

ACCESS TO JUSTICE FOR CHILDREN: ISRAEL

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Israel ratified the CRC on 3 October 1991.¹ In Israel's legal system, international treaties are not directly applicable, meaning that they must be translated into national legislation before the courts can give effect to their provisions.² The CRC has not been incorporated through national legislation and therefore it does not have the force of law in Israel.

B. Does the CRC take precedence over national law?

The CRC does not take precedence over national law, although courts interpret the provisions of national law where possible in a manner consistent with the CRC and other international human rights obligations.³

C. Has the CRC been incorporated into national law?

No. However, some national legal provisions reflect the principles of the Convention, including the following:

- Amendment No. 14 to the Youth (Trial, Punishment and Modes of Treatment) Law 1971, which gives priority to rehabilitation over punishment of children accused and/or convicted of committing a crime and prohibits detention of children below the age of 14 without a court order;⁴
- the Assistance for Sex Violence Minor Crime Victims' Law 2008, which establishes the right of a child victim of sexual violence to receive immediate assistance in a crisis centre;⁵
- the Registration of Information on the Influence of Legislation on the Child's Right Law 2002, requiring the government to review legislative bills' potential influence on the rights of children;⁶
- the amendment to the Special Education Law 1998, which gives priority to

¹ See

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

² Ministry of Justice of Israel website, available in Hebrew at:

<http://index.justice.gov.il/Units/YeutzVehakika/NosimMishpatim/HavaadLeZhuyot/Pages/Amana.aspx>.

³ *Initial periodic report of Israel to the UN Committee on the Rights of the Child*, CRC/C/8/Add.44, 27 February 2002, at paras. 60-1, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f8%2fAdd.44&Lang=en.

⁴ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/305_004.htm.

⁵ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/999_946.htm.

⁶ See <http://www.loc.gov/law/help/child-rights/israel.php#Child>.

the placement of children with disabilities in a regular education facility and increases the budget for this purpose;⁷

- the Compulsory Education (Physical Violence Reporting Rules) Regulations 2009, which obliges the principals of educational institutions to report in writing any occurrence of physical violence between an educator and a pupil;⁸
- the amendment of the Civil Procedure Regulations which establishes the right of children to be heard in Family Court proceedings;⁹ and
- the amendment of the Family Court Act establishing the right of a minor to apply in person to the Family Court.¹⁰

The UN Committee on the Rights of the Child has recommended that the integration process of the rights and principles and provisions of the Convention into its domestic legal system be accelerated to ensure the justiciability of all children's rights.¹¹

D. Can the CRC be directly enforced in the courts?

The CRC cannot be directly enforced in Israeli courts, but is often referenced and discussed in legal proceedings involving children's rights as a source of interpretive guidance.¹²

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

The CRC and other relevant international instruments have been extensively cited by national courts. The Supreme Court has cited the CRC in decisions concerning corporal punishment in the home,¹³ life imprisonment of juvenile offenders,¹⁴ the right to education of children in east Jerusalem,¹⁵ the right to education of children with special needs,¹⁶ intercountry adoption,¹⁷ the best

⁷ Available in Hebrew at:

<http://cms.education.gov.il/EducationCMS/Units/Special/HukimUnehelim/HokHinuchMeyuhad/Hokim.htm>.

⁸ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/500_228.htm.

⁹ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/055_060.htm.

¹⁰ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/072_009.htm.

¹¹ UN Committee on the Rights of the Child, *Concluding observations the second to fourth periodic reports of Israel*, CRC/C/ISR/CO/2-4, 4 July 2013, para. 12, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fISR%2fCO%2f2-4&Lang=en.

¹² *Initial periodic report of Israel to the UN Committee on the Rights of the Child*, at paras. 60-1.

¹³ *A v. Israel*, Supreme Court of Israel, Case No. 4596/98, 25 January 2000. CRIN summary available at: <https://www.crin.org/en/library/legal-database/v-israel>.

¹⁴ *Anonymous v. State of Israel*, Appeal 900/07, Israeli Supreme Court, sitting as Court of Criminal Appeals. CRIN summary available at:

<https://www.crin.org/en/library/legal-database/state-israel-v-anonymous>.

¹⁵ H.C.J. 5373/08 *Abu Labda et. al. v. The Minister of Education et. al.* (6.2.2011), available in Hebrew at: http://www.ruling.co.il/%D7%91%D7%92%22%D7%A5-5373-08-%D7%90%D7%A1%D7%9E%D7%A2%D7%99%D7%9C-%D7%90%D7%91%D7%95-%D7%9C%D7%91%D7%93%D7%94-%D7%95%D7%90%D7%97-%D7%A0-%D7%A9%D7%A8%D7%AA-%D7%94%D7%97%D7%99%D7%A0%D7%95%D7%9A_de1fdb3e-1d46-85b0-a70a-e6e070a6cd47.

¹⁶ H.C.J. 2599/00 *Yated v. Ministry of Education* (2002), available at:

interests of the child in adoption,¹⁸ the parental rights of the biological father in an adoption,¹⁹ and others.

The family courts, administrative courts, and other courts have also relied on the CRC and other international human rights law instruments as sources of interpretation in their decisions.²⁰ For example, the Jerusalem Family Matters Court relied on the principle of best interests of the child in Article 3 CRC in a dispute over a child's surname when their parents are not married nor share custody.²¹ And the Tel-Aviv District Court, sitting as an Administrative Court, made reference to Article 2(2) of the CRC requiring a State to take all appropriate measures to ensure the protection of children from all forms of discrimination.²² More examples of rulings relying on the Convention can be found in Israel's Initial periodic report to the Committee on the Rights of the Child.²³

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

Children and their representatives may initiate legal proceedings in civil courts to challenge violations of their rights, following the Civil Procedure Regulations 1984,²⁴ as outlined in part II.B below.

<http://versa.cardozo.yu.edu/opinions/yated-v-ministry-education>.

¹⁷ HCJ 4293/01 *New Family v. Minister of Labour and Welfare* (2009), available at:

<http://versa.cardozo.yu.edu/opinions/new-family-v-minister-labor-and-welfare-0>.

