Child Protection in the Occupied Palestinian Territory

A National Position Paper
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A NATIONAL POSITION PAPER

JUNE 2005

SECRETARIAT OF THE NATIONAL PLAN OF ACTION FOR PALESTINIAN CHILDREN

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Child Protection in the OPT

Forward

Child protection in any society requires work on all levels from families, communities, civil society, the government, to the international level. It requires proactive work towards an intricate cross-sectoral system. In the Occupied Palestinian Territory, the situation is further complicated by the Israeli military occupation, which both directly violates children's right to protection and which precludes or undermines the building of national institutions necessary for child protection.

The purpose of this paper is to analyze the current situation nationally of eight categories of marginalized children in need of protection in terms of statistics, the legal framework, governmental services, community responsibility, international responsibility and monitoring. In analyzing each of these levels of needed protection, the paper relies on a human rights framework. It also outlines recommendations for each sector of children. As such, this work is the first step towards developing a national child protection strategy.

On behalf of the NPA Secretariat, I would like to thank the many organizations and individuals who assisted in this analysis. This paper represents continuous work by the Child Protection Paper Steering Committee as well as information and input from institutions, professionals and of course children; and it is the start of the process that will result in a national child protection system.

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Minister of Planning
Acronyms

BZU- Birzeit University
CRC- Convention on the Rights of the Child
DCI- Defence for the Children International- Palestine Section
GS- Gaza Strip
IHL- International Humanitarian Law
IPS- Israeli Prison Service
MoC- Ministry of Culture
MoDEDA- Ministry of Detainee and Ex-Detainee Affairs
MoE- Ministry of Education
MoH- Ministry of Health
MoI- Ministry of Information
MoL- Ministry of Labor
MoSA- Ministry of Social Affairs
MoYS- Ministry of Youth and Sport
NPA- Secretariat for the National Plan of Action for Palestinian Children
OPT- Occupied Palestinian Territory
PCBS- Palestinian Central Bureau of Statistics
PLC- Palestinian Legislative Counsel
PNA- Palestinian National Authority
WB- West Bank
Introduction

Purpose of the Paper

The goals of this national position paper on child protection include bringing a forward-looking perspective to child protection through the analysis of the current situation and the identification of challenges as we build towards the future. It builds on and is an integral part of existing initiatives, such as those put forward by the Secretariat for the National Plan of Action for Palestinian Children. It will also assist with future advocacy work through establishing recommendations for action, building partnership and coordination and generating action at the UN, International Community, Israeli and local levels. Finally, it will be instrumental in identifying the responsibilities of Israel, the International Community, the PNA, Palestinian society and the UN.

In order to achieve these goals, the paper:
• Adopts a rights-based analysis and approach to child protection
• Was written with the involvement and participation of key stakeholders, including children
• Is based on an analytical framework that is reality-based and assumes a forward-looking perspective

Methodology

The need for a paper addressing child protection in Palestine was identified by UNICEF in the winter of 2003 and developed through discussions between Save the Children UK and UNICEF. The Secretariat of the National Plan of Action for Palestinian Children (NPA Secretariat) took the role of coordinator of the project and initiated discussions on protection issues in a series of meeting among relevant local institutions and international organizations. These meetings resulted in specified terms of reference for the project as well as consensus about the categories of children that the paper would address: children with disabilities, child detainees in Israeli prisons, children in conflict with the law, child laborers, child victims of domestic violence and abuse, child victims of poverty, children without family care, and child victims of the Israeli occupation. Originally, children with psychosocial needs were included as a ninth category of children
in need of protection. However, as the process progressed, the steering committee determined that psychosocial needs should be regarded as a cross-cutting issue rather than a discrete category.

A steering committee made up of representatives from local and international organizations was formed to produce the paper. A paper on each category of child was written by a steering committee member, according to his/her specialty. Each writer followed the specifications set out in the terms of reference including a situation analysis, scenario building in the field of child protection, key issues to be addressed and recommendations for prioritizing child protection in the future. The writers did not work alone, but rather formed consultation groups among specialized institutions.

The eight draft papers were then consolidated into a single paper, which was expanded based on information gained from a literature review and key informant interviews. The integration of the papers allowed for an analysis of cross-cutting child protection issues, as well as a systematic rights-based framework.

The first draft of the Child Protection National Position Paper was reviewed by relevant institutions during a national workshop in January 2005. Workshop participants also began the process of developing strategies and policies for child protection according to a specific framework. The paper was then revised based on comments from workshop participants, experts and the steering committee.

The Child Protection National Position Paper will form the basis of a second document which will lay out specific strategies and policies for child protection.
Background

In 2002, the countries of the world met for a United Nations special session on children to reaffirm their commitment to the principles of the 1989 Convention on the Rights of the Child and its Optional Protocols and to completing the unfinished agenda of the 1990 World Summit for Children. Among the lessons learned in the previous decade, nations declared “…policies must address both the immediate factors affecting and excluding groups of children and the wider and deeper causes of inadequate protection and rights violations.” The outcome document, ‘A World Fit for Children’ was officially adopted by 181 countries. One out of four priority areas of action identified in this document was the ‘[protection] of children against abuse, exploitation and violence’ and numerous categories of potential abuse, exploitation and violence against children were identified. Using this process as a guideline, a committee made up of relevant actors addressing child rights in the OPT (Occupied Palestinian Territory) identified eight categories of children in special need of protection: disabled children, child detainees in Israeli prisons, children in conflict with the law, child laborers, child victims of domestic violence and abuse, children living in poverty, children without family care and child victims of the Israeli occupation.

Human Rights and International Humanitarian Law Standards

Implementing the Four Principles of the CRC:

This paper is written with the CRC as its main frame of reference. It examines child protection in terms of the four major principles of the covenant: non-discrimination (Art. 2) best interests of the child (Art. 3), survival and development (Art. 6), and participation (Art. 12). This last principle deserves special attention as it is the most overlooked in programming for Palestinian children.

Generally speaking, developing children's life skills, knowledge and participation has not been a priority among organizations addressing child protection. This is not to say that it has been completely neglected: for example avoidance of unexploded ordnances is a key life skill which has been prioritized nationally. Furthermore, child participation has occurred
in terms of program evaluation in several sectors. However much more needs to be done to strengthen commitment by caregivers and society at large towards children's life skills, knowledge and participation to ensure that these are more than just empty phrases.

The National Plan of Action for Palestinian Children 2004-2010, a document developed with the participation of 112 institutions working in the field of children's rights and programming affirmed child participation as one of its principle strategic goals. According to the plan;

Children have the right to participate in the planning, implementation and monitoring of children's programs and services according to their development and maturity capacity. They should be considered decision-makers and partners within all civil society actions regarding their rights, needs and responsibilities and given the opportunity to be heard and listened to.¹

The NPA Secretariat and its many partners throughout the country is working to implement this goal in the face of gaps which it identified in the participation sector including: institutions taking a weak role towards marginalized children, children's lack of knowledge and life skills, the lack of entertainment and cultural centers in marginalized areas, institutions' nearly exclusive focus on poverty and survival, and the lack of expertise and professionals trained in child participation.

The Ministry of Education (MoE) in cooperation with UNICEF has already begun to implement this goal with new programming teaching life skills in schools. The MoE defined life skills as "the abilities we need to solve our problems, deal with stress, and effect positive change and increase the positive things in general in order to improve our situation and to gain security, internal calm, harmony with society and the ability to cope with reality and deal with daily problems."²

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² "Life Skills Project" Ministry of Education & UNICEF. 2002
Israel's Legal Responsibility

The analysis of this paper is written from the perspective that Israel has the legal responsibility to ensure the implementation of International Humanitarian Law as well as Human Rights Law, including the CRC, in the OPT. Despite Security Council resolution 904 which affirms the applicability of the Fourth Geneva Convention in the OPT, Israel denies its applicability. According to the International Humanitarian Law Research Initiative, in the OPT “the denial of the applicability of the Fourth Geneva Convention has inherently created a legal void.” So-called occupation law, under the rubric of International Humanitarian Law, would provide a number of protections necessary to ensure respect for human rights. “Occupation law entails an enormously complex legal framework that any occupying power would have to work within to minimize possible violations. The occupying power must fulfill a range of humanitarian responsibilities that are proactive and must adhere to explicit prohibitions in the administration of the occupied territory and the enforcement of law.” Because of Israel’s violation of International Humanitarian Law, particularly as a result of the fact that it does not respect the status of children as protected persons, it is the major violator of child rights in the OPT.

It is significant to note that despite continued degradation in the lives of Palestinians throughout the Oslo period, Israel signed and ratified numerous human rights conventions in the 1990’s. These conventions include the International Covenant on Economic, and Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Israel maintains that it does not have obligations to implement international human rights conventions, such as the CRC in the OPT. It argues that this responsibility was transferred to the PNA as a result of the Oslo
process. However, in reality, Israel actively intervenes throughout the OPT—including in the 17% of the OPT under PNA civilian and security control.\(^5\)

Israel also argues that human rights law does not apply in the OPT because it considers the OPT to be in a state of armed conflict and therefore under International Humanitarian Law; this is despite the fact that Israel also argues that the Fourth Geneva Convention does not apply to the OPT. Israel’s claims about the inapplicability of human rights conventions such as the CRC are refuted by the fact that IHL does not supersede human rights obligations; rather, IHL supplements these obligations with additional protections.\(^6\)

The fact that Israel is a major violator of child rights in the OPT does not absolve the Palestinian National Authority of child rights responsibilities.

**The Palestinian National Authority's Legal Responsibility**

Because the OPT is not a state, it lacks the international legal personality to sign on to international conventions. However, these conventions are relevant and applicable to the Palestinian context. Thus the Palestinian National Authority (PNA), acting as the governing body has endorsed international human rights conventions. These include the Convention on the Rights of the Child (CRC), to which President Arafat pledged his commitment on 5 April, 1995. The following child protection situation analysis relies on the CRC to provide the main guiding principles and norms. It also relies on other international human rights treaties including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on All Forms of Racial Discrimination, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

As discussed above, many of the child protection issues faced by Palestinian
society are a direct result of Israeli military action in the West Bank and Gaza Strip and its violation of International Humanitarian and Human Rights Law. Many other child protection issues are the indirect results of, or are exacerbated by, the systematic collective punishment measures inherent to occupation. The fact that some of the most severe protection issues discussed in this paper are either direct or indirect results of Israeli violations does not expunge the PNA's child protection responsibilities. The CRC is unequivocal on this point:

*Art 3.2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being...*

*Art 6.2. States Parties shall ensure to the maximum extent possible the survival and development of the child.*

*Art. 38.4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.*

None of these articles qualify the duties of the states according to the identity of the perpetrator. With this in mind, one of the main questions addressed in this paper is to identify the PNA's responsibilities—in terms of laws, service provision and otherwise—to ensure child protection, whether the threats to children's well-being originates in Israeli policies or in Palestinian society itself.

**Child Protection under Occupation**

The occupation as well as the current conflict has had a long-term dire impact on the OPT's socioeconomic conditions. The occupation has also had a deleterious effect on the institutions necessary to ensure child protection. Military occupation adversely overshadows all spheres of life and affects every level of institution-building in a society. Israeli policies have precluded the formation of the institutions necessary to ensure both human rights protections and economic development. As a result, much of the focus in Palestinian society has been focused
on struggling against the occupation rather than focusing on internal
rule of law and governance issues.

**De-Institutionalization and the Rule of Law**

Chief among the institutions which are necessary in any society to ensure
child protection are rule of law institutions such as police and a functioning
court system. Issues of enforcement will be addressed individually by topic
area below; however, it is important to frame the discussion with a broader
understanding of the challenges that face Palestinian society as a whole in
terms of rule of law.

Any analysis of the human rights situation internally in Palestinian must
find the appropriate (but elusive) balance between attributing all abuses to
the occupying power and the other extreme of ignoring the influence that
Israeli policies have over Palestinian institutions. The International Crisis
Group describes this challenge.

However, that Israel today exercises a perhaps unprecedented level of control over
Palestinian lives does not mean Palestinian internal dynamics have ceased to exist. Rather,
it suggests that Palestinian realities are more inextricably intertwined with Israeli ones than
before, and assessments of changes in Palestinian society and politics since September
2000 that fail to account for the elephant in the room risk being superficial. 7

**Economic Impact of Occupation**

The OPT have been characterized over the last few decades by what
Harvard Researcher Dr. Sarah Roy has termed "de-development." Penny
Johnson, a Birzeit University researcher, raises the question, “Can
developmental frameworks address a poverty that has been ‘structured
by intent’ to utilize an entire civilian population as a political pressure
point?” 8 Models of development which are applicable in other developing
countries do not describe the Palestinian economic situation due to the
fact that Israel's occupation policies have included the active precluding
or dismantling of the institutions necessary for economic development.

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7 “Who Governs the West Bank? Palestinian Administration under Israeli Occupation.” International Crisis Group; Middle East Report No 32. 28

8 Johnson, Penny. "Women, Gender and Poverty in Palestine: Learning about Family Crisis, Survival and Development from Poor Women, Men and
The result of this has been poverty. In response to the current Intifada, the situation of de-development has increased rapidly, with Israel destroying factories and agricultural land, denying permits for most Palestinians previously employed inside Israel, instituting brutal closures and curfews and preventing the export of goods.

Currently, 47% of Palestinians live below the official poverty line and 16% of the population live under the minimum level for subsistence. Poverty is a cross-cutting issue that affects all levels of child protection. Children living in poverty are much more vulnerable to the other classifications of protection need, and poverty is often one causal factor for the violation of children's protection rights.

Beyond poverty, which will be discussed in greater length in the Children Living in Poverty section below, the de-development resulting from the occupation has severely inhibited the PNA's ability to provide the services necessary for child protection. A lack of governmental resources for necessary services and programming is evident in every child protection sector addressed in this paper.

The OPT's Legal Structure

Much of the following discussion addresses the national legal framework of child protection. It is important to note that the OPT's legal structure differs significantly from that found in most countries. There are many different systems of laws in force in the OPT due to the fact that Palestine has been ruled by various governments over the past century. Laws which were established by governments as early as the Ottoman Empire may remain in force as each imposed system of law did not necessarily negate the previous system. Thus, laws exist in the OPT from the following sources: The Ottoman Empire, the British Mandate, Egyptian law (in the Gaza Strip), Jordanian law (in the West Bank), Israeli military orders and legislation passed by the Palestinian National Authority. Furthermore, certain issues pertaining to child protection are subsumed under Family Law or Personal Status Law, which may come under the jurisdiction of either Sharia or Christian religious courts.

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9 "Four Years- Intifada, Closures and Palestinian Economic Crisis, An Assessment." The World Bank, 2004. The World Bank uses a poverty line of $2.30 for the OPT, and defines subsistence poverty as an income below the "cost of satisfying the minimum caloric intake, plus an allowance for basic non-food items, such as clothes and shelter." It sets the subsistence poverty line for the OPT at $1.60 per capita per day.
According to Defence for the Children International-Palestine Section (DCI), “The current legal system, which is an amalgamation of at least five different legal systems, not only lacks unity and falls short of international standards, but also seriously fails to act in the best interest of the child.”

This situation was to some extent ameliorated in January 2005 when the Child Law was enacted. This law supersedes previous legislation on the issues it addresses—with the exception of Israeli military orders over which the Palestinian legal system has no control. However, there are many issues on which the Child Law is silent and reference must be made to previous legislation.

The enactment of the Child Law is a hopeful step in terms of the prioritization of children's rights and in terms of creating a positive legal framework to implement these rights. It is important to ensure that bylaws and mechanisms are set up to ensure the implementation of this law.

There are four main criticisms of the Child Law in its present form. Firstly, the law sets the age of criminal responsibility at nine. Furthermore, some of the terminology used in the law requires clarification. For instance, its definitions of "hardship cases" of children requiring special protection which are limited and exclusionary. At certain points it sets out provisions without clearly articulating what body is responsible for ensuring that those provisions are met. Finally, it establishes a Higher Council for Motherhood and Childhood, which is not an appropriate structure for overseeing children's rights. It is important to note that the law also does not specify commitment to the CRC. In light of this, human rights groups are actively advocating for immediate amendments to the Child Law.

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Children with Disabilities

Disabled children face rights violations including discrimination and mistreatment on all levels. They are denied their basic rights including a decent family life, health services, education and proper housing. Thus, governmental policies, laws and societal attitudes must be changed to ensure that the rights of these children are respected, protected and fulfilled.

There have been no nationwide surveys detailing the number of Palestinian children living with disabilities. However, a 1996 PCBS health survey found that 1.7% of all children 0-14 years old suffered from some form of disability. With the current population size, it can be extrapolated from this data that 28,000 Palestinian children under the age of 15 suffer from some sort of disability. The total number of disabled children is most likely much higher considering that 16 and 17 year-olds were not part of the survey and in light of the escalating violence of the past few years which has led to an unknown number of permanent disabilities. This lack of data and analysis in itself is an indicator of a societal disinterest in the sector of disability, which receives much less attention than other sectors, such as child detainees in Israeli prisons.

Governmental Responsibility

The CRC defines rights specific to disabled children. The corresponding responsibilities incumbent on the PNA fall in the areas of ensuring non-discrimination (Art. 2); providing the conditions necessary for dignity, self-reliance and active participation in the community (Art. 23.1); and providing special care "subject to available resources," and when possible, free of charge in order to ensure access to education, training, health care, rehabilitation, employment and recreation (Art. 23.2). These rights and duties must be addressed both in terms of providing an adequate legal framework and in service provision, and will be explained more fully in the relevant sections below.

11 PCBS used the following definition of disability: "A restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being. It describes a functional limitation or activity restriction caused by an impairment. Disabilities are descriptions of disturbances in function of the human body. Examples of disabilities are difficulty in seeing, speaking, moving, climbing stairs, grasping, reaching, bathing, eating, toileting."
12 "The Situation of Palestinian Children in the Occupied Palestinian Territory: In Search of a Childhood." UNICEF. July 2004. p.107
Legal Framework

There are two Palestinian laws which are relevant to disabled children: The Law on the Rights of the Disabled, and the Child Law. The PLC enacted the Law on the Rights of the Disabled in 1999, and in April 2004, it implemented the bylaws which provide the basic legal foundation for protecting the rights of disabled children. The law closely follows the CRC, and in particular CRC Art. 23 in that it stresses the right to non-discrimination, dignity, and service provision. However, Art. 5 of the disability law may institutionalize discrimination among the disabled, as it exempts only those who were disabled through resistance activities fully from rehabilitation fees. Furthermore, the Law on the Rights of the Disabled does not clearly articulate the rights of disabled children in needed detail.13 In fact, children, and the specific violations pertaining to them are not specifically mentioned in the law.

The bylaws which support the Law on the Rights of the Disabled do not contain much more detail than the law itself in providing the policies and procedures necessary for implementation. For instance, the bylaws call for "implementation of the compulsory education law, which is a part of the philosophy of the MoE, in accordance with the state of the child's disability..." However, it provides no further guidelines in terms of procedures for implementation.

13 Amer, Ziad. General Union for Disabled Palestinians; 2004
Some Relevant Provisions from the Law on the Rights of the Disabled:

**Article 2**
The disabled have the right to enjoy a free life, dignified living, and various services in a manner equal to that of other citizens and he/she shall have the same rights and obligations that are within his/her capabilities. It is not permissible to prevent any disabled from enjoying these rights because of his/her disability.

**Article 3**
The state shall guarantee the protection of the rights of the disabled and shall facilitate their attainment. The Ministry shall coordinate with the competent bodies to prepare an awareness program for the disabled, his/her family, and his/her local environment regarding the rights stipulated in this Law.

**Article 5**
1. The state shall provide the disabled with rehabilitation in all its forms in accordance with the requirements of the nature of the disability. The contribution of the disabled shall not exceed 25% of the expense.
2. The disabled shall be exempt from this contribution for resisting the occupation.

**Article 9**
The state shall set the regulations and limitations that guarantee the right of the disabled to be protected against all forms of violence, exploitation, and discrimination.

**Article 14**
The Ministry of Education and the Ministry of Higher Education shall guarantee the provision of an environment suitable to the needs of the disabled in schools, colleges, and universities.

The Child Law also outlines some of the same rights of disabled children as the CRC. This includes non-discrimination (Art. 3) and disabled children's right to obtain social assistance (Art. 31). The law also places responsibility on the state to "ensure that children with special needs, receive care in all areas, particularly education, health, vocational qualification and training, to enhance their self-reliance, and ensure their effective participation in the society (Art. 8)." Article 28 states that "all compensatory, aid and rehabilitation instruments, equipment, and means of transportation, needed for the use of children with special needs, shall be exempted from taxes and fees." This is a stronger provision than that found in the disability law, which states that the disabled may be responsible for up to 25% of the cost of equipment unless they became disabled due to Israeli violence.
Finally, article 41 of the Child Law outlines disabled children's right to education:

**Child Law Article 41**

1. The child with special needs shall have the right to education and training in the same schools and centers open for non-disabled students.  
2. In cases of exceptional disability, the State shall be committed to provide education and training in special classes, schools, or centers where the following conditions are met: 
   A. They are linked to the regular educational system and appropriate for the needs of the child.  
   B. They be accessible and in proximity to the place of residence.  
   C. They provide all types and levels of education, according to their needs.  
   D. Provide persons who are educationally qualified to educate and train them according to their disability.

The existence of a law specifically addressing the disabled, as well as the inclusion of disability in the Child Law is a positive step in terms of protection for disabled children. However, actual implementation of these laws is still lagging behind. Both laws require considerable technical and financial resources which have as of yet not been allocated. In order for the laws to be implemented, infrastructure must be in place. Further bylaws should be developed for each individual ministry in order to ensure implementation.  

Furthermore, institutions working in the field of disability often fail to abide by existing legislature and guidelines, a fact which is greatly increased by a lack of monitoring.

Despite positive steps, a stronger legal framework is needed going beyond the Child Law and the Law on the Rights of the Disabled. For instance, the penal code needs to be developed with specific penalties for those who violate the rights of disabled children. Also, the Civil Servant law (Art. 23) encourages the hiring of those injured in resistance activities; however, it does not offer the same provisions for those born with disabilities or who became disabled in other ways.

15 ibid.
directly effects children (who would not be hired as civil servants in any case), laws in many ways represent the institutionalization of societal attitudes and values, and the Civil Servant law may act to institutionalize discrimination against disabled people who were not disabled through resistance activities.

In terms of prevention, Article 24 of the Child Law requires medical examinations as a necessary precondition for marriage contracts. It is important to note that there is continuing debate within and among societies as to whether such predictive testing may constitute a violation of the rights of parents, children and the disabled community in general.16

**Governmental Services**

**Prevention**

The Palestinian Central Bureau of Statistics (PCBS) writes that "a considerable number of disabilities could be avoided with the availability of proper examination, care and supervision."17 A study administered by Birzeit University (BZU) had similar findings, reporting that in the seven rehabilitation centers included in the study,

About 56% of people with disabilities were born with a disability or became disabled in the first year of their life. Their reported "causes" of born disability were concentrated in three areas: complications during pregnancy or delivery; illness of the child right after birth (e.g., fever); and marriage among relatives. If proven to be true, the data shows that most disabilities may be preventable. Prevention could be achieved through improving prenatal care, avoiding marriage among relatives, and providing a better infant care.18

16 The Counsel of Europe's convention on biomedicine and human rights takes the opposite stance from that taken in the Palestinian Child Law. Article 12 states: "Tests which are predictive of genetic diseases or which serve either to identify the subject as a carrier of a gene responsible for a disease or to detect a genetic predisposition or susceptibility to a disease may be performed only for health purposes or for scientific research linked to health purposes, and subject to appropriate genetic counseling." Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine: Oviedo, 4.IV.1997.
18 "Participatory Study by the Perspective of People with Disabilities in the West Bank and Gaza Strip" Development Studies Program, Birzeit University in cooperation with Handicap International. March 2000. p.18-19
This logically would begin with a national child health screening system. Children who have completed their vaccination program but have not yet entered school (i.e., roughly between the ages of two and five) often do not receive proper screening. Generally speaking, children of this age group only visit medical professionals when they are ill, and do not go for regular check-ups. This is extremely problematic as disabilities may develop or become detectable during this age period, and may worsen if allowed to progress unchecked. According to the Birzeit Study,

As to the discovery of the disability by the family, about 35% of the disabilities were discovered at birth or immediately after. The rest were discovered in 5 years or more (i.e., school age). This indicates the importance of early diagnosis, and the obvious gap in the referral and diagnosis between the ages of 0-5. That could be improved through better screening. All of the above data illustrates the vital role of awareness for prevention purposes, something that receives little attention from rehabilitation centers that concentrate their efforts on treatment of current cases to the exclusion of awareness raising. Of course, the primary health care sector (governmental and non-governmental) must bear the main responsibility for such awareness campaigns.19

The MoH with support from the NPA Secretariat conducted a study on early screening practices. It was found that appropriate and timely developmental screening of children under two and a half years old could lead to early detection and prevention of some physical and mental disabilities in children. As such, a national development screening tool was designed, tested and revised to successfully identify at-risk and early stages of disabilities in young children. This tool is now being used in all Maternal Child Health clinics and is part of the national health policies and practices adopted for all children under the age of two and a half years. UNRWA was a part of the process of developing the program and has adopted similar procedures.

