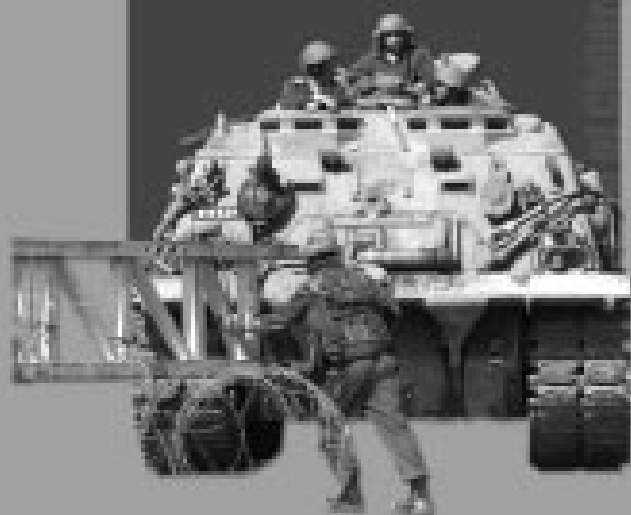




Defence for Children International
Palestine Section

Use of Children in

**the Occupied Palestinian
Territories**



Perspective on Child Soldiers

**Rhoad Anton Shomafy
July 2004**





Copyright © 2004 by Defence for Children International/Palestine Section

Any quotation up to 500 words may be used without permission provided that full attribution is given. Longer quotations or entire sections or chapters of this study may not be reproduced or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise or stored in any retrieval system of any nature, without the express and written permission of DCI/PS.

Contents

Preface	5
Introduction	7
Children in Armed Conflict	9
International Legal Standards Governing the Recruitment of Child Soldiers	9
International Humanitarian Law and Child Soldiers	9
International Human Rights Law and Child Soldiers	10
International Criminal Law and Child Soldiers	11
International Labour Law and Child Soldiers	12
Child Soldiers in the Palestinian Context	13
National Laws Related to Child Soldiers	13
Palestinian Parties	14
Fateh Movement	15
Hamas Movement	19
Popular Front for the Liberation of Palestine	19
Islamic Jihad Movement	20
Palestinian Children Involved in Armed Attacks	23
Children Killed During Their Involvement in an Armed Attack	23
Children Arrested on Allegations Related to Armed Attacks	24
The Occurrence of Palestinian Child Soldiers	28
Israeli Intelligence Agencies' Recruitment of Palestinian Child Collaborators	29
Extent of Child Recruitment by the Israeli Occupying Forces	31
Responsibility for Recruiting Palestinian Children	37
Media and Palestinian Children	39
Conclusion	43

Acknowledgements

On behalf of Defence for Children International/Palestine Section I would like to express my sincere gratitude to the Coalition to Stop the Use of Child Soldiers for facilitating this report and the Government of Finland for its generous financial support.

The content and views in this report do not necessarily represent the Coalition or its individual members of the Coalition's Steering Committee, nor those of the Middle East - North Africa Network to End the Use of Child Soldiers.

The organisation also wishes to thank the DCI/PS network of fieldworkers in the West Bank and Gaza Strip for their time, assistance and contributions.

<i>Researcher</i>	Jihad Shomaly
<i>Consultant</i>	Catherine Cook
<i>Editor</i>	Catherine Richards

General Director
George Abu Al-Zulof

Preface

Many obstacles were encountered by Defence for Children International/Palestine Section (DCI/PS) in the course of carrying out the research for this report. The majority of these difficulties were the result of Israel's occupation of Palestinian Territories. Popular understanding of Israel's occupation reduces the situation to Israeli military presence on Palestinian land. In reality, the occupation is a system of control that permeates every sector of Palestinian society and each aspect of daily life.

Carrying out research in this context often makes it difficult to achieve the goals of the research, in terms of tracking down facts and information. It is also risky and can place the researcher in danger. In researching the issue at hand, the main researcher needed to conduct interviews with politicians, leaders of armed militant groups, representatives of the various political factions, and former child collaborators.

Simply meeting these individuals was an arduous task given the difficulties Palestinians face travelling from one city in the Occupied Palestinian Territories (OPT) to another in a strict environment of Israeli closures, roadblocks and curfews. For example, during the course of conducting research for this report, DCI/PS's researcher attempted to travel to Nablus, in the northern West Bank, in order to conduct interviews with members of the Palestinian resistance. At Huwara checkpoint outside Nablus, Israeli soldiers refused to allow the researcher to pass. The researcher then decided to walk through the nearby hills with other Palestinian youths, who were also refused entry. While the trip takes close to two hours, and can be dangerous, it is a journey that Palestinians are forced to take regularly if they wish to go about their daily lives.

Upon arrival to Nablus, the researcher headed for Al Yasamen Hotel, in the old city of Nablus. The first night at the Hotel was tense, as Israeli forces invaded the Old City at 1am. Shortly after invading, the soldiers opened fire in the vicinity of the hotel - an attack which lasted until 4:15am. One hotel worker informed the DCI/PS researcher that this was a normal occurrence in Nablus.

Perhaps most difficult was making contact with and developing a line of communication with representatives of Palestinian armed factions. In order for such contact to be possible, and useful, a level of trust between the researcher and the representative had to be established - a difficult, and possibly hazardous, task in the current environment. Israel's attack on all levels of Palestinian political activists made even simple phone communication difficult. DCI/PS's researcher had to be very creative in contacting these individuals and arranging meetings with them.

Israel's ongoing policy of arrests and extra-judicial killings made arranging meetings and establishing trust difficult. For example, on one occasion, the DCI/PS researcher scheduled a meeting with an Islamic Jihad leader, but prior to the meeting, the person

was arrested. On another occasion, a meeting was scheduled with a Hamas leader, but prior to the meeting, Israel assassinated the Hamas leader Abd Al Aziz Al Rantisi. Consequently, the meeting was cancelled for security reasons.

The policy of extra-judicial killing of Palestinian militants also placed the researcher in direct danger. Over the past several years, many innocent Palestinian civilians, including children, have lost their lives as a result of these unlawful assassinations, simply for being in the same area as the targeted activist. Moreover, initiating contact and developing relationships with armed Palestinian militants places the Palestinian researcher at risk of detention. A common practice, both historically and particularly in the previous and current Intifada, has been the “administrative detention” of Palestinians - imprisonment without charge or trial. In many cases, the sole reason given is the allegation that the detained person poses a threat to state “security.” Initiating contact with members of armed groups, places any Palestinian at greater risk of being viewed a “security” threat.

Similarly difficult was making contact with former child collaborators. While DCI/PS views child collaborators as victims of Israel’s occupation, it remains difficult for former collaborators - be they children or adults - to speak openly about their activities.

In the course of interviewing representatives of Palestinian armed factions, DCI/PS researcher concluded that there is no cohesive structure that connects the sub groups of the same militant group as a result of the occupation, which make it difficult for these groups to have a unified policy of recruitment. Furthermore, representatives of these groups, to some extent, failed to hold responsibility of recruited children and to admit the numbers of children were involved in armed attacks.

1

Children in Armed Conflict

Children are among the most vulnerable groups affected by armed conflicts. They are often recruited as combatants, or targeted directly and indirectly by violence. During the last several decades, children from various locations in the world have suffered severely as a result of wars and conflicts. Research, reports and documentation reflect that the suffering of children has increased as result of wars and conflicts. The percentage of civilians, mostly children and women, to have lost their lives in the twentieth century reached 90%, compared to 5% in the nineteenth century¹. Between the years 1990 to 2000, the number of children that lost their lives as a result of wars and conflicts reached two million. More than six million children were severely injured, more than four million disabled and over one million orphaned; twenty million children were displaced within and outside their country; and more than ten million children have been psychologically scarred by the trauma of abduction, detention, sexual assault and the brutal murder of family members. Additionally, millions of children have suffered sexual abuse, severe psychological trauma, and malnutrition and have been deprived of their families, community, and education and health services².

Children are not affected by conflicts in the same way as adults. The capacity of children to adapt and respond to environments of conflict and its consequences are limited. Because of their emotional and physical immaturity, children are easily manipulated and can be drawn into violence that they are too young to resist or understand.

Moreover, each conflict has different effects on children. In the Sierra Leone conflict, for example, the problem of child soldiers erupted and resulted in the phenomena of extensive use of child combatants. However, in the conflict in the areas of the former Yugoslavia, the phenomena of child soldiers did not spread.