¹⁸ HCJ AH 7015/94 *The Attorney General v. Anonymous* (1995), available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=25769&sessionID=1&type=default&name=undefined.txt>.

¹⁹ FC 377/05 *Anonymous v. biological parents* (2005), available in Hebrew at:

<http://www.court.org.il/din/person/person64.htm>.

²⁰ FC 17575-03-13 *I.K. v. A.H.L.* (2013), available in Hebrew at:

http://www.takdin.co.il/searchg/%D7%AA%D7%9E%20%D7%A9%20%D7%A4%D7%AA%D7%97%20%D7%AA%D7%A7%D7%95%D7%95%D7%94%2017575%2003%2013%20%D7%99%20%D7%A7%20%D7%A0%20%D7%90%20%D7%97%20%D7%9C_hd_4594963.html;

FC 35101-03-12 *R.A. v. I.A.* (2013), available in Hebrew at:

http://www.takdin.co.il/searchg/%D7%AA%D7%9E%20%D7%A9%20%D7%A8%D7%90%D7%A9%D7%95%D7%9F%20%D7%9C%D7%A6%D7%99%D7%95%D7%9F%2035101%2003%2012%20%D7%A8%20%D7%90%20%D7%95%D7%90%D7%97%20%D7%A0%20%D7%99%20%D7%90_hd_4343261.html; and

AA 2024/07 *Boruhov v. State of Israel* (2010), available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=542556&sessionID=1&type=default&name=undefined.txt>.

²¹ FC 9182/06 *Anonymous v. Anonymous* (2007), available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=367761&sessionID=1&type=default&name=undefined.txt>.

²² AP 2176/06 *Anonymous v. Ministry of Education, Culture and Sports et al.* (2006), available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=334531&sessionID=1&type=default&name=undefined.txt>.

²³ Table 2 on page 43.

²⁴ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/055_060.htm.

Criminal cases are generally conducted by the Attorney General or other qualified state officials.²⁵ For a limited number of minor criminal offences, however, individuals, including child victims through their representative, may directly initiate the criminal process by filing a private complaint.²⁶ In relation to such proceedings,²⁷ the Attorney General has the power to intervene and take over the prosecution²⁸ or to discontinue the proceedings.

- B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

Children's participation in civil proceedings is regulated by the Civil Procedure Regulations and the Legal Capacity and Guardianship Act 1962.²⁹

Minors, *i.e.* all children under the age of 18,³⁰ can only bring claims through a representative.³¹ The consent of the child's representative is required either in advance or subsequent to the action.³² The Legal Capacity and Guardianship Act provides that "parental guardianship includes ... the authority to represent [the child]",³³ therefore, as legal guardians parents have the power to represent their children in legal matters. However, parents are not allowed to act as legal representatives for their children in certain matters, such as legal transactions between the parents and the child and cases involving property rights.³⁴

Furthermore, the court may revoke or limit a parent's role as guardian, or appoint an additional guardian to act alongside the parent³⁵ or appoint a temporary guardian or guardian *ad litem* for a minor who will represent him and his best interests in legal proceedings.³⁶ Other persons may also be authorised to act as a "close friend" of a minor in the capacity of a *de facto* guardian.³⁷

Minor children may, however, apply independently to the Family Court in cases, under the jurisdiction of the Family Court as enumerated in Section 1 of the

²⁵ Criminal Procedure Act 1982, Sections 11 and 12 (A), available at: <http://nolegalfrontiers.org/israeli-domestic-legislation/criminal-procedure/criminal01?lang=en>.

²⁶ *Ibid.*, Section 68.

²⁷ *Ibid.*, Section 72.

²⁸ HCJ 4957/08 *Israel Law Centre v. Attorney General* (2010), available in Hebrew at: <http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=598562&sessionID=1&type=default&name=undefined.txt>.

²⁹ Available at: http://www.law.yale.edu/rcw/rcw/jurisdictions/asw/israel/Israel_capacity_law.pdf.

³⁰ Legal Capacity and Guardianship Act, Section 3.

³¹ Civil Procedure Regulations, Section 32 and TA 3097/02 *Mahmud v. Terset insurance agency* (2004), available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=357523&sessionID=1&type=default&name=undefined.txt>.

³² Legal Capacity and Guardianship Act, Section 4.

³³ *Ibid.*, Section 15.

³⁴ *Ibid.*, Section 20.

³⁵ *Ibid.*, Sections 28 and 30.

³⁶ *Ibid.*, Section 68 and Youth (Care and Supervision) Law 1960, Sections 3 and 8c, available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=94049&sessionID=1&type=default&name=undefined.txt>.

³⁷ Legal Capacity and Guardianship Act, Section 67 and Civil Procedure Regulations, Section 32.

Family Court Law 1995, where his or her rights may be severely adversely affected.³⁸

Victims of crime in Israel have a number of rights and entitlements in relation to the criminal trial against the perpetrator, including a right to express an opinion on matters such as plea bargains.³⁹ Where a child under the age of 14 is the victim of a crime, their victim's rights must be exercised through a parent or legal guardian, however, children over the age of 14 may exercise these rights alone if they wish to do so.⁴⁰ Nonetheless, a parent will be precluded from representing the child victim if they are a suspect or an accomplice in the crime against the child.⁴¹

The Attorney General may also commence any type of proceedings, including an appeal, on behalf of a minor.⁴² Lastly, the Minister of Welfare or any local authority may submit a suit on behalf of a child with respect to alimony.⁴³

C. In the case of infants and young children, how would cases typically be brought?

There appear to be no special rules regarding infants or young children, other than what is stated above.

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

Legal aid in civil cases

The Legal Aid Department, which operates Legal Aid District Offices throughout the country, provides legal advice and representation to applicants of limited financial means. The rules on eligibility for legal aid are set out in the Legal Aid Law 1972⁴⁴ and the Legal Aid Regulations 1973,⁴⁵ according to which children or their representatives are entitled to receive legal aid in certain types of civil and judicial review cases if they qualify for financial assistance as described below.

