



Submission to the Universal Periodic Review

Israel

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Child Soldiers International
The Grayston Centre
Ground Floor
28 Charles Square
London, UK
N1 6HT
info@child-soldiers.org
T: +44 (0) 20 7324 4690

Introduction

Child Soldiers International has prepared the following submission in advance of the third cycle Universal Periodic Review (UPR) of Israel, to be held during the 29th session of the UPR Working Group in January 2018. The submission covers the following issues:

- Military recruitment
- Military education
- Use in hostilities
- Criminalisation
- Administration of juvenile justice, detention and torture
- Awareness and training
- Arms control

Military Recruitment

Child Soldiers International shares the concern previously expressed by the Committee on the Rights of the Child (the Committee), that Israel has failed to fully comply with article two of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) by designating persons below 18 years for compulsory recruitment.¹ In its initial report to the Committee under OPAC in 2008, Israel stated that in some instances, recruits under the age of 18 may volunteer for early military service and be recruited to combat units, while being prohibited from taking part in hostilities until they reach the age of 18.² Child Soldiers International is also concerned that Israel permits voluntary recruitment into the armed forces at 17 years.

Recommendation

- In line with a standing recommendation to the minority of states that have yet to do so, Child Soldiers International recommends that Israel raise the minimum age for all forms of military recruitment and use in law and practice to 18 years without exception.

Military Education

The Committee has previously expressed concern that the curricula of programmes that combine military service with Talmudic studies (hesder yeshivas), such as programmes that explicitly encourage students to volunteer for recruitment and seek active combat duty, are contrary to the aims of education and human rights values enshrined in article 29 of the Convention on the Rights of the Child (CRC).³

¹ Committee on the Rights of the Child, Concluding Observations on 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/CO/1, 4 March 2010, Para 18, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fISR%2fCO%2f1&Lang=en

² Committee on the Rights of the Child, Initial Report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Israel, UN Doc. CRC/C/OPAC/ISR/1, 15 April 2009, Para 8, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fISR%2f1&Lang=en

³ Op Cit. UN Doc. CRC/C/OPAC/ISR/CO/1, Para 22.

Recommendation

- In line with the previous recommendations of the Committee, ensure that any military education should take into account human rights values and article 29 of the Convention; that the educational content of such programmes should be periodically monitored by the Ministry of Education; and that all students, including those undertaking military and religious studies, should have access to an independent complaints mechanism.⁴

Use in Hostilities

The Committee has previously expressed deep concern about the use of Palestinian children as human shields and informants.⁵

Recommendations

- Child Soldiers International urges Israel to end all use of children in hostilities without exception, and in line with previous recommendations of the Committee, promptly and impartially investigate reports of such crimes, ensuring that those responsible are duly prosecuted and sanctioned with appropriate penalties.⁶

Criminalisation

The Committee, while noting provisions on unlawful military activities in the Israeli Penal Law, has expressed concern that it fails to specifically include the crimes covered in the Optional Protocol.⁷

Recommendation

- Child Soldiers International recommends that Israel explicitly criminalise the recruitment and use of children in hostilities without exception, and in line with previous recommendations of the Committee, ensure that all military codes, manuals and other military directives are in accordance with the provisions of OPAC.⁸

Administration of Juvenile Justice, Detention and Torture

In 2009, Israel established a juvenile military court system, but according to Unicef, it does not fully comply with international juvenile justice standards.⁹ In line with previous recommendations of the Committee, on 27 September 2011, the Israeli military commander in the occupied West Bank issued Military Order 1676, which raised the age of majority in the military courts from 16 to 18 years. However, it should be noted that this amendment did not apply to sentencing provisions; children aged 16 and 17 years are still sentenced based on

⁴ Ibid, para 23.

⁵ Op Cit. UN Doc. CRC/C/OPAC/ISR/CO/1, Para 24; Committee on the Rights of the Child, Concluding Observations on Israel's second to fourth periodic report under the Convention on the Rights of the Child, UN Doc. CRC/C/ISR/CO/2-4, 4 July 2013, para 71, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fISR%2fCO%2f2-4&Lang=en

⁶ Op Cit. UN Doc. CRC/C/OPAC/ISR/CO/1, Para 25.

⁷ Op Cit. UN Doc. CRC/C/OPAC/ISR/CO/1, Para 28.

⁸ Ibid, para 29.

⁹ Unicef, Children in Israeli Military Detention: Observations and Recommendations, 2013, p 1, available at: https://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf

provisions applicable to adults.¹⁰ In 2013, the Committee expressed concern that Israel had fully disregarded recommendations it made in 2002 and 2010 in relation to arrest and detention of Palestinian children and their detention conditions, and that Israel had continued to deny all these guarantees and safeguards to children living in the occupied Palestinian territory (OPT) who remain subject to military orders.¹¹ Furthermore, the Committee has previously expressed:

its deepest concern about the reported practice of torture and ill-treatment of Palestinian children arrested, prosecuted and detained by the military and the police, and about the State party's failure to end these practices in spite of repeated concerns expressed by treaty bodies, special procedures mandate holders and United Nations agencies in this respect. The Committee notes with deep concern that children living in the OPT continue to be:

(a) Routinely arrested in the middle of the night by soldiers shouting instructions at the family and taken hand-tied and blindfolded to unknown destination without having the possibility to say good bye to their parents who rarely know where their children are taken;

(b) Systematically subject to physical and verbal violence, humiliation, painful restraints, hooding of the head and face in a sack, threatened with death, physical violence, and sexual assault against themselves or members of their family, restricted access to toilet, food and water. These crimes are perpetrated from the time of arrest, during transfer and interrogation, to obtain a confession but also on an arbitrary basis as testified by several Israeli soldiers as well as during pretrial detention;

(c) Held in solitary confinement, sometimes for months.¹²

Recommendations

In line with previous recommendations of the Committee:

- Ensure that children accused of having committed security offences are only detained as a measure of last resort, in adequate conditions in accordance with their age and vulnerability and for the shortest possible period of time. In case of doubt on having reached the age of criminal responsibility, children have to be presumed to be below this age;¹³
- Guarantee that juvenile justice standards apply to all children without discrimination and that trials are conducted in a prompt and impartial manner, in accordance with minimum fair trial standards;¹⁴
- Never hold criminal proceedings against children in military courts and do not subject children to administrative detention;¹⁵
- Immediately remove children from solitary confinement¹⁶ and prohibit the practice;¹⁷
- Launch without delay an independent inquiry into all alleged cases of torture and ill-treatment of Palestinian children. This should include ensuring that at all levels of the chain of command, those who have been ordering, condoning or facilitating these practices be

¹⁰ Ibid, pp 6-8.

¹¹ Op cit. UN Doc. CRC/C/ISR/CO/2-4, para 73.

¹² Ibid, para 35.

¹³ Op cit. UN Doc. CRC/C/ISR/CO/2-4, para 74(c).

¹⁴ Ibid, para 74.

¹⁵ Op cit. Op Cit. UN Doc. CRC/C/OPAC/ISR/CO/1, para 35(b).

¹⁶ Op cit. UN Doc. CRC/C/ISR/CO/2-4, para 36(a).

¹⁷ Committee on the Rights of the Child, General Comment no 10 (2007), Children's rights in juvenile justice, Para 89, available at: <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>

brought to justice and be punished with penalties commensurate with the gravity of their crimes;¹⁸

- Ensure physical and psychological recovery and provide social reintegration assistance to all children living in the OPT who have been victims of torture and ill-treatment;¹⁹

Awareness and Training

The Committee has expressed concern that awareness of the Optional Protocol among the general public remains low, and that relevant professionals, in particular the military, the police and those working for the administration of justice, do not receive adequate training on its provisions.²⁰

Recommendation

- In line with previous recommendations of the Committee, ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public, and Israeli and Palestinian children. Strengthen training for members of the Armed Forces with specific training on the provisions of the Optional Protocol, and develop awareness-raising, education and training programmes on the provisions of the Optional Protocol for relevant professional groups working with children.²¹

Arms Control

The Committee has noted that Israel is a significant arms exporter, and has expressed concern over the absence of an explicit prohibition of arms exports to countries where children are recruited or used in hostilities.²²

Recommendation

- Expressly prohibit in legislation the sale or transfer of arms and other forms of military assistance to states when the final destination is a country in which children are known to be, or may potentially be, unlawfully recruited or used in hostilities by armed forces or armed groups. This should include a prohibition on arms transfers to states that are known to supply arms to armed groups known to recruit and use child soldiers, or lack adequate control mechanisms to ensure that arms will not be diverted, via illicit trade or other means, to such groups.

¹⁸ Op cit. UN Doc. CRC/C/ISR/CO/2-4, para 36(b).

¹⁹ Ibid, para 36(e).

²⁰ Op cit. Op Cit. UN Doc. CRC/C/OPAC/ISR/CO/1, paras 12, 14.

²¹ Ibid, paras 13, 15.

²² Ibid, para 40.