Recent statistics shows that more than 500,000 children have been recruited into state and non-state armed groups in over 85 countries worldwide. The numbers of active child soldiers currently fighting is 300,000, in government armed forces or armed opposition groups worldwide. Most child soldiers are between the ages of 15 and 18 years, but some are as young as seven years old³. State and non state groups recruit children because they are obedient fighters, and are easier to manipulate into effective combatants. Propaganda and ideological 'brainwashing' can also entice children to join armed groups.

¹ Impact of Armed Conflict on Children. Report of the Expert of the Secretary General. Graca Machel, submitted pursuant to General Assembly Resolution 48/157, UN Doc A/51/306, 26 August 1996.

² "The Impact of Armed Conflict on Children: A critical review of progress made and obstacles encountered in increasing protection for war-affected children", Graca Machel, presented at the International Conference on War-Affected Children, September 2000, Winnipeg, Canada, p5.

³ Coalition to Stop the Use of Child Soldiers [www.child-soldiers.org].

Recruiting children into armed forces has significant negative and devastating effects not only on children themselves, but also on society as a whole. Children recruited obviously lose the opportunity of education and grow up psychologically traumatised - deprived the right to live in a safe environment within their families. The future of those children that survive, even if not disabled or traumatised, is often miserable and difficult and fraught with economic instability due to their low level of education.

Definition of Child Soldier

The UN Convention on the Rights of the Child (CRC) defines a child as any person under the age of eighteen. However, Article 38, governing children and armed conflict, uses fifteen as the minimum age for recruitment and participation in hostilities. This low standard of protection remained irregular among the Convention's other strong provisions. Thus the CRC concentrates protection on those who are under 15.

Several years after the Convention's adoption, a UN working group was created to draft an optional protocol to the CRC that would raise the minimum age for recruitment and participation in hostilities to 18. In 2000, a new international optional protocol to the CRC was introduced to prohibit the use of children as combatants. The new protocol on the involvement of children in armed conflict establishes 18 as the minimum age for direct participation in hostilities, for compulsory recruitment, and for any recruitment or use in hostilities by non-governmental armed groups.

The Coalition to Stop the Use of Child Soldiers (CSC) defines a child soldier as any person less than 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers, and those accompanying such groups, other than purely as family members. According to the CSC, child soldiers may perform tasks ranging from direct participation in combat; military activities such as scouting, spying, sabotage, acting as decoys, couriers or guards; training, drill and other preparations; support functions such as portering and domestic tasks; sexual slavery and forced labour.

DCI/PS believes it is important to stress that in situations of armed conflict, there is often intermingling between children and armed militants that do not necessarily result in the characterisation of the child as a soldier. In the Palestinian context, solidarity among the community has been high, particularly during the first and second uprisings against Israeli occupation. During these periods, virtually any Palestinian – adult or child – would provide assistance to another Palestinian – be they an armed militant or unarmed demonstrator – whom the occupying authorities were pursuing. Child soldiering implies recruitment, military training and use as a generalised policy. According to the Coalition to Stop the Use of Child Soldiers: “while there are reports of children participating in hostilities, there is no evidence of systematic recruitment by armed groups [in the OPT]⁴”.

⁴ CSC 1371 Report, November 2002.

The International Legal Standards that Govern the Recruitment of Child Soldiers

A fundamental element of child protection is the recognition that States have the primary responsibility for protecting the human rights of all persons within their territories. Children share protected universal human rights with all other persons, but, because of their dependence, vulnerability and developmental needs, they also have certain additional rights. There are four main international bodies that govern the protection of these vulnerable children, including placing restrictions on their recruitment as soldiers. These are:

- International Humanitarian Law
- International Human Rights Law
- International Criminal Law
- International Labour Law

International Humanitarian Law and Child Soldiers

The international community has been attempting to regulate armed conflicts through international humanitarian law. International humanitarian law is the body of law that seeks to regulate the methods and means of armed conflicts, war and occupation. In particular, it seeks to protect persons that are not taking part in hostilities.

The most significant humanitarian law conventions applicable today are the four Geneva Conventions of 1949 and their two protocols of 1977. The Fourth Convention deals specifically with the protection of civilians.

The primary focus of the four conventions is the regulation of international armed conflict. However, the Fourth Geneva Convention exclusively seeks to provide protection for civilians during armed conflicts. The Convention contains a limited number of provisions which bind its parties to provide special protection in times of war to children, to assist family reunification, and to provide assistance to children who lose track of their families as a result of the conflict.

The definition of “children” as those under the age of 18 years old was not accepted by the international community at the time that the Conventions were drafted. Consequently, the special provisions granted to the protection of children by the Geneva Conventions only apply to children under the age of 15 years old, weakening the protections provided to those now considered children by the international community.

Another weakness in the Conventions is that they do not apply to conflicts within the state itself, but to those between state parties. However, common Article three of the Conventions compensates somewhat for this shortcoming by requiring that all parties to a conflict respect minimum humanitarian law, which is applicable not only in conflicts between two or more States, but also when the conflict occurs on the territory of a single State, for example, between government and rebel forces. However, this

requirement is not generally considered sufficient to regulate the growing number of internal conflicts⁵.

As a result of the inadequate level of protection offered to victims of armed conflicts, including children, the international community, through the United Nations General Assembly, adopted two additional protocols to the Geneva Conventions. These are Protocol I, concerning the Protection of Victims of International Armed Conflicts and Protocol II, concerning the Protection of Victims of Non-International Armed Conflicts.

These protocols are considered the first obligatory international treaties which address the recruitment of children in armed conflict and aim at excluding their recruitment as far as possible, particularly by forbidding the recruitment of people under 15 years old⁶. Moreover, Protocol I encourages the parties to a conflict, to recruit older children first, if they intend to recruit children between the ages of 15 and 18 years old⁷.

Despite the above-mentioned rules, children who take direct part in international armed conflict are recognised as combatants and, in the event of their capture, are entitled to prisoner-of-war status under the Third Geneva Convention. The two Additional Protocols provide that child combatants under 15 are entitled to privileged treatment in that they continue to benefit from the special protection accorded to children by international humanitarian law⁸. Moreover, article 4 (3) (c) of Protocol II, bars the recruitment of children under 15 years old in the armed forces.

International Human Rights Law and Child Soldier

Due to increasing violations of children's rights globally, children's rights were outlined by the international community through the UN Convention on the Rights of the Child (CRC) in 1989. The convention grants children of the world a set of indivisible economic, social, cultural, civil and political rights.

The significance of the CRC lies in the fact that it is the most commonly ratified human rights treaty in history. Currently, only the United States and Somalia have failed to ratify it. Also significant is the Convention's definition of a child as anyone under the age of 18 years old.

Articles 38 and 39 of the CRC specifically address the protection of children in times of war. Article 38 requires state parties to respect and *to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child; and to take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities; and to refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen*

⁵ Children and Armed Conflict. A Guide to International Humanitarian Law. By Rachel Harvey. 2001. Pg. 8.

⁶ Article 77 (2) of Protocol I and article 4 (3) (c) of Protocol II.

⁷ Article 77 (2) of Protocol I.

⁸ Article 77 (3) Protocol I and Article 4 (3) (d) Protocol II.

years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

Article 38 of the CRC is an anomaly in using a 15 -year minimum age of recruiting children in armed forces and does not impose an absolute duty on state parties to ensure the care and protection of children in times of conflicts.

Article 39 of the CRC addresses the topic of rehabilitation and reintegration of child victims of armed conflict and obliges state parties *to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.*

On 25 May 2000, the United Nations General Assembly adopted by consensus an Optional Protocol to the CRC on the involvement of children in armed conflict, which raises the age at which direct participation in armed conflict will be permitted and establishes a ban on compulsory recruitment below 18 years of age. The Optional Protocol to the CRC, which entered into force in February 2002, obliges State Parties to make a declaration, upon ratification, regarding the age at which national forces will permit voluntary recruitment, as well as the steps that State Parties will take to ensure that such recruitment is never forced or persuaded. In addition, State Parties are obliged to take all feasible measures to prevent any recruitment and use of children under 18 years old by armed groups, including legal measures to prohibit and to penalise such practices.