Entitlement to legal aid is conditional on the following:⁴⁶

³⁸ Family Courts Act 1995, Section 3, available in Hebrew at:

http://www.nevo.co.il/law_html/Law01/072_009.htm.

³⁹ Rights of Victims of Crime Law 2001, available at:

http://www.nevo.co.il/law_html/Law01/134m1_001.htm For more information, see:

<http://mops.gov.il/English/CrimeAndSocietyENG/Pages/VictimsOfCrime.aspx>.

⁴⁰ Rights of Victims of Crime Regulations, Section 18, available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=109458&sessionID=1&type=default&name=undefined.txt>.

⁴¹ *Ibid.*

⁴² Legal Capacity and Guardianship Act, Section 69 and Welfare Act (Procedure Regarding Minors, the Mentally Ill and Absent) 1955, Section 8, available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=90647&sessionID=1&type=default&name=undefined.txt>.

⁴³ Welfare Act 1958, Section 6, available in Hebrew at:

<http://www.abiliko.co.il/index2.php?id=2093&lang=HEB>.

⁴⁴ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/325_001.htm.

⁴⁵ Available in Hebrew at: <http://index.justice.gov.il/Units/SiuaMishpaty/Documents/takanot1.pdf>.

⁴⁶ FC 13724/04 *P.A. v. A.A.* (2007), available in Hebrew at:

<http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=34005>

1. The case for which the aid is requested must concern a family matter as defined by the Family Courts Law 1995; a financial matter including civil wrongs damage claims; a claim under the Law of Return 1950; a claim under the Citizenship Law 1952; a claim under the Population Register Law 1965; a claim relating to human trafficking offences; or a claim under the specific provisions of Section 3A of the Prevention of Family Violence Law 1991 concerning protection orders.⁴⁷
2. The applicant must meet the financial eligibility criteria, which are assessed by an income and a property test.⁴⁸ In cases where the parent is representing the minor, only the financial circumstances of the minor will be taken into account and not those of the parent.
3. Lastly, there must be a reasonable prospect of the claim succeeding. Applications will be rejected if the Legal Aid Office is of the opinion that the case is vexation or baseless.⁴⁹

Legal Aid is generally provided free of charge with the exception of the participation fee,⁵⁰ but an exemption from payment of this fee exists in relation to requests made by a minor that is eligible for independent representation from his or her parents and in cases brought under the Hague Convention, Child Abduction Act, the Convention on the Recovery Abroad of Maintenance, Protection Order/Prevention of Threat of Harassment Order. The head of the Legal Aid Department also has a discretionary power to annul the fee requirement depending on the circumstances of the case.⁵¹

Legal aid in criminal cases

If the interests of justice require, those who are accused of criminal offences may benefit from publicly funded legal assistance when they cannot afford to pay for their own representation. Under the Public Defence Act 1995,⁵² defendants and detainees who meet certain criteria are eligible for the services of the Public Defender's Office, a unit within the Ministry of Justice.

A person is entitled to representation by a public defender when the likely outcome of the legal proceeding will have grave and fateful consequences for that person; when exceptional rules of procedure and evidence are being applied in a trial; when he is unable to afford the services of a private defense counsel; when he is suffering from a personal disability that adversely impacts upon his basic ability to defend himself, including minors (except in insignificant traffic charges); and other circumstances.⁵³

Representation begins with advice given to suspects during police investigation and continues through remand hearings, the trial and sentencing hearings, and

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⁴⁷ Legal Aid Regulations 1973, Section 5.

⁴⁸ *Ibid.*, Section 2.

⁴⁹ Legal Aid Law, Section 4.

⁵⁰ Legal Aid Regulations 1973, Section 3.

⁵¹ *Ibid.*, Section 3.

⁵² Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/P170K2_001.htm.

⁵³ Public Defence Act 1995, Section 18.

through the filing of appeals, appeals, judicial review hearings, retrials and parole hearings.⁵⁴

- E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

No further conditions or limitation were identified.

III. How can children's rights violations be challenged before national courts?

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

Israel does not have a full-fledged written constitution but several Basic laws are considered to be of constitutional character.⁵⁵ All statutes passed by the Knesset and all actions of the executive are required to conform to the provisions of the Basic Laws.⁵⁶

Cases alleging violations of constitutional rights can be brought in two principal ways: first, as a direct petition to the Supreme Court in its capacity as the High Court of Justice or, second, as part of an ordinary lawsuit tried in a lower court. When a constitutional question is incidentally raised before a lower court, it is debatable whether this court should adjudicate it or certify it to the Supreme Court. Each court has the authority to determine the constitutionality of laws, although the decisions of courts other than the Supreme Court are limited to the parties before it and subject to the review of the Supreme Court.⁵⁷

The High Court of Justice hears judicial review proceedings, *i.e.* challenges to the legality of decisions of State authorities, as a court of first instance.⁵⁸ It also has the jurisdiction to hear matters in which it deems it necessary to grant relief for the sake of justice and which are not within the jurisdiction of another court, including a religious court.⁵⁹

There are two threshold conditions required for a petition to be heard by the High Court of Justice - right of standing and justiciability.⁶⁰ Right of standing is

⁵⁴ Ministry of Justice website, Public Defense portal, available at: <http://index.justice.gov.il/En/Units/PublicDefense/Pages/default.aspx>.

⁵⁵ Available at: <http://www.mfa.gov.il/mfa/aboutisrael/state/law/pages/basic%20laws%20of%20the%20state%20of%20israel.aspx>.

⁵⁶ In the decision of CA 6821/93 *Bank Hamizrahi Ltd. v Migdal* (1995), available at: <http://versa.cardozo.yu.edu/opinions/united-mizrahi-bank-v-migdal-cooperative-bank>, the Israeli Supreme Court determined that the Basic Laws had supra-legislative, constitutional status, and accordingly that the Court had the power to declare void primary legislation that contradicted the Basic Laws. This decision has been reaffirmed on numerous occasions.

⁵⁷ Aharon Barak, *Judicial Review of Legislation and the Status of the Knesset*, 47:1 Haperaklit (2003), available in Hebrew at: <http://law.huji.ac.il/upload/haperaklit-47-1-005.pdf>.

