



Defence for Children International
Palestine Section

Surviving the Present Facing the Future

An Analysis of Human Rights Violations
Against Palestinian Children in 2004

April 2005



© Defence for Children International/Palestine Section, 2005



Background

This annual violations report is intended to reflect the reality of life under occupation for the hundreds of thousands of Palestinian children living in the West Bank, Gaza Strip and East Jerusalem. In providing an overview of the systematic abuses to the children's individual and collective rights, the report draws on eyewitness accounts from children and their families, and supports these case studies with documentary evidence collected and verified by Defence for Children International/Palestine Section (DCI/PS) and other human rights and humanitarian organisations working in the Occupied Palestinian Territories (OPT).

The report takes a rights-based approach to the violations perpetrated by Israeli occupation authorities and troops and by Jewish settlers living illegally in the OPT, viewing these abuses through the spectrum of the UN Convention on the Rights of the Child (CRC) - the most widely accepted international law on children's rights - which was ratified by Israel in 1991. The violations are also examined through the framework of other time-honoured international legal instruments including the Fourth Geneva Convention of 1949 and the Beijing Rules regarding the Minimum Standards of Treatment for Juvenile Detainees. As a signatory to the treaties, a member of the United Nations and the occupying power and de facto authority in the West Bank and Gaza Strip, Israel is obliged to respect, ensure and protect the rights set forth in these conventions to all people under its jurisdiction, without discrimination.

There are, of course, positive features to childhood in the OPT. However, all too often these precious moments of happiness, that would be taken for granted in more privileged countries, are snatched away or crushed by the controlling hand of the occupation. It is not fair, and it is not right that Palestinian children should have to suffer the continual erosion of their childhood. Thus DCI/PS hopes that this report will not only provide an understanding of the situation in which Palestinian children live, but will also inspire action. It is possible to bring this unjust situation to an end - but to do so requires effort on the part of the international community. We hope this report will encourage you to join with DCI/PS in ensuring that one day soon, Palestinian children will be able to enjoy a safe and secure childhood.

Acronyms:

CRC	<i>UN Convention on the Rights of the Child</i>
ICCPR	<i>International Covenant on Civil and Political Rights</i>
ICRC	<i>International Committee of the Red Cross</i>
OCHA	<i>Office for the Coordination of Humanitarian Affairs</i>
OPT	<i>Occupied Palestinian Territories</i>
PA	<i>Palestinian Authority</i>
PLC	<i>Palestinian Legislative Council</i>
PRCS	<i>Palestinian Red Crescent Society</i>
Unicef	<i>UN Children's Fund</i>
UNRWA	<i>UN Relief & Works Agency for Palestinian Refugees in the Near and Middle East</i>
WFP	<i>World Food Programme</i>
WHO	<i>World Health Organisation</i>

Contents:

The Right to Life	13
Injuries	20
Killings and the Media War.....	21
The Right to Liberty	25
Trend in Palestinian Child Arrests in 2004	26
Detention Centers	31
Prisons	31
Family Visits	33
Administrative Detention	34
Right to an Adequate Standard of Living	37
Access to adequate housing	38
Access to food	41
Access to water	43
The Right to Education	49
Education system	50
Violations	51
The Right to Adequate Healthcare	59
Restrictions on the freedom of movement	61
The impact of the Wall	63
Gaza	64
Mental Health	66
Conclusion	68

Introduction

The death of President Yasser Arafat on 11 November 2004 marked the end of an era for the Palestinian people. Hundreds of thousands turned out to pay their final respects to the man who for decades was the embodiment of the Palestinian struggle for self-determination. Hoards of media from across the globe covered his funeral and, for one week in autumn, the eyes of the world were focused on the OPT.

There were, however, other events in 2004 over which the international press and community at large remained on the whole depressingly silent. While the execution in October of 13-year old Iman al-Hems made the headlines in some of the more liberal papers, how many stories of the other 161 children who died at the hands of Israeli forces were reported throughout the year? While pictures of the Israeli invasions into the northern and southern Gaza Strip were broadcast on news reports in May, September, October and December, how many thousands of other house demolitions and military raids failed to make it onto TV screens?

The sad fact is that in the year under review, Palestinian children's rights were systematically violated on a daily basis by Israeli occupation forces. Often these abuses were perpetrated directly against individual children who were killed, injured, arrested or humiliated by military personnel. But just as frequently, these rights violations stemmed indirectly from general attacks or collective punishments imposed upon the wider Palestinian population.

Closures, curfews and movement restrictions have continued unabated, plunging the Palestinian economy further into crisis. Household income levels continue to drop, unemployment has increased to 34% on average, with as many as one-in-three Palestinians out of work in the Gaza Strip. Meanwhile, construction of the Separation Wall in the West Bank has resulted in the confiscation of vast swathes of land, demolition of hundreds of houses and the imposition of further restrictions on the movement of Palestinian citizens.

The implication of these measures for Palestinian children, and thus for the long-term development of society, are enormous. Education standards are declining as hundreds are routinely prevented by movement restrictions from getting to school, while many more are being forced to drop out of education altogether either to help supplement diminishing family incomes or because their parents can no longer afford to send them to school. Rising food insecurity is leading to increasing levels of malnutrition among children and other health indicators continue to decline, while casualties and injuries grow.

Despite clear evidence and wide international recognition that Israel bears full responsibility for the appalling circumstances in which many Palestinians find themselves, the Israeli authorities have done nothing to try and redress the situation. On the contrary, the government repeatedly implements policies and orders military

operations that have no strategic purpose other than to heighten the suffering of the Palestinian population.

The aim of this report is to shed light on both the major rights violations and the cumulative impact of the daily abuses which tragically play an integral role in the “normal” childhood of every Palestinian child living in the OPT today.

Legal Framework

International Humanitarian Law:

Belligerent occupation is regulated by the Hague Regulations Respecting the Laws and Customs of War on Land 1910 (Hague Regulations) and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1948 (Fourth Geneva Convention).¹



An occupation is effected through the taking possession of, and establishing administration over, territory in the name of, and for, the acquiring state. Therefore, possession and administration are the two essential requirements for an effective occupation to exist. Article 42 of the Hague Regulations provides that "...territory is considered occupied when it is actually placed under the authority of the hostile army.."

Israel took the West Bank (from Jordan) and the Gaza Strip (from Egypt) in the 1967 war, with the intention of acquiring sovereignty over these territories. While it may be true that there existed no legitimate sovereign of the Palestinian territories before Israel's occupation, it is nonetheless the case that Israel has no claim to sovereignty, being able only to exercise a temporary right of administration. Israel's administration of the the OPT, as that of a belligerent occupant, derives validity in international law from Article 43 of the Hague Regulations, which reads:

The authority of the legitimate power having actually passed into the hands of the Occupant, the latter shall take all steps in its power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

It is therefore evident that under international law, Israel is deemed to have effective control over the OPT. The consequences of occupation in international law are that no other state can lawfully acquire the territory unless the occupying state has either withdrawn from it or otherwise lost effective control. More significantly however, is the fact that in becoming the occupier and assuming sovereignty over the occupied territory, the occupant is then responsible for all matters of international importance on that territory.

The Hague Regulations are regarded as being declaratory of general customary international law and are therefore binding on all states; customary law being that which expresses the international rules of conduct that exist, and are accepted by the nations of the world. The Fourth Geneva Convention enlarges on the duties incumbent

¹ Hague Regulations and the Fourth Geneva Convention, (the Hague Regulations employ the comprehensive term 'inhabitants' of an occupied territory to whom protection is afforded, while the Fourth Geneva Convention (article 4) grants protection to those persons who find themselves in the hands of an Occupying Power without being (1) nationals of that power; (2) nationals of any other state which is not bound by the Convention; (3) nationals of a co-belligerent state which has normal diplomatic relations with the Occupying Power; (4) persons protected by the three other Geneva Conventions (namely lawful combatants who are hors de combat, medical personnel and the like).

on an Occupying Power detailed in the Hague Regulations and clarifies existing customary laws particularly with respect to 'standards of civilization. The Convention has attained virtually universal recognition, with 188 signatory states parties. This fact has strengthened the argument that the Convention is, in whole or in substantial part, declaratory of customary international law and therefore binding on all states. Furthermore, the International Committee of the Red Cross (ICRC) Commentary on the Fourth Geneva Convention states that:

strictly speaking [the Convention does not] introduce any innovation in this sphere of international law, [it only] reaffirms and ensures ... the general acceptance of the principle of respect for the human person in the very midst of war.

The view that the Convention applies to all the territories occupied by Israel is widely held internationally. Twenty-four resolutions have been adopted by the UN Security Council,² and five resolutions adopted by the UN General Assembly, and in addition the ICRC has always affirmed the *de jure* applicability of the Fourth Geneva Convention to the occupied territories. Such provisions call upon Israel, as party to the Convention since January 1952, to comply and accept its *de jure* applicability. The Israeli government however, has declared only as a matter of policy to abide by the humanitarian provisions of the Fourth Geneva Convention.

The Government of Israel has consistently maintained that it is doubtful whether the OPT are subject to the provisions of the Fourth Geneva Convention due to a precondition to its applicability to cases of occupation laid down by Article 2 of the Convention which affords protection in peace-time and to "cases of declared war or any other armed conflict which may arise between two or more of the High Contracting Parties ... [and that it will] ... also apply to all cases of partial or total occupation of the territory of a High Contracting Party..." Since the Israeli Government claims that the West Bank and Gaza had been illegally occupied by Jordan and by Egypt respectively in 1948, (and that the West Bank was annexed illegally by Jordan), Israel contends that these areas cannot be considered to be part of the 'territory of a High Contracting Party. To agree otherwise would be tantamount to Israeli recognition of Jordanian and Egyptian sovereignty over these territories.

This argument, however, is based on a highly literal reading of the second paragraph of Article 2. The Conference of Government Experts convened in April 1947 by the ICRC to prepare the Geneva Conventions recommended that the Conventions be applicable to "any armed conflict, whether the latter is or is not recognised by the parties concerned" and also to "cases of occupation of territories in the absence of any state of war". There is, therefore, no condition in either the present Convention or in customary law, that the Occupying Power must recognise the validity of the displaced power's title, so the second paragraph of Article 2 is entirely irrelevant to the question of the Convention's application to those territories taken by Israel in 1967.

² See U.N. SCOR, 53rd Sess., 4008th mtg., U.N. Doc. S/Res/1242 (1999); U.N. SCOR, 54th Sess., 4057th mtg., U.N. Doc. S/Res 1272 (1999); U.N. SCOR, 54th Sess., 4079th mtg., U.N. Doc. S/Res/1281 (1999).

The primary underlying purpose of the Convention is to protect civilians. Furthermore, the Commentary to the Convention warns, “[I]t must not be forgotten that the Conventions have been drawn up first and foremost to protect individuals and not to serve State interests.”³

International Human Rights Law:

The human rights accorded to civilians (especially in occupied territories) operate vis-à-vis a state of which they are not nationals; the state being an enemy state upon which obligations are imposed.⁴ It could be said that the essential characteristic of the corresponding obligations imposed directly on belligerents, (and indirectly through individuals acting on behalf of those states) is that a minimum standard of due process of law with respect to the protection of life, liberty and property of civilians, is upheld.

International human rights instruments are applicable to situations of occupation as well and only serve to strengthen the rights provided by the Hague Regulations and the Fourth Geneva Convention to those living under occupation. On 3 October 1991 Israel ratified the International Covenant on Civil and Political Rights (ICCPR) of 19 December 1966 which provides protection for all those “...individuals within [a state’s] territory and subject to its jurisdiction,” thereby affording protection to persons in occupied territories. Concluding Observations of the Human Rights Committee have stated that international human rights treaties, to which Israel is a party, do apply to persons in the occupied territories and Israel is bound to ensure, respect and protect the human rights of all persons living in the West Bank and the Gaza Strip.⁵

Certain human rights instruments, contain measures of derogation whereby an Occupying Power is able to restrict certain human rights in times of a public emergency which threatens the life of the nation; the derogations must however, be strictly required by the exigencies of the situation, and the measures taken must be proportionate. While some peace-time rights can be suspended during the duration of war, there are other human rights, considered fundamental to human dignity, which cannot be suspended at any time; including the right to life and the prohibition of torture and cruel, inhuman or degrading treatment.

Although Israel’s military occupation of the West Bank and Gaza Strip has thus far lasted 36 years, Israel continues to view the situation as constituting an emergency, an assertion which has dangerous implications regarding the protection of human rights in the OPT.⁶ However, there is a widely held view by legal commentators that in a prolonged occupation (especially if it resembles in some way a peacetime situation), an occupant cannot exercise the draconian powers that may be permissible in a shorter occupation and that the inhabitants interests must be accorded greater weight. The Human Rights Committee, which oversees States Parties compliance with the

³ JEAN-MARIE HENCKAERTS, MASS EXPULSION IN MODERN INTERNATIONAL LAW AND PRACTICE, 167 & n.153, (Kluwer Law International, 1995), (the author also refers to the writings of Stephen Boyd, who attests to Article 2(2) as speaking of ‘territory’ not ‘sovereign territory’, which indicates that the ICRC did not expressly consider the sovereignty question, when drafting the Convention).

⁴ Fourth Geneva Convention, at Article 4, (persons protected by the Fourth Geneva Convention are all those who ‘at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals’).

⁵ UN Doc: CCPR/C/79/Add.93 (18 August, 1998) at para 10

⁶ Israel proclaimed a state of emergency in May 1948, which has remained in force ever since.

ICCPR, has said that ‘measures taken under Article 4 (derogatory provision of the ICCPR) are of an exceptional and temporary nature and that a decades-long emergency would face an insurmountable standard of proof to show that such an emergency complies with Article 4.’⁷

Despite continued confirmation by international agencies and committees concerning the applicability of UN human rights conventions to the OPT, Israel refuses to accept their existence and consequently fails to fulfill their obligations as the State Party responsible for protecting Palestinians’ human rights.

