

Children's Right to Identity in Israel

Factsheet submitted to the UN Committee on the Rights of the Child

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1 Creation of identity

Birth registration:

- Any birth in Israel is documented by the hospital in which the birth took place, and the hospital provides the parents with a document entitled "Notice of Live Birth". **If the birth occurred in a hospital, the "Notification of Live Birth" form is filled out in four copies.** The first copy is sent to the Population, Immigration and Border Authority, the second is used for the National Insurance Institute, **the third is given to parents as a temporary birth notice**, and the fourth remains in the hospital.¹
- The *Population Registry Law 1965*² requires that 'Notification of a birth which occurred in Israel shall be made to a registration officer within ten days. It shall be made by the person in charge of the institution at which the birth occurred or, if the birth did not occur in an institution, by the parents of the child and by the physician and midwife who attended to the birth. The notification shall contain the particulars of registration of the child and such other particulars as shall be prescribed by regulations with the approval of the Home Affairs Committee of the Knesset' (Section 6).
- Likewise, Section 9 of the 1965 Law states that 'where an infant is found abandoned, any person first obtaining possession of the infant shall within ten days make notification to a registration officer of such particulars of registration of the infant as are known to him and transmit to him any such other information as he may have concerning the birth of the infant'.
- A birth certificate (including a bilingual Hebrew/English birth certificate) may be requested for anyone born in Israel; this service is free of charge and may be requested online or at self-service stands located in the [Population and Immigration Authority offices](#). The certificate will be issued within a week and posted to the registered postal address.³
- The *Population Registry Law 1965* also governs the issuance of an identity certificate (Sections 24 – 28): a resident, who is in Israel and who has completed his sixteenth year, may receive an identity certificate. A resident who is in Israel and who has not completed his sixteenth year may receive an identity certificate with the consent of his representative, within the meaning of Section 80 of the Capacity and Guardianship Law, 5722-1962, or with the approval of the Chief Registration Officer.⁴ An identity certificate shall contain the particulars of registration prescribed by the Minister of the Interior with the approval of the Constitution, Legislation and Juridical Committee of the Knesset. **The names of the children shall be entered both in the identity certificate of their father and in the identity certificate of their mother.** A photograph of the holder shall be attached to every certificate, except the certificate of a woman who declares that she refuses to be photographed for religious reasons. An identity certificate shall bear the signature or fingerprint of the holder. The latter is valid for seven years.

Parentage:

- **A child's name may be registered if the child was not born in a hospital in Israel, the mother is a single mother or the father does not recognise that he is the father.** This process must be undertaken in person and it does not constitute a recognition of paternity.⁵

- **The names of the children shall be entered both in the identity certificate of their father and in the identity certificate of their mother** (*Population Registry Law 1965*).
- Even though, as of November 2014, following applications of same-sex families, **the Ministry of the Interior changed the registration of parents in Israeli identity cards with the names of either both mothers or both fathers since then preceded by the correct titles**,⁶ it appears that the registration of children adopted or born through surrogacy remains complex when the adoptive or intending parents are a same-sex couple.⁷
- **The personal and family status of the Israeli citizen must be up-to-date in the Israeli Population Registry, before the child is registered.** In the event that both parents are Israeli and unmarried, the parents are required to sign an Affidavit of recognition of paternity of a child born to a single woman. In the event that one of the parents is Israeli and the other is a foreign citizen and they are not married or their marriage was not registered at least 300 days before the birth, the couple is required to **attach documents proving the sincerity of their relationship** from at least 300 days before the birth. If the child is over the age of 16 and 4 months, their military status must be sorted.⁸
- In the past, **Israel had decided to stop issuing birth certificates to babies born to foreigners, whose absence of official documents would cause major problems to prove their identity.** This resulted from an existing policy of **refusing to include the father's name in foreigners' birth certificates.** As part of this policy, Israel insisted that **only the mother's family name be documented as the baby's last name.** Instead, foreigners would be given hospital-issued birth notices – as is the case of all children born in Israel, whether or nationals or foreigners, which are currently hand-written in Hebrew and contain relevant details of the birth, including the date, place, names and nationalities of the parents.⁹ Whilst in the case of Israeli residents, births are also registered in the Population Registry and a birth certificate reflecting this registration is issued, the State of Israel enables foreign parents to authenticate the "Notice of Live Birth" with an Apostille, and to submit the "Notice of Live Birth" to the relevant authorities in their country of nationality. In addition, parents who are foreign residents may submit the "Notice of Live Birth" to the Ministry of Interior in order to receive a document entitled "Affirmation of Birth in Israel - Replication of Notice of Live Birth". This affirmation includes the name of the father as stated on the "Notice of Live Birth". Further to the ruling of the High Court of Justice (H.C.J. 6946/17 M.G. v. The Minister of Interior (22.11.2018)), this document is to be given to parents, who are foreign residents until the Ministry of Health completes the computerization of the "Notice of Live Birth" which is currently given to parents as a hand-written form. Following the ruling, constant efforts are underway to finalise the computerization of the "Notice of Live Birth". In these cases, there are clear legal implications for the full registration of a child's legal identity.



