

³³ Correspondence from New Profile, 27 June 2012.

³⁴ Letter from State of Israel, Ministry of Foreign Affairs, Legal Division to Child Soldiers International, 13 June 2012.

uniform, perform parades and offers extra curricular firearms training. Both of these schools are open to students between the age of 13 and 15 years.³⁵

Child Soldiers International recommends that the government of Israel is requested to provide detailed information from official sources on:

- The number of official IDF-run schools that are currently in operation, including details of all the existing Air Force Technical Colleges, and the number of under-18s currently enrolled in these schools.
- Whether under-18s in any of these institutions are, or may be, trained to use weapons.

Military presence in schools

Despite concern expressed by the Committee in 2010 regarding the negative impact that the extensive militarization of education has had on peace education in Israel,³⁶ little has been done to address this issue.

There currently exist several military training programs that are run as part of the school curriculum. One of these is the Youth Battalions training, or *Gadna*, which consists of a week of military instruction, run by schools or youth clubs, open to 15 to 17 year olds³⁷ to prepare them for enlistment, and purportedly to counteract the increasing number of individuals attempting to evade compulsory recruitment.³⁸ It is administered by the *Gadna* Command, which is part of the IDF. The program is considered to be an optional part of the curriculum but the decision to opt into the training is determined by the school (which then presents it as a mandatory activity) rather than the individual.³⁹ According to New Profile, most Jewish high schools in Israel incorporate *Gadna* into their curricula. During the training, under-18s can be required to handle and shoot firearms, including semiautomatic weapons, live on military bases, dress in uniform, train in squad-sized operations and participate in rigorous physical training (including night treks).⁴⁰

Beyond programs such as the Youth Battalions, the military presence in schools remains strong: with a wider school-based military curriculum called ‘Willingness to serve and readiness for the IDF’, which is a three year mandatory program for those in the 10th, 11th or 12th grades, aimed at promoting

³⁵ New Profile, *Child Recruitment in Israel*, 29 July 2004, pages 29-31, confirmed in correspondence with New Profile, 27 June 2012.

³⁶ Committee on the Rights of the Child, List of Issues, UN Doc. CRC/C/OPAC/ISR/Q/1, October 2009, question 17; Concluding observations on the initial report of Israel, UN Doc. CRC/C/OPAC/ISR/CO/1, January 2010, paragraphs 22 and 23, 26 and 27

³⁷ Although the Jewish Virtual Library, an information resource established by the not for profit organization American-Israeli Cooperative Enterprise, states that *Gadna* is open to 13 year olds, see http://www.jewishvirtuallibrary.org/jsource/judaica/ejud_0002_0007_0_06985.html.

³⁸ For example see, The Jerusalem Post, *Gadna pre-army program tries to restore IDF's appeal*, 13 April 2008, <http://www.jpost.com/Israel/Article.aspx?id=97966>.

³⁹ In some instances failure to take part in *Gadna* results in a penalty being applied to the student, for example a lower grade or an being assigned an additional academic task, New Profile and Defence for Children International Palestine section, *Response to the List of Issues prepared by the UN Committee on the Rights of the Child in connection with the consideration of the initial report of Israel considered during the Committee's 53rd session on 19 January 2010*, December 2009, page 30.

⁴⁰ Haaretz, *New IDF Gadna youth program criticized as overly militaristic*, 1 January 2007, <http://www.haaretz.com/news/new-idf-gadna-youth-program-criticized-as-overly-militaristic-1.208769>; Huffington Post, *Do Jewish Youth Movements Glorify Violence?*, 10 January 2012, http://www.huffingtonpost.com/joshua-bloom/jewish-youth-groups-and-violence_b_1194549.html.

participation in combat units and preparing Israeli youth for service in the IDF;⁴¹ and with conscripts in uniform being posted to schools in a range of capacities,⁴² with the aim of promoting enlistment, providing information on the IDF and preparing students for military life.

Child Soldiers International recommends that the government of Israel is requested to provide detailed information from official sources on:

- Whether under-18s in the Youth Battalion are, or may be, trained to use weapons.

Prohibition

Article 6.1

Criminalization

Whilst section 143 of the Penal Law 5737-1977 criminalizes certain unlawful military activities,⁴³ there exists no specific provision in Israeli law that explicitly criminalizes the unlawful recruitment of under-18s or their use in hostilities. This remains the case despite previous recommendations by the Committee in 2010.⁴⁴

Section 16 of the same Penal Law specifies that ‘Israel penal laws shall apply to foreign offenses, which the State of Israel undertook – under multilateral international conventions that are open to accession – to punish, and that even if they were committed by a person who is not an Israel citizen or an Israel resident and no matter where they were committed’.⁴⁵

Further clarification regarding the applicability of this provision was provided in Israel’s 2010 written replies to the Committee’s list of issues: ‘it is possible to assume extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using

⁴¹ New Profile and Defence for Children International Palestine section, *Response to the List of Issues prepared by the UN Committee on the Rights of the Child in connection with the consideration of the initial report of Israel considered during the Committee’s 53rd session on 19 January 2010*, December 2009, page 32.