19 ibid. p.19
The BZU study also called for education as a key component of prevention:

Educational campaigns must be launched to prevent as many occurrences of disability as possible... most disability could have been prevented if proper care for pregnant mothers and infants was provided. Poverty and marginalization are added factors that stand in the face of many families to receive proper health care. Educational campaigns must also aim at providing information on the harmful consequences of marriage among relatives and early marriage for women. Families must also be educated on how to detect disabilities at an early age, where they might be easier to treat or to integrate in society.20

The government has a responsibility to ensure that even those families with no health insurance have sufficient access to health care services. Added to this is the need for proper prenatal care, and blood screening for couples before pregnancy.

**Rehabilitation**

Currently, no national strategies exist working towards the protection of disabled children. The government has not taken steps to form policy or the national body necessary for strategic planning, coordination and cooperation. While the Central National Committee for Rehabilitation for Disabled Persons acts as coordinator among many of the main institutions working in rehabilitation, it has a limited staff and capacity. In this sense, the government is a long way off from mainstreaming the rights of the disabled child and ensuring that they receive prioritization in all relevant sectors. As a result, the public services provided to disabled children are deficient, particularly in the fields of health and education. The lack of a coordination body is perhaps the greatest factor behind the lack of joint projects and coordination among institutions—whether governmental or non-governmental. As a result, programs for the disabled do not achieve their planned impacts. However, already a number of institutions exist that can form the basis for future planning and specialized programming.

According to a report by the Palestinian Independent Commission for Citizens' Rights (PICCR), there are 114 governmental and non-governmental institutions working in the West Bank and Gaza Strip.

20 ibid. p.32
providing services for disabled people, thirteen of which are under the supervision of governmental institutions. However, services for disabled children remain severely lacking. The PCBS notes that "The majority of disabled children do not receive health, education and social services essential to meet the needs of the disabled." Added to this is its observation of an "insufficient number of institutions offering services to the disabled children." PICCR indicates that one reason for the scarcity of services for many disabled people is the location of the institutions, which are concentrated in urban areas. Services are not available where the need is greatest. For example, after the invasion of Jenin in 2002, thousands of hearing aids were sent there. This was more than the community's needs, and many were destroyed. Concurrently, Hebron was experiencing a shortage of hearing aids. There is a similar problem in institutional focus—70% of rehabilitation services target the physically disabled, which represent only 30.2% of the disabled population. The principle reasons behind the scarcity of services for disabled children include a lack of qualified personnel and non-prioritization of the issue by the government in its budgeting.

MoSA is the ministry with the primary responsibility for providing services for disabled children. However, its service provision is inadequate. In 2003, MoSA provided for medical equipment for 400 disabled people, and it spent NIS 25 million in cash or in-kind assistance to disabled people in the West Bank and Gaza Strip. In 2004, a project coordinated by NPA Secretariat and funded by SIDA Sweden provided medical equipment and assistance devices for 1,045 children, and over 1,500 children were supported with counseling, social work and community interventions. This project was implemented through both governmental and non-governmental agencies and improved the capacity of the government to assist children with disabilities.
The field of disability assistance is defined by a shortage of technically-experienced personnel. Most of the personnel working in the field lack suitable academic certificates. Rather, institutions provide them with short training courses, generally lasting less than three months, which "qualify" them to work in rehabilitation. Furthermore, many workers in the field are unaware of the rights of disabled people, nor human rights in general.²⁶ According to the Birzeit study, "lack of sensitivity and understanding to the psychological, social and economic dimensions of disability was hindering the ability of the practitioners to deliver proper services."²⁷

This trend is a result of the fact that institutions which care for the disabled have become like orphanages—removing children from their families rather than working towards their integration. At times, children in these institutions are exposed to mistreatment and exploitation. Families may agree to the institutionalization of their children because of societal perceptions which consider disability to be shameful for a family, and a possible reason to prevent the marriage of a disabled child’s siblings.

Institutions addressing disabled children mostly work according to a purely medical framework which disregards the social and rights aspects of the work which provide the enabling factors for rehabilitation.²⁸

There is a great lack of public information about how to protect the rights of disabled children. Families need to have access to information about where they can get health services and equipment. Furthermore, people need to be able to reach these services. Families and communities need to be made aware of what services exist, how to access them and what their own responsibilities are.

Governmental health insurance for disabled people is also inadequate. There are two kinds of governmental health insurance related to disabled. Insurance provided by MoSA, is allocated according to economic status. Applicants pay NIS60 and receive NIS96 per month if they are unmarried.

²⁷ “Participatory Study by the Perspective of People with Disabilities in the West Bank and Gaza Strip” Development Studies Program, Birzeit University in cooperation with Handicap International. March 2000. p.34
²⁸ Amer, Ziad, General Union for Disabled Palestinians; 2004
and NIS150 per month if they are married. The second type of insurance is through the General Union for Disabled Palestinians. People who are more than 60% disabled pay a one-time fee in order to receive insurance.29

**(Re)integration**

The National Plan of Action for Palestinian Children 2004-2010 outlined guaranteeing the right of disabled children to integrate in society equally with other children and to ensure their access to health and educational services as well as social resources as a strategic goal.30

This goal was put forth in response to the fact that governmental services addressing the reintegration of disabled people are severely deficient. For example, the Ministry of Transportation offers no provisions or services to facilitate the movement of disabled people, despite the fact that freedom of movement is a fundamental right as well as necessary for integration into society. Playgrounds, where they do exist, are not designed to accommodate disabled children. While building codes exist to accommodate disabled people, these standards are not followed as there is no governmental mechanism to ensure that they are met. Thus, most buildings are not accessible for disabled people. Access to information is also effected as institutions such as the media do not utilize sign language.31 Collectively, these restrictions violate disabled children's right to participation (CRC Art. 12) and play (CRC Art. 31).

---

## Disbale Students in MoE Schools 2004-2005 School Year

<table>
<thead>
<tr>
<th></th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>West Bank</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blind</td>
<td>26</td>
<td>16</td>
<td>42</td>
</tr>
<tr>
<td>Sight-Impaired</td>
<td>374</td>
<td>369</td>
<td>743</td>
</tr>
<tr>
<td>Deaf</td>
<td>20</td>
<td>46</td>
<td>66</td>
</tr>
<tr>
<td>Hearing-Impaired</td>
<td>312</td>
<td>269</td>
<td>581</td>
</tr>
<tr>
<td>Physical disability</td>
<td>553</td>
<td>408</td>
<td>961</td>
</tr>
<tr>
<td>Speech-Impaired</td>
<td>494</td>
<td>394</td>
<td>888</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1,779</td>
<td>1,502</td>
<td>3,281</td>
</tr>
<tr>
<td><strong>Gaza Strip</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blind</td>
<td>18</td>
<td>12</td>
<td>30</td>
</tr>
<tr>
<td>Sight-Impaired</td>
<td>127</td>
<td>117</td>
<td>244</td>
</tr>
<tr>
<td>Deaf</td>
<td>0</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Hearing-Impaired</td>
<td>117</td>
<td>118</td>
<td>235</td>
</tr>
<tr>
<td>Physical disability</td>
<td>220</td>
<td>123</td>
<td>342</td>
</tr>
<tr>
<td>Speech-Impaired</td>
<td>88</td>
<td>108</td>
<td>196</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>570</td>
<td>481</td>
<td>1,051</td>
</tr>
<tr>
<td><strong>Total OPT</strong></td>
<td>2,349</td>
<td>1,983</td>
<td>4,332</td>
</tr>
</tbody>
</table>

The situation of disabled children's right to education is also dire whether in governmental schools, UNRWA schools or private schools. Of 1,577 buildings belonging to the Ministry of Education, only 523 of them are equipped for disabled children. This is in direct contravention of Art. 10-3 of the Law on the Rights of the Disabled, and it is a violation of CRC Art. 23-3.

According to data from the MoE, only .6% of students in governmental schools are disabled. This is well below national child disability estimates. Furthermore, the MoE does not include the mentally disabled in its monitoring of disabled students because of a lack of methods and specialized knowledge to do so. Thus, while it is currently impossible to know the number of mentally disabled children in government schools, it can be inferred from the lack of services for them that mentally disabled children remain extremely marginalized within, or excluded from the school system.

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35 ibid.
The MoE has recently developed the by-laws necessary to implement the relevant laws; however, these bylaws are not being implemented due to a lack of funding allocated in the budget, a lack of coordination and of inspection.\textsuperscript{36}

Data on disabled children in UNRWA schools is difficult to analyze. The type of information collected differs greatly between the West Bank and Gaza Strip and it is unclear what officials are using to define different disabilities. Thus, according to UNRWA data, only 193 children have received support for integration within UNRWA schools in the West Bank, whereas UNRWA in Gaza reports 8,145 disabled students attend its schools. This is more than twice the number of disabled students reported by governmental schools for both the West Bank and Gaza Strip despite the fact that only 23.7\% of students attend UNRWA schools.

<table>
<thead>
<tr>
<th>Integration Activity</th>
<th>UNRWA</th>
<th>Outside UNRWA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kindergartens</td>
<td>47</td>
<td>189</td>
</tr>
<tr>
<td>Regular Schools</td>
<td>146</td>
<td>44</td>
</tr>
<tr>
<td>Special Education</td>
<td>0</td>
<td>42</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>193</strong></td>
<td><strong>275</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Disability</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical</td>
<td>321</td>
<td>3.9</td>
</tr>
<tr>
<td>Hearing</td>
<td>834</td>
<td>10.2</td>
</tr>
<tr>
<td>Vision</td>
<td>3,129</td>
<td>38.4</td>
</tr>
<tr>
<td>Learning Disability</td>
<td>2,090</td>
<td>25.7</td>
</tr>
<tr>
<td>Mental Disability</td>
<td>1,374</td>
<td>16.9</td>
</tr>
<tr>
<td>Mild Mental Disability</td>
<td>397</td>
<td>4.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>8,145</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

\textsuperscript{36} “Project Report on Rights of Disabled Palestinians; Training and Awareness Project.”, General Union for Disabled Palestinians; 2004.
\textsuperscript{37} Data from UNRWA West Bank Office.
\textsuperscript{38} Data from UNRWA Gaza Field Office.
Information on disabled children in private schools is also problematic. No organization has collected information on the number of private schools offering services for disabled students, nor the number of disabled students. Furthermore, many of the schools offering services for disabled students are not licensed.

**Community Responsibility**

In a field such as disability, civil society becomes a key factor in child protection. This is due to the fact that societal attitudes and practices are instrumental in either violating or protecting those children's rights. Discrimination occurs on all levels and precludes a variety of rights. For instance, a teacher who believes that a disabled child is inferior may prevent that child from fulfilling his/her right to education. According to the Birzeit study,

Discrimination against people with disability is still rampant. It continues to affect their lives in the fields of health, education, infrastructure, and employment. Attempts made by the rehabilitation programs to make positive change in the lives of people with disability are frequently counterbalanced by social constraints... In addition, the absence of a culture that values the potential of people with disability makes change even more difficult to achieve. 39

Discrimination among children themselves is another concern, and its prevalence was evident in a 2001 NPA Secretariat study "A Survey Study on Children's Thinking Trends and Their Perceptions of the Future." This survey, which included 1,109 children aged 11-18 from governmental, private and UNRWA schools as well as institutions in the West Bank and Gaza Strip, posed the question: "Do you agree with the idea that disabled children should receive their education in the same school with other children?" Only 26.1% of respondents agreed. Among the respondents who are disabled, 78.3% preferred to attend special schools. 40 This second number may indicate that disabled children have internalized the discrimination facing them and are reinforcing their isolation. Two non-disabled respondents stated in the survey:

39 "Participatory Study by the Perspective of People with Disabilities in the West Bank and Gaza Strip" Development Studies Program, Birzeit University in cooperation with Handicap International. March 2000. p.32
"It is better for them to learn alone because their needs are different from our needs and we may not be in harmony."

"I may be accepting of their integration with us, but others may not and they may laugh at them because they cannot play like us."

Perhaps the most detrimental discrimination and violation is that which occurs on the family level. Disabled children are often kept at home, violating their right to education and their right to play, among other key rights outlined in the CRC. Families may be overprotective of their disabled children, or they may ignore, deny or try to hide their child's disability. Also of concern is the fact that some families of disabled children are guilty of mistreatment ranging from verbal abuse to isolation and beating. Mistreatment often occurs with no consideration of the potential resulting psychological damage, including low self-esteem and self-respect.

Disabled girl-children are particularly affected. They are more likely to be isolated and hidden by their families because their disability may be considered to reflect on their siblings and prevent them from marrying. This is because disability is considered to be inherited and diminishes the prestige of the family. Some children have been found in horrible conditions. Furthermore, disabled girls are much more likely to be kept out of school by their families.

Another sector of disabled children which experience even greater marginalization are mentally disabled children. Children who are mentally retarded tend to suffer the most stigmatization within Palestinian society.

The mistreatment of disabled children by their families has its root causes in a lack of community awareness of these children's rights. This is most extreme in villages. It is important to understand the role of women in this situation. Mothers are often the primary caregivers within a family. If they themselves are isolated in their communities and their homes, they will not be exposed to necessary information on the rights of their disabled children.

41 ibid. p.19.
43 Dr. Arafat, Cairo. The NPA Secretariat. Personal communication, February, 2004.
Poverty also plays a key role. Children are in a sense a social safety net for their parents when they become elderly. They may be considered an investment which will bring returns in the parents' old age. Disabled children may therefore not be prioritized within the family budget because of a perception that they do not have the same capacity to protect and support their parents in their old age.\textsuperscript{44} Or, disabled children may be considered a life-long liability rather than having the potential for independence.

As it stands, there is a dearth of community groups working to defend disabled children's rights. Rather, the civil society institutions addressing disability are largely involved in service provision, particularly in the sectors of rehabilitation, education and health. These institutions should research realistic ways of supporting the disabled children in order to assist them in becoming viable members of society.

The national media has a considerable role to play in improving public access to information regarding disability. This includes informing people of available services, working against societal stigma and promoting awareness of the rights of disabled children.

**International Responsibility**

The Israeli military response to the current Intifada has made life even more difficult and dangerous for all of Palestinian society. As a particularly vulnerable group, disabled children have been greatly impacted. Military attacks on civilians, houses and institutions serving the disabled, have led to the following consequences:\textsuperscript{45}

1. The number of disabled children has increased as a direct result of Israeli violence. The exact number of children who have become permanently disabled is unknown.
2. Many disabled children have been killed. Again, the exact number is unknown.
3. Institutions serving the disabled have been damaged or destroyed. For instance, The School for the Blind in Al-Bireh and more than one of

\textsuperscript{44} Abu Gosh, Majda. Union of Palestinian Medical Relief Committees. Personal Communication, November 2004.
\textsuperscript{45} Amer, Ziad, General Union for Disabled Palestinians; 2004
the UNRWA Centers for the Blind in Gaza have been shelled by Israeli helicopters
4. Closure and curfew have prevented health and rehabilitation workers from offering services to disabled children. The resulting lack of access to medication and follow-up care has resulted in a worsening health situation for many children
5. Disabled children generally lack a sense of safety and security

Disabled children are also particularly vulnerable to the secondary effects of Israeli policies. One such secondary effect is the economic crisis. Rising poverty has led to an increased level of violations of the rights of disabled children as families are increasingly unable to provide for their needs. Poverty causes families to readjust their priorities towards basic needs, and the needs of their disabled children are often low in priority.

The international community carries the obligation of working towards the resolution of this conflict in a way that respects and protects human rights. Furthermore, the international donor community has the responsibility to ensure support for disabled children, and to ensure progress that meets their needs in social protection, buildings, roads and infrastructure.

**Monitoring and Reporting**

One of the major problems with monitoring the situation of disabled children is the lack of a consistently applied definition of disability. According to the disability law, a disabled person is:

*Any individual suffering from a permanent partial or total disability whether congenital or not in his/her senses or in his/her physical, psychological, or mental capabilities to the extent that it restricts the fulfillment of his/her normal living requirements in a manner not usually faced by those without disabilities.*

However, PCBS uses a different definition of disability in its statistical analysis of disability in the OPT. Rather than only including those with permanent disabilities, it uses a definition of anyone who is disabled for a minimum period of six months. The fact that PCBS' definition of disability significantly diverges from the legal definition undermines national monitoring of the phenomenon.
The lack of monitoring and reporting on disabilities is directly connected to the lack of sufficient diagnosis capacity. According to PCBS,

Undoubtedly, lack of appropriate examination means and mechanisms of diagnosing and monitoring disabled persons (children in particular) in Palestine has obstructed the efforts aimed at obtaining objective and quantitative on the numbers of disabled children and the type/severity and causes of disability. This resulted in the disabled children's inability to enjoy their complete rights to health care, education, social aid, participation and entertainment.46

As of yet, there are no comprehensive statistics available on the number of disabled children in the OPT. According to PCBS, this is due to "...the absence of a functional system for reporting such cases at the national level, coupled with the lack of a monitoring mechanism that could provide detailed data on the disabled children."47 This problem is being addressed with the launch of a database implemented by the NPA Secretariat, housed both in MoSA and in the General Union of the Disabled. This database will store case files of disabled children, including information on the type, severity, and cause of the disability and the services each child has received. In the future, the database will be used to generate needed statistics on the number of disabled children and the types and severity of disabilities suffered. Data is still being entered into the database. It is important to note that only children who seek help from either MoSA or the General Union will have files in the database. Thus, there still may be an indeterminate number of disabled children missing from the statistics. This phenomena is increased by the fact that families may "hide" their disabled children.

Furthermore, there is no monitoring of professionals and institutions working in the field. "The role of the government in providing guidelines and quality control mechanisms is almost non-existent."48 The lack of monitoring and reporting in the field of disability is a symptom of the overall lack of strategic planning. Monitoring is absent on all levels. In the legal realm, there is no monitoring of compliance with the disability law. Institutions are not monitored for discrimination against the disabled.

47 ibid. p.45
48 "Participatory Study by the Perspective of People with Disabilities in the West Bank and Gaza Strip" Development Studies Program, Birzeit University in cooperation with Handicap International. March 2000. p.35
Furthermore, there are no reporting mechanisms for disabled children whose rights have been violated. Finally, staff working in the field are not regulated and no standards for their work have been developed.

**Recommendations**

Disabled children have the same rights as other children, but the tools and methods for protecting those rights are different. In view of this, governmental institutions and civil society should work together to implement joint programs guaranteeing the protection of disabled children.

**Government Responsibility**

1. Review and amend the disability law and civil servant law so that all disabled people are afforded equal rights
2. Provide adequate technical and financial resources to ensure implementation of the Child Law and Disabled law
3. Include penalties in the penal code for those who violate the disabled law or the child law
4. Strengthen the national child health screening system and integrate it in the essential health services package
5. Strengthen the national system of prenatal care
6. Strengthen the national referral system
7. Ensure resources necessary to provide for the health, social and educational needs of referred children
8. Increase the human capacity in the rehabilitation field
9. Create a strong coordination body on the national level
10. Map rehabilitation institutions and services and ensure they are available for rural populations and for all types of disability
11. Set qualification and training standards for professionals in the field
12. Develop policy among all service providers emphasizing the reintegration of disabled children in their homes, communities and schools
13. Develop policy among all service providers emphasizing the social and rights aspects of disability
14. Raise awareness about services available
15. Ensure adequate health insurance for disabled children as part of
the insurance basic benefit package
16. Ensure that buildings meet standards of accessibility for the disabled
17. Ensure schools equipped for the reintegration of disabled children, which a particular focus on the mentally disabled
18. Ensure adequate public transportation for the disabled

Community Responsibility

19. Ensure awareness of the rights of disabled children
20. Change attitudes towards disabled children, including among disabled children themselves
21. Ensuring that disabled children know and understand their rights, with a focus on girls
22. Address the marginalization of mentally disabled children

International Responsibility

23. Pressure Israel to respect its responsibilities under international human rights and humanitarian law

Monitoring and Reporting:

24. There needs to be a national survey detailing the number of Palestinian children living with disabilities
25. Indicators need to be developed which demonstrate the causes of disability
26. There needs to be an agreed upon definition of disability addressing both time and extent so that monitoring is consistent
27. Need to ensure the existence of a centralized database to which all cases will be entered. This database should be expanded from the one being currently developed between the General Union and MoSA
Child Protection in the OPT
According to the Ministry of Detainees and Ex-Detainees, Israel has arrested approximately 3,000 Palestinian children since the beginning of the current Intifada in late September 2000. There are currently 304 Palestinian children being held in Israeli prisons and detention centers.

The detention of Palestinian children is one facet in the comprehensive system of control exercised by the occupying power against Palestinian civilians. In direct contravention of the CRC, Israeli authorities do not imprison Palestinian children only as a measure of last resort and for the shortest period of time (Art. 37-B). Rather, prison is the first and only measure Israeli forces prescribe for the Palestinian children they arrest—there is no attempt at exploring alternative procedures which would take into account the best interests of the child.