Alternative care and adoption:

- Regarding the child's origins and identity records in the adoption process, **Article 8(c) of the Adoption Law requires a social worker to explain to the parent wishing to give the child for adoption the importance of providing details concerning the second parent**, in order to receive his views, and in order to ensure the interest of the child. If the parent refuses to do so, the social worker will explain that he or she is allowed to provide such details to be used to identify the parent only for medical purposes, lineage check, or for another purpose that the parent mentions.¹⁰
- The **Foster Care for Children Law (2016) includes a section (Article Three) on the documentation of information and decisions reasoning regarding a child placed in foster care**, including that 'The operating body shall manage, for each child who has been placed in foster care, a personal file containing all the information pertaining to the child, including decisions of the competent body during the foster care period, the agreement with the parents, information received from the social services department at the local authority where the child's parents live, the child's treatment plans, psychological diagnoses and treatment summaries, medical information and information from previous out-of-home placement frameworks, if any, and documentation of complaints handled by the Complaints Investigating Mechanism regarding the child, in the event the Complaints Supervisor decided to transfer them to the child's personal file after deciding that such documentation is necessary'.
- The Foster Care for Children Law (2016) also includes **the right to cultural continuity and personal and cultural identity**, i.e. the foster family in which he or she will be placed should preserve the continuity and stability of his or her emotional ties, upbringing, ethnic, religious, cultural and linguistic background and other unique characteristics. It is the right of a child that his personal and cultural identity be preserved during the placement, including his or her name, language, religion and culture.¹¹

Citizenship and statelessness:

- The *Citizenship and Entry into Israel Law (Temporary Order) 5763*¹² was first passed in 2003; it **prohibited inhabitants of the West Bank and Gaza Strip from being granted automatic Israeli citizenship and residency permits, which are usually available through marriage to an Israeli citizen (i.e. family reunification)**. Although it expired in 2021, a new Law, which mostly reproduced the 2003 Law, was re-enacted on 10 March 2022. As stated by the Jerusalem Legal Aid and Human Rights Center, 'it has torn Palestinian families apart, subjecting them to perpetual fear, separation, and uncertainty'.¹³
- As reported by the Euro-Med Human Rights Monitor in 2021, more than 5,000 Palestinians in the Gaza Strip do not have identity cards because they, or their parents, were not in the occupied Palestinian territories when the Israeli military authorities conducted the population census after Israel occupied Gaza in 1967. Those without IDs in Gaza entered the Strip either before 2000 on Israeli-issued temporary visitor permits, or after 2000 during the periods when the border wall between Egypt and Gaza was breached or through the underground tunnels that linked Egypt and Gaza before 2014. **Amongst other difficulties, they cannot meet their families if they live abroad which means denying many families from being united.**¹⁴ In the context of finding alternative identity documents, the Hamas authority in Gaza issued identification cards (blue IDs) to facilitate the internal daily transactions, such as marriage, treatment, study, employment, and government transactions, for those without identity documents in the Strip. However, these cards are not recognised by the Palestinian Authority and its institutions. Blue IDs bearers cannot travel for any reason, including medical treatment, education, or religious observance.¹⁵