International Criminal Law and Child Soldiers

Other international instruments that relate to the issue of child soldiers are the Statute of the International Criminal Court (ICC). In principle, the ICC has no jurisdiction over children who are under the age of 18 at the time of the alleged committing of a crime. The decision to exclude persons under 18 recognises that children are not likely to hold positions of leadership during armed conflict, and that other mechanisms - such as national courts or truth commissions - are more appropriate forums to address crimes allegedly committed by children. Therefore the role of a child in the ICC process is restricted to that of victim and/or witness.

While children can become victims of any of the crimes within the jurisdiction of the Court, the Rome Statute lists some child-specific crimes, which by definition can only be committed against children, such as recruiting children under 15 into military forces or other armed groups. Thus, the ICC has jurisdiction over the war crime of conscription or enlisting children younger than 15 years into national armed forces or armed groups, or of using them to participate actively in hostilities. Although the Statute uses the terminology of conscription or enlistment of under-15s, this is accepted as meaning the same as recruitment in the other treaties⁹.

⁹ Article 8 (2) (b) (xxvi) and (e) (vii), of ICC Rome Statute.

The Elements of Crimes require that the perpetrator “knew or should have known” that such a person was under the age of 15 years¹⁰. It should be noted that the practice of recruitment or of using children to participate in hostilities must reach serious proportions in terms of the child’s involvement in military activities before prosecution by an international judicial body will take place.

International Labour Law and Child Soldiers

In June 1999, the 87th General Conference of the International Labour Organisation adopted the Worst Forms of Child Labour Convention. Entering into force in November 2000, the convention commits each State Party to “*take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency*”¹¹. The Convention identified the worst forms of child labour as *all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict*¹².

Moreover, the convention defined a child as any person under the age of 18 years old¹³, thus making the first time that an 18 year minimum age limit was set in relation to child soldiering in an international treaty and the first specific, legal recognition of child soldiering as a form of child labour.

¹⁰ Article 2 (b) (xxvi) and (e) (vii). ICC Rome Statute, Elements of Crimes.

¹¹ Article 1, ILO Convention No. 182 on the Worst Forms of Child Labor.

¹² Article 3, ILO Convention No. 182 on the Worst Forms of Child Labor.

¹³ Article 2, ILO Convention No. 182 on the Worst Forms of Child Labor.

2

Child Soldiers in the Palestinian Context

National Laws relating to Child Soldiers

An assessment of the current Palestinian legal situation demonstrates a number of clear problems relating to the existence of child rights law and its application. One key issue is the law itself, which is an amalgamation of Ottoman Codes, British amendments thereto, Mandatory and Emergency Regulations from the period of the British mandate, Jordanian laws and constitutional principles, and Israeli military orders. As each colonial, administrative or military power retreated, it left behind an entire legal system or set of administrative orders, which operated with the force of law. For example, it is estimated that the Israeli military authority has issued more than 1,500 military orders in the West Bank and 1,100 in Gaza since 1967.

Moreover, because the West Bank and the Gaza Strip are geographically separated and have historically been administered by different powers, they also have inherited different codes, such as the penal code. The result is that there are substantial discrepancies between the laws applicable in Gaza and those applicable in the West Bank even though the two areas are to be considered, following the Oslo Accords, as “a single territorial unit.”

The current legal system, which is an amalgamation of at least five different legal systems, not only lacks unity and falls short of international standards, but also seriously fails to act in the best interests of the child. Following the transitional agreements that the Palestinian Authority (PA) signed with Israel, and following the first elections that were carried out in January 1996, a Palestinian Legislative Council (PLC) was founded. In the process of pursuing its powers, the PLC drafted and ratified many new laws, including a Palestinian Child Draft Law.

The new Palestinian Child Draft Law, which has passed through the second reading, and is awaiting ratification states clearly in paragraph one of article 46: “Children shall not be used in military actions or armed conflicts. The state shall take all the appropriate measures to guarantee the above.” The article proceeds to note that: “The state shall take all appropriate measures for the physical and mental rehabilitation and social reintegration of child victims of armed conflicts and from the difficult cases set forth in article (44) herein above.”

The Palestinian Child Rights Coalition is currently lobbying for the inclusion of an article in the Palestinian Penal Draft Law that criminalises the recruitment of children in armed conflicts.

Palestinian Political Parties: Overview and Their Position on Child Recruitment

The Palestinian Liberation Organisation (PLO) was founded in 1964. The over 400 founders of the PLO set up the Palestine National Council (PNC), the PLO Executive Committee, a National Fund, the Palestine Liberation Army and drafted a National Covenant and Basic Law. According to the Palestinian Academic Society for the Study of International Affairs (PASSIA):

When Fateh, led by Yasser Arafat, took over the PLO in 1969, it became an umbrella organisation for various Palestinian factions and acquired a more central role in mobilising Palestinians as well as international support. The PLO created a number of organisations to provide education, health, and other relief services and formed a quasi-government with security bodies, a military, a financial system, information offices and foreign relations.¹⁴

In 1974, UN General Assembly and the Arab League recognised the PLO as the representative of the Palestinian people¹⁵. In 1975, the PLO was granted access to the UN Security Council. In November 1988, the PLO declared Palestinian independence at the 19th Palestinian National Council (PNC) session in Algiers, and in December 1988, it recognised Israel's right to exist and renounced terrorism.

The PLO was based in Amman until 1970, when the "Black September" confrontation with the Jordanian army forced it to re-locate to Beirut, where it remained until its evacuation to Tunisia in the course of the 1982 Israeli invasion of Lebanon¹⁶. The PLO continues to function as a political umbrella for most Palestinian parties and movements. The largest and most active resistance movements and parties are Fateh (the Palestinian National Liberation Movement) and the Popular Front for the Liberation of Palestine (PFLP), both of which are members of the PLO; and Hamas (Islamic Resistance Movement) and Islamic Jihad, which are not members.

In the OPT, Palestinian political parties have played a crucial role in the community. Given the failure of the occupying power to provide adequate services to the population, and in the absence of a state apparatus to do so, Palestinian political parties assumed quasi-government functions that extended far beyond the straight forward political realm or organised resistance to occupation. In particular, the factions provided key social services to the Palestinian community, for example through clinics, kindergartens, women's groups, or providing direct assistance to needy families. They have also played a role in resolving community disputes and maintaining a level of order in the OPT. Given their broad role within the community, and the various tasks in which they engaged, their memberships included people from all sectors and age groups of Palestinian society.

¹⁴ The Palestinian Academic Society for the Study of International Affairs (PASSIA), Dictionary of Palestinian Political Terms, 2004.

¹⁵ UNGA resolution number 3210, which also granted the PLO observer status at the UN.

¹⁶ Background of PLO from PASSIA, Dictionary, 2004.

Fateh and Its Position on Recruiting Children

According to PASSIA, Fateh was founded in Kuwait in 1959 by Yasser Arafat and his associates. It grew out of a clandestine organisation formed by Palestinian students in 1957 and advocated armed struggle to liberate Palestine. Headed by Arafat ever since, Fateh is the largest and strongest PLO faction. Initially a network of underground cells, it reorganised with a central committee in 1963 and took control of the PLO as the largest single faction at the 5th PNC in Cairo in 1969. Fateh adopted the principle of political pluralism within the PLO. Until the 1970s, it followed a guerrilla strategy. Fateh formulated a new policy at the 1972 congress identifying guerrilla warfare as only one of various means of struggle. Fateh advocates a democratic, secular, multi-religious state¹⁷. It has played a central role in the second Intifada, during which its military wing “Al-Aqsa Martyrs Brigades” was formed. The Brigades, which consist of cells of Palestinian activists, initially focused attacks on settlers and soldiers within the West Bank and Gaza Strip. The group later launched suicide attacks inside Israel.

The DCI/PS researcher conducted an interview on 10 May 2004 with Nayef Abu Sharekh¹⁸, the head of Al Aqsa Brigades in the West Bank, to assess the group’s position on child recruitment. The following is an extract of the interview:

What is the age of recruitment in Al Aqsa Brigades?

The age of recruitment in Al Aqsa Brigades is 18 years old, but membership does not necessarily involve conducting military actions. There are no military actions without mental and physical preparations. This takes time and does not happen quickly. We have to be sure of the person and the level of his readiness.

Many children killed while conducting military actions were subsequently “adopted” by Al Aqsa Brigades, how do you explain that?