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49 "Palestinian Political Child Prisoners in Israeli Prisons; Monthly Update" April 2005; Issued by Child &Youth Department Ministry of Detainees and Ex-Detainees Affairs
50 ibid.
**Distribution of child prisoners according to Prison/Detention Center**

<table>
<thead>
<tr>
<th>Prison/ Detention Centre</th>
<th># Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Israel (214)</td>
<td></td>
</tr>
<tr>
<td>Telmond:Hasharon and Ofek (boys) (IPS)</td>
<td>101</td>
</tr>
<tr>
<td>Telmond (girls) (IPS)</td>
<td>5</td>
</tr>
<tr>
<td>Ramleh prison (girls) (IPS)</td>
<td>4</td>
</tr>
<tr>
<td>Keseot (Naqab) (Army)</td>
<td>39</td>
</tr>
<tr>
<td>Meggeddo (IPS)</td>
<td>57</td>
</tr>
<tr>
<td>Salim (Army)</td>
<td>1</td>
</tr>
<tr>
<td>Jalameh (IPS)</td>
<td>4</td>
</tr>
<tr>
<td>Asqalan (IPS)</td>
<td>1</td>
</tr>
<tr>
<td>Hadarim (IPS)</td>
<td>2</td>
</tr>
<tr>
<td>Remonim (IPS)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>304</strong></td>
</tr>
</tbody>
</table>

| In West Bank including Jerusalem (90)    |            |
| Ben Yamin (Army)                        | 7          |
| Ofer (Army)                              | 63         |
| Hewwarah (Army)                          | 1          |
| Etzion (Army)                            | 17         |
| Russian Compound (Masqobeyya) (IPS)     | 2          |

**Israeli military orders—promulgated by Israeli military commanders rather than legal professionals—provide the legal basis for arrest and detention procedures of Palestinians in the West Bank and Gaza Strip, including children. Many of these orders contravene international human rights standards in general and the CRC in particular. For instance, Israeli Military Order 132 defines 14-16 year-old Palestinians as teenagers, which has the result of allowing 16 and 17 year-olds to be treated as adults. Concurrently, Article 2 of the Israeli juvenile offenders ordinance defines an Israeli child as anyone who has not attained the age of 18. The very existence of the system of military orders is in violation of the CRC in that they apply only to Palestinians living in the OPT and not to Jewish**

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Israeli settler children also living in the OPT. The fact that two systems of law exist in the OPT, applied according to nationality, violates the non-discrimination clause of the CRC.52

There are no specialized facilities, courts, or personnel for children with the singular exception of Telmond Prison. Children often have no access to lawyers or family visits, are detained for long periods of time and often without charge and are commonly deprived of education,53 proper nutrition, healthcare, bathing and bathroom facilities, and recreation. There is widespread evidence of children being detained not only among adult populations, but also among adult criminal populations. These abuses represent severe and systematic violations of the CRC, including:

- The right not to be arbitrarily arrested (Art. 37-B and 40)
- The right to be informed of the reason of arrest (Art. 40)
- The right of access to lawyers (Art. 37-D)
- The right to have their families informed of their arrest and place of detention (Art. 3-C)
- The right to be brought promptly before a judge (Art. 40)
- The right to challenge the lawfulness of detention (Art. 40)
- The right to maintain direct contact with their families (Art. 37-C)
- The right to be treated with humanity and respect of a human being's inherent dignity (Art. 37-C & 40.1)
- The right to not be subjected to torture, cruel, inhuman and degrading treatment (Art. 37-A)
- The right to separation from adult prison populations, unless considered in the child's best interests (37-C)
- The right to not be forced to confess (Art. 40)

53 Telmond prison, in which currently 29% of Palestinian child prisoners are being held, is the only prison which offers any educational facilities. However, even here, children receive only six hours of instruction per week and all children receive the same elementary level of teaching regardless of age. Teaching is often suspended for months, and children are never provided with books. "Palestinian Political Child Prisoners in Israeli Prisons; Monthly Update" February 2005: Issued by Child &Youth Department Ministry of Detainees and Ex-Detainees Affairs
As the tables show, not only is the practice of detaining/imprisoning children on the rise, but younger children (14 and under) constitute an increasing number of the cases. This is partially as a result of Israeli Military Order 132 of 1999 that allows for the arrest of children aging from 12 to 14. The experience of DCI and MoDEDA working with detained children also indicates that sentences are becoming more severe. The longest sentence ever administered to a child stood formerly at three years. However, according to the MoDEDA's data for January 2005, four children who are currently imprisoned have received sentences of 5-9 years, and three have received sentences of 15 years.54

<table>
<thead>
<tr>
<th>Age in Years</th>
<th># of Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 years</td>
<td>134</td>
</tr>
<tr>
<td>16 years</td>
<td>111</td>
</tr>
<tr>
<td>15 years</td>
<td>44</td>
</tr>
<tr>
<td>14 years</td>
<td>10</td>
</tr>
<tr>
<td>&lt;14</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>304</td>
</tr>
</tbody>
</table>

Current Child Detainees according to Year of Their Arrest and Type of Imprisonment56

<table>
<thead>
<tr>
<th>Year of Arrest</th>
<th>Pending Trial</th>
<th>Sentenced</th>
<th>Administrative Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2003</td>
<td>14</td>
<td>23</td>
<td>2</td>
</tr>
<tr>
<td>2004</td>
<td>139</td>
<td>68</td>
<td>9</td>
</tr>
<tr>
<td>2005</td>
<td>39</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>192</td>
<td>99</td>
<td>13</td>
</tr>
</tbody>
</table>

54 ibid.
55 “Palestinian Political Child Prisoners in Israeli Prisons; Monthly Update” April 2005; Issued by Child &Youth Department Ministry of Detainees and Ex-Detainees Affairs
56 ibid.
### Distribution of Children According to Charges

(Out of 200)\(^{57}\)

<table>
<thead>
<tr>
<th>Charge</th>
<th>Number</th>
<th>Pending Trial</th>
<th>Sentenced</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Without Charges (Secret File)</strong></td>
<td>11</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td><strong>One Charge</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Throwing Stones only</td>
<td>22</td>
<td>14</td>
<td>8</td>
</tr>
<tr>
<td>Molotov Cocktail only</td>
<td>10</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>Initiating a contact to kill Israelis/attempt/ a plan to carry out attacks</td>
<td>11</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Membership in Military wings of Palestinian Organizations</td>
<td>12</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>Attempt to kill Israelis/stabbing, shooting fire…</td>
<td>12</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Possession of weapons or explosives</td>
<td>7</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td>Killing Israelis</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td><strong>More than one Charge</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Molotov and stones</td>
<td>15</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>Membership+(stones and/or Molotov)</td>
<td>15</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Membership +Possession+ attempt to kill</td>
<td>34</td>
<td>23</td>
<td>11</td>
</tr>
<tr>
<td>Entering Israel without permission+ Attempt to</td>
<td>6</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Intifada activities (incitement, demonstration, posters, graffiti)</td>
<td>5</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Membership + Assisting wanted persons or organizations</td>
<td>7</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Membership +military Training + recruitment</td>
<td>5</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Membership + transfer of weapons</td>
<td>3</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Membership + implantation of explosives</td>
<td>6</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td><strong>Not charged Yet</strong></td>
<td>17</td>
<td>17</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>200</td>
<td>126</td>
<td>63</td>
</tr>
</tbody>
</table>

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\(^{57}\) *Palestinian Political Child Prisoners in Israeli Prisons; Monthly Update* February 2005; Issued by Child & Youth Department Ministry of Detainees and Ex-Detainees Affairs
There has been very little analysis of the socioeconomic situation of Palestinian child detainees in Israeli prisons and their families. This analysis is important for determining the needs of the detainees upon their release.

Understanding the socioeconomic conditions of the child detainees is also important to work towards prevention. While many of the arrests are arbitrary, some children are arrested for activities such as stone-throwing in which they did participate. Obviously the overriding reason for political participation is the occupation itself and the right of resistance; however
it is important to understand whether and how socioeconomic conditions determine children's participation. For instance, poverty may make children more "at risk" of detention. Because of poor families' marginalization, they may be even more vulnerable to Israeli violence and its effects, and they may be less able to prevent their children from engaging in activities that would threaten their safety.62 Large family size and poverty can create a lack of security and stability for children, and may lead to varying levels of neglect. Families in this situation may be unable to monitor the behavior of their children at all times to ensure that they do not engage in dangerous activities or go to known areas of friction. Furthermore, children living in poverty are more likely to either be unemployed drop-outs or child laborers—categories which are overrepresented among detainees in comparison with the general child population. There are many possible reasons for this including the lack of supervision and the fact that many child laborers work at checkpoints which are natural friction points and at which soldiers are always present. Finally, children living in poverty have less access to cultural, entertainment and safe play activities which would occupy their time, leaving them more unsupervised time in which to engage in risky activities.

Location also can be a risk factor for child detainees. As the table above shows, 25% of child detainees are from the Nablus region. This is a result of the fact that the Northern region has been much more exposed to Israeli incursions. Conversely, there are currently only eight children detainees from the Gaza Strip, as Israeli military policy there tends towards shooting rather than arresting.63

63 39% of children in the OPT live in Gaza and 56.4% of children killed have been in Gaza, and thus they are overrepresented among the total child population. Numbers from PCBS.
Finally, as the table below shows, the type of area in which children live may put them at greater risk. For instance, children living in villages and towns are greatly over-represented among child detainees, as are children from refugee camps. Children from refugee camps are more vulnerable to arrest as the camps are natural friction areas being common targets of Israeli military incursions.

<table>
<thead>
<tr>
<th>Type of Residency</th>
<th>Percentage Total Child Population</th>
<th>Percentage Child Detainee Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Villages &amp; Towns</td>
<td>28.6%</td>
<td>47%</td>
</tr>
<tr>
<td>Refugee Camps</td>
<td>16.6%</td>
<td>24%</td>
</tr>
<tr>
<td>Cities</td>
<td>54.7%</td>
<td>29%</td>
</tr>
</tbody>
</table>

Case Study: Muhammad Zalum, age 17, from Ramallah

Muhammad was arrested at Qalandia checkpoint between Ramallah and Jerusalem on 27 July 2004, accused of having a knife in his bag. Two years earlier, he had been shot seven times by an Israeli soldier while running an errand to buy milk. He still suffers from shrapnel in his legs and abdomen. During interrogation after his arrest, Muhammad was beaten by the interrogators. He tried to tell them about his injuries and protect those areas, but they ignored him. As a result, he decided to confess for doing something he didn’t do. Muhammad is now detained in Al-Maskobia detention center in Jerusalem. He still has shrapnel in his body—including in one of his kidneys. He is not receiving any type of medical services or care.

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64 “Palestinian Political Child Prisoners in Israeli Prisons; Monthly Update” February 2005; Issued by Child & Youth Department Ministry of Detainees and Ex-Detainees Affairs

65 Percentages from interview with PCBS official; 15 February 2005.
Governmental Responsibility

Legal Framework

Child ex-detainees are not addressed in the Palestinian Child Law. Article 44 of this law outlines "hardship cases." Article 46-2 states: "The State shall take appropriate measures to promote physical and psychological rehabilitation and the social reintegration of the child victim of armed conflicts or of any hardship cases stipulated in Article (44) of this Law." Child ex-detainees are not listed as a specific "hardship case," and while an argument can be made that these children are "victims of armed conflicts," their continuing marginalization after release indicates that they should be addressed legally as a specific category of children in need of protection. This would confer specific responsibilities on the government.

Government Services

As one would expect, children subjected to this treatment during their formative developmental years do not escape unscathed. In addition to the psychosocial implications for these children, they face difficulties finishing their education, finding employment and generally relating to people who do not share their experience. The government has a responsibility to provide for the range of needs these children have upon release in order to facilitate their rehabilitation. This responsibility is clearly outlined in the CRC, which states that "States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of...torture or any other form of cruel, inhuman or degrading treatment or punishment..." (CRC Art. 39) However, as it stands, the sector is defined by a lack of both financial and human resources.

There are three phases in which child detainees require assistance: they require public awareness in order to prevent detention to the maximum extent possible, they require legal and material support during their incarceration, and they require services upon their release to assist them in rehabilitation and reintegration.
Child Protection in the OPT

Prevention

The government has responsibilities in terms of prevention. As stated above, arrests are often random, and thus may be unpreventable. But there are things which children can do to reduce the risk of arrest. For instance, there are areas they should avoid—particularly near settlements, and children (over 16) should always carry their IDs. As it stands, there is a lack of public awareness on methods of avoiding arrest. To this end, the National Plan of Action for Palestinian Children 2004-2010 outlined offering a program for raising awareness on the dangers of arrest in all schools as a strategic goal.66

Services while Incarcerated

a. Legal and In-kind Support

MoDEDA, DCI, the International Committee of the Red Cross and UNICEF provide services for children while they are incarcerated. In 2000, MoDEDA established a department for youth and childhood funded by UNICEF. This department provides legal support and lawyers' visits to female and child detainees. They monitor conditions and keep a file on each case in a database. The department also periodically provides children with their daily needs as well as psychosocial support for the children and their families. The National Plan of Action for Palestinian Children 2004-2010 calls for adequate in-kind assistance and legal services, as well as active coordination among relevant organizations as strategic goals.67

There is a further service gap in terms of maintaining connections between detained children and their families, which is of great importance in mitigating the long term effects which imprisonment has on children.68

b. Rights Awareness

There is a lack of public information regarding what children and families should do in case of arrest. In order to address this, the National Plan of

67 ibid. p.311.
Action for Palestinian Children 2004-2010 outlined offering a program for raising awareness about the rights of child detainees, focusing on schools near friction areas as a strategic goal.69

c. Advocacy

MoDEDA monitors and advocates for child detainees on all levels. It regularly produces reports, statistics and case studies about the child detainees.

The PNA must place the issue of child detainees on the political agenda during negotiations calling for an immediate and unconditional release of all Palestinian children.

Rehabilitation and Reintegration

Few services are available to children upon their release.70 The work of the majority of agents in the field of child detainees, including the MoDEDA, focuses primarily on the release of and care for adult detainees. MoDEDA provides educational and health services, loans and vocational rehabilitation for all detainees, including children. It has started offering further services addressing the reintegration of children ex-detainees. It provides counseling to the family in preparation for their release, and they visit the child with his/her family three times in order to provide counseling and prepare an intervention plan with the child in order to reintegrate him/her into school or vocational training.71

The MoE works with MoDEDA on reintegrating children in school. If a child has missed only a portion of his/her school year, the child will be tested to determine where extra help is needed, and he or she will be able to make up those subjects during the summer. However, in most cases, the child has missed too much school and must repeat the year.72

The Ministry of Social Affairs is another of only a few agents that provide psychological support and vocational training for released children. In

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70 Deek, Daoud, MoDEDA, 2004.
response to gaps in the reintegration field, the National Plan of Action for Palestinian Children 2004-2010 called for specialized rehabilitation, professional, educational, psychological and health programs for released child detainees.⁷³

**Community Responsibility**

**Prevention**

Political parties often manipulate released children, telling them that they are adults rather than respecting their needs for normalcy and protection as children. Furthermore, there have been cases in which children are used or exploited by others to carry out activities which put them in danger, and at times lead to the child's arrest.⁷⁴ Society as a whole must condemn the exploitation and endangerment of children, irrespective of the cause for which these children are being exploited.

Communities and society have a role in monitoring the behavior of children, particularly in at-risk areas and socioeconomic situations. As discussed above, despite the arbitrary nature of many arrests, there are certain sectors of the child population which are more at-risk including poor children, children living in villages and refugee camps, children not in school, and children in the Nablus region. Often friction areas are known, and the community as a whole has a responsibility to monitor the movement of children around these areas. Furthermore, the community has a responsibility to provide cultural, entertainment and safe play activities for children, particularly marginalized and isolated children. Children engaged in activities are less likely to visit friction areas and engage in risky activities. Furthermore, communities can engage children in resistance activities that do not endanger them such as art, writing, drama, musical, letter-writing activities and peaceful demonstrations in the cities. These suggestions came from children themselves as part of a psychosocial assessment study of Palestinian children.⁷⁵

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Rehabilitation and Reintegration

Child ex-detainees are afflicted with various psychosocial problems upon their release. These may include: fear of leaving their houses, anxiety, lack of self-control and anger management, lack of concentration, no desire to play, feelings of isolation and that those around them cannot help or understand them, and weak communication skills and inability to discuss their experiences. Those around them may not know how best to help these children. Those in the child's immediate social sphere may not encourage them to express themselves, and families may become overprotective.

Children who undergo the ordeal of imprisonment may face a fundamental identity change as their time in prison represents a significant break from the normalcy of childhood. In prison these children are treated as adults and as part of a larger system of political activism. Thus, the transition to a normal childhood may be jarring and less attractive than continuing a life with the trappings of adulthood. Furthermore, often these children are embarrassed to return to school because having missed long periods of schooling, they will be placed with younger children. Civil society plays an important role in offering needed support to families in helping to reintegrate these children, offering them a sense of normalcy and stability as children.

International Responsibility

The Article 4 of the Fourth Geneva Convention defines "protected persons," which include individuals who find themselves in the hands of an Occupying Power of which they are not nationals. Article 27 states, "...They shall at all times be humanely treated and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity." There are approximately 25 articles which offer special protection for children. This includes article 77.1 of Protocol I, which states: "Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason."

76 Deek, Daoud, MoDEDA, 2004.
According to the Fourth Geneva Convention, protected persons have the right to *inter alia*:

- Freedom from torture (Art. 31, 32 and 147)
- Prompt information on the charges against them (Art. 71)
- Defense and legal counsel (Art. 72)
- An interpreter during interrogation and hearings in court (Art. 72)
- Submit an appeal (Art. 73)
- Detention inside the occupied territory (Art. 76)
- Condition of food and hygiene sufficient to maintain good health (Art 76)
- Not to undergo physical or moral coercion, in particular to obtain information (Art. 76)

Article 76 specifically addresses children: "Proper regard shall be paid to the special treatment due to minors."

Israel is clearly in breach of the Fourth Geneva Convention in terms of its treatment of Palestinian child detainees, and it is incumbent on the international community to ensure that it meets its responsibilities under International Humanitarian Law.

The international community has a responsibility to pressure Israel to implement the following:

- Implement relevant international human rights and humanitarian law
- Protect children from physical and mental violence
- Ending arbitrary arrest and administrative detention
- Non-subjection of civilians to military courts
- Improving the incarceration conditions in Israeli prisons
- Providing appropriate legal defense
- Providing for children's right to education inside prison
- Allow family visits

### Monitoring and Reporting

MoDEDA has initiated a program funded by UNICEF and SIDA Sweden establishing a database and MIS system. This has already greatly improved the Ministry's capacity to coordinate NGOs such as DCI and Nadi El Asir (Prisoners' Club) that guarantee free legal representation for all Palestinian children in Israeli prisons.

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78 ibid. p. 41.
Recommendations

Governmental Responsibility

1. Based on research identifying conditions which put children at greater risk of arrest, develop prevention policies
2. Add provisions for child detainees and ex-detainees in the Child Law
3. Provide financial and human resources for effective rehabilitation programming
4. Provide strong legal support for children in detention
5. Provide public information on prevention techniques and available services, legal and rehabilitation
6. Child detainees must be a priority on the political agenda during negotiations
7. Make available specialized psychological and social services

Community Responsibility

8. Create a culture in which child endangerment is intolerable and in which individual community members feel a responsibility to act to prevent or stop child endangerment

International Responsibility

9. Pressure Israel to meet its obligations under international human rights and humanitarian law, with particular emphasis on fair trial rights

Monitoring and Reporting

10. Monitor and evaluate trends in Israeli detention of Palestinian children
11. Improve data collection and analysis of "at risk" sectors of children among the general population
12. Monitor and evaluate the services provided for detained children after their release
Child Protection in the OPT
## Children in Conflict with the Law

According to MoSA, there were 766 children formally in conflict with the law in 2004. However, these numbers do not capture the size of the phenomenon as many cases of children in conflict with the law go unreported. Most cases involving children are resolved through family and community mediation in an effort to keep these matters private and downplay their importance. Cases involving girls are even less likely to reach formal channels. Girls are vastly under-represented among children in conflict with the law partially because they receive a greater level of supervision from their families. Furthermore, families are extremely resistant to having girls enter the system because of the implications for the family's honor. Since the current record-keeping system was established in 1998, the percentage of girls among children accused of crimes has never risen above 2.7%.

<table>
<thead>
<tr>
<th></th>
<th>Boys</th>
<th>Girls</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>9-12</td>
<td>47</td>
<td>-</td>
<td>47</td>
</tr>
<tr>
<td>13-15</td>
<td>136</td>
<td>-</td>
<td>136</td>
</tr>
<tr>
<td>16-18</td>
<td>171</td>
<td>1</td>
<td>172</td>
</tr>
<tr>
<td>Total</td>
<td>354</td>
<td>1</td>
<td>355</td>
</tr>
</tbody>
</table>

---


While there appear to be extremely negative long-term effects resulting from conflict which increases the incidence of children in conflict with Palestinian domestic law, in the short term, the current Intifada has actually witnessed a drop in the delinquency rate. While the number of accused juvenile offenders is on the rise again, it has not reached pre-Intifada levels. One reason for the drop during the Intifada was the destruction of rule of law institutions such as the police. As these institutions are being rebuilt, the number of children being brought formally into the justice system is increasing.

| Juvenile Offences in the West Bank in 2004\(^{82}\) |
|-----------------|-----|
| Assault         | 29  |
| Property Damage | 12  |
| Murder          | 4   |
| Attempted Murder| 7   |
| Breaking & Entering | 8    |
| Theft           | 161 |
| Possession of Drugs | 1    |
| Dishonoring Someone | 5    |
| In Suspicious Circumstances | 2    |
| Beating         | 16  |
| Injuring Someone| 49  |
| Maiming Someone | 1   |
| Homeless        | -   |
| Insulting/Slander | 17  |
| Disorderly Conduct | 1    |
| Sodomy          | 8   |
| Unethical Behavior | 2    |
| Traffic Violation | 4    |
| Other           | 28  |
| Total           | 355 |

| Children in Dar Al-Rabi'a Center in Gaza by Accusation or Crime in 2004\(^{83}\) |
|-----------------|-----|
| Theft/Participation | 69  |
| Breaking-in/Participation | 67 |
| Murder           | 3   |
| Attempted Murder | 3   |
| Assault          | 52  |
| Unethical Behavior | 17  |
| Possession of Drugs | 2    |
| Other            | 24  |
| Under investigation | 7 |
| Total            | 253 |

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83 ibid.
Contributing Factors

While today the size of the phenomenon in the OPT is small relative to many other countries, it cannot be underestimated given the lessons of the first Intifada. That is, if in fact both the first Intifada and the resulting changes in society such as high unemployment and increasing poverty cannot be separated from the causes of children in conflict with the law, then the issue requires heightened research and analysis in order to prevent an equivalent increase following the present Intifada.

<table>
<thead>
<tr>
<th>Contributing Factors for Delinquency in the West Bank 2004(^{84})</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death of parents</td>
<td>32</td>
<td>8.8</td>
</tr>
<tr>
<td>Polygamy</td>
<td>16</td>
<td>4.4</td>
</tr>
<tr>
<td>Divorce</td>
<td>12</td>
<td>3.3</td>
</tr>
<tr>
<td>Method of Child-Rearing</td>
<td>87</td>
<td>24</td>
</tr>
<tr>
<td>Poverty/ Unemployment</td>
<td>81</td>
<td>22.4</td>
</tr>
<tr>
<td>Chronic Illness</td>
<td>25</td>
<td>6.9</td>
</tr>
<tr>
<td>Absence of household head</td>
<td>26</td>
<td>7.2</td>
</tr>
<tr>
<td>Unethical Behavior</td>
<td>21</td>
<td>5.8</td>
</tr>
<tr>
<td>Natural Family</td>
<td>62</td>
<td>17</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>362</strong></td>
<td><strong>99.8</strong></td>
</tr>
</tbody>
</table>

Other factors, which contribute to children coming into conflict with the law in the OPT that may or may not be directly related to the Intifada, include divorce, polygamy, family quarrels, chronic disease in the family, and ineffective or inappropriate methods of child rearing. The table above represents an attempt by MoSA to isolate the primary cause for a child to come into conflict with the law—however, it is unclear how they determined the primary factors particularly in view of the fact that children in conflict with the law are generally effected by a number of factors which compound each other and cannot be easily disaggregated. For example, poverty is listed as a factor, as is method of child-raising. In reality, a child may be facing both of

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these conditions, and it is unclear which is the causal factor. There is a need for more nuanced analysis of the contributing factors leading children to come into conflict with the law.

According to statistics from MoSA in 2004, children aged 16-18 represent nearly half of all child in conflict with the law in the West Bank, and are thus extremely overrepresented. Psychologically, emotionally and physically this age represents a critical stage in children's lives and meeting the needs of this age group should be emphasized nationally. Finally, it is important to note that nearly 25% of children who came into conflict with the law in 2004 in the West Bank work, whereas only 1.7% of the general population were found to be child laborers in 2004.

**Rule of Law Issues**

There are other aspects of the current conflict and the overarching system of occupation which provide the context in which children in conflict with the law must be considered. The introduction of this paper described the preclusion or destruction of rule of law institutions by Israeli forces as a cross-cutting framework issue. This is particularly poignant in the context of children in conflict with the law. The ICG describes the current situation of rule of law in the OPT as one in which,

Gun ownership by private individuals has reached alarming levels, all the more disquieting since Israel bans security officials from carrying their own. This combined with the strengthening of kinship solidarity, loosening of central control, rising domestic violence and the merciless pressures of daily life, helps explain why altercations turn violent and escalate into clan-based vendettas with growing frequency.

The issue of children in conflict with the law becomes even more complex in the context of a virtual absence of legal and enforcement institutions. Jenin mayor, Abu Mwais, warns of the long-term effects that the OPT’s increasing lawlessness is having on children:

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88“Who Governs the West Bank? Palestinian Administration under Israeli Occupation.” International Crisis Group; Middle East Report No. 32. 28 September 2004. p. 18
Due to their constant exposure to violence our children will be our greatest problem in the future. A kid who is not afraid of a tank won't care about what he's told by a policeman carrying a pistol, and it will be very difficult to enforce the law on him. If we don't start paying attention to children being raised on violence and a lack of fear now, it will be a huge problem in future.  

The ICG report goes on to state: "Others also point to the destructive nexus of poverty and gun ownership, in a context where children are regularly exposed to a reality of disputes and problems being settled by weapons."  

Drug Use

One issue which is currently very much on the rise is drug use, particularly in Jerusalem. A 1999 study by the Arab Thought Forum found that some 5,000 Palestinians in Jerusalem (2.4 percent of the city’s Arab population) were addicts and 10,500 (5.5 percent) had used illegal drugs. Matters have gotten worse since then:

The strains of these past three years – since the start of the current Palestinian Intifada – have caused fissures in family and community structures and resulted in a lack of educational, professional and recreational opportunities for Palestinians. Making matters worse are the limited resources to combat drug abuse in the Holy Land, though some efforts are finding success in East Jerusalem.