- Finally, in a 2016 Norwegian Refugee Council Legal Memo, it was stated that '**there is still no solution for two classes of children: a) children over the age of 16 born in the [Occupied Palestinian Territory (oPt)] to registered parents who never left the oPt but were never registered themselves; B) children born abroad to residents who are over the age of 16 and who passed the age limit during the period when Israel was refusing to accept and approve requests for visitor permits. This situation of unregistered children tears families apart**'.¹⁶

Surrogacy and assisted reproductive technologies:

- With regards to surrogacy arrangements, 'Israel acts relentlessly to ensure that surrogacy procedures include a guarantee that there is a **genetic link to at least one of the Israeli parents in order to prevent violations of international conventions** (...). A newborn's status in Israel is granted and her or his entry to Israel permitted only after the **genetic connection to the Israeli citizen-parent is proven**, in accordance with Section 4(a)(2) of the *Citizenship Law 5712-1952*, which provides that **every person who was born outside of Israel, will be granted Israeli citizenship from the moment of his/her birth if his/her father or mother is an Israeli citizen**. In order to prove the genetic connection between the newborn and the Israeli citizen, a request for conducting a genetic test should be filed with a Family Matters Court in Israel, in accordance with the Genetic Information Law 5761-2000'.¹⁷

Humanitarian situation:

- As recently as in 2022, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict reported on the **concerns relating to the involvement of children in the context of hostilities in the country, including an increase in grave violations against children**.¹⁸
- A recent report by Save the Children reflects the **difficulties of this situation in relation to the children's identity, including family relations**: 'Many children said that they now feel like their identity in society is solely that of 'detainee', which eclipses all other aspects of their identity, such as student, son and friend' and 'Others' perception of detained children as heroes can also lead them to display certain behaviours as they attempt to re-establish or forge their identity'.¹⁹

Potential consideration(s):

- *Are any reforms being foreseen to ensure that the identity of both parents is reflected in children's birth records and certificates, whenever it is available, and irrespective of the child's birth circumstances, the parents' civil status or their citizenship?*
- *What is being undertaken to ensure that all children have access to an identity and nationality and do not remain unregistered and stateless, including children living in the Gaza Strip and the West Bank?*



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Modification of identity

Change in name:

- Article 13 of the Name Law 5716-1956 concerns the **conditions for changing a child's name**. The article holds, among others, that **parents of a child (below the age of 10) are able to change his/her name, only if the child was given an opportunity to be heard and express his/her views**, and that the **views of the child were given due weight in accordance with the child's age and maturity**. When the child is **10 years old or older, the name change requires his/her consent (if the child does not consent - a name change requires the approval of the Court)**; and that a child is able to change his/her name (with the consent of his/her parents). **In case the parents do not consent, the child may file a case to a Family Court**. Section 14 of the Names Law stipulates that the guardian of a minor is allowed to change their name, subject to a court's order and given that the minor had the opportunity to express his/her stance, which should be considered according to his/her age and level of maturity.