As for children who committed military actions against the Israeli occupation, we should make clear the following:

First, there are children who carry out individual actions against the occupation, without being recruited by any resistance group. Palestinian children can acquire many types of light weaponry in different ways. The Palestinian resistance groups normally use different locations to store their weapons. They may be stored in a cave, a deserted house or a junkyard. Places where normally people would not find the weapons. We cannot store these weapons in our houses because we are wanted by the Israeli authorities. We often transfer these weapons from one place to another. Sometimes we drop the weapons in a point where another group should pick them up. Since Palestinian children have no gardens to play in, they normally tend to find different places to play. In many cases, we lose these weapons and find out later that other people have found them. We have had cases where we had to follow and investigate cases of children who found these weapons. Sometimes, Palestinian children are willing to use these weapons against the Israeli occupation forces. In

¹⁷ Ibid.

¹⁸ Nayef Abu Sharekh was assassinated in an Israeli operation in Nablus on the 24th of July 2004.

addition to these weapons, Palestinian children can easily manufacture small pipe bombs, called "Kua' ". I used to manufacture these kinds of bombs when I was 15 years old, during the first Intifada.

Second, concerning the kamikaze attacks and their relation to Palestinian children, we at Al Aqsa Brigades absolutely denounce this. Al Aqsa Brigades refuses to recruit children to conduct kamikaze attacks, since there are hundreds of [adult] Al Aqsa Brigades members and volunteers who are willing at any moment to commit such attacks. There is no need to send children, who do not have the experience and knowledge which adults have. We confess that Al Aqsa Brigades has committed mistakes in the past and sent some children to conduct kamikaze attacks, but these are limited to a few cases and do not count as a method or a norm of our work against the occupation. Moreover, the Brigades severely punished the members who were responsible for sending these children. We work under very difficult conditions, where our lives are threatened every second. Some members of the Brigades cannot contact their superiors and take some wrong individual initiatives. But, we always take responsibility for our actions, even when they are wrong. We accept responsibility and have a system of punishment for those who commit such grave mistakes as sending children to commit kamikaze attacks.

Third, we are very well aware that the Israeli Shabak [Israel's secret security agency] takes advantage of and abuses our children, by recruiting them directly and indirectly to commit kamikaze attacks and military attacks for the purposes of distorting the image of the Palestinian resistance in front of the international community, and to describe us with ugly terms such as terrorists. One well known example in which the Israeli Shabak did this was the two young children who were caught at Huwara checkpoint in March 2004¹⁹. It is very clear to any person who understands the Israeli occupation that this was a fabricated story. Many indicators show that the story of the second child, who was caught at the end of March 2004, was contrived. The existence of the Israeli press and other international press at the checkpoint, and the fact that the soldiers delayed the press from leaving the checkpoint, indicates that the story was fabricated; as does the presence of the occupational forces spokesman on the checkpoint also. Moreover, eye witnesses indicated that day, and stated to the daily press that the soldiers' actions at the checkpoint were suspicious. They looked like they were expecting something and were ready for it. When the child arrived at the checkpoint, he was recognised by the soldiers very quickly, by his large red jacket and was called upon carefully to put his hands up in the air and not to move. If you look into each case, you will find many signs indicating that most of these stories are fabricated by the Israeli Shabak.

Two months ago, we were investigating a child collaborator for the Israelis. He is 17 years old from Nablus and confessed to us that he was ordered to observe his activist neighbour, who was wanted. The activist was caught as the child informed the Israeli Shabak that the activist entered the house. The activist is expecting a sentence of over

¹⁹ On 15 and 25 March 2004, two children were separately detained by Israeli forces at Huwara checkpoint outside Nablus, accused of possessing explosives. See p 40.

15 years in Israeli prisons. We called the collaborator's father and requested his permission to judge the child, and to suggest a punishment. The child was punished and now is under the custody of his father. The child was induced to collaborate with the Israeli Shabak when he applied for a permit to enter Israel, to visit his girlfriend in Nazareth²⁰. We have had many similar cases involving children recruited by the Israeli Shabak.

Are the members Al Aqsa Brigades aware that recruiting children in military operations is a war crime?

Al Aqsa Brigades are well aware that recruiting children constitutes a war crime and, as mentioned previously, we do not consider this to be a norm of resistance. Moreover, we have declared several times in the local newspapers that we condemn these acts; that they do not serve, in any way, our lawful cause; that they only serves the Zionist enemy; and, to a large degree, abuse our cause.

How do you explain the recent arrests of children involved in armed attacks?

As for the recent arrests of high numbers of children in Nablus and the Israeli allegations that they are involved in armed attacks or attempts to commit kamikaze attacks, this could be explained by the fact that Nablus is a very active city in this Intifada. Israeli soldiers have killed a lot of Palestinians, and our children suffer extremely from the Israeli retaliatory acts against Palestinians. We know for a fact that there are hundreds of children who are planning and working hard to acquire weapons and explosives to use against the Israeli occupation forces. We try to work with the community in order to protect these children, but it is risky for us as wanted people, to show ourselves in public. Moreover, there are hundreds of children who were killed during this Intifada and very few of them were martyred while conducting military actions against Israel. But the Israeli media only exploits the cases of children who are involved in military actions and completely ignores the other major cases. There are no army investigations on how these children were killed and, even if there is an investigation, there exists an Israeli law which absolves the Israeli occupation forces from any legal responsibility for any activity conducted in the Palestinian Territories²¹.

In another interview conducted by the DCI/PS field worker on 6 May 2004, a member of the military wing of Al Aqsa Brigades in Gaza declared the following:

There is a difference between being a member of the [Fateh Party] movement and working within its [Al Aqsa Brigades] military wing. Any Palestinian can be a member of the political movement, regardless of his or her age. As for children, in general, they are not granted membership until they become 18 years old. But as a result of the Intifada and its effects on them, children are encouraged to join the "Shabiba », which is a Fateh division specialised for young members. Shabiba conducts educational, cultural and social programmes. However, there are some children who reach 17 years old and have a strong will to commit actions against the Israeli occupation. The resistance, in these cases, studies their mental and physical health

²⁰ An Arab majority city inside Israel.

²¹ The law to which Nayef Abu Sharekh refers is the Torts Law (State Liability) (Amendment – Claims Arising from Activity of Security Forces in Judea and Samaria and the Gaza Strip), 5761 – 2001.

and takes them as members to train. When they reach 18, they can then engage in military actions against the enemy.

What do you think of the issue of recruiting children to conduct military actions?

Recruiting children to conduct military actions against the enemy is a war crime and Al Aqsa Brigades refuses to involve children in these actions. This is our official position and there is a common understanding among the different Palestinian factions on this subject.

Various factions have subsequently claimed as their members, children who have conducted military actions against the Israeli occupation. How do you explain that?

As for the cases of children who have been involved in military actions, they result from children's frustration with the situation and its effects on them. Thus, there are many children who voluntarily plan and commit military attacks against the occupation. For example, the three children who tried to attack the Netzarim settlement, in the Gaza Strip [on 23 April 2002], with knives and were killed on the spot. It is not logical that the Palestinian resistance would send three children to attack a heavily guarded settlement with kitchen knives. In such cases, we adopt the child martyr as a member of the resistance as a means of supporting the child's family and raising its spirit by revering the martyr and the cause he died for.

Are the members Al Aqsa Brigades and Fateh Party aware that recruiting children in military operations is a war crime?

We are well aware that recruiting children to commit a military attack constitutes a war crime, but this question should be asked to the Israelis, who do not distinguish between children or adults, women or the elderly. They are planting the seeds of hate in our society, especially among the children, who on a daily basis see death and destruction. What can we tell a child when his house is demolished? When his father is martyred or imprisoned? It is very normal that our children think of revenge in this environment.

Did you hear about the recent stories of children caught with explosives on Huwara²² checkpoint? What do you think of it?

As for the Israeli media, it is well known that it only serves the purposes of the Israeli government in distorting the image of the Palestinian resistance. Regarding what was on TV of the two cases of children who were caught at the checkpoint with explosives, these are fabricated stories. Evidence of this is the way in which these children were treated by the Israeli soldiers at that checkpoint. Since when do Israeli soldiers treat Palestinian children with humanity? Anybody who lives in Palestine understands immediately that these are fabricated stories by the occupation forces.