There have been no comprehensive studies on drug addiction in the West Bank or Gaza Strip, however rough estimates put the number at 5,000 addicts in the West Bank, and an equal number in the Gaza Strip.

Michal Sayegh, who conducted the research for the Arab Thought Forum, sees drug addiction as a problem particularly effecting children: “What we see now is the number of youths using drugs is increasing and the average age of the user is decreasing. We used to talk about 18 as the age when young people began to use drugs. We can now talk about the age...
15 or 16.” However, in 2004, only three children were accused of drug possession in the West Bank and Gaza Strip. This may be because as it stands, the law enforcement system does not have the capacity to find cases or to bring them into the justice system.

It is important to understand the phenomena of drug use by children in the context of the CRC, which states in Article 33 that “States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances…”

**Governmental Responsibility**

The CRC puts strong emphasis on the role of the government in protecting children who are in conflict with the law. Article 40 states that:

State parties have to recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law, to be treated in a manner consistent with the promotion of the child's sense of dignity and worth which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

These principles are further articulated in The United Nations Standard Minimum Rules for the Administration of Juvenile Justice: "The Beijing Rules" and the United Nations Guidelines for the Prevention of Juvenile Delinquency: "The Riyadh Guidelines." Despite this strong framework under international law, the PNA is not meeting its responsibilities—nether in terms of the national legal framework, nor in terms of service provision.

Responsibilities on all actors (government, civil society and international society) can be divided into four key phases in terms of children in conflict with the law: prevention—in terms of early identification and support, administration of justice, deprivation of liberty/alternatives and rehabilitation/reintegration. The PNA has

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93 ibid.
important responsibilities addressing all four of these phases. When needed policies and services addressing children in conflict with the law are not available, delinquency will increase. There is an urgent need for appropriate laws, services addressing both prevention and intervention, cooperation among institutions, and skilled professionals working in the field. However, at this time, the issue of children in conflict with the law is not prioritized.94

**Legal Framework**

While the judicial system is being revamped, little awareness on child issues exists and child rights are not prioritized. The Child Law does not offer protection for children in conflict with the law which meets international standards. For instance, articles 67-69 of Chapter XI, sets a minimum age for criminal responsibility at nine. It is important to note that local agencies are taking action to raise the age of criminal responsibility. Furthermore, while the law defines delinquency and lays out reform methods, it does not offer any protection of children in the legal system or in institutions. Finally, Art. 47 and 48 (see below) may lead to the overuse of institutionalization as it addresses the environment of the child rather than actions the child has taken which come in conflict with the law.

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Relevant Sections of the Child Law

Article (47)
1. A child is deemed to be under the threat of delinquency if he is found in any of the following conditions:
   a. If he is found begging or engaged in a practice indecent as a means of earning a living
   b. If he acts like a recalcitrant child towards his parent or guardian
   c. If he frequently plays truant from house, school, or college
   d. If he is accustomed to sleeping in places that are uninhabitable or non-residential.
   e. If he is found to regularly frequent morally or socially suspicious places or to mix with the corrupt and vagabonds.
   f. If he gets involved in acts related to prostitution, immorality, profligacy, gambling, drug use or traffic, or serves persons who are involved in such acts.
2. The States shall take appropriate care, fosterage, or reformation measures, if the child is found in an environment that may endanger his moral, psychological, physical and educational integrity.

Article (48)
Fosterage measures:
1. Handing the child to a person with moral integrity and who is able to provide him/her with fosterage from amongst the following:
   1. his parents or either one of them
   2. someone who has the right of guardianship over him
   3. one of his family members or relatives
   4. an alternative family that pledges to provide him with fosterage
   5. an officially recognized institution acting in the field of care for children
2. Admonition and warning
3. Prevention from frequenting certain places
4. Prevention from practicing certain jobs.

Article (49)
Reformation measures:
1. Subjection of the child to systematic social control in his natural environment
2. Obliging the child to do certain duties such as participation in suitable vocational training, cultural, social or sport courses.
3. Placement in a specialized delinquents reformatory institution or house

Article (52)
The Guide for the Protection of Childhood is entrusted with the mission of preventive intervention in all hardship cases where the health of the child, or his or her physical or moral safety are at risk, particularly the cases stipulated in Article (44 and 47) of this Law.
The situation of children and the justice system is currently under review. The Ministry of Justice is working to develop specialized courts and police to address cases involving children. The NPA Secretariat is lobbying to bring juvenile justice under the Ministry of Social Affairs. It advocates the use of special chambers rather than a court solely addressing children's issues. The special chambers would be equipped with specialized judges, lawyers and other legal professionals.

The issue of juvenile justice will be addressed in the Juvenile Justice Law, which is currently in early draft form. Several actors have worked towards the formation of this law including PICCR in 1999, Al Haq in 2002 and Diwan el-Fatwa in the Ministry of Justice in 2003. The draft law is based on the 1974 Egyptian Juvenile Delinquency Law. This is despite the fact that Egypt has amended this law in response to its ratification of the CRC. The draft law contains many weaknesses including, among others, setting the age of criminal responsibility at nine, not guaranteeing legal representation, and providing no provisions for the separation of children from adults awaiting trial. However, the law is still in draft form and issues of juvenile justice are still subsumed under the pre-existing confused matrix of law systems.

There are no specialized juvenile courts; however, in Gaza, courts may function as juvenile courts following Egyptian law. Since there are no juvenile courts, judges are given the responsibility of handling child cases in adult courts. Judges may mitigate the penalties with consideration of a child's age: according to the Penal Procedure Law Article (298) "The court may, when issuing a ruling...order in that same ruling the stay of execution. It may do that if it senses from...his age...that he will not violate law again." However judges are often inadequately trained, inexperienced and unaware of child rights issues. The Draft Penal Code does not ameliorate this situation as children aged 10-18 are not distinguished in it, and thus are subject to the same penalties, with the exception of capital punishment.

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UNICEF explains the situation of juvenile justice:

There are three options available for trial of juveniles. They may be tried exactly the same as adults, they may be treated through social work methods and not brought to court, or a combination of the two approaches...In the current Palestinian system, trial of juveniles is in normal courts by juvenile rules. It is an 'as if' system of juvenile justice. De facto juveniles are treated differently in court following special procedures and using penalties and places of detention that differ from those designated for adults. The basic objective for delinquents is less retribution than rehabilitation and reinsertion. Judges are expected to be competent in both legal and social work fields, although there is no specialized training.98

There are several legal loopholes in the current system of juvenile justice. For instance, at times a child is accused of a crime which was actually committed by the child's parent because the penalties for children are less.99 The lack of sufficiently skilled child professionals in the justice system prevents the judges from ascertaining the truth in these situations. Furthermore, if a child is accused of a crime, he/she will be tried in a court acting as a juvenile court if he/she is suspected to have acted alone. If he/she is suspected to have had an adult accomplice, he/she will be tried in an adult court.100

**Governmental Services**

There is a lack of a comprehensive national policy directly addressing the treatment and prevention of children coming into conflict with the law. Related to this, there is a substantial lack of financial and qualified human resources required for the work needed in the area of children in general in the OPT, and this sector is no different. If more resources were available it would assist in addressing some of the other problems in this area, such as: a lack of community awareness about the reasons for children coming into conflict with the law and means by which it could be prevented, and about the importance of the community role in helping juveniles reintegrate into society, a lack of reliable analytical studies on the phenomenon of children in conflict with the law in the OPT, and a lack of record keeping to be used in monitoring and research.

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98 "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC, August, 2000. p.83
99 Dr. Arafat, Cairo. The NPA Secretariat. Interview, 13 September 2004.
100 Dirawi, Daoud. DCI- Palestine. Interview, 25 September 2004.
Both governmental and non-governmental organizations work in the field of juvenile delinquency; however, none specialize exclusively on the topic. Furthermore, there is no work being done towards identifying and working with "at risk" children. No focus is given to children on the streets or school drop-outs as particularly at risk groups. Rather, many institutions work with youth as a whole, providing services such as social work, counseling, education, workshops and training. Furthermore, professionals working with children have inadequate knowledge of how to identify indicators of children becoming at risk.

The National Plan of Action for Palestinian Children 2004-2010 has identified the need to offer more programs for marginalized children, who by virtue of their marginalization might be at greater risk of coming into conflict with the law. This will be instrumental in preventing delinquency. Policies addressing marginalized children should be mainstreamed in all ministries such as the MoE and the MoL.

Poverty itself is a contributing factor to the marginalization and isolation of children, which can lead to them coming into conflict with the law. According to MoSA, 44% of children who came into conflict with the law in 2004 in the West Bank came from poor families. As it stands, programs run by the MoH, MoE, MoYS, MoC, MoI and NGOs do not target their programs sufficiently to children living in poverty.

The few institutions which do address children in conflict with the law are inadequate, particularly in terms of their limited number of specialized social workers. The fact that these institutions are inadequate increases the responsibilities of other institutions which are not designed to address children in conflict with the law.

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The relevant governmental institution addressing child delinquents is MoSA’s department of social defense. The department’s probation offers work in all districts directly with cases that are transferred to them from the police or the courts. The probation officers are responsible for follow-up, and they draft detailed reports on each child’s economic, social and health status, the contributing factors for his/her conflict with the law and the services provided.  

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103 Ministry of Social Affairs. Juvenile Delinquency Statistics 2004
104 ibid.
Children in Conflict with the Law

According to Article 3 of the CRC, the government has a responsibility to provide adequate institutions for children in conflict with the law, conforming "with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision." In 2004, nearly 35% of arrested children were brought to a rehabilitation center. More than half of the children are released into caregiver custodianship. Officials at MoSA have indicated that this is due to the lack of an efficient system addressing children in conflict with the law. However, child protection experts believe that institutionalization is often not an appropriate solution for children. Thus, this could be read as a positive step that professionals in the justice system are finding solutions for children who come into conflict with the law within their families and communities.

Children not sent to rehabilitation institutions may be sent to schools or vocational institutes. Only on rare occasions when a child is deemed to be a danger to him/herself or others, he or she will be sent to a prison. In reality, some children are sent to prison for logistical reasons. Moving prisoners between districts requires coordination between Israeli and Palestinian security forces. Often the Israeli army is not cooperative, and furthermore, the Palestinian security forces often neglect to take the issue seriously. No prisons are equipped with facilities for children. In 2004, there were 13 children from the West Bank being held in prison.

There are three rehabilitation institutions for children in conflict with the law: Dar Al-Amal rehabilitation center for boys in Ramallah, Dar Al-Rabi’a center in Gaza and Dar Al-Fatayat center for girls in Bethlehem. These centers take children transferred either from police custody or from courts. Sometimes they have already been sentenced, and at other times, their cases are still pending before the courts. It is important to note that during the Israeli incursions in the spring of 2002, Dar el-Amal center was destroyed. It has since been rebuilt.

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105 Ministry of Social Affairs. Juvenile Delinquency Statistics 2004. 766 children were formally accused of crimes. Of these, 267 were sent to Dar Al-Rabi’a in Gaza, 13 were sent to Dar Al-Amal in Ramallah, and one girl was sent to Dar Al-Fatayat in Bethlehem.
These institutions work on an extremely small scale. The Dar Al-Amal center in Ramallah currently houses only nine children. The average before the Intifada was approximately twenty children, and the drop is due to Israeli closure measures which prevent children from other West Bank cities from entering Ramallah. Throughout 2004, 253 boys were referred to Dar Al-Rabi'a in Gaza, 13 boys were referred to Dar Al-Amal in Ramallah and one girl was referred to Dar al Fatayat.

The Dar Al-Amal rehabilitation center serves children between the ages of 12 and 18 who are transferred from the court. They receive individual counseling and group therapy. The center also uses gardening and sports as methods of group therapy. It offers literacy programs and vocational training. Dar Al-Fatayat houses girls and women aged 12-25 and offers rehabilitation services.

The length of a child's stay at the rehabilitation center is determined by the judge and by the child's family situation. The longest possible term is four years, but terms are rarely longer than two years. According to Jordanian law, if a child is a threat to himself/herself or other children, he/she should be transferred from the rehabilitation center to prison. This has only occurred one time at the Ramallah center over the past six years.

Children in Jerusalem face even greater problems in terms of a lack of institutions addressing children in conflict with the law. The institutions that do exist are under the control of the Israeli government, which has arbitrarily closed many of them. Despite the efforts by the MoSA department of Social Defence through their office in 'Azeriya to assist children and institutions through services and support, more work is needed.

Another sector of children in conflict with the law in need of special focus are children from the OPT who are arrested inside Israel. There is no system addressing these children, and their treatment by Israeli officials is arbitrary. At times they are left at the checkpoints, and in one case, a child who had run away from the Dar al-Amal Rehabilitation Center in Ramallah was returned there by Israeli officials. However, most are taken to Israeli institutions.
Children in Conflict with the Law

military court (or at times civil court) and then jailed inside Israel. There is no coordination between Israel and any Palestinian organization on this issue, and these children are not counted among nor addressed by human rights organizations as Palestinian child detainees in Israeli prisons who are arrested in the OPT.113

Community Responsibility

In terms of prevention, there is a gap in awareness among families of the effects of neglect, the needs of teenagers, indicators of risk, and how to find ways of allowing their children to develop their own identity while concurrently monitoring their behavior and that of their friends. Public awareness is important to help parents understand threats in their children's lives. Furthermore, families need to be aware of the effect that violence has on children.

Communities as a whole also carry the responsibility of reporting on children's behavior. Schools in particular should take a role in reporting at-risk children to MoSA and following up with these children inside schools. Often children themselves do not have a clear concept of what it means to act against the law or to engage in antisocial behavior. They themselves should be educated on these issues.

Palestinian society carries the responsibility of ensuring that a child who has been in conflict with the law can be reintegrated. This means that this child should not be stigmatized. Public awareness-raising should work towards ensuring that societal beliefs and practices do not engage in “blaming the victim.” Rather, communities can use the "restorative approach" of community mediation involving family conferences with a formal impartial mediator, who would ensure that the process was founded in the best interests of the child. This approach is useful in allowing the child to listen to the victim and thereby understand his/her offence, and its social dimensions.114

Child Protection in the OPT

International Responsibility

As discussed above, rule of law institutions have been systematically undermined by the occupation. These institutions form the enabling factors for child protection as well as for addressing the needs of children in conflict with the law. The international community has the responsibility for pressuring Israel to ensure that these systems are allowed to function.

Furthermore, exposure to violence and poverty are two significant contributing factors to children coming into conflict with the law. Thus, it is necessary to work towards an end to the occupation and conflict using human rights as the basis for a just peace.

Monitoring and Reporting

Monitoring and reporting is extremely weak in this sector. While MoSA probation officers file reports on juvenile delinquents, there is a need for a unified, comprehensive case management system. There is also a need for a unified definition of children in conflict with the law and related issues.

Recommendations

Governmental Responsibility

1. Use the school system to raise awareness among children about threatening factors which may bring them into conflict with the law and also how to deal with these factors in more productive ways
2. Ensure the existence of legal and enforcement institutions specialized for children
3. Ensure the existence of adequate centers for rehabilitation which have the capacity to provide appropriate services according to the needs of each child and which encourage alternatives to deprivation of liberty
4. Ensure proper referral between MoSA, the justice system and rehabilitation centers. This system should be decentralized in order to address restrictions on freedom of movement due to the occupation
5. Set professional standards for all staff working in the field and ensure their qualifications according to core standards and according to their specific roles
Children in Conflict with the Law

6. Develop indicators to identify children at risk, and provide prevention programs for these children
7. Improve service provision across sectors including prevention, treatment within the justice system and reintegration and rehabilitation and ensure that these services are properly budgeted for by the PNA
8. Ensure that probation officers, police, judges, lawyers and social workers are specialized in children's issues
9. Continue working on developing the juvenile justice law
10. Ensure that children's rights as elaborated in the CRC are protected in the justice system
11. Ensure that MoE staff are aware of indicators of children "at risk" and that there is a reporting system in place between the MoE and MoSA

Community Responsibility

12. Raise awareness among the community of indicators that children are at risk and their development needs
13. Raise awareness among the community to not stigmatize children who have been in conflict with the law
14. Raise awareness among the community of children's rights which must be respected during mediation

International Responsibility

15. Prevent Israel from undermining the enabling factors for child protection such as freedom of movement, effective policing, infrastructure etc.

Monitoring and Reporting

16. There needs to be more data and information on children in conflict with the law in Jerusalem in terms of how they are addressed in the Israeli criminal system
17. There needs to be a clear reporting system on the national level in order to follow up on cases and for prevention purposes—this includes finding a method of reporting on cases that go through informal channels. Reporting forms should be standardized (particularly between the West Bank and Gaza Strip) and should include all relevant information
Child Protection in the OPT
Child Laborers

While child labor occurs in Palestinian society, it has received inadequate attention. This became apparent during discussions in a workshop held by PCBS in 2004 in response to its survey on child labor. Many discussants used a welfare rather than human rights perspective, arguing that as the sector of working children was not large in Palestine, it was not an issue on which attention should be focused. However, the growing incidence of child labor translates into rights violations for the children experiencing it now, as well as serious social implications for the future.

<table>
<thead>
<tr>
<th>Number of Child Labors (5-17) Years &amp; Percentage of Total Children, 2004(^\text{115})</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OPT</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5-11</td>
<td>9,155</td>
<td>1.2</td>
</tr>
<tr>
<td>12-14</td>
<td>8,869</td>
<td>3.1</td>
</tr>
<tr>
<td>15-17</td>
<td>4,546</td>
<td>0.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>22,570</td>
<td>1.7</td>
</tr>
</tbody>
</table>

| **West Bank**                                 |       |     |
| 5-11                                          | 7,587 | 1.6 |
| 12-14                                         | 6,651 | 3.8 |
| 15-17                                         | 3,505 | 2.3 |
| **Total**                                     | 17,743| 2.2 |

| **Gaza Strip**                                |       |     |
| 5-11                                          | 1,568 | 0.5 |
| 12-14                                         | 2,218 | 2.0 |
| 15-17                                         | 1,041 | 1.1 |
| **Total**                                     | 4,827 | 1.0 |

It is important to distinguish child laborers from children who work one or two hours a day in a safe, supervised environment with parental oversight and adequate time off. PCBS uses the following definition to distinguish between working children and child laborers. It defines child laborers as:

1. Children (5-11) years who worked one hour either for pay (cash or in-kind), or unpaid family and domestic workers during the reference period [of the statistical survey]

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2. Children (12-14) years who worked more than 14 hours a week, or the child worked under unsafe conditions (including if that involves domestic labor); child works in one of the 'worst forms' of child labor identified by ILO Convention C. 182\textsuperscript{116}; the child works under conditions as specified domestically in reference to Article 4 of C. 182.

3. Children (15-17) years who worked more than 40 hours a week, the child worked under unsafe conditions (including if that involves domestic labor), child works in one of the 'worst forms' of child labor identified by C. 182; the child works under conditions as specified domestically in reference to Article 4 of C. 182.

Owners of workplaces employing children are often in violation of the law. Exploitation is common, and children work long hours in unsafe conditions for low pay and without set vacations. Child labor can have long term health effects. For instance, it can lead to respiratory, hearing, sight or spinal problems, skin disease or disability. According to the 2004 PCBS study on child labor, 7.6% of working children are exposed to injuries or chronic diseases at work.\textsuperscript{117}

It also has long term educational effects. While among the general child population of children aged 6-17 years, 4.6% are not attending school, among child laborers, an average of 24.3% are not attending school.\textsuperscript{118} 55.6% of children who work and attend school work less than 15 hours per week, while more than two thirds of working children not attending school work more than 34 hours per week (71.2%). Child laborers work an average of 25.6 hours per week.\textsuperscript{119} Absenteeism leads to missed educational opportunities which adversely affect both knowledge and the development of critical thinking skills. Furthermore, the type of labor which children engage in may not develop their skills, and the work environment may not be safe, educational nor empowering. This situation of disempowerment

\textsuperscript{116} Art. 3 of the ILO Convention 182 states: For the purposes of this Convention, the term the worst forms of child labour comprises:
\begin{enumerate}
\item all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
\item the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
\item the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
\item work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
\end{enumerate}


\textsuperscript{118} ibid. p.20.

\textsuperscript{119} ibid. p.19.
creates an environment where children cannot interact with those around them proactively; rather they are forced into a situation of reaction.\textsuperscript{120}

The factors which force children into the labor force are complicated and difficult to analyze. However, some contributing factors can be identified including family expectations and traditions, abuse, lack of good schools, lack of other services like health care, and public opinion that downplays the risk of early work for children. Finally, the current conflict is also a contributing factor in terms of increasing the likelihood that the household head is unemployed, killed, arrested, or disabled. As a result, children often are pushed into the role of head of household and become financially responsible for their families.\textsuperscript{121} The 2004 PCBS study on child laborers indicated that the issue of child labor goes beyond economic need: 24.0% of households indicated that the household economic situation would decline while 52.9% said that the economic situation would not be effected if the child stopped working.\textsuperscript{122} An explanation for this is that children want to have money too, and if they cannot get it from their families they may choose to work for it.

However, a collaborative study conducted in 2002/3 by BZU Development Studies Program, and UNICEF (with cooperation from the NPA Secretariat) indicated that families cited economic problems as a primary cause of children joining the labor force.

\begin{center}
\begin{tabular}{|l|c|c|c|c|c|}
\hline

\textbf{Percentage Distribution of Child Labor (5-17) Years by Region and Economic Activity, 2004}\textsuperscript{123} \\
\hline

& Agriculture, Hunting, Forestry & Mining, Quarrying & Commerce, Hotels & Construction & Other \\
& \& Fishing & \& & \& \\
\hline

OPT & 44.2 & 13.2 & 32.0 & 6.1 & 4.5 \\
WB & 49.3 & 11.7 & 29.6 & 5.5 & 3.9 \\
GS & 25.4 & 19.0 & 40.7 & 8.4 & 6.5 \\
\hline
\end{tabular}
\end{center}

\textsuperscript{120} Sbeih, Amal, Gaza Ministry of Labor, 2004.

\textsuperscript{121} ibid


\textsuperscript{123} ibid p.65
Percentage Distribution of Currently Working Children (5-17) Years by Age Group, Region and Reason for Work According to Household Prospective, 2004

<table>
<thead>
<tr>
<th></th>
<th>To contribute to household income</th>
<th>To help in a family project</th>
<th>To be independent</th>
<th>To fill the time of summer holiday</th>
<th>Nothing to do after leaving school</th>
<th>Learning Craft</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OPT</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5-9</td>
<td>10.7</td>
<td>69.4</td>
<td>2.7</td>
<td>10.8</td>
<td>-</td>
<td>-</td>
<td>6.4</td>
</tr>
<tr>
<td>10-14</td>
<td>11.4</td>
<td>62.3</td>
<td>6.3</td>
<td>6.5</td>
<td>5.3</td>
<td>1.5</td>
<td>6.7</td>
</tr>
<tr>
<td>15-17</td>
<td>29.8</td>
<td>35.9</td>
<td>7.3</td>
<td>2.4</td>
<td>15.1</td>
<td>2.5</td>
<td>7.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>19.6</td>
<td>51.4</td>
<td>6.3</td>
<td>5.2</td>
<td>9.0</td>
<td>1.7</td>
<td>6.8</td>
</tr>
<tr>
<td><strong>WB</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5-9</td>
<td>12.2</td>
<td>68.2</td>
<td>1.9</td>
<td>11.4</td>
<td>-</td>
<td>-</td>
<td>6.3</td>
</tr>
<tr>
<td>10-14</td>
<td>11.9</td>
<td>67.4</td>
<td>3.9</td>
<td>4.6</td>
<td>3.6</td>
<td>1.9</td>
<td>6.7</td>
</tr>
<tr>
<td>15-17</td>
<td>30.5</td>
<td>38.7</td>
<td>6.1</td>
<td>2.7</td>
<td>11.7</td>
<td>3.4</td>
<td>6.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>19.8</td>
<td>55.4</td>
<td>4.5</td>
<td>4.8</td>
<td>6.5</td>
<td>2.3</td>
<td>6.7</td>
</tr>
<tr>
<td><strong>GS</strong></td>
<td></td>
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</tr>
<tr>
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<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>10-14</td>
<td>9.3</td>
<td>43.4</td>
<td>15.1</td>
<td>13.3</td>
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<td>-</td>
<td>7.1</td>
</tr>
<tr>
<td>15-17</td>
<td>28.1</td>
<td>28.4</td>
<td>10.5</td>
<td>1.6</td>
<td>24.4</td>
<td>-</td>
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<tr>
<td><strong>Total</strong></td>
<td>18.7</td>
<td>37.9</td>
<td>12.2</td>
<td>6.6</td>
<td>17.7</td>
<td>-</td>
<td>6.9</td>
</tr>
</tbody>
</table>

Case Study: Rahma is a 12 year-old girl living in Tafoh, a village near Hebron

Rahma has four sisters and two brothers who are younger than her. They live in a small house without any chairs or furniture except for in their mother’s bedroom, which was a gift from Rahma’s uncle.