Parentage:

- According to Israeli law, legal recognition of parenthood is conducted by different types of judicial orders:
 - **Biological** parenthood is recognised by law, registered by the Population Registry or through a **declarative court order**, when necessary;
 - Parenthood by way of **adoption** is recognised by a constitutive **judicial adoption order**, pursuant to the *Adoption of Children Law 5741-1981*;
 - Parenthood by **gestational surrogacy** conducted in Israel is recognised by a constitutive **judicial parenthood order**, pursuant to the *Agreements for Carrying of Embryos (Approval of the Agreement and Status of the Infant) Law 5756-1996* (see below).²⁰
- Israeli citizens and residents, who are registered in the population registry, and who have changed their name, can request the service for themselves and for their children who are under 18 years old.²¹
- In recent years there have been **requests to the Ministry of Interior / Courts to remove/delete the name of a parent/relative from the child's records, due to the parent/relative's conviction of violent crimes against the child**. For example, in 2018 a child appealed to remove the name of her grandparent from her identity card due to his convictions of sexual crimes against her. The request was approved.²² Also in **2022, a Court accepted the request of a mother to change the surname of her deceased baby (with the surname of her father), as the father was convicted of her murder**.²³

Surrogacy and assisted reproductive technologies:

- The *Agreements for the Carriage of Fetuses (Approval of Agreement and Status of the New Born) Law 5756-1996* deals with the **agreement between the intended parents and the surrogate**, by which the surrogate agrees to be impregnated by means of an egg transplant fertilised by the intended father's sperm, to carry the pregnancy for the intended parents and to deliver the newborn following birth to the intended parents.
- The law is meant for woman in the fertile age, who are unable to be impregnated and to carry a pregnancy or if a pregnancy might significantly risk their health. The sperm being used for the in vitro fertilization belongs to the intended father, and the egg to the intended mother. When an egg donation is required, the surrogate is prohibited from donating eggs.²⁴

- Amendment No. 2 to the Agreements Law for the Carriage of Fetuses 5778- 2018 was enacted in 2018 to establish **detailed criteria, including limitations on the number of surrogacy agreements**. Furthermore, in accordance with Supreme Court Decision 781/15, the Law has been amended since 11 January 2022,²⁵ **to lift the ban on surrogacy for same-sex couples and single men**. Previously, surrogacy was only considered for heterosexual couples or single women living in Israel.
- During the **pre-surrogacy assessment process, there is a Multidisciplinary Committee on Surrogacy, whose mandate is to evaluate and authorise the agreement according to the criteria of the law** (which include medical, social, psychological, economic factors). The Committee consists of a social worker, psychologists, doctors and lawyers. The Committee receives information provided by the intended parents and the surrogate and there is a psychological evaluation. When there are other children involved (either the surrogate's or the intended parents'), this information comes up in the psychological evaluation as well as in the hearing before the Committee and they will be questioned about whether their children (obviously depending on their age) are aware of the process, whether they are supportive, whether they foresee any problems in the future, etc. The experience of the Committee shows that whenever a genetic issue comes up, the intended parents initiate pre-implantation genetic diagnosis tests on their own and the Committee has yet to meet a couple that is not willing to do so. In case of objection, the Committee will try to convince the couple to do the appropriate genetic testing and if the couple will continue to object, the Committee will have to decide whether to reject the authorisation of the process under these circumstances.²⁶
- As mentioned above, **the partner of the biological mother can be recognised as a parent of the child by a judicial parenthood order on the basis of the partners' relationship and certain additional criteria, and without having to officially adopt the child, as was previously required**. A **mutual initial intent to raise the child** must be proven in order for a judicial parenthood order to be issued. The order can **only be issued in situations in which the sperm donor's identity is unknown to the parents**.²⁷
- To prevent situations which can lead to cases where children cannot leave the state of origin or enter the receiving state for long periods of time, **the State requires (a) medical documents affirming the IVF procedure and the origin of the genetic material (both sperm and egg); (b) the surrogacy agreement; (c) proof of consent of the surrogate mother for the permanent removal of the newborn child from that state and for conducting a genetic test**. The test is required to be provided in a deposition authenticated by a diplomatic or consular representative of the State of Israel after a consulate employee has identified the birth mother; (d) a duly authenticated birth certificate; (e) proof of the legality of a surrogacy procedure in the foreign state in which it was conducted and proof of the legality of the specific procedure. If the result of the genetic test affirms that there is a genetic connection between the newborn and the Israeli citizen, as a rule, the newborn will be granted Israeli citizenship on the grounds of birth to an Israeli citizen. **The genetic parent's partner can receive a parenthood order by the Family Matters Court – receiving this order necessitates the surrogate mother's consent and the legality of the surrogacy process in the foreign country**.²⁸