⁵⁸ Basic Law: The Judiciary, Article 15(d)(2).

⁵⁹ *Ibid.*, Article 15(c).

⁶⁰ HCJ AH 5698/11 *State of Israel v. Dirani* (2013), available in Hebrew at: <http://elyon1.court.gov.il/files/11/980/056/s11/11056980.s11.htm>.

the term for the ability of a party to demonstrate to the court sufficient connection to and harm from the law or action challenged that justifies their participation in the case. According to the doctrine of justifiability, certain petitions are inappropriate for clarification by a judicial forum because they raise political questions or issues that are the focus of public controversies and which ought to be resolved in the framework of the political branches of government.

The requirements of standing have been liberalised⁶¹ following a ruling which held that the “legal standing of a petitioner before the High Court will be recognised if he can show that there is a reasonable prospect that an interest of his (not necessarily amounting to a right) which may be shared by a great number of others, has been prejudiced.”⁶² For example, the Court has accepted the standing of human rights organisations in a case concerning deprivation of liberty.⁶³ The High Court has opened its gates to virtually every issue of constitutional implication, and by almost every petitioner, notwithstanding the subject-matter of the case, or the identity of the petitioner—whether personally interested in the outcome of the case, or not, even if his rights or personal interests have not been damaged.

The State Comptroller and Ombudsman of Israel is an independent body which supervises the operation of public institutions.⁶⁴ He receives complaints by individuals against government ministries, local authorities, State factories and institutions, State companies and the employees of such bodies.⁶⁵ Complaints may be submitted electronically via a website or email.⁶⁶ Where he finds that a complaint is justified, the Ombudsman will inform the body complained against which the complaint was made and suggest a method to rectify the deficiency.⁶⁷

B. What powers would courts have to review these violations, and what remedies could they offer?

In civil proceedings, courts may grant a declarative order, mandatory order, prohibition order, specific remedy, or any other remedy it deems suitable for the circumstances.⁶⁸ Civil actions typically request compensation in the form of monetary damages, but may also seek an injunction ordering a party to carry out or cease a particular action. In relation to class actions, courts may award restitution⁶⁹ and compensation.⁷⁰

⁶¹ Aharon Barak, ‘Human rights in Israel’, 39 *Israel Law Review* 12 (2006), available at: <https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=39+Isr.+L.+Rev.+12&srctype=smi&srcid=3B15&key=655625fa76bd2522eb89d2a78d5bb9ed>.

⁶² H CJ 910/86 *Ressler v. Minister of Defence* (1988), available at: http://elyon1.court.gov.il/files_eng/86/100/009/Z01/86009100.z01.pdf.

⁶³ H CJ 3239/02 *Iad Ashak Mahmud Marab et al. v. IDF Commander in the West Bank* (2003), available in Hebrew at: <http://elyon1.court.gov.il/Files/02/390/032/a04/02032390.a04.htm>.

⁶⁴ State Comptroller and Ombudsman of Israel official website, available at: <http://www.mevaker.gov.il/En/About/Pages/MevakerTafkid.aspx>.

⁶⁵ Basic Law: The State Comptroller, Section 4.

⁶⁶ The State Comptroller and Ombudsman of Israel website, ‘Submitting complaints’, available at: <http://www.mevaker.gov.il/En/Ombudsman/Pages/ComplaintToMevaker.aspx>.

⁶⁷ See <http://old.mevaker.gov.il/serve/site/english/eombuds-intro.asp>

⁶⁸ Courts Act 1984, Section 75, available in Hebrew at: <http://www.nevo.co.il/law/74849>.

⁶⁹ Class Action Law 2006, Section 21, available at: http://weblaw.haifa.ac.il/en/JudgesAcademy/workshop3/Documents/R/5/Class_Action_Law%20in%20Israel%202006.pdf.

The courts have the power to grant interlocutory relief, and in special circumstances, even before a claim is brought.⁷¹ This includes an attachment order, an order to prohibit the defendant from leaving the jurisdiction, seizure of assets, freezing injunctions, temporary receivership, injunctive relief and others.

The High Court of Justice has the power to grant orders such as injunctions, mandamus and *habeas corpus*, as well as declaratory judgments.⁷² In addition, the law in Israel says that the High Court of Justice, can render any remedy “for the sake of justice.”⁷³

When discussing constitutional questions, all courts in Israel have the authority to invalidate legislation if it is found to infringe on basic constitutional rights, although the decisions of courts other than the Supreme Court are limited to the parties before it and subject to the review of the Supreme Court.⁷⁴

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

It is possible to file a class action without naming individual victims (see part III.D below). Research did not identify any other laws allowing for a case to be brought on behalf of an anonymous or unspecified victim.

However, there are certain provisions protecting the identity of children involved in legal proceedings in Israel. Children involved in court proceedings, as witnesses or defendants, have the right to have their identity protected.⁷⁵ It is also prohibited to publish the identity of a child in cases stipulated by the Youth Law (Care and Supervision) 1960,⁷⁶ including *inter alia*, child care protection and supervision services, appointment of legal guardian and a friend of court, hospitalisation and removing a child from the custody of his parents.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

The courts have the power to join cases filed by different plaintiffs seeking relief for the same act if they raise common question of law or fact.⁷⁷ Similarly, cases against multiple defendants arising from the act can also be joined.⁷⁸ Any joinder of actions is prohibited, however, where it could complicate or delay the proceedings.⁷⁹

The Class Action Law 2006 defines a class action as “[a]n action that is conducted on behalf of a group of people, who have not authorised the representative plaintiff for this purpose, and which raises material questions of

⁷⁰ Class Action Law, Section 22.

⁷¹ Civil Procedure Regulations 1984, Section 363.

⁷² Basic Law: The Judiciary, Section 15.

⁷³ *Ibid.*

⁷⁴ *Ibid.* and Aharon Barak, ‘Judicial Review of Legislation and the Status of the Knesset’.