⁴² For example the Youth Guide program, and Teacher Soldiers project: see New Profile and Defence for Children International Palestine section, *Response to the List of Issues prepared by the UN Committee on the Rights of the Child in connection with the consideration of the initial report of Israel considered during the Committee’s 53rd session on 19 January 2010*, December 2009, page 33; New Profile, *Child Recruitment in Israel*, 29 July 2004, page 22.

⁴³ Penal Law 5737-1977 Section 143: Unlawful Military Activities, ‘(A) If a person did one of the following, then he is liable to seven years imprisonment: (1) He drilled or trained others - without permission from the Government - in the use of arms or the performance of military exercises, movements or operations; (2) He was present at a meeting or assembly of persons held without permission from the Government, in order to drill or train other persons in the use of arms or the practice of military exercises, movements or operations. (B) If he trains or drills the use of arms or the practice of military exercises, movements or operations at a meeting or assembly convened without Government permission or is present therein order to be so trained or drilled, then he is liable to three years’ imprisonment.’ Available here: <http://www.oecd.org/dataoecd/15/58/43289694.pdf>.

⁴⁴ Concluding observations on the initial report of Israel, UN Doc. CRC/C/OPAC/ISR/CO/1, January 2010, paragraphs 28 and 29.

⁴⁵ Such extraterritorial jurisdiction shall only apply if the relevant act is classified as an offense under that state’s law; no restriction on criminal liability applies to the offense under the laws of that state; the accused has not already been found innocent of the offense in that state, or if found guilty did not serve the imposed penalty; and no penalty shall be imposed for the offense that is more severe than that which would have been imposed under the laws of that state: Penal Law 5737-1977 Section 16, available here: <http://www.oecd.org/dataoecd/15/58/43289694.pdf>.

them to participate actively in hostilities, based on Article 4 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts and Article 38 to the Convention on the Rights of the Child, both of which were signed and ratified by Israel.⁴⁶ Child Soldiers International knows of no situation where Israel has assumed extraterritorial jurisdiction through the use of the Penal Law, further information would be welcome.

The lack of a specific legal basis on which to exercise such extraterritorial jurisdiction is of concern, and fails to take into account previous recommendations by the Committee.⁴⁷

Child Soldiers International recommends that the government of Israel is encouraged to:

- Include in the Penal Code provisions which explicitly criminalize violations of the provisions of OPAC regarding the recruitment and involvement of children in hostilities by armed forces and armed groups, in both peace and wartime.
- Review its legislation in order to explicitly establish extraterritorial jurisdiction for the crimes of unlawful recruitment or use of children in hostilities.

International assistance and cooperation

Article 7

Arms trade and military assistance

According to the small arms trade database provided by the Norwegian Initiative on Small Arms Transfers⁴⁸ Israel exported small arms and light weapons worth approximately USD 134,174,989 in 2010 (the most recent year for which data was available). The destination of these small arms exports included countries such as Colombia, India, Philippines, Thailand and Sri Lanka. Grave violations of children's rights, including unlawful recruitment and use in hostilities, have reportedly been committed by parties active in all of these countries in 2010.⁴⁹ The total amount of small arms and light weapons exported to these countries five countries in 2010 amounted to USD 28,008,952.⁵⁰

According to Israel's written replies to the Committee's list of issues, the Israeli Security Export Control Law enables the Ministries of Defence and Foreign Affairs to take into consideration any existing UN Security Council Resolutions, the country of final destination, the intended end-use/end-user and the internal situation in these countries, including the respect of children's rights in regard to their recruitment and their use in armed conflicts, when considering arms export license applications.⁵¹ However, as noted in the Committee's concluding observations, the law⁵² does not

⁴⁶ Written replies by the Government of Israel concerning the List of Issues (UN Doc. CRC/C/OPAC/ISR/Q/1), CRC/C/OPAC/ISR/Q/1/Add.1, January 2010, response to question 3.

⁴⁷ Concluding observations on the initial report of Israel, UN Doc. CRC/C/OPAC/ISR/CO/1, January 2010, paragraphs 30 and 31.

⁴⁸ <http://www.prio.no/nisat> and http://balder.prio.no:8080/PublicQuery_SQL.aspx.

⁴⁹ See *inter alia*, Children and armed conflict: Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 August 2011; Annual Report of the Secretary-General on Children and Armed Conflict, UN Doc. A/66/782-S/2012/261, April 2012.

⁵⁰ <http://www.prio.no/nisat> and http://balder.prio.no:8080/PublicQuery_SQL.aspx.

⁵¹ Written replies by the Government of Israel concerning the List of Issues, UN Doc. CRC/C/OPAC/ISR/Q/1/Add.1, 7 January 2010, response to question 20.

⁵² Israeli Security Export Control Law No. 5767-2007: available here http://www.exportctrl.mod.gov.il/NR/rdonlyres/7B53DDE6-AEE8-47BC-AEFA-1AF325FB96D0/0/Defense_Export_Control_Law.pdf

expressly prohibit the export of arms to countries where children are unlawfully recruited or used in hostilities.⁵³

Recommendations

Child Soldiers International recommends that the government of Israel is encouraged to:

- Expressly prohibit in its legislation, the sale of arms when the final destination is a country where children are known to be or may potentially be recruited or used in hostilities.

⁵³ Concluding observations on the initial report of Israel, UN Doc. CRC/C/OPAC/ISR/CO/1, January 2010, paragraphs 40 – 41.

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