- As reported by the Ministry of Justice in 2019, 'often, the parties involved in international surrogacy (intending parents, surrogate mothers, brokerage services, medical personnel and clinics) are located in different countries, creating numerous difficulties in extremely sensitive issues. These include the rights and safety of the surrogate mothers (including their right to bodily autonomy), lack of examination of the parental eligibility of the intending parents, risk of abandonment of children - especially those with special needs, risk of child trafficking, and other questions regarding the child's best interest'.²⁹

- The latest available statistics mention that, between 1996 and 2017, there were 193 births, through surrogacy, of which 231 children were born.³⁰

- Finally, the above-mentioned sections on change of name apply to cases of modification in surrogacy as well.

Alternative care and adoption:

- Israel has been a party to the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption since 1999.³¹ Adoptive parents must stay in Israel for the duration of the adoption process. **In order to adopt a baby up to age two, the parents must be Israeli citizens.** Non-Israeli citizens can only adopt a baby or a child with special needs for whom no adoptive parents could be found in Israel. **Preference will be given to adoptive parents of the same religion or ethnic origin as the child.**³²

- Parenthood by way of adoption is constituted by a judicial adoption order, pursuant to the *Adoption of Children Law 5741-1981*.³³ **In the Adoption of Children Law 5741-1981, Section 34(a)(2) prohibits, without a court's permission, the disclosure of the name of the biological parent or any other matter that may lead to his identification as one who had given up a child for adoption or that his child had been declared adoptable pursuant to the provisions under the law, unless the adoptee is an adult and the biological parent had given his consent for the publication, and should the publication lead to the identification of the adoptee – his or her consent as well.**

- Specifically, Section 5(a) of the Name Law 5716-1956 stipulates that a child will receive the adoptive family's last name, unless the Court had ordered differently. Section 5(b) stipulates that the child will carry its original last name and the adopting family's last name, unless he/she had requested otherwise or the Court had ordered differently considering the child's best interest. Section 5(b) will not apply in certain situations concerning the relations between the birth parents and the adopting parents.

- Israel's *Law on Foster Care* was enacted in 2016 and intends to protect children as well as the biological and foster families. According to one piece of news in the media, 'there are currently 10,000 children in Israel who have been removed from their homes by the courts or by social service authorities. Only one quarter of them have been placed with foster families. The rest are in boarding schools and other residential facilities'.³⁴ **The biological parents' opinion and participation in decisions was incorporated into the law.**

- The conditions for the modification of a child's name and surname in cases of adoption is provided for in Article 5(a) of the [Israeli Name Law – 1956](#),³⁵ which states that **an adopted child receives the surname of the person adopting him or her, but does not receive a new first name, unless the Court determined so in the adoption order.** Article 5(b) holds that in case the child is adopted according to Article 3 of the [Adoption Law](#), **the child shall also carry the surname of his/her biological parents, and will register under this surname, unless the person adopting the child requested otherwise or the Court ordered otherwise, due to special considerations relating to the best interests of the child.** This article (5b) does not apply if the adoption order is given according to Article 25(b) of the Adoption Law.³⁶

Potential consideration(s):

- *What is being undertaken to ensure that, when a change of name occurs, the child's original identity is fully preserved and recorded?*
- *When a child is born through surrogacy, how is his or her biological/genetic parents' identity recorded?*



Preservation of identity and access to origins

Birth registration:

- Generally, **birth records are held indefinitely.**

Alternative care and adoption:

- The **Foster Care for Children Law (2016)** includes a section (**Article Three**) on the documentation of information and decisions reasoning regarding a child placed in foster care (see *Part 1 – Creation of identity*).