Rahma’s father is ill. He used to work as a building constructor, which requires heavy lifting. Now he has infections on his backbone and he cannot work anymore. This bad situation pushed Rahma to work before she finished seventh grade at school. She works from 7am until around 4pm, five days a week, in a garment factory owned by her cousins. They pay her NIS 350 (less than $100) monthly.

Rahma is willing to continue her educational process, but she is happy to work in order for her younger brothers and sisters to go to school. From her point of view, the solution for her situation is a job for her father in which he can work with his illness and feed his family.

The BZU/UNICEF study, ‘Palestinian Children in the Labor Market’, was undertaken to provide qualitative data that could be used to guide decision-makers in Palestinian ministries and NGOs whose work either

124 ibid. p.76.
directly or indirectly impacts upon children in order to design strategies for alleviating the suffering of child laborers. Other preliminary results from this study indicated that the majority of working children are males living in cities that are between the ages of 10-17 and who come from families with larger than average family sizes. Most of the children who participated in the research left school for work in the service sector. This study did not adequately address the particular vulnerabilities of the Palestinian girl-child, particularly those engaged in work in the home—a category of child labor that is often neglected as these cases are generally "hidden".

<table>
<thead>
<tr>
<th>Working Children (5-17) Years by Sex and Employment Status, 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wage employee</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>Males</td>
</tr>
<tr>
<td>Females</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

**Governmental Responsibility**

According to Article 32 of the CRC, states have an obligation to protect children from economic exploitation, hazardous work, work that interferes with their education, and work that is harmful to their development. As it stands, neither the legal nor programmatic framework to ensure this right exist in the OPT.

**Legal Framework**

The Palestinian Legislative Council and other institutional actors have had some degree of success in putting the issue of child labor on the map in Palestinian legislation. The Child Law establishes the minimum age for employment at 15 years old, while education is compulsory until age 16. It also puts forth a general prohibition on any work that exploits children or

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125 ibid. p.53.
interferes with the child’s education, or threatens the child’s physical or mental well-being. In this sense, it conforms with Article 32 of the CRC. However, further laws are needed to support this law, including clauses in the penal code which would outline penalties for people found guilty of exploiting children, and a clear definition of criminal responsibility for care-takers who force their children to work—Article 32-2 of the CRC requires that the government "provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article." As it stands, the draft penal code contains no such provisions. There needs to be stronger legal protection of children not covered in any law, including self-employed children and children working for first degree relatives. Finally, the labor law should include requirements that cases of children working illegally be reported to MoSA and the polices

1. The Labor Law, Chapter Five; Juveniles work
   Article (93) It shall be outlawed to employ children before the age of fifteen.

   Article (94) Medical check up shall be applied to juveniles prior joining work to ensure their health suitability; check up shall occur every six months.

   Article (95) Juveniles shall not be allowed to work at:
   A. Dangerous or harmful industries, designated by the minister.
   B. Night shifts, official and religious occasions nor on official off days.
   C. Overtime hours according to production unit.
   D. Far or desolated areas.

   Article (96)
   1. Daily working hours shall be reduced for juveniles, not for less than an hour a day.
   2. During daily working hours, a break or more shall intervene work, so as a juvenile does not work for more than four successive hours.

   Article (97) Annual vacation of juveniles shall be three weeks and may not be postponed

   Article (98) An enterprise shall have to append, in prominent places, provisions list of juveniles work; an employer shall prepare a register for all juveniles' concerns.

   Article (99) In exception to provisions of this section are those juveniles who work for their relatives of the first degree and under their supervision; in all cases work occurs according to proper health and social conditions with no negative effect on their mental and physical growth and education.
2. The Basic Law
Article 29(2) states that children are "Not to be exploited in any purpose, and shall not be allowed to perform works which might damage their safety, health or education."

3. The Child Law
Article (14): Employment of Children shall be prohibited before they reach the age of fifteen years old.

Article (43): Exploitation of children in begging and soliciting alms shall be prohibited. Further, it shall be prohibited to put a child to work under conditions that violate the law, or to burden a child with work that may obstruct his or her education, or be injurious to his or her health, or physical or moral safety.

**Government Services**

Article 33-2 of the CRC requires governments to take administrative, social and educational measures to ensure the implementation of the article. As of now, services to this end are inadequate. As the following table shows, a majority of working children would prefer to go to school rather than work. However, the conditions for this to happen do not currently exist.

Currently efforts are underway to intervene in preventing child labor. The Ministry of Labor, Ministry of Social Affairs, Ministry of Education and UNRWA have begun to seek out child laborers and assist them in reintegrating into normal childhood and education rather than working. The NPA Secretariat launched a pilot program intervening in cases of child labor, and had some success in reintegrating children into schools. The initial lessons learned indicated that such efforts must involve collaborations from many institutions, including the MoL, MoSA, MoE, UNRWA, the NPA Secretariat and the police, as well as families. Each has a role—for instance, the MoL needs to monitor workplaces and refer working children to MoSA and the MoE for follow up. There must also be a system in place to penalize businesses that exploit children. Furthermore, the causes of child labor indicate that intervention needs to occur at the family level.
The role of the Ministry of Education in this phenomenon must be emphasized as the education system itself may be a major contributing factor to child labor. According to the PCBS study, 47.4% of working children expressed the desire to go to school, whereas 24.9% indicated that they prefer to work only. Children with low achievement in school may choose to leave the system, and schools do not have adequate resources to address children who have difficulties coping in school. Furthermore, there is no vocational training available in the schools, and children must go to special vocational schools to receive training. Finally, teachers themselves are often dissatisfied with the system, especially with having little financial remuneration for their work. This can lead to low job performance directly affecting children, particularly those needing special attention, and their achievements. The MoE should develop systems to keep children in school and follow up on absentee children.

MoSA has started a program addressing children who drop out of school, which may be a step towards the prevention of child labor. In 2004, MoSA provided counseling to the families of 298 children (194 in the West Bank and 104 in the Gaza Strip) in order to encourage these children and their families to enroll in MoSA's vocational centers.

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126 ibid. p.93.
Because of the obvious connection between poverty and child labor, the government should work to provide employment opportunities for household heads and provide micro-financing opportunities for poor families.\textsuperscript{128} The need for social safety nets is pertinent to child labor as children feel morally responsible for helping their families when faced with poverty.

**Community Responsibility**

For the situation of child labor to begin to be ameliorated, society must play a strong role in providing the enabling factors. As suggested in the introduction, societal attitudes play a strong and negative role in promoting child labor among boys. For instance, fathers sometimes pressure their children to assist in work after school, which can push them into the workforce step by step. Sometimes families encourage their children to leave school in order to learn the family trade. Broken families or other domestic problems may cause a child to leave home and join the labor force. Furthermore, there are social attitudes which push boys to "act like men" after the age of ten.\textsuperscript{129}

Civil society institutions addressing child laborers should be reinforced and should ensure protection on the educational and cultural level. Families should also be reached through awareness-raising about the negative effects of labor on children. Finally, civil society institutions should fight the conception that it is positive for boys to act like men and become laborers. The education sector should ensure that these issues are addressed in the curriculum.\textsuperscript{130}

Beyond public awareness-raising, civil society has a responsibility to offer services for children to keep them from becoming laborers. Civil society and educational institutions should provide sports and cultural clubs for children and youth in order to develop their skills and knowledge. The education sector should make vocational training more accessible to children to help them discover what they want to do as adults.\textsuperscript{131}

\textsuperscript{128} ibid.
\textsuperscript{129} ibid.
\textsuperscript{130} ibid
\textsuperscript{131} ibid.
Businesses have an important role in preventing child labor. The rise in poverty may push businesses towards exploiting children's cheap labor; however, the business community should establish and maintain standards against child exploitation.

Trade unions are a sector of civil society which can take a key role in preventing child labor. Unions should develop internal monitoring systems to ensure that their members do not break the law and exploit children. Furthermore, trade unions can work towards awareness-raising among their members in order to help them to protect their own children. Unions could form clubs for their members' children to keep them out of the labor force. Furthermore, unions can create funds for their members as an internal social safety system to assist those who have lost their jobs. Finally, trade unions can take a role in advocating nationally and internationally for child rights.132

International Responsibility

The rights of Palestinian children should be recognized on an international level, and child labor specialists from different countries could serve a role in drafting recommendations for the Palestinian government and civil society.133

Furthermore, as in the other sectors discussed, poverty is a causal factor in child labor in Palestine. The international community has a responsibility to work towards removing the occupation and its economic impact on Palestinian society.

Monitoring and Reporting

The National Plan of Action 2004-2010 has identified the monitoring of all workplaces that employ children as a strategic goal.134 To this end, the MoL is making efforts to monitor the implementation of the juvenile section of the labor law. However, while the ministry has inspectors for this purpose, they do not have the training or resources to effectively monitor.

132 ibid.
133 ibid.
Furthermore, their monitoring only covers children who work legally. This means that children below the age of 15 or children working for their immediate family members are not monitored.\textsuperscript{135}

Ministry draft regulations are working towards the establishment of a special department for children in the workforce. It will train special inspectors to investigate juvenile working conditions.\textsuperscript{136} The major obstacle to implementing this is a lack of financial resources.

The NPA Secretariat, with support from SIDA, has developed a system of case management files for child laborers which is being added to MOSA’s database on children in need of protection, effectively adding child laborers to this category for the first time. This database must be maintained, and cases actively sought out.

PCBS has a data collection system on child labor, which addresses ages 10-17, as part of its general labor survey. This survey is carried out every three months.

**Recommendations**

**Governmental Responsibility**

1. Take a rights-based approach in all governmental services addressing child labor
2. Improve the draft penal code to penalize employers who hire children under the legal age or who violate their rights
3. Governmental policies must be based on comprehensive research of the phenomenon, particularly in terms of root causes so that policies can work towards prevention
4. Reconcile the labor law, which sets the legal age of work at 15, with the fact that education is compulsory until age 16
5. Develop a definition within the penal code of the criminal responsibility of caretakers who force their children to become child laborers

\textsuperscript{135} Sbeih, Amal, Gaza Ministry of Labor, 2004.

\textsuperscript{136} ibid.
Child Protection in the OPT

6. Develop a system between MoE and MoSA to re integrate child drop-outs into school
7. Improve the educational system to protect children at risk of dropping out
8. Increase access to vocational training

Community Responsibility

9. Raise public awareness of the dangers of child labor for the present and future well-being of children and society, as well as the right of children to abstain from labor
10. Raise public awareness of the community responsibility to report cases of child labor to MoSA or MoL
11. Provide activities for children to discourage them from working— particularly during the summer
12. Raise awareness among employers of children’s rights
13. Actively involve the trade unions in working against child labor

International Responsibility

14. Development projects should target sectors of the population in most need of assistance in preventing child labor. For instance, job creation projects should focus on providing jobs for heads of large households

Monitoring and Reporting

15. Initiate monitoring of children who are working illegally and develop indicators to analyze their situation
16. Develop a method of monitoring and reporting on girls who are child laborers
Children Victims of Domestic Violence and Abuse

Violence of a public or private nature not directly related to the Intifada or the occupation, including violence in the home or violence in school or other institutions, is much less chronicled in the OPT. In many societies, domestic violence and child abuse never make it to official channels, and there may be even less reporting of these cases within Palestinian society due to attitudes that prefer to keep these matters within the private sphere. Thus, while there is a lack of quantitative data on the current exposure of children to public and private violence not directly related to the Intifada, as UNICEF stated, “…the absence of data does not mean the absence of a problem”.137

While there is a dearth of quantitative data, there has been some qualitative research on the topic. Citing a 1994 survey of 400 students (aged 18-40) from Birzeit University, the UNICEF 2000 Situation Analysis reported that the most common forms of violence, in order of prevalence, were the following: physical violence (beating/torture), verbal violence, deprivation of rights (such as access to education), sexual violence, emotional violence, suppression of opinion, restriction of freedom, divorce, exclusion from the political sphere, and murder.138 The survey also indicated that these students thought the best place to go for help was their extended families (42.6%).139 Although this survey was not a survey of children in the traditional sense (under the age of 18), it does indicate the presence of public and private violence in Palestinian society.

A PCBS Child Psychosocial Health Survey of children aged 5-17 completed in 2004 with technical cooperation from NPA Secretariat and UNICEF found that children who experienced violence overwhelmingly experienced it in their communities and families rather than direct violence from Israeli sources (see the following three tables below). This could be a result of the fact that the violence of the current conflict tends to be less person-to-person. However, national discourse focuses on violence stemming from the occupation to the virtual disregard of societal violence.
### Percentage of Children (Aged 5-17 Years) Who Have Been Exposed to Any Form of Violence by Types of Violence, Sex and Region, 2004 *

<table>
<thead>
<tr>
<th>Types of Violence</th>
<th>GS</th>
<th>WB</th>
<th>OPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical violence- beating</td>
<td>81.9</td>
<td>70.7</td>
<td>76.4</td>
</tr>
<tr>
<td>Verbal violence- cursing, insulting, shouting, rebuking, humiliating</td>
<td>85.1</td>
<td>73.5</td>
<td>79.4</td>
</tr>
<tr>
<td>Physical violence- beating- by Israeli soldiers</td>
<td>0.1</td>
<td>5.6</td>
<td>2.8</td>
</tr>
<tr>
<td>Verbal violence- cursing, insulting, shouting, rebuking, humiliating-by Israeli soldiers</td>
<td>1.0</td>
<td>7.9</td>
<td>4.4</td>
</tr>
<tr>
<td>Other</td>
<td>0.0</td>
<td>0.5</td>
<td>0.2</td>
</tr>
</tbody>
</table>

### Percentage of Children (Aged 5-17 Years) Who Have Been Exposed to Any Form of Violence by the Person/Party that Encroached upon them, Sex and Region, 2004 *

<table>
<thead>
<tr>
<th>Perpetrator</th>
<th>GS</th>
<th>WB</th>
<th>OPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>75.2</td>
<td>60.5</td>
<td>68.0</td>
</tr>
<tr>
<td>Relatives</td>
<td>16.6</td>
<td>12.6</td>
<td>14.6</td>
</tr>
<tr>
<td>Neighbors</td>
<td>16.9</td>
<td>7.0</td>
<td>12.0</td>
</tr>
<tr>
<td>Friends</td>
<td>35.4</td>
<td>35.7</td>
<td>35.5</td>
</tr>
<tr>
<td>Teachers</td>
<td>30.4</td>
<td>29.4</td>
<td>29.9</td>
</tr>
<tr>
<td>Israeli Soldiers</td>
<td>0.4</td>
<td>8.9</td>
<td>4.6</td>
</tr>
<tr>
<td>Other</td>
<td>0.2</td>
<td>2.4</td>
<td>1.3</td>
</tr>
</tbody>
</table>

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* PCBS, 2004, Child Psychosocial Health survey 5-17 years old, main results, Ramallah, Palestine, p82; p83.
As mentioned above, one reason for the lack of information about child abuse and domestic violence is that cases usually do not make it to official channels. Or, if they do, they may be referred back to informal channels. According to an official at the Ministry of Social Affairs, judges often refer cases of violence against children to traditional community conflict resolution institutions. A community or family leader (mukhtar) or at times a committee of community leaders will settle a dispute or devise a solution. Often there is a defense presented for each side in the dispute and there are formal specific proceedings and language used. The matter generally ends in a compromise agreement. Governmental judges often refer matters such as violence against children to these more traditional forums as they consider them to be more appropriate and expedient. However, these forums are criticized for relying on compromise rather than taking a solid stance against violence against children.\textsuperscript{141} Rather, generally the family name is prioritized over the rights of the child.
Governmental Responsibility

The CRC requires states to protect children from violence and abuse through administrative, social, educational and legal measures (Art. 19). It also specifies protection from sexual abuse in Article 34. Finally, it requires recovery and reintegration for victims (Art. 39). The PNA has not met its responsibilities on any of these fronts.

Legal Framework

The CRC calls for judicial involvement "as appropriate" in cases of abuse (Art 19-2). This requires a strong legal mechanism for determining when it is productive to penalize abuse, and when a therapeutic approach should be taken.

While following closely the child protection guidelines outlined in the CRC, one of the main strengths of the Child Law is its reporting mechanisms. The Child Law explicitly lays out in Article 53(1) the responsibility of all citizens to inform the Ministry of Social Affair's child protection social workers if they suspect a case of violence against a child. Article 53(2) requires the same thing of educators, physicians, social workers and others entrusted with the protection and care of children. Article 54 requires all adults to assist children in notifying the child protection social workers and establishes a penalty (a fine of 100-200 JDs) for non-notification.

The Child Law lacks sufficient explanation of the terminology which it uses. For example, concepts such as physical violence, mental violence, humiliation and torture are left undefined. Human rights organizations have advocated for the inclusion of a chapter of "general principles" which would lay out clear definitions of the law's terminology. However, there are concerns that strict definition of the law's concepts would lead to narrow interpretations and would exclude children in need of protection. Perhaps definitions are more useful within the child law's bylaws or within a guidance document developed for the law.

Article 29(4) of the Basic Law states that "Law prohibits beating children and treating them cruelly by their relatives."

The Family Law is stricter on sexual violence within the family.143

Article 216 of the Draft Penal Code states:
Anyone who injures one of his or her children or a child who is in his or her care by force, by being a negative role model or by any unethical act will receive a jail term of up to one year, or a fine of not more than 500 JDs or both.

Articles 257, 259, 260, 261, 262 and 263 of the Draft Penal Code stipulate harsher punishments for sexual crimes if the perpetrator is a relative, caregiver or anyone with authority over the victim.

While neither the Child Law nor the Draft Constitution specifically addresses violence which occurs in the home or among family members, the Child Law is inclusive in addressing violence without specifying the forum of that violence. The Child Law also names a specific office within the Ministry of Social Affairs, the ‘Childhood Protection Department’ as the body responsible for ensuring that children are not exposed to violence in the public or private domains and for overseeing the care of children who have been exposed to violence.144

There should be a system for determining when child abusers should be penalized and when they should be addressed with a therapeutic approach, particularly when physical abuse occurs within families. Once this is defined, the draft penal code needs to be improved in order to offer appropriate penalties against child abusers, and to prevent convicted abusers from participating in a child care profession. There also needs to be penalties for non-reporting of suspected cases of abuse, placing the responsibility on the MoE, child care workers and community members.

The Palestinian Legislative Council (PLC) has not taken sufficient steps to promote child protection. The Women and Children's Unit is the only unit under the PLC actively focusing on issues related to violence against children currently.145 It works to improve legislative protections

144 Child protection is covered in Chapters 8-10 of the Palestinian Child Law.
145 Freteh, Nahed. Women and Children's Unit, the Palestinian Legislative Council. Interview, 26 September 2004.
for children, and provides awareness-raising campaigns and research. It is currently working to amend the Child Law so that it addresses violence within the family.

**Governmental Services**

Article 19-1 of the CRC requires the government to provide "effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment." Article 39 requires the government to promote the recovery and reintegration of victims.

As it stands, policy in this area also tends toward hindsight rather than prevention. While the Child Law offers a relatively strong legal framework addressing violence against children, it requires considerable effort in order to properly implement its provisions. It requires both financial resources and expertise at the level of government policy-making, within the judiciary system, and at the level of actual service provision.

Resources to address violence generally in the OPT are minimal. The Ministry of Social Affairs, which is the lead agency addressing violence against children, has counseling services, but it is understaffed. Similarly, probation centers as well as the court system lack the necessary funding to address the issue substantially. The Parental Education Program is the only MoSA program addressing prevention of child abuse. The program works to raise public awareness on good parenting skills.
According to UNICEF, MoSA's system of social workers specializing in child protection has a low child/social worker ratio—there are only 25 child protection social workers, and a child population of 1.7 million. According to the new Child Law, MoSA's child protection social workers have the status of judicial police officers and have the right to enter houses, initiate proceedings and make recommendations. However, the resources to implement this right are not available.

Service delivery remains largely focused on the aftermath of violence, and it is probable that only a fraction of children who are exposed to violence are known and have access to services. The latter is partially explained by the fact that particularly in cases where violence occurred in the family, people tend to try to hide these events as societal attitudes assign some level of shame to the victim as well as the perpetrator. There is also a gap in public information on services and legal channels available.
The Beitunia Center for Child Protection is the only center in the OPT housing children in need of protection who are not in conflict with the law. It accepts boys on a temporary basis, and there is no corresponding center for girls. It opened in 2003 and has taken in 34 boys, of whom seven are currently living there. The 27 boys who have left the center are back with their families; however ten of them are living in family conditions which have not improved since before their time at the center.\textsuperscript{147}

Eighty percent of the boys who have stayed at the center come from poor families. Some come from dysfunctional families, some boys had been held in Israeli prison, some had run away from home, some were found begging on the streets and one boy was the child of collaborators with the Israeli intelligence service.\textsuperscript{148}

The boys who enter the center receive counseling along with their families in order to work towards a transition back to their homes, as well as follow up counseling when they are reintegrated into their families. The Center works with the MoE in order to reintegrate the boys into school. Those who are too far behind to enter school receive tutoring in the center. The center coordinates with local organizations including cultural and recreational centers, which allow the boys to participate in their activities for free. The boys also receive counseling from the Palestinian Counseling Center, which also provides its services for free. According to MoSA protocols, the length of the stay should not exceed six months; however, some boys stay for up to a year and a half.\textsuperscript{149}

Sixty percent of the boys are referred to the center by MoSA, who receives the cases from the police. Some of these boys are removed from their homes by MoSA child protection social workers. The other 40% are referred directly from NGOs. The center is not well-known among the community, so cases come only through these channels.

The center does not take steps to bring the children's abusers into the legal system, but at times works with police to explain the law to the abuser or require him to sign a contract saying that he/she will stop abusing the child.

\textsuperscript{147} Brigheeth, Brigheeth. Director of Beitunia Center for Child Protection; Interview, 17 February 2005.
\textsuperscript{148} ibid.
\textsuperscript{149} ibid.
The center is at risk of closing as it is not receiving sufficient funding. It was built by foreign donors, and MoSA provides some basic needs, but there is insufficient funding for running costs such as salaries for the staff and transportation to bring the boys to school. The center has fourteen staff members, nine of whom are part of a temporary unemployment program, do not receive a regular salary, and must be changed every three months. This lack of continuity leads to perpetually inexperienced staff. None of the staff are psychologists, but they receive training from the Palestinian Counseling Center.\textsuperscript{150} Despite this training, social workers in the center lack the necessary training and experience to fully address the complex social, emotional and behavioral problems of the center's street children—particularly those children who spent longer periods of time on the street before their arrival at the center.

Anecdotal evidence suggests that there is a considerable amount of violence in schools. Its prevalence was also indicated in a 2001 NPA Secretariat study "A Survey Study on Children's Thinking Trends and Their Perceptions of the Future." This survey, which included 1,109 children aged 11-18 from governmental, private and UNRWA schools as well as institutions in the West Bank and Gaza Strip, posed the question: What do you think is the largest factor that causes children to leave school? In response, 19.7\% of the children indicated maltreatment from teachers—this included 18.5\% of enrolled children and 28.4\% of children who had dropped out of school.\textsuperscript{151}

There is insufficient research on violence in schools. The Teacher Creativity Center is in the process of completing a study on the matter. It also plans to work with the MoE on providing educational observers.

\textsuperscript{150} ibid.

Case Study: S, 11 years old

It was the second day of summer vacation when S's mother discovered that her daughter had been sexually abused by her father several times during the last school year. S told her mother about the incidents, and S's father confessed to the sexual abuse.

S's mother went to several organizations to seek help. She started with the governmental hospital in her district. She then contacted a political party in a refugee camp, which recommended she go to a UN clinic in the camp to receive medical care for S. The clinic staff sent S's mother to a small NGO, which then sent her to another NGO.