On 20 November 1989, the General Assembly of the UN adopted the Convention on the Rights of the Child (CRC) which entered into force in 1991. According to Article 2 of the CRC “State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind..”

The Committee on the Rights of the Child, which is entrusted to observe and monitor the CRC, has emphasized, in its concluding observations concerning Israel’s preparatory report of 2002 (submitted under Article 44 of the Convention), the responsibility of Israel for the implementation of the CRC in the OPT, and expressed its deep regret at the lack of any information about the situation of children in the OPT.⁸

Israel’s more recent argument in support of its non-compliance and non-implementation of Human Rights and International Humanitarian Law in the OPT refers to the fact that all civil responsibilities and powers have been transferred to the Palestinian Authority (PA) in accordance with the Oslo accords and that these responsibilities are within the jurisdiction of the PA. This argument, however, is deeply flawed. The PA’s ability to implement these duties, even in Area A where the it has ostensible responsibility for *de facto* and *de jure* jurisdiction (personal, functional and territorial), is heavily dependent on Israel, which through its set of military orders, continues to control the OPT. Even as far back as 1998, Area A was subject to Israeli siege from surrounding troop deployments and checkpoints; closures occurred frequently, confining Palestinians to specific pockets of A areas; which in turn prevented them from accessing homes, properties, markets, water, land and other resources. This resulted in widespread violations of their economic, social and cultural rights, violations, which occurred within the parameters of the Oslo process.

Since the end of September, 2000, Israel has exercised complete control over Palestinians movement: severe restrictions on freedom of movement within the OPT have been imposed, international borders with Egypt and Jordan are frequently closed, the Gaza Strip has been sealed off from the rest of the Palestinian territory, and hundreds of checkpoints have been placed on roads in the West Bank. Thus the one ‘single territorial unit’ posited under the Oslo peace process has become a mere illusion.⁹

⁷ Israel’s declaration of a derogation from Article 9 of the Civil and Political Covenant, (which provides that everyone has the right to liberty and security of person and no one shall be subjected to arbitrary arrest or detention, except on such grounds and in accordance with such procedures as are established by law) has been declared by the Human Rights Committee as ‘too general and relating to too broad a time period; lack of specificity to ‘threats of war’, ‘armed attacks’ and ‘campaigns of terrorism’ do not fulfill the requirements of Article 4).

⁸ Concluding Observations of the Committee on the Rights of the Child: Israel. 09/10/2002, CRC/C/15/Add.195, section A, paragraph 2.

⁹ The ‘safe passage’ between the West Bank and the Gaza Strip, provided for by a Protocol on 4th October, 1999, which permitted the travel of Palestinians dependent on the Israeli approved ‘safe passage card’ has been closed continuously since October, 2001.

The level of Israel's control over the OPT is indisputable. It has possession of and administration over all Palestinian territories; and as the military occupier bears full responsibility for the implementation in these areas of all its duties under International Humanitarian and Human Rights Law.



Chapter 1
The Right to Life

The Right to Life

- 1. States Parties recognise that every child has the inherent right to life.*
- 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.*

Article 6, Convention of the Rights of the Child

The right to life and security has been recognised by all human rights instruments in human history and is a fundamental and guiding principal of International Humanitarian and Human Rights Law. The 1948 Universal Declaration of Human Rights, states that “everyone has the right to life, liberty and security of person”, while the International Covenant on Economic, Social and Cultural Rights states that “no person shall be deprived of his/her right to life in an arbitrary manner”. The right to life is inalienable and non-derogable and must be ensured by states for all persons under its jurisdiction without discrimination, even in times of emergency, war and internal unrest.

However, from the outbreak of the intifada on 29 September 2000 to the present day, Israel has continued to pay scant regard to this most basic right of Palestinian children. Over the course of 2004, a documented 162 Palestinian children were killed in the OPT, with 130 of the fatalities taking place in the Gaza Strip. The figure brings the number of child deaths caused by military or settler violence during the four years of intifada to 676, with a further 9,000 children injured over the same period.

Contrary to the propaganda advanced by Israeli sources, the vast majority of children killed in 2004 were not participating in violent confrontations with Israeli forces, but died while going about their daily lives, as the careful documentation of individual cases proves. These include innocent victims such as nine year-old Ghadeer Jaber Abu Mokheimer who was killed inside her classroom, Iman Al-Hems, aged 13, who was shot at point blank-range when already lying injured on the ground (see the Right to Education) and 6-year old Khalid Al-Walwil who was shot in the back as he turned away from the window on the second floor of his house in Nablus.

The successive Israeli military campaigns form a grave breach of International Humanitarian Law and Human Rights Law. In 2004, Israel repeatedly shelled populated areas and arbitrarily destroyed civilian infrastructure. Time and again, Palestinian civilians, among them innocent children and bystanders, were the victims of the military attacks.

The continuation of Israeli aggression against Palestinian civilians, including children, is tragic proof of the consequences of inaction by the international community in their collective and individual responsibility to press UN member states to abide by the provisions of International Humanitarian Law; primarily the Fourth Geneva Convention and Human Rights Law, including the CRC.

Child fatalities during the intifada 2000 - 2004:

Year	Total
2000	94
2001	98
2002	192
2003	130
2004	162
Total	676

Source: DCI/PS Documentation



Distribution of child fatalities during 2004 by month:

Year	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total
2004	6	3	15	14	36	8	13	13	25	21	6	6	162

The number of children killed in 2004 regrettably rose sharply against the previous year. As the table above shows, fatalities were particularly high in the months of May, September and October, which alone accounted for more than half of the child deaths during the year.

The dramatic increase in child fatalities in these three months is attributable to the violent Israeli incursions that took place in the Gaza Strip, which was subjected to a total of 430 incursions¹⁰ over the course of 2004. These repeated military invasions of the northern and southern Gaza Strip were ostensibly aimed at preventing the firing of missiles on Israeli towns and settlements, and uncovering and destroying tunnels reputedly used in smuggling weapons from Egypt. However, a key feature of these operations was arbitrary shelling by Israeli tanks and military aircraft, including random shooting in residential neighbourhoods, along with other heavy-handed indiscriminate tactics which belied the reported ‘targets’ of the incursions. The use of such force in densely populated areas unsurprisingly resulted in the widespread destruction of Palestinian property and harm to the Palestinian civilian population including heavy casualties among children and other vulnerable groups. Other Israeli practices, which also contravene standards of conduct under International Human Rights law, included the obstruction of ambulances and medical personnel from reaching the wounded. This also increased the number of fatalities in the area.



¹⁰ Field Research Unit, Al-Mezan Center for Human Rights

Distribution of child fatalities by geographical districts:

Year	Geographical districts											Total
	Hebron	Beth-lehem	Jerusalem	Ramallah	Salit	Nablus	Qalqilia	Tulkarem	Jenin	Gaza Strip	Inside Israel	
2000	9	4	3	7	3	8	5	6	5	43	1	94
2001	9	5	4	6	0	1	3	0	6	64	0	98
2002	13	6	3	11	0	33	1	10	31	84	0	192
2003	3	1	3	5	2	16	3	9	14	74	0	130
2004	2	0	1	2	0	19	0	3	5	130	0	162
Total	36	16	14	31	5	77	12	28	61	395	1	676

Distribution of child fatalities in the Gaza Strip in 2004 by geographical district¹¹:

District	North Gaza	Gaza city	Central Gaza	Khan Younis	Rafah	Total
Number	32	24	12	26	36	130

In 2004, the number of children killed in the Gaza Strip reached 130 children - 80% of the total child fatalities in the entire OPT for the year. In the previous year the number was considerably lower, with the 74 child fatalities in Gaza constituting 60% of the number of children killed in 2003. This increase is largely due to the political climate in 2004, when the Israeli army was all but given a free rein in the Gaza Strip in so-called preparation for the proposed Israeli withdrawal from the area in 2005.

The Israeli raids into the Gaza Strip sometimes lasted for more than one month. This was the case in the late June incursions to the northern Gaza Strip where Israeli forces laid waste to areas of Beit Hanoun and parts of Beit Lahia and Jabaliya, in an operation which lasted for more than 37 days and resulted in the death of 6 minors. In September, the northern Gaza Strip was exposed to two extensive incursions. The first lasted six days starting on the 8th September in the East Jabaliya area, Tel Al-Zaatar and parts of Beit Lahia town. The second incursion took place in late September and ended on the 17th October, when northern Gaza (East Jabaliya, Beit Lahia and Beit Hanoun towns) was subjected to the comprehensive and brutal incursion known as "Operation Days of Penitence". During this raid, 14 children were killed on one day alone (30 September 2004). In all, northern Gaza was subjected to five extensive incursions in 2004, resulting in the death of 32 children in addition to the demolition of a large number of houses, the bulldozing of vast areas of agricultural lands and the destruction of infrastructure.

Similar acts have taken place in southern Gaza especially in Rafah governorate, which witnessed several military operations under the pretext of destroying tunnels. On 13 May 2004, Israel launched "Operation Rainbow", the most extensive incursion into the Rafah governorate, specifically targeting the Tel Al-Sultan area. This incursion resulted in the killing of 15 children, including five who were killed during a peaceful march which was shelled by Israeli artillery and planes.

¹¹ North Gaza includes Beit Hanoun, Beit Lahia and Jabaliya. Central Gaza includes Al-Maghazi, Nusseirat, Al-Bureij and Deir Al-Balah.

Case Study:

Northern Gaza Raid Leads to Eight Child Deaths

One of the bloodiest incursions into northern Gaza started on 28 September 2004 and ended on 17 October 2004, leaving behind a number of dead and injured children at Block 4 of Jabaliya Camp.

On Thursday 30 September, at approximately 3.30pm, an Israeli tanks positioned itself behind two UNRWA schools in Jabaliya - Intermediate "A" School and Jabaliya Elementary "B" School . It then launched a shell and directed gunfire for around five minutes towards a number of students who were gathered in one of the lanes opposite the school in Block 4. This act resulted in the killing of eight teenage students. They children were subsequently taken to hospital, where their families had great difficulty in recognizing them as the mutilation to their bodies was so great.

Among the victims were brothers Nidal and Sultan Al-Bishawi, 15 and 13 years old respectively. Both Nidal and Sultan had been watching the shooting in Jabaliya camp from a side street with their brother Mohammad. Minutes after Nidal and Sultan went towards As-Sikka Street, somebody told Mohammad that his brother Sultan had been injured. Mohammad went directly to the place where the incident took place and saw his brother Nidal and other children running towards the injured children in order to help them. At that moment, Mohammad heard a blast and saw heavy smoke in the area in addition to pieces of flesh everywhere. Shocked by what he had seen, Mohammad ran home speechless. After a long search by the family, it was discovered that both Nidal and Sultan, had been killed in the incident.

Distribution of child fatalities according to circumstances:

	Confrontation and stone throwing	Shelling	During assassination operations	Arbitrary firing	Closure	UXO	Home demolition	Total
2000	80	4	0	9	1	0	0	94
2001	42	17	12	17	3	7	0	98
2002	30	67	19	50	9	12	5	192
2003	36	37	14	38	3	2	0	130
2004	36	76	9	39	0	2	0	162
Total	224	201	54	153	16	23	5	676

The number and circumstances of child fatalities in 2004 clearly indicate that Israel has continued its policy of pursuing attacks which are almost certain to lead to heavy loss of life or casualties among civilians. By contrast, the military gains of such assaults were minimal. Examination of the events surrounding the death of Palestinian children in 2004 reveals that almost half of all fatalities occurred as a result of shelling, either

from military aircraft or tanks. It is scarcely surprising that so many children - 76 in all during 2004 - lost their lives in this manner given the escalation of Israeli ground and air attacks on civilian residential areas. In comparison, 37 children were killed by shelling in 2003.

Furthermore, almost a quarter of children killed in 2004 were shot by random gunfire from Israeli troops who had opened fire despite the fact that there was no clear target or danger. Nine children died after being caught up in Israeli attempts to extra-judicially kill suspected Palestinian activists - operations which almost always take place in public spaces such as streets or residential quarters where there is little attempt to minimise innocent casualties. The table also shows that 36 children were killed as a result of confrontations between Palestinian militants and the Israeli occupation forces or as a result of stone throwing at Israeli soldiers and army posts. The pattern and circumstances of the deaths of Palestinian children clearly invalidates Israel's claim that such killings were 'unintentional' and major changes in Israel's targeting policy and live fire policy are long overdue, if civilian and child casualties are to be reduced.

Case Study

Name: Asma Mohammed Ali Mghayer, 16 years old

Ahmed Mohammed Ali Mghayer 12 years old,

Affidavit from Ali Mohammed Ali Mghayer, 26 years old

At 11.30 am on Tuesday, 18 May my sister Asma went onto the roof of the family's house [in Tel Al-Sultan] to collect the washing that had been drying there. Our younger brother Ahmed also went up to feed the pigeons which live in a hut on the roof. After approximately 10 minutes Ahmed cried out to me from the roof that Asma had been shot. I started to run upstairs as Ahmad started down. He had taken about two steps down the stairs when a second shot rang out. The bullet pierced the back of Ahmed's head, shattering his skull. I ran upstairs and saw Ahmed slumped against the wall. I tried to carry him down the stairs but as I moved into the soldier's line of vision more shots were fired. I ducked and pulled my brother's body feet-first down the stairs until I could safely carry him to the ground floor. I then returned upstairs to recover my sister's body. I crawled across the roof on my stomach to reach Asma who had been shot in the back of the head. I collected the pieces of her brain which were scattered around the roof in a piece of cloth. It took nearly 20 minutes. Then I started to pull my sister's body to safety. More shots were fired but they missed me and I was able to carry Asma downstairs. The family called an ambulance, but because of the shooting and a curfew it was unable to reach our house for four and a half hours, during which time we read the Koran over Asma and Ahmed. The bodies of my brother and sister were taken to hospital and later buried. My family was prevented by the curfew from reaching the cemetery for the burial.