- **Information regarding adoption is kept in two locations:** an Adoption Registry held by the **Court Administration**, mostly in physical files, while the more recent files are computerized; and in the **Child's Service**, containing the full records, including correspondence, committees, decisions, social worker assessments, etc. The Child's Service keeps all of the records prior to 2010 in physical files at the State Archive, and a scanned copy is kept on a separate server available only to the Child's Service. Records from the years 2010-2014 are kept physically in the Child's Service Archive, while records from 2014 onwards are kept both in the Child's Service Archive and in the Child's Service Software on a separate server with separate authorizations. Only Child's Service personal are allowed into the offices and the Archive within the office is locked with a unique lock.

- According to the *Adoption of Children Law 5741-1981*, **adoptees aged 18 and above** requesting to inspect the Adoption Registry, **can receive information from the "adoption file" on the reasons for their adoption, and with the consent of the biological parent, the details of the Adoption Registry.** Indeed, the social worker handling the matter of obtaining parental consent for relinquishment, shall **inform the parent and explain to him or her in clear words that it is the child's right upon reaching the age of 18 to request to review the adoptions book and obtain information on the parent** (Section 8B(a)(4)(d)) and **'the possibility to leave within the adoption file a letter or souvenir for the child'** (Section 8B(a)(4)(d)). Furthermore, in this regard, **'all adoption orders, including an order to which Section 31 applies, as well as any revocation of an adoption order, shall be registered in a book to be managed by a registrar to be appointed by the Minister of Justice for this purpose;** the particulars of the registration and its form shall be set forth in regulations' (Section 29) and upon the request of an adoptee who had reached the age of 18, **a social worker shall be entitled to allow him to review the registration in the book that refers to him;** should the social worker deny the request, the court shall be entitled to allow the review after obtaining a report by a social worker (Section 30(b)).

- In accordance with Section 34(b1), **the court shall be entitled to allow publication or disclosure of information prohibited from being published or disclosed, and it shall also be entitled to prohibit publication permitted should it find that there are special circumstances justifying so and for reasons to be recorded, and in the event where the adoptee is a child - should it believe that such will be in his favor** [Amendment No. 10, 5777-2017].

Assisted reproductive technologies:

• The **Ministry of Justice has appointed a Registrar to collect information about the parenthood decree**. However, the law seems to be **limited in terms of comprehensive collection of all information**, as it excludes information about third party providers of human reproductive material.³⁷

Potential consideration(s):

- *Is there any public programme or team in charge of attending any requests for search of origins, including the provision of any support in the process?*
- *In terms of the information collected by the Registrar on parenthood, how is access by any interested party ensured?*

¹ Central Bureau of Statistics, Israel (n.d.). *Live Births - Definitions and Explanations*. Available at: <https://www.cbs.gov.il/en/subjects/Pages/Live%20Births%20-%20Definitions%20and%20Explanations.aspx>.

² *Population Registry Law, 1965*, <http://www.geocities.ws/savepalestineno/israelaws/fulltext/populationreglaw.htm>.

³ Israel Government Services and Information (2021). *Request a birth certificate for someone who was born in Israel*. Available at: https://www.gov.il/en/service/birth_certificate.

⁴ *Supra 2*.

⁵ Israel Government Services and Information (2021). *Register your newborn baby's name*. Available at: https://www.gov.il/en/service/naming_baby.

⁶ Israeli ID cards to correctly label same-sex parents. *The Times of Israel*. 17 November 2014. Available at: <https://www.timesofisrael.com/israeli-id-cards-to-correctly-label-same-sex-parents/>.

⁷ See, e.g.: Peleg, B. (2022). Court Says Israel Must Register Gay Couple's Child Based on Birth Certificate. *Haaretz*. Available at: <https://www.haaretz.com/israel-news/2022-06-14/ty-article/state-must-register-male-couples-child-based-on-birth-certificate/00000181-5e9a-d441-abef-de9ac05a0000>; 'Top court rules for gay parents in birth certificate fight'. *The Times of Israel*. 2018. Available at: <https://www.timesofisrael.com/top-court-rules-for-gay-parents-in-birth-certificate-fight/>.