⁷⁵ Court Act 1984, Section 68, available at: <http://www.nevo.co.il/law/74849>.

⁷⁶ Youth Law (Care and Supervision) Law 1960, Section 24.

⁷⁷ Civil Procedure Regulations, Section 21.

⁷⁸ *Ibid.*, Section 22.

⁷⁹ *Ibid.*, Section 23.

fact or law which are common to all the members of the class.”⁸⁰ Class actions are allowed only in relation to one of the categories set forth in the Schedule II of the Class Action Law or under another express statutory provision to that effect.⁸¹ Schedule II includes claims related to consumer protection, environmental hazards, discrimination and others.

Anyone seeking to raise such an action may submit a motion to the court requesting the certification of the claim as a class action.⁸² The court may approve a class action if it considers that it raises substantive questions of fact or law in common for all members of the group and it is reasonably possible that it may be resolved in their favour; that it is an efficient and fair method to resolve the matter; that it can be reasonably assumed that all members of the group will be appropriately represented and the action will be conducted in good faith.⁸³

The Law aims contains provisions to encourage the filing of class action suits such as a possibility of paying the representative of the class remuneration for devoting his time and effort to conducting the proceedings.⁸⁴

E. Are non-governmental organisations permitted to file challenges to potential children’s rights violations or to intervene in cases that have already been filed?

Organisations may represent minors as a “close friend”, as discussed in part II.B, or they may file a claim independently concerning violation of human rights before the High Court of Justice, provided the requirements of legal standing are met, as mentioned in part III.A. They may also intervene in ongoing court cases.

Organisations may also be allowed to file a class action if the court is convinced that under the circumstances it is difficult for the motion to be filed by a private individual.⁸⁵ In addition, the courts may allow a public authority or organisation which is not a lead plaintiff to join as a party to the hearing of a motion to certify a class action if the court finds such to be necessary for the efficient management of the proceedings.⁸⁶

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children’s rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

The judicial system in Israel is mainly provided for by the Courts Act 1984.⁸⁷ The Israeli court system is a three-tiered structure, comprised of the Magistrate Courts, the District Courts, and the Supreme Court.⁸⁸

⁸⁰ Class Action Law, Section 2.

⁸¹ *Ibid.*, Section 3.

⁸² *Ibid.*, Sections 4 and 5.

⁸³ *Ibid.* Section 8.

⁸⁴ *Ibid.*, Section 22-23.

⁸⁵ *Ibid.*, Section 4(a)(3).

⁸⁶ *Ibid.*, Section 15.

⁸⁷ Available at: <http://www.nevo.co.il/law/74849>.

⁸⁸ Globalex, *UPDATE: A Guide to Legal research in Israel*, ‘The Structure of the Judicial System’, available at:

The magistrate courts' jurisdiction covers all civil cases whose value does not exceed 2.5 million shekels (except property cases) and criminal cases in which the maximum sentence is less than seven years imprisonment. The district courts adjudicate all disputes over the ownership of land and all civil and criminal matters outside the jurisdiction of the magistrate courts. They also hear appeals from the magistrate courts. The Supreme Court in Israel has two functions. First, it hears appeals against the decisions of the district courts and as such it serves as the highest appellate court in the country. Second, when sitting as the High Court of Justice, it has original jurisdiction over cases of judicial review.

Generally, all matters involving family members, from probate to business disputes even though unrelated to matrimonial cases, are subject to the jurisdiction of civil Family Courts. Different religious courts—Jewish Rabbinical, Muslim, Druze—have either exclusive jurisdiction or concurrent jurisdiction with civil courts.⁸⁹ These courts are subject to the supervision of the Supreme Court.

There are numerous specialised courts in Israel, such as the labour courts, administrative courts, military courts and others. Furthermore, some specific legal matters in Israel, primarily matters of personal status, such as marriage, divorce and inheritance, come under the jurisdiction of the religious courts. Judgments handed down by these courts are subject to review by the Supreme Court, usually sitting as a High Court of Justice.

The Civil Procedure Rules 1984 provide extensive guidance on how to initiate civil proceedings. Generally, civil cases are usually filed in magistrate courts or district courts. Civil proceedings are commenced by filing a statement of claim, which must include details about the nature of the complaint and the relief requested.⁹⁰

The Criminal Procedure Law 1982 provides guidance on how to initiate a private criminal prosecution. Such proceedings are generally initiated in a Magistrate Courts or the District Courts depending on the nature of the offence.⁹¹

http://www.nyulawglobal.org/globalex/Israel1.htm#_5_The_Structure_of%20the%20Judicial%20Sy.

⁸⁹ The Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 1953(available in Hebrew at: http://www.nevo.co.il/law_html/Law01/317_003.htm), grants exclusive jurisdiction to rabbinical courts in matters of marriage and divorce of Jews. Druze religious courts have exclusive jurisdiction regarding marriage and divorce of the Druze (Druze Religious Courts Law 1962, available in Hebrew at:

<http://www.psakdin.co.il/Law/%D7%97%D7%95%D7%A7-%D7%91%D7%AA%D7%99-%D7%94%D7%93%D7%99%D7%9F-%D7%94%D7%93%D7%AA%D7%99%D7%99%D7%9D-%D7%94%D7%93%D7%A8%D7%95%D7%96%D7%99%D7%99%D7%9D,-%D7%AA%D7%A9%D7%9B%22%D7%92-1962>), The Shari'a Courts have exclusive jurisdiction over personal status matters including marriage and divorce, paternity, alimony, and maintenance of Muslims and Courts of Christian denominations have exclusive jurisdiction over matters of marriage, divorce, and alimony (see H CJ 68/66 *Shanti v. Asliya* (1966), available in Hebrew at:

<https://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=6440&sessionID=1&type=default&name=undefined.txt>).

⁹⁰ Civil Procedure Rules 1984, Chapter B, available at: http://www.nevo.co.il/law_html/Law01/055_060.htm.

⁹¹ Courts Act 1984, Sections 40 and 51.