During this time, S's mother received many threats from her in-laws, who were angry about the fact that she was talking about the sexual abuse with organizations. They asked her to cover up their son’s crime and they threatened her financially, saying that if she did not stay silent, they would not give her or her children any financial support. So, S's mother decided to ask the Ministry of Social Affairs to help her find a job or support her children so she could leave her husband. Unfortunately, no one from the ministry responded, and S, her sister and her mother are continuing to live with the abusive father.

It's been two years since S's mother found out about the abuse, and she is still looking for an organization to help her find a place to keep her two young daughters away from their father. She does not even have the money to put a door on the girls' bedroom, and she is worried that one day the father will come home while she is at work and harm the girls.

One of the institutions that S's mother has been trying to admit her girls is an NGO which works to support women, and which runs an orphanage. However, it refused to take the girls because of a policy of avoiding "bad apples" who may harm the other girls and teach them things that they shouldn't know.

The above case study shows the gaps in the overall child protection system. As it demonstrates, services for children—particularly girls—in urgent need of protection are absent in both the governmental and non-governmental sector. Furthermore, legal redress of perpetrators is ignored.
Community Responsibility

In terms of child abuse, the onus of responsibility lies with the community. The National Plan of Action for Palestinian Children 2004-2010 has identified the protection of children victims of moral, sexual and physical abuse by the family, institutions (schools) or community as a strategic goal.\textsuperscript{152} There are some societal attitudes and practices in the OPT which are detrimental to child protection in this sector. For instance, there is a culture of silence on child abuse—particularly sexual abuse because of issues of shame. Cases of sexual violence against girls are rarely reported because of fear that girls will not be able to marry in the future. Related to this is the reluctance to use official governmental channels in addressing cases where abuse occurs.

Communities have a strong responsibility to report suspected cases of child abuse. A culture of intolerance towards violence against children must be cultivated, and there must be readily available information on how to report suspected cases.

Furthermore, as the PCBS psychosocial health survey 2004 showed (see previous three tables), families and communities have a responsibility to listen to children in order to identify the real sources of violence that they face.

Proper parenting skills are necessary to prevent child abuse. To this end, the National Plan of Action for Palestinian Children 2004-2010 has set raising parents' awareness to sound methods of child upbringing as a strategic goal.\textsuperscript{153}

Professional groups and unions of professionals whose work relates to children, such as pediatricians, teachers and social workers should work to develop standards for addressing child abuse.

\textsuperscript{153} ibid. p.263.
International Responsibility

There is also responsibility for the international community. Violence experienced in the public realm is often translated in the private realm. The Economic and Social Council notes that “the destruction of homes, the death of male heads of households coupled with men's frustration due to unemployment and immobility have resulted in a sharp increase in incest and domestic violence.”\textsuperscript{154}

There are further structural reasons for the private violence as well. The structural poverty which has resulted from the occupation has itself led to much of the violence facing Palestinian children. Today, 60% of Palestinians live below the poverty line. Many have drawn the link between frustration brought on by poverty and the precipitous increase in domestic violence. Shadia el Sarag, who works for the Gaza Community Health Program, describes the situation this way:

Unemployed men feel helpless and frustrated, so the women feel they have a double burden of providing for their family financially and emotionally. The violence undertaken by Israel against Palestinian men is then revisited on their wives and children. They have to combat domestic violence as well as political violence.\textsuperscript{155}

As Johnson writes “…unemployment may be caused by labor market distortions in the public sphere (including Israel’s policies of closure and siege in the Palestinian case) but the actual experience of unemployment takes place to a large extent in the domestic sphere.”\textsuperscript{156} The Economic and Social Council has drawn conclusions about the connection between unemployment and domestic violence in Palestinian society:

The sense of hopelessness and frustration due to unemployment tends to be associated with a loss of status for male household heads when they are the only or main economically active family members and can no longer meet their families' basic needs. This psychosocial impact of unemployment in turn is associated with an increase in domestic violence.\textsuperscript{157}


In the end, it is the responsibility of Palestinian society to end child abuse; however, the international community cannot shirk its responsibilities in providing the enabling factors for this.

**Monitoring and Reporting**

Monitoring and reporting are particularly critical and particularly absent in this field. The reliance on informal channels to address child abuse will preclude the development of effective means of fighting it. Although MOSA counselors have compiled lists of common forms of violence to which the children with whom they work have been subjected, the data is problematic. For example, some of their categories are unclear, such as the title ‘psychological problems’. The cause of a child’s referral to services is unclear using this categorization. Furthermore, cases of abuse are not actively sought out by any agency.

Schools, institutions and homes must be open to researchers. Without adequate access, there will be no way to assess the types of abuse children experience, the quantity of abuse and trends.

**Recommendations**

**Governmental Responsibility**

1. Develop an overarching child protection system with clear roles, responsibilities and referral channels across different sectors
2. Prevent the legal system from sending cases of child abuse to informal channels
3. Develop guidance or bylaws for the child law which would lead to common but broad and inclusive understanding of abuse
4. Develop a system for determining when abusers should be penalized and when it is in the child's best interest to rehabilitate the abuser through a therapeutic approach. Once this is determined, the government should change the draft penal code so that it offers appropriate penalties against child abusers, prevents convicted abusers from entering into professions related to child care, and establish penalties for non-reporting of cases of abuse
5. Establish more active committees in the PLC addressing violence against children
6. Ensure the financial resources and expertise at the level of government policy-making, within the judiciary system and at the level of service provision which are required in order to implement the Child Law exist’
7. MoSA should work towards prevention by strengthening its public awareness program on good parenting
8. Ensure MoSA has the resources necessary to improve its counseling services and increase the number of child protection workers
9. Ensure expertise and resources within the judicial system to support the needs of abused children
10. Ensure that public information is available on services and legal channels addressing abuse
11. Ensure funding for the Beitunia Child Protection Center and open a center for girls
12. Implement research on violence in schools and institutions

Community Responsibility

13. Work against the culture of silence on child abuse
14. Convince community members of their roles in reporting suspected cases of abuse
15. Ensure child participation in identifying sources of violence
16. Carry out public awareness on proper parenting skills in order to work towards preventing abuse
17. Professional groups and unions of professionals whose work relates to children, such as pediatricians, teachers and social workers should work to develop standards for addressing child abuse.

International Responsibility

18. Work towards a just end of the conflict in which human rights are respected, thereby working against a major source of violence in Palestinian society
19. Work towards ensuring economic and social rights are met in Palestine as a way of eradicating poverty
Monitoring and Reporting

20. Collect and publish data on child abuse, based on common indicators and definitions
21. Ensure institutions, schools and homes are open to monitoring
Child Protection in the OPT
Children Victims of Poverty

There is no universal definition of poverty. While poverty lines can be calculated, there is no method of measuring different experiences of poverty. According to UNICEF, "Poverty encroaches on a set of rights that cannot be divided into subsections: human rights are interdependent and indivisible." Thus, poverty plays an integral part in all of the sectors of child protection mentioned in this paper.

While the OPT's poverty has its roots in politics, its consequences go far beyond a family's buying power. Johnson writes “…unemployment may be caused by labor market distortions in the public sphere (including Israel’s policies of closure and siege in the Palestinian case) but the actual experience of unemployment takes place to a large extent in the domestic sphere.” Poverty has a considerable impact on children's ability to access education, health services and protection from violence. According to the NPA Secretariat, "Children are the poorest of all the poor since they do not possess any kind of access or control to family or government resources."

<table>
<thead>
<tr>
<th>Percentage of Malnourished Children under age 5 Classified According to Standard Anthropometric Indices of Height for Age, Weight for Height &amp; Weight for Age by Region, 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>WB</td>
</tr>
<tr>
<td>-------------------</td>
</tr>
<tr>
<td>Stunted (Low height for age)</td>
</tr>
<tr>
<td>Wasted (Low weight for height)</td>
</tr>
<tr>
<td>Under Weight (Low weight for age)</td>
</tr>
<tr>
<td>No. of children</td>
</tr>
</tbody>
</table>

By the end of 2003, 42.1% of children were living below the poverty line, and 29.4% were living under the subsistence poverty line.\textsuperscript{162}

\begin{table}[h]
\begin{center}
\begin{tabular}{|l|}
\hline
Selected Statistics:\textsuperscript{163} \\
\hline
\begin{itemize}
\item 60.6\% of households under the estimated poverty line
\item 52.2\% in the West Bank
\item 77.3\% in the Gaza Strip
\item 55.3\% of households lost more than 50\% of their usual income
\item 58.2\% of households reduced expenditure on basic needs during the last 12 months
\item 16.9\% of households in the West Bank and 32.7\% of households in Gaza can cope with the situation for more than one year.
\item 67.5\% of households reported that they need assistance
\end{itemize}
\hline
\end{tabular}
\end{center}
\end{table}

According to the World Bank, "Sixteen percent of the total population and one-quarter of all Gazans are living in deep or 'subsistence poverty.' They are unable to adequately feed themselves even with food aid."\textsuperscript{164} It is interesting to note from the above statistics that while the Gaza Strip has a larger percentage of households living under the poverty line, there is a smaller percentage of households which express that they will not be able to cope with the situation for one more year. This could reflect Gaza's unique historical experience with poverty and coping mechanisms that have developed in response.

\section*{Governmental Responsibility}

The CRC emphasizes the importance of children's economic rights. Article four requires that governments take "all appropriate legislative, administrative, and other measures" to implement rights—and it specifies that states have the responsibility to take these measures "to the maximum extent of their available resources" in terms of economic rights. Article 26

\begin{flushright}
\textsuperscript{164} “Four Years- Intifada, Closures and Palestinian Economic Crisis?An Assessment.” World Bank, October 2004. p.29. The World Bank uses a poverty line of $2.30 for the OPT, and defines subsistence poverty as and income below the "cost of satisfying the minimum caloric intake, plus an allowance for basic non-food items, such as cloths and shelter." It sets the subsistence poverty line for the OPT at $1.60 per capita per day.
\end{flushright}
calls for governments to supply social security, taking into consideration the circumstances of the child and his/her caretakers. Finally, article 27 governments to:

1. Recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

While structural poverty and lack of funding affects all areas of the PNA, it still has not taken adequate steps to ensure "to the maximum extent of their available resources" implementing children's economic rights, neither in terms of setting up a strong legal structure nor in terms of service provision.

**Legal Framework**

The Child Law sets forth provisions which in many ways echo the CRC in calling for an adequate standard of living. However, the systematic flaw of the Child Law is the lack of a framework of supporting laws and bylaws which would allow its implementation. Furthermore, the section on social assistance is extremely narrow both in comparison with Art. 26 of the CRC and in comparison with the reality of present needs. The law specifies only seven categories of children eligible for social assistance, and children living in poverty are not addressed as a category.
Relevant Sections of the Child Law

Article (29)
1. The Child shall have the right to be provided with food, housing, clothing, medical care, and education.
2. The duty to spend on the child shall be shouldered by his or her father, or by the person who legally care for him.
3. The State shall take all arrangements to guarantee this right.

Article (30)
Every Child shall have the right to an appropriate standard of living that suits his physical, mental, spiritual, and social growth. The State shall make all necessary efforts, and arrangements to secure this right.

Article (31)
In accordance with the rules and conditions set by the State and its institutions, the following categories of children shall have the right to obtain social assistance:
1. Orphaned Children and children with unknown father or parents.
2. Children at social welfare institutions
3. Non-sustained children of a divorcee and deserted women who have no provider
4. Children whose parents are in prison, missing, or incapable to work, due to sickness or disability, and children who have no provider
5. Children of families whose housed have been destroyed or burnt
6. Disabled children, or children with chronic diseases
7. Twin children (three and above).

Governmental Services

According to the NPA Secretariat, "Until this present moment, there is no kind of social protection system or social security for the population as a whole. Therefore, serious steps and procedures to combat poverty and eradicate its causes and effects are nonexistent."165

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Despite the obvious setbacks that the PNA faces due to repeated destruction of government institutions and infrastructure, a primary criticism can be fairly leveled at the PNA concerning its conduct in the area of poverty alleviation and development: The PNA has failed to place poverty reduction at the center of its agenda. The PNA choose instead to allocate what critics argue to be a disproportionate amount of the budget to security, and to projects in sectors and in a fashion mandated by the demands of the Oslo process or by international donors. In so doing, it further alienated itself from the NGO community and left marginalized populations out of its strategic policy mix, such as rural women. Adding to this problem of sectorial prioritization within the PNA, one can add the problem of cronyism, lack of transparency, accountability and corruption. Christian Aid noted in their 2003 report, ‘Losing Ground: Israel, Poverty and the Palestinians’ that there is a clear link between the lack of accountability in the PNA and a lack of development. The report went on to say that, for example, the Palestinian Legislative Council has been unable to properly monitor the PNA budget and that the PNA has a history, as recorded by the PNA’s own audit office, of misappropriating massive sums of money.

Both in the immediate and the long term, the PNA has a responsibility to have a social protection system in place. As it stands, MoSA efforts in this area are inadequate. According to the World Bank, "The number of recipients of MoSA assistance, which has marginally increased since 1999, has fallen far short of the rising number of Palestinians living below the poverty line."

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168 Christian Aid noted that such a misappropriation occurred in 1997, and amounted to US$340 million, or nearly half of the PA budget.
MoSA's main program for addressing those in poverty is its Special Hardship Case (SHC) program, which reaches approximately 135,000 people.\(^{170}\) Beneficiaries either receive full support including cash assistance, food aid and family health insurance (80% of recipients), or food aid and health insurance (5% of recipients) or free health insurance (15% of recipients). Each individual receives approximately $10 per month on average.\(^{171}\) As it stands, MoSA's policies use more of a charity framework rather than a poverty eradication framework ensuring economic and social rights.

The primary reason for MoSA's inability to provide assistance to an adequate number of beneficiaries is its lack of financial resources. Another factor is that it uses restrictive eligibility criteria in its SHC program. For instance, households headed by healthy males are ineligible, whether or not their income falls beneath the subsistence poverty line.\(^{172}\)

The World Bank is supporting MoSA to identify and reach the poorest households with the SHC program, with the aim of increasing beneficiaries by 50% to 180,000. This program is designed with a view to children's rights as cash transfers will be contingent on household investment in children's health and education. To maintain eligibility, households must comply with the following conditions:

1. children aged 0 to 5 years attend a health and nutrition program with quarterly visits to health clinics
2. children enrolled in basic, secondary, or vocational school, maintain a class attendance rate of at least 85% and they do not repeat a grade more than once
3. parents/adult household members attend four family and health training/counseling sessions per year\(^{173}\)

There needs to be analysis of whether the assistance provided to families will be sufficient to provide the enabling factors to meet the eligibility criteria listed above.

\(^{170}\) ibid. p.52.
\(^{171}\) ibid. p.53.
\(^{172}\) ibid. p.53.
\(^{173}\) ibid. p.54.
Community Responsibility

Palestinians have limited control over their land, water and other natural resources, and 43% of the total population are refugees. A wall twice the height of the Berlin Wall and 650 kilometers in length is being built on Palestinian land isolating thousands from employment, land, family, schools, hospitals, and resources, and the entire population of 3.4 million people have lived for decades under military occupation. Other factors come into play alongside the continuing conflict in the period following the Oslo Accords, including the limitations on Palestinian development due to the management of the state apparatus by the Palestinian National Authority and its ministries and the criteria and strategies set for aid by international donors.

In view of these obstacles, there is little responsibility that can be laid at the feet of Palestinian communities in terms of poverty reduction. On the contrary, over the decades of occupation and political upheaval, strong community coping mechanisms have developed by which social safety nets were created locally within communities. This is based on a strong social value of supporting others within the community. In fact, the World Bank wrote of the dire economic crisis of 2001 and 2002: "Total disintegration of the Palestinian economy was averted due to the social resilience of Palestinian society and sustained donor support." 174

One area which the Palestinian community may be able to address is the disproportionate effect that poverty has on girl children. According to Johnson, “The current emergency conditions may mean greater obstacles and loss of self-confidence for poor girl children.” 175 Children are already powerless in society, poverty increases this effect, and the low status of girls makes them triply vulnerable. Societal attitudes and practices should be addressed to ensure that girl children living in poverty do not suffer double or triple victimhood.

174 ibid. p.54
International Responsibility

The percentage of children living under the poverty line in the OPT has increased from 26% before the Intifada to the current rate of 42.1%. Before the outbreak of the Intifada, the child poverty rate had been decreasing. The situation facing donors in the OPT underlines the complexity of the issue of poverty during times of conflict and occupation. Intuitively, it would seem that providing aid must automatically be a step towards eradicating poverty. However, as Federman points out “…some Western diplomats acknowledged that by continuing to fund the Palestinians, they were essentially subsidizing Israel's occupation.”177 Nigel Roberts, World Bank Country Director for the OPT, drives this point further, stating that: “Under closure, every additional billion in foreign aid will only pull down the poverty rate by only 9 percentage points.”

The situation facing donors in the OPT underlines the fact that linking human rights with foreign aid is not just a feel-good strategy. Rather, a human rights framework can provide the enabling factors for foreign aid to effect sustainable development. As Sullivan maintains,

The stagnant situation of poverty is due directly to the continuing Israeli occupation of most of WB/GS/EJ and control over all border areas between ‘Palestine’ and its neighbors: Israel, Jordan, Egypt, and the Mediterranean. This control, plus the lack of accountable Palestinian governance, means that no matter how successful [the World Bank NGO] Project is, it cannot succeed in full until a just and equitable political resolution to the Israeli-Palestine conflict is found.178

If donors took the right of self-determination into account in their funding policies in the OPT, they would directly improve the ability of their aid to foster sustainable development. To put it another way, the Palestinians will never achieve sustainable development under military occupation and Israeli policies of de-institutionalization.

177 Federman, Josef. “Israel and Palestinians announce new effort to improve aid distribution in Palestinian territories.” The Associated Press. 12/10/03.
…donors have not demanded an end to the Israeli closure despite the fact that their aid has been diverted away from real development and towards emergency measures such as temporary job creation. The total foreign aid to the PA under Oslo, more than $3 billion, does not even equal the direct Palestinian losses (wages and trade) resulting from closure…In effect, foreign aid has partially subsidized Israel's illegal policy of suffocating the Palestinian economy, and thereby diluted international pressure to lift the closure.179

With this in mind, foreign aid must be coupled with political pressure on Israel to meet its human rights commitments. In the OPT, the link between human rights and development is straightforward:

…the Israeli government has refused Palestinians in the occupied territories many of the rights often available in other third world societies: political independence and self-determination, control over economic and institutional resources, cultural freedom, civil and human rights, and legal protection. As a result, Palestinians have been unable to create a viable economic base, even one that is distorted, which could support an independent state.180

It is clear that without supporting the institutions necessary for Palestinians to enjoy their fundamental human rights, donors, such as the World Bank, will never make progress in supporting their sustainable development or eradicating poverty.

**Monitoring and Reporting**

The Palestinian Central Bureau of Statistics monitors poverty and its effects through several periodic studies, some of which contain statistics on children. However, the impact of poverty as well as the impact of donor and governmental strategies to eradicate poverty does not receive proper assessment. Individual projects must receive proper evaluation in order to develop strategies.

Furthermore, there is a need for the Ministry of Social Affairs to increase its monitoring of children and families living in poverty to ensure that they receive the proper services.

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Recommendations

Governmental Responsibility

1. Ensure a framework of supporting laws and bylaws necessary to implement the Child Law
2. Amend the Child Law so that its section on social assistance is in line with Art. 26 of the CRC
3. Place poverty eradication at the center of the PNA agenda
4. Ensure that a social protection system is in place, with particular focus on children living in poverty
5. Improve MoSA’s Social Hardship Cases program so that it reaches all children living in poverty

Community Responsibility

6. Ensure that girls are not disproportionately affected by poverty as a result of societal attitudes

International Responsibility

7. Pressure Israel to end the political conditions driving poverty and de-development in the OPT
8. Ensure the enabling factors for national fulfillment of economic and social rights

Monitoring and Reporting

9. Develop tools for assessing the impact of poverty
10. Implement systematic assessments of donor and governmental strategies to eradicate poverty, including individual project evaluation
11. Develop tools for helping MoSA to properly monitor children and families living in poverty to ensure they receive proper services
Children without Family Care

This section will address children with unknown parentage, children in orphanages, street children and run-away children.

1. Children of Unknown Parentage:

Children of unknown parentage refer to found children who are brought to specialized institutions. Approximately 12 found children are brought to these institutions each year, excluding children found in Jerusalem, who are not reported to the Palestinian authorities. In 2004 there were 16 reported cases in the West Bank and Gaza Strip. The number does not reflect the fact that some children of unknown parentage go unreported in cases in which the people who find the children do not hand them over to the authorities, but instead either keep them and raise them or give them to their relatives to raise.

MoSA has discovered two cases of unreported found babes. The families raising these children did not meet the minimum standards which MoSA sets for adoptive families. Despite this fact, MoSA had difficulties in removing the babies from these families, and it failed in one of the cases due to the fact that the family had considerable power in the community.

2. Children in Orphanages

By the end of 2004, there were 1,637 children in these institutions including 1,115 males and 522 females. Thirty-two percent of them are in orphanages in Jerusalem, 53% are in the rest of the West Bank and 15% are in Gaza. Sixty-two percent of the children were placed in the orphanages because they are orphans, and 38% were placed there due to problems within their families.181

The number of girls in orphanages is lower because families are extremely reluctant to institutionalize them. They are much more likely to be taken in by the extended family because they are considered more vulnerable to sexual abuse. Boys are not considered to be vulnerable to sexual abuse and are considered to be more self-reliant.

A 1999 study conducted by MoSA and supported by UNICEF addressing permanent placement orphanages found that most of the children who live in these orphanages come from families with low standards of living. Most suffered from broken families and domestic violence. Some of these children were found to have psychological or behavioral problems.

In 2004, social workers recommend reintegrating 14% of children in permanent institutionalization back into their families. They maintain that 8% of these children need health care, 25% need social counseling, and 17% need psychosocial counseling.

Case Study: Ramez Abu Kishik, from Balata refugee camp in Nablus.

Ramaz has been living in an orphanage in Tulkarem since 1995, when his mother died. He was seven years-old at the time. His father married two times after his mother's death, and Ramaz now has 16 brothers and sisters and a father who seems very old.

“I'm very happy here in this orphanage, but I feel sometimes staying without family is really hard. Teachers and councilors are so nice to every one of us—I feel more safe and comfortable here than home” said Ramaz

Teachers said that Ramaz is very cooperative and willing to help any of his friends. He is smart and willing to learn, and is now in the 11th grade.

3. Children on the Streets

According to MoSA, street children are those children who spend the majority of their time in the street, begging or selling cheap products. The ministry's definition also includes children who are evicted from their homes or run away because of violence.

Generally speaking, street children are not stigmatized by society. Rather, communities place the blame on the children's families. Thus, these children are generally treated with sympathy rather than violence or exploitation.182

The phenomena of street children is increasing in the Arab areas inside Israel. Children sneak from the West Bank into Israel, often with the help of adults. They stay in the streets in groups of three or four, begging. These children range in age from 5-14 years old.

These children are exposed to the worst kinds of exploitation. Social workers in the Arab areas in Israel do not work with these children because they do not have Israeli IDs. Israeli police collect them and transfer them through the checkpoints without any cooperation with any Palestinian officials and as a result children often sneak directly back into Israel. MoSA has established contacts with Nazareth municipality's social affairs department. They have also contacted the supervisor of the steering committee of the Arab local councils in order to establish cooperation to solve the problem. However, as of now nothing concrete has happened. The lack of improvement in the situation is largely due to the fact that the Israeli police collect the children and bring them back to the West Bank without contacting the Arab local councils.

**Governmental Responsibility:**

Article 20 of the CRC requires that the state provide special protection, assistance and alternative care for children deprived of their family environment. This article is supported by many more specific articles which require the government to consider the best interests of the child (Art. 3), set and monitor standards for institutions (Art. 3), provide periodic review of the child's treatment (Art. 25), promote children's reintegration (Art. 39), and support parents in order to avoid, to the greatest extent possible, children's removal from their families (Art. 18).

**Legal Framework**

Each of the relevant clauses of the CRC are present in the Child Law, with the exception of mandating periodic reviews of children's treatment in institutions. With this exception, the legal framework protecting children without family care is strong. However, monitoring and implementation of this law remain weak.
The Child Law

Article (4)
Considerations shall be given to the
1. Best interests of the child in all actions, whether undertaken by legislatures, courts of law, administrative authorities, public or private social welfare institutions.