²² See p 40

Hamas and Its Position on Recruiting Children

Hamas is a fundamentalist political movement that emerged in January 1988, shortly after the beginning of the first Intifada.²³ Hamas is considered the second largest Palestinian faction after Fateh, but it is not part of the PLO. Hamas gained popularity through charitable efforts and the provision of educational and health services. Hamas was initially tolerated, if not encouraged, by Israel as an alternative to the PLO, part of a well known Israeli policy of divide and conquer. Hamas' spiritual leader and founding father is Sheikh Ahmad Yassin, who was assassinated by Israeli occupation forces on 22 March 2004. The Hamas Covenant, issued in August 1988, declared that all of Palestine is Islamic trust land and can never be surrendered to non-Muslims. It also proclaimed al-Jihad against Israel. Hamas advocates an Islamic state in Palestine and the application of Shar'ia (Islamic) Law. Though Hamas is not a member of the PLO, it has never questioned the role of the PLO as representative of the Palestinian people at the international level. Hamas also agreed to abide by the decisions of the PNC in 1989, but called for elections to it in 1991. It boycotted the Palestinian elections of January 1996. Hamas strongly opposes the Oslo Accords and negotiations with Israel. Its military wing, the Izz Eddin Al-Qassem has been responsible for many attacks on Israeli targets, including suicide bombings inside Israel.

Many attempts to interview a Hamas representative by the DCI/PS researcher were unsuccessful due to Israel's ongoing policy of assassinating Hamas activists and political leaders, which was particularly intense during the course of the research in April 2004. However, Hamas has called on children to refrain from attacks on Israelis. In an official statement, Hamas called on Palestinian children to remember that their lives are precious, and should not be sacrificed. Hamas noted that: *"Too many young lives lost at the fences of Israeli settlements would be a catastrophe for the future of the Palestinian struggle"*. Moreover, Hamas called on teachers and religious leaders to spread the message of restraint among young Palestinians. The move came after a number of unsuccessful attempts by Palestinian children to infiltrate Israeli settlements²⁴.

Popular Front for the Liberation of Palestine and Its Position on Recruiting Children

The Popular Front for the Liberation of Palestine (PFLP) was established in 1967 by the Arab National Movement.²⁵ The PFLP began a transformation towards a Marxist-Leninist ideology in early 1969, seeing the struggle for Palestine as part of a larger revolution to transform Arab society. In the 1970s, the PFLP became known for hijacking actions, but it grew more moderate after 1973. The PFLP opposes the Oslo Accords and even though the PFLP is represented in the PLO Executive Committee, it has been marginalised since the Oslo process began. The PFLP advocates the establishment of a democratic state on the land of historic Palestine, where all peoples can live as equal citizens. In August 2001, the PFLP's Secretary General, Mustafa Zibri, or Abu Ali Mustafa, was assassinated by Israeli forces.

²³ Background of Hamas from PASSIA Dictionary, 2004.

²⁴ http://news.bbc.co.uk/1/hi/world/middle_east/1948502.stm Wednesday, 24 April 2002.

²⁵ Background on PFLP from PASSIA Dictionary, 2004.

In an interview conducted by the DCI/PS researcher on 28 April 2004, a member of the PFLP Central Committee declared the following:

What is the age of recruitment in the PFLP and its military wing?

According to the internal guidelines of the PFLP, which govern the recruitment of new members, 16 is the age of recruitment to the juvenile division of the PFLP. These members, or “cubs”, are not involved in anyway in military actions and they are recruited to conduct only cultural, social, awareness and educational activities. As a result of these activities, a committee of the cub organisation will assess the young members, and according to the assessment and upon their success, they are given a PFLP membership when they turn 18.

There are reports that a child who was killed during an armed attack on an Israeli settlement was recruited by the PFLP. Is the PFLP aware that recruiting children in armed struggle constitutes a war crime?

The PFLP does not have a policy of recruiting persons under the age of 18 years old for military purposes. The members receive military training when they are 18 or older. However, one military action that involved a minor was conducted by the PFLP during the Al Aqsa Intifada. This was a mistake and according to PFLP guidelines, the recruiter was punished. Recruitment for military actions within the PFLP is not governed by written regulations, but by customs and common understandings. However, recruitment for the purposes of military actions must meet some specific conditions. These conditions ban recruitment of children under the age of 18 years. Also, the recruitment should be entirely voluntary for persons above 18 years. Moreover, each person’s mental and physiological condition should be assessed. The PFLP is against the recruitment of children in military actions and the leadership of the PFLP is fully aware that such recruitment amounts to a war crime.

In the same vein, though, the PFLP is aware that the Israeli media takes advantage of the use of children in the Palestinian struggle. It therefore calls upon all the resistance groups to sign an “honour covenant” forbidding the recruitment of Palestinian children in the course of armed struggle. Furthermore, we urge the resistance groups to deepen their members’ awareness of this subject so that it does not deform the Palestinian resistance and their lawful battle for independence.

Islamic Jihad and Its Position on Recruiting Children

Islamic Jihad split from the Muslim Brotherhood in the mid-1980s and was established as a separate, militant Islamic movement.²⁶ Islamic Jihad advocates armed struggle for the liberation of Palestine as a prerequisite for Islamic ascendancy. It believes that struggle must be preceded by spreading religious values in society. Islamic Jihad does not see itself as a rival to the mainstream PLO, but it strongly opposes the Oslo Accords.

²⁶ Background on Islamic Jihad from PASSIA Dictionary, 2004.

In an interview conducted by the DCI/PS researcher on 11 May 2004, a member of Islamic Jihad declared the following:

What is the age of recruitment in Islamic Jihad Movement?

Islamic Jihad is a movement that carries an Islamic methodology. It is not a party that registers its members or sets a minimum age for recruitment in the movement. Thus, there are no files for the members. Islamic Jihad's struggle does not limit itself to military actions against the Zionist occupation, but includes actions that help Palestinian society in numerous ways.

One of Islamic Jihad's concepts is resisting the occupation as a methodology. In general, resistance takes the shape of military actions against the enemy. Recruiting members for the military wing of Islamic Jihad is carried out by carefully choosing specific people from the Islamic Jihad throng. Recruitment of these individuals takes into account the age, gender, social condition and psychological condition of the person.

We believe that children have the right to live in dignity, and that the human soul, in the Islamic sense, is the most important thing. Thus, the lives of children are highly valued in our religion. We do not accept to recruit them and to put their lives in danger. Although we do not tend to recruit youngsters in the military wing, it should be noted that the maturity age in Islam is different than what international conventions consider a child. The maturity age in Islam is 16 years old. We do not take into account foreign policies in limiting our resistance; what we consider is the Islamic religion.

As for children and their relation to Islamic Jihad, we do have a religious, cultural and educational division, which has the task of educating our children about love for their country, the illegal occupation and the right to resist the occupation.

There are documented cases where children have been killed while conducting armed attacks against Israeli targets and settlements and the Islamic Jihad movement has adopted these cases. How do you explain this?

As previously mentioned, we are against recruiting children in the armed struggle. The few cases that involved children in military attacks were conducted without consulting the authoritative sources in the movement. These cases constitute mistakes of some members, who, in turn, were held accountable and were punished. Normally, in these cases we establish an investigation committee, which is responsible for studying the case and deciding a punishment that may include dismissal from the movement.

Additionally, there have been cases where children from the Islamic Jihad movement were involved in armed attacks as a result of the violence that the Palestinian society faces. Children and youngsters can obtain light weapons very easily, and, during the occupation forces invasions of Palestinian Territories, children rise to face the occupation with all the means they have.

How do you respond to accusations that the Islamic Jihad Movement was responsible for sending two children with explosives to Huwara checkpoint in March?

As for the children recently arrested in Nablus, their involvement in planning attacks inside Israel, and the claim by the Israelis that Islamic Jihad is behind recruiting these children, the allegation is fake and fabricated. Islamic Jihad issued a written statement, and declared in the newspapers, that it is not involved, in any way, in recruiting these children. We are well aware that Israeli occupation authorities are always trying to divert attention away from the Palestinian right to resist the occupation by alleging that the resistance movements are sending their children to be killed. We are well aware that the Zionist lobby has a heavy influence on over 75% of the international media, and invests billions of dollars for the purposes of lobbying to reinforce their occupation and legitimise it. Furthermore, we are aware that the Israeli intelligence plants collaborators inside the resistance movements, in order to recruit children and to abuse the Palestinian cause.