The requirements for filing a case before one of Israel's specialised courts are found in the relevant legislative instrument governing the court's operation, e.g. Labor Court Regulations (Procedure) 1991⁹² or the Family Court Law 1995.⁹³

Finally, the filing of judicial review claims at the High Court of Justice is governed by the Procedure Rules of the High Court of Justice 1984⁹⁴ and the Regulations Administrative Courts (Procedure) 2000.⁹⁵

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

For information on eligibility for state-provided free legal aid, please see part II.D of this report.

Court fees are payable prior to the start of the proceedings,⁹⁶ but claimants may file a request for exemption of court fees on the basis of financial hardship, together with an affidavit detailing the claimant's income, property and assets.⁹⁷ The request is reviewed by the Court Registrar who may deny it or approve the exemption in full or in part. His decision may be appealed to the court where the registrar serves.⁹⁸ However, certain types of cases are automatically exempt from court fees, including domestic violence cases, children abduction and alimony.⁹⁹

Court fees are also lifted for motions to certify a suit as a class action.¹⁰⁰ Furthermore,¹⁰¹ under the Class Action Law, a fund has been established to finance class actions.

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

A number of children's and human rights organisations offer legal advice, representation, or other forms of assistance:

- The National Council for the Child has a child legal representation programme,¹⁰² as well as a child victim assistance programme;¹⁰³
- The Rights of Children and Youth Clinic, which is run by the Faculty of Law of the Hebrew University of Jerusalem, provides legal

⁹² Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/042_006.htm.

⁹³ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/072_009.htm.

⁹⁴ Available in Hebrew at: http://elyon1.court.gov.il/heb/laws/tak_seder.htm.

⁹⁵ Available in Hebrew at: http://www.nevo.co.il/law_html/Law01/054m1_003.htm.

⁹⁶ Courts Regulations (Fees) Law 1987, Article 2, available in Hebrew at: http://www.nevo.co.il/law_html/Law01/999_758.htm.

⁹⁷ *Ibid.*, Article 14.

⁹⁸ Courts Act 1984, Section 96.

⁹⁹ Courts Regulations (Fees) Law 1987, Article 20.

¹⁰⁰ Class Action Law, Section 45(d)(1).

¹⁰¹ *Ibid.*, Section 27.

¹⁰² See http://www.children.org.il/pro_articles_list_eng.asp?ProjectID=40.

¹⁰³ See http://www.children.org.il/pro_articles_list_eng.asp?ProjectID=30.

representation in civil proceedings for children and youth at risk, who have suffered from sexual or other abuse;¹⁰⁴

- The legal department of the Association for Civil Rights in Israel, which is the largest NGO in Israel, takes on cases that have the potential to set precedents, raise issues of principle, and effect broad-based policy change in a number of areas, including children's rights;¹⁰⁵
- Yedid provides social, economic, and legal assistance generally, including to children.¹⁰⁶

Contingency fee agreements, or payments for legal services that depend on the recovery or award in the case, are generally permitted in civil proceedings,¹⁰⁷ but not in criminal cases.¹⁰⁸ The payment can be a percentage of the amount recovered, or a fixed agreed amount. The Israeli Bar Association may intervene in cases where it believes the agreed contingency fee is excessive,¹⁰⁹ and in some cases the law limits the allowed percentage of the amount recovered (for example for claims brought under the Traffic Accident Compensation Act 1975).¹¹⁰ Still, the party bringing the case that loses may still be responsible for the legal costs of the other side.

D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

The limitation period in civil cases is typically set at 7 years for claims not involving land, at 15 years for claims involving land, and at 25 years for claims involving registered land.¹¹¹ Where the plaintiff is a minor, the period of limitation will be tolled until the plaintiff reaches the age of 18.¹¹²

Criminal offences subject to the death penalty or life imprisonment have a 20 year limitation period; felonies (subject to three or more years' imprisonment) have a 10 year limitation period; misdemeanours (subject to three months' to three years' imprisonment) have a five year limitation period; and contraventions (subject to up to three months' imprisonment) carry a one year limitation period.¹¹³ The limitation period in relation to sexual assault against children perpetrated by a parent or guardian is tolled until the victim reaches 28 years of age.¹¹⁴

¹⁰⁴ See <http://law.huji.ac.il/eng/merkazim.asp?cat=1915&in=535&ini=1>.

¹⁰⁵ See <http://www.acri.org.il/en/category/the-right-to-equality/child-rights/>.

¹⁰⁶ See <http://www.yedid.org.il/>.

¹⁰⁷ Bar Association Regulation (Professional Ethics) 1986, Section 9, available in Hebrew at: http://www.nevo.co.il/law_html/Law01/p179_065.htm.

¹⁰⁸ Bar Association Act 1961, Section 84, available in Hebrew at: http://www.nevo.co.il/law_html/Law01/p179_001.htm.

¹⁰⁹ *Ibid.*

¹¹⁰ See, e.g., CAR 7204/06 *Erlih v. Bartal* (2012). available in hebrew at: <http://www.psakdin.co.il/Court/%D7%A4%D7%A1%D7%A7-%D7%93%D7%99%D7%9F-%D7%91%D7%AA%D7%99%D7%A7-%D7%A8%D7%A2%22%D7%90-7204-06#.VcNvVWfbKmQ>.

¹¹¹ Limitation Law 1958, Article 5, available at: <http://www.israelinsurancelaw.com/contract-laws/prescription-law-1958.html>.

¹¹² Limitation Law 1958, Article 10.

¹¹³ Criminal Procedure Law [Consolidated Version] 1982, Section 9.

¹¹⁴ Penal Code 1977, Section 354, available at: <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/43289694.pdf>.

Private prosecutions of criminal offences must be brought within the statutory limitation period for the offence in question.