Article (5)
2. In all procedures decided and pertaining to the child, primary consideration shall be accorded to preventive action within the family to safeguard its fundamental role and affirm the responsibility shouldered by the parents, or other individuals legally responsible in their stead, in the upbringing and education of the child, and in providing him or her with the appropriate care to secure his or her full natural growth.

Article (10)
Institutions and administrative bodies responsible for the care and protection of children, shall implement the policies and programs developed by the concerned authorities in all fields.

Article (31)
In accordance with the rules and conditions set by the State and its institutions, the following categories of children shall have the right to obtain social assistance:
1. Orphaned Children and children with unknown father or parents.
2. Children at social welfare institutions

Article (32)
The child whose circumstances have deprived him of being raised, either temporarily or permanently in his natural family, shall have the right to receive an alternative care through:
1. A foster or (alternative) family, which will sponsor and care for him.
2. Public or private social welfare institutions, in case there is no foster family.

Article (44)
The following are considered to be hardship cases that place the health, and physical and moral safety of the child at risk. It shall be prohibited to intentionally subject the child to such hardship cases:
1. Loss of both parents, lack of family support.

Article (46)
2. The State shall take appropriate measures to promote physical and psychological rehabilitation and the social reintegration of…any hardship cases stipulated in Article (44) of this Law.
Children without Family Care

1. Children of Unknown Parentage Orphanages:

While there is legal protection for children of unknown parentage, (the civil law in article 22(8) states that whoever finds a newborn child without knowing his parents should immediately turn him over to one of the specialized parties), there is a weakness in enforcement of the law.183

According to the Civil Law, if a child is found in a public place, the child must be taken to a police station, from where he/she is transferred to a hospital, and then to MoSA. A police officer must write up a report of the incident. A social worker then places the child in an institution which will care for him/her on a temporary basis while the social worker finds a family to care for him/her. It is important to note that these families are not called adoptive families because there are laws against changing the name of the child to that of the new family.

Law no. (1) of 1999 for Civil Status: Article (22)

1. If a natural infant found, it shall be delivered - in the state found in - to one of the following authorities:
   a. An institution for new born to take care of the infant physically; the said institution shall notify the concerned police authority
   b. Police authority of jurisdiction.
   c. Head of the local body.

2. a. Police or local body shall have to take down a minute of conditions and circumstance of infant discovery indicating the place found in, date, approximate age, sex (male or female), the condition found in, description and distinguishing marks, description of clothes, material items available and the place he was found in. Police or local body shall have to deliver the infant with the minute to a mother care accredited by the ministry of social affairs.
   b. The mother care, with collaboration with the ministry of social affairs, shall register the infant under a pseudo-four syllable name and as a Muslim, after three months of discovery unless a presumption indicates otherwise; in addition to procedures concerning custody for the best benefit of the infant.

183 ibid.
The right to immediate registration of children is also laid out in Article 15 of the Child Law.

In many cases, MoSA has had difficulties in procuring official documents for these children including birth certificates, IDs and passports. These difficulties occur when official police reports are not written. Producing these papers needs the cooperation of the Palestinian Ministry of Internal Affairs and approval from Israeli authorities.

According to the Civil Law, adoptive families do not have the right to change the name of their adopted child. MoSA’s Family and Child Department is advocating for the higher judicial council to produce a fatwa that gives these families the right to change the name of the child. However, it is not clear that this would be in line with Article 8 of the CRC which gives children the right to preserve his or her identity, including name and family relations.

2. Children in Orphanages

Article 10 of the Child Law states that: "Institutions and administrative bodies responsible for the care and protection of children shall implement the policies and programs developed by the concerned authorities in all fields." This article is extremely weak in terms of dictating what conditions are acceptable for children in institutions, and it requires a substantial set of bylaws which have yet to be developed let alone enacted.

3. Children on the Streets

Street children are not directly addressed in the Child Law, except as neglected children, which are entitled to rehabilitation, or as "beggars," in which these children are classified as "being under the threat of delinquency" (Art. 47). Legalizing the classification of street children as delinquents is not the most appropriate manner of providing them legal protection.
Children without Family Care

Governmental Services

<table>
<thead>
<tr>
<th>Number of Cases Assisted By MoSA in 2004[^184]</th>
</tr>
</thead>
<tbody>
<tr>
<td>WB</td>
</tr>
<tr>
<td>-----</td>
</tr>
<tr>
<td>Orphans</td>
</tr>
<tr>
<td>Unknown Parentage</td>
</tr>
<tr>
<td>Street or begging children</td>
</tr>
<tr>
<td>Children placed with alternative families</td>
</tr>
</tbody>
</table>

1. Children of Unknown Parentage

MoSA seeks out families to provide alternative family care to children of unknown parentage. In 2004, it placed seven children with families, it received thirty-two requests from families for children and it disqualified four of these for not meeting the set standards.

There are four temporary care facilities which provide care to these children until they are placed with new families. Three are located in the West Bank and one is located in Gaza.

MoSA follows up on adopted children and families through home visits conducted by its social workers for a period of two years. Even though most families provide a healthy family environment, some children still face psychosocial and/or financial problems—particularly in cases where one of the adoptive parents dies. There also have been cases where families abandon the child if they find that he/she has a disability. MoSA has at times removed children from the families in which they had been placed if the environment was found to be unsuitable.

MoSA urges families to inform their adopted children from an early age about the fact that they are adopted in order to avoid the trauma associated with discovery of this fact at a later stage.[^186]

[^184]: MoSA 2004 Annual Report
[^185]: The number of cases of street children and beggar children in Gaza is combined with the number of child laborers. This total number is 308.
2. Children in Orphanages

The supervision of orphanages is primarily the responsibility of MoSA's Department of Family and Children. This department has planned a project for orphanages to identify the roles and responsibilities of all ministries and institutions and the relationship among them in order to meet the needs of orphaned children. Particular attention is focused on the needed skills of the orphanages' personnel.

There are 27 orphanages, nine of which are located in Jerusalem, 14 in the West Bank and four in Gaza. Eight of the Jerusalem orphanages are members of the General Union of Charity Organizations. The ninth institution is supervised by the Ministry of Waqf and Religious Affairs. In Jerusalem, there are four institutions for boys and four for girls and one for both. The coed institution houses 10% of the total. Five of the institutions are located in 'Aneriya and Abu Dis. The others are in areas which the social workers cannot reach due to Israeli closure measures. Because of this, MoSA has difficulty supervising these facilities, but it provides them with support and staff training.

Gaza has four orphanages, two of which were established subsequent to the creation of the PNA. Despite the difficult living conditions in Gaza, there is a societal attitude which considers sending children to live in institutions to be shameful. Rather, it is considered the responsibility of extended families to take care of children who do not receive the support they need from their immediate families. However, due to the economic situation and increasing levels of poverty, some people are forced to put their children in institutions because the head of the household is not able to provide food.187

The West Bank has 14 institutions, all of which are local and non-governmental with the exception of the Village of Children in Bethlehem which is a foreign institution. All have difficulties maintaining continuous financial support and they are challenged by the high cost of services in the deteriorating economic situation. MoSA and local communities provide in-kind support for these facilities. Families of children in these facilities are often prevented from visiting them by Israeli closure.

187 ibid.
Most of these institutions are unable to provide a high quality of services because they are understaffed and what staff is available often does not have the level of training necessary. Because of these difficulties, the administrators try to avoid admitting cases of children with psychosocial problems. They also outright refuse to accept children who were exposed to violence or children with behavioral problems. This policy is justified based on the idea that these children will affect the other children in the facility.

Some institutions ask for high monthly fees (this applies for institutions that take children from broken families rather than orphanages for children without parents). They refuse the temporary emergency enrollment of children and insist on long-term enrollment to give them a greater chance of placing the child with a family that can financially support him/her. Some of these institutions set age limits, which makes it difficult for social workers to place children—especially girls.

A 1999 study conducted by MoSA and supported by UNICEF addressing permanent placement orphanages found that the services in these orphanages are insufficient as are the skills and experience of the staff—particularly in the social work field.

3. Children on the Streets

MoSA social workers are often unable to provide the assistance these children need because institutions refuse to accept them based on administrators’ fear of the behavior of these children and its effect on the other children. This refusal is extremely detrimental considering that this category of children is in particular need of emergency or temporary institutionalization, which would give social workers the opportunity to identify an appropriate family environment for the child, and/or to reintegrate the child into school or a training program.

Community Responsibility

The current policy emphasizes working to address the problems within the family rather than relying on institutionalization. This approach necessitates awareness-raising among families on issues such as raising children,
family relationships, child rights, and stages of child development. These issues should also be addressed in school curricula in order to improve the next generation of parenting.

Awareness-raising is also imperative to end discrimination against girls and disabled children—as it stands, foster families often refuse to take these children. Societal attitudes are important for ensuring the reintegration of children without family care. Community organizations should promote non-discrimination among families, caregivers and society at large.

It is imperative to support cooperation between the government and civil society in supporting children without family care.

Finally, as with all child protection issues, the community has a responsibility to pressure the government to implement its endorsement of the CRC and Child Law.

**International Responsibility**

Like so many issues addressed in this paper, it is impossible to disaggregate the causal factors threatening child protection. While all societies have children without family care, the phenomenon is clearly increasing in the OPT due to the current conflict and the longstanding effects of occupation—including poverty and psychosocial distress, among others. As with the other issues, to fundamentally effect change, the international community has to deal in the political realm and pressure Israel to respect its commitments under international law.

**Monitoring and Reporting**

There is a need for further monitoring in this field. As indicated above, a particular need is monitoring of children who become street children inside Israel. Furthermore, social workers should monitor children who have been adopted to keep track of their physical, social and mental well-being. They should address problems that arise and keep a file on the child including recommendations.

Foster homes will not eradicate the need for institutions, but institutions should be considered the last option. Thus, it is essential to ensure that
institutions offer safe and secure environments and the situation of children living in these institutions must be continually monitored to ensure that the institutions meet national and international standards. This requires developing regulations and core indicators for documenting and monitoring the situation of institutionalized children.

**Recommendations**

**Governmental Responsibility**

1. Amend the Child Law so that it meets the standards set in CRC Art. 25 and mandates periodic reviews of children's treatment in institutions
2. The Civil law must be enforced to ensure the protection of children of unknown parentage
3. Art. 10 of the Child Law should be strengthened in order to set standards for child treatment in institutions and bylaws supporting these standards should be developed and enacted
4. Art. 47 of the Child Law should be amended so that children living on the streets are not legally classified as delinquents and to strengthen the protection of these children
5. Orphanages must receive sufficient financial support to offer appropriate care to children and to be able to hire a sufficient number of trained staff
6. Staff working in institutions should receive proper training
7. Institutions need to find ways of accepting children with psychosocial or behavioral problems, children victims of violence and children who were living on the streets

**Community Responsibility**

8. Families should be made aware of proper parenting skills, children's rights and stages of child development
9. Cooperation should be developed between governmental institutions and community institutions addressing children without family care
10. The community should pressure the government to implement its endorsement of the CRC and the Child Law
11. Children without family care, particularly girls and the disabled, should not be discriminated against
International Responsibility

12. Israel must be pressured to end its violations of human rights and humanitarian law standards in view of the fact that violence, poverty and psychosocial distress are contributing factors to children losing family care

Monitoring and Reporting

13. Mechanisms must be set up to monitor the situation of children who become street children inside Israel
14. MoSA social workers should have a system for monitoring the physical, social and mental well-being of children who have been adopted
15. Institutions must be constantly monitored to ensure they offer safe and secure environments and to ensure that children's rights within the institutions are being fulfilled. This requires developing regulations and core indicators for documenting and monitoring the situation of institutionalized children
Children Victims of Israeli Occupation

From the beginning of the current Intifada in late September 2000, until May 10 2005, 703 Palestinian children were killed and thousands have been injured.\(^{188}\) The Israeli army claims that it does not target children; however, according to Human Rights Watch, a fourth of the more than 130 Palestinians killed during the October 2004 incursions into the Gaza Strip were children.\(^{189}\) This reflects the fact that the Israeli army does not take necessary steps to differentiate between combatants and non-combatants. The occupation as a whole and recurrent invasions which result from the occupation are at children's doorsteps. Palestinian children live in a military zone—or considered from their perspective, occupation and military operations occur within the children's zone of living.

<table>
<thead>
<tr>
<th>Age</th>
<th>'00</th>
<th>'01</th>
<th>'02</th>
<th>'03</th>
<th>'04</th>
<th>'05</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-8</td>
<td>4</td>
<td>13</td>
<td>50</td>
<td>16</td>
<td>13</td>
<td>1</td>
<td>97</td>
</tr>
<tr>
<td>9-12</td>
<td>9</td>
<td>21</td>
<td>33</td>
<td>22</td>
<td>29</td>
<td>5</td>
<td>119</td>
</tr>
<tr>
<td>13-15</td>
<td>34</td>
<td>31</td>
<td>62</td>
<td>47</td>
<td>58</td>
<td>11</td>
<td>243</td>
</tr>
<tr>
<td>16-17</td>
<td>47</td>
<td>33</td>
<td>47</td>
<td>45</td>
<td>62</td>
<td>10</td>
<td>244</td>
</tr>
<tr>
<td>Total</td>
<td>94</td>
<td>98</td>
<td>192</td>
<td>130</td>
<td>162</td>
<td>17</td>
<td>703</td>
</tr>
</tbody>
</table>

Children are considered the vulnerable group most at risk of experiencing the harmful effects of exposure to violence and stress. Recent surveys show that 93% of Palestinian children do not feel safe and believe that they are vulnerable to attack. Almost half of Palestinian children have personally experienced violence in the ongoing conflict or have witnessed violence against an immediate family member...In addition, children face the threat of landmines and UXOs in areas that had been attacked by the Israeli military.\(^{191}\)

\(^{189}\) Palestinian Authority: Stop Use of Children in Suicide Bombing." Human Rights Watch. 3 November, 2004.
\(^{190}\) ibid.
Furthermore, children are affected by house demolitions, bombings and shelling, closures and curfew, construction of the Wall and other violations that define their daily life. They face the threat of landmines and unexploded ordinances, which killed 12 children in 2002-2003 and 17 in 2004 according to DCI-Palestine.  

Within society, violence rates have increased, education and health care have been severely impacted, and the very nature of Palestinian social fabric is eroding. This has provided children with even less opportunity to implement their rights to health, to grow up and develop safely, feel protected and be listened to.  

The issue of Israeli violence against Palestinian children is inherently connected to the other protection issues addressed in this paper. At the same time, because the source of this violence is entirely external, child protection issues become much more complicated and to some extent must be addressed differently.  

Israeli violence against Palestinian children is inherent to the occupation. In the end, to address this violence, the entire system of occupation must be overturned, entailing strong, unrelenting pressure from the international community on Israel to adhere to its international commitments under Human Rights Law and International Humanitarian Law. Nothing approximating the level of pressure needed by the international community has yet been exhibited, and until it is, child protection in the OPT will be precluded.  

Given the reality that the PNA and Palestinian society do not have the means to end Israeli violence against Palestinian children, the question becomes what are the responsibilities and appropriate strategies which the PNA and society should adopt to protect children in the face of such violence.

In September 2003 a group of governmental and non-governmental organizations from West Bank and Gaza Strip agreed to work together
to forge a common position on child protection against Israeli violence in the OPT. They have agreed to focus on child protection from three perspectives: protection from death and injury, house demolition and Construction of the Wall.

1. Child Participation in the Conflict

As stressed above, the majority of violence visited by Israel on Palestinian children is beyond the control of Palestinian society to prevent. However, one aspect over which society does bear responsibility is child participation in the conflict. Since the beginning of the current conflict, DCI/PS has documented around 20 cases of children who have died when participating in an armed attack. According to Human Rights Watch, at least 10 Palestinian children have carried out suicide attacks in Israel and the OPT during the current conflict.194

According to DCI "The majority of Palestinian children killed during the Intifāda died in circumstances not involving confrontation with Israeli soldiers." Of the total 703 children killed, 478, or 68%, died as a result of Israeli air and ground attacks, during assassination attempts, when Israeli soldiers opened fire randomly, as a result of home demolition or closure, or from unexploded ordinances.195 As these statistics show, the vast majority of children killed were non-participants; however, the active participation of children in the conflict does exist. It is important to differentiate between methods of participation, and to note that the vast majority of child participants are armed with stones and not weapons.

All Palestinian factions participating in the armed conflict have a policy of non-recruitment of children to participate in armed attacks or fighting (however, Islamic Jihad points out that it considers adulthood to begin at the age of 16). Despite this policy, Palestinian children have participated in armed confrontations; a fact which the factions attribute to mistakes of individuals rather than deliberate policy.196

196 *Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers.* Defence for the Children International/Palestine Section. July, 2004. p.41
2. House demolitions

According to Amnesty International:
For decades Israel has pursued a policy of forced eviction and demolition of homes of Palestinians living under occupation in the West Bank and Gaza Strip... In the past three and a half years the scale of the destruction carried out by the Israeli army in the Occupied Territories has reached an unprecedented level. The victims are often amongst the poorest and most disadvantaged in both Israeli and Palestinian society. Most of the houses demolished by the Israeli army in the Occupied Territories were the homes of refugee families, who were expelled by Israeli forces or who fled in the war that followed the creation of Israel in 1948.197

During the four years of the current Intifada, the Israeli army has destroyed more than 3,000 Palestinian homes.198 In the West Bank alone, more than 12,000 homes have either been demolished or damaged, and in the Gaza Strip, more than 24,000 Palestinians have been made homeless.199 It has also destroyed large areas of agricultural land, and hundreds of buildings used as shops, factories and workshops. Thousands more houses have been damaged.200 There are no available statistics on exactly how many children have been effected by house demolitions, but existing statistics show that tens of thousands of people have been made homeless. The majority of these people are children. In addition, a survey carried out by the Secretariat for the National Plan of Action for Palestinian children shows that 32 percent of the surveyed children had witnessed houses being damaged and 10% had witnessed houses being totally destroyed or sealed by the Israeli army during the ongoing Intifada.

The destruction of homes has been most extensive in the Gaza Strip, one of the most densely populated areas in the world, where in the past three and half years close to 3,000 homes have been destroyed, most of them homes of refugees. According to the United Nations Relief and Works Agency (UNRWA) between October 2000 and October 2003, more than 2,150 homes were destroyed and more than 16,000 damaged. In the same period 600 homes were destroyed in the West Bank. The families whose houses were demolished have been living in tents donated by humanitarian organizations, in already over-crowed relatives' homes or in rented apartments. However, the latter option is one which most victims of house demolition cannot afford, unless they receive assistance from the donor community.201

198 ibid. p. 17
201 ibid.
Some areas have been particularly targeted. According to Human Rights Watch, nearly two-thirds of the homes destroyed in the Gaza Strip were in Rafah, a densely populated refugee camp and city. "Sixteen thousand people – more than ten percent of Rafah’s population – have lost their homes, most of them refugees, many of whom were dispossessed for a second or third time."\(^{202}\)

Especially hard hit areas are areas located close to Israeli settlements, army bases, boarders, refugee camps and settler roads. Populations from refugee camps such as Rafah and Khan Younis or the Jenin camp as well as residents of the old city of Hebron have suffered extensively from house demolitions. Sherif, 12 years old, tells us: *The bulldozer drove right into our house. We fled to our uncle’s house. It was the second time we had to run all of a sudden in the middle of the night.*\(^{203}\)

The houses are demolished by large bulldozers, which are protected of the Israeli army. It is common that the house demolitions takes place without prior warning, and the families living in the houses are forced to leave during ongoing gun battles which traumatizes children. After their houses were destroyed many children described that they no longer have a place where they felt safe. 11-year-old Hanadi comments: *“I did not go to school for a week after our house was demolished. Now I always walk around feeling I am scared. Other children in the world can live safe in their house. Why are we not allowed to do that? And it is never ending. It just continues.*

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3. Children effected by the closure and the wall

UN Office for the Coordination of Humanitarian Affairs
Projections Update: July 2004

Total area between the barrier and the green line: 157,800 acres
• Enclave (land encircled by the barrier with access restricted by gates and/or checkpoints): 38,500 acres
• Closed area (land encircled by the barrier and the green line): 119,300

Total length of the Barrier: 622 km
• Completed/under construction 255 km
• Planned: 367 km
• 15% of the Barrier follows the Green Line

Total population between the barrier and the green line:
• Palestinians: 93,200 (63 communities) including E. Jerusalem: 325,660
• Israeli Settlers: 140,200 (56 settlements) including E. Jerusalem: 318,654

Population in Enclaves:
• Palestinians: 76,900 (17 communities)
• Israeli Settlers: 38,500 (14 settlements)

Population in Closed Areas:
• Palestinians: 16,300 (46 communities)
• Israeli Settlers: 101,700 (42 settlements)

Total Area of Semi-Enclave (land encircled by the barrier with one unrestricted access route): 4,000 acres
Total population in Semi-Enclaves
• Palestinians: 15,400 (5 communities)
• Israeli Settlers: 0

Israel has established a system of separation and closure of the OPT through the systematic use of checkpoints, road blocks, curfews and the on-going construction of the Wall. During the current Intifada, this system has undergone a considerable intensification with Palestinians being prevented from moving within the West Bank and Gaza between towns and villages. In January 2005, UNOCHA reported more than 700 physical obstructions to movement in the West Bank alone. These included permanent checkpoints, temporary (moving) checkpoints, roads blocked by earth mounds, gates, ditches etc. The result has been a severe
deterioration in the Palestinian economy and Palestinian’s right of access to basic services such as healthcare and education.204

In June 2002, the Israeli government formally decided to construct a wall to prevent the uncontrolled entry of Palestinians from the West Bank into Israel. On 1 October 2003, over a year after construction began, the Israeli Cabinet finally approved a full route which will total 622 km205. Only 15% will run along the 1949 Armistice Line (the Green Line).206 For most of its length, it will deviate from the Green Line to incorporate Israeli settlements - by up to 22 km in places. Approximately 975 km2 or 16.6% of the West Bank will lie between the Wall and the Green Line.207 OCHA estimates that 400,000 Palestinians living ‘inside’ the Wall will need to cross to get to their farms, jobs and services resulting in a total of 30% of the Palestinian population directly affected by the Wall.208 According to the September 2004 United Nations update on the wall:

Currently, the constructed Barrier is 185 km long, with 70 km actively under construction. Most of the Barrier is a system of fences, ditches, razor wire, groomed trace sands, electronic monitoring system, and patrol roads. Twenty-two km of the constructed Barrier consist of 8- to 9-metre-high concrete-slab segments, which are connected to form a wall (mostly in urban areas such as Jerusalem, Bethlehem, Qalqiliya, and Tulkarm).209

According to Amnesty International:
Since the summer of 2002 the Israeli army has been destroying large areas of Palestinian agricultural land, as well as other properties, to make way for a fence/wall which it is building in the West Bank…the fence/wall is not being built between Israel and the Occupied Territories but mostly (close to 90%) inside the West Bank, turning Palestinian towns and villages into isolated enclaves, cutting off communities and families from each other, separating farmers from their land and Palestinians from their places of work, education and health care facilities and other essential services. This in order to facilitate passage between Israel and more than 50 illegal Israeli settlements located in the West Bank.210

205 UN General Assembly, Report of the Secretary-General prepared pursuant to General Assembly resolution ES-10/13
207 UN General Assembly, Report of the Secretary-General op cit
208 OCHA 9th November 2003.
This policy of closure has serious implications for children’s rights and their right to protection in particular. It restricts their freedom of movement, the right to health and education and leaves them less secure. Children who live in communities which are directly impacted by the Wall have described how the Wall makes them more vulnerable and threatens and violates a number of their rights. Of the children participating in the Save the Children Study, 92% said the Wall made them feel more afraid. For example one child said “Whenever we come close to the wall they kill us.” Children also described how their houses had been demolished, and family lands destroyed to make way for the construction of the Wall violating their right to an adequate standard of living and the right to own property. The children also pointed out that the Wall violated the right to freedom of movement. “It prevents us from going to our relatives, families, friends and the beloved ones.” The children’s right to education and health is also violated by the construction of the wall. The children themselves described it as “I lost my school” and “It prevents us from receiving medical care.”

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212 ibid.


Governmental Responsibility

1. Child Participation in the Conflict

Legal Framework

In terms of child participation in conflict, the CRC establishes governmental responsibility in terms of preventing participation and recruitment of children who have not yet reached 15 years of age (Art. 38). This is strengthened in the Optional Protocol to the Convention which raises the age to 18 and lays out more specific regulations. The CRC also requires states to protect children effected by armed conflict (Art. 38) and reintegrate children who have participated in armed conflict (Art. 39). As in other sectors, there is a tension between government responsibility and government capacity. The legal framework on the issue is very clear:

Child Law: Article 46: It shall be prohibited to use children in military actions, or armed conflicts. The State shall take necessary measures and arrangements to guarantee this.

The State shall take appropriate measures to promote physical and psychological rehabilitation and the social reintegration of the child victim of armed conflicts...

However, in practice, the issue is severely complicated by governmental incapacity in key areas, not least of which is the rule of law. Human Rights Watch aptly, although unintentionally, outlined the dilemma faced by the PNA in a recent press release entitled "Palestinian Authority: Stop Use of Children in Suicide Bombings (3 November 2004)." While the title very clearly lays the responsibility for child protection at the feet of the PNA, the content of the press release outlines no recommendations to the PNA—rather Jo Becker, HRW’s Child Advocacy Director states that "Palestinian armed groups must clearly and publicly condemn all use of children under the age of 18 for military activities, and make sure these policies are carried out."215 In a situation in which the PNA has almost no capacity of enforcement, and limited if any ability to control the actions of a myriad of armed factions, the question is raised of what the responsibilities of the PNA are to ensure child protection.

**Governmental Services**

Perhaps the answer is that the PNA has the responsibility to build a culture of child protection in which the use of children in the conflict would be socially intolerable. Despite the fact that Palestinian families are overwhelmingly protecting and caring for their children, economic hardships and lack of support from government and other structures have prohibited many parents from doing so.

Children are exposed to images of the dead and injured. Furthermore, they are threatened and face humiliations themselves. It is hard to demand children not to be part of the struggle for an independent Palestine, especially adolescent boys and girls. It is the responsibility of governmental and non-governmental organizations to highlight protection issues and support protective structures within families and the society in order to minimize chances for children to be physically harmed. These institutions have the responsibility of providing alternatives, where the children can still be part of the resistance without putting their lives at danger by participating in the armed conflict.216

### 2. House Demolitions

**Legal Framework**

While the CRC calls for the protection and reintegration of children effected by armed conflict, there is no corresponding legal clauses protecting child victims of home demolitions in Palestinian law; although homelessness is specified as a hardship case in Art. 42 of the Child Law.

**Governmental Services:**

According to Human Rights Watch:

Whether along the border or deeper into the camp, house and property destruction in Rafah has had a severe impact on the community. Most concretely, homelessness places a heavy burden on poor families, who are forced to rent or buy new homes, or in many cases live with relatives. Trauma, tension, and anxiety have risen, as has violence at home and in schools. Malnutrition and physical illnesses are serious concerns for the international agencies that already keep much of the Gaza Strip afloat through programs and aid.217

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In order to address the impact of house demolitions described above, the government should provide services to address the concrete issue of homelessness and the psychosocial consequences. A few organizations provide assistance for children that have been exposed to house demolitions. The work has mainly concentrated on individual or group counseling for the exposed children.

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jericho</td>
<td>1</td>
</tr>
<tr>
<td>Tulkarem</td>
<td>3</td>
</tr>
<tr>
<td>Nablus</td>
<td>-</td>
</tr>
<tr>
<td>Ramallah</td>
<td>264</td>
</tr>
<tr>
<td>Jerusalem</td>
<td>3</td>
</tr>
<tr>
<td>Jenin</td>
<td>-</td>
</tr>
<tr>
<td>Salfit</td>
<td>4</td>
</tr>
<tr>
<td>Hebron</td>
<td>-</td>
</tr>
<tr>
<td>Qalqilya</td>
<td>22</td>
</tr>
<tr>
<td>Bethlehem</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total WB</strong></td>
<td><strong>297</strong></td>
</tr>
<tr>
<td>North Gaza</td>
<td>171</td>
</tr>
<tr>
<td>Gaza City</td>
<td>37</td>
</tr>
<tr>
<td>Central Gaza</td>
<td>5</td>
</tr>
<tr>
<td>Khan Younis</td>
<td>33</td>
</tr>
<tr>
<td>Rafah</td>
<td>385</td>
</tr>
<tr>
<td><strong>Total GS</strong></td>
<td><strong>631</strong></td>
</tr>
<tr>
<td><strong>Total OPT</strong></td>
<td><strong>928</strong></td>
</tr>
</tbody>
</table>

MoSA has started the process of addressing child victims of house demolitions (and house fires). In 2004, they provided assistance to 928 children in the OPT. The processes involves estimating the damage, finding emergency shelters for families, providing in-kind assistance, providing psychosocial support and recreational activities. They also coordinate between other organizations working to assist the families.

A number of organizations have also produced advocacy materials aiming at stopping the Israeli army from continuing its ongoing and extensive policy of house demolitions.

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218 MoSA 2004 Annual Report
Child Protection in the OPT

In order to facilitate future work towards reparations and to determine what services are needed, the PNA should "map accurately and comprehensively the exact location, nature, and value of properties and agricultural land destroyed by the IDF."219

3. Children effected by the closure and the Wall

Legal Framework:

According to Article 38 of the CRC, the government has the responsibility to protect children from the affects of the conflict; however, no law has been developed that protects the rights of children effected by closure or the Wall.

Governmental Services:

<table>
<thead>
<tr>
<th>Percentage Distribution of Households by First Priority Needs of Locality and Location from the Barrier220</th>
<th>East of Wall</th>
<th>West of Wall</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Create jobs</td>
<td>40.3%</td>
<td>23.5%</td>
<td>38.5%</td>
</tr>
<tr>
<td>Health Services</td>
<td>13.3%</td>
<td>16.0%</td>
<td>13.6%</td>
</tr>
<tr>
<td>Food Assistance</td>
<td>3.5%</td>
<td>3.1%</td>
<td>5.1%</td>
</tr>
<tr>
<td>Education Services</td>
<td>4.0%</td>
<td>2.5%</td>
<td>3.9%</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>23.3%</td>
<td>43.2%</td>
<td>25.4%</td>
</tr>
<tr>
<td>Security/ Stability</td>
<td>11.3%</td>
<td>9.3%</td>
<td>11.1%</td>
</tr>
<tr>
<td>No Need</td>
<td>2.5%</td>
<td>2.4%</td>
<td>2.4%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

The table to the right showing the results from a PCBS study indicates the needs identified by people whose lives have been impacted by the Wall. Job creation and infrastructure ranked high on both sides of the wall. Food assistance was ranked extremely low, calling into question the approach of many, particularly international, humanitarian organizations. The PNA should prioritize communities made increasingly vulnerable by the building of the wall for needed services which will provide these communities with coping mechanisms rather than short term fixes.

Community Responsibility

Some traditional attitudes that contradict children’s rights still prevail in Palestinian society, and these attitudes unfortunately become worse in times of conflict. The CRC gives accountability to parents and families to protect children and their rights. Implicit in this is the importance of making communities feel that they are part of the strategies to protect children and to ensure their commitment. In order for this to happen, communities must develop a general understanding of the importance of protecting children. By involving the community and building a Palestinian network of protection, a larger number of children can be reached and supported.221

1. Child Participation in the Conflict

As stated above, the use of child soldiers as such has not been common in the current conflict. However, children have found other means of participation which puts their lives at risk—for instance stone-throwing. While children have the same right of resisting the occupation as the rest of their communities, it is imperative that they do so in such a way that does not bring added risks. Families have spoken of the difficulties they have in preventing their children from participating in dangerous activities. Thus, it is up to society as a whole to create a culture in which child endangerment is unacceptable. An aspect of this child-friendly culture could be the involvement of children in resistance activities that are not dangerous, such as giving them forums to share their stories and experiences.

Children that participate in armed conflict are put in a dangerous environment unsuitable for them. Children that have been part of armed conflict, even if only as assistants or messengers, are usually exposed to a hieratical structure and social situation which serves that of the military/military groups. This can make it hard for children to relate to civil society which is based on different structures and values. However, some children experience their participation in the armed conflict as positive as it might give them a feeling of purpose and ideological motivation. The children could gain recognition and be seen as heroes by the surrounding

community. Moreover they might build strong relationships with other participants. This trend may be even stronger in the Palestinian context where Israel is occupying Palestinian Territory and imposing hardships on the civilian population including humiliating treatment. Palestinian children participating in the armed struggle might feel that they are doing something meaningful in order to liberate their country or fight for what they hope will be a better situation for their families.

It has been the case that ‘martyrdom’, including that of children, is glorified. Although this reflects cultural and religious beliefs in the Palestinian society aiming to console bereaved families, it has also been adopted by some media groups. It has to be stressed here that the media have the obligation to put forward the issue as the killing of children which is an unacceptable crime, and to stress the applicability of international law. It is also demanded, especially on the side of the media, to promote positive images of children and stress children’s right to life, development and respect. Media groups are encouraged to assume their role in awareness-raising on child protection and lobby towards more respect of children’s rights.

The Coalition against the use of Child Soldiers has together with a number of Palestinian organizations worked to prevent the recruitment of child soldiers and to raise awareness about the issue in the Palestinian society. DCI/PS has produced a study commissioned by the Coalition that describes the situation of child soldiering in the OPT.

2. House Demolitions & Children effected by the closure and the Wall

It is difficult to assign responsibility to communities in cases in which communities as a whole are being devastated by house demolitions, closure and the wall. As it stands, society itself has provided one of the only functioning social safety nets as communities, neighbors and families...
work to ensure that people's basic needs are being met. Throughout the decades of occupation and political upheavals, this has emerged as a key coping mechanism of Palestinian society.

It also important to build mechanisms where children themselves can develop tools to handle the stressful and difficult situation surrounding them. The children also need to feel capable and not become idle. This can be done through providing them with alternatives to keep or restore their daily life rhythms. Children also need to be informed about their rights in order to prevent violations of them. In this respect, peer support and child-to-child programmes ought to be supported. In one research project on child protection, a child told Save the Children “I come to friends in school to talk about my problems.” This will also enable children to play bigger and more positive roles in their society and improve their relationship with their surrounding.227

International Responsibility

I. Deaths and Injuries

Article 6 of the CRC states that every child has the inherent right to life. Article 38 requires states to "undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child." In accordance with International Law, Israel, as the occupying power in the West Bank and Gaza, holds the main responsibility for ensuring rights protections. The International Court of Justice found in July 2004 that Israel must follow international law including the CRC and see to its implementation in the OPT. Thus, it should be Israel’s responsibility to investigate and account for circumstances when the Israeli army has killed Palestinian children. As recently stated by the International Court of justice, ‘Israel must see to it that each child including the children in the OPT are entitled their rights as stated in the Convention on the Rights of the Child.’ In order to fulfill children’s rights as stated in the CRC, Israel must also end the closure of Palestinian areas and stop the construction of the Wall, or build it on Israeli rather than Palestinian land. Israel must also cease the violence used towards Palestinian areas

227 Protection issues as seen from the perspective of children. UNRWA Conference, May 2004
populated by civilians including children, stop all house demolitions and stop recruiting children into its secret service.228

Beyond International Human Rights Law, such as the CRC, Israel is also in severe violation of International Humanitarian Law including the Geneva Conventions. According to Article 4(1) of the Fourth Geneva Convention, Palestinians in the OPT are protected persons, and Israel has a legal obligation to ensure their rights under the Convention. One of these rights is the freedom from collective punishment measures (Art. 33). This right is also stated in Article 50 of the Hague Regulations. Much of the violence experienced by Palestinian children is a result of Israel's collective punishment measures, and is a clear violation of International Humanitarian Law.

Furthermore, Article 77 of the First Optional Protocol of the Fourth Geneva Accord specifies special protection for children:

1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

2. If...children who have not attained the age of fifteen years take a direct part in hostilities and fall into the power of an adverse Party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war.

Israel is in flagrant violation of the child protection measures laid out in the Geneva Conventions. As Human Rights Watch exposes, the international community has not yet met its responsibilities:

The international community’s response to the May incursions was strong in words and weak on action. Still, near universal condemnation of the destruction from governments and organizations probably helped limit the Israeli abuse. World leaders and major organizations strongly criticized Israel for the destruction of homes, property, and infrastructure in May as well as the unlawful killing of civilians. The most forceful international criticism was Security Council Resolution 1544, passed on May 19, after the killings at the demonstration in Tel al-Sultan. With a vote of 14-0, the council called on Israel to respect international humanitarian law and, in particular, “its obligation not to undertake demolition of homes contrary to that law.” The resolution also expressed “grave concern regarding the humanitarian situation of Palestinians made homeless in the Rafah area.”229

However, governments must take responsibility beyond the mere condemnation of Israeli violations. Many states carry a greater share of responsibility in that they provide Israel with the direct means of committing violations. According to Amnesty International, "States, particularly the USA, should stop the sale or transfer of weaponry and equipment that are used to commit unlawful destruction of homes and other serious violations of international human rights and humanitarian law, until they secure guarantees that Israeli forces will not use the equipment to commit violations."230 This is a problem which exists globally among industrialized countries and countries experiencing armed conflict. With one hand, industrialized countries offer development aid working towards assisting the population, while with the other hand it may fuel the conflict through the provision of military aid or by disregarding its own human rights commitments. Human Rights Watch described this phenomenon in relation to the mass house demolitions in Rafah:

Most important, U.S. funding continued to flow to the country’s leading recipient of aid. The 2004 U.S. Foreign Appropriations Act allocated U.S. $2.15 billion to Israel for foreign military financing and U.S.$ 480 million for economic assistance, and none of this was placed in doubt. In 2003, the U.S. government also granted Israel U.S.$ 9 billion in loan guarantees to be dispersed over three years, part of which is intended to help defray debts from earlier guarantees. Some of the equipment Israel purchases with U.S. aid, like the Caterpillar D9 bulldozer, is used to commit the abuses described in this report. 231

Beyond ending military aid, the international community should use trade sanctions to pressure Israel to comply with its international responsibility.

The European Union is Israel’s largest trading partner, with €22 billion in commerce between them in 2002. E.U.-Israel trade takes place under the framework of the E.U.-Israel Association Agreement; Article 2 of the Agreement stipulates that relations “shall be based on respect for human rights and democratic principles.” Despite support in the European Parliament to suspend the Agreement due to Israel’s human rights record, there has been little concrete action in this direction.232

232 ibid.
2. House Demolitions

House demolitions are also violations of International Humanitarian Law. Article 53 states:

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

According to Human Rights Watch, "Palestinians in the Occupied Palestinian Territories (OPT) have nowhere to turn in Israel for legal protection against unlawful demolitions and forced evictions. The IDF, the Supreme Court, and the Knesset have all played a role in denying effective remedies." This statement highlights a key reality: the Palestinians themselves have no local legal remedy for the violations they face. Thus, it is the responsibility of the international community (including world governments and the UN) to see to that Israel abides by international law. Specifically, state parties to international human rights and international humanitarian law treaties to which Israel is a party must take steps to ensure Israel's compliance to its obligations. One method would be through a presence of international child protection monitors to ensure that Israel meet its obligations under international law.

Members of the international community which have actively worked to assist Palestinians should acknowledge further responsibilities. Amnesty International states that: "Governments and agencies which have been involved in funding or carrying out development projects and emergency assistance should carry out and make public assessments to determine if and to what extent their projects/programs have been adversely affected by the Israeli policy of destruction of properties." As Human Rights Watch

In June 2003, the World Bank estimated the IDF had damaged or destroyed U.S. $150 million worth of donor-funded infrastructure in Gaza and the West Bank since September 2000, including the Gaza Airport, PNA police installations, and UNRWA schools. In January 2004, Israel paid compensation for damage to the contents of a WFP warehouse, the only known case of compensation for damage to donor-funded property.

The international community has forcefully condemned unlawful destruction in Rafah and elsewhere in the OPT. But donors who have invested heavily in Gaza, including in infrastructure and facilities destroyed by the IDF, have found themselves entangled in a dilemma. On the one hand, the knowledge that international aid money will pay to reconstruct what has been destroyed is likely to fuel the IDF’s sense of impunity for unlawful destruction. On the other hand, donors know that restricting or reducing aid would harm Palestinian victims. Under international law, Israel is responsible for unlawful damage caused by its forces and cannot misuse aid meant for Palestinians to evade its own obligations. As such, Human Rights Watch recommends that the international community press Israel to either pay reparations to victims or to compensate donors directly for any funds spent on repairing unlawful destruction.235

3. Closure and the Wall

According to the International Humanitarian Law Research Initiative, the construction of the wall represents breaches of the following principles of International Humanitarian Law:236

- The confiscation of private property in the occupied territory (Art. 46 of the Hague Regulations);
- The destruction and seizure of property in the occupied territory (Article 23(g) of the Hague Regulations and Article 53 of the Fourth Geneva Convention);
- The imposition of “measures of control” on the civilian population of the occupied territory (Articles 27 and 78 of the Fourth Geneva Convention);
- The forcible transfer of protected civilian populations (Article 49 of the Fourth Geneva Convention);
- The general welfare of the protected civilian population (Article 43 of the Hague Regulations), including responsibilities such as ensuring the means of existence of protected civilian populations (Article 39 of

the Fourth Geneva Convention) and the care and education of children (Article 50 of Fourth Geneva Convention), as well as maintaining access to food and medical services (Articles 55 and 56 of the Fourth Geneva Convention);

- The prohibition against collective punishments (Article 50 of the Hague Regulations, Article 33 of the Fourth Geneva Convention).

In July, 2004 the International Court of Justice advisory opinion on the legal consequences of the construction of the Wall found that it contradicts international law and that all states are under an obligation not to recognize the illegal situation resulting from the construction of the Wall. It ruled that construction of the Wall must stop, and completed areas dismantled. It also advised donor countries, "not to render aid or assistance in maintaining the situation created by such construction."

Following the ICJ ruling, on 20 August 2004, the UN General Assembly adopted resolution A/RES/ES-10/15, which demanded that Israel comply with the legal obligations identified in the ICJ advisory opinion. One-hundred-and-fifty (150) member states voted in favour, six against, 10 abstentions and 25 non-voting. It also requested the UN Secretary-General to establish a register of damages caused to the Palestinian population by the Barrier’s construction. The Secretary-General is due to submit to the General Assembly a proposal for this in the near future.237

While this ruling by the ICJ and the subsequent GA resolution are positive steps, they need to be backed up by the political will necessary to ensure consistent and unrelenting pressure on Israel to fulfill its obligations under international law.

Monitoring and Reporting

Both international and local organizations have called for further monitoring and reporting by the PNA of Israeli violations. This could be of great use if Israel agrees to pay reparations, and it is invaluable for the PNA to identify communities in need of services.

Recommendations

Governmental Responsibility

- Protection should be emphasized and support should be given to protective structures within families and society in order to minimize the chances of children being physically harmed
- Relevant governmental structures such as MoYS, MoE and MoC should strengthen their programming for children offering alternatives to harmful participation in resistance activities
- The Child Law should be amended to specify protections for children victims of the conflict, home demolitions, closure and the wall
- Services should be provided to address the concrete issues of homelessness, poverty and psychosocial distress stemming from house demolitions
- The location, nature and value of properties destroyed should be recorded
- Service provision and development programs should prioritize communities isolated by closure and the wall

Community Responsibility

- The media should not glorify child participation in the conflict
- Children should be informed of their rights
- A culture of intolerance to child endangerment must be developed

International Responsibility

- The international community must pressure Israel to abide by its obligations under international human rights and humanitarian law. This obligation goes beyond simple shaming and other techniques should be employed such as ending military aid and using trade sanctions
- The international community has a responsibility to enforce the opinion of the ICJ

Monitoring and Reporting

- Monitoring and reporting on Israeli violations must be enhanced in order to prepare for future reparations, form the basis of advocacy strategies and identify child victims in need of governmental services
Conclusion: Cross-Cutting Issues

Creating a Comprehensive Child Protection System
In order to be effective, child protection has to be comprehensive and the enabling factors must be in place on all levels. In designing this paper, the writers attempted to disaggregate some of the phenomena in need of attention in child protection—but in many ways this disaggregating is artificial. In the end it is impossible to separate the causes and effects of Israeli violence from those of Palestinian poverty, child abuse and psychosocial distress. Many of the phenomena discussed in this paper compound each other. This creates a need to think strategically about the field of child protection as a whole and to understand the ways in which different levels of protection—from international, to governmental and societal—and different areas of protection are inherently connected. As hoped, the drafting of this comprehensive document has raised many reoccurring and cross-cutting issues to the forefront.

Addressing the Occupation
The first of these is the need of the international community to address the root cause of many of the violations of children's rights: the occupation. Without sustained political pressure from the international community on Israel to respect its commitments under international law—particularly the CRC—child protection will be precluded on all levels. Occupation prevents the building of the institutions necessary to protect human rights. It creates poverty and it is an extensive source of violence.

Donor Policy
Donors, as well as the PNA, have a responsibility to consider and monitor the effects of development projects on the rights of Palestinian children.

PNA Prioritization of Children's Rights
Another cross-cutting issue is governmental commitment to protecting children. The PNA does not have the capacity of other governments. It is undergoing a funding crisis and it exists in the artificial political realm of occupation. However, it has a duty to prioritize child rights in its budgeting and to mainstream them in all relevant areas and programs. Progress has been made in this area over the last few years, but much more is needed.

Raising Community Awareness
Child protection must be seen as a right not as charity. It should also be understood to be an aspect of the protection and growth of the community as a whole. Community awareness needs to work against discrimination, stigmatization and marginalization. Communities also need to be aware of methods of child protection, and their responsibilities to this end.

Research and Monitoring
As Archard writes, "...the operation of any CP [child protection] laws and policies will only be as effective as the means that exist for detecting or predicting breaches of the threshold of child abuse and neglect."238

Monitoring, reporting and research was consistently lacking in every area addressed in this paper. Much more is needed on this front as it provides the basis for any future work in child protection. Existing services and resources need to be adequately mapped, and programs need to be systematically evaluated.

There is a need for more comprehensive research which could focus on qualitative data and examine general trends in the field. This research could be used to identify priorities in planning.

Prevention not (only) Intervention
In every field mentioned in this paper, there needs to be greater concern for prevention. As it stands, the field of child protection in the OPT is reactive rather than proactive.

Enhancing the Legal Framework
All laws must be reviewed to ensure that they are in accordance with the CRC. Furthermore, these laws must have the supporting framework of bylaws and adequate financial and human resources must be available to implement these laws.

Ensuring the Rights of Girls
There is inadequate understanding of the situation of girls in need of protection. Girls in Palestinian society are often more vulnerable to protection issues. Thus, there needs to be a greater prioritization of girls in terms of research and service provision.
Setting Professional Standards
Core standards should be set for all professionals working in the field to ensure their qualifications. These standards will be adopted by organizations working at all levels. An example of a core standard is that every professional working in any field which addresses children should have an understanding of the different phases of child development. There also needs to be standards developed specifically for each sector addressing relevant qualifications, skills and practices.

Adopting a Rights-Based Approach
There is a tendency to look at children's needs rather than their rights. A child protection system including all of its components must be based on rights-based framework.

Forming a Child Protection Steering Committee
As noted above, there is a need for a comprehensive cross-sectoral child protection system. In order to began to form the basis and strategies for this system, a child protection steering committee should be formed of professionals from the governmental, non-governmental and private sectors. MoSA has already formed a child protection committee which should be reactivated and expanded with members of the steering committee which was formed for the drafting of this paper and other relevant professionals.
Child Protection: Who is Responsible?

It was the second day of summer vacation when the mother of 11 year-old S discovered that her daughter had been sexually abused by her father several times during the last school year. S told her mother about the incidents, and S's father confessed to the sexual abuse.

S's mother went to several organizations to seek help for her daughter. She started with the government hospital in her district. She then contacted a political party in a refugee camp, which recommended she go to a UN clinic in the camp to receive medical care for her daughter. The clinic staff sent S's mother to a small NGO, which then referred her to another NGO. None of these organizations provided any assistance. One organization expressed its lack of willingness to assist S in this way: "We don't want to mix bad apples with good apples."

During this time, S's mother received many threats from her in-laws, who were angry about the fact that she was talking about the sexual abuse with organizations. They asked her to cover up their sons' crime and they threatened her financially, saying that if she did not stay silent, they would not give her or her children any financial support. S's mother decided to ask the relevant ministry to help her find a job or support her children so she could leave her husband. Unfortunately, no one from the ministry responded, and S, her sister and her mother are continuing to live with the abusive father.

It has been two years since S's mother found out about the abuse, and she is still looking for protection and assistance for her daughter.

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