3

Palestinian Children Involved in Armed Attacks

Children killed during their involvement in armed attacks

No precise documentation exists on the number of children who have been involved in armed attacks in Palestine. DCI/PS documents the deaths of all Palestinian children killed as a result of the political situation. An examination of that data collected between October 2001-September 2003 revealed the following information about children killed while committing armed attacks:

- Twenty two children were killed during involvement in an armed attack, one of whom was a girl.
- Three children were killed while committing suicide attacks.
- One child was killed while attempting a suicide attack.
- Seven children were killed while attacking an Israeli settlements.
- Eight children were killed while attempting an attacks on a settlements.
- Three children were killed while participating in armed battles.
- Seven children were recruited by Palestinian resistance groups. (Four children by Hamas; one child by Islamic Jihad; and two children by Al Aqsa Brigades.)
- The youngest participating child was Ismaeel Muhammad Auda Suliman Abu Nadi, aged 14, who was killed during an attempt to attack an Israeli settlement.

Children Involved in Military Actions, documented by DCI/PS.

Name	Date of Birth	Sex	District	Date of Death	Circumstances of Death	Military Group
Ibraheem Nizar Abd Alqader Drian	24/12/84	M	Gaza	02/10/01	Attack on a settlement	Hamas
Fouad Mustafa Fouad Al Dahshan	12/04/84	M	Gaza	26/10/01	Attack on a settlement	No affiliation
Ayat Muhamad Lutfi Alakhras	18/09/84	F	Bethlehem	29/03/02	Suicide attack	Al Aqsa Brigades
Tareq Sleiman Ahmad Abu Husein	01/10/84	M	Gaza	06/04/02	Attack on a settlement	No affiliation
Hatem Talal Shaban Abu Al Qumbuz	21/02/85	M	Gaza	12/04/02	Attempted attack on a settlement	No affiliation
Ahmad Omar Muhammad Abu Selmia	03/10/85	M	Gaza	16/04/02	Attempted attack on a settlement	No affiliation
Haitham Ahmad Asaad Abu Shuqa	07/01/88	M	Gaza	18/04/02	Attempted attack on a settlement	No affiliation

Name	Date of Birth	Sex	District	Date of Death	Circumstances of Death	Military Group
Yousif Basim Yousif Zaqut	01/04/87	M	Gaza	23/04/02	Attempted attack on a settlement	No affiliation
Anwar Adel Ahmad Hamdouna	18/01/87	M	Gaza	23/04/02	Attempted attack on a settlement	No affiliation
Ismaeel Muhammad Auda Suliman Abu Nadi	20/08/87	M	Gaza	23/04/02	Attempted attack on a settlement	No affiliation
Ahmad Abd Alminem Ahmad Daraghma	25/02/84	M	Jenin	07/10/02	Suicide attack	Not known*
Karam Mahmoud Mustafa Abu Ebeid	02/02/85	M	Gaza	18/10/02	Attempted attack on a settlement	Hamas
Sef Allah Basheer Tawfeek Badran	10/03/85	M	Tulkarem	01/01/03	Attack on a settlement	No affiliation
Muhyi Aldeen Mahmoud Hamza "Mubarak"	25/04/86	M	Tulkarem	15/01/03	Gun battle	No affiliation
Tamer Majdi Abd Alhadi Khudeir	12/03/86	M	Gaza	01/02/03	Attack on a settlement	No affiliation
Zeid Ismaeel Ahmad Hanani	14/12/86	M	Nablus	06/03/03	Attack on a settlement	No affiliation
Subeih Kamal Asaad Abu Al Sood	02/03/87	M	Nablus	11/03/03	Attempted suicide attack	Al Aqsa Brigades
Ameen Ali Saad Bsharat	16/07/85	M	Jenin	13/03/03	Gun battle	Hamas
Osama Ribhi Saad Abu Khalel	19/10/87	M	Jenin	14/03/03	Gun battle	Islamic Jihad
Azhar Ghasan Fouad Muhammad Abu Heit	04/04/87	M	Nablus	29/04/03	Attack on a settlement	No affiliation
Khamees Ghazi Jordan	05/06/84	M	Nablus	12/08/03	Suicide attack	Not known*
Muhammad Abdallah Shihda Abu Alhassana	11/04/86	M	Gaza	06/09/03	Attempted attack on a settlement	Hamas

* It is assumed that children who attempt or undertake suicide attacks have been assisted by one of the Palestinian military groups

Children Arrested on Allegations Related to Armed Attacks

DCI/PS has represented approximately 65% of children detained in Israeli prisons and detention centres over the past three years. According to the DCI/PS Legal Unit, there are currently 373 Palestinian children detained in Israeli prisons and detention centres²⁷. Of these, 45 percent (167 children) are detained on charges related to armed

²⁷ Information as of 30 April 2004.

attacks. Forty percent of children detained on charges related to armed attacks are from the northern district of West Bank. Sixty percent (100 children) of these children are not associated with any resistance group. Seventeen children (4.5%) have been detained for alleged attempts to carry out a suicide attack. None of the children accused of attempting to stab an Israeli soldier or settler is associated with a resistant group.

While these numbers are high, they cannot be used as an accurate indication of Palestinian children's involvement in armed attacks. The methods employed by the Israeli authorities during their interrogation of arrested Palestinian children consistently flout international laws governing juvenile justice and the treatment of children deprived of their liberty. Children are routinely blindfolded, handcuffed and chained. They are regularly beaten; spat upon; cursed; deprived of food, drink and sleep; placed in isolation or painful positions for prolonged periods; threats are made against them, their families and their family property. As a result of the physical and psychological maltreatment, most children confess to their alleged offence within 48 hours of arrest - during which time they have rarely been permitted to see a lawyer.

Moreover, children report being forced or tricked into signing papers in Hebrew - a language few Palestinian minors can read. Some are told that it is their release paper they are signing, others that it is the confession they have made. Often these papers transpire to be detailed "confessions" which bear little or no resemblance to the children's own statements.

Many Palestinian children in Israeli detention are accused of being members of "local groups". This however should not be taken to mean that the children are affiliated to the main Palestinian political parties. Israeli military courts define a "local group" as any group of three or more individuals working together against Israeli occupation forces.

In an interview, the head of DCI/PS's Legal Unit, Mr. Khaled Quzmar, a lawyer who represents children in military courts, discussed the situation of Palestinian children.

How do you explain the involvement of children in the Palestinian struggle?

"The main reason that children are prompted to voluntarily join the armed militant groups, and to resist the occupation, is the suffering that they face. Children are deeply affected by the conflict around them, more so than adults. And this often leaves them with the desire for revenge. The immediate reaction of many children is thus an "eye for an eye" - without thinking - unlike the adults. Many children with whom I have spoken, aspire to be martyrs and national heroes.

How are children involved in armed attacks dealt with by the Israeli legal system?

Children who are accused of being members of militant groups are sentenced to between two and 20 years imprisonment. We have a case of a child who was accused of attempting a suicide attack and was sentenced to 24 years imprisonment. The only explanation for the high sentence that is given by the military court is that these

courts are a tool of an illegal, long term occupation, which was established according to a collection of military orders and regulations. These military orders are the foundation of Israel's 37 year long occupation of the West Bank and Gaza Strip. It is an occupation preoccupied with "legality", and in this sense it is arguably unique. These military orders and regulations sanction, or make "legal" virtually every illegal act that occurs in the OPT such as the occupation itself, civil and human rights violations, and violations against Palestinians' political, economic, social and cultural rights.

How do these military orders violate the CRC?

The system of Israeli military orders in place in the West Bank and Gaza Strip apply only to Palestinian residents of these areas and not to Israeli settlers residing illegally there. They are subject to Israeli civil law. It should be reiterated that despite the CRC's emphasis that the Convention should be applied without "discrimination of any kind, irrespective of ... race, language, national, ethnic or social origin", two sets of laws apply for children in the OPT: one set for Israeli children living in illegal, Israeli settlements and one, much harsher set for Palestinian children.

The discrimination is systematic and institutionalised. Despite international law categorically stating that a child is anyone under the age of 18, Israeli Military Order 132 defines teenagers as children aged 14-16, in practice leaving 16 and 17 year old Palestinians to be treated as adults.

