

United Nations Study on Violence against Children

Response to questionnaire received from the
Permanent Observer Mission of Palestine to the United Nations

International Human Rights Instruments

- 1. Describe any developments with respect to violence against children which have resulted from your country's acceptance of international human rights instruments, including, for example, the Convention on the Rights of the Child and its optional protocols, the Palermo Protocol or regional human rights instruments. Provide information on cases concerning violence against children in which your country's courts or tribunals have referred to international or regional human rights standards.**

Signing of International Covenants

Because Palestine is not a state party, it lacks the legal personality to sign on to most international conventions. However, these conventions are relevant and applicable to the Palestinian context. Thus the Palestinian Authority, acting as the governing body has endorsed international human rights conventions. These include the CRC, to which President Arafat pledged his commitment on 5 April, 1995.

Regional Instruments

The PLO signed the Arab Convention on Child Rights, and the PA uses the context of this and other regional instruments such as the Casablanca Declaration of 1999 and the Sa'na declaration in its efforts to develop its own national child legislation.

International Humanitarian Law and Palestine's Status as an Occupied Territory

Palestine has an uncertain legal status. The strong consensus among the international community is that Palestine is occupied by Israel. Despite Security Council resolution 904 which affirms the applicability of the Fourth Geneva Convention in the Palestinian Occupied Territories, Israel denies its applicability. It does so on the basis of its interpretation of Common Article 2, which it claims requires that land be previously sovereign in order to be considered occupied. 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.”¹ So-called occupation 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.”²

The system of law in the OPT has been further complicated by the Oslo Agreements. Specifically, they established the Palestinian Authority (PA) as the legitimate administrative authority in parts of the OPT and granted it security and police powers. However, while the creation of the PA created a semblance of rule of law, the agreements also divided the OPT into three areas with convoluted legal status. In area A, the PA has civil and security control; in area B, Israel maintains security control while the PA is the civil authority; and in area C, Israel maintains complete civil and security control.

¹ “Review of the Applicability of International Humanitarian Law to the Occupied Palestinian Territory” International Humanitarian Law Research Initiative.

<http://www.ihlresearch.org/opt/feature.php?a=31>

²Scheffer, David J. “Beyond Occupation Law.” *The American Journal of International Law.* Vol 97, No. 4 (Oct 2003) 842-860.

International Humanitarian Law draws a strong distinction between combatants and civilians in terms of the protection it offers. While Israel systematically labels Palestinian children as combatants, according to DCI, "It is highly questionable whether the Palestinian children aged 15-18 who were killed during this Intifada can be considered 'combatants'." ³ DCI supports this statement with the fact that Palestinian security forces do not enlist anyone below 18 years of age and the fact that the Palestinian Child Law contains a provision forbidding the enlistment of children under 18 in any armed forces. According to the UN Commission of Inquiry reporting to the UN Commission on Human Rights, after its February 2002 visit, "stone throwing by youths at heavily protected military posts hardly seems to involve participation in hostilities". In addition, many of the children killed were not taking part in confrontations with Israeli forces when they were mortally wounded."⁴

Israeli Responsibility to Implement the CRC

Israel maintains that it does not have obligations to implement international human rights conventions, such as the Convention on the Rights of the Child in the OPT. It argues that this responsibility was transferred to the PA as a result of the Oslo process. However, Israel actively intervenes throughout the OPT—including in the 17% of the OPT under PA 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; 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 principle that human rights law... must be respected during an occupation has been stressed by several resolutions of the UN since the late 1960s, while some international courts and tribunals have emphasized the applicability of human rights law either implicitly or explicitly. Furthermore, the applicability of multilateral treaties to an occupied territory has been widely accepted and supported.⁷

Legal Provisions on Violence against Children

2. Describe how forms of violence against children are addressed in your country's constitution, legislation and subsidiary legislation, and, where appropriate, customary law.

Israeli Violence against Palestinian Children—Direct and Structural

³ Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.29

⁴ Quoted in: "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.29

⁵ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.38

⁶ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.38

⁷ Shuqair, Riziq. "Criminal Jurisdiction under the Gaza-Jericho Agreement." Al Haq. 1994.

In order to speak to the ways in which violence against children is addressed in the OPT, it is necessary to begin with a discussion of the different sources of this violence. Palestinian children face violence as victims of Israel's occupation policies and they face violence from sources within Palestinian society. However, it is important to note that these two sectors are not independent of each other. Rather, the structural violence of the occupation in many ways compounds the violence within Palestinian society.

Since the beginning of the current Intifada in late September 2000, 595 Palestinian children have been killed and thousands have been injured.⁸

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.⁹

This clearly represents the direct violence Palestinian children face from the Israeli military. However, violence also comes in structural forms. As DCI explains,

Depriving an entire nation of people its freedom, through occupation, is itself a major human rights violation. Consequently, the occupying power bears responsibility, both for its direct violations of individual human rights, and for the collective violation that comes in the form of ongoing occupation. It is this latter violation which causes the majority of human rights violations associated with the conflict...¹⁰

Military occupation adversely 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. 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.¹¹

The Economic and Social Council has drawn further 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

⁸ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.41

⁹ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations.

¹⁰ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.37

¹¹ Shadia el Sarag, quoted in Libby Brooks. "We Just Want to Live Normally." *The Guardian*. January 29, 2002.

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.¹²

The same report 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.”¹³ Perhaps most disturbingly, the Gaza Mental Health Clinic has reported that some men who have been arrested and tortured return to their homes and use the same torture techniques which were used on them in prison on their wives and children.¹⁴

Background to the Legal System in the OPT

There are many different systems of laws in force in the OPT due to the fact that Palestine has been ruled 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 Gaza), Jordanian law (in the West Bank), Israeli military orders and legislation by the Palestinian 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.

According to 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.”¹⁵ This situation was somewhat ameliorated in August 2004 when the Child Law took force, having been signed by President Arafat. This law supersedes previous legislation on the issues it addresses—with the exception of Israeli military orders. However, there are many issues on which the Child Law is silent and reference must be made to previous legislation.

Israeli Military Orders and the CRC

Israeli military courts have assumed concurrent jurisdiction over all criminal matters and Israeli military orders supersede previous legislation. It is estimated that the Israeli military authority has issued more than 1,500 military orders in the West Bank and 1,100 in Gaza since 1967. Many of Israel's military orders, which act as law in the OPT, are in direct contravention of the CRC. 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. Furthermore, the very existence of the system of military orders is in violation of the convention in that they apply only to Palestinians living in the OPT and not to Israeli settlers. The fact that two systems of

¹² “Economic and Social Repercussions of the Israeli Occupation on the Living Conditions of the Palestinian People in the Occupied Palestinian Territory, Including Jerusalem, and the Arab Population in the Occupied Syrian Golan” The Economic and Social Council. 17 May, 2002.A/57/63-E/2002/21

¹³ *ibid.*

¹⁴ *ibid.*

¹⁵ “Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers.” Defence for the Children International, Palestine Section. July, 2004. p.13

law exist in the OPT, applied according nationality, violates the non-discrimination clause of the CRC.¹⁶

The ways in which the Israeli military court system discriminates against Palestinian children is also apparent from different policies on holding children in custody. According to a ruling of the Israeli Supreme Court, there is no obligation to keep a child in custody until the termination of proceedings, even in murder cases. Only 5.3% of Israeli children were detained until the end of legal proceedings. However, Palestinian children from the OPT are almost always held in prison awaiting trial.¹⁷

The Child Law

The most relevant Palestinian legislature addressing child protection is the newly-passed Child Law, which is in force as of August 2004. [See Annex 1]. However, one of the main criticisms of this new law is that it does not directly address violence against children in the specific forums in which children are in need of protection—for instance within the family or within schools and other institutions. Furthermore, 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. The lack of clear definitions could undermine the law's usefulness as a legal tool to protect children. 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.¹⁸ It is important to note that the law also does not specify commitment to the CRC.

Human rights groups are actively advocating for immediate amendments to the Child Law. The principal aim of this advocacy is to change the law so that it better addresses violence against children.

Basic Law

The Basic Law, which was passed by the Palestinian Legislative Council, October 2, 1997 and ratified by Chairman Yassir Arafat on May 29, 2002, contains an article on child protection.

Article (29)

Maternity and childhood welfare is a national duty. Children shall have the right to:

1. Comprehensive protection and welfare
2. Not to be exploited in any purpose, and shall not be allowed to perform works which might damage their safety, health, or education.
3. Protection from harm and cruel treatment
4. Law prohibits beating children and treating them cruelly by their relatives.
5. Shall be segregated in case they are sentenced form adults, and treated in a manner which is appropriate to their age and rehabilitation.

The Constitution

¹⁶ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.26

¹⁷ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.26

¹⁸ Information from Nasser Rayyes, Al Haq. Interview, August 22, 2004.

The Constitution, which has yet to be ratified, also offers the following child protections. (From the revision of the third draft of the Palestinian Constitution May 14, 2003)

Article (24)

Children shall have all the rights guaranteed by the United Nations Convention on the Rights of the Child.

Article (48)

The State shall guarantee family, maternal and child care. It shall care for adolescents and the youth. The law shall regulate child, mother and family rights in accordance with the provisions of international agreements and the Charter on the Rights of the Arab Child of the League of Arab States. In particular, the State shall seek to protect children from harm, harsh treatment or exploitation, and from any work that would endanger their safety, health or education.

The Draft Penal Code

The Palestinian Penal Code is still undergoing its first reading in the Palestinian Legislative Council. Despite the fact that it is not yet law, it is important to understand the ways in which it addresses violence against children as it is still open to review. Thus, this document will analyze the penal code along with other sources of law. The draft penal code does not contain a separate section for children.

Shari'a

The Basic Law, ratified on May 29, 2002, establishes in Article (4)2 that “The principles of Islamic Shari’a shall be the main source of legislation” Furthermore, Article (92)

1. Shari'a affairs and personal status shall be assumed by Sharia’ and religious courts in accordance with law.

The shari'a has been particularly important for family law and personal status law. However, there has been pressure from advocacy groups to subsume these matters under a Personal Status Law which would be addressed in civil courts. This law is still in draft form.

Customary Law

There is also the traditional customary law called “urf” which mediated disputes outside of the court system, relying on mediation based on traditional customs. Urf addresses matters including family disputes.

3. Provide details of any specific legislative provisions on:

- a) **Prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment, and sexual abuse;**
- b) **Protection of children from all forms of violence**
- c) **Redress, including compensation, of child victims of violence**
- d) **Penalties for perpetrators of violence against children**
- e) **Reintegration and rehabilitation of child victims of violence**

a) The newly-passed **Child Law** is the main legal tool for child protection in Palestinian society. The relevant articles are:

7(3) The state shall take appropriate measures to prosecute, question and punish all those who subject children to any war crime or crime against humanity.

11(1) Each child shall have the right to life and security.

42(1) The Child shall have the right to protection from all forms of violence, physical, psychological, or sexual harm or injury, negligence, homelessness, and any other form of ill treatment or exploitation.

42(2) The State shall take all necessary legislative, administrative, social, educational and protective actions and measures to secure the said right.

Articles 43-49 outline specific forms of violence from which children are to be protected. However, as noted above, the law lacks clear definitions of the terminology it uses.

There is no separate section of the **Draft Penal Code** addressing children. However, it establishes harsher punishments for sexual violence if perpetrated against a child under the age of 15 (Articles 257, 260, 263). In separate articles it designates harsher punishments for sexual violence against children between the age of 15-18—however these are not as harsh as punishments for crimes committed against under 15 year olds (Articles 259 and 261).

Article 217 stipulates a stricter punishment for kidnapping if the victim is a newborn. Kidnapping is also treated with harsher punishment if the victim is under 18 years old (article 218 and 219).

Article 221-224 address encouraging children to run away and different forms of neglect.

b) See **Child Law** articles 7(3), 11(1), 42-49; Articles 50-66 describe the functioning of the Protection of Childhood Department

c) This is not addressed in any legislation.

d) There is no separate section of the **Draft Penal Code** addressing children. However, it establishes harsher punishments for sexual violence if perpetrated against a child under the age of 15 (Articles 257, 260, 263). In separate articles it designates harsher punishments for sexual violence against children between the age of 15-18—however these are not as harsh as punishments for crimes committed against under 15 year olds (Articles 259 and 261).

Article 217 stipulates a stricter punishment for kidnapping if the victim is a newborn. Kidnapping is also treated with harsher punishment if the victim is under 18 years old (article 218 and 219).

Article 221-224 address encouraging children to run away and different forms of neglect.

e) **Child Law** Article 46(2) Articles 47-49, Articles 67-69

4. **Indicate whether any specific legislative provisions address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in:**
- a. **Family/home**
 - b. **Schools and pre-school care and education (formal, non-formal, state, private)**
 - c. **Military schools**
 - d. **Institutions including care, residential, health and mental health**
 - e. **The context of law and public order enforcement including in detention facilities or prisons;**
 - f. **The neighborhood, street and the community, including in rural areas;**
 - g. **The workplace (formal and informal)**
 - h. **Sports and sporting facilities**

a. Family and Home

Neither the **Child Law** nor the **Draft Constitution** specifically addresses violence which occurs in the home or among family members. However, 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.¹⁹ Articles 257, 259, 260, 261, 262 and 263 of the **Draft Penal Code** stipulates harsher punishments for sexual crimes if the perpetrator is a relative, caregiver or anyone with authority over the victim. The code does not mention sexual violence within the marriage.

b. Schools and Pre-School care and education (formal, non-formal, state, private)

The **Child Law** Article 39(2) states "The State shall take all arrangements to: Foster the dignity of the child, particularly when adopting decisions or developing programs, which aim at prohibiting all forms of violence in schools, regardless of the source."

The Ministry of Education does not have any laws to guide its work in terms of violence against children. Rather, it relies on internal principles which were developed in 1995.²⁰

SEE NEW PROPOSED EDUCATION LAW

c. Military Schools

There are no military schools in Palestine.

d. Institutions

This is not specifically addressed in any legislation.

e. Law and Order Enforcement

¹⁹ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

²⁰ Information from interview with Dr. Mohamad Rimawi, Ministry of Education. August 26, 2004.

This question applies to both Israeli detention facilities and Palestinian detention facilities.

▪ Israeli Detention Centers and Prisons

Since the beginning of the current Intifada in late September 2000, Israel has arrested 2,800 children.²¹ Israeli military orders provide the legal basis for arrest and detention procedures of Palestinians, many of which contravene international human rights standards in general and the CRC in particular. For instance, military order 1500, which was enacted during the invasions of 2002, allows for detention without charges for any Palestinian, including children. Furthermore, administrative detention orders, which are increasingly used against children, allow for detention of up to six months without trial or specific charges.²² According to DCI:

The standard of prisoner treatment remains unacceptable in nearly all detention centers and prisons, with frequent violations of core rights, not least of which are the freedom from arbitrary arrest, from physical abuse and torture and the right to a fair trial. Once sentenced, prisoners are consistently denied access to education and recreational materials, healthcare and for 16-17 year olds, the right to be considered as minors.²³

DCI also notes that "...the use of physical and psychological torture remains and all-too-frequent experience for adult and child detainees alike..."²⁴ For a comprehensive analysis of Israeli violations of Palestinian children's rights in arrest procedures and detention facilities, see attached "Stolen Youth" Defence for the Children International- Palestine Section. Annex ??

▪ Palestinian Detention Centers and Prisons

Article 29(5) of the Basic Law states that children "Shall be segregated in case they are sentenced from adults, and treated in a manner which is appropriate to their age and rehabilitation."

Child Law Articles 67-69 set the juvenile age at nine years old and establish protections for detained children. Human rights advocates are pressuring the government to raise this age.

According to the Ministry of Detainees, there are no laws specifically providing protection for children in custody. However, according to a ministry official, prison and detention center staff abide by international human rights law.

According to UNICEF:

Several means exist to protect juveniles within the justice system. For instance, no restraint should be applied on arrest unless the juvenile is violent, and speed in bringing a case to court and taking decisions is required... Children awaiting trial are supposed to be kept on remand in special centres if releasing them on bail is not appropriate. This may be because

²¹ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.43

²² "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

²³ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

²⁴ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

of the gravity of the crime, because the child might disrupt the course of justice or because it is not in the child's best interest. During the remand and trial period publicity is not permitted and the hearings are confidential. People who are not connected with the trial are not permitted to attend the court hearings. In reality, it is reported that cases take a long time and are not held in confidentiality.²⁵

There are no specific detention centers for children. However, currently, there are no children detainees or prisoners. There are two juvenile reform institutions: the Dar Al-Amal Rehabilitation Center and the Al-Rabi' Institute for Social Reform Care in Gaza.²⁶ There is no law to specifically protect children within these facilities.²⁷

f. The neighborhood, street and the community, including in rural areas;

This is not specifically addressed in any legislation.

g. workplace

- **Labor Law**, effective April 20, 2000: 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 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.
- The **Basic Law** Article 29(2) "Not to be exploited in any purpose, and shall not be allowed to perform works which might damage their safety, health or education."
- The **Child Law** Article 14 prohibits child labor before the age of 15. Also see Article 43 which prohibits harmful working conditions.