- E. Evidence. What sort of evidence is admissible / required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

Documents, physical evidence, photographs, video recordings, witness statements or testimony and expert testimony are all admissible as evidence in civil proceedings.¹¹⁵

All persons, including children, are competent to give evidence in court,¹¹⁶ however, the fact that the testimony is of a child affects the weight attributed to the evidence. In civil proceedings, if a court gives judgment on the strength of a single, uncorroborated testimony by a witness under the age of 14, it must set out in its decision, in detail, what caused it to content itself with that testimony.¹¹⁷ In criminal proceedings, a person will not be convicted based on the sole testimony of a minor who does not bear criminal responsibility (*i.e.* a child under the age of 12)¹¹⁸ due to his age, unless the testimony is corroborated.¹¹⁹ And where a child under that age is to provide testimony in a criminal trial, the court must warn him at the outset in language the minor can understand that he must testify the truth, the whole truth, and nothing but the truth.¹²⁰

There are special procedures for hearing evidence from children under the age of 14 in criminal trials relating to certain serious crimes.¹²¹ Children cannot testify in court if they are the victim, suspect or witness to the crime, unless a children's investigator¹²² has granted permission.¹²³ The investigator also determines the conditions under which the testimony will be heard (*e.g.* excluding the presence of the defendant, in the judge's chamber, not on the stand, via closed circuit television etc.). Further, the court has the right to stop the child's testimony at any time if it believes that continuing may harm the child emotionally.¹²⁴

¹¹⁵ Evidence Ordinance [New Version] 1971, Section 3, Chapters C and F, available at: <http://nolegalfrontiers.org/israeli-domestic-legislation/evidence/evidence01?lang=en>.

¹¹⁶ *Ibid.*, Section 2.

¹¹⁷ *Ibid.*, Section 54.

¹¹⁸ For information on the minimum age of criminal responsibility in Israel, see <https://www.crin.org/en/home/ages/asia>.

¹¹⁹ Evidence Ordinance [New Version] 1971, Section 55(B).

¹²⁰ *Ibid.*, Section 55(A).

¹²¹ The Law of Evidence Revision (Protection of Children) 1955, available in Hebrew at: http://www.nevo.co.il/law_html/Law01/999_168.htm applies in relation to trials for sexual offences, abuse and assault, prostitution and obscenity, murder, attempted murder, manslaughter, violence against a minor by a person in charge and other 'accompanying offences'.

¹²² Children's investigator is a social worker with special training to assist in interviewing children under the age of 14, appointed by the Minister of Justice, whose role is to interview the child, determine whether to permit/prohibit the child's direct testimony in court, testify instead of the child if necessary, interview the child for the purpose of gathering evidence in criminal proceedings and etc. See Ministry of Social Affairs and Social Services website, available in Hebrew at: <http://www.molsa.gov.il/Populations/Youth/ChildrenAtRisk/InvestigationsChildren/Pages/InvestigationsChildrenPage.aspx>.

¹²³ Law of Evidence Revision (Protection of Children) 1955, Section 2.

¹²⁴ *Ibid.*, Section 2.

Right to be heard

The right of children to be heard has been recognised by the Israeli Supreme Court which stated: “[h]earing the child’s wishes, a right that is also anchored in Section 12 of the UN Convention on the Rights of the Child, conveys the view of the child as an autonomous person, as a rights bearer.”¹²⁵

Children have the right to be given a chance to express their opinion on whether and in what manner they would like to give evidence.¹²⁶ The Court must give proper consideration of the views expressed by the child, according to their age and maturity.¹²⁷

Children aged six or over have the right to be heard in Family Court proceedings and the court may decide to hear from children aged under six on a discretionary basis.¹²⁸ Special units staffed by social workers have been established in family courts to assist children. Children can choose whether to have the social worker convey their wishes to the judge or meet personally with the judge. Communications between the child and the judge or the social worker are confidential.

Children have the right to participate in criminal proceedings which concern them and must be given the opportunity to express their views and have those views accorded appropriate weight.¹²⁹ For this purpose the minor is to be provided with relevant information in a way that is suited to his age and degree of maturity.¹³⁰

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

Civil courts should pronounce their judgement as soon as possible under the circumstances of the case.¹³¹ If a court of first instance fails to deliver its decision within 30 days from the date of the last hearing, notification thereof and the reasons for the delay must be communicated to the President of the Court.¹³²

In relation to criminal trials, at the end of the clarification of the charge, the court will determine a date for the verdict which must be within 30 days from the charge was filed.¹³³ The President or Deputy President of the court is entitled to extend this period for special reasons, which must be recorded and communicated to the President of the Supreme Court.¹³⁴

According to a report published in 2013 by Israel’s Ministry of Justice, on average the High Court of Justice determines a petition in about one year; the

¹²⁵ 5579/07 FAR *Anonymous v. Anonymous* (2007), available in Hebrew at: <http://elyon1.court.gov.il/Files/07/790/055/b03/07055790.b03.pdf>.

¹²⁶ Law of Evidence Revision (Protection of Children) 1995, Section 2(c).

¹²⁷ *Ibid.*, Section 2(e).

¹²⁸ Civil Procedure Regulation 1984, Chapter 20.

¹²⁹ Youth (Adjudication and Punishment) Law 1971, Section 1b, available in Hebrew at: http://www.nevo.co.il/law_html/Law01/305_004.htm.

¹³⁰ *Ibid.*

¹³¹ Civil Procedure Regulations 1984, Section 190.

¹³² *Ibid.*

¹³³ Criminal Procedure Law 1982, Section 181A.

¹³⁴ *Ibid.*

Supreme Court determines a civil appeal in about two years, and a criminal appeal or administrative appeal in around one year; the District Court determines a civil case in about two years, and a criminal case in about one year; and the Magistrate Court determines civil or criminal cases in about one year.¹³⁵

There are also fast-track procedures for certain claims of small value and claims involving statutory causes of action or eviction proceedings.¹³⁶

G. Appeal. What are the possibilities for appealing a decision to a higher court?

Under the Courts Act 1984, an appeal is generally available to the plaintiff if the judgment did not award him all the remedies he applied for, or to the defendant if the judgment awarded any remedy to the plaintiff. As mentioned in part IV.A above, judgements of the magistrate courts are appealable to the district courts and judgements of the district courts in the first instance - to the Supreme Court. Such appeals are permitted by law as of right.¹³⁷ In addition to those appeals permitted as of right, Israeli law provides that in some cases a judgment not entitled to appeal as of right may still be appealed with leave of the court.¹³⁸

Decisions by the specialised courts and the religious courts are subject to appeal to their respective Court of Appeal.¹³⁹ Additionally, the High Court of Justice could grant a special permission to hear a petition for appeal if the case presents an important, difficult or novel legal issue.¹⁴⁰

The deadline for filing an appeal permitted as of right is 45 days from the date of the judgment being appealed.¹⁴¹ The deadline for filing a motion to grant leave to appeal is 30 days from the date of the judgment being appealed, unless the law provides otherwise.¹⁴²

H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

Israel's judicial system operates according to the rule of precedent.¹⁴³ Decisions are binding on any lower court and decisions by the Supreme Court shall bind all

¹³⁵ Available in Hebrew at: <http://elyon1.court.gov.il/heb/haba/dochot/doc/fitst2013.pdf>.

¹³⁶ Civil Procedure Regulations 1984, Chapter 16.

¹³⁷ Courts Act 1984, Sections 41 and 52.

¹³⁸ *Ibid.*

¹³⁹ Governed by the rules of procedure of the respective specialised court, see for example the Labor Courts Regulation (Procedure) 1991, Section 76-79, available in Hebrew at: <http://www.pador.co.il/PadorGSA/DocumentDisplay/ShowDocument.aspx?mode=simple&docID=90812&sessionID=1&type=default&name=undefined.txt>.

¹⁴⁰ 103/82 *Haifa Parking Lot v. Mazat Or* (1982), available at: www.nevo.co.il/psika_word/.../PADI-LE-3-123-L.doc.

¹⁴¹ Civil Procedure Regulations 1984, Section 397, available at: http://www.nevo.co.il/law_html/Law01/055_060.htm#hed247.

¹⁴² Civil Procedure Regulations 1984, Section 398, available at: http://www.nevo.co.il/law_html/Law01/055_060.htm#hed247.

¹⁴³ Globalex, *UPDATE: A Guide to Legal Research in Israel*, 'Case Law', available at: <http://www.nyulawglobal.org/globalex/Israel1.htm#caselaw>.

courts other than the Supreme Court.¹⁴⁴ Therefore, a negative decision by the Supreme Court could have long-term implications.

- I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

Once the court's judgment is rendered and notice of the judgment given to the losing party,¹⁴⁵ the losing party should immediately comply with the terms of the judgment.¹⁴⁶ A fast-track enforcement mechanism is in place for child support cases.

Israel's Collection agency - Hotzaa Lapoal - has broad powers to enforce judgments, including the ability to issue an order of imprisonment against a judgment debtor who fails to comply with the judgement.¹⁴⁷

If a defendant fails to comply with an injunction or order for specific performance, the plaintiff can request that the court initiates contempt proceedings against them.¹⁴⁸ A person who is in breach of a court order is guilty of a criminal offence for which he may be sentenced to up to two years imprisonment, but criminal liability will only be imposed where no other punishment or procedure has been fixed in relation to the breach in question.¹⁴⁹

- V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

In recent years courts in Israel have leaned further towards recognition that, in many cases, separate independent representation for minors is essential for the proper conduct of the legal process in relation to their affairs. The Supreme Court has emphasised not only the importance of representation of children but that the right for representation is one of the independent rights of children.¹⁵⁰

The Ombudsman of the Israeli Judiciary receives complaints related to judicial misconduct, including complaints regarding the manner in which trials are conducted, such as unreasonable length of proceedings.¹⁵¹ Any individual who feels injured by a judge's conduct may file a complaint, which must be in written form and cannot be anonymous,¹⁵² within one year from the incident complained of.¹⁵³ If the Ombudsman finds that the complaint is justified, he will notify the

¹⁴⁴ Basic Law: The Judiciary, Section 20.

¹⁴⁵ Execution Law 1967, Section 6, available in Hebrew at: http://www.nevo.co.il/law_html/Law01/055_247.htm#Seif93.

¹⁴⁶ *Ibid.*, Chapter A2.

¹⁴⁷ *Ibid.*, Section 6.

¹⁴⁸ Contempt of Court Ordinance, Article 6, available in Hebrew at: http://www.nevo.co.il/law_html/Law01/055_093.htm.

¹⁴⁹ Penal Code 1997, Section 287.

¹⁵⁰ H CJ 5227/97 *David v. The High Rabbinical Court of Jerusalem* (1998), available in Hebrew at: www.nevo.co.il/Psika_word/elyon/9705227.doc.

¹⁵¹ Ombudsman of the Israeli Judiciary website, available at: <http://index.justice.gov.il/En/Units/OmbudsmanIsraeliJudiciary/Pages/Main.aspx>.

¹⁵² Ombudsman for Complaints Against Judges Law 2001, Sections 14 and 15, available at: <http://index.justice.gov.il/En/Units/OmbudsmanIsraeliJudiciary/MainDocs/law.pdf>.

¹⁵³ *Ibid.*, Section 18.

complainant and the judge concerned and propose a rectification of the defect.¹⁵⁴ Where no steps are taken to rectify the defect, the Ombudsman will refer the matter to the attention of the President or Minister.¹⁵⁵ The decision of the Ombudsman, however, does not confer a right to a remedy in a court of law to the complainant which was not previously due.¹⁵⁶

The NGO National Council for the Child (NCC) established the informal Ombudsman for Children and Youth in 1990.¹⁵⁷ They receive around 10,000 complaints annually and provide information and advice, referrals to other services where appropriate and mediation of disputes. Where a case requires legal intervention, it is referred to the NCC's Centre for the Child and the Law.¹⁵⁸

This report is provided for educational and informational purposes only and should not be construed as legal advice.

¹⁵⁴ *Ibid.*, Section 22.

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.*, Section 24.

¹⁵⁷ See National Council for the Child website, 'Ombudsman for Children and Youth', available at: http://www.children.org.il/pro_articles_list_eng.asp?ProjectID=29.

¹⁵⁸ See National Council for the Child website, 'Centre for the Child and the Law', available at: http://www.children.org.il/pro_articles_list_eng.asp?ProjectID=37.