⁸ Israel Embassy in Brussels, <https://embassies.gov.il/Brussels/Pages/default.aspx>.

⁹ Sherwood, H. (20 November 2013). Israel to stop issuing birth certificates to babies born to foreigners. *The Guardian*. Available at: <https://www.theguardian.com/world/2013/nov/20/israel-birth-certificates-foreigners>

¹⁰ Child Adoption Regulations, 2012, https://he.wikisource.org/wiki/%D7%AA%D7%A7%D7%A0%D7%95%D7%AA_%D7%90%D7%99%D7%9E%D7%95%D7%A5_%D7%99%D7%9C%D7%93%D7%99%D7%9D

¹¹ Law on Foster Care for Children, 2016, https://www.nevo.co.il/law_html/law00/140844.htm.

¹² The Knesset, Knesset Plenum passes Citizenship and Entry into Israel Bill into law, 10 March 2022. Available at: <https://m.knesset.gov.il/en/news/pressreleases/pages/press10322w.aspx>.

¹³ Jerusalem Legal Aid and Human Rights Center, Families Divided: Israel passes New Citizenship Law, Fortifies Apartheid Regime. Available at: <https://www.jlac.ps/details.php?id=j5oddba2295y2r34zkmv5>.

¹⁴ Euro-Med Human Rights Monitor (2021). *The Gaza Strip: Undocumented citizens*. Available at: <https://reliefweb.int/report/occupied-palestinian-territory/gaza-strip-undocumented-citizens-enar>

¹⁵ *Ibid*.

¹⁶ Norwegian Refugee Council (December 2016). Legal Memo - Child Registration in the Occupied Palestinian Territories. Available at: <https://www.nrc.no/resources/legal-opinions/child-registration-in-the-occupied-palestinian-territories/>.

¹⁷ Ministry of Justice (2019). The Government of Israel's Reply to the Questionnaire on Safeguards for the protection of the rights of children born from surrogacy arrangements, July 2019. Available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Children/SR/Surrogacy/States/Israel.docx>.

¹⁸ Office of the Special Representative of the Secretary-General for Children and Armed Conflict (2022). Israel and State of Palestine. Available at: <https://childrenandarmedconflict.un.org/where-we-work/israel-and-state-of-palestine/>.

¹⁹ Save the Children (2020). Defenceless. The impact of the Israeli military detention system on Palestinian children. Available at: https://www.savethechildren.org.uk/content/dam/gb/reports/defenceless_impact_of_detention_on_palestinian_children.pdf.

²⁰ *Supra 17*.

²¹ Government of Israel. *Request a certificate of change of name*. Available at: <https://www.gov.il/en/service/changenamecertificate>

²² Ynet (2018). <https://www.ynet.co.il/articles/0,7340,L-5331869,00.html>

²³ Ynet (2022). <https://www.ynet.co.il/news/article/rkdaz1dus>

4

Restoration of identity

Assisted reproductive technologies, including surrogacy:

• Two **same-sex couples** petitioned a Tel Aviv court after the Interior Ministry's Population and Immigration Authority refused to **register them as the parents of the children born in the surrogate pregnancies** even though the High Court of Justice had ruled that it was required to do so. A **Tel Aviv court ordered the Israeli government to register infants born abroad to a surrogate mother as the children of a same-sex couple by virtue of birth certificates issued to the children in the country of their birth**. Among other arguments, the couples claimed that the Population Authority's refusal discriminated against them based on their sexual orientation and infringed on their right to choose the children's last names. For its part, the Population Authority claimed in court that the children had arrived in Israel before the results of genetic testing had been received that would prove their connection to the couples.³⁸

• Also in relation to surrogacy, the government of Israel stated that 'Section 377A(a) of the Penal Law defines the **offence of trafficking in persons as a transaction in a human being for purpose** of (1) organ removal, (2) giving birth to a child and taking the child away, (3) slavery, (4) forced labor, (5) prostitution, (6) participation in a obscene publication or obscene display, or (7) committing a sexual offense against the victim. Such an offence is punishable by 16-20 years imprisonment. **Though to date no surrogacy case has led to the filing of an indictment for a trafficking offense, several cases are under investigation**. The State of Israel is **mindful of the fact that the possibility of extreme circumstances leading to subjugation or exploitation of a surrogate woman, and particularly the involvement of brokerage agencies**, may occur (even though the entire procedure takes place outside of Israel), and even constitute an offence of trafficking for the purpose of the birth of a child and the taking of same child, according to Israeli Law'.³⁹

Potential consideration(s):

- *What actions are being implemented to prevent that surrogacy arrangements undertaken abroad entail any form of child trafficking and exploitation of surrogates and to remedy those cases that are being investigated and may prove to have been based on illegal or unethical practices?*



- ²⁴ Ministry of Health, Israel. *Surrogacy in Israel*. Available at: <https://rotenberglaw.co.il/Uploads/dbsAttachedFiles/Surrogacy-in-Israel-Ministry-of-Health-gov.pdf>.
- ²⁵ Ministry of Health, Israel (2022). *Surrogacy in Israel*. Available at: <https://www.health.gov.il/English/Topics/fertility/Surrogacy/Pages/default.aspx>.
- ²⁶ Child Identity Protection (2022). *Preserving "family relations": an essential feature of the child's right to identity*. Geneva, Switzerland: Child Identity Protection. Available at : <https://www.child-identity.org/en/resources/research/709-signature-publication-family-relations.html>.
- ²⁷ *Supra* 17.
- ²⁸ *Ibid*.
- ²⁹ *Ibid*.
- ³⁰ *Supra* 25.
- ³¹ HCCH (2022). *Contracting States*. Available at: <https://www.hcch.net/en/instruments/conventions/status-table/?cid=69>.
- ³² US Department of State (n.d.). *Intercountry adoption: Israel*. Available at: <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Intercountry-Adoption-Country-Information/Israel.html>.
- ³³ *Supra* 17.
- ³⁴ Ghert-Zand, R. (24 February 2016). Israel's first foster care law dedicated to terror victim Dafna Meir. *The Times of Israel*. Available at: <https://www.timesofisrael.com/israels-first-foster-care-law-dedicated-to-terror-victim-dafna-meir/>.
- ³⁵ The Names Law, 1956, <https://www.nevo.co.il/law/html/law00/5162.htm>.
- ³⁶ Article 3 of the Adoption Law enables an adoption by a single person if a) that person is a spouse of the adopted child's parent or if his or her spouse previously adopted the child; or b) the parents of the child died, and the person adopting is an unmarried relative.
Article 25 of the Adoption Law concerns the possibility of the Court to disregard certain restrictions when approving an adoption order. Among others, if the child's parents died and the person adopting the child is his or her relative.
- ³⁷ Dambach, M. and Cantwell, N. (forthcoming 2023). *Child's right to identity in surrogacy*. In Trimmings, K., Shakargy, S. and Achmad, C. (Eds.). *Research Handbook on Surrogacy*. Edward Elgar Publishing Ltd. Available at <https://child-identity.org/images/files/chip-surrogacy-md-nc.pdf>
- ³⁸ Peleg, B. (14 June 2022). Court Says Israel Must Register Gay Couple's Child Based on Birth Certificate. *HAARETZ*. Available at: <https://www.haaretz.com/israel-news/2022-06-14/ty-article/state-must-register-male-couples-child-based-on-birth-certificate/00000181-5e9a-d441-abef-de9ac05a0000>.
- ³⁹ *Supra* 17.