²⁵ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.84.

²⁶ Information from phone interview with Khulood Nijan, Director of Media Directory, The Ministry of Detainees. August 19, 2004.

²⁷ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

h. Sports and sporting facilities

There is no specific law; however, the Ministry of Youth and Sport uses the CRC as a framework to guide its work.²⁸

5. Indicate if corporal punishment of children, in any setting, including in the family, is explicitly prohibited in your legal system. Provide details of any legal defences available to those who administer corporal punishment to children, including in the family.

Corporal punishment is not specifically mentioned in any legislation. However, the **Child Law** grants children the right of protection from all forms of violence (Article 42), and thus corporal punishment is not considered legal. However, since it is not specifically addressed, the law does not provide any specific legal defenses for child victims of corporal punishment. Corporal punishment is used regularly in schools, but is rarely addressed in the judiciary as the burden falls on parents to bring the matter to trial and a high evidentiary standard is required.

6. Provide information on whether the penal code permits corporal punishment and/or capital punishment as a sentence for crimes committed by under 18 year olds

The **Draft Penal Code** does not allow capital punishment of children.²⁹

7. Provide details on whether bullying/hazing and sexual harassment are explicitly addressed by legislation

The **Child Law** Art 42(1) grants children the right of protection "from all forms of violence, physical, psychological, or sexual harm or injury, negligence, homelessness, and any other form of ill treatment or exploitation." It does not specifically mention bullying/hazing or sexual harassment.

The **Draft Penal Code** does not refer to sexual harassment directly. However, article 264 states that scandalous action is any action, movement or sign which can emotionally damage another person when he/she witnesses it. This can be stretched to cover sexual harassment.

8. Provide information on the way in which harmful or violent traditional practices, including but not limited to female genital mutilation, child marriage or honour crimes are addressed in your country

Female Genital Mutilation

According to an official at the Ministry of Justice, female genital mutilation is not a phenomena in Palestinian society, and thus is not addressed in the law.³⁰ However, a survey commissioned by The Foreign and Commonwealth Office, UK and conducted by The Culture and Free Thought Association in the Gaza Strip of 176 circumcised women reveals that female genital mutilation occurs in the Gaza Strip. The same report contains interviews with women who perform circumcisions in Gaza, who

²⁸ Information from Musa Abu Zaid, Ministry of Youth and Sport. Interview August 22, 2004

²⁹ Information from Nasser Rayyes, Al Haq. Interview, August 22, 2004.

³⁰ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

report that they individually carried out up to 10-15 female circumcisions per month.³¹

Child Marriage

According to the Palestinian Central Bureau of Statistics "Data obtained show that the early marriage phenomenon is prevailing especially among females. Median age at first marriage amounted to 19.0 years for females and 24.2 years for males in 2002, and 18.0 years for females and 23.0 years for males in 1997."³²

The **Child Law** is silent on the issue of child marriage, and thus previous legislation applies. According to this previous legislation, the legal age for marriage varies according to region and community. For instance, in the West Bank, where **Jordanian law** is still applied, the minimum age for marriage is 15 for females and 16 for males. However, officials in the West Bank rely on a witness to the female's age rather than documentation. Furthermore, among Christian communities living in the West Bank, **Christian family laws** may apply, which stipulate an even younger age for which marriage is legal.

In Gaza, **Egyptian law** is applied, which stipulates that marriage is legal at the age of 17 for females and 18 for men. However **shari'a** courts determine a female's eligibility for marriage based on her physical maturity and consent.³³

The **Draft Penal Code** article 208 stipulates a penalty for anyone who marries or assists in the marriage of a female under the age of 15.

The issue of child marriage in the future will be addressed in the **Personal Status Law**. This law is in the final stages. **NEED COPY OF DRAFT PERSONAL STATUS LAW**

Honor Killings

Manal Kleibo Zarf, an attorney for the Women's Center for Aid and Counseling, states that while she is aware of many cases of honor killings in the West Bank, she has never been asked to prosecute a case. She maintains that this may be due to the fact that under Jordanian Law Article 341, which still applies in the West Bank, murder is legal in the case that "The act of killing another or harming another was committed as an act in the defense of his life, or his honor, or somebody else's life or honor."³⁴

The **Draft Penal Code** prohibits honor killings. However, it allocates a lesser sentence for spousal honor killings than other types of murders. Article 235 stipulates a jail sentence (rather than capital punishment) for murder or assault in the situation if a man discovers his wife committing adultery. The converse also exists with the

³¹ "Research into Female Genital Mutilation April 1999-March 2000." *Culture and Free Thought Association*. Study funded by The Foreign and Commonwealth Office, UK.

³² *Palestinian Children – Issues and Statistics, Executive Summary*. Ramallah–Palestine. Palestinian Central Bureau of Statistics, 2004. http://www.pcbs.org/child/pdf_file/echild5.pdf See Annex ?

³³ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.29

³⁴ Ruggi, Suzanne. "Commodifying Honor in Female Sexuality; Honor Killings in Palestine." *Middle East Report*. Spring, 1998.

exception that the wife must witness the adultery of her husband in her home. Thus there is greater legal protection for male perpetrators than female perpetrators on this issue.

9. Provide information on the applicability of specific provisions to address all forms of violence against children to non-citizens and stateless children, including asylum seekers and displaced children. If specific provisions do not apply to such children, provide details of protection offered to them.

There is no law defining citizenship in Palestine, and thus the concept of non-citizens and stateless children is difficult to apply to this situation. However, article 3(1) of the **Child Law** states that "Every child shall enjoy all rights stipulated in this Law without any form of discrimination, irrespective of...national, religious or social affiliations...birth, parentage, or any other types of discrimination."

10. Provide information on any difference in the definition of violence and the applicable legal framework according to:

- a) **The sex or sexual orientation of the victim and/or of the perpetrator**
- b) **The age of the victim and/or of the perpetrator**
- c) **The relationship between the victim and the perpetrator, including, but not limited to infanticide, sexual violence in marriage, incest and sexual abuse within the family, and physical chastisements**

a) There are several articles in **Draft Penal Code** which differentiate between the sex or sexual orientation of the victim or perpetrator.

- Article 208 establishes a punishment for marrying or assisting in the marriage of an underage woman. There is no corresponding penalty for underage men.
- Article 235 stipulates a jail sentence (rather than capital punishment) for murder or assault in the situation if a man discovers his wife committing adultery. The converse also exists with the exception that the wife must witness the adultery of her husband in her home. Thus there is greater legal protection for men than women on this issue.
- Article 258 assigns an undefined jail term for consensual heterosexual intercourse outside of marriage, with a term of not more than 5 years if the male has a relationship of authority over the woman. Article 262 assigns a jail term of not more than 5 years for consensual homosexual acts and a jail term of not more than 10 years if the perpetrator has a relationship of authority over his partner. Thus, homosexual acts are treated more harshly under the law.

b) There is no separate section of the **Draft Penal Code** addressing children. However, it establishes harsher punishments for sexual violence if perpetrated against a child under the age of 15 (Articles 257, 260, 263). In separate articles it designates harsher punishments for sexual violence against children between the age of 15-18—however these are not as harsh as punishments for crimes committed against under 15 year olds (Articles 259 and 261).

Article 217 stipulates a stricter punishment for kidnapping if the victim is a newborn. Kidnapping is also treated with harsher punishment if the victim is under 18 years old (article 218 and 219).

Article 221-224 address encouraging children to run away and different forms of neglect.

In terms of the age of the perpetrator, the newly-enacted **Child Law** and the **Draft Penal Code** set the juvenile age at nine. "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."³⁵ However, judges are often inadequately trained, inexperienced and unaware of child rights issues.³⁶ Capital punishment cannot be imposed on a child under the age of 18.

c) The **Family Law** is stricter on sexual violence within the family.³⁷ Articles 257, 259, 260, 261, 262 and 263 of the **Draft Penal Code** stipulates harsher punishments for sexual crimes if the perpetrator is a relative, caregiver or anyone with authority over the victim. The code does not mention sexual violence within the marriage.

11. Provide information on any recent comprehensive review of the legal framework to address violence against children.

Children's Charter

UNICEF, Save the Children, NPA => addressing violence

Palestinian Legislative Council has a National Forum on Sexual Violence, which also addresses sexual violence against children

NEED COPIES OF THESE THINGS—CALL PLC FORUM

12. Provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children

ASK CAIRO

Courts tasked with addressing violence against children

13. Identify those parts of the court structure in your country tasked with addressing violence against children. Indicate if your family or juvenile courts have specific responsibility for this issue.

There are no courts which specialize in violence against children, and there are no juvenile courts. Furthermore, judges are often inadequately trained, inexperienced and unaware of child rights issues.³⁸

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

³⁵ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.84.

³⁶ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

³⁷ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

³⁸ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

than a court solely addressing children's issues. The issue of juvenile justice will be addressed in the **Juvenile Justice Law**, which is currently in early draft form.

Minimum age for sexual activity

14. Provide information on any legislatively defined minimum age required for valid consent to sexual activity. Is this age different for boys and girls? Is this age different in respect of heterosexual and homosexual activities?

Sexual activity is illegal outside of marriage, and thus the legal consent age is dependent on the marriage age (see question 15 below for information on the legal marriage age). Currently, the age is different for boys and girls as the marriage age for girls is younger. However, the punishment for boys and girls engaging in sexual activity outside of marriage is the same. Homosexual activities are illegal as there is no marriage for homosexual people. This is addressed in the **Draft Penal Code** article 262.

15. Provide information on the minimum age of marriage for women and men

The **Child Law** is silent on the issue of marriage age, and thus **previous legislation** applies. According to this previous legislation, the legal age for marriage varies according to region and community. For instance, in the West Bank, where **Jordanian law** is still applied, the minimum age for marriage is 15 for females and 16 for males. However, officials in the West Bank rely on a witness to the female's age rather than documentation. Furthermore, among Christian communities living in the West Bank, **Christian family laws** may apply, which stipulate an even younger age for which marriage is legal.

In Gaza, **Egyptian law** is applied, which stipulates that marriage is legal at the age of 17 for females and 18 for men. However **shari'a** courts determine a female's eligibility for marriage based on her physical maturity and consent.³⁹

The **Draft Penal Code** article 208 stipulates a penalty for anyone who marries or assists in the marriage of a female under the age of 15.

The issue of marriage age in the future will be addressed in the **Personal Status Law**. This law is in the final stages. **NEED COPY OF DRAFT PERSONAL STATUS LAW**

Sexual exploitation of children

16. Provide information on legislation and other measures to prevent the commercial sexual exploitation of children, including through prostitution and other unlawful sexual activities. Provide details on means to ensure that child victims of such exploitation are not criminalized. Provide information on legislative and other measures to prohibit all forms of sale or trafficking in children, including by their parents

³⁹ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.29

There is no clear phenomenon of commercial exploitation of children in Palestine and legislation does not directly address the issue.⁴⁰

Article 42(1) of the **Child Law** outlines the right of children to be protected from sexual harm. Article 44 explicitly prohibits the sexual exploitation of children. According to Article 47(f), a child is "under the threat of delinquency" if he is involved in acts related to prostitution.

Neither trafficking or the sexual exploitation of children is explicitly addressed in the **Draft Penal Code**. Articles 257, 260, 263, 259 and 261 address sexual violence against children in a very general way.

According to the **Draft Penal Code**, prostitution is illegal. Because the new **Child Law** sets the juvenile age at nine and younger, any child between the ages of 10 and 18 could be prosecuted for prostitution. However, the issue is dealt with on a case-by-case basis.⁴¹

Pornography and harmful information

17. Provide information on legislation and other measures to prohibit the production, possession and dissemination of child pornography. In particular, please provide information on any controls on pornography produced and/or disseminated via the internet.

*There is no legislation addressing this issue.*⁴²

18. Provide information on any legislative or guidelines to protect children from injurious information and material transmitted through the media, Internet, videos, electronic games etc.

According to Article 45 of the **Child Law**, the state must guarantee children protection from toys and games which violate "...cultural and religious standards and values." Article 36 states that it is prohibited to "publish, release, circulate, view, or obtain any publications, printed matters, audio or video **GET BETTER TRANSLATION OF THIS**

Clause 7-B of the **Press Law** (see annex ?) states that "Periodical prints addressed to children and teenagers should not include any photographs or stories, or scripts, or news which could hamper morals, values and Palestinian traditions." There is no other legislation which addresses

Reporting obligations relating to violence against children

19. Provide information on legislation, regulations or administrative directives requiring reporting to all forms of violence against and abuse of children in all settings to appropriate bodies. If reporting legislation, regulations or administrative directives exist, please indicate whether all citizens are required

⁴⁰ Information from Ayed Abu Ktash, Defence for the Children International- Palestine. Interview, August 22, 2004.

⁴¹ Information from Nasser Rayyes, Al Haq. Interview, August 22, 2004.

⁴² Information from Leanna Nussiebeh, Ministry of Information, Interview, August 26, 2004.

to report, or whether the obligation falls on certain professional groups only. Provide details of any sanctions for non-reporting.

As UNICEF explains, "Until recently, an abused child could only make a legal complaint through his/her father, who may either be the abuser himself or may act to protect another family member, or, in the case of sexual abuse, family honor."⁴³ However, the new **Child Law** explicitly lays out in Article 53(1) the responsibility of all citizens to inform the Ministry of Social Affairs' 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. However, it is only this second group for which a specific penalty (a fine of 100-200 JDs) is laid out in the child law for non-notification 53(3). 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.

Complaints procedures

20. Provide information on any complaints procedures relating to all forms of violence against children perpetrated in:

- **Family, home**
- **Schools and preschool care and education (formal etc.)**
- **Military schools**
- **Institutions, state and private, including care, residential, health and mental health**
- **The context of law and public order enforcement including in detention facilities or prisons**
- **The neighborhood, street and the community, including in rural areas;**
- **The workplace (informal and formal)**
- **Sports and sporting clubs**

There are no specific complaints procedures which are based on the forum in which the violence occurred. If violence occurs in the family or home, there is little recourse for the child. As UNICEF writes, "Until recently, an abused child could only make a legal complaint through his/her father, who may either be the abuser himself or may act to protect another family member, or, in the case of sexual abuse, family honor."⁴⁴ While complaints do not necessarily need to originate from the father, the situation described by UNICEF still largely persists. However, the new **Child Law** should work towards ameliorating the situation. Articles 50-57 outline complaints procedures, which go through the Ministry of Social Affairs' Childhood Protection Department.

An official at the Ministry of Social Affairs notes that a considerable obstacle to the reporting of violence against children is the lack of a legal framework referring to the different institutions where violence can occur (for instance, the family, schools, detention centers etc.). At this point, responsibility falls on social workers to report on violence. However, social workers often do not have a chance to interview children in a situation in which the children feel safe to speak freely. The official expressed the

⁴³"The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.77

⁴⁴"The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.77

need to inform institutions of their legal requirements to facilitate the work of the Ministry of Social Affairs in these matters.⁴⁵

While violence in schools has been documented, there is no official legal complaint mechanism and cases do not generally result in legal proceedings. Rather, due to a societal emphasis on secrecy and privacy in such matters, school administrators rely on reconciliation methods to address the issue.⁴⁶ The Ministry of Education has formed a special committee to respond to focus on cases of violence in schools.

As it stands, teachers report to school administrators if they are aware of violence against a child. The head of the school may contact the police if the case is considered severe. If the case involves sexual abuse, it is immediately transferred to the Ministry of Social Affairs.⁴⁷ Under the new Child Law, school counselors will have the duty of reporting abuse to Ministry of Social Affairs' child protection social workers.

21. Indicate whether children or persons acting on their behalf can access these procedures. Indicate whether legal aid is available to facilitate submission of complaints, and the circumstances in which legal aid will be available

According to Article 53 of the Child Law, "every person" may notify the child protection social workers of a case of violence against a child. Thus children can access these procedures themselves.⁴⁸ Furthermore, article 54 requires that all adults assist a child with notification. The law does not address legal aid.

According to article 6 of the **Penal Procedure Law**, the guardian is responsible to file a complaint to safeguard a civil right if the child is below the age of 15.

22. Describe steps which have been taken to raise awareness of possibilities to submit complaints about violence against children

The Ministry of Social Affairs has created and distributed a brochure which calls on citizens to report violence against children, with reference to the Child Law. It also lists the services offered by the Ministry and the contact information for ministry staff and police in 15 areas of the country. This brochure is attached as Annex ?

23. Provide information on any special procedural or evidentiary rules which may apply in proceedings with respect to violence against children

According to an official at the Ministry of Justice, it is at the discretion of the judge to weigh a child's testimony versus that of an adult.⁴⁹

Penal Procedure Law: Article (89)

⁴⁵ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

⁴⁶ Information from Ayed Abu Ktash, Defence for the Children International- Palestine. Interview, August 22, 2004.

⁴⁷ Information from interview with Dr. Mohamad Rimawi, Ministry of Education. August 26, 2004.

⁴⁸ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

⁴⁹ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

1. For the purposes of compiling more evidence, the testimony of children under fifteen shall be heard without requiring them to take the oath, unless the prosecutor feels that they are aware of the meaning of the oath.

24. Provide information on the usual outcome of complaints of violence against children (e.g. compensation, punishment of perpetrators, perpetrator rehabilitation, family therapy)

There are two units within the Ministry of Social Affairs which address violence against children: the counseling unit and the behavior observation unit. Behavior observers have the authority from the police to interfere in matters such as violence against children.⁵⁰

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.⁵¹

25. Provide information on the usual outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence (e.g. Imprisonment, corporal punishment, community service, perpetrator rehabilitation, family therapy)

This question applies to both Israeli and Palestinian legal proceedings.

▪ Israeli Legal Proceedings

Since the beginning of the current Intifada in late September 2000, Israel has arrested 2,800 children.⁵² Israeli military orders provide the legal basis for arrest and detention procedures of Palestinians, many of which contravene international human rights standards in general and the CRC in particular. For instance, military order 1500, which was enacted during the invasions of 2002, allows for detention without charges for any Palestinian, including children. Furthermore, administrative detention orders, which are increasingly used against children, allow for detention of up to six months without trial or specific charges.⁵³ According to DCI:

The standard of prisoner treatment remains unacceptable in nearly all detention centers and prisons, with frequent violations of core rights, not least of which are the freedom

⁵⁰ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

⁵¹ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

⁵² "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.43

⁵³ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

from arbitrary arrest, from physical abuse and torture and the right to a fair trial. Once sentenced, prisoners are consistently denied access to education and recreational materials, healthcare and for 16-17 year olds, the right to be considered as minors.⁵⁴

DCI also notes that "...the use of physical and psychological torture remains and all-too-frequent experience for adult and child detainees alike..."⁵⁵ For a comprehensive analysis of Israeli violations of Palestinian children's rights in its legal proceedings, see attached "Stolen Youth" Defence for the Children International- Palestine Section. Annex ??

▪ Palestinian Legal Proceedings

The **Child Law** and the **Draft Penal Code** set the juvenile age at nine. Children aged 10-18 are not distinguished in the penal code, and thus are subject to the same penalties, with the exception of capital punishment. Judges may mitigate the penalties with consideration of a child's age; however judges are often inadequately trained, inexperienced and unaware of child rights issues.⁵⁶

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.⁵⁷

The police are responsible for the arrest of children to the Ministry of Social Affairs' probation officers. However, sometimes children are detained for a long time and at times they are held in prison.⁵⁸

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 issue of juvenile justice will be addressed in the **Juvenile Justice Law**, which is currently in early draft form.

Approximately 10% of arrested children are brought to a rehabilitation center. Others are sent to schools or vocational institutes. Rarely, if a child is deemed a danger to others, he or she will be sent to a prison with a special section for dangerous children.⁵⁹

⁵⁴ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

⁵⁵ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

⁵⁶ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

⁵⁷ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.83

⁵⁸ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

⁵⁹ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

There are two juvenile reform institutions: the Dar Al-Amal Rehabilitation Center in Ramallah and the Al-Rabi' Institute for Social Reform Care in Gaza. However, these work on an extremely small scale. The 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.⁶⁰

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.

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 happened one time at the Ramallah center over the past six years.⁶¹

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 the morals of the convicted person, his past history, **his age**, or the circumstances in which the crime was committed that he will not violate law again.

Institutional Framework and Resources to Address Violence Against Children

(prevention, protection, redress, reintegration and rehabilitation)

26. Are there any governmental authorities, structures and mechanisms, including at the federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children?

If yes, identify and describe how coordination is ensured

The Ministry of Social Affairs is entrusted with addressing violence against children as the lead agency. The NPA Secretariat, under the Ministry of Planning also has some structures. There is also the Palestinian Legislative Council's National Council on Sexual Violence. International and local NGOs also address violence against children.

27. Is there a lead governmental authority tasked with responsibility for addressing violence against children? Describe

The Ministry of Social Affairs is the lead agency addressing violence against children. According to UNICEF, MoSA's system of social workers specializing in child protection has a low child/social worker ratio. Furthermore, it has been criticized for

⁶⁰ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

⁶¹ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

using inappropriate indicators in for documenting violence against children.⁶² 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.

28. Are specific financial and/or human resources allocated by your country to address violence generally? Indicate extent of allocations

Resources to address violence generally in Palestine are minimal. The Ministry of Social Affairs 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.

Furthermore, there is a lack of resources to address the violence of the current conflict:

Widespread psycho-social distress amongst the Palestinian population is being met with considerably weakened capacities of the government and the civil society to deal with these problems. Severe economic constraints, overstretched public service providers and the lack of free access and exchange of information and knowledge is pushing the response mechanisms to deal with widespread psychological suffering to their limit.⁶³

29. Does your country allocate specific financial and/or human resources to address violence against children? Details

The Ministry of Social Affairs has two child protection social workers (one male, one female) for each of the 15 districts. The ministry also runs a Child Protection Center in Ramallah, and officials hope to open a second center for girls.

The Dar Al-Amal rehabilitation center in Ramallah receives some support from the PA. Six of its 12 employees receive their salaries from the PA. The other ten part-time staff members are currently receiving unemployment payments rather than salaries.⁶⁴ The Ministry of Social Affairs is lobbying the government to provide them with full time salaries.⁶⁵

30. Do international or bilateral donors provide resources to your country for activities to address violence against children? Extent and how used

Rather than focusing specifically on violence against children, the trend of international donors in Palestine has been to support programs which increase awareness of children's rights. Thus, violence against children is treated in the larger framework of human rights. SIDA, the British Council, UNICEF, UNIFEM and OHCHR are some of the donor organizations supporting initiatives to raise children's awareness of their rights. The Ministry of Education receives support from UNICEF

⁶² "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.77

⁶³ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations.

⁶⁴ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

⁶⁵ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

for training all Ministry teachers and counselors about child rights and child protection law in cooperation with the Palestinian Red Crescent Society.

The Ministry of Social Affairs does not receive assistance from international or bilateral donors, with the exception of UNICEF, which has run training workshops for the Ministry's social workers.

There is support from international organizations to meet the psychosocial needs of Palestinian children, which is inherently connected to the violence of the current conflict. UNICEF is the lead agency and has taken responsibility to address the psychosocial needs of children and their families. Furthermore, "In conjunction with the NPA Secretariat, MoSA and the MoH, the psycho-social sector seeks to alleviate the immediate negative impact of conflict such as domestic violence and trauma."⁶⁶ In Palestine's Consolidated Appeals Process, UNICEF has determined that in 2004 it requires \$1,490,000 for psycho-social support for Palestinian children and families, while CARE has determined that it requires \$500,000 for psycho-social assistance to children through drama.⁶⁷ Finally, UNFPA has appealed for \$115,000 for psycho-social counseling for Palestinian students.⁶⁸

31. Does your country provide any assistance to other countries' efforts to respond to the problem of violence against children?

No.

32. If your country has a national human rights institution, such as a human rights commission or ombudsman, or a child-specific human rights institution, does it have any role or competence in the area of violence against children, including receiving complaints

The Palestinian Independent Commission for Citizens' Rights (PICCR) acts as ombudsman in Palestinian society. As such, it receives and investigates complaints on human rights violations. **CALL PICCR TO SEE IF THEY HAVE SOMETHING SPECIAL FOR CHILDREN**

33. Are there any particular parliamentary structures (for example special committees) to address violence against children? Details

The Education and Social Affairs Committee was established by the Palestinian Legislative Council and has responsibility for childhood issues, among others. **NEED MORE INFO—CALL?**

34. Have there been any recent parliamentary initiatives to address violence against children? Details

NEED MORE INFO—CALL PLC SOCIAL COMMITTEE

Role of Civil Society in Addressing Violence Against Children

⁶⁶ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations. P.38

⁶⁷ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations. P.40

⁶⁸ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations. P.44

35. Describe significant civil society initiatives addressing violence against children in your country, including the types of institutions involved (such as academic institutions, professional associations, women's associations, student associations, community-based groups, faith-based groups, child and youth-led groups, trade unions, employers organizations, national non-governmental organizations, international NGOs) and the major activities engaged in (including advocacy, awareness raising, research, prevention, rehabilitation and treatment of children harmed by violence, provision of services, provision of resources).

CALL HEAD OF CHILD'S RIGHTS COLATION—part of PNGO

36. Describe the support provided by your government for these activities and the efforts made to coordinate civil society and government initiatives

The NPA Secretariat and Ministry of Planning work together to coordinate civil society and governmental initiatives.

37. Describe the role played by the media in addressing violence against children

The role played by the media is both positive and negative. The amount of violence on television has increased, but the content of the violence has been reduced, and stations have begun to label shows with violent content. They are also starting to censor violence.

Media including television, radio and other news sources have begun efforts to increase awareness of the issue of violence. These awareness raising efforts have tripled since 1996, which was when Palestine first had its own media.⁶⁹ However, there is still considerable work to be done in addressing children's issues in general in Palestine, including violence against children:

"There is a definite gap in made-for-children TV programmes, also in coverage of child issues on news, current affairs and feature TV programmes. Similarly, despite a few NGO efforts to produce print supplements aimed at children, there is no regular coverage of issues affecting children's lives in the newspapers."⁷⁰

Children as Actors in Addressing Violence

38. Provide information on the involvement and consultation of children in designing activities, and in implementation and monitoring of programs and policies to address violence against them. Provide details, including ages and other details of the children involved.

The NPA Secretariat, as well as NGOs involved in programming for children are becoming more aware of the benefits of involving children, particularly in program monitoring. For instance, children are an integral part of the system of monitoring for

⁶⁹ Information from Interview with Dr. Cairo Arafat, NPA Secretariat. August 6, 2004.

⁷⁰ Morgan, Vivien. *Media Strategy for the Palestinian National Authority's Women and Child Directorate, Ministry of Information and the NPA Secretariat for Palestinian Children*. Commissioned by the United Nations Children's Fund—Occupied Palestinian Territories. 2003.

summer camps. However, it is important to note that this is not specific to issues of violence.

The Ministry of Social Affairs involves children in its monitoring and evaluation process. It conducts interviews of and distributes questions to children in order to ensure that its initiatives are focused on the children's needs.

39. Describe the involvement and consultation of children in designing special procedural or evidentiary rules applying ??? proceedings with respect to hearings concerning violence against children. Provide details, including ages and other details of the children involved.

CONTACT: Judge Shawa in Gaza

40. Describe the amount and usage of resources made available to support children's participation in activities addressing violence against children.

Can't give specifics

Policies and Programs that address violence against children

(prevention, protection, victim medical, psychological, legal and social ?? victim rehabilitation and reintegration and perpetrator interventions—Such ? are distinguished from specific programmes that address selected sub-types of violence against children or its effects in specific populations and settings)

41. Does your government have a comprehensive policy concerning violence against children?

Provide details and any gender-specific provisions included in the policy

CONTACT: Dahab at NPA,

The national strategy to address violence against children has been focused on the legal aspects—ensuring that there is an appropriate legal framework to address the issue. The newly passed Child Law is an important step of this strategy, but other laws are also being developed, such as the personal status law and the juvenile justice law which will also act as important components of this strategy.

42. Does your government deliver, or provide direct support for delivery by other agencies, of specific programmes aimed at preventing and responding to violence against children?

Please provide available summary reports, and indicate, using the table below, which settings and types of violence are addressed by these programmes.

	Physical	Sexual	Psychological	Neglect	HTPs	Other
Family/Home						
Schools	No	No	No	No	No	No
Institutions						
Neighborhood, Community						
Workplace						
Law enforcement						

Other						
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Ask Cairo

43. Does your government monitor the impact of these policies and programmes directed towards violence against children describe monitoring systems and provide an URL or other reference where the system and outcomes are described in greater detail

The Palestinian Central Bureau of Statistics would be the appropriate body to collect the data necessary to monitor policies and programmes addressing violence against children. While the agency collected statistics on the number of children in need of special protection were treated by the Ministry of Social Affairs in 1998, 1999 and 2000, it does not have statistics which would indicate the qualitative impact of the Ministry's work.⁷¹ The only statistics addressing violence and children which it has collected concern violent acts committed by child perpetrators. The agency does, however, plan to conclude a victim and crime survey by the end of the year which will have a section on violence against children.⁷²

**44. Does your government participate in any internationally coordinated activities concerning violence against children?
Details**

Because of Palestine has not achieved statehood, it is generally precluded from joining international bodies. However, it is often invited to the initial international conferences.

Data Collection, Analysis and Research

45. Over the past five years, has there been any victimization, epidemiological or other population-based surveys of any forms of violence against children in your country?

Details, references, or attach

PCBS has a child statistics unit and is working with the NPA to improve the indicators used to monitor compliance with the CRC. The PCBS is planning to complete its first victimization survey by January 1, 2005. It will survey 7,563 households throughout the West Bank and Gaza Strip and will be the first in a series of similar surveys. A section of the survey will address violence against children.⁷³

The PCBS does have survey data of Palestinian children injured by Israeli forces during the current Intifada. See Attached "Palestinian Children – Issues and Statistics, Executive Summary." Ramallah–Palestine. Palestinian Central Bureau of Statistics, 2004. http://www.pcbs.org/child/pdf_file/echild5.pdf. Annex ?

⁷¹ *Palestinian Children – Issues and Statistics, Executive Summary*. Ramallah–Palestine. Palestinian Central Bureau of Statistics, 2004. http://www.pcbs.org/child/pdf_file/echild5.pdf. See Annex ?

⁷² Information from interview with Khitan Al Bizreh, Palestinian Central Bureau of Statistics. August 24, 2004.

⁷³ Information from PCBS website: <http://www.pcbs.org/surveys/victim.aspx>

The PCBS in cooperation with the NPA secretariat carried out an epidemiological survey of children.

46. Have there been any small-scale or representative interview studies with parents and children on violent victimization of children?

Details

Mahar

47. Over the past five years, has your government conducted or commissioned any scientific research projects on the problem of violence against children?

Psychosocial- Mahar

48. Have studies or surveys been undertaken into the impact of legal measures to address violence against children?

Details, references, or attach

No.

49. Does your government have a system for formal inquiries into all child deaths in which it is known or suspected that violence may have played a part?

Details

The government has a system to investigate deaths; however, it is lacking the necessary forensic personnel which makes it extremely difficult for information to be verified. Murders are easy to cover up as there is not the forensic capacity necessary for adequate detection.⁷⁴

50. Are regular (eg annual) reports published describing the statistical profile of the known or suspected violent deaths investigated by the system?

If yes, what proportion of all homicide deaths are under the age of 18?%

The Ministry of Health and the Police collect this information.

51. If reports on the national profile of known and suspected violent deaths are published by your government, indicate how the data is broken down for the purpose of reporting (check all that apply)

Sex	
Age	
Ethnicity	
Manner of death (homicide, suicide, undetermined)	
External causes of death (firearm, strangulation, etc)	
Geographical location of incident (address)	
Scene of occurrence (home, school, etc)	
Time and date of incident	
Victim-perpetrator relationship	
Other:	

⁷⁴ Information from Dr. Cairo Arafat, NPA Secretariat. Interview, September 7, 2004.

52. Provide the total number of reported cases of violence against children in 2000, 2001, 2002 and 2003.

The Palestinian Central Bureau of Statistics does not collect this data.

53. Provide the total number of convictions and reported cases for the various categories of crimes of violence recorded against children in 2000, 2001, 2002 and 2003.

The Palestinian Central Bureau of Statistics does not collect this data.

Awareness, Advocacy and Training

54. Over the last five years has your government conducted or commissioned any campaigns raising awareness of and preventing violence against children?

If yes, please describe any recent campaigns, including the settings and types of violence that were the subjects of the campaigns and the target audience (general public, caregivers, teachers, etc.)

The NPA Secretariat collaborated with the Ministry of Health and the Ministry of Social Affairs on a report addressing violence against children. The Ministries, including the Ministry of Social Affairs, the Ministry of Education and the Ministry of Youth and Sports have each completed their own reports on issues such as child labor, sexual exploitation, abusive families and the effects of Israeli violence.

The Ministry of Social Affairs created and distributed a booklet on Better Parenting Awareness, which works to help parents identify possible threats to their children. Also, the ministry published a booklet for children to prepare them to identify and deal with threats related to sexual violence or exploitation. See Annex?

55. How were the campaign messages and information disseminated (check all that apply)

Print media	X
Radio	X
Television	X
Theatre	X
Schools	X
Other	X

56. Over the last five years, has your government provided, commissioned or sponsored training programs in the area of violence against children?

If yes, indicate which of the following areas were addressed by the last such training programmes and which provider groups received training (check all that apply)

	Prevention	Protection	Redress	Rehabilitation	Penalties
Medical professionals (inc. pediatricians, nurses, psychiatrists and dentists)	X	X	X	X	X
Public health practitioners	X	X	X	X	X

Social workers and psychologists	X	X	X	X	X
Teachers and other educators	No	No	No	No	No
Court officials (including judges)					
Police					
Prison officers					
Juvenile offenders personnel Institution personnel Parents/guardians					
Other (specify)					

Details

Rather than focusing specifically on violence against children, the trend of international donors in Palestine has been to support programs which increase awareness of children's rights. Thus, violence against children is treated in the larger framework of human rights. SIDA, the British Council, UNICEF, UNIFEM and OHCHR are some of the donor organizations supporting initiatives to raise children's awareness of their rights.

In The Name of God, The Merciful, The Compassionate

THE PALESTINIAN LEGISLATIVE COUNCIL

DRAFT PALESTINIAN CHILD LAW

NO. OF DRAFT BILL: **97/2002/M.O.**

SUBMITTED BY: **THE COUNCIL OF MINISTERS**

COUNCIL'S READING: **SECOND READING**

DATE: **AUGUST 19, 2003**

CHAPTER ONE
General Provisions

Article (1)

A Child is every and each human being who did not complete the age of eighteen years.

Article (2)

This Law aims at achieving the following objectives:

1. To improve and advance childhood in Palestine, with its distinguishing context and characteristics.
2. To raise the child to be proud of his or her national and religious identity and devotion to Palestine, as a land, history and people.
3. To prepare the child for a free and responsible life within a civil society in which solidarity rules, based on awareness of rights and commitment to duties, and in which values of equality, tolerance and democracy prevail.
4. To Protect the rights of the child to live, grow and to enjoy a free, secure and developed life.
5. To raise the awareness of the society, on the rights of the child, on the widest scale through use of effective and appropriate means,.
6. To involve the child, in all fields of social life, in accordance with his or her age, maturity and developed capacities, so that the child may grow on attributes of love for work and initiative, the ethics of legal earning, self-support, and the spirit of self-reliance.
7. To raise the child to uphold sublime moral values, particularly respect his or her parents, family and social environment.

Article (3)

1. Every child shall enjoy all rights stipulated in this Law without any form of discrimination, irrespective of their race, color, religion, national, religious, or

social affiliations, or their wealth, disabilities, birth, parentage, or any other types of discriminations.

2. The State shall take all suitable measures to protect and safeguard children from all forms of discrimination in order to secure actual equality and benefiting from all the rights stipulated in this 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.
2. Mental, psychological, physical, and moral needs of the child, in accordance with his age, health, and others Source of legislation.

Article (5)

1. The parents, or other individuals legally responsible in their stead shall shoulder their joint responsibilities in upbringing, caring for, guiding the child, and meeting his needs, in a manner compatible with the child's developing capabilities.
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 (6)

The State shall provide all suitable circumstances to secure the right of children to obtain the best standard of health and social services attainable, and their right to a good education, as well as the participation of children, in all aspects of community life.

Article (7)

1. The child shall have the priority in all circumstances to enjoy protections, care, and relief.
2. The state shall guarantee the priority to maintain the life of children and their rights in the event of emergencies, disasters, and armed conflicts.
3. The state shall take appropriate measures to prosecute, question, and punish all those who subject children to any crime of war or any crime against humanity.

Article (8)

The state shall take appropriate procedures and arrangements 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.

Article (9)

The state shall set in place all policies and programs to provide for the sound and all-rounded upbringing of children in the context of freedom, human dignity, spiritual

and social values, and to take into account the fundamental responsibility shouldered by the parents, or other individuals legally responsible in their stead to care for the child.

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.

CHAPTER TWO
Basic Rights

Article (11)

1. Each child shall have the right to life and security.
2. The State shall guarantee the growth, development, and care of the child to the maximum and possible extent.

Article (12)

1. Each child shall have the right to freedom of expression and opinion, in a manner that is compatible with public order and morals.
2. The opinions of the child shall be accorded due attention, according to his age and degree of maturity.
3. The Child shall be provided with the opportunity to express his or her opinions in judicial proceedings, social and educational arrangements pertaining to his or her conditions.

Article (13)

While according due respect to the rights and duties of the Child's parents or other individuals legally responsible for him or her, the child shall have the right to respect for his or her private life, and to prohibit subjecting him or her to arbitrary or unlawful interference in his or her life, family, home, or correspondence, or any attempt to undermine his or her honor or reputation.

Article (14)

Employment of Children shall be prohibited before they reach the age of fifteen years old.

Article (15)

In accordance with law, the child shall be registered immediately after birth in the Civil Register.

Article (16)

Every child shall have the right since his birth, to a first name that is not derogatory to his dignity, or contrary to the religious creeds

Article (17)

Each Child shall have the right to respect his legal character

Article (18)

Every Palestinian Child shall have the right immediately upon his delivery to his Palestinian nationality, in accordance with the provisions of the Law pertinent to this.

CHAPTER THREE
FAMILY Rights

Article (19)

1. Every child shall have the right to live in a cohesive and supportive family.
2. The state shall undertake all measures, to secure the commitment of the parents, or other individuals legally responsible in their stead, to shoulder their joint responsibilities and duties, in raising, caring for, guiding and developing the child in the best possible manner.

Article (20)

Every child shall have the right to know his or her parents and to be cared for by them. A child shall not be related to others than his or her parents.

Article (21)

While primary consideration is given to the best interests of the child, the separated child from his parents, or from any of them, shall have the right to maintain personal relationships, and direct contacts with both of them, and on regular basis.

CHAPTER FOUR HEALTH Rights

Article (22)

1. The child shall have the right to obtain the highest attainable standards of free health services, while taking into account the Health Insurance Law, and its relevant applicable regulations.
2. No Fees shall be charged for immunization of children.

Article (23)

1. The Ministry of Health shall issue a health card for every child, whereby his/her particulars and information are recorded in a special register at the concerned health office.
2. A resolution regulating the issuance, form, details, and procedure of such card shall be made by the Minister of Health.

Article (24)

Pre-marital medical examinations shall be carried out. Marriage contract shall only be authenticated after ensuring that both parties are free from what might affect the life and health of their progeny.

Article (25)

The Ministry of Health shall take all appropriate arrangements to develop and improve its capabilities in the area of health, preventative, curative care, and health counseling related to the health, nutrition, and protection of the child.

Article (26)

The State shall take all appropriate measures in order to

1. Prevent children from the hazards of environmental pollution, and for combating such pollution.
2. To mobilize the media to play a constructive and effective role in the area of prevention and health information, particularly in relation to the areas of child health and nutrition, the benefits of breastfeeding, accident prevention and the dangers of smoking.
3. Support medical care in schools, in order that it takes up its full role in the area of prevention and health information
4. Prevention of conatagious and serious diseases

Article (27)

1. The State shall undertake to protect children from smoking, alcohol, drugs, and other illicit substances damaging the mind.
2. Children shall not employed in businesses engaged in the production, procurement, use or promotion of such substances.

Article (28)

In accordance with law, 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.

CHAPTER FIVE SOCIAL Rights

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).

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.

CHAPTER SIX CULTURAL Rights

Article (33)

1. The child shall have the right to obtain, receive, transfer, and disseminate all types of information and ideas, provided that this does not contradict with public order and morals
2. The State shall work towards implementing and embodying this right, in accordance with its resources and capabilities. To this end, the State might

oblige audio, video, written media and others to devote part of its programs and resources to secure the actual benefiting from this right.

Article (34)

In accordance with law, special societies and associations for Children might be formed. The Child shall have the right to join such societies, and clubs, as well as hold public gatherings.

Article (35)

The child shall have the right to broad participation in determining and implementing recreational, cultural, artistic, and scientific programs which conform with public order and morals, in order to ascertain his right to access of information, and to means of creativity and innovation.

Article (36)

It is prohibited to publish, release, circulate, view, or obtain any publications, printed matters, audio or video art releases that may cater for lowly instinctive needs that may seduce children and coax them into committing acts and behavior contrary to public order or moral, or which might drive them towards delinquency.

**CHAPTER SEVEN
EDUCATIONAL Rights**

Article (37)

1. In accordance with the provisions of law:
 - A. Every child shall have the right to free education and learning in public school until the completion of secondary stage schooling.
 - B. Education is compulsory until the completion of the stage of higher basic schooling as a minimum.
2. The State shall take all appropriate arrangements to measures prohibit the early drop - out of children from schools.

Article (38)

The State shall take all appropriate and effective measures and arrangements with the aim to eliminating all forms of discrimination in access to the right to education, and shall work towards achieving actual equal opportunities among all children.

Article (39)

The State shall take all arrangements to:

1. Promote and strengthen the participation of students and their parents in all decisions relevant to their situation
2. Foster the dignity of the child, particularly when adopting decisions or developing programs, which aim at prohibiting all forms of violence in schools, regardless of the source.

Article (40)

Every student in the school shall have the right to rest and leisure, to engage in play and recreational activities appropriate to his or her age, and to participate free in the cultural life and the arts..

It shall also ensure the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

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.

CHAPTER EIGHT PROTECTION Rights

Article (42)

1. The Child shall have the right to protection from all forms of violence, physical, psychological, or sexual harm or injury, negligence, homelessness, and any other form of ill treatment or exploitation.
2. The State shall take all necessary legislative, administrative, social, educational and protective actions and measures to secure the said right.

Article (43)

Exploitation of children in begging and soliciting alms shall be prohibited. Further, it shall be prohibited to putting the child to work under conditions that violate the law, or burdening the child with work that may obstruct his or her education, or be injurious to his or her health, or physical or moral safety.

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.
2. Exposure of the child to negligence and homelessness.
3. Evident and continuous neglect in upbringing, care, and nurture.
4. Regular abusive treatment of the child, and lack of knowledge by those who care for him about sound and good upbringing methods.
5. Exploitation of the child sexually, economically, or in organized crime and begging (soliciting alms).
6. Habitually leaves his place of residence, or absence from it or providing information about his or her whereabouts.
7. Drops-out of school without due justification

Article (45)

The State shall guarantee the protection of children from hazards of toys and games which violate the health, environmental, cultural, values, and religious standards and specifications, by formulating comprehensive quality standards for both locally made and imported games and toys.

Article (46)

1. It shall be prohibited to use children in military actions, or armed conflicts. The State shall take necessary measures and arrangements to guarantee this.
2. 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.

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

CHAPTER Nine PROTECTION MECHANISMS

Article (50)

1. A Protection of Childhood Department shall be established in the Ministry of Social Affairs, which shall consists of a number of Childhood Guides.
2. The Minister of Social Affairs shall issue regulations that determines the specifications of guides, areas of jurisdiction, and methods of dealing with relevant social interests and agencies.

Article (51)

1. The Guide for the Protection of Childhood shall enjoy the status of a judicial police officer in the context of enforcing the provisions of this Law.
2. The Guide for the Protection of Childhood shall before assuming his or her mission, take the oath, similar to the procedures effective in Palestine for the judicial police officers.

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.

Article (53)

1. Every person may notify the Guide for the Protection of Childhood whenever it is apparent that the health of the child, or his or her physical or moral safety are at risk.
2. Notification of the Guide for the Protection of Childhood is obligatory for educators, physicians, social workers and others entrusted with the protection and care of children
3. All those who violate the provisions of the above clause (2), shall be penalized with a fine, which shall not exceed 200 Jordanian dinars, and which shall not be less than 100 Jordanian dinars, or equivalent in negotiable currency.

Article (54)

1. Every adult person shall assist any child that resorts to him or her, with the intent of notifying the Guide for the Protection of Childhood, of a hardship case ,where a child, or one of his or her brothers or sisters, or any other child, is at risk, similar to the cases stipulated in Article (44) of this Law.
2. All those who violate the provisions of the this Article, shall be penalized by paying a fine which shall not exceed 200 Jordanian dinars, and not less than 100 Jordanian dinars, or equivalent in negotiable currency.

Article (55)

The Guide for the Protection of Childhood, or any other person shall not not disclose the identity of the person who performed the duty of notification, unless the concerned person gives his or her consent, or in such cases as decided by the law.

Article (56)

1. The Guide for the Protection of Childhood is authorized to exercise the following powers:
 - a) Call in the child and the person responsible to care for him, to hear their statements and their defenses on the facts of the case notified.
 - b) Enter - unaccompanied, or accompanied by any other party he or she may deem useful - any place the child may be present at, presenting documents that establish his or her title. In the event the Guide for the Protection of Childhood cannot enter, he may, upon obtaining an urgent judicial warrant, enter such a house, and may even seek the assistance of public security forces in doing so.
 - c) Conduct investigations and take appropriate preventive measures for the child.

2. Any person, who prevents the Guide for the Protection of Childhood from carrying out his or her tasks, or obstructs the process of examination and investigation, by giving false testimony, or by intentionally concealing the truth about the conditions of the child, shall be penalized by paying a fine which shall not exceed five hundred Jordanian dinars, and not less than two hundred Jordanian dinars or equivalent in negotiable currency. This shall not prejudice the penalties stipulated in the Penal Code, regarding assault against a public servant while carrying out his duties an tasks.

Article (57)

If the Guide for the Protection of Childhood establishes that no threat exists to the health, physical or moral safety of the child, he or she shall inform the child, the person who cares for the child, as well as the person who performed the duty of notification.

**CHAPTER TEN
PROTECTION MEASURES**

Article (58)

If the Guide for the Protection of Childhood establishes that there actually exists what may constitute a threat to the safety, physical or psychological health of the child, , he or she determine the appropriate measure, and shall accordingly suggest appropriate measures of a consensual nature, or decide to submit the issue to the competent Justice Judge.

Article (59)

The Guide for the Protection of Childhood may suggest one of the following consensual measures to the parents of the child, or to the person responsible to care for him:

1. To keep the child with his or her family, upon a commitment:
 - a) By his or her parents, or the person who cares for him, to take the necessary measures to lift the imminent risk facing the child, and keep him under the periodic supervision of the Guide for the Protection of Childhood.
 - b) To organize and put in place social interventions methods, with the relevant parties that provide social services and assistance, which is necessary for the child and his or her family.
 - c) To take all the necessary precautions to bar any communication between the child, and those persons who may cause any risk to his safety, or to his physical or psychological heal.
2. To place the child temporarily in the care of a family or any other public or private social, educational, health body or institution.

Article (60)

1. In the event the Guide for the Protection of Childhood chooses to determine appropriate measures of a consensual nature, he or she shall contact the child and his or her parents, or whoever is legally responsible, with a view to arriving at a consensual agreement as to the measures most appropriate to the condition and needs of the child.

2. In the event such an agreement is reached, it shall be put in writing, and the text shall be read out before all the parties, including the concerned child, if the child has completed thirteen years of age.

Article (61)

The Guide for the Protection of Childhood shall periodically follow up the following:

1. The results of the consensual agreement concluded about the child.
2. Review the agreement in a manner that will secure as far as possible, keeping the child in his or her family environment, avoiding separating the child from his or her parents, or returning him or her to their care at the earliest time possible.
3. Shall inform the relevant Justice Judge of all the cases under his or her care in a monthly summary, unless the Judge decides to have the complete case file handed over to him or her.
4. Shall undertake the awareness-raising and guidance work of the child, and assist the parents, the person in whose care the child is placed, in a manner that achieves the safety of the child, and his physical and psychological health.

Article (62)

The Guide for the Protection of Childhood shall inform the parents, the person responsible to care for the child, and the child who has completed thirteen years of age of their right to refuse the measures proposed to them.

Article (63)

The Guide for the Protection of Childhood shall present the issue to the Justice Judge , in case:

1. No agreement is reached within twenty days of being entrusted with the case.
2. The agreement is revoked by the parents, the person responsible to care for the child, and the child who has completed thirteen years of age.

Article (64)

1. The Guide for the Protection of Childhood may adopt urgent measures on a temporary basis, in cases of homelessness and negligence, to protect the child and care for him or her, In accordance with the applicable rules of this law.
2. Such urgent measures shall be undertaken after obtaining an urgent judicial warrant issued by the competent judge upon a request submitted by the Guide for the Protection of Childhood.

Article (65)

1. An imminent danger is every act that threatens the life of the child, or his or her physical or psychological safety or health, in a manner that can not be avoided with the passage of time.
2. In cases of imminent danger, the Guide for the Protection of Childhood may take the initiative to remove the child from the place where he or she is staying, before obtaining a judicial warrant, even if he or she has to resort to assistance from public security forces, and place him/her in a safe place,

under his or her personal responsibility, while taking account of the privacy of places of residence.

3. The Guide for the Protection of Childhood may not maintain the application of an urgent measure, unless he or she obtains within a period not exceeding twenty-four hours an order issued by the Juvenile Justice Judge that endorses the urgent and necessary nature of this measure.

Article (66)

The Guide for the Protection of Childhood shall inform the parents of the child, or the person responsible to care for the child, about the urgent measures and arrangements that were taken to protect and care for the child.

CHAPTER ELEVEN DEALING WITH DELINQUENT CHILDREN

Article (67)

Penal liability is inapplicable to the child who did not complete nine years of his age.

Article (68)

No child shall be subject to physical or moral torture, or to any type of penalty, cruel, or degrading treatment that is derogatory to human dignity.

Article (69)

1. Every child who has been charged with an offense, shall have the right to treatment in a manner consistent with his or her age, and protective of his honour and dignity, and facilitates his or her reintegration, and assuming a constructive role in society.
2. The State shall enact all legislation, and make necessary arrangements to secure this right.
3. Priority shall be given to preventive and educational means. Resort to detention, and other punitive measures that deprive the person of freedom shall be avoided to the extent possible.

CHAPTER TWELVE THE HIGHER COUNCIL FOR MATERNITY AND CHILDHOOD

Article (70)

A council entitled the (The Higher Council for Childhood and Maternity) shall be established, and will have a moral character. A law shall be issued to constitute, organize, specify its authorities, jurisdiction, and competence.

Article (71)

The Council shall have competence to follow up necessary efforts and endeavors to care and protect maternity and childhood .

CHAPTER THIRTEEN CONCLUDING PROVISIONS

Article (72)

The provisions of this law shall not be in prejudice with any other applicable legislation, which guarantee the child better way to exercise all rights, public freedoms, and all facets of protection and care.

Article (73)

The Council of Ministers shall issue the necessary regulations to implement this law.

Article (74)

Everything in contradiction with the provision of this law shall be repealed.

Article (75)

All concerned parties and bodies, each in their own competence, shall implement the provisions of this law, which shall go into effect thirty days after publication in the official gazette.

*Issued in Ramallah City on ___ / ___ / 2003
Corresponding to ___ / ___ / 1424 h.*

*Yassir Arafat
Chairman of the Executive Committee
Palestinian Liberation Organization
President of The Palestinian National Authority* *Of the*

Submitted by the Secretariat for the National Plan of Action for Palestinian Children/Ministry of Planning/Occupied Palestinian Territory

Contact Person: Cairo Arafat, director
Phone: 00 972 2 295 2319
npapal@palnet.com

International Human Rights Instruments

- 4. Describe any developments with respect to violence against children which have resulted from your country's acceptance of international human rights instruments, including, for example, the Convention on the Rights of the Child and its optional protocols, the Palermo Protocol or regional human rights instruments. Provide information on cases concerning violence against children in which your country's courts or tribunals have referred to international or regional human rights standards.**

Signing of International Covenants

Because Palestine is not a state party, it lacks the legal personality to sign on to most 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 CRC, to which President Arafat pledged his commitment on 5 April, 1995.

As a result of the PNA's endorsement of the CRC, the President approved the creation of a steering committee for the national plan of action for Palestinian children. The Steering Committee is composed of a number of governmental and non-governmental institutions (Ministry of Planning, Ministry of Education, Ministry of Health, Ministry of Social Affairs, Ministry of Youth and Sports, Ministry of Information, Ministry of Culture, Ministry of Labor, Ministry of Justice, Ministry of Detainees Affairs, the Palestinian Central Bureau of Statistics, the Palestinian Broadcasting Corporation, the Palestinian NGO Network, UNICEF, UNRWA, and Sweden as the sponsor of Palestinian children). It aims at realizing the main mission of the National Plan of Action for children. In 1996, the Secretariat of the National Plan of Action for Palestinian Children (NPA) was created under the guidance of the Steering Committee. Since that time and up to date, work is undergoing on planning for programs under the National Plan of Action in the fields of health, education, culture, protection, information, recreation, and psychosocial health.

The NPA works to create a plan which offers a comprehensive and integrated vision and strategies for child survival, development, protection and participation; participation in formulating national policies; identifying, developing and prioritizing research on issues and subjects of interest to Palestinian children; developing and monitoring legislation related to the rights of the child in coordination with the Palestinian Legislative Council; and focusing on issues of national and international awareness of concern for the National Plan of Action for Palestinian Children.

This plan strives to ensure the principle of the child's optimal interest; educating all social groups of their duties and obligations towards children's rights and needs and seeking to realize them with special focus on child protection in armed conflicts and his/her right to access health services, education, social and recreational services;

forming active national coordinating committees to support the formal and legal bodies, development bodies, psychological well being, child protection from violence, disability, landmines and unexploded ordnance, as well as creative activities and media programs; encouraging scientific studies and research and provision of statistics in order to develop policies and plans that respond to children's needs.

Regional Instruments

The PLO signed the Arab Convention on Child Rights, and the PNA uses the context of this and other regional instruments such as the Casablanca Declaration of 1999 and the Sa'na declaration in its efforts to develop its own national child legislation.

International Humanitarian Law and Palestine's Status as an Occupied Territory

Despite the strong consensus among the international community is that Palestine is occupied by Israel and Security Council resolution 904 which affirms the applicability of the Fourth Geneva Convention in the Palestinian Occupied Territories, Israel denies its applicability. It does so on the basis of its interpretation of Common Article 2, which it claims requires that land be previously sovereign in order to be considered occupied. 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.”⁷⁵ So-called occupation 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.”⁷⁶

The ambiguity of the legal status of the OPT vis-à-vis the international system has been further complicated by the Oslo Accords. These accords established the Palestinian National Authority (PNA) as the legitimate administrative authority in parts of the OPT and granted it security and police powers. However, while the creation of the PNA created a semblance of rule of law, it did not lead to sovereignty in the international system. The accords did not resolve the fundamental issues of occupation and they led to the division of the OPT into three areas with convoluted legal status. In area A, the PNA has civil and security control; in area B, Israel maintains security control while the PNA is the civil authority; and in area C, Israel maintains complete civil and security control. This ambiguous legal status has had repercussions in terms of continuing non-implementation of humanitarian and human rights law in the OPT.

Israel's non-implementation of humanitarian law in the OPT has led to systematic and severe violations of children's rights during the decades of occupation and during the current conflict. International Humanitarian Law draws a strong distinction between combatants and civilians in terms of the protection it offers. While Israel

⁷⁵ “Review of the Applicability of International Humanitarian Law to the Occupied Palestinian Territory” International Humanitarian Law Research Initiative.

<http://www.ihlresearch.org/opt/feature.php?a=31>

⁷⁶ Scheffer, David J. “Beyond Occupation Law.” *The American Journal of International Law.*” Vol 97, No. 4 (Oct 2003) 842-860.

systematically labels Palestinian children as combatants, according to DCI, "It is highly questionable whether the Palestinian children aged 15-18 who were killed during this Intifada can be considered 'combatants'."⁷⁷ DCI supports this statement with the fact that Palestinian security forces do not enlist anyone below 18 years of age and the fact that the Palestinian Child Law contains a provision forbidding the enlistment of children under 18 in any armed forces. According to the UN Commission of Inquiry reporting to the UN Commission on Human Rights, after its February 2002 visit, "stone throwing by youths at heavily protected military posts hardly seems to involve participation in hostilities". In addition, many of the children killed were not taking part in confrontations with Israeli forces when they were mortally wounded."⁷⁸

Israeli Responsibility to Implement Human Rights Conventions

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 Convention on the Rights of the Child 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.⁷⁹

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; 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.⁸⁰

The principle that human rights law...must be respected during an occupation has been stressed by several resolutions of the UN since the late 1960s, while some international courts and tribunals have emphasized the applicability of human rights law either implicitly or explicitly. Furthermore, the applicability of multilateral treaties to an occupied territory has been widely accepted and supported.⁸¹

⁷⁷ Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.29

⁷⁸ Quoted in: "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.29

⁷⁹ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.38

⁸⁰ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.38

⁸¹ Shuqair, Riziq. "Criminal Jurisdiction under the Gaza-Jericho Agreement." Al Haq. 1994.

Legal Provisions on Violence against Children

5. Describe how forms of violence against children are addressed in your country's constitution, legislation and subsidiary legislation, and, where appropriate, customary law.

Israeli Violence against Palestinian Children—Direct and Structural

In order to speak to the ways in which violence against children is addressed in the OPT, it is necessary to begin with a discussion of the different sources of this violence. Palestinian children and society in general face violence as victims of Israel's occupation policies and they face violence from sources within Palestinian society. However, it is important to note that these two sectors are not independent of each other. Rather, the structural violence of the occupation in many ways compounds the violence within Palestinian society.

Since the beginning of the current Intifada in late September 2000, 617 Palestinian children have been killed and thousands have been injured.⁸²

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.⁸³

This clearly represents the direct violence Palestinian children face from the Israeli military. However, violence also comes in structural forms. As DCI explains,

Depriving an entire nation of people its freedom, through occupation, is itself a major human rights violation. Consequently, the occupying power bears responsibility, both for its direct violations of individual human rights, and for the collective violation that comes in the form of ongoing occupation. It is this latter violation which causes the majority of human rights violations associated with the conflict...⁸⁴

Military occupation adversely 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. 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

⁸²Defence for the Children International, Palestine Section. Website: <http://www.dci-pal.org/english/home.cfm>. Accessed 9/22/04.

⁸³“Occupied Palestinian Territory, Consolidated Appeal Process 2004.” United Nations.

⁸⁴“Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers.” Defence for the Children International, Palestine Section. July, 2004. p.37

against Palestinian men is then revisited on their wives and children. They have to combat domestic violence as well as political violence.⁸⁵

The Economic and Social Council has drawn further 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.⁸⁶

The same report 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.”⁸⁷ Perhaps most disturbingly, the Gaza Mental Health Clinic has reported that some men who have been arrested and tortured return to their homes and use the same torture techniques which were used on them in prison on their wives and children.⁸⁸

Background to the Legal System in the OPT

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 Gaza), Jordanian law (in the West Bank), Israeli military orders and legislation by the Palestinian 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.

According to 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.”⁸⁹ This situation was somewhat ameliorated in August 2004 when the Child Law took force, having been signed by President Arafat. 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.

Israeli Military Orders and the CRC

Israeli military courts have assumed concurrent jurisdiction over all criminal matters and Israeli military orders supersede previous legislation. Rather than coming from

⁸⁵ Shadia el Sarag, quoted in Libby Brooks. “We Just Want to Live Normally.” *The Guardian*. January 29, 2002.

⁸⁶ “Economic and Social Repercussions of the Israeli Occupation on the Living Conditions of the Palestinian People in the Occupied Palestinian Territory, Including Jerusalem, and the Arab Population in the Occupied Syrian Golan” The Economic and Social Council. 17 May, 2002.A/57/63-E/2002/21

⁸⁷ *ibid.*

⁸⁸ *ibid.*

⁸⁹ “Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers.” Defence for the Children International, Palestine Section. July, 2004. p.13

the judicial system, these military orders are promulgated by the Israeli military commander. According to the Palestinian Center for Human Rights:

...in petitions pertaining to individual military orders submitted by human rights groups, the Israeli High Court has largely found for the State, relying on the military's claims of security. The process of promulgating military orders also contradicts international standards on democratic legislative processes; the right of the Israeli military commander to institute new orders without effective appeal or review permits the introduction of military orders which are flagrantly discriminatory and which constitute serious violations of a wide range of international human rights and humanitarian law which is binding on Israel.⁹⁰

It is estimated that the Israeli military authority has issued more than 1,500 military orders in the West Bank and 1,100 in Gaza since 1967. Many of Israel's military orders, which act as law in the OPT, are in direct contravention of the CRC. 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. Furthermore, the very existence of the system of military orders is in violation of the convention in that they apply only to Palestinians living in the OPT and not to Jewish Israeli settlers also living in the OPT. The fact that two systems of law exist in the OPT, applied according nationality, violates the non-discrimination clause of the CRC.⁹¹

The ways in which the Israeli military court system discriminates against Palestinian children is also apparent from different policies on holding children in custody. According to a ruling of the Israeli Supreme Court, there is no obligation to keep a child in custody until the termination of proceedings, even in murder cases. Only 5.3% of Israeli children were detained until the end of legal proceedings. However, Palestinian children from the OPT are almost always held in prison awaiting trial.⁹²

The Child Law

The period immediately following the signing of the Declaration of Principles (DOP) in 1993 and the Gaza-Jericho Agreement in 1994, led to a shift away from relief efforts by the international community and toward future-oriented development and capacity-building initiatives. For the citizenry of Palestine, prominent among the important results of the Oslo Accords was the creation of the Palestinian National Authority (PNA) in 1994. The birth of the PNA meant the transfer of power in the spheres of education, culture, health, social welfare, and information away from Palestinian civil society institutions that had previously provided for the bulk of services in these sectors, toward the consolidated national policy and planning jurisdiction of the PNA. An important part of this period of institution-building has been the development of Palestinian legislature.

The most relevant Palestinian legislature addressing child protection is the Child Law, which President Arafat signed in August 2004 [See Annex 1]. While the law has been

⁹⁰ "Racism, Racial Discrimination, Xenophobia and all Forms of Discrimination." Written Statement submitted by the Palestinian Center for Human Rights to the United Nations Economic and Social Council. E/CN.4/2003/NGO/199. 17 March 2003.

⁹¹ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.26

⁹² "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.26

signed, it is not yet in force as laws in Palestine must be recorded in the national legal gazette in order to be enacted. The gazette is not published regularly, and it is believed that the Child Law will be recorded in the next issue.⁹³

One of the main criticisms of this new law is that it does not directly address violence against children in the specific forums in which children are in need of protection—for instance within the family or within schools and other institutions. Furthermore, 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. The lack of clear definitions could undermine the law's usefulness as a legal tool to protect children. 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.⁹⁴ The law is also criticized for setting the age of criminal responsibility at nine. It is important to note that the law also does not specify commitment to the CRC.

Human rights groups are actively advocating for immediate amendments to the Child Law. The principal aim of this advocacy is to change the law so that it better addresses violence against children. The Women and Children's unit of the PLC is working to amend the law so that it addresses violence within the family and to raise the age of criminal responsibility.

Basic Law⁹⁵

The Basic Law, which was passed by the Palestinian Legislative Council, October 2, 1997 and ratified by Chairman Yassir Arafat on May 29, 2002, contains an article on child protection.

Article (29)

Maternity and childhood welfare is a national duty. Children shall have the right to:

1. Comprehensive protection and welfare
2. Not to be exploited in any purpose, and shall not be allowed to perform works which might damage their safety, health, or education.
3. Protection from harm and cruel treatment
4. Law prohibits beating children and treating them cruelly by their relatives.
5. Shall be segregated in case they are sentenced form adults, and treated in a manner which is appropriate to their age and rehabilitation.

The Constitution⁹⁶

The Constitution, which has yet to be ratified, also offers the following child protections. (From the revision of the third draft of the Palestinian Constitution May 14, 2003)

Article (24)

⁹³ Information from Nahed Freteh, The Women and Children's Unit, the Palestinian Legislative Council. Interview, 26 September 2004.

⁹⁴ Information from Nasser Rayyes, Al Haq. Interview, 22 August 2004.

⁹⁵ The Basic Law can be found at: http://www.usaid.gov/wbg/misc/Amended_Basic_Law.pdf

⁹⁶ The Constitution can be found at: <http://www.mopic.gov.ps/constitution/english%20constitution.asp>

Children shall have all the rights guaranteed by the United Nations Convention on the Rights of the Child.

Article (48)

The State shall guarantee family, maternal and child care. It shall care for adolescents and the youth. The law shall regulate child, mother and family rights in accordance with the provisions of international agreements and the Charter on the Rights of the Arab Child of the League of Arab States. In particular, the State shall seek to protect children from harm, harsh treatment or exploitation, and from any work that would endanger their safety, health or education.

The Draft Penal Code⁹⁷

The Draft Penal Code is still undergoing its first reading in the Palestinian Legislative Council. Despite the fact that it is not yet law, it is important to understand the ways in which it addresses violence against children as it is still open to review. Thus, this document will analyze the penal code along with other sources of law. The draft penal code does not contain a separate section for children. However, it sets the age of criminal responsibility at nine and outlines punishments for abuses against children (please see the response to question 10-b). The draft penal code is criticized for being inconsistent and for not adequately addressing children as such.

Shari'a

The Basic Law,⁹⁸ ratified on May 29, 2002, establishes in Article (4)2 that “The principles of Islamic Shari’a shall be the main source of legislation” Furthermore, Article (92) states:

1. Shari'a affairs and personal status shall be assumed by Sharia' and religious courts in accordance with law.

The Shari'a has been particularly important for family law and personal status law. However, there has been pressure from advocacy groups to subsume these matters under a Personal Status Law which would be addressed in civil courts. This law is still in draft form.

Customary Law

There is also the traditional customary law called “urf” which mediated disputes outside of the court system, relying on mediation based on traditional customs. Urf addresses matters including family disputes.

6. Provide details of any specific legislative provisions on:

- f) Prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment, and sexual abuse;**
 - g) Protection of children from all forms of violence**
 - h) Redress, including compensation, of child victims of violence**
 - i) Penalties for perpetrators of violence against children**
 - j) Reintegration and rehabilitation of child victims of violence**
- a) The newly-signed **Child Law** is the main legal tool for child protection in Palestinian society. The relevant articles are:

⁹⁷ The Draft Penal Code is unavailable in English

⁹⁸ The Basic Law can be found at: http://www.usaid.gov/wbg/misc/Amended_Basic_Law.pdf

7(3) The state shall take appropriate measures to prosecute, question and punish all those who subject children to any war crime or crime against humanity.

11(1) Each child shall have the right to life and security.

42(1) The Child shall have the right to protection from all forms of violence, physical, psychological, or sexual harm or injury, negligence, homelessness, and any other form of ill treatment or exploitation.

42(2) The State shall take all necessary legislative, administrative, social, educational and protective actions and measures to secure the said right.

Articles 43-46 outline specific forms of violence from which children are to be protected (article 43 addresses injurious working conditions, 44 addresses hardship situations including negligence, abuse, and sexual exploitation among others, article 45 addresses harmful toys, and 46 addresses child soldiers.) However, as noted above, the law lacks clear definitions of the terminology it uses.

There is no separate section of the **Draft Penal Code** addressing children. However, it establishes harsher punishments for sexual violence if perpetrated against a child under the age of 15 (Articles 257, 260, 263). In separate articles it designates harsher punishments for sexual violence against children between the age of 15-18—however these are not as harsh as punishments for crimes committed against under 15 year olds (Articles 259 and 261).

Article 217 stipulates a stricter punishment for kidnapping if the victim is a newborn. Kidnapping is also treated with harsher punishment if the victim is under 18 years old (article 218 and 219).

Article 221 addresses encouraging children to run away, article 222 addresses neglect, and articles 223 and 224 address desertion.

b) See **Child Law** articles 7(3), 11(1), 42-49; Articles 50-66 describe the functioning of the Protection of Childhood Department

c) This is not addressed in any legislation.

d) Please see the response to question 3-a

e) **Child Law** Article 46(2) Articles 47-49, Articles 67-69

4. **Indicate whether any specific legislative provisions address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in:**

i. **Family/home**

j. **Schools and pre-school care and education (formal, non-formal, state, private)**

k. **Military schools**

l. **Institutions including care, residential, health and mental health**

m. **The context of law and public order enforcement including in detention facilities or prisons;**

- n. **The neighborhood, street and the community, including in rural areas;**
- o. **The workplace (formal and informal)**
- p. **Sports and sporting facilities**

a. Family and Home

Neither the **Child Law** nor the **Draft Constitution**⁹⁹ specifically addresses violence which occurs in the home or among family members; however, the **Child Law** is inclusive in addressing violence without specifying the forum of that violence. Article 29(4) of the **Basic Law**¹⁰⁰ states that "Law prohibits beating children and treating them cruelly by their relatives."

The **Family Law** is stricter on sexual violence within the family.¹⁰¹ 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. The code does not mention sexual violence within the marriage.

b. Schools and Pre-School care and education (formal, non-formal, state, private)

The **Child Law** Article 39(2) states "The State shall take all arrangements to: Foster the dignity of the child, particularly when adopting decisions or developing programs, which aim at prohibiting all forms of violence in schools, regardless of the source."

The Ministry of Education does not have any laws to guide its work in terms of violence against children. Rather, it relies on internal principles which were developed in 1995.¹⁰²

c. Military Schools

There are no military schools in Palestine.

d. Institutions

This is not specifically addressed in any legislation; however the **Child Law** is inclusive in addressing violence without specifying the forum of that violence. **UNRWA** has a clause within its contracts and constitution forbidding corporal punishment.

e. Law and Order Enforcement

This question applies to both Israeli detention facilities and Palestinian detention facilities.

- Israeli Detention Centers and Prisons

⁹⁹ The Constitution can be found at: <http://www.mopic.gov.ps/constitution/english%20constitution.asp>

¹⁰⁰ The Basic Law can be found at: http://www.usaid.gov/wbg/misc/Amended_Basic_Law.pdf

¹⁰¹ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

¹⁰² Information from interview with Dr. Mohamad Rimawi, Ministry of Education. August 26, 2004.

Since the beginning of the current Intifada in late September 2000, Israel has arrested 2,800 children.¹⁰³ Israeli military orders provide the legal basis for arrest and detention procedures of Palestinians, many of which contravene international human rights standards in general and the CRC in particular. According to Al Haq:

...the Israeli military court system fails to meet minimum international standards on the right to a fair and regular trial. Dominant issues of concern include failure or delays in notifying legal counsel of the location, date and timing of court hearings; refusal to submit the indictment to the defence; refusal to submit prosecution evidence to the defence for review; lack of effective appeals procedures; reliance on evidence to which the defence is denied any access; and inadequate or absence of interpretation services from Hebrew into Arabic.¹⁰⁴

Military order 1500, which was enacted during the invasions of 2002, allows for detention without charges for any Palestinian, including children. Furthermore, administrative detention orders, which are increasingly used against children, allow for detention of up to six months without trial or specific charges.¹⁰⁵ According to DCI:

The standard of prisoner treatment remains unacceptable in nearly all detention centers and prisons, with frequent violations of core rights, not least of which are the freedom from arbitrary arrest, from physical abuse and torture and the right to a fair trial. Once sentenced, prisoners are consistently denied access to education and recreational materials, healthcare and for 16-17 year olds, the right to be considered as minors.¹⁰⁶

DCI also notes that "...the use of physical and psychological torture remains and all-too-frequent experience for adult and child detainees alike..."¹⁰⁷ For a comprehensive analysis of Israeli violations of Palestinian children's rights in arrest procedures and detention facilities, see "Stolen Youth" Defence for the Children International- Palestine Section.

▪ Palestinian Detention Centers and Prisons

Article 29(5) of the **Basic Law**¹⁰⁸ states that children

"Shall be segregated in case they are sentenced from adults, and treated in a manner which is appropriate to their age and rehabilitation."

Child Law Articles 67-69 set the age of criminal responsibility at nine years old and establish protections for detained children. We should note that local agencies are taking action to change this.

According to the Ministry of Detainees, there are no laws specifically providing protection for children in custody. However, according to a ministry official, prison and detention center staff abide by international human rights law.

¹⁰³ "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.43

¹⁰⁴ "Mass Arrests." Al Haq. Found at http://www.alhaq.org/cp-campaign/mass_arrests_overview.htm

¹⁰⁵ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

¹⁰⁶ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

¹⁰⁷ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

¹⁰⁸ The Basic Law can be found at: http://www.usaid.gov/wbg/misc/Amended_Basic_Law.pdf

According to UNICEF:

Several means exist to protect juveniles within the justice system. For instance, no restraint should be applied on arrest unless the juvenile is violent, and speed in bringing a case to court and taking decisions is required... Children awaiting trial are supposed to be kept on remand in special centres if releasing them on bail is not appropriate. This may be because of the gravity of the crime, because the child might disrupt the course of justice or because it is not in the child's best interest. During the remand and trial period publicity is not permitted and the hearings are confidential. People who are not connected with the trial are not permitted to attend the court hearings. In reality, it is reported that cases take a long time and are not held in confidentiality.¹⁰⁹

There are no specific detention centers for children. However, currently, there are no children detainees or prisoners. There are two juvenile reform institutions: the Dar Al-Amal Rehabilitation Center and the Al-Rabi' Institute for Social Reform Care in Gaza.¹¹⁰ There is no law to specifically protect children within these facilities.¹¹¹

f. The neighborhood, street and the community, including in rural areas;

This is not specifically addressed in any legislation.

g. workplace

Labor Law,¹¹² effective April 20, 2000: 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:

- E. Dangerous or harmful industries, designated by the minister.
- F. Night shifts, official and religious occasions nor on official off days.
- G. Overtime hours according to production unit.
- H. Far or desolated areas.

Article (96)

1. Daily working hours shall be reduced for juveniles, not for less 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.

¹⁰⁹ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.84.

¹¹⁰ Information from phone interview with Khulood Nijan, Director of Media Directory, The Ministry of Detainees. August 19, 2004.

¹¹¹ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

¹¹² Labor Law can be accessed at: <http://www.pnic.gov.ps/english/law/law10.html>

- The **Basic Law**¹¹³ Article 29(2)
"Not to be exploited in any purpose, and shall not be allowed to perform works which might damage their safety, health or education."
- The **Child Law** Article 14 prohibits child labor before the age of 15. Also see Article 43 which prohibits harmful working conditions.

h. Sports and sporting facilities

There is no specific law; however, the Ministry of Youth and Sport uses the CRC as a framework to guide its work.¹¹⁴ The **Child Law** is inclusive and non-specific about the forums in which violence occurs. More specificity is needed in the law.

5. Indicate if corporal punishment of children, in any setting, including in the family, is explicitly prohibited in your legal system. Provide details of any legal defenses available to those who administer corporal punishment to children, including in the family.

Corporal punishment is not specifically mentioned in any legislation. However, the **Child Law** grants children the right of protection from all forms of violence (Article 42), and thus corporal punishment is not considered legal. However, since it is not specifically addressed, the law does not provide any specific legal defenses for child victims of corporal punishment. Corporal punishment is used regularly in schools, but is rarely addressed in the judiciary as the burden falls on parents to bring the matter to trial and a high evidentiary standard is required.

Article 216 of the **Draft Penal Code** states that:

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.

UNRWA has a clause within its contracts and constitution forbidding corporal punishment.

6. Provide information on whether the penal code permits corporal punishment and/or capital punishment as a sentence for crimes committed by under 18 year olds

The **Draft Penal Code** does not allow capital punishment of children.¹¹⁵

7. Provide details on whether bullying/hazing and sexual harassment are explicitly addressed by legislation

The **Child Law** Art 42(1) grants children the right of protection "from all forms of violence, physical, psychological, or sexual harm or injury, negligence, homelessness, and any other form of ill treatment or exploitation." It does not specifically mention bullying/hazing or sexual harassment.

¹¹³ The Basic Law can be found at: http://www.usaid.gov/wbg/misc/Amended_Basic_Law.pdf

¹¹⁴ Information from Musa Abu Zaid, Ministry of Youth and Sport. Interview August 22, 2004

¹¹⁵ Information from Nasser Rayyes, Al Haq. Interview, August 22, 2004.

The **Draft Penal Code** does not refer to sexual harassment directly. However, article 264 states that scandalous action is any action, movement or sign which can emotionally damage another person when he/she witnesses it. This can be stretched to cover sexual harassment.

8. Provide information on the way in which harmful or violent traditional practices, including but not limited to female genital mutilation, child marriage or honour crimes are addressed in your country

Female Genital Mutilation

According to an official at the Ministry of Justice, female genital mutilation is not a phenomena in Palestinian society, and thus is not addressed in the law.¹¹⁶ However, a survey commissioned by The Foreign and Commonwealth Office, UK and conducted by The Culture and Free Thought Association in the Gaza Strip of 176 circumcised women reveals that female genital mutilation occurs in the Gaza Strip. The same report contains interviews with four women who perform circumcisions in Gaza, who report that they individually carried out up to 10-15 female circumcisions per month.¹¹⁷

Child Marriage

According to the Palestinian Central Bureau of Statistics "Data obtained show that the early marriage phenomenon is prevailing especially among females. Median age at first marriage amounted to 19.0 years for females and 24.2 years for males in 2002, and 18.0 years for females and 23.0 years for males in 1997."¹¹⁸ According to the UNRWA 2003 Annual Report of the Department of Health, the percentage of women married by the age of 18 years is 31.2% for West Bank and 36.3% for Gaza.¹¹⁹ Recent trends show that there has been an increase in early marriage, most likely due to increased poverty.¹²⁰

The **Child Law** is silent on the issue of child marriage, and thus previous legislation applies. According to this previous legislation, the legal age for marriage varies according to region and community. For instance, in the West Bank, where **Jordanian law** is still applied, the minimum age for marriage is 15 for females and 16 for males. However, documentation verifying age is often forged and parents and judges can decide on "exceptions" to this law. Furthermore, among Christian communities living in the West Bank, **Christian family laws** may apply, which stipulate an even younger age for which marriage is legal.

In Gaza, **Egyptian law** is applied, which stipulates that marriage is legal at the age of 17 for females and 18 for men. However **shari'a** courts determine a female's eligibility for marriage based on her physical maturity and consent.¹²¹

¹¹⁶ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

¹¹⁷ "Research into Female Genital Mutilation April 1999-March 2000." *Culture and Free Thought Association*. Study funded by The Foreign and Commonwealth Office, UK.

¹¹⁸ *Palestinian Children – Issues and Statistics, Executive Summary*. Ramallah–Palestine. Palestinian Central Bureau of Statistics, 2004. http://www.pcbs.org/child/pdf_file/echild5.pdf

¹¹⁹ UNRWA Annual Report of the Department of Health 2003, p. 92.

¹²⁰ Information from Dr. Cairo Arafat, The NPA Secretariat. Interview, September 13, 2004.

¹²¹ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.29

The **Draft Penal Code** article 208 stipulates a penalty for anyone who marries or assists in the marriage of a female under the age of 15.

The issue of child marriage in the future will be addressed in the **Personal Status Law**. This law is in the final stages.

Honor Killings

Manal Kleibo Zarf, an attorney for the Women's Center for Aid and Counseling, states that while she is aware of many cases of honor killings in the West Bank, she has never been asked to prosecute a case. She maintains that this may be due to the fact that under Jordanian Law Article 341, which still applies in the West Bank, murder is legal in the case that "The act of killing another or harming another was committed as an act in the defense of his life, or his honor, or somebody else's life or honor."¹²²

The **Draft Penal Code** prohibits honor killings. However, it allocates a lesser sentence for spousal honor killings than other types of murders. Article 235 stipulates a jail sentence (rather than capital punishment) for murder or assault in the situation if a man discovers his wife committing adultery. The converse also exists with the exception that the wife must witness the adultery of her husband in her home. Thus there is greater legal protection for male perpetrators than female perpetrators on this issue.

9. Provide information on the applicability of specific provisions to address all forms of violence against children to non-citizens and stateless children, including asylum seekers and displaced children. If specific provisions do not apply to such children, provide details of protection offered to them.

Article 7 of the **Basic Law** states that Palestinian citizenship shall be regulated by law. However, it does not define citizenship in Palestine, and thus the concept of non-citizens and stateless children is difficult to apply to this situation. However, article 3(1) of the **Child Law** states that "Every child shall enjoy all rights stipulated in this Law without any form of discrimination, irrespective of...national, religious or social affiliations...birth, parentage, or any other types of discrimination."

10. Provide information on any difference in the definition of violence and the applicable legal framework according to:

- d) The sex or sexual orientation of the victim and/or of the perpetrator**
- e) The age of the victim and/or of the perpetrator**
- f) The relationship between the victim and the perpetrator, including, but not limited to infanticide, sexual violence in marriage, incest and sexual abuse within the family, and physical chastisements**

a) There are several articles in **Draft Penal Code** which differentiate between the sex or sexual orientation of the victim or perpetrator.

¹²² Ruggi, Suzanne. "Commodifying Honor in Female Sexuality; Honor Killings in Palestine." *Middle East Report*. Spring, 1998.

- Article 208 establishes a punishment for marrying or assisting in the marriage of an underage woman. There is no corresponding penalty for underage men.
- Article 235 stipulates a jail sentence (rather than capital punishment) for murder or assault in the situation if a man discovers his wife committing adultery. The converse also exists with the exception that the wife must witness the adultery of her husband in her home. Thus there is greater legal protection for men than women on this issue.
- Article 258 assigns an undefined jail term for consensual heterosexual intercourse outside of marriage, with a term of not more than 5 years if the male has a relationship of authority over the woman. Article 262 assigns a jail term of not more than 5 years for consensual homosexual acts and a jail term of not more than 10 years if the perpetrator has a relationship of authority over his partner. Thus, homosexual acts are treated more harshly under the law.

b) There is no separate section of the **Draft Penal Code** addressing children. However, it establishes harsher punishments for sexual violence if perpetrated against a child under the age of 15 (Articles 257, 260, 263). In separate articles it designates harsher punishments for sexual violence against children between the age of 15-18—however these are not as harsh as punishments for crimes committed against under 15 year olds (Articles 259 and 261).

Article 217 stipulates a stricter punishment for kidnapping if the victim is a newborn. Kidnapping is also treated with harsher punishment if the victim is under 18 years old (article 218 and 219).

Article 221-224 address encouraging children to run away and different forms of neglect.

In terms of the age of the perpetrator, the newly-enacted **Child Law** and the **Draft Penal Code** set the age of criminal responsibility at nine. "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."¹²³ However, judges are often inadequately trained, inexperienced and unaware of child rights issues.¹²⁴ Capital punishment cannot be imposed on a child under the age of 18.

c) The **Family Law** is stricter on sexual violence within the family.¹²⁵ Articles 257, 259, 260, 261, 262 and 263 of the **Draft Penal Code** stipulates harsher punishments for sexual crimes if the perpetrator is a relative, caregiver or anyone with authority over the victim. The code does not mention sexual violence within the marriage.

Article 216 of the **Draft Penal Code** states that:

¹²³ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.84.

¹²⁴ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

¹²⁵ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

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.

11. Provide information on any recent comprehensive review of the legal framework to address violence against children.

The two organizations doing work related to this area are UNICEF and Defence for the Children International, Palestine Section. While UNICEF has not conducted any recent comprehensive review of the legal framework addressing violence against children, it is currently conducting a study on violence in schools and domestic violence. UNICEF also plans to conduct a study on street children which will take into account how they are treated.

DCI has recently completed a report (August, 2004) on juvenile justice in Palestine. The report, which is in Arabic, "examines Palestinian legal procedures from arrest through sentencing, in cases where children have come into conflict with the law."

Other studies and reports of other organizations address violence against children in part—for instance there have been many studies on Israeli violence against children. However, they do not address legal aspects directly or comprehensively.

12. Provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children

None exist.

Courts tasked with addressing violence against children

13. Identify those parts of the court structure in your country tasked with addressing violence against children. Indicate if your family or juvenile courts have specific responsibility for this issue.

There are no courts which specialize in violence against children, and there are no juvenile courts. Judges are given the responsibility of handling child cases in the same court. However, they are often inadequately trained, inexperienced and unaware of child rights issues.¹²⁶

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 issue of juvenile justice will be addressed in the **Juvenile Justice Law**, which is currently in early draft form.

Minimum age for sexual activity

¹²⁶ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

14. Provide information on any legislatively defined minimum age required for valid consent to sexual activity. Is this age different for boys and girls? Is this age different in respect of heterosexual and homosexual activities?

Sexual activity is illegal outside of marriage, and thus the legal consent age is dependent on the marriage age (see question 15 below for information on the legal marriage age). Currently, the age is different for boys and girls as the marriage age for girls is younger. However, the punishment for boys and girls engaging in sexual activity outside of marriage is the same. Homosexual activities are illegal as there is no marriage for homosexual people. This is addressed in the **Draft Penal Code** article 262.

15. Provide information on the minimum age of marriage for women and men

The **Child Law** is silent on the issue of marriage age, and thus **previous legislation** applies. According to this previous legislation, the legal age for marriage varies according to region and community. For instance, in the West Bank, where **Jordanian law** is still applied, the minimum age for marriage is 15 for females and 16 for males. However, officials in the West Bank rely on a witness to the female's age rather than documentation. Furthermore, among Christian communities living in the West Bank, **Christian family laws** may apply, which stipulate an even younger age for which marriage is legal.

In Gaza, **Egyptian law** is applied, which stipulates that marriage is legal at the age of 17 for females and 18 for men. However **shari'a** courts determine a female's eligibility for marriage based on her physical maturity and consent.¹²⁷

The **Draft Penal Code** article 208 stipulates a penalty for anyone who marries or assists in the marriage of a female under the age of 15.

The issue of marriage age in the future will be addressed in the **Personal Status Law**. This law is in the final stages.

Sexual exploitation of children

16. Provide information on legislation and other measures to prevent the commercial sexual exploitation of children, including through prostitution and other unlawful sexual activities. Provide details on means to ensure that child victims of such exploitation are not criminalized. Provide information on legislative and other measures to prohibit all forms of sale or trafficking in children, including by their parents

There is no clear phenomenon of commercial sexual exploitation of children in Palestine and legislation does not directly address the issue.¹²⁸

Article 42(1) of the **Child Law** outlines the right of children to be protected from sexual harm. Article 44 explicitly prohibits the sexual exploitation of children.

¹²⁷ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.29

¹²⁸ Information from Ayed Abu Ktash, Defence for the Children International- Palestine. Interview, August 22, 2004.

According to Article 47(f), a child is "under the threat of delinquency" if he is involved in acts related to prostitution.

Neither trafficking or the sexual exploitation of children is explicitly addressed in the **Draft Penal Code**. Articles 257, 260, 263, 259 and 261 address sexual violence against children in a very general way.

According to the **Draft Penal Code**, prostitution is illegal. Because the new **Child Law** sets the age of criminal responsibility at nine, any child between the ages of 10 and 18 could be prosecuted for prostitution. However, the issue is dealt with on a case-by-case basis.¹²⁹

Pornography and harmful information

17. Provide information on legislation and other measures to prohibit the production, possession and dissemination of child pornography. In particular, please provide information on any controls on pornography produced and/or disseminated via the internet.

There is no legislation addressing this issue.¹³⁰

18. Provide information on any legislative or guidelines to protect children from injurious information and material transmitted through the media, Internet, videos, electronic games etc.

According to Article 45 of the **Child Law**, the state must guarantee children protection from toys and games which violate "...cultural and religious standards and values." Article 36 states that "It is forbidden to publish or to present any printed materials or any visual or aural materials which are directed towards a child's basic instincts, or which makes behavior which is in contradiction of society's norms and traditions attractive to a child, and encourages the child to delinquency."

Clause 7-B of the **Press Law** states that "Periodical prints addressed to children and teenagers should not include any photographs or stories, or scripts, or news which could hamper morals, values and Palestinian traditions." There is no other legislation which addresses this issue.

Reporting obligations relating to violence against children

19. Provide information on legislation, regulations or administrative directives requiring reporting to all forms of violence against and abuse of children in all settings to appropriate bodies. If reporting legislation, regulations or administrative directives exist, please indicate whether all citizens are required to report, or whether the obligation falls on certain professional groups only. Provide details of any sanctions for non-reporting.

As UNICEF explains, "Until recently, an abused child could only make a legal complaint through his/her father, who may either be the abuser himself or may act to

¹²⁹ Information from Nasser Rayyes, Al Haq. Interview, August 22, 2004.

¹³⁰ Information from Liana Nussiebeh, Ministry of Information, Interview, August 26, 2004.

protect another family member, or, in the case of sexual abuse, family honor."¹³¹ However, the new **Child Law** explicitly lays out in Article 53(1) the responsibility of all citizens to inform the Ministry of Social Affairs' 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. However, it is only this second group for which a specific penalty (a fine of 100-200 JDs) is laid out in the **Child Law** for non-notification 53(3). 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.

Complaints procedures

20. Provide information on any complaints procedures relating to all forms of violence against children perpetrated in:

- **Family, home**
- **Schools and preschool care and education (formal etc.)**
- **Military schools**
- **Institutions, state and private, including care, residential, health and mental health**
- **The context of law and public order enforcement including in detention facilities or prisons**
- **The neighborhood, street and the community, including in rural areas;**
- **The workplace (informal and formal)**
- **Sports and sporting clubs**

There are no specific complaints procedures which are based on the forum in which the violence occurred. If violence occurs in the family or home, there is little recourse for the child. As UNICEF writes, "Until recently, an abused child could only make a legal complaint through his/her father, who may either be the abuser himself or may act to protect another family member, or, in the case of sexual abuse, family honor."¹³²

While complaints do not necessarily need to originate from the father, the situation described by UNICEF still largely persists. However, the new **Child Law** should work towards ameliorating the situation. Articles 50-57 outline complaints procedures, which go through the Ministry of Social Affairs' Childhood Protection Department.

An official at the Ministry of Social Affairs notes that a considerable obstacle to the reporting of violence against children is the lack of a legal framework referring to the different institutions where violence can occur (for instance, the family, schools, detention centers etc.). At this point, responsibility falls on social workers to report on violence. However, social workers often do not have a chance to interview children in a situation in which the children feel safe to speak freely. The official expressed the need to inform institutions of their legal requirements to facilitate the work of the Ministry of Social Affairs in these matters.¹³³

¹³¹"The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.77

¹³²"The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.77

¹³³ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

While violence in schools has been documented, there is no official legal complaint mechanism and cases do not generally result in legal proceedings. Rather, due to a societal emphasis on secrecy and privacy in such matters, school administrators rely on reconciliation methods to address the issue.¹³⁴ The Ministry of Education has formed a special committee to respond to focus on cases of violence in schools.

As it stands, teachers report to school administrators if they are aware of violence against a child. The head of the school may contact the police if the case is considered severe. If the case involves sexual abuse, it is immediately transferred to the Ministry of Social Affairs.¹³⁵ Under the new **Child Law**, school counselors will have the duty of reporting abuse to Ministry of Social Affairs' child protection social workers.

21. Indicate whether children or persons acting on their behalf can access these procedures. Indicate whether legal aid is available to facilitate submission of complaints, and the circumstances in which legal aid will be available

According to Article 53 of the **Child Law**, "every person" may notify the child protection social workers of a case of violence against a child. Thus children can access these procedures themselves.¹³⁶ Furthermore, article 54 requires that all adults assist a child with notification. The law does not address legal aid.

According to article 6 of the **Penal Procedure Law**,¹³⁷ the guardian is responsible to file a complaint to safeguard a civil right if the child is below the age of 15.

22. Describe steps which have been taken to raise awareness of possibilities to submit complaints about violence against children

The Ministry of Social Affairs has created and distributed a brochure which calls on citizens to report violence against children, with reference to the Child Law. It also lists the services offered by the Ministry and the contact information for ministry staff and police in 15 areas of the country.

Numerous NGOs have worked on raising awareness on issues such as sexual abuse, violence and child labor, among others.

23. Provide information on any special procedural or evidentiary rules which may apply in proceedings with respect to violence against children

According to an official at the Ministry of Justice, it is at the discretion of the judge to weigh a child's testimony versus that of an adult.¹³⁸

Penal Procedure Law:¹³⁹ Article (89)

¹³⁴ Information from Ayed Abu Ktash, Defence for the Children International- Palestine. Interview, August 22, 2004.

¹³⁵ Information from interview with Dr. Mohamad Rimawi, Ministry of Education. August 26, 2004.

¹³⁶ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

¹³⁷ Penal Procedure Law can be accessed at: http://www.usaid.gov/wbg/misc/Penal_Procedure_Law-English.pdf

¹³⁸ Information from Iman Abdel Hamid, The Ministry of Justice. Interview, August 24, 2004.

¹³⁹ Penal Procedure Law can be accessed at: http://www.usaid.gov/wbg/misc/Penal_Procedure_Law-English.pdf

1. For the purposes of compiling more evidence, the testimony of children under fifteen shall be heard without requiring them to take the oath, unless the prosecutor feels that they are aware of the meaning of the oath.

24. Provide information on the usual outcome of complaints of violence against children (e.g. compensation, punishment of perpetrators, perpetrator rehabilitation, family therapy)

There are two units within the Ministry of Social Affairs which address violence against children: the counseling unit and the behavior observation unit. Behavior observers have the authority from the police to interfere in matters such as violence against children.¹⁴⁰

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.¹⁴¹

25. Provide information on the usual outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence (e.g. Imprisonment, corporal punishment, community service, perpetrator rehabilitation, family therapy)

This question applies to both Israeli and Palestinian legal proceedings.

▪ Israeli Legal Proceedings

Since the beginning of the current Intifada in late September 2000, Israel has arrested 2,800 children.¹⁴² Israeli military orders provide the legal basis for arrest and detention procedures of Palestinians, many of which contravene international human rights standards in general and the CRC in particular. For instance, military order 1500, which was enacted during the invasions of 2002, allows for detention without charges for any Palestinian, including children. Furthermore, administrative detention orders, which are increasingly used against children, allow for detention of up to six months without trial or specific charges.¹⁴³ According to DCI:

The standard of prisoner treatment remains unacceptable in nearly all detention centers and prisons, with frequent violations of core rights, not least of which are the freedom

¹⁴⁰ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

¹⁴¹ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

¹⁴² "Use of Children in the Occupied Palestinian Territories; Perspective on Child Soldiers." Defence for the Children International, Palestine Section. July, 2004. p.43

¹⁴³ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

from arbitrary arrest, from physical abuse and torture and the right to a fair trial. Once sentenced, prisoners are consistently denied access to education and recreational materials, healthcare and for 16-17 year olds, the right to be considered as minors.¹⁴⁴

DCI also notes that "...the use of physical and psychological torture remains and all-too-frequent experience for adult and child detainees alike..."¹⁴⁵ For a comprehensive analysis of Israeli violations of Palestinian children's rights in its legal proceedings, see "Stolen Youth" Defence for the Children International-Palestine Section.

▪ Palestinian Legal Proceedings

The **Child Law** and the **Draft Penal Code** set the age of criminal responsibility at nine. Children aged 10-18 are not distinguished in the penal code, and thus are subject to the same penalties, with the exception of capital punishment. Judges may mitigate the penalties with consideration of a child's age; however judges are often inadequately trained, inexperienced and unaware of child rights issues.¹⁴⁶

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.¹⁴⁷

The police are responsible for reporting the arrest of children to the Ministry of Social Affairs' probation officers. However, sometimes children are detained for a long time and at times they are held in prison.¹⁴⁸

In practice, similar to violence against children discussed in question 24 above, most cases involving children are usually resolved through family and community mediation in an effort to keep these matters private and downplay their importance.

The laws which are currently applied to juvenile offenders are Jordanian in the West Bank and Egyptian in Gaza. There are no juvenile courts; however, in Gaza, courts may function as juvenile courts following Egyptian law.¹⁴⁹ 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

¹⁴⁴ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

¹⁴⁵ "Legal Review on Palestinian Child Prisoners for the UN Special Rapporteur." Defence for the Children International- Palestine Section. June 2003.

¹⁴⁶ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

¹⁴⁷ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.83

¹⁴⁸ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

¹⁴⁹ Information from Daoud Dirawi, DCI- Palestine. Interview, 25 September 2004.

court solely addressing children's issues. The issue of juvenile justice will be addressed in the **Juvenile Justice Law**, which is currently in early draft form.

Another relevant issue is that 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.¹⁵⁰ 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.¹⁵¹

Approximately 10% of arrested children are brought to a rehabilitation center. Others are sent to schools or vocational institutes. Rarely, if a child is deemed a danger to others, he or she will be sent to a prison with a special section for dangerous children.¹⁵²

There are two juvenile reform institutions: the Dar Al-Amal Rehabilitation Center in Ramallah and the Al-Rabi' Institute for Social Reform Care in Gaza. However, these work on an extremely small scale. The 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.¹⁵³

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.

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 happened one time at the Ramallah center over the past six years.¹⁵⁴

According to the **Penal Procedure Law**¹⁵⁵ 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 the morals of the convicted person, his past history, **his age**, or the circumstances in which the crime was committed that he will not violate law again.

Institutional Framework and Resources to Address Violence Against Children (prevention, protection, redress, reintegration and rehabilitation)

¹⁵⁰ Information from Dr. Cairo Arafat. The NPA Secretariat. Interview, 13 September 2004.

¹⁵¹ Information from Daoud Dirawi, DCI- Palestine. Interview, 25 September 2004.

¹⁵² Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, 24 August 2004.

¹⁵³ Information from Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. Interview, 4 September 2004.

¹⁵⁴ Information from Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. Interview, 4 September 2004.

¹⁵⁵ Penal Procedure Law can be accessed at: http://www.usaid.gov/wbg/misc/Penal_Procedure_Law-English.pdf

26. Are there any governmental authorities, structures and mechanisms, including at the federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children?

If yes, identify and describe how coordination is ensured

The Ministry of Social Affairs is entrusted with addressing violence against children as the lead agency. The NPA Secretariat, under the Ministry of Planning also has some structures. There is also the Palestinian Legislative Council's National Council on Sexual Violence; however, this council has not produced anything substantial. The Women and Children's Unit is the only unit under the PLC actively focusing on issues related to violence against children currently.¹⁵⁶ It works to improve legislative protections 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 and to raise the age of criminal responsibility.

International and local NGOs also address violence against children.

27. Is there a lead governmental authority tasked with responsibility for addressing violence against children? Describe

The Ministry of Social Affairs is the lead agency addressing violence against children. According to UNICEF, MoSA's system of social workers specializing in child protection has a low child/social worker ratio. Furthermore, it has been criticized for using inappropriate indicators in for documenting violence against children.¹⁵⁷ 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.

In 2002, the Palestinian Legislative Council established a committee addressing violence in Palestinian society; however it is not active in violence against children.

28. Are specific financial and/or human resources allocated by your country to address violence generally? Indicate extent of allocations

Resources to address violence generally in Palestine are minimal. The Ministry of Social Affairs 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.

Furthermore, there is a lack of resources to address the violence of the current conflict:

Widespread psycho-social distress amongst the Palestinian population is being met with considerably weakened capacities of the government and the civil society to deal with these problems. Severe economic constraints, overstretched public service providers and the lack of

¹⁵⁶ Information from Nahed Freteh, Women and Children's Unit, the Palestinian Legislative Council. Interview, 26 September 2004.

¹⁵⁷ "The Situation Analysis of Palestinian Children, Young People and Women in the West Bank and Gaza Strip" UNICEF and MOPIC. August, 2000. p.77

free access and exchange of information and knowledge is pushing the response mechanisms to deal with widespread psychological suffering to their limit.¹⁵⁸

29. Does your country allocate specific financial and/or human resources to address violence against children? Details

The Ministry of Social Affairs has two child protection social workers (one male, one female) for each of the 15 districts. The ministry also runs a Child Protection Center in Ramallah, and officials hope to open a second center for girls.

The Dar Al-Amal rehabilitation center in Ramallah receives some support from the PNA. Six of its 12 employees receive their salaries from the PNA. The other ten part-time staff members are currently receiving unemployment payments rather than salaries.¹⁵⁹ The Ministry of Social Affairs is lobbying the government to provide them with full time salaries.¹⁶⁰

The government-allocated resources are inadequate, but the overall lack of national resources prevents more.

30. Do international or bilateral donors provide resources to your country for activities to address violence against children? Extent and how used

Rather than focusing specifically on violence against children, the trend of international donors in Palestine has been to support programs which increase awareness of children's rights. Thus, violence against children is treated in the larger framework of human rights. SIDA, the British Council, UNICEF, UNIFEM and OHCHR are some of the donor organizations supporting initiatives to raise children's awareness of their rights. The Ministry of Education receives support from UNICEF for training all Ministry teachers and counselors about child rights and child protection law in cooperation with the Palestinian Red Crescent Society.

The Ministry of Social Affairs does not receive assistance from international or bilateral donors, with the exception of UNICEF, which has run training workshops for the Ministry's social workers.

There is support from international organizations to meet the psychosocial needs of Palestinian children, which is inherently connected to the violence of the current conflict. UNICEF is the lead agency and has taken responsibility to address the psychosocial needs of children and their families. Furthermore, "In conjunction with the NPA Secretariat, MoSA and the MoH, the psycho-social sector seeks to alleviate the immediate negative impact of conflict such as domestic violence and trauma."¹⁶¹ In Palestine's Consolidated Appeals Process, UNICEF has determined that in 2004 it requires \$1,490,000 for psycho-social support for Palestinian children and families, while CARE has determined that it requires \$500,000 for psycho-social assistance to

¹⁵⁸ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations.

¹⁵⁹ Information from interview with Anwar Hammam, Dar Al-Amal Rehabilitation Center, Ramallah. September 4, 2004.

¹⁶⁰ Information from Masoun Al-Wahaidi, Ministry of Social Affairs. Interview, August 24, 2004.

¹⁶¹ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations. P.38

children through drama.¹⁶² Finally, UNFPA has appealed for \$115,000 for psycho-social counseling for Palestinian students.¹⁶³

31. Does your country provide any assistance to other countries' efforts to respond to the problem of violence against children?

No.

32. If your country has a national human rights institution, such as a human rights commission or ombudsman, or a child-specific human rights institution, does it have any role or competence in the area of violence against children, including receiving complaints

The Palestinian Independent Commission for Citizens' Rights (PICCR) acts as ombudsman in Palestinian society. As such, it receives and investigates complaints on human rights violations. PICCR does not currently have a child-specific program; however, it does receive complaints having to do with violence against children. There are no special procedures for complaints addressing violence against children, and these complaints cannot be brought by children themselves.

PICCR monitors child rights abuses through prison visits including prisons where child detainees are incarcerated. They also conduct review of legislation. Their work on this front has included a review of the draft juvenile justice law, and advocacy efforts to include a children's section in the draft penal code. Finally, they are engaged in awareness-raising of child rights in schools and summer camps.

In the coming year, PICCR is planning to institute both a complaints menu, which will legalize the method of complaints reporting and a children's commissioner. This commissioner will be similar to an ombudsman but will have a broader mandate to include activities such as reviewing legislation.¹⁶⁴

The NPA Secretariat has drafted a working paper on creating a Palestinian Children's Ombudsman Office. According to the draft work paper, the specific duties and responsibilities of the office would be:

1. Investigation: recommendations, follow-up and/or support
2. Legal action: recommendations, follow-up and/or support
3. Reporting: internationally, governmental, NGO level
4. Consultation: review of all national documents pertinent to children's well-being
5. Child impact analysis
6. UN CRC reporting
7. Handling of individual complaints and effective referral for follow-up
8. National lobbying and advocacy

33. Are there any particular parliamentary structures (for example special committees) to address violence against children? Details

¹⁶² "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations. P.40

¹⁶³ "Occupied Palestinian Territory, Consolidated Appeal Process 2004." United Nations. P.44

¹⁶⁴ Information from Rebecca Reynolds, PICCR. Interview, 21 September 2004.

The Education and Social Affairs Committee was established by the Palestinian Legislative Council and has responsibility for childhood issues, among others. There is also the Palestinian Legislative Council's National Council on Sexual Violence; however, this council has not produced anything substantial. The Women and Children's Unit is the only unit under the PLC actively focusing on issues related to violence against children currently.¹⁶⁵ It works to improve legislative protections 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 and to raise the age of criminal responsibility.

34. Have there been any recent parliamentary initiatives to address violence against children? Details

No.

Role of Civil Society in Addressing Violence Against Children

35. Describe significant civil society initiatives addressing violence against children in your country, including the types of institutions involved (such as academic institutions, professional associations, women's associations, student associations, community-based groups, faith-based groups, child and youth-led groups, trade unions, employers organizations, national non-governmental organizations, international NGOs) and the major activities engaged in (including advocacy, awareness raising, research, prevention, rehabilitation and treatment of children harmed by violence, provision of services, provision of resources).

The Palestinian Children's Rights Coalition does not specifically monitor or coordinate activities having to do with violence against children. This is due to the fact that the focus among Palestinian civil society groups has been on Israeli violations of Palestinian children's rights to the exclusion of other sources of violence. Thus, most members of the coalition are either involved in service provision aspects child programming (such as health care or educational programs) or monitoring Israeli violations.¹⁶⁶ For instance, DCI records cases of children killed or injured due to landmines or unexploded ordinances. They also monitor all violations of the rights of Palestinian children in Israeli detention.

DCI has initiated a project addressing child abuse and neglect. The project aims to raise awareness of the issue through training programs with Ministry of Education educational counselors and public awareness campaigns targeting children and parents. DCI is also in the process of conducting a study analyzing Palestinian school counselors' attitudes towards abuse and neglect.¹⁶⁷

36. Describe the support provided by your government for these activities and the efforts made to coordinate civil society and government initiatives

¹⁶⁵ Information from Nahed Freteh, Women and Children's Unit, the Palestinian Legislative Council. Interview, 26 September 2004.

¹⁶⁶ Information from Ayed Abu Ktash, Defence for the Children International- Palestine. Interview, September 13, 2004.

¹⁶⁷ Information from Ayed Abu Ktash, Defence for the Children International- Palestine. Interview, September 13, 2004.

The NPA Secretariat and Ministry of Planning work together to coordinate civil society and governmental initiatives.

37. Describe the role played by the media in addressing violence against children

The role played by the media is both positive and negative. The amount of violence on television has increased in terms of coverage of local events, but the content of the violence has been reduced, and stations have begun to label shows with violent content. They are also starting to censor violence.

Media including television, radio and other news sources have begun efforts to increase awareness of the issue of violence. These awareness raising efforts have tripled since 1996, which was when Palestine first had its own media.¹⁶⁸ However, there is still considerable work to be done in addressing children's issues in general in Palestine, including violence against children:

"There is a definite gap in made-for-children TV programmes, also in coverage of child issues on news, current affairs and feature TV programmes. Similarly, despite a few NGO efforts to produce print supplements aimed at children, there is no regular coverage of issues affecting children's lives in the newspapers."¹⁶⁹

Children as Actors in Addressing Violence

38. Provide information on the involvement and consultation of children in designing activities, and in implementation and monitoring of programs and policies to address violence against them. Provide details, including ages and other details of the children involved.

The NPA Secretariat, as well as NGOs involved in programming for children are becoming more aware of the benefits of involving children, particularly in program monitoring. For instance, children are an integral part of the system of monitoring for summer camps. However, it is important to note that this is not specific to issues of violence.

The Ministry of Social Affairs involves children in its monitoring and evaluation process. It conducts interviews of and distributes questions to children in order to ensure that its initiatives are focused on the children's needs.

UNICEF is currently planning a project with the Ministry of Education in an attempt to reduce violence and introduce concepts of peaceful resolution of conflicts in which children will be involved from the design phase. It has also designed guidelines for its safe play projects including children's participation in the design and implementation of projects.

39. Describe the involvement and consultation of children in designing special procedural or evidentiary rules applying to proceedings with respect to hearings

¹⁶⁸ Information from Interview with Dr. Cairo Arafat, NPA Secretariat. August 6, 2004.

¹⁶⁹ Morgan, Vivien. *Media Strategy for the Palestinian National Authority's Women and Child Directorate, Ministry of Information and the NPA Secretariat for Palestinian Children*. Commissioned by the United Nations Children's Fund—Occupied Palestinian Territories. 2003.

concerning violence against children. Provide details, including ages and other details of the children involved.

There has been very little done on this issue.

40. Describe the amount and usage of resources made available to support children's participation in activities addressing violence against children.

The lack of an overall monitoring system in Palestine generally precludes the collection of this type of information.

Policies and Programs that address violence against children

41. Does your government have a comprehensive policy concerning violence against children? Provide details and any gender-specific provisions included in the policy

Work on a comprehensive policy is ongoing with ministries, NGOs, international organizations and UN agencies. The ongoing UNICEF studies on Violence in Schools and Domestic Violence are expected to greatly facilitate this work.

The national strategy to address violence against children has been focused on the legal aspects—ensuring that there is an appropriate legal framework to address the issue. The newly-signed Child Law is an important step of this strategy, but other laws are also being developed, such as the personal status law and the juvenile justice law which will also act as important components of this strategy.

42. Does your government deliver, or provide direct support for delivery by other agencies, of specific programmes aimed at preventing and responding to violence against children?

Please provide available summary reports, and indicate, using the table below, which settings and types of violence are addressed by these programmes.

	Physical	Sexual	Psychological	Neglect	HTPs	Other
Family/Home			X	X		
Schools	X	X	X	X	X	
Institutions			X	X		
Neighborhood, Community			X			
Workplace				X		
Law enforcement				X		
Other						

UNICEF has a number of joint projects with various ministries, e.g.

- i) The joint MOE/UNICEF project addressing children's rights and child protection issues such as violence in schools
- ii) The joint MOH/UNICEF IMCI project which has an important component for capacity building of professionals to detect and manage violence against children,
- iii) The joint NPA/UNICEF work on awareness-raising among children themselves, parents and caregivers on the psychosocial needs of children victims of the conflict

- iv) The joint Municipalities/UNICEF work on providing a safe and nurturing play environment; and
- v) Similarly, the Municipalities/UNICEF joint work on providing children and youth with alternatives to their non-peaceful involvement in the Israeli/Palestinian conflict.

43. Does your government monitor the impact of these policies and programmes directed towards violence against children describe monitoring systems and provide an URL or other reference where the system and outcomes are described in greater detail

The Palestinian Central Bureau of Statistics would be the appropriate body to collect the data necessary to monitor policies and programmes addressing violence against children. While the agency collected statistics on the number of children in need of special protection were treated by the Ministry of Social Affairs in 1998, 1999 and 2000, it does not have statistics which would indicate the qualitative impact of the Ministry's work.¹⁷⁰ The only statistics addressing violence and children which it has collected concern violent acts committed by child perpetrators. The agency does, however, plan to conclude a victim and crime survey by the end of the year which will have a section on violence against children.¹⁷¹

44. Does your government participate in any internationally coordinated activities concerning violence against children? Details

Because of Palestine has not achieved statehood, it is generally precluded from joining international bodies. However, it is often invited to the initial international conferences.

Data Collection, Analysis and Research

45. Over the past five years, has there been any victimization, epidemiological or other population-based surveys of any forms of violence against children in your country?

Details, references, or attach

PCBS has a child statistics unit and is working with the NPA to improve the indicators used to monitor compliance with the CRC. The PCBS is planning to complete its first victimization survey by January 1, 2005. It will survey 7,563 households throughout the West Bank and Gaza Strip and will be the first in a series of similar surveys. A section of the survey will address violence against children.¹⁷²

The PCBS does have survey data of Palestinian children injured by Israeli forces during the current Intifada. See "Palestinian Children – Issues and Statistics, Executive Summary." Ramallah–Palestine; Palestinian Central Bureau of Statistics, 2004. http://www.pcbs.org/child/pdf_file/echild5.pdf.

¹⁷⁰ *Palestinian Children – Issues and Statistics, Executive Summary*. Ramallah–Palestine. Palestinian Central Bureau of Statistics, 2004. http://www.pcbs.org/child/pdf_file/echild5.pdf.

¹⁷¹ Information from interview with Khitan Al Bizreh, Palestinian Central Bureau of Statistics. August 24, 2004.

¹⁷² Information from PCBS website: <http://www.pcbs.org/surveys/victim.aspx>

The PCBS in cooperation with the NPA secretariat carried out an epidemiological survey of children.

46. Have there been any small-scale or representative interview studies with parents and children on violent victimization of children?

Details

Birzeit University is in the process of publishing a study on Children in the Labor Market, funded by UNICEF. The NPA Secretariat has also implemented representative interview studies in support of its programs combating child labor. Save the Children has done work with refugee children in relation to the protection issue, including violence.

47. Over the past five years, has your government conducted or commissioned any scientific research projects on the problem of violence against children?

The NPA Secretariat published the report: "Psychosocial Assessment of Palestinian Children." July, 2003. UNICEF and the NPA Secretariat are expected to have finalized a psychosocial baseline survey by the end of October 2004.

48. Have studies or surveys been undertaken into the impact of legal measures to address violence against children?

Details, references, or attach

No.

49. Does your government have a system for formal inquiries into all child deaths in which it is known or suspected that violence may have played a part?

Details

The government has a system to investigate deaths; however, it is lacking the necessary forensic personnel which makes it extremely difficult for information to be verified. Murders are easy to cover up as there is not the forensic capacity necessary for adequate detection.¹⁷³

The government is seeking funds for an official laboratory, but it currently uses the facilities of Azhar University laboratories for forensic testing in cooperation with the Ministry of Justice and the police. It is not a secure system, and tampering can occur.

50. Are regular (eg annual) reports published describing the statistical profile of the known or suspected violent deaths investigated by the system?

If yes, what proportion of all homicide deaths are under the age of 18?%

The Ministry of Health and the Police collect this information.

51. If reports on the national profile of known and suspected violent deaths are published by your government, indicate how the data is broken down for the purpose of reporting (check all that apply)

¹⁷³ Information from Dr. Cairo Arafat, NPA Secretariat. Interview, September 7, 2004.

Sex	X
Age	X
Ethnicity	
Manner of death (homicide, suicide, undetermined)	
External causes of death (firearm, strangulation, etc)	X
Geographical location of incident (address)	X
Scene of occurrence (home, school, etc)	X
Time and date of incident	X
Victim-perpetrator relationship	
Other:	

Please note that the response to the above table refers only to violent deaths as a result of Israeli aggression.

The Ministry of Health's data on mortality classifies deaths resulting from the current conflict as "accidents." It has statistics on death differences by gender and age group due to the impacts of Israeli aggression. It also has a section on the impact of the current situation on mortality. See:

http://www.moh.gov.ps/annual/2003/9d_MORTALITY/23_MORT1_w.pdf

See also: http://www.moh.gov.ps/annual/2003/9e_Intifada/2003_w.pdf for more age specific data on Intifada-related casualties and deaths.

52. Provide the total number of reported cases of violence against children in 2000, 2001, 2002 and 2003.

The Palestinian Central Bureau of Statistics does not collect this data. The Ministry of Social Affairs does collect this information in terms of the children they work with. This information is not available at this time.

53. Provide the total number of convictions and reported cases for the various categories of crimes of violence recorded against children in 2000, 2001, 2002 and 2003.

Neither the Palestinian Central Bureau of Statistics nor the Ministry of Social Affairs collects this data.

Awareness, Advocacy and Training

54. Over the last five years has your government conducted or commissioned any campaigns raising awareness of and preventing violence against children?

If yes, please describe any recent campaigns, including the settings and types of violence that were the subjects of the campaigns and the target audience (general public, caregivers, teachers, etc.)

The NPA Secretariat collaborated with the Ministry of Health and the Ministry of Social Affairs on a report addressing violence against children. The Ministries, including the Ministry of Social Affairs, the Ministry of Education and the Ministry of Youth and Sports have each completed their own reports on issues such as child labor, sexual exploitation, abusive families and the effects of Israeli violence.

The Ministry of Social Affairs created and distributed a booklet on Better Parenting Awareness, which works to help parents identify possible threats to their children. Also, the ministry published a booklet for children to prepare them to identify and deal with threats related to sexual violence or exploitation.

In 2003, the Palestinian National Mine Action Committee, with support from UNICEF and DCI ran awareness-raising campaigns on issues of landmines and unexploded ordinances.

55. How were the campaign messages and information disseminated (check all that apply)

Print media	X
Radio	X
Television	X
Theatre	X
Schools	X
Other	X

56. Over the last five years, has your government provided, commissioned or sponsored training programs in the area of violence against children?

If yes, indicate which of the following areas were addressed by the last such training programmes and which provider groups received training (check all that apply)

	Prevention	Protection	Redress	Rehabilitation	Penalties
Medical professionals (inc. pediatricians, nurses, psychiatrists and dentists)	X	X	X	X	X
Public health practitioners	X	X	X	X	X
Social workers and psychologists	X	X	X	X	X
Teachers and other educators					
Court officials (including judges)					
Police					
Prison officers					
Juvenile offenders personnel Institution personnel Parents/ guardians					
Other (specify)		The NPA has sponsored Landmine/UXO awareness programs			

Details

Rather than focusing specifically on violence against children, the trend of international donors in Palestine has been to support programs which increase awareness of children's rights. Thus, violence against children is treated in the larger

framework of human rights. SIDA, the British Council, UNICEF, UNIFEM and OHCHR are some of the donor organizations supporting initiatives to raise children's awareness of their rights.

UNICEF is working with the Higher Judicial Council to undertake a training of judges and prosecutors on Juvenile Justice, which is expected to take place by the end of October 2004.

DCI is planning a training course for October 2004 which will target 30 people drawn from the police, chief prosecutor's office, probation officers, and lawyers addressing juvenile justice. The training materials are based on CRC and other international human rights conventions.