Mr Quzmar added:

Further examples of discrimination include the laws concerning detention and sentencing. The Israeli Supreme Court has held that there is no obligation to keep a minor in custody until the termination of proceedings, even in the case of murder. According to Israel's first report to the Committee on the Rights of the Child in 1998, only 5.3% of Israeli children were detained until the end of legal proceedings.

Palestinian children from the West Bank and Gaza Strip however, are almost always held in prison while awaiting trial. This detention may extend for months. Considering that the vast majority of Palestinian children are arrested for the "crime" of stone throwing, it is clear that double standards exist with respect to the different laws for Israeli and Palestinian children.

Paragraph 2 of article 2 of the CRC requires States Parties to ensure that children are protected from discrimination or punishment because of acts committed or beliefs of their parents or members of their families. Israel has seriously violated this requirement on many different occasions since the entry into force of the CRC in 1991. For example, the homes of Palestinian children are frequently demolished if a family member carries out an attack against Israelis.

What steps do you think should be taken to stop the involvement of Palestinian children in armed attacks?

I believe that the involvement of Palestinian children in armed attacks will only end if the occupation ends. Palestinian children are well aware of the occupation and its

effect on themselves and their families. In spite of efforts towards rehabilitation and reintegration by DCI/PS and other organisations, many children are arrested more than once. We do not consider this a failure of the programme; it is the result of children suffering from the occupation - a response to the systematic violations of Palestinian children's rights. To give an example, at the beginning of this year, a 16 years old child from al-Arroub refugee camp was arrested and sentenced to three months imprisonment for throwing stones. Though there is an agreement among people in the camp not to pay fines to the occupation courts, his mother insisted on paying a 500 shekels (\$110) fine so that her son would not serve more than the three month prison term. The child was then arrested another time two weeks after his release. This time, he is accused of manufacturing weapons and throwing a Molotov cocktail.

There are weekly arrests of children in al-Arroub refugee camp. There are no schools for adolescents in the camp, which means that children must go to a nearby village for schooling. The camp is surrounded by a fence, with only one entry/exit gate where Israeli soldiers are posted²⁸. Children use the gate daily and are regularly searched by the soldiers and harassed or assaulted. As a result, children are seeking revenge for their humiliation and suffering. A common activity for children in al-Arroub, like most of refugee camps in Palestine, is throwing stones at soldiers and manufacturing simple pipe bombs.

How does the Israeli Military Courts deal with children involved in armed attacks?

Israeli military courts deal with children in order to punish them, not rehabilitate them. Punishment is the role of the court and deterring these children from resisting the occupation is the purpose of the high sentences - be it for stone throwing or a more violent act. According to international conventions guaranteeing the right of a fair trial, thieves and drug dealers are dealt with much better by Israeli courts than are Palestinian children, since the former are brought before criminal courts and the latter are tried in front of the military court. These children are judged and sentenced for resisting the occupation and for their involvement in a national struggle. It may be possible to deter a thief or a drug dealer, but it is difficult to deter a person who is fighting for a cause, particularly when it is a just and legitimate struggle for freedom. The higher the sentence the child receives, the more determined he often becomes to struggle against the occupation.

For example, I represented a child who was accused of throwing stones. I made a plea bargain for him with the prosecutor to sentence the child to four months imprisonment. When I met the child and told him about the settlement, he started to laugh and he said that it doesn't matter to him. During the court session, the child refused to stand up for the judge and, as a result of the child's disrespect, the judge postponed his trial for four months. After the session I spoke with the child and asked him why he behaved that way. He replied that he does not respect the judge, nor the court. As his attorney, I advised him that his case is not a complicated one. He will be released soon if the judge agrees to the plea bargain. It is not worth it to behave this

²⁸ A second entry to the camp has subsequently been opened.

way, since it will likely bring him a sentence that could be six to ten months, in addition to his original sentence. The child replied that he will not stand up in the court and he does not care what sentence he receives. I spoke with the judge in order to try and schedule an earlier date for the postponed session. I tried to impress upon the judge that the defendant is a child and does not understand the ramification of his actions. But, the judge rejected this argument and refused to move his case up. The child is still waiting for his trial and he is still determined not to stand up.”

Case Study (1)²⁹:

Hazem is 17 years old from the old city of Hebron. He runs a shop inside the old city of Nablus. One day, while Hazem’s younger brother was watching the shop for him, Israeli soldiers entered the shop and ordered the customers and Hazem’s brother to leave the shop. They beat Hazem’s brother and searched the shop. After they left, Hazem discovered that there was more than 10,000 shekels (nearly \$2,207) missing as well as some mobile phone cards.

When Hazem saw the shop, he was angry and decided to take revenge. He told his two best friends what happened and that he had decided to take action. He asked them for their help and they agreed. The three of them formed a group and started to plan. One of their plans was to join a military group. They contacted a person from Hamas and asked him to allow them to work with them and to provide them with weapons, but this person refused to help them. They did not give up, however. They went to another person from Hamas and asked him to join its military wing and to help them carry out a suicide attack. This person also refused to help them. They then decided to take revenge without the help of others. They began to manufacture bombs to throw at Israeli soldiers. They bought a lot of fireworks and started to put their contents inside metal pipes. They threw many of these pipes at Israeli tanks and vehicles, but none of them blew up.

Israeli forces arrested the first Hamas person, who turned in the children. As a result, the second Hamas person was also arrested, along with the three children. This Hamas person was arrested on 1 July 2003. The Israeli military court is requesting a 7-10 year sentence for Hazem. The court views each act of throwing the handmade bombs as a separate attempt to kill. Hazem is still awaiting trial and DCI/PS expects that he will receive a high sentence.

The Occurrence of Palestinian Child Soldiers

According to customary principles of international humanitarian law, the civilian population must be protected against the dangers arising from military operations and must not be the object of attack. Civilians are defined as non-combatants individuals, who do not take part in the hostilities. Israel argues that the current situation is one of “armed conflict”, where its army battles against armed forces of the PA. The Palestinians, on the other hand, characterise the current conflict as a civilian uprising against

²⁹ DCI/PS, Documentation Unit.

occupation, and therefore argue that even armed policemen retain their “civilian” character. Notwithstanding this rather legalistic debate, it would be difficult to find individuals more “civilian” in character than unarmed children, and they must undoubtedly be protected by this principle.

In its report to the UN Commission on Human Rights, the UN Commission of Inquiry, which visited the region in February 2002, stated:

The Commission heard evidence from parents and NGOs about the unsuccessful attempts of many parents to prevent their children participating in demonstrations and the grief caused them by the death and suffering of their children. It is likely that the Palestinian Authority could have done more to restrain children from participation in stone-throwing demonstrations. The evidence suggests that, on occasion, the Palestinian police made attempts to prevent demonstrations, but these attempts were often unsuccessful. This can be ascribed to the incompetence of the Palestinian police, the fact that the Palestinian police were themselves targeted by stone-throwers when they attempted to curtail demonstrations and an understandable identification of the Palestinian police with the goals and spirit of the demonstrators³⁰.

It is highly questionable whether the Palestinian children aged 15 to 18 who were killed during this Intifada can be considered “combatants”. Palestinian security forces do not enlist anyone below 18 years of age and the draft Palestinian Child Rights Law contains a provision forbidding the enlistment of children under 18 in any armed forces.

The character of the current confrontation is that of a Palestinian civilian uprising against Israeli occupation, rather than that of a conflict between two armed forces. It certainly should not be said that children are “compulsorily” recruited; nor can children participating in the Intifada be considered “child soldiers”. As the UN Commission of Inquiry stated: “stone throwing by youths at heavily protected military posts hardly seems to involve participation in hostilities”. In addition, many of the children killed were not taking part in confrontations with Israeli forces when they were mortally wounded.

Israeli Intelligence Agencies’ Recruitment of Palestinian Child Collaborators

One of the policies implemented by Israel to strengthen its occupation is recruiting Palestinians as collaborators with Israeli intelligence agencies. Israel’s tight control of all aspects of Palestinian life has greatly facilitated the task of recruiting collaborators. The body responsible for recruiting Palestinians as collaborators is the Israel Security Agency, also known as the Shabak or Shin Bet, and formerly known as the GSS, or General Security Service. Shabak is a domestic agency that reports directly to the Israeli Prime Minister. Details of its structure and activities are kept secret, but it is well known that *Shabak* is responsible for intelligence gathering and covert operations in the OPT, recruitment of collaborators and interrogation of Palestinians³¹.