Distribution of child fatalities by age group in the period 2000 - 2004:

Age Group	0-8	9-12	13-15	16-17	Total
2000	4	9	34	47	94
2001	13	21	31	33	98
2002	50	33	62	47	192
2003	16	22	47	45	130
2004	13	29	58	62	162
Total	96	114	232	234	676

Israeli claims that many of the children killed were participating in military operations or violent activities endangering the safety of Israeli troops is further disproved by analysis of the distribution of child deaths by age group. During 2004 for example, 42 children - over a quarter of all juveniles killed that year - were 12 years or under, and of these 13 were under nine. It is simply unbelievable that children of this age could pose any physical threat to a grown man - let alone a well-armed soldier.

Case Study**Name: Tamer Younes Mohammed al-Arja, 2 years old**

At 1am on the morning of Thursday 20 May, Israeli soldiers entered the As-Salem district in the east of Rafah. Residents of the neighbouring Al-Junena district began to flee their flimsy corrugated iron homes, terrified that the invasions would rapidly spread to their district. The mother of two-year old Tamer describes what followed:

I was alone at home with my children, my husband was not there that night, and I was really afraid. I heard that our neighbours were leaving their homes and I did not want us to be left alone so I gathered the children, holding the youngest Tamer in my arms, and we set off for my family who live two kilometres away. As we ran from Al-Junena, a missile exploded somewhere behind us. The blast was earth shattering and the noise terrified Tamer. I heard him give a single scream and I fell to the floor, with the other children clinging on to me crying with fear. I got back to my feet and immediately looked at Tamer. I found him dead in my arms, though he was unharmed by both the explosion and the fall. I kept walking until I reached my family's house, where somebody called an ambulance. Because of the shooting however, the ambulance was unable to reach the house until some time after dawn. Tamer's body was taken to the Abu Yousef al-Najjar hospital in Rafah, where they confirmed that the cause of death had been a heart attack.

Distribution of children killed during the period (2000 – 2004) according to direct cause:

Cause	2000	2001	2002	2003	2004	Total
Gunfire	69	49	70	79	108	375
Exploding bullet	14	7	12	5	4	42
High-calibre bullet	0	9	31	7	5	52
Rubber bullet	3	0	0	2	0	5
Artillery shell	0	3	18	8	12	41
Road traffic accident	2	0	3	1	1	7
Tear gas	2	0	4	0	1	7
Closure	1	3	9	3	0	16
Unexploded ordnance	0	12	12	3	2	30
House demolition	0	0	5	0	0	5
Missile	3	8	20	10	21	62
Beating	0	0	1	0	0	1
More than one reason	0	6	5	9	4	24
Others	0	1	2	3	4	9
Total	94	98	192	130	162	676

As the table above indicates, many of the children who were killed during ground and air attacks in 2004, were, like little Tamer al-Arja, not necessarily fatally wounded by the shelling or artillery shrapnel itself, but in some cases died of shock. In some cases, children were shot dead by Israeli soldiers who randomly opened fire when civilians were fleeing or seeking shelter in areas under attack.

INJURIES:

For every Palestinian child killed at the hands of the Israeli occupation forces, tens of others are injured physically and countless others suffer psychological trauma. At least 9,000 children have been wounded, some permanently, over the course of this intifada, with an estimated 2,500 sustaining injuries in 2004 alone. Given the vast number of cases, DCI/PS collects much information from secondary sources such as the Ministry of Health and hospitals, then follows up on a representative sample in order to get a snapshot of the circumstances leading to injuries. In 2004, the organisation received documentation on 1,627 cases of injured children. Analysis of this data shows the nature of injuries followed the same pattern as child fatalities, with the highest number of casualties recorded in the Gaza Strip. Almost one-in-ten of children injured in 2004 were aged eight or under, which again illustrates the arbitrary nature of Israeli violence and clearly refutes Israeli claims that attacks are either strategic or designed to minimise civilian suffering. This disturbing reality is also underscored by an examination of the whereabouts of child injuries. If, as Israeli forces claim, they do not shoot to kill children, but seek to deter them, then it would be fair to assume that the majority of injuries sustained by juveniles would be located in the lower half of their bodies. However, of the 1,627 cases collected by DCI/PS, only 501 children were wounded in their legs. By contrast, 702 sustained injuries to the upper region of their bodies, including 244 who had head injuries, and 54 who were injured in the back.

Breakdown of injuries according to region:

Governates	Hebron	Jerusalem	Bethlehem	Ramallah	Gaza	Qatqilia	Nabulus	Tulkarem	Jenin	Jericho	Salfit
Number	181	2	63	126	523	6	484	126	108	0	8

Source: DCI/PS Documentation

Breakdown of injuries according to age:

Age Group	0-8	9-12	13-15	16-17
Number	152	346	579	550

Breakdown of injuries according to cause:

Cause of injury	Bullet	Rubber-coated steel bullet	Tear gas	Shelling/shrapnel	UXO	Beating	Falling	Road traffic accident	More than one reason	Other
Number	420	278	62	298	36	234	196	2	3	98

Location of injury on the body:

Location	Head	Eye	Neck	Chest	Back	Upper arms	Abdomen	Pelvic area	Legs	Respiratory difficulties	Nervous breakdown	Multiple injuries
Number	244	28	26	55	53	296	41	15	501	62	1	305

Killings and the Media War:

As part of the media war which accompanies every Israeli incursion into Palestinian populated areas, the Israeli army in October 2004 released video footage to the press purporting to show a Qassam rocket being transported in an ambulance belonging to the UN Relief and Works Agency (UNRWA).



The video footage - on which the date of filming had been erased - was aired by the international media before UNRWA had received the pictures or had an opportunity to investigate the claims. When however the UN agency did finally obtain a copy of the footage, the Commissioner General Peter Hansen was able to confirm that the pictures showed nothing more than a person putting a stretcher into an UNRWA ambulance.

The Israeli army subsequently retracted its accusations against UNRWA, and in a statement, acknowledged that “after thorough study of the video cassette, it was revealed that it is very difficult to accurately identify the nature of the object that had been put in the ambulance, and the affirmation that the object was a Qassam missile was judged to be a hasty decision.”

However, to some extent the video had already served its purpose in diverting attention towards alleged Palestinian and UN wrongdoings and away from the most severe Israeli military operation of the year, Days of Penitence, which affected the northern Gaza Strip. The Israeli allegations were clearly intended to draw attention away from the carnage being wrought by the army against Palestinian citizens and justify the frequent Israeli practice of preventing ambulances from reaching the injured and taking them to hospital. This extremely serious allegation, was also intended to throw doubt onto the humanitarian role of UNRWA in the OPT and reduce criticism of Israel for the restrictions it imposes on international organisations providing relief services for the Palestinian civilian population and monitoring the situation on the ground. In a further transgression of international law, the Israeli forces also prevented water supplies from reaching areas subject to the incursion.





Chapter 2

The Right to Liberty

The Right to Liberty

States Parties shall ensure that:

- 1. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment ...*
- 2. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.*
- 3. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age.*
- 4. Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance.*

Article 37, Convention on the Rights of the Child

In October 2002, in its concluding comments on the report of Israel, the Committee on the Rights of the Child expressed grave concern over Israel's treatment of Palestinian children under arrest, during interrogation and in prison, and over the application of discriminatory military orders which "allow for the prolonged incommunicado detention of children, and which do not provide due process guarantees, access to legal assistance and family visits"¹². The committee called on Israel to rescind all provisions in military orders which violate international standards of the administration of juvenile justice and to ensure that all children under the state's jurisdiction - including Palestinian children in the OPT - are guaranteed all the essential elements of a fair trial, by ensuring the full integration of the CRC and other international legal guidelines into the legislation and practice of the juvenile justice system. In addition, the Committee called on Israel to investigate all cases of torture and inhumane and degrading treatment by police officers and other governmental officials and bring the perpetrators of these violations to justice. Two years on, it is as if these recommendations, and this criticism of Israeli practices, had never been made. Not only has Israel failed to investigate one report of the ill treatment of Palestinian children in Israeli custody, but it continues to flout even the most basic international legal standards on the administration of juvenile justice with arrogant impunity.

Trends in Palestinian child arrests in 2004:

Of the 750 Palestinian children arrested by the occupation authorities in 2004 - a marked increase on the 650 taken into custody the previous year - the legal unit of DCI/PS followed up a total of 389 files in addition to a further 117 unclosed files from 2003. Since lawyers often follow up several files for one child - ie representing the child before the military court, at his/her appeal and in application for release on bail - the number of children represented by DCI/PS in 2004 is less than the number of files followed up by the organisation in the same year. In total, DCI/PS represented 479 children in 2004.

¹² Concluding comments of the Committee on the Rights of the Child to Israel's initial report, 4 October 2002.

Distribution of DCI/PS cases in 2004 according to age:

Age	Number 2004	Number 2003	%2004	%2003
12-14 years	75	21	15.7	8.6
15-16 years	160	103	33.4	42.0
17 years	244	121	50.9	49.4
Total	479	245	100	100

Disturbingly, in 2004, the largest increase in percentage terms of DCI/PS caseload came from the youngest age group - children aged between 12-14 years. In 2003, the organisation represented 21 children under 15 years old, but in 2004, the figure had rocketed to 75, accounting for 16% of all files that year. The percentage of cases of children aged 15-16 years declined from 42% to 33% over the same period, though the actual number of children in that age group increased from 103 to 160. Children aged 17 - 244 in total - accounted for just over half of all DCI/PS cases.

In violation of international standards, which define a child to be anyone under the age of 18, Israel, through Military Order 132, classes Palestinian children over the age of 16 as adults, and in direct contravention of the CRC places them in prisons alongside adult Palestinian detainees and denies them any special treatment as children.

As DCI/PS hears time and again from the testimonies of child detainees, the charges brought by the occupation authorities against Palestinian children are routinely based on confessions beaten, threatened or otherwise coerced out of detainees during terrifying interrogation sessions. The list below, which shows the distribution of the cases closed by DCI/PS according to the charge, is based on the charges levelled by the Israeli military prosecutor in the wake of such interrogation sessions, and is therefore not necessarily an accurate indication of the actions of Palestinian children.

Cases closed by DCI/PS according to charge:

Charge	Number in 2004	Percentage in 2004	Percentage in 2003
Stone - throwing	85	31.1%	40.1%
Activities and Molotov	39	14.2%	12.6%
Affiliation to a faction	42	15.3%	8.7%
Killing Attempts	50	18.3%	19.8%
Explosives	20	7.3%	14.5%
Arms	38	13.8%	4.3%
Total	274	100%	100%

In the military court, military prosecutors regularly seek to exaggerate the seriousness of the alleged offences in order to minimise the effects of plea bargains. This not only obscures the facts but also results in children receiving far harsher penalties than the offence with which they have been accused would warrant. Thus a child found with a knife in his bag, would be charged with possession of a knife and attempting to kill. In a plea bargain, the prosecutor will accept that the charge of possession be dropped from the list, and that attempting to kill - a charge which carries a minimum five-year sentence - be reduced to attempting to stab - which carries a minimum two-year

sentence. The fact remains however that the child had not even attempted to remove the knife from his bag.

Cases closed by DCI/PS according to sentence:

Sentence	Number in 2004	Percentage in 2004	Percentage in 2003
Less than 6 months	115	42%	63.5%
6 months - 1 year	27	9.8%	15.3%
1 year - 3 years	78	28.5%	12.4%
More than 3 years	54	19.7%	8.8%
Total	274	100%	100%



A comparison of sentences handed down to juveniles in 2004 and the previous year shows a worrying trend towards increasingly longer prison terms, notwithstanding a decrease in the actual seriousness of many of the alleged offences over the same period. In most cases, the military courts reject out of hand the release of children on condition of bail, nor do they resort to any alternative form of punishment other than imprisonment. Such actions directly contradict Article 37b of the CRC which stipulates that detention of children should be the last resort and that detention should last for the shortest possible period, having the optimal interest of the child in mind. In their decision making, the military courts

adopt previous security precedents made in cases of children to intensify their judgments, thus contradicting the international criteria of juveniles trials especially the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing rules) concerning juveniles judiciary. Moreover, the military courts are not specialized in the trial of juveniles; they are the same courts, which sit to hear adult cases.

Most disturbing is the growing increase of sentences of three years or more. Not one child was given this length of sentence in 2001, in 2002 11.4% of DCI/PS cases received sentences of more than three years, in 2003 the figure dropped to 8.8% but it more than doubled in 2004, applying to almost one-fifth of all cases.

It is evident that the Israeli military orders according to which Palestinian children are charged and tried are illogical and the international requirements of a fair and just trial are not observed. These facts are indicative of an incoherent, unregulated system, whereby the Israeli military courts do not follow a specified system of rules and are instead reliant on the disposition of individual judges and attorney generals. For example, in Ofer Court, which is presided over by a number of judges, the sentences issued by this court differ according to the judge or the attorney general hearing the case. Moreover,

although the military courts and the military prosecutions are subject to the same apparatus, the sentences imposed by Salem court, for example, are significantly higher than those imposed in Ofer court, even when the charges are of a similar nature.

Case Study

Khalid Raja Abdel Mohsen Taha from Hebron

Khalid was 17 when he was arrested by Israeli troops at his home in Hebron on 30 August 2004. In an affidavit, he describes his experience during detention and interrogation:

On 30 August 2004 at 2am, the Israeli army invaded our home. After we were ordered outside, the army entered and searched the house. They cuffed my hands behind my back, blindfolded me and put me into a jeep without informing me of the reasons of my arrest. Inside the jeep, soldiers began to push and curse me. I was taken to the District Coordination Office (DCO) in Hebron, where I was held for two hours before being transferred to Etzion detention centre, where I spent five hours standing outside, handcuffed and blindfolded. The soldiers carried out a strip search, and then took me to Ashkelon detention centre, where they conducted another strip search and then they started to interrogate me. I was made to sit on a chair that was fixed to the ground and my hands and feet were cuffed behind my back. Two investigators called Jimmy and Prody interrogated me all day long from 9am until the evening. They beat me and slapped me on my face and abdomen with their palms and fists.

After that, they untied my hands and feet and took me off the chair and then started to press on my face with their hands; they lifted me up and threw me on the ground, causing me severe pain. During the investigation, they threatened me with the arrest of my sick father, my mother, brothers and sisters in addition to threatening me with the demolition of our home. They brought me a paper and told me that if I did not confess, they were permitted to investigate me militarily [children in this situation are led to believe that military interrogation means continuous and agonising beating]. During the interrogation, they allowed me to go to the toilet once and did not bring me any food all day. In the evening, they took me to a cell where I remained until the next day. On the second day, they interrogated me again from the morning until sunset; the same happened on the third day. During these two days they used the same means of interrogation as used on the first day. On the fourth, fifth and sixth days, there was no interrogation. They resumed interrogation on the seventh day (Sunday), which started with them threatening me with military interrogation and demolishing our family home. As a result of these torturous methods and the use of threats, I confessed. However, I was interrogated for another day. Although their investigation of me had finished, they kept me in the cells for another month, which included 8 days in a solitary cell.

For 15 days of this period, I was denied access to a lawyer and was not allowed to wash for eight days. The ICRC was able to visit me only after 20 days of my detention. The conditions inside the cells were very bad. A cell which could accommodate two persons had three persons inside, so that we were sleeping in close contact with each other. The walls of the cell are grey and rough and uncomfortable to touch. There is a red light shining in the cell which is very tiring on the eyes, especially when there is light for 24 hours a day. There is an air conditioner in every cell making it extremely cold. The toilet is an opening in the ground; the mattress and blankets are dirty; food is very bad and insufficient in quantity, making us weak and tired with hunger. Treatment in Ashkelon centre is very bad and the prison guards always shout at us, curse and threaten us with stretching and breaking the bones of our hands and feet.

Unfortunately, the brutal events recounted in Khalid's testimony are an all too common experience for Palestinian children arrested by the Israeli authorities. Children are routinely subjected to torture and maltreatment constituting a violation of the CRC and other relevant international agreements from the first moment of their detention, during their transfer to detentions and investigation centres, during their interrogation and throughout their imprisonment.

During the arrest operation, the occupation forces regularly beat, verbally abuse and threaten children, their families and relatives. Their houses, furniture and belongings are often damaged during the search and arrest procedure. Children are usually blindfolded and handcuffed for the duration of their transfer to detention centres and are on occasions beaten with gun butts.

The torture and psychological maltreatment that children have reported includes humiliation, being subjected to cursing and threats of death, sexual abuse, attacks by dogs or exposure to electric shocks, being beaten, handcuffed, made to sit or stand for prolonged periods in excruciatingly painful positions and deprivation of food, sleep and access to the toilet.

These methods, which have a profound impact on the long-term physical and psychological wellbeing of the child, are used to force juveniles into confessing and sometimes to coerce children into acting as collaborators for the Israeli authorities. Every time a confession is made, and sometimes even when they are not, children are made to sign documents in Hebrew, a language they do not understand. If the child refuses to sign such a document, the charge of refusing the orders of an officer is added to the list of the child's alleged offences.

Detention Centres :

Upon detention, Palestinian children are taken to centres in the West Bank for interrogation, a process that can last for up to one month. Due to the increasing numbers of juveniles detained, child prisoners spend ever-longer periods in these centres, in some cases remaining in them even after they are sentenced to prison terms, even though the detention centres are designed for short-term stays. Usually, these centres are over-crowded and do not meet adequate living conditions; cells are cramped, the quality and quantity of food is severely sub-standard and conditions unhygienic. During the detention period, family visits are prohibited and restrictions are imposed on the visits of lawyers.

Furthermore, the majority of interrogation and detention centres in the OPT are located inside Israeli settlements or military camps such as Maale Adumim, Etzion, Huwwara, Qadumim and Salem - places steeped with an atmosphere of fear and intimidation. None of the detention centres conform to the minimum criteria for the detention of children. These centres lack facilities for leisure time, reading, stationary or games.

Prisons:

The majority of Palestinian children arrested by Israeli authorities are at some point transferred to facilities outside the OPT - a flagrant violation of Article 76 of the Fourth Geneva Convention, which states "protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein". In 2004, there were four main prisons for Palestinian child detainees in Israel: Megiddo and Ketziot - which were under the administration of the Israeli military, and the Telmond compound and Ramle (Neve Tertze) controlled by the Israeli Prison Service (IPS)¹³. In 2004, around 70% of Palestinian child detainees were held in these facilities in Israel, a further 17% were detained in Ofer military detention centre on the edge of the West Bank, which, like Ketziot and Megiddo is also administered by the Israeli military.

Conditions in the IPS administered prisons may be marginally better than those in the temporary detention centres within the OPT, but they still fall well short of international standards governing the detention of juveniles. Often cells are dirty and overcrowded and children are denied cleaning materials to improve the conditions in their rooms - imperative since the often-leaking toilets are located in the cells. Iron panels are welded to window frames, blocking out the light and leaving the rooms airless and humid. Only very small quantities of food, lacking vitamins and nutritional value, are provided. The food has often passed its expiry date and even when cooked it is cold and unappetising. Access to medical care is derisory, with over-the-counter painkillers provided for every form of medical complaint. Only a handful of boys in the Telmond complex receive any form of education, and the vast majority of children pass their sentence without being given any opportunity to study whatsoever.

¹³ In early 2005, administration of Megiddo prison was handed over to the Israeli Prison Service and all Palestinian women detainees, including those under 18, were transferred from Ramle to the Telmond compound.

Palestinian boys aged 16 and over are detained, in violation of all international standards, alongside adult prisoners in the military-run centres of Ketziot, Megiddo and Ofer. There are no cells in these prisons, just threadbare tents which are filled well over their intended capacity. The canvas offers little protection against the harsh summer and winter temperatures, or against insects and vermin which make the prisoners life even more miserable. The toilets are open latrines which regularly overflow and the food provided, prepared by the prisoners themselves, is almost inedible.

In addition to the appalling living conditions, detainees continually suffer humiliation and violence at the hands of the prison guards. Each day is punctuated by a series of roll calls during which prisoners are forced to stop all activities and to stand for long periods in the sun or rain as soldiers count them. Tents and cells are raided randomly, and personal possessions often destroyed or confiscated for spurious reasons. Detainees are also exposed to frequent and often unprovoked attacks by guards, either on an individual or collective basis, including being beaten, sometimes with batons, sprayed with tear gas, or doused with freezing water. In many cases, the prison administrations impose punishments on child prisoners after these attacks such as detaining a group of children in isolation cells, confiscating their personal belongings, depriving them of family visits or preventing them from going outside to the prison courtyard. Another form of punishment exercised by the prison authorities throughout 2004 was the imposition of financial fines on prisoners. The fines were directly deducted from the child detainees canteena accounts. The deposits in these accounts are usually made by the children's families and by local governmental and non-governmental organisations in order to enable children to buy certain items necessary to supplement the meagre diet provided by the prison administration. In 2004, the prisons administrations drew tens of thousands of shekels from children's canteena accounts as a punishment for the most innocuous actions including if prisoners failed to stand promptly or slouched during roll calls, looked guards in the eye, prayed in the prison courtyard, sang or played music in the courtyard and, in the case of female prisoners, went outside with their hair untied

Since the prison administration controls the children's canteena accounts, children have no ability to refuse to pay the fine. Moreover, child prisoners do not always know the balance of their accounts nor does the prison administration inform the prisoners that a deduction has been made from as a punishment. In the event that the punished child does not have money in his/her account, the prison administration will confiscate money from the account of another prisoner without telling necessarily informing that detainee.

Case Study

On Sunday 28 November 2004, female prisoners in Telmond prison went into the prison courtyard as normal. All of a sudden, the prison administration reduced the time given for staying in the courtyard and ordered the female prisoners to return back to their rooms. When the prisoners' representative tried to discuss

the reason for this change with them, a group of jailers beat her and put her into isolation as a punishment.

When they saw what was happening, the other Palestinian female prisoners started to shout at the guards. The prison administration responded by bringing in supporting forces from the police armed with clubs, water hoses and tear gas canisters and attacked the female prisoners by beating them and spraying tear gas, injuring many detainees. The prison administration did not provide first aid for the injured prisoners. Moreover, they confined 13 of the women in isolation; three prisoners were put in one cell without any mattresses or blankets. The prison administration also confiscated goods from the canteen and electrical appliances from the female prisoners rooms and sprayed water into their cells, damaging possessions and soaking mattresses and clothes. Guards also cut off the water and electricity supplies to the cells. The weather was so cold that the prisoners could not sleep on the wet mattresses.

Among the worst affected by the attack was the infant, Nour, who was born inside prison on 10 October 2003 after his mother Manal Ghanem was detained while pregnant. Having been doused with water, Nour subsequently caught a cold, but no treatment was offered to him.

Family Visits:

By violating international law in transferring Palestinian children to prisons outside the OPT, Israel also places serious restrictions on the ability of families to maintain contact with detainees, a measure provided for in Article 37 (c) of the CRC, which states "Every child deprived of liberty ... shall have the right to maintain contact with his or her family through correspondence and visits ..." Families from the OPT wishing to visit sons and daughters in prison must first obtain a permit to enter Israel - a lengthy bureaucratic process which often results in applications being rejected for alleged, non-negotiable "security" reasons. One in five of the total permits submitted by the ICRC in 2004 were rejected for this reason. Israel also exercises collective punishments on entire West Bank towns, refusing to consider each permit application on the basis of its individual merit, but instead imposing blanket bans on any resident from that area travelling into Israel. On the basis of this policy, some prisoners from Jenin, Nablus and Hebron have not been able to receive visitors for the entire period of the intifada. In the event that an application is successful, it takes somewhere between one to three months for the permit - valid only for three months - to be issued. A similar length of time is required to renew these permits is the same time. Even having obtained a permit, there is no guarantee that the visitor will be able to see the detainee due to often arbitrary restrictions imposed by the prison administrations or because the detainee's right to family visits has been withdrawn as a form of punishment.

Communication with the outside world in general, and with the family in particular, form an important element in mitigating the sense of isolation which child detainees

experience. The deprivation or restriction of family visits thus causes extreme suffering, especially among younger children. Taking into consideration that many families are not able to obtain permits to visit their children, lawyer visitation rights become all the more important as they provide an opportunity for psychological support as well as enabling the lawyer to build his/her defence case or monitor prison conditions. However, visits by lawyers too are frequently hindered by obstacles imposed by the prisons administration. In 2004, lawyers repeatedly encountered restrictions on the number of detainees they were able to visit at any one time; their visits were routinely delayed, terminated prematurely or even cancelled at the last minute. Even though visits from lawyers are vital both in terms of morale and legal defence, they are one of the only issues over which detainees are able to exercise some form of control. Thus occasionally, prisoners will refuse to participate in visits as a way of drawing attention to the inhuman conditions of their detention.

Case Study

Yousef Khalifah from Nablus

Fifteen-year old Yousef was arrested on 28 March 2003 and sentenced to three years in prison. He was sent first to Megiddo prison where he stayed for one year, after which time he was transferred to Telmond prison. Because of a blanket ban on permits for all residents from Nablus due to alleged security reasons, Yousef's mother was not able to visit her son in prison. She did however manage to move from Nablus to Tulkarem after which she was able to apply for a permit. She eventually managed to visit her son for the first time in October 2004, a year and a half after she had last seen him. She was only able to visit Yousef one other time before her permit expired. In January 2005, Yousef's younger brother tried alone to visit him in Telmond, however, when he arrived at the prison, the guards refused him entry because he had a copy of his birth certificate and not the original document.

Administrative detention:

Administrative detention is imprisonment without charge or trial. It is implemented on the basis of confidential information, to which neither the detainee nor his/her lawyer has access. According to the Israeli government, "Administrative detention is considered a resort when there is proven evidence of the participation of a person in illegal acts which jeopardise the security of the State and the life of citizens, and it is only used in circumstances in which the normal trial measures are not sufficient because of the danger of information sources being revealed and/or the need to keep such confidential information out of the open court."¹⁴ However, in practice, the confidential nature of information on which administrative detention orders are based, allows the Israeli authorities to imprison any Palestinian who they cannot bring to court due to lack of evidence.

Administrative detention orders, which are issued in the absence of the detainee or their legal representatives, are handed down for periods of one month to a year and usually range between 3-6 months. They may be extended indefinitely leading to some Palestinian citizens being detained for years without being informed of the reason for their arrest or the expected date of their release. During the year 2004, approximately 30 children were administratively detained.



Administrative detention orders can be issued either at the time of arrest or after a long investigation period; orders can be issued without the need for the prosecutor to provide any evidence of the alleged offence. In some cases, even after a detainee has served the term of his/her administrative detention order, new files relating to the same individual can be opened before the Israeli military courts. In other cases, administrative detention orders are issued against Palestinians after they have been charged and served a prison sentence for an alleged offence.



Chapter 3
**Right to an Adequate Standard
of Living**

Right to an Adequate Standard of Living

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

Article 27, Convention on the Rights of the Child

Four successive years of intensified Israeli occupation have had a profoundly negative impact on the Palestinian standard of living. Restrictions on the movement of goods and people have plunged the West Bank and Gaza into one of the worst economic recessions in modern history culminating in a humanitarian crisis from which there is little prospect of early recovery.

Since the start of the intifada in September 2000, developmental and humanitarian indicators have declined across the board: poverty has risen from 21% to an average of 47%, reaching as high as 64% in the Gaza Strip where around one in every three members of the population is unemployed; as many as half of all West Bankers receive inferior health services and 1.4 million Palestinians now receive food aid. The dire economic situation is leaving families with little or nothing to fall back on. Household coping mechanisms such as savings accumulated in the relatively stable post-Oslo era have been spent to cushion the blow of the past four years leading to an increasing dependence on aid, and prompting families to cut back on even essential spending. The effect is perhaps most profoundly felt by children, whose physical and psychological development is placed at the greatest risk by the decline in the standard of living.

Access to adequate housing:

In 2004, Palestinians witnessed a level of house demolitions unprecedented in the current intifada. From the north to the south of the Gaza Strip and along vast swathes of West Bank, residential and industrial buildings were razed to the ground leaving some 1,471 families homeless, including 4,848 children. Such destruction, often passed off by the Israeli authorities as innocuous "land clearing", causes almost unimaginable distress to Palestinians, many of whom are being forcibly dispossessed of their property for



the second or even third time in their lives. The suffering is particularly difficult for children to bear. Living in the volatile environment of occupation, their homes are a source of

stability, a refuge from the violence of the streets of their villages, towns or camps. Suddenly this sanctuary is shattered, plunging the children and their families into the nightmare of homelessness, uncertainty and further poverty.

International humanitarian law strictly prohibits any destruction of property by the Occupying Power “except where such destruction is rendered absolutely necessary by military operations”¹⁵. However Israel has paid scant regard to such limits. Instead house demolitions have become standard army practice for a wide variety of situations which have little or no bearing on military operations. Throughout 2004, Israeli military forces were called in to demolish the shelters of hundreds of Palestinians for “administrative” or expansionist purposes. Houses in Jerusalem and in other areas of the West Bank under complete Israeli control were torn down because their owners did not have building permits. The fact that Israel generally turns down building applications from Palestinian residents, and that unlicensed construction is the only way many Palestinians are able to find housing, were ignored by Israeli authorities - as was the continued illegal and unlicensed construction of houses in Jewish settlements. Other Palestinian buildings were swept aside in order to strengthen the apartheid bypass road system and other infrastructure serving these settlements, or demolished to make way for settlement expansion and construction of the segregation wall.

Israel continued to undertake punitive demolitions in the name of “deterrence”, claiming that by destroying property belonging to the relatives of Palestinians involved or accused of involvement in attacks, potential Palestinian attackers would be deterred. There is little to suggest that such demolitions discourage those determined to carry out attacks against Israeli targets, instead the destruction points more towards state-sponsored revenge and falls well short of any international legal definition of military operations.

Punitive demolitions are in effect collective punishments against innocent families and cause little direct harm to the suspects themselves, the majority of whom are usually in Israeli detention or dead at the time. Moreover, the destruction is rarely limited to the targeted house, and apartments in the same building or adjacent structures are frequently damaged during the operation, and subsequently rendered uninhabitable. According to the Israeli human rights organisation B’Tselem, 181 homes were destroyed over the course of 2004 as part of this policy, bringing to 628 the number of housing units demolished for deterrence purposes since the beginning of the intifada. B’Tselem further reports that on average 12 innocent civilians, many of them children, were left homeless for every person suspected of participation in attacks against Israelis, and almost half of all houses demolished were ostensibly not targeted by Israel, but were adjacent to houses that were¹⁶.

Even when Israel does carry out house demolitions under the auspices of military operations, the extent and intensity of destruction cannot be justified by military necessity, and the act is little more than retaliation and a barely disguised show of strength. The month of May 2004 saw Israeli bulldozers indulge in a rampage of

¹⁵ Fourth Geneva Convention Article 53

¹⁶ B’Tselem: House Demolitions as Punishment

destruction in Rafah, destroying 298 houses in a matter of weeks. Israel alleged the act was part of a plan to expand the “buffer zone” along the Israeli-controlled border between Egypt and the Gaza Strip. However, analysis by human rights groups and international agencies concluded that the indiscriminate and excessive manner of the demolition resulted in widespread and unnecessary damage to the property of innocent civilians¹⁷. The carnage prompted international outcry and even the US, Israel’s staunchest ally, was forced to voice concern about “the humanitarian consequences of such demolitions”¹⁸.

Such consequences are grave indeed. The majority of house demolitions take place during the night. Occasionally residents are given prior notification, or have already left the building because of nearby fighting. However, often there is no warning at all, and the first the family knows of the impending destruction is the sound of the bulldozer crashing into a wall of their home or those of nearby houses. As the destruction begins, the families have no choice but to leave the house immediately - often having to clamber through windows to escape. There is no opportunity to collect any personal belongings - furniture, clothes, photos and toys, a lifetime of possessions passed down through generations are crushed under the rubble.

The impact on children is particularly severe. Many suffer post-traumatic stress from seeing their home destroyed and the arbitrariness of the demolition serves only to heighten their confusion and fear. Young Palestinian girls are among the worst affected. Unlike their brothers, girls tend to spend most of their leisure time inside the family house and anecdotal evidence suggests that the emotional suffering caused by house demolitions is more deeply felt among girls than boys, and that this is exacerbated in the aftermath of house demolitions. While they seek new accommodation, many homeless families are given temporary shelter in public buildings such as schools - in such cases teenage girls in particular are acutely aware of and disturbed by the lack of privacy.

Adelat Atif Abdelrahman Abu Taher (13 years old) describes her feelings when her house in Block O of Rafah was demolished in the Israeli raids of May 2004

That night we were sleeping in our house dreaming of tomorrow, of days filled with passion and a beautiful and safe future. At two o'clock in the morning on 13 May 2004, a new virus infected my Palestine. The Israeli tanks came supported with planes and helicopters. The soldiers started shooting randomly. Our house is about 150 metres away from the border between Egypt and Palestine, but nevertheless the angry occupation drew closer to our house. Our father woke us up to save us from the coming disaster. We left home and after an hour, the rooms of our house heaved up then slumped down and the house hugged between its arms the stones that it was built on. We watched as the

¹⁷ Human Rights Watch: Razing Rafah, Mass Home Demolitions in the Gaza Strip, 2004.

¹⁸ Spokesman from the American Embassy in Israel, 17 May 2004.

memories of years of laughter, tears and determination that had that built our house crumbled away.

Rescuers and rescued, wounded people and lost souls, we stood alone in the night, not knowing what the future held for us. We walked accompanied by my brother's tears to our relative's house. The darkness never felt so absolute as the as the night we lost our house.

I'm not afraid to admit how scared I was. The fear that occupied my mind is still lodged in my heart. There is no where to run from fear, but nor is it possible to run from God's mercy.

Hours passed like centuries. In the early morning we returned to find the house broken and bleeding. The house has gone and so have the dreams. All the valuable things in our heart have disappeared too - where is my doll that used to sing? And where is the bird that used to come to the tree and sing? He's gone and all good memories that accompanied that bird have left with him. The taste of a happy life has vanished. Every stone of the house included an echo of a voice - the voices of my brothers and sisters, of my mother and father. Each stone that fell had witnessed my birth and my first month, then my second, my first birthday, my second... Each stone of the house used to touch me and adore my smell.

I'll never forget you my house. You're my honour and my memories. Since my house was destroyed all my hopes have been destroyed. The same hopes that I had built for my future, placing them ahead of me stone by stone.

But still I live, and despite all that has happened I will build my house again. I will live my future and I will regain my memories. They will comfort me once again in my new house. I will live and live and live.

Access to food:

A balanced diet is essential to any human, but none more so than children, whose physical development and future health is determined by the quantity and quality of food they receive when young. In the current crisis however, Palestinian children are facing severe restrictions on their nutritional intake. A recent study by the World Food Programme (WFP) reported that more than 90 percent of the Palestinian population of the OPT reduced food consumption during the intifada¹⁹. Families are going into debt to buy essential foodstuffs, cutting back on their food intake and substituting expensive food such as meat and milk with cheaper products of inferior quality.

¹⁹ World Food Programme: Coping strategies of World Food beneficiaries in the OPT—a Pre-test Study, February 2004

The problem is not a lack of availability, but of access to food due to the combination of falling household incomes, rising food prices, supply shortages and movement restrictions. Trucks carrying perishable food items such as fruit and vegetables are often held for hours, and sometimes days on end at checkpoints while their cargo rots. Often the fresh goods do not even make it off the land as farmers are prevented by checkpoints and closures from reaching their fields. Others are too afraid to harvest in the face of intimidation and violence from Jewish settlers living illegally on Palestinian land. These settlers are often able to act with complete impunity, ruining or looting Palestinian crops while Israeli occupation forces turn a blind eye to their antics. Further problems face those families living in the enclaves created by construction of the Segregation Wall. They may have the financial resources to buy food in bulk, but are forbidden by Israeli soldiers from carrying large amounts of food into the enclave. Some report that they are only allowed to bring through small bags of fresh produce, they cannot even carry in boxes of fruit and vegetables. The WFP estimates that 38% of the OPT population, are food insecure and that a further 26% are at risk of falling into the same category²⁰.

Even those international agencies seeking to combat the rising crisis in access to food find their work obstructed by Israeli authorities. UNRWA was forced to suspend distribution of emergency food aid to some 600,000 refugees in the Gaza Strip for 20 days in April following restrictions imposed by the Israeli authorities. Several months later, on 14 July, a clearly-marked UNRWA convoy was fired on from Israeli armoured personnel carrier while embarking an emergency food distribution. The convoy was delivering 370 tons of food aid to Beit Hanoun in the north of the Gaza Strip, where fresh food supplies had been running low and breadwinners were unable to reach work after the town had been besieged by Israeli forces for 16 days²¹.

The decline in diet and access to food is having a profound impact on the health of Palestinian children. The WFP estimated that just under one-third of Palestinian women and children are suffering from anemia. Malnutrition, the source of severe child morbidity and mortality, has fallen from the highs recorded in 2002, but is still present in an alarming number of pre-school children in the OPT. A report presented by Al Quds and the Johns Hopkins Universities in April 2004 indicated that 3.9% of under-5s in Gaza in 2003 suffered acute malnutrition down from 13.3% in 2002 and that 12.7% of pre-school children in the strip suffered chronic malnutrition (down from 17.5% in 2002). In the West Bank the number of children suffering chronic malnutrition grew to 9.2% from 7.9% in 2002²².

As a result of poor diet, almost one in 10 children is stunted, with the average figure even higher in the Gaza Strip, and some 75% of children in the OPT are vitamin A deficient. Such deficiencies reduce the immune system rendering the children vulnerable to diseases and negating health agencies' efforts to prevent infections. Thus UNICEF reported that despite attempts to sustain high immunization coverage and the commitment of caregivers to immunize their children, it was found that less than 2/3 of all children have had the necessary immune protection against measles²³.

²⁰ WFP: Emergency Food Security Needs Assessment 2004 Update Assessment, June 2004

²¹ UNRWA: Press Releases 21 April and 14 July

²² Al Quds and the Johns Hopkins Universities: Nutrition and Quantitative Food Assessment, preliminary results, presented to the Humanitarian Emergency Support Group, April 2004

²³ UNICEF: OPT Donor Update 10 November 2004.

Access to Water:

Since the start of the occupation in 1967, discriminatory policies have been implemented by Israel designed at appropriating Palestinian water resources and limiting water availability to Palestinians. These, combined with the even stricter internal closures and widespread damage to infrastructure caused by violent invasions of the second intifada, have reduced yet further Palestinians access to plentiful, safe water supplies in the West Bank and Gaza.

The World Health Organisation's recommended minimum domestic per capita water consumption for small rural households is 100 litres a day (l/d). However, as a result of existing water scarcity compounded by Israeli actions, total daily per capita supply of water for Palestinians living in the OPT is significantly less ranging from approximately 85 l/d to as low as 10 l/d in some areas. And this volume must cover all water use – agricultural and livestock as well as domestic. Israel's systematic and purposeful assault on the Palestinians right to clean ample water is creating a public health crisis which poses a disproportionate and unacceptable risk to Palestinian children.

Israel's state-owned water company Mekorot has played a significant role in reducing Palestinians access to water. The company, together with the Israeli authorities maintains de facto control over vast swathes of the West Bank and Gaza's water resources, and over two-thirds of Palestinian communities are reliant on Mekorot for water access²⁴.

However, Mekorot routinely cuts or limits supplies to Palestinian villages, while supplies to nearby illegal Jewish settlers remain undisturbed. A study carried out by the Palestinian Hydrology Group in the first half of 2004 shows that more than half of the communities surveyed were severely affected by reductions in Mekorot's supply, and that these reductions were larger during the summer period when the recipients were most in need of water²⁵. Even when Mekorot does provide the allocated quantities, many communities need to procure extra supplies to meet their basic needs. Such alternative water sources come at a significant price, whether financial in the form of overpriced tanked water, environmental where water is drawn from the already-depleted water table, or in terms of the community's physical health, since alternative sources of water are often those of last resort and include un-chlorinated, old and polluted supplies.

The tight and arbitrary system of closures and permits, the proliferation of checkpoints and earthmounds, is also having a devastating impact on Palestinians access to water. Water tankers are unable to deliver to rural villages, many of which are totally reliant on tanked water, while in other cases vital spare parts and maintenance materials are prevented from reaching their destination, leaving residents once again falling back on expensive or unsafe water sources.

²⁴ Palestinian Hydrology Group: Water for Life, Chapter 2, 2004.

²⁵ PHG: Water & Sanitation, Hygiene Monitoring Project, Impact of the Current Crisis in the West Bank and Gaza Strip, August 2004

Throughout 2004, Palestinians also witnessed the continued deliberate destruction of their water infrastructure by Israeli occupation forces and settlers. Invasions and attacks by Israeli troops have left a tangle of fractured water pipes and broken sanitation systems in their wake. In the first two and a half years of the intifada alone, the Palestinian Water Authority estimated some \$15 million-worth of direct damage had been inflicted on the water sector infrastructure - a figure which did not include damage to the sewage infrastructure or the value of the water lost.

Over the course of 2004, thousands of roof tanks and cisterns were damaged by Israeli snipers and shelling; pumps and waterlines were destroyed cutting off supplies to houses and farm land; manhole covers for stormwater were crushed by tanks and armoured personnel carriers, and wastewater channels were breached allowing polluted water to flow directly into streets and homes;

Case Study

Destruction to water infrastructure in Beit Ummer municipality

On January 2nd, 2004, Israeli army bulldozers destroyed most internal roads in the town of Beit Ummer in the Hebron governorate, under the pretext that stones were thrown from the town at Israeli cars passing main road number 60 to Hebron. As a result, local streets were dug up, earth mounds were set up and water lines were destroyed.

According to Beit Ummer municipality, the total material losses in water infrastructure are estimated at \$3,000 from this incursion alone. People in Beit Ummer, Safa, and Surif are not able to reach the Public Health Center in Beit Ummer because of closure of the main entrance to the village by a steel gate. In addition to the earth mounds closing the communities entrances, a curfew was imposed on Beit Ummer, which lasted from 2-10 January, 2004. Closures also affected the movement of maintenance teams to rehabilitate and fix the damaged water networks in these communities. Twenty roof tanks were damaged during Israeli closure of the community.

In addition, Mekorot Company reduced the water supply to Beit Ummer to only 80% of the "normal" water supply. In Safa and Surif, the reduction is down to 85% and 72% of "normal" supply respectively.

Water & Sanitation, Hygiene (WaSH) Monitoring Project:
Summary Report no.8 (Jan-March 2004)

In addition to destruction caused by occupation forces, Palestinians also have to contend with the damage to water sources caused by settlers for whom access to water is not a problem. On average settlers reportedly consume six times more water than Palestinian occupants of the OPT, with plentiful supplies for watering their lawns and filling their swimming pools.

Wastewater runoff from the settlements, the vast majority of which are built on high ground, poses serious health hazards to Palestinian communities living downstream. The Almatwi valley, running between Salfit and the village of Bruqin, once a lush, fertile area has now been transformed into a putrid lifeless channel. "All that remains of any visible stream is a channel of raw sewage floating along a ditch. The sewage is released by the second largest settlement in the West Bank, Ariel, situated on the top of the hill five kilometres away. The sewage poses a grave health risk to Bedouins living in the valley, villagers who use the valley as well as the water table itself. The Salfit environmental health department has to conduct daily laboratory tests on the drinking water because it fears the huge amounts of sewage have seeped into the water table.

Two Bedouin families, numbering 15 family members, have been living on the Almatwi valley hillside for the past three years. They have been forced further and further up the hill to escape the overpowering stench from the sewage, forced closer to the settlers and further from the water source, which currently is a tiny trickle emerging from a rusty and slime-filled metal pipe - the overflow from the Palestinian water station.²⁶

The damage to Palestinian water resources is not just due to the location of settlements, but also caused by wanton acts of violence and harassment which are best seen as part of a campaign by settlers intended to ethnically cleanse nearby land of Palestinians and thus remove obstacles to settlement expansion. Over the course of 2004, there were a number of incidents in rural areas of settlers damaging and cutting Palestinian water supplies.

On 15 August for example, the Palestinian Hydrology Group (PHG) reported 10,000 Palestinians, residents of five villages in Bani Zeid Algharbyh northwest of Ramallah, had their water cut off when settlers from Hallamish settlement closed the valve on the main Mekorot line supplying the area. When the Bani Zeid municipality maintenance team tried to reopen the valve, they were prevented from doing so by settlers and Israeli soldiers. "The workers were detained for several hours and their IDs and the valve key were confiscated. The municipality then contacted Merkorot, whose technicians reopened the valve on 22 August. However, on the same day settlers again closed off the water supply to the villages."²⁷

²⁶ International Women's Peace Service, Press release 18 February 2004.

²⁷ PHG: WaSH Monitoring Project, August 2004.

On other occasions, settlers have deliberately tried to contaminate Palestinian water supplies.

Case Study

On July 13th, it was widely reported that Israeli settlers living in Ma'on settlement southeast of Hebron had purposely poisoned a cistern in At Tuwani village. Sources in the Micro-Regional Planning Committee- Joint Services Council, based in Yatta community and responsible for dozens of Palestinian villages in the area, confirmed that about 110 children under the age of 13, who were participating in a summer camp, narrowly escaped death since this cistern was the main source of drinking water for those children.

Mr. Saber Al Hureini, head of At Tuwani local council confirmed that he saw four armed settlers wandering in the area nearby the cistern. He was very suspicious and therefore prevented the children from drinking the water. The cistern's water was examined after a number of dead chickens soaked in chemicals and poisonous substances were found floating on the surface of the water. The results confirmed poisoning of the water in the cistern.

The Israeli police and army rushed to the scene for further investigation, but no actual action was taken against the settlers. This encouraged the settlers to come back to the community on the July 27th, where they threw a number of poisoned chicken in another public cistern used for domestic purposes in the same community.

OPT: Water and Sanitation, Hygiene Monitoring Project - Weekly Report no.10 (Aug 2004)

The links between Israeli occupation policies affecting the water sector and the deteriorating living conditions in the OPT are clear for all to see. The pervasive regime of closures and travel restrictions constitutes a daily abuse of the Palestinians right to clean ample water and adequate sanitation.



Thanks to roadblocks, water tankers cannot reach their destinations; wastewater and solid waste cannot be disposed of quickly and safely; access to natural springs and wells is prevented; maintenance crews cannot reach the broken infrastructure. The effects on Palestinians

health are multifold, but uniformly negative. With insufficient clean water, communities are forced to cut back on water use and/or turn to poor-quality supplies as a substitute. Water-related diseases thrive under such circumstances, and with already reduced immunity because of poor diet, Palestinian children are less able to fight off illnesses caused by unclean water. Combine these then with the unsanitary conditions left in the wake of Israeli incursions, when broken pipes pour sewage and wastewater onto streets, and it is easy to see why the health crisis is reaching dire proportions. According to UNICEF the “damage to the water and sewage infrastructure has resulted in water-borne epidemics, which combined with the collapse of adequate hygiene practices, have caused the number of diarrhoeal diseases [in children] to double”²⁸.

²⁸ UNICEF: OPT Donor Update 10 November 2004.



Chapter 4

The Right to Education

The Right to Education

“The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children”

Article 50, Fourth Geneva Convention.

In 2004, as in previous years under military occupation, education in the OPT has remained a daily struggle rather than a basic right. Through military operations and activities, it is clear that Israel has continually sought to undermine the Palestinian education system - a policy which not only disrupts the lives of Palestinian school students, but which also has a long-term devastating impact on the development of Palestinian society as a whole.

The degeneration of the education system comes about as a result of both deliberate Israeli targeting of schools and students and indirectly, as access to education and the quality of education available are threatened by the daily obstacles of life under occupation. Such violations render the simple act of going to school a journey fraught with danger and terror. Many times children are forced to stay at home, or turn back for their own safety, and even when they do succeed in reaching their classrooms, there is no guarantee that their lessons will not be disrupted by shelling or by the forced entry of soldiers into the school.

Education system:

With more than one million school-aged children in the OPT, constituting almost a third of the total population, education is a hugely important sector. There are three authorities operating schools in the West Bank and Gaza Strip, the largest of which is the Palestinian Authority which provides education to around 70% of students in the OPT. Basic education in the refugee camps is managed and funded by UNRWA, while there are also profit and non-profit schools run by private institutions, which are supervised by the PA Ministry of Education and Higher Education.

Distribution of students by region, authority and gender, 2004²⁹:

	PA		UNRWA		Private		Total	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
West Bank	245,858	243,763	25,920	33,989	30,958	21,453	302,736	299,205
Gaza Strip	106,492	110,074	98,393	93,282	4,869	2,392	209,754	205,748
Total	352,350	353,837	124,313	127,271	35,827	23,845		
Grand Total	706,187		251,584		59,672		1,017,443	

Under international law, Israel is legally obliged to ensure access to education for all children in the territories it occupies. However, while the Palestinian and international authorities have gone to great lengths to maintain education standards and keep schools open throughout the intifada, the devastating impact of the crisis and

occupation have exacted a heavy toll on both educational facilities and the teaching environment. A survey undertaken by UNRWA clearly demonstrates the impact violence has on academic standards. A comparison of exam results from two boys schools in neighbouring refugee camps in Tulkarem shows students from the Nur Shams Camp - where only five school days were lost during the 2002/3 school year - outperforming in each of the surveyed tests their peers from Tulkarem camp, where the students lost as many as 37 working days.

However, it is not just students from schools in the firing line who are suffering. Restrictions to movement and long days of violence have severely compromised attendance levels among both students and teachers. On average, UNRWA estimated that in 2004, 9% of its teachers were prevented from reaching their classes on any one day, added to which physical damage to infrastructure has left schools closed for prolonged periods. Rising unemployment and falling wages are forcing children from poorer households to drop-out of school to help supplement the family income, while net enrolment in primary education has fallen in every year since the start of the intifada, from 96.8% of children in 2000 to 94.8% in 2003. Such factors combined with declining concentration and discipline levels among children regularly exposed to violence and uncertainty, are seriously undermining students ability to perform and achieve. As a result, education standards are falling across the board in the OPT.

Declining exam pass rates since the start of the intifada³⁰:

Academic Year	Subject	Pass rate 2003-04 (%students)	Pass rate 2000-01 (%students)
8 th Grade	Arabic Language	64.6	76.7
6 th Grade	Mathmatics	33.6	68.7
4 th Grade	Science	38.0	71.5

Violations:

The worst abuses of Palestinian children's right to education involves the use of force and intimidation against individual students. Over the course of 2004, a total of 157 school-aged children were killed by Israeli military forces, representing 97% of all children killed that year. Many of these children were killed on their way to or from school, in some cases just outside the school gates.

In one now notorious case, 13-year old Iman Al-Hems was shot dead at point-blank range as she was walking to school in Rafah on 5 October. At first the Israeli army tried to brush off her death by claiming that soldiers shot Iman because they feared she was carrying a bomb in her schoolbag, and only after having shot her did they realised Iman was a child. However, transcripts of the radio exchange between soldiers involved in the incident revealed that the soldiers in the watchtower quickly identified Iman, who was dressed in an instantly-recognisable UNRWA school uniform, as "a girl of about 10 [who was]

³⁰ Consolidated Appreal Process, OPT 2005, p 20

scared to death". As Iman was running away from the army post, she was shot in the leg and fell to the ground. At this point, the company commander moved in and, standing over the helpless Iman, fired a stream of bullets into her body - "confirming the kill" as he termed it. Doctors at the Abu Yousef Al-Najar hospital in Rafah, where Iman's body was taken, removed at least 15 bullets from the little girl's corpse, mainly from the chest. The sad irony behind Iman's death is that it received wide coverage in the international media not because of the brutality of her murder, but because soldiers present at the scene for once complained publicly about the behaviour of their commander. The officer was subsequently cleared of "unethical" behaviour, but suspended for poor relations with subordinates.

Not even the classroom is able to offer protection from the violence of the occupation. Throughout the year, children sitting at their desks were injured by Israeli shells and bullets. These were not cases of mistaken identity and the children were not caught in crossfire. They were wounded, sometimes fatally, by Israeli soldiers who know that they are able to act with impunity supported by a government that refuses to condemn their actions or charge those responsible for death of innocent Palestinians. It is this lack of accountability that permits soldiers to fire indiscriminately as a form of collective punishment on civilian areas and buildings such as schools, which are specifically protected under the Fourth Geneva Convention.

Nine-year old Ghadeer Jaber Abu Mokheimer died in hospital on 13 October after having been shot the previous day in her classroom in UNRWA's Co-Ed Elementary D School in Khan Younis. Her death came less than a month after 10-year old Raghda Al-Assar was fatally wounded in similar circumstances while sitting at her desk at a second UNRWA Elementary School in Khan Younis.

Affidavit from one of Ghadeer's classmates

At about 10.30am on the morning of the 12th of October, we were sitting in our Arabic lesson when we heard shooting outside. Our classroom is on the ground floor, and as soon as the shooting began our teacher told us to lie on the floor. Ghadeer was just moving out of her chair when she fell to the floor clutching her abdomen. I saw blood.

The teacher came and picked her up and carried her to the hospital. Then the teachers came and told us to take our bags and go home.

When we realised Ghadeer had been injured and saw all the blood, we started crying and screaming. We were all so afraid. The bullet had come from a tank to the south which was stationed next to the settlement. Our school is very near the settlement. There used to be a house between our school and the settlement, but the soldiers demolished it. Now there is nothing to stop the bullets.



On other occasions children narrowly escaped death when Israeli tank shells and live bullets pierced the safety of the school. In June, two schoolboys were injured, one seriously, as they sat in their classroom on the second floor when a tank suddenly opened fire on the Tel Al-Sultan district of Rafah. In December, three tank shells were fired into the grounds of Tareq Bin Ziad school in Khan Younis, injuring eight pupils as they took part in their PE lesson outside. The children were all under the age of seven. On numerous other occasions school children have suffered from tear gas inhalation after soldiers have fired canisters into school premises.

Further disruption to the education system was caused by Israeli shelling and vandalism of school facilities, threatening the lives and the right to education of thousands of Palestinian students. Schools in the Gaza Strip have borne the brunt of Israeli aggression. As part of the May offensive on Rafah codenamed “Operation Rainbow”, Israeli armoured vehicles and bulldozers caused extensive damage as they drove through UNRWA school grounds, crushing the perimeter walls in order to force their way through.

During “Operation Days of Penitence” in the northern Gaza strip in late-September-mid-October 2004, the intense military bombardment from both tanks and helicopters resulted in extensive damage to a number of schools. In Jabaliya, tank shells and bullets were fired directly at the schools, destroying walls and classrooms, shattering windows and leaving desks and equipment crushed under the rubble. Tanks were stationed in the yard of one school and as Israeli forces moved into the crumbling buildings, much of the equipment that survived the initial onslaught, including computers, fax machines, fans and stationary, was looted and deliberately destroyed. In all, five UNRWA school compounds were damaged - two severely and the Rawdet Tal el Zatar kindergarten serving 500 children aged between three and four was crushed by bulldozers beyond recognition.

The cost of such destruction is enormous. Repairs to the UNRWA schools in Rafah were expected to run to \$10,000, while those for Jabaliya and Beit Lahiya were estimated at around \$100,000. UNICEF reported that it would take some \$20,000 just to replace the educational materials ruined in Operation Days of Penitence. But money alone is not sufficient to repair the damage wrought on the education system - the military offensive meant that tens of thousands of pupils and thousands of teachers from Jabaliya, Beit Lahiya and Beit Hanoun had to stay at home for several weeks. In total, UNRWA estimated that between 29 September-16 October, 13,938 teaching days were lost to the agency’s teachers.

The repercussions of such infrastructural damage continue well after Israeli troops withdraw from the affected areas. Whenever possible, students from the damaged schools are reassigned to functioning schools. However this inevitably leads to overcrowding and timetable changes, severely impairing the learning environment despite the best efforts of the teaching staff. Even when schools have survived the shelling intact, students are forced to vacate their classrooms as families whose homes have been demolished by bulldozers and tanks are temporarily re-housed in the school building.

In addition to such violations, Palestinian school children are routinely subjected to random acts of vandalism and are humiliated and taunted by Israeli soldiers often in a manner that seems deliberately designed at provoking a response from the students which the soldiers can then use as a justification for the use of force. Throughout the year, DCI/PS has recorded a number of incidents in which soldiers have forced their way into school grounds - in March a military jeep was reported to have driven round the yard of the Rakhma Mixed Primary School in Bethlehem at high speed, the soldiers then got out, stole the school flag and sign, and defaced the main door before speeding off again. Two months later, at the Seelit al-Thaher Vocational Training College in Jenin, a military jeep was again driven at high speed round the school yard while the students were doing their final exams. The soldiers threatened to close the school if the students didn't stop throwing stones. In September, at the Ibn Nafis Boys Primary School in Jenin, soldiers established a mini checkpoint between the two school buildings and refused to let children pass to and from their classes. At one point, the soldiers fired gas canisters into the school grounds which left 10 students suffering from tear gas inhalation.

Palestinian children not only have to run the gauntlet of Israeli soldiers, they are also frequent targets for harassment and violence by Jewish settlers living illegally in the West Bank and Gaza Strip. Girls at Qurtoba School in Hebron have to pass by settlements every day on their journey to and from school. The chicken wire suspended over the alleys they walk along is covered with rubbish and stones hurled down from the upper storey flats which Jewish extremists have occupied. Even the presence of international observers does not deter the settlers from waging their campaign of intimidation against the young students. In October, a group of girls accompanied by members of the Temporary International Presence in Hebron (TIPH) were forced to remain at school long after classes had ended to avoid being pelted with stones, eggs and glass bottles from Jewish settlers.

The settler violence against children from Tuba village south of Hebron has become so severe that children attending the al-Tuwani school two kilometres away now make a tortuous 10-kilometre hour-long trek over the hills rather than taking the direct route which passes between the settlements of Maon and Havat Maon. They have good reason to avoid the shorter trip. In September 2004, seven-year old Miriam Jundiya was hospitalised after an adult settler hit

her round the head with a stick. The following month the five children, aged between six and 12, and two international peace activists who were accompanying them were ambushed by a group of masked settlers armed with sticks, rocks and chains. The children managed to escape but the two adults were badly beaten - one sustained a broken arm and knee while the other suffered a punctured lung after his ribs were broken in the attack. Following a second attack on the international companions, the Israeli army informed residents of Tuba that no army patrol would be available to protect the children from the settlers if they were accompanied by internationals. Reluctantly, the villagers accepted that the Israeli military escort the children, but two days later, on 12 October, the children were again chased by settlers from Havat Ma'on. The Israeli army patrol, which was present, did not intervene.

Even in the absence of such blatant violations, Palestinian children's right to education are threatened on a daily basis by the 700+ checkpoints that carve the OPT into a patchwork of besieged towns and villages. The arbitrary decision-making process by soldiers manning the checkpoints makes it impossible for pupils and teachers alike to calculate how long the journey to and from school will take. Often, Palestinians are forced to find alternative routes, taking long and arduous detours on foot to avoid the checkpoints and roadblocks. By the time they arrive at school, students and teachers can be physically exhausted, stressed and upset all of which inevitably reduces their willingness and ability to learn and teach.

For children living in areas affected by the Segregation Wall, the trip to school is a daily nightmare.



Hayart is 14 years old. From her home in Daher al Malih, the school she attends is only a few kilometres away in the neighbouring village of A Tura il Gharbiya. It used to be an easy journey for students from Daher al Malih and the nearby village Umm al-Rihan to make. But that was before the mass of barbed wire and electrified fences that form much of Israel's separation wall in the northern West Bank snaked its way between Hayart's village and A Tura.

For although the Daher al Malih hamlet lies some six kilometres east of the Green Line it now falls west of the

Segregation Wall in one of the areas where the barrier lunges deep into the West Bank. Within the space of a year, residents of the cluster of villages have seen their livelihoods crumble as a maze of permit systems and gates has cut them off from friends, families, work and services in the West Bank.

Hayart and the other children still attend the school in A Tura. But nowadays the journey is fraught with difficulty and humiliation. To cross the barrier, it's necessary for the students to pass through a gate which is controlled by Israeli soldiers. The students from the Umm al-Rihan enclave are the only Palestinians allowed to use the gate but despite this fact, it is rare for the twice-daily opening to coincide with school opening hours.

"The school in A Tura starts at 8am, so the students have to cross through the wall before then," explains Hayart's grandmother. "But there is no knowing when the soldiers will turn up to open the gate - sometimes it's 7.30, but other days its 8.30 or even later."

It is not only lessons that the students miss. No effort is made on the part of the Israeli soldiers to ensure that the students reach school in time for the start of exams either, even though residents of the Umm al-Rihan enclave say it is clear the soldiers know when the exams are being held. "Since there are only a couple of children from each class coming from our side, the teachers cannot wait," says one resident "The lessons and the exams start without them."

The gate is supposed to open at 4 in the afternoon to let the students return home after school. Again the children find they are often left waiting in the open for the soldiers with the keys to come. The wait for some is longer than for others, for the afternoon opening time makes no concessions for the shorter school days of the younger students. The last lesson of the day for elementary school students is around 12.30, meaning they have to wait for at least three and a half hours before they're allowed home. "Very occasionally if they see kids waiting, a passing patrol will take pity on the students and open the gate early to let them home," says Hayart's uncle. "But most days they are left waiting and waiting. From our house we can hear them screaming in frustration."

The quantifiable impact of Israeli repression and violence is clear - students are dying, classrooms are ruined, enrolment is falling, school days are lost and pass rates are dropping. The long-term impact, both psychological and developmental, of such aggression is more difficult to measure, but no less important.

Education is not just a basic right intended to promote the development of the individual. Under the CRC, education is also singled out as playing a vital role in society. Through education comes respect for human rights and fundamental freedoms. It prepares children for responsible life in a free society.

By denying Palestinian children their right to education, Israel is thus not only violating their individual development, but also impeding the wider development of Palestinian society. If there is to be a just, lasting and comprehensive peace between Israelis and Palestinians, it is imperative that Israel recognises and upholds its responsibilities under international law, ensuring access to education for all children living in the OPT rather than systematically and deliberately violating this right.



Chapter 5

The Right to Adequate Healthcare

The Right to Adequate Healthcare

States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Article 24, Convention on the Rights of the Child

The year 2004 has not seen any improvements for Palestinians seeking to access health care services in the OPT. In fact if anything conditions have worsened. The continuing violence of the intifada places a cumulative burden on an already over-stretched and under-funded healthcare system. Hospitals and clinics struggle to cope as the injured are brought in from the front line of clashes or are pulled from the rubble of demolished houses. The ability of such medical facilities to function is seriously compromised as they too become casualties in the conflict: Israeli shelling from tanks and planes has caused severe damage to health care facilities; power cuts prevent life-saving equipment from functioning. Outside the hospitals the crisis is equally acute. The Palestinian Red Crescent Society (PRCS) reported that restrictions on the movement of ambulances in 2004 were among the highest since the outbreak of the intifada, and health practitioners, mobile clinics and other medical services continue to be delayed or forced to turn back at checkpoints and remain the object of deliberate attacks, hampering severely their humanitarian mission³¹.

The relentless construction of the Separation Wall poses an additional challenge to the already precarious health care system and has left thousands of people without any access to health care services. This number is expected to increase to tens of thousands if the proposed route of the Wall is completed.

Being amongst the most vulnerable and constituting 53% of the population (46% being under the age of 15), children are some of the worst affected by the critical situation. Four years of occupation and policies that directly or indirectly violate basic human rights including the right to healthcare, have left deep marks on the physical as well as mental well-being of Palestinian children.

Case Study

In mid-September, 2004 an 11-year old girl was severely injured when Israeli troops fired a rocket at her house in Yebna camp in Rafah, according to the Ministry of Health. The patient was hospitalized in the Gaza European Hospital and obtained a permission to be treated in a hospital in Israel.

In September 25, 2004, the coastal road was closed by Israeli forces, and the patient was not allowed to pass. The patient was transported by a donkey cart

along the sandy road on the beach. The monitor and the oxygen tube were hooked up to the patient on the donkey cart. About a kilometer before Gaza city, an ambulance was able to meet the donkey cart and transport the little girl to the Erez checkpoint, through which she was intended to pass before being transferred into another ambulance for the final leg of the journey to hospital. However, when the Palestinian ambulance arrived at the Gaza side of the Erez crossing, the Israeli soldiers denied the patient access to Israel.³²

Restrictions on the freedom of movement:

The more than 700 obstacles,³³ including checkpoints, earth mounds, dirt piles, iron gates and trenches scattered all over the West Bank and Gaza, that have reduced to a bare minimum the Palestinian population's freedom of movement, pose a profound obstacle to people's ability to access health care services. The barriers are not only a physical impediment for people seeking medical treatment, but have contributed to rising poverty rates which further hamper Palestinians ability to access health services. Medical staff are unable either to travel to their work, visit patients at home or attend emergency cases. Local clinics are unable to restock or take in new consignments of medicine or equipment. The movement restrictions also have a long-term impact on the quality of health services on offer: training courses are disrupted and often cancelled as participants and trainers alike are unable to reach the training venue, and attending a conference overseas had become a logistical nightmare.

At checkpoints, little or no distinction is made between people in need of health care and those wishing to pass for other reasons. Where such a distinction is made, a determination of the urgency of medical care required is often left to the judgment of the individual soldier, who at best has nothing more than the most rudimentary knowledge of first aid. Medical professionals and ambulance drivers can run huge risks when waiting at gates or checkpoints. They are subjected to the same restrictions as ordinary Palestinian citizens, but the urgent nature of their duties often means they cannot afford to endure the same length of delay enforced on other Palestinians at checkpoints. At gunpoint, and against the mounting anger of soldiers manning the roadblocks, paramedics and medical staff have to try and persuade the Israeli troops to let them pass. Often, soldiers insist on searching the ambulances and sometimes also the patients, causing unnecessary and sometimes life-threatening delays. In October 2004 alone, the Palestinian Ministry of Health recorded 63 delays of ambulances at checkpoints and 20 were denied access completely. While searches are being conducted, patients and medics are often forced to leave the vehicle; it is not unusual for medics to be harassed, beaten up or even arrested.

The consequent uncertainty, fear and sense in futility in attempting to cross checkpoints has led to a significant drop in the number of patients even attempting to seek medical treatment outside their immediate vicinity.

³² Health inforum News, Volume 3, No.53, 1 October, 2004.

³³ OCHA Humanitarian Information Factsheet, January 2005.

This in turn has led to an exponential rise in the number of people needing of urgent health care, as patients, unable or unwilling to seek medical help at the early stage of illness when treatment is possible, find their conditions worsening over time.

Case Study

In the morning of 12 February 2004, a PRCS ambulance was transporting a three-year-old child from Bani Naim village in Hebron to a hospital in Jerusalem. At the Gilo checkpoint in Bethlehem, Israeli soldiers stopped the ambulance in order to search it. The child's mother was ordered to leave the ambulance for a body search. The ambulance was delayed for one and a half hours and was finally denied access. The ambulance was then obliged to take an alternative route to reach the hospital in Jerusalem.

Source: PRCS

Curfews, closures and physical barriers to movement not only have an impact on emergency cases, but also have hampered the implementation of healthcare programmes such as immunization campaigns which are vital to protect the immediate and long-term health of Palestinian children. Under Israeli occupation, the distribution and coordination of vaccines often cannot be guaranteed and undertaken within the requisite time period. This has led to an increase in communicable diseases throughout the OPT. For instance, a vaccination campaign in the northern Gaza area of Beit Hanoun, carried out in July 2004, succeeded in reaching only 85% of the targeted children. Health professionals were unable to get to the remaining 15% as they were living in areas under curfew at that time.³⁴ A measles inoculation campaign, reached 90% of children under the age of 5, yet less than two thirds have acquired immunization. The failed immunization was suspected to have been caused by an inactivation of the measles vaccine due to delays at checkpoints and the mishandling of the vaccines by Israeli soldiers.³⁵

Pregnant women have been particularly hard hit by the disruption of healthcare services and movement restrictions. Not only do many women face severe difficulties in having their pregnancies monitored properly (antenatal care dropped from 82.4% by the end of 2002 to 71% by the end of 2003), but they are also often forced to deliver their babies in circumstances which do not meet the necessary levels of medical attention. Although the PA has a goal of hospital delivery for all women, a study conducted by Oxfam and the Health, Development, Information & Policy Institute (HDIP) found the number of deliveries in hospitals dropped to less than 50% by September 2002 as opposed to 98% before the intifada. Women are being forced to deliver in ambulances, local clinics or at home due to delay or denial of passage. The Ministry of Health reported 61 cases of women forced to give birth at checkpoints from the beginning of the intifada to October 2004, resulting in the death of 36 newborn infants³⁶. Concern

³⁴ (www.healthinformum.org)

³⁵ UN Consolidated Appeals Process – OPT, 2005, p. 11.

³⁶ Palestinian Ministry of Health statistics, Oct. 2004

for the welfare of their babies and themselves is prompting more and more women to opt for home deliveries, which have more than doubled since the start of the intifada. In the event of complications arising before, during or after labour, there is often no specialized person present to provide the necessary treatment. Consequently, both the lives of the mother and child are put at risk. Closures and travel restrictions, in addition to the unavailability of specialized staff have led to a 56% increase in stillbirths since the beginning of the intifada³⁷.

In the early morning of 28 December 2004, a PRCS ambulance was transporting a woman in labour to a local Palestinian hospital in the Gaza Strip. At Al Tuffah checkpoint, the ambulance was stopped and denied passage. The woman was experiencing labour complications, and the ambulance crew tried to explain to the soldiers the urgency of reaching the hospital; however this information was ignored. After approximately two hours, the woman delivered her baby in the ambulance. A second PRCS ambulance arrived at the other side of the checkpoint shortly after the birth and a back to back transfer took place.

The impact of the Wall:

The continuous construction of the Separation Wall is having an additional detrimental effect on the already precarious health care system. The impact is particularly negative on those Palestinians living in the area between the Green Line and the Wall, who are barely able or completely unable to access any health care services. Currently, there are 93,200 Palestinians living in such areas, but if the proposed route of the Wall is completed, this number will rise to 325,660 Palestinians who will be residing in one of the 11 separate enclaves created by the Wall (areas where people are completely surrounded by the Wall), or in areas that will be directly affected by it³⁸. In other words, a total of 32.7% of the West Bank villages will be denied or severely restricted from accessing health care services³⁹. Already, 26 local clinics are disconnected from the general Palestinian health system and it is estimated that the number will rise to a total of 71 once the Wall has been completed. In addition, about 52% of doctors have reported that they are delayed on their way to work or are unable to reach work at all due to the existence of the Wall⁴⁰. As a consequence of the lack of professional staff, restrictions on movement and the isolation of health care clinics, 117,600 pregnant women, of which 17,640 are high risk pregnancies, will not be able to receive the treatment they require such as antenatal, postnatal and well baby services, in addition to possibly being forced to give birth at home.

Also, the implementation of vaccination campaigns will be severely hampered, with an estimated 133,000 children under the age of 5 not being able to receive the required vaccines on time or at all.

³⁷ Palestinian Ministry of Health statistics, Oct. 2004

³⁸ OCHA: "The humanitarian impact of the West Bank Barrier on Palestinian Communities", 1 Sept 2004

³⁹ Palestinian Ministry of Health's Report to WHO, May 2005

⁴⁰ HDIP: Health and Segregation: impact of the Segregation Wall on access to health care services, 2004.

Currently, the Wall has 55 gates, however Palestinians are barred from using more than half of these⁴¹. The remaining gates require special permits to enter and exit and are subjected to uncertain and short opening hours. In emergency situations particularly, this can have fatal consequences.

Case Study

Ras Atieh and Habla villages are located three kilometres south of Qalqiliya city. They have been completely encircled by the Wall and as a result are cut off from the West Bank and Qalqiliya city - itself surrounded by the Wall - where basic and emergency health services, including hospitals, are located. Following completion of the Wall, inhabitants of these villages are now forced to travel an extra 30 km to reach Qalqiliya, and they can only do this if they have the requisite permits. Both Qalqiliya and the villages of Ras Atieh and Habla have only one gate each through which they can enter and exit the West Bank. These gates are subject to uncertain opening hours.

On Sunday morning, 8 February 2004 Mohammed Hashem, a two year old child from the village of Ras Atieh, began feeling sick and quickly developed a high fever. Mohammed's parents brought the child to the local doctor in Habla who advised that the boy be taken to hospital immediately. Mohammed's father set off immediately to take his son to the hospital in Qalqiliya.

When the father arrived at the gate of the Habla - Ras Atieh enclave, he found it closed and there were no soldiers on hand to open it. The Hashem family was then forced to travel further south to the village of Azzun, where an ambulance was waiting to take the child to the hospital in Qalqiliya. This journey took the family more than one hour during which the child's situation deteriorated considerably. Mohammed was quickly transferred to the ambulance which set off at once towards the only gate giving access to Qalqiliya. However, this last part of the journey proved too much for little Mohammed, and tragically the child died before he was able to reach the hospital.

Source: PENGON/ Anti-Apartheid Wall Campaign, 18 February 2004

Gaza:

In Gaza, the humanitarian crisis in the health sector reached new levels over 2004, due to violent and destructive Israeli invasions and prolonged closures of the Erez crossing into Israel and the Rafah terminal controlling entry and exit to Egypt.

The health services suffered profound setbacks during the prolonged Israeli military raids into the northern and southern areas of the Gaza Strip in May, September, October and December 2004. Despite the urgent need for emergency medical services

⁴¹OCHA: "The humanitarian impact of the West Bank Barrier on Palestinian Communities", 1 Sept 2004.

to treat the injured, ambulances were routinely prevented from either reaching the wounded or taking them to hospital. As a result of the curfews and movement restrictions, many medical staff were unable to reach their places of work, out-patient attendance more than halved in clinics, non-urgent medical services such as family planning and dental services were suspended and child vaccination programmes and provision of ante/post natal care were reduced⁴². Moreover, their protected status in international humanitarian law did little to shield hospitals and healthcare facilities from the random shelling and shooting of the attacking Israeli forces.

Case Study

On 22 December at 11.30 pm, Israeli forces destroyed the eastern and western walls of the Mubarak building, the maternity department of the Nasser hospital in Khan Younis, and stationed their tanks inside the hospital until the following morning. The tanks, positioned opposite the neonatal intensive care unit, were continually shooting and firing shells, causing damage to all neonatal intensive care unit windows and the break down of the air compressor. At the time, six premature babies were hospitalized in the unit. One of the babies in the unit was incubated and supported by a mechanical ventilator. After the air compressor was damaged, medical staff provided manual ventilation in extremely difficult working conditions for three hours until the compressor was fixed. However, the unit's medical director reported that the manual ventilation was not enough to save the life of the baby, who died 12 hours later⁴³.

The prolonged closure of Rafah terminal, which is the access point for the overwhelming majority of Gaza residents to areas outside the Gaza Strip, triggered a catastrophic humanitarian situation. Due to the lack of specialized health care services in Gaza, and Israel's refusal to let Gazans travel to the West Bank, those in need of more complex medical assistance have to travel to third countries. The World Health Organisation (WHO) estimated in a July 2004 report that on average 60 patients a day were crossing Rafah terminal in each direction⁴⁴. The first closure, between 18 July and 6 August 2004, resulted in a disastrous humanitarian situation. Approximately 2,500 people were stuck outside Rafah terminal, including hundreds returning from medical treatment abroad.



⁴² UNRWA Humanitarian Assessment of Israel's Incursion into Northern Gaza, 21 October 2004

⁴³ Health inforum News, Volume 4, No.56, 1 January, 2005.

⁴⁴ OCHA, "Situation Report Rafah Terminal", 19 January 2005.

In the torrid heat, and with a lack of sanitary facilities and water and having had no option but to sleep on the ground, one pregnant woman went into labour at the terminal, while two others suffered miscarriages.⁴⁵

The terminal remained closed for 49 consecutive days between 12 December 2004 and 30 January 2005. Among the thousands of people that were stranded at the terminal, there were 877 patients on their way back from treatment and surgery in Jordan and Egypt, many of whom were in urgent need of follow-up treatment. Of this number, there were about 100 patients aged between 0-16 years, half of them being less than 5 years old⁴⁶.

Mental Health:

Palestinian children are exposed to continuous violence, checkpoints, the effects of the Wall and other occupation-related phenomena. This reality has had a extremely detrimental effect on the children's psychological well-being. It is not only the personal suffering they are exposed to themselves but also the violence that they witness perpetrated against family members and others, as well as the humiliation endured by Palestinians on an almost daily basis. A study revealed that 48% of Palestinian children have reported being exposed to conflict-related violence or having been witness to violence against a family member⁴⁷. This violent environment and its consequential impact on the psychological health of Palestinian children manifests itself in a variety of forms, ranging from bedwetting, nightmares, increased aggressiveness, anxiety and poor school achievements, in addition to symptoms of depression. These symptoms, in particular aggressive behaviour, have been further aggravated by the Wall. Children living in areas affected by the Wall showed a higher aggressive attitude (44%) than children living inside the West Bank.⁴⁸

A study revealed that 89% of parents have witnessed the behavioural changes of their children, with 93% reporting that their children felt unsafe and exposed to attacks and feared not only for themselves but also for family and friends.⁴⁹ Increasingly, parents have reported their perceived inability to meet their children's needs and protect them under the present circumstances.⁵⁰ Under the circumstances, it is scarcely surprising to find that, in the first two years of the intifada alone, new admissions to mental health clinics in the OPT rose by 105%, of which the majority were children under the age of 18⁵¹.

⁴⁵ Health inforum News, Volume 3, No.53, 1 August, 2004.

⁴⁶ Health inforum News, Volume 4, No.57, 1 February 2005

⁴⁷ UN Consolidated Appeals Process - OPT, 2005, p. 7.

⁴⁸ Ibid., p. 12.

⁴⁹ Secretariat of the National Plan of Action for Palestinian Children, "Children Situation in Palestine", September 2004.

⁵⁰ UNICEF Humanitarian Action: Occupied Palestinian Territory Donor Update 10 Nov 2004.

⁵¹ Save the Children Sweden & UK, Growing up under Curfew: Safeguarding the Basic Rights of Palestinian Children. March 2003, p. 20



Conclusion

It is evident from the cases examined in this report, and the hundreds of thousands more that occurred over the course of 2004, that Israel is failing in its duty, as the Occupying Power of the territories, to protect the human rights of the civilian population. In spite of Israel's clear and well defined legal obligation to respect and ensure Palestinian children's rights, Israel continues to deny the applicability of the CRC and other human rights treaties to the OPT. Meanwhile, its military forces simultaneously perpetrate systematic violations of Palestinians' fundamental rights as they enforce policies, sanctioned by the government of Israel, which are aimed at controlling Palestinian land and the movement of persons and goods in these areas.

With the Israeli government's persistent refusal to recognize the applicability of the Fourth Geneva Convention in the occupied territories, responsibility for enforcement falls to the international community. Article 1 of the Geneva Conventions places a duty on High Contracting Parties not only to respect the Conventions, but also to ensure their respect by other state signatories too. "Article 1 is no mere empty form of words," the commentary to the article states, "but has been deliberately invested with imperative force"⁵². Thus signatory states to the convention must use all lawful means at their disposal to bring the offending state into compliance with the Convention. States Parties are under an obligation to "seek out and prosecute the guilty parties" which means they may either bring such persons before their own courts, regardless of the nationality of the offender, or, if they prefer, and in accordance with their own legislation, hand such persons over for trial to another High Contracting Party concerned, providing such party has made out a prima facie case⁵³.

The term 'regardless of nationality' implies universal jurisdiction - the ability of the court of any state to try persons for crimes committed outside its territory which are not linked to the state by the nationality of the suspect or the victims or by harm to the state's own national interests.

The obligation to prosecute grave breaches of the Convention, which under Article 147 of the Fourth Geneva Convention include wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health, or wilfully depriving a protected person of the rights of fair and regular trial, arguably makes prosecution, not merely permissive, but mandatory.

The reluctance of world leaders to pursue these measures which are not just available to them, but incumbent upon them, has enabled the suffering of the Palestinian population in general, and Palestinian children in particular, to continue unchecked. Each successive day that the international community of states fails to bring pressure to bear on Israel to comply with its legal obligations, the rights of Palestinians in the OPT are eroded yet further.

⁵² ICRC Commentary, at 17.

⁵³ ICRC Commentary, at 592-593.

The challenge must therefore lie not with the states, but with the individuals forming the state. DCI/PS hopes that this report will encourage people from across the world to take action themselves, and lobby their politicians and governments to abide by their legal commitments to protect the rights of Palestinian children.

Yet another generation of Palestinians is growing up against a backdrop of violence and poverty. These repeated violations of their fundamental rights cannot but fail to have a long-term impact on the physical and psychological development of many thousands of children. And as long as the illegal occupation of Palestinian land continues, there can be no real, meaningful end to the suffering. It is only with freedom and justice that Palestinians will finally be able to exercise their right to live with true dignity, and that Palestinian children will be able to live normal lives, and experience the real joys of childhood.



Defence for Children International
Palestine Section

Ramallah - Al-Bireh
P.O. Box: 5528-1, Jerusalem
Tel: +972 (0) 2 248 7500
Fax: +972 (0) 2 248 7510
E-mail: dci@dci-pal.org

www.dci-pal.org