

INTERNATIONAL FRAMEWORK FOR THE PROTECTION OF THE RIGHTS OF THE CHILD. THE PALESTINIAN CONTEXT

di Rossella Paino*

Abstract

Il benessere psico-educativo dei bambini e dei giovani nei Territori Palestinesi Occupati è significativamente influenzato dall'occupazione israeliana. Nel corso degli ultimi 60 anni in particolare, il popolo palestinese è stato sistematicamente privato dei propri diritti fondamentali e l'indipendenza a tutti i livelli della vita quotidiana.

La protezione dei bambini, e in particolare il diritto all'istruzione, sono costantemente violati. Alcune scuole sono state distrutte, altre sono usate come basi militari, gli insegnanti e gli studenti sono perseguitati e arrestati, le autorizzazioni di viaggio vengono negate e i calendari scolastici sono sospesi. La protezione dei bambini è fondamentale per lo sviluppo globale di oggi, ma, soprattutto, per svolgere un ruolo centrale nel futuro progresso mondiale.

*A child means every human being under the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.
(Convention on the Rights of the Child, Article 1)*

Introduction

The international legal framework governing the arrest, trial and detention of children is determined by numerous conventions, which often overlap, as well as treaties, protocols and resolutions and customary international law. Some of the rules relating to the protection of prisoners deal specifically with the treatment of children, while others are interested in the general employment and treatment of military prisoners. Other rules govern other sectors, from health and sanitation to access to a lawyer for the child and his family.

The main international conventions protecting children's rights are as follows:

- a) The Convention on the Rights of the Child (CRC Children's Rights Convention).
- b) The Convention against torture
- c) The Fourth Geneva Convention on protection of civilians in time of war.

* Dottore di Ricerca in Pedagogia e Sociologia Interculturale presso l'Università degli Studi di Messina.

- d) The United Nations Convention, which sets minimum standards for the Administration of Juvenile Justice (The Beijing Rules ") of 29 November 1985
- e) The Universal Declaration of Human Rights
- f) The International Convention on Economic, Social and Cultural Rights (CESCR).
- g) The Covenant of Civil and Political Rights (in force since March 23rd, 1976).
- h) The United Nations Convention for the Protection of Children Deprived of their Liberty (JDL Rules)
- i) The International Convention on the Elimination of All Forms of Racial Discrimination. (December 21st 1965 entered into force in January 1969)

1.1 Children rights. Birth and development of child protection movements (theories and principles)

The protection of children is a relatively recent concept. Perception of childhood has fluctuated throughout history. It is only during the last century that a place, role and a social recognition of the need for the protection of children has emerged. It was only during the 1990s that Child Protection became an independent field of Humanitarian relief. Since the beginning of human society, except in some specific cases (such as the ancient India), parents and especially fathers were given almost or total power over the life or death of their children. In many cases the laws were geared toward enforcing traditions, such as in France, with the Napoléon Civil Code. Mentalities started to change with the emergence of movements of thought related to Human Rights in the 18th century. During the 19th century in Europe, the legal minimum age for work progressively moved from 6 years old, to 12, 14 and finally 16.¹

In the beginning of the 20th century, some child protection movements were developed, but were delayed by the 1st World War. In 1920 the International Union of Children relief was created under the aegis of the Red Cross in Geneva. This union aimed at protecting children during war periods. Simultaneously, in England, Eglantine Jebb² struggled for child protection in the defeated countries and established the organization Save the Children. She largely contributed to the Declaration of the Rights of the Children (1924) called " the Geneva Declaration" and voted into law by the League of Nations in Geneva that recognized Children Protection as a fundamental duty of the League of Nations.

In the wake of the Second World War, the United Nations created UNICEF in order to answer the emergency needs of children in Europe and in China. The United Nations International Children's Emergency Fund was created on a temporary basis but in 1950 its mandate was extended to the

¹ DCI website

² Protecting Palestinian Children

long-term needs of the children and women of all countries in development. In 1953 UNICEF became a permanent element of the UN system and was renamed the « United Nations Children's Fund ».

In 1948, the UN General Assembly adopted the Universal Declaration of Human Rights and the Geneva Declaration was slightly modified to emphasize the protection of children. In 1959, the UN adopted the "Declaration of the Rights of the Child" that referred to the Declaration of Human Rights. The Declaration specified that children were in need of specific protection and care, given their physical and intellectual immaturity. Nevertheless, the declaration was not binding, and remained a declaration of principle. The "International Day of the Rights of the Child" was instituted in 1959.

1979 was the International Year of the Child; the UN studied the proposal of "Convention of the Rights of the Child" presented by Poland and nominated a working group in charge of revising and writing the final text. In 1985, the "Beijing regulations" stated the minimal rules regarding justice for children under 18 for the member states of the UN.

Finally in 1989, the General Assembly of the United Nations adopted the **Convention on the Rights of the Child** including 54 articles. The **Convention on the Rights of the Child** came into force in 1990 and became binding for all signatories. In the Havana, the 8th congress of the United Nations for crime prevention gave birth to important resolutions regarding juvenile delinquency.

The Convention 182 of the International Labor Organization set as its main objectives the elimination of child exploitation in the workforce 1999. The number of children aged from 5 to 14 years all over the world was estimated to be 250 million, including 80 million working in terrible working settings. Most of them were working in the agricultural and domestic fields.

1.2 Current Principals of Child Protection

Child protection is defined as efforts "to prevent and respond to violence, exploitation and abuse against children"³. This definition implies both prevention of harm to children and that child protection is related to violence, exploitation and abuse.

The 1989 Convention of the Rights of the Child (CRC) remains the main reference on the principals of child protection; its principles aim at ensuring children's survival, development and protection. Nevertheless, the political, economical and social factors required to fully implement the convention remain difficult to obtain in unstable regions. This instability negatively affects children, and up to today the convention has not been implemented anywhere⁴. To the regard of external and incontrollable factors, children are victims of internal negligence, abuse, exploitation and

³ UNICEF 2006 – quoted from Protecting Palestinian Children

⁴ PCBS – Report 2010

violence from their (supposed) caretakers.

It is widely recognized that the environment is essential for a child's physical, mental and psychological development. Signatory states are supposed to implement legislation with this understanding. The CRC also recognizes that a lack of nutrition and health facilities are major contributing factors to a child's vulnerability. To this regard, State Parties "recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services." International law and all international conventions on this subject stress the importance of access to healthcare as a fundamental right of every human being and *a fortiori* for children. The first goal of the Millennium Development Goals is the eradication of hunger.

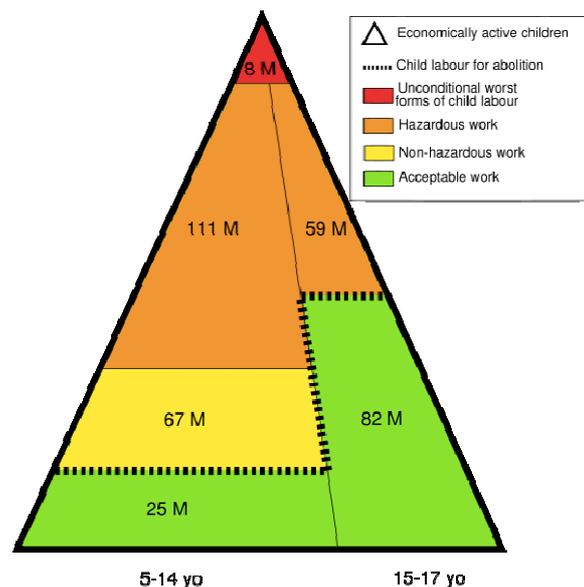
The importance of access to culture and leisure is highlighted in the CRC as well. Access to culture gives children the means to develop their intellectual intelligence and reflection; while access to leisure helps them to build their social intelligence and their emotional stability. Culture is one of the keys to a child's social development transforming the newborn from a natural being into a social being. Child's personality and identity is developed through access to culture and leisure. The CRC includes this aspect in the Article 31-1: "*State parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the child age and to participate freely in cultural life and the arts.*"

In a general understanding of how child protective services work, specific situations and contexts increase children's need of protection by obstructing their mental and physical wellbeing. First of all, the Convention highlights the status of child refugees and their special needs in terms of protection and humanitarian assistance (Article 22). Then, other specific difficulties of children are mentioned, such as: children deprived or separated from their parents, children subjected to all kinds of violence "physical, sexual and mental/emotional abuse" (Article 19 and 34), disabled children, children deprived of their liberty and finally children afflicted by violence and armed conflicts.

A specific mention is given to the detention of children. The CRC (Article 37) prohibits the arbitrary deprivation of a child's freedom, recommending the shortest period of imprisonment, the arresters shall guarantee to the child the right to know the reason of their imprisonment, and obviously the right of having a lawyer. Furthermore, families should be informed of the reason and conditions of the incarceration. Additionally, many International charters enforce the prohibition of torture, such as the International Declaration of Human Rights, the Convention Against Torture and the Fourth Geneva Convention.

A crucial aspect of the children protection relates to child labor, which harmfully affects children and their future but also the political,

social and economical structure of their society. Child labor is a severe violation of the most basic of a child's rights. Child labor affects the physical growth of the child and their ability to develop knowledge, mainly in literacy skills. Internationally, the International Labor Organization defines "child labor" by comparing the age of the child with the difficulty of his/her task. In practice, a distinction is made between the so-called "acceptable work" (considered to be light work that does not prevent schooling) and "unacceptable work" (considered to be dangerous work that does prevent schooling). Generally what is called "child labor" refers only to "unacceptable work". In 2002, working children were estimated to number at 350 million⁵. Within this number, more than 8 million are considered to be victims of the "worst forms of child labor" such as: prostitution, pornography, forced labor, child soldiers, trafficking and other illicit activities. Over three quarters of the working children worldwide are working in the agricultural or domestic sector. Child labor directly impacts to one of the most important of a child's rights, which is the right to education.



1.3 Special focus on the International Education Law

The right to education is a child's fundamental right, and is tackled as the second Millennium Development Goal "Achieve Universal Primary Education". Education, formal or informal, is the only way to allow children to achieve their full potential.

The education sector is one of the most important sectors in a society, which is given special attention by governments since it represents real investment in the future of the nation. Furthermore, indications based on the education system are used to measure the government and society's performance in terms of providing a suitable environment for a child's right to education. Those indications based on the education system are for example⁶: children out of both primary and secondary school, literacy rate in adults and youth, public spending on education, number of children who repeat grades, trained teachers in primary education, etc. The education of children has occupied a high priority in many national, regional, and international conferences such as the Jomtien Conference on Societal Education in 1990, the Dakar Conference on Evaluating Education for All in 2000, and the Convention on the Rights of the Child of 1989, which is the most comprehensive convention on human rights in the world. Moreover,

⁵ International Labor Conference, 90th Session, International Labour Office, Geneva, 2002.

⁶ Data World Bank indicators.

conventions on human rights have all emphasized that providing quality education to children is high priority.

In 1960 the Convention Against Discrimination in Education determined a comprehensive ban on all forms of legal discrimination in education and also on all processes that would have the effect of causing discrimination.

Since 1989, the Convention on the Rights of the Child has established a binding obligation on governments to work towards fulfilling the right to education ‘progressively and on the basis of equal opportunity’ (United Nations, 1989, Article 28): “States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular “A- Make elementary education compulsory and available free to all; B-Encourage the development of different forms of secondary education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need”. Joining school and receiving quality education are main factors to achieving such a goal. Moreover, four more Articles in the Convention on the Rights of the Child reinforce the comprehensive legal principles of children’s education including: Article 2, which stipulates that “State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind;” Article 3, which states, “The best interest of the child shall be a primary consideration;” Article 6 states, “That every child has the inherent right to life [...] survival and development;” and Article 12, which stipulates, “The child who is capable of forming his or her own views (has) the right to express those views freely.”

1.4 Legislation for Child Protection in the Palestinian context

This paragraph attempts to understand to what extent child protection principles are respected in the OPT, and if the PA and the Israeli authorities comply with the international law for child protection. Although the Palestinian National Authority is not a sovereign state, which means that it cannot sign international conventions, it has adopted all aspects of the Convention on the Rights of the Child. The strategy of the National Plan for the Palestinian Child was drafted using the CRC as a general framework. The plan focuses on a number of services provided to children, which encompass sectors such as health, education, youth, culture and social affairs. Regarding health, for instance, the plan envisages the development of the health system to better improve the Palestinian child’s health and to make that system accessible to all children and their mothers. It further adopts the principle of strengthening health through schools, clinics and the media⁷.

In OPT the protection of children and the access to education is

⁷ PCBS 2010.

negatively affected by the Israeli occupation policies. Since the second Intifada (September 2000), the treatment of children detained by Israeli police, military forces and security has deteriorated significantly. The Israeli government constantly violates the rules governing judicial proceedings, deprivation of liberty, torture, the protection of health, and the education of children. A large number of Palestinian children are prevented from accessing education not only in Gaza, where many schools have been destroyed by military attacks, but also in West Bank because of the occupation policies. In the West Bank many children under 18 years of age experience administrative detention and are tried by military courts. According to the Israeli military law Palestinian children above 16 years of age are considered as adults.

Obviously detention prevents children from access to education and is also one of the factors that contributes to the increasing number of students who drop out of school. In addition, the closures and checkpoints, along with the fear of violence and attack by Israeli soldiers and settlers, often prevent students and teachers from attending schools. Military attacks, such as the so-called “Cast Lead” operation in December 2009, provoke trauma which strongly effects children’s abilities to learn: many students, for instance, suffer from difficulties concentrating, stress, hyperactivity, and isolation. In some areas, on a regular basis, schools are occupied by the Israeli army, are used to hold interrogations, and are heavily damaged and sometimes demolished. Many schools are demolished in Palestinian villages located in Area C – the zone under the control of the Israeli Civil Administration which often denies permits for rehabilitation or construction. For example, on the 12th of January 2011, OCHA reported the “Dkaika school demolish incident”.

More recently, on the 17th of January 2011, Terre des Hommes reported the military invasion of Al-Hathaleen elementary school. At 9:30 am, in presence of a TDH social worker, the school Headmaster, the Mukhtar, the pupils and teachers of the school, two vehicles of the Israeli army arrived with 8-10 soldiers. All the soldiers had at least 2 or 3 stars on their shoulders. Some of them talked to the Headmaster in his office, in the presence of the Mukhtar and some teachers. During the talk, the soldiers asked the headmaster to use the playground of the school in order to organize training for the army; MoE representatives replied that their request was unacceptable because of the presence of children in the school. Consequently, the soldiers offered that the training would be organized during the night if needed. No further details were given by the soldiers about their intentions. Other soldiers took a video of the playground and the school. The TDH social worker documented the incident and was questioned without consequences by the soldiers about the reason for his presence in the school (Terre des Hommes, 2011).

Thousands of Palestinian students in East Jerusalem are denied access to free public education, although Israeli law entitles them to it. One

of the main problems is the shortage of over 1,000 classrooms. As a result of this classroom shortage, the municipal school system is unable to absorb all the children who want to attend the municipal schools. Every year MANHI (the Jerusalem Municipal Education Administration) rejects a large number of Palestinian children due to lack of space in the educational institutions. This defies the law as well as the regulations of the director general of the Ministry of Education. In 2010, only about half of the Palestinian children in East Jerusalem – about 40,700 out of about 90,000 students – study in the municipal school system. Another 40,000 Palestinian children attend private or "recognized yet unofficial" schools. These schools are operated by churches, the Waqf, the United Nations and various other Palestinian groups. Studying in many of these schools is quite expensive. Additionally, approximately 5,500 students are not registered in any of the above-mentioned frameworks.

Palestinian legislation concerning the protection of children is very poor. In any case, any improvement of the current system needs external support both in terms of funding and of advocacy. The split between the West Bank, which is governed by the PA, and Gaza, which is governed by Hamas, is also jeopardizing children's rights to education and protection. Indicators of the condition of the education system in the OPT are difficult to measure, given the division between the West Bank and Gaza governments. Some indicators data are not available⁸, e.g. the percentages of education expenditures of GNI or GDP are not available data. The literacy ratio from age 15 and over is gender unbalanced, despite the fact that in the total population 92.4% of Palestinians are literate: 96.7% of males are literate while only 88% of females are literate. In comparison the French literacy percentage is 99%, equal between male and female. The gender unbalance turns regarding the school life expectancy from primary to tertiary education. While females have a school life expectancy of 14 years, males have 13 years. However, the OPT remains one of the most advanced countries in the Middle East in comparison with the indications of education coming from other countries. The literacy rate in Egypt is 71.4% (male: 83% and female 59.4%) and in Jordan is 89.9%. The school life expectancy is 11 years in Egypt and 13 in Jordan. But as is argued by Daoud Kuttab, "Palestinians have always prided themselves on being among the highest educated among all Arabs, but if this was true in the past, it is not true anymore, and it is certainly not true for Palestinians in the Occupied Territories».

2.1 Palestinian Context. Historical background

2.1.1 Early 20th century

In the early twentieth century, the Zionist movement, founded on the initiative of some European Jews, had called the Jews of the world to settle in Palestine to create a national state able to protect them against

⁸ The World Fact Book, updated on 8/03/2011.

persecution, which they had been systematically made victim to in Europe since the Middle Ages.

In response, Britain made three promises almost simultaneously. In 1916, France and Great Britain agreed to share the future spoils of the Ottoman Empire, and signed the Sykes-Picot agreements. They agreed to share the Middle East in areas of French administration or influence, British areas of administration or influence. Palestine was declared a zone of international administration. At the same time, to obtain military support, the British promised Sheriff Hussein (of Mecca) all the Arab territories under Ottoman occupation, including Palestine. Finally, however, Lord Balfour declared in 1917 that Britain was in favor of "the establishment in Palestine of a national home for the Jewish people". In 1922, the League of Nations mandated Palestine to the United Kingdom. The Palestinian population therefore revolted both against the occupying English and Jewish Europeans arriving, establishing that they refused to pay the price of European barbarism. As they were facing escalating violence, on February 1947 the United Kingdom decided to bring the issue of Palestine to the United Nations. Two proposals were made: the first for a federal state of Palestine and the second for a partition with economic union. Finally, on November 29, 1947 the United Nations adopted Resolution 181, to validate the partition into two states and Jerusalem.

2.1.2 1948 – 1987

On May 14, 1948, the United Kingdom relinquished its mandate over Palestine and disengaged its forces. The same day, the Jewish Agency proclaimed the establishment of the State of Israel within the territory assigned by the partition plan. Immediately hostilities broke out between the Arab and Jewish communities. The next day, troops of neighboring Arab states entered the territory to help the Palestinian Arabs.

The defeat of the Arab coalition resulted in a division of Palestine into three parts: 70% of the territories were allocated to Israel, Egypt administered Gaza and Jordan annexed the West Bank (including Jerusalem). The fighting had created a major humanitarian crisis. 750,000 Palestinians were expelled from their home and became refugees. However, the refugees believed their situation was temporary and kept the hope of return. This hope was reinforced by resolution 194, adopted by the UN General Assembly, declaring that "refugees wishing to return to their homes and live in peace with their neighbors should be permitted to do so as soon as possible" and that "compensation should be paid for the property of those choosing not to return. "

In 1949, Israel joined the United Nations, agreeing to abide resolutions 181 and 194. The Liberation Organization (PLO) planned to establish a Palestinian state extending over Gaza and the West Bank, but in 1967 Israel occupied the entire territory of "historical Palestine" (territory of the former British mandate of Palestine).

The Suez Canal crisis in 1956 fueled the conflict and saw the

deployment of the first United Nations Emergency Force. On their withdrawal in 1967, hostilities erupted between Israel and Egypt, Jordan and Syria. This war is called the "Six Day War ". Israel then occupied the Egyptian Sinai, Gaza, West Bank (including East Jerusalem) and part of the Syrian Golan. The Six Day War resulted in a new wave of Palestinian refugees. Approximately 300,000 additional Palestinians fled to Jordan while 100,000 Syrians left the Golan Heights and took refuge in Syria.

In 1973, another war broke out between Egypt and Israel in the Suez Canal / Sinai Zone and between Israel and Syria in the Syrian Golan. The opposing forces were pulled out and a second United Nations Emergency Force unfolded between Egypt and Israel (to the Israeli-Egyptian Camp David in 1978) while a United Nations force for disengagement was put into place in the Golan Heights and is still operating until now.

Between 1971 and 1977, the Israeli left wing constructed the first 24 Israeli settlements in the West Bank according to the implementation of the "Alon Plan", adopted in 1971. From 1977, Menachem began to systematize the settlement policy. This colonization was for him primarily ideological; it aimed to restore the Greater Israel of biblical times (from the Mediterranean to the Jordan). Between 1977 and 1980, settlements were already covering over 30% of the surface of Palestinian territories. Meanwhile, in 1980, the Israeli parliament declared Jerusalem "one capital, eternal and indivisible", a decision that was condemned by all Member States of the United Nations except Israel.

2.1.3 1987 – 2000

Living conditions in the Palestinian Territories (Gaza Strip and West Bank, including East Jerusalem), comprised of more than 20 years of occupation, military repression and the confiscation of land, had contributed to the eruption of a spontaneous uprising: The intifada of December 1987. Palestinians from all walks of life from youth, merchants, laborers, women and children, joined the mass protests, economic boycotts, tax resistance and strikes to protest against the military occupation of their land and demand national independence. In 1992 more than 2,000 people were killed, over 40,000 wounded and in Israel, the use of torture became systematic. Doctors were even designated before an interrogation to determine whether the arrested was able to suffer acts of torture or not⁹.

The Madrid conference in 1991 was attended by Israel and neighboring Arab states (Lebanon, Jordan and Syria), but the PLO was excluded. The Palestinians were included in a joint Jordanian-Palestinian delegation. The negotiations failed because the Palestinians were asking for their right to sovereignty to be recognized.

In 1993, during the Oslo Accords, Yasser Arafat and Yitzhak Rabin signed a declaration of principle, recognizing each other's "legitimate and political rights", and began a negotiation process that included the creation

⁹ Israel, Palestine, *Le Livre Noir*, Reporters sans frontières, 2002.

of a Palestinian Authority and the withdrawal of the Israeli armed forces from the occupied territories back to the 1967 borders. The issue of Jerusalem, refugees and borders were supposed to be deferred to future negotiations, no later than three years later. Despite the return of Yasser Arafat in the Palestinian territories in 1994, tensions increased on both sides and a Jewish extremist assassinated Yitzhak Rabin in November 1995. Instead of a massive withdrawal from the Occupied Territories, Israel cut the West Bank into three zones: Zone A (which represents 6% of the Palestinian territories) in which the Palestinians have full authority, Zone B (which represents 20% of territories) in which authority is shared and a Zone C that is under direct Israeli authority. Israel retained 70% of the land, and 80% of the water. All roads remained under Israeli control, which enabled Israel to establish a system of closures and checkpoints. Between 1993 and 1996, the Israeli settlements accelerated to include 300,000 settlers. Roads to connect settlements to the Israeli road network were growing. Even today these settlements and roads prevent Palestinian territorial continuity and maintain the Palestinian territories in fragmented patches.

In January 1996, the Palestinian Authority held its first democratic elections, electing 88 members to the Palestinian Council and Yasser Arafat as President of the Executive Palestinian Authority.

Tensions rose again. In 1996, the Israeli government decided to open a tunnel under Al-Aqsa, infuriating the Palestinians, and several terrorist acts claimed by Hamas killed 55 Israelis and injured about 100 others, infuriating the Israelis. The constantly increasing Palestinian concessions increased the Palestinian peoples' anger. In January 1997, Israel and the Palestinian Authority signed the Hebron Protocol concerning the redeployment of Israel Defense Forces (IDF) in Hebron and the establishment of an Israeli settlement in the heart of the city of Hebron. The Protocol also established a timetable for further redeployment of the IDF in the West Bank. The tense peace finally collapsed in 2000 when the Camp David peace talks ended without result.

2.1.4 The birth of "Al-Aqsa Intifada"

Upon taking office in February 2000, Ariel Sharon rejected all previous agreements between Israel and the PA. On the 28th of September 2000 Ariel Sharon went inside the Al-Aqsa mosque and caused a Palestinian uprising. Palestinians and Israelis entered into cycle of intensified violence. The Israeli government decided in 2001 to construct a Wall, annexing a large part of Palestinian territories (12% of West Bank).

The tensions were at their maximum. On one side Israel faced a wave of unprecedented attacks and on the other Israel launched deadly operations (including armored ground infantry and air force) in every Palestinian town, including the April 2002 massacres in Jenin and Nablus. In August 2002 the conflict had already killed between 2420 and 2067 people, almost three-quarters of these victims were Palestinian. In this

context, the impact of Israel's illegal occupation of Palestinian land carried grave repercussions for the Palestinian people.

The total number of Al-Aqsa Intifada fatalities up to December 31st, 2008 is 5,901. The majority were civilians: 959 were children below 18 years (384 in the West Bank, 573 in the Gaza Strip, 2 in East Jerusalem). In the recent Israeli aggression in Gaza Strip beginning December 27th 2008 and ending January 18th 2009 there were 1,334 fatalities, 417 of them children¹⁰. Additionally hundreds of thousands of men and women, both young and old, have been injured; many are disabled for life.

In 2006 the last Palestinian Legislative Council elections and the rise of Hamas to political leadership resulted in political and financial sanctions imposed by Israel and the USA on the newly elected government. The international community intervention gave support to Fatah's decision not to accept the results of the elections and not to transfer power. This situation resulted in internal clashes between Fatah and Hamas members, which resulted in turn in a political split between Gaza and West Bank.

2.2 Children's condition in the Occupied Palestinian territories

The consequences of the Israeli repression on children are broad. Beyond the children killed, injured and who have lost their homes, the daily life of Palestinian children is completely disorganized. The curfews and the extremely strict closures prevent any kind of normal life on the social level as access to education and health services is compromised for most of them.

Intra-familial relationships are severely affected. When, in a family, the father does not work, it means that he will stay from the morning until the evening between four walls with his wife and children, that at the end of the month he will not bring in money and will face the humiliation of no longer being able to feed his family. This huge level of frustration contributes to an increase in the level of violence in Palestinian families.

Sylvie Mansour, psychologist-clinician

Child protection involves various aspects: demography, health, education, the child's right to access culture and leisure, and access to special protection for those in need. This paragraph will briefly introduce the situation of Palestinian children according to these criteria.

2.2.1 Demography

In 2009, there were 4 million people in the Palestinian Territories including 2.5 million in the West Bank and 1.5 million in the Gaza Strip. 9% of the population is under 15 years old. 44.5% of the total population in the Palestinian territories is a refugee (refugee status refers to Palestinians who were driven from their lands occupied by Israel in 1948). Among them, the percentage of child refugees represents 44.5% of all children.

¹⁰ PCBS, 2010.

2.2.2 Health

Currently, 10% of children under five years of age suffer from chronic malnutrition, and are at risk of physical and cognitive delays. The level of infant mortality was declining until 2000 but started to increase during 2001-2006 and reached 27.3 per 1000 births, which may partly be explained by poor access to hospitals and maternity wards, particularly in regions where the number of checkpoints is higher, or in areas surrounded by the wall. Qalqilya Governorate has the highest percentage of at-risk births with 11.3% of all births occurring in uncertain conditions at home or on the way to the hospital, followed by Jenin at 10.9% and Tubas at 10.4%. These three regions are located in the northern West Bank. Between 1996 and 2006, 7,100 women had difficulty in accessing health facilities, many due to the delay of Israeli checkpoints. Clearly, amongst their many other difficult consequences, these enslavement measures imposed by the Israeli occupation have directly jeopardized the chances of safe delivery.

2.2.3 Children's access to culture and leisure

A Palestinian child's culture comes from Palestinian and Arab heritage, philosophy, religion, values, norms and tradition. Knowledge is mainly acquired through the Arabic language although English is also very widespread. Access to culture and to leisure plays a determinate role in the healthy development of a child. But, in 2009, only 8.8% of children aged 10 to 17 years regularly traveled to sports clubs, 4.2% of children went to the library and 3.9% of children regularly visited recreation centers. Reasons for these low percentages are linked with the lack of services delivered but also by the lack of trust of the parents in the social and physical safety for their children.

2.2.4 Children in need of special protection

The poverty rate in 2007 was 57.3%. 82.8% of Palestinian households contain children. 54.6% of these households have between 3 and 6 children and 11.7% had more than 7 children. Due to an increasing rate of poverty, child labor in the Palestinian society has become a worrying phenomenon. In 2009, 3.7% of the paid workforce were children between 10 and 17 years of age, of which 5.4% were in West Bank and 0.9% in the Gaza Strip. The need for work is a prominent factor for dropping out of school (25.9% of school children are employed) along with familial financial problems. Some children are sent to work by their parents who elect instead to educate their brothers and sisters. In other cases children drop out from school because of low school achievements, corporal punishment, lack of transportation, and the distance of the school. The main source of unpaid labor of children is agriculture: crops, water transport, care of pastures. They are often an essential workforce and financial contribution for their parents. Children are also exploited in commerce and industry.

While Israel has signed the Convention on the Rights of the Child, the facts show that children's rights are not respected, including the right to

life. Throughout the Al-Aqsa Intifada, 959 children were killed, and during "Operation Cast Lead" conducted by the Israeli army against the people of Gaza in 2008-2009, 417 children were killed.

In addition, many cases of torture, physical and psychological punishment against Palestinian children have been reported, especially, but not exclusively, during interrogations. In many cases, children have no access to a lawyer, are tried in adult courts and are jailed along with Israeli criminal prisoners. In 2009, 326 children aged 13 to 16 were detained, including 135 children under 15 years of age¹¹. Among the detained children, 118 are serving sentences, 202 are awaiting trial, and 6 children are in administrative detention without charge. The report of the Palestinian Prisoners Club reveals torture, humiliation and cruel treatment. Children are brutally arrested during the night, about 80.0% are put under investigation by the harsh Israeli authorities to extract confessions, using methods similar as adult prisoners, which include: beatings (especially on the face and upper body), cigarette burns on the body, choking (positioning a bag on the child's head), use of electric shocks, sleep deprivation for several days, insults, threatens to harm their parents, etc.

2.2.5 The psychological impact

According to a survey carried out on 1,200 children by the Secretariat for the National Plan of Action for Palestinian Children, 48% of Palestinian children have experienced violence owing to the ongoing Israeli-Palestinian conflict or witnessed violence befalling an immediate family member, and show several symptomatic traumatic behaviors. The repeated direct or indirect exposure of children and youth to traumatic events has resulted in withdrawal from social life, aggressiveness, hyperactivity, sleeping difficulties, and low learning achievements.

Sylvie Mansour reminds us that during the period from the beginning of the second Intifada until the 31 October 1994, 257 children were killed by the Israeli army, including 68 under 13 years old and 189 aged between 13 to 16 years old. She explains that consequently, instead of playing "Cow-boys and Indians", Palestinian children have started to play "Israelis and Palestinians", with scenarios representing violent scenes that they have witnessed or heard about. Beyond the violence of their games, the violent environment in which children live results in more violent behavior, including sexual violence. Evidence of children exposed to sexual violence is emerging, but the subject remains taboo. Children must be protected from all these various forms of violence, abuse and exploitation. Services available and accessible in case of child abuse are very rare. Despite the attempted discussion of some NGOs with the relevant authorities, the subject is still unmentionable and not easily tackled; and unfortunately statistical figures are not available.

¹¹ Prisoners' Club, 2009.

2.2.6 Education

Palestinian youth and their families have already been severely affected by the Israeli occupation that still represents a threat to their social development and integration. The Israeli response to the Second Intifada has led to immeasurable costs to the education system, resulting in high percentages of dropouts and illiteracy, particularly among women. Access to education has been affected by movement restrictions and the declining economy.

While the percentage of the population under 18 is constantly increasing, the primary and secondary school enrollment ratio is decreasing along with the quality of education. Different root causes are incriminated: those that are direct, and those that are indirect. In terms of direct causes, we see the conflict, the violence, the closures and the difficulty to access schools, as well as financial pressure. In terms of indirect causes, we see the general tiredness of the population, including the teacher's fatigue in the face of over-crowded classrooms, and the insufficient facilities and inadequate learning materials. Only 3.2% of teachers have master's level or above, 62.7% have a baccalaureate and 24.8% have a high school diploma.

The Ministry of Education and Higher Education (MoEHE) is the formal authority responsible for the education system in the oPt. East Jerusalem is considered by the PA to be one of its districts but the de facto authority remains with the Israelis. The Jordanian Awqaf administration (pre-dating 1967) plays a major role here. The Ministry of Education and Higher Education was created in 1994 with the creation of the Palestinian National Authority. Between 1996 and 2002 it was merged into a Ministry of Education and a Ministry of Higher Education, finally in 2002 both ministries were fused together once more and turned into the MoEHE. It developed the Framework for Action for Education for All 2005-2015, that made possible the finalization of the first Palestinian Curriculum in 2006/2007; which replaced the Jordanian curriculum and set in motion the 2008-2012 Education Plan. The previously used curricula in the Occupied Palestinian Territories were the Turkish, Egyptian and Jordanian curricula. The establishment and, today, the improvement of the Palestinian curriculum are central subjects of professional research. Compulsory education has been expanded from nine years to ten years, and the new Palestinian curriculum reform plans were gradually implemented during the scholastic years 2000-2006. There has also been a widening of educational facilities, which have reached areas where they were never before available. Despite the achievements in children's education, we cannot underestimate the future challenges of the educational process. The compulsory basic education cycle last 10 years, the UNRWA schools do not assume responsibility for children after this cycle. The certification that permit access to higher education is called tawjihi, and compulsory education ends two years before a student can receive it.

The number of pupils enrolled in primary and secondary schools amounted to 1,109,126 for the 2008/2009 academic year. Girls represent

49.5% of primary school students and 53.2% of high school students. 69.6% of students were enrolled in government schools, 23.0% were enrolled in UNRWA schools, and 7.4% were enrolled in private schools.

The dropout rate at the elementary level during the 2006/2007 school year in the Palestinian Territory was 1.3% for boys and 0.5% for girls. At the secondary stage, the rates were 3.0% for boys and 3.8% for girls.

In 2008/2009 there were 2,488 schools (1635 primary schools and 853 secondary schools), of which 75.2% were government schools, 12.7% of UNRWA schools and 12.1% of private schools. The average number of students per class rose to 32.7; it rose to 37.3 in UNRWA schools.

Only one third of children are enrolled in nursery school, a consequence of the privatization (and therefore cost) of kindergartens, of which only the Ministry of Education only manages two. However, current regulation states that the Ministry of Education must approve kindergartens. This is only a role of supervision from the Ministry on the Early Childhood Education but it is not compulsory for the kindergartens. Different lobbying is being conducted on this issue, for instance, in 2010 Unicef started working on the legislative aspect of the issue in collaboration with the MoEHE.

2.2.7 Palestinian education system (primary, secondary, universities, technical colleges)

The Palestinian Education System comprises a compulsory basic cycle covering Grades 1-10, divided into the Preparation Stage and the Empowerment Stage. Optional Secondary Education covers Grades 11 and 12, with the option of general secondary education, and a few vocational secondary schools. Post secondary education is offered in 11 universities and 11 technical colleges, offering mainly B.A. programs lasting 4 years, and 19 'community colleges,' offering mainly two-year diploma courses in technical and commercial fields.

The Tawjihi remains an issue of the Palestinian curriculum and education system. The entire process of acceptance into the Higher Educational system is conditioned by this exam, that is both the final exam of the secondary education and the access exam to university. The exam is based on the memorization of the program and completely excludes reflection, research and a deeper understanding of subject matter. It does not focus on analytical or life skills but mainly measures the abilities of retention of information: "The tawjihi teaches students to repeat" (reported by Susan Nicolai, Unesco).

The low level of primary and secondary education, according to Daoud Koutab, led local universities to lower their standards in order to cope with the aptitudes of the newly graduated high school students.

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