³⁰ E/CN.4/2001/121 of 16 March 2001, Para. 48.

³¹ Stolen Youth, The Politics of Israel’s Detention of Palestinian Children, by Catherine Cook, Adam Hanieh, Adah Kay, (Pluto Press: London, 2004), p. xiv.

In the Palestinian context, a collaborator is understood as anyone who knowingly cooperates with the Israeli occupation authorities against the interests of the Palestinian people and their national cause. The types of collaboration can be divided into five broad categories. These are:

- A typical collaborator (informer) whose work is to regularly report on people in his area of residence or an assigned area. This might include monitoring mosques, universities and public places. Usually, the informer reports directly to his Shabak recruiter or indirectly through the head of the local or regional collaborators' ring.
- A political collaborator whose work is to pacify the general public in their respective areas and to spread the culture of pragmatism, namely consolidating Israeli control over the general public.
- A real estate dealer whose work is as a secret intermediary between Palestinian landowners and Jewish individuals or entities seeking to appropriate as much Palestinian land as possible.
- A death-squad collaborator whose work is to join Israeli undercover units and take part in arresting, capturing and executing Palestinian activists.
- The prison collaborator, who is placed in prison cells to elicit information from Palestinian political detainees. In some cases, the collaborators are instructed to administer beatings for the purpose of extracting information from prisoners. In other cases, the Palestinian detainee is unaware that his/her cellmate is a collaborator.

Shabak uses various ways to recruit collaborators. Frequently, it begins with an order to the local *Shabak* officer who will evaluate the prospective agent's vulnerability and weaknesses and then decide whether to pursue recruitment or cease the attempt. In many cases, the *Shabak* officer will use blackmail to recruit collaborators, even in the face of initial firm resistance. In other cases, the *Shabak* officer will force the prospective agent into a dilemma, whereby he or she will have to choose between the lesser of two evils. There are many cases where *Shabak* refused to grant a Palestinian a travel permit to transfer a sick relative to a hospital in Jerusalem, unless he or she agrees to work for *Shabak*. During the first Intifada from 1987-1993, *Shabak* used sexual blackmail to recruit informers. In these cases, a person, usually respected in the community, would be videotaped while in a compromising position with a prostitute, who is often a *Shabak* agent. *Shabak* would then use this information to blackmail the victim into collaboration.

In many cases, *Shabak* will not initially ask the collaborator for information on anyone, or to do anything serious. Rather, *Shabak* will ask the person to undertake a very insignificant task, like counting the number of telephone posts on a given street. Over time, these simple actions progress into something more serious, like monitoring the movement of certain people in the collaborator's area. By the time the informer becomes deeply involved in collaboration, it is too embarrassing and dangerous for him or her to quit. He or she will feel as if they have no choice but to become an obedient tool to their recruiter. Some informers, not able to cope with their guilty conscience, have killed their *Shabak* recruiters³².

³² There are several incidences where the agent killed his recruiter.

After the establishment of the Palestinian State Security Court in 1995, Palestinian collaborators, when caught, were tried there. The State Security Court quickly established a reputation for its failure to guarantee a fair trial. According to the Israeli human rights organisation B'tselem, the Court issued 18 death sentences to suspected collaborators from 1995 to October 2002. Of these, two sentences were implemented and the defendants executed³³. In late 2003, the Court was dismantled as a result of internal and external pressure on the PA.

Case Study (2)³⁴:

On 1 February 2002, Jihad Kamiel, 17 years old, Khaled Kamiel, 17 years old and Mahmoud Kamiel, 32 years old, were arrested by the Palestinian police force within hours of killing Osama Kamiel, a Palestinian Preventative Security officer and a member of Fateh. During the investigation, Jihad, Khaled and Mahmoud confessed to collaborating with Israel and the killing of Osama Kamiel. On 5 February 2002, the State Security Court sentenced Mahmoud Kamiel to 15 years for incitement to commit murder and for collaborating with the occupation; Khaled and Jihad were sentenced to death for murder and collaborating with the occupation. Their sentences were reduced to 15 years, given their status as minors³⁵.

As a result of these verdicts, nearly two thousand Palestinian protestors gathered outside the Court and demanded the execution of the collaborators. The demonstrators attacked the Court and shot dead the three accused persons. Palestinian NGOs laid the responsibility on the Palestinian police forces, since they could not protect the defendants. The police forces laid the responsibility on the Israeli occupation, which demolished the original Court facility in Jenin, forcing it to re-locate to alternative rented building that was difficult to protect. The police headquarters added that if the police were to prevent the angry mob of people from entering the court, it would lead to the killing and injury of a large number of people and police³⁶.

Extent of Child Recruitment by the Israeli Occupying Forces

In a DCI/PS field survey of 40 former child prisoners, 25 cases reported that they were asked or pressured to be collaborators for the Israeli occupation.

Survey respondents reported that a variety of methods of pressure were used against them while they were under investigation³⁷. According to the cases studied by DCI/PS, 24 children were beaten while under investigation, as a means of pressuring the child to collaborate with *Shabak*. In six cases, children were threatened with long sentences

³³ B'tselem, B'Tselem Urges Arafat Not to Approve Executions, 29 October 2002.

³⁴ DCI/PS, Documentation Unit.

³⁵ <http://www.amin.org/news/uncat/2002/feb/feb052.html>, <http://ilrestodelcarlino.quotidiano.net/art/2002/02/05/2991372>

³⁶ <http://www.amin.org/news/uncat/2002/feb/feb05.html>

³⁷ According to Israeli military orders, interrogation periods range from one day to 90 renewable days.

if they refused to work with *Shabak*. There were four cases of children who were threatened with the demolition of their family home; two cases of children were threatened with the arrest of family members and one case of a child being sexually extorted.

When pressuring children to collaborate, *Shabak* generally offers some form of reward. According to the cases studied by DCI/PS, *Shabak* offered to release 24 children if they agree to collaborate. Eleven children were offered sexual services; nine children were offered money; four were offered work permits for themselves and/or family members and eight children were offered more than one incentive.

The Israeli police force attempted to recruit two of the children and Palestinian collaborators attempted to recruit two other children while they were detained in the same prison. An Israeli soldier attempted to recruit one child and the *Shabak* attempted to recruit the other children.

Four children admitted to agreeing to collaborate, and they were given mobile phones for the purposes of contacting *Shabak*. They were assigned to monitor Palestinian activists. One was provided a special pen and told to mark electric posts, near where certain activists gather.

Case Study (3)³⁸:

Raed is 16 years old. He is from North Gaza. In his affidavit, Raed stated the following: I was arrested on 12 January 2004, while I was crossing the Green Line into Israel to seek work. We live in a small house with 15 members in my family. Our economic situation is very bad and is always getting worse. I decided to work and to leave school. I agreed with my friends to cross the Green Line to find a job inside Israel. At 4:00 am, we reached the border fence and made a hole in it to cross. In seconds, I found myself surrounded by Israeli soldiers who arrested me. I was detained for two months. I was under investigation for 10 days, for nearly five hours each day. I was beaten, tortured, threatened, cuffed and sworn at. During interrogation, I lost my strength day by day. After 10 days, I was surprised by the good treatment from the investigators. They took off my handcuffs and the investigator started to talk to me in a gentle way. He told me that they knew about my family's bad economic situation and they were going to help me. He told me that he would give my mother a permit so she could work in Israel, just to prove to me that he was telling the truth. He added that he would also give work permits to my brothers. Then he said that he only wanted me to help them in return. He said that I did not have to answer him immediately, and he wanted me to take my time to think about it. He left me in the room alone and after one hour, a female soldier came to me and gave me a cup of tea. She started to talk with me about peace and war and the general situation. Later, they sent me to my cell. I stayed there for three days without anyone talking to me.

³⁸ DCI/PS, Documentation Unit.

The fourth day, they took me again to the investigation room and the *Shabak* person asked me about my decision. I instantly refused. He became very angry and started beating me. The female soldier then came and took the *Shabak* person out of the room. She came back and brought a medical kit with her and started to treat my wounds. She was wiping my wounds and slowly, slowly getting closer to me. She was touching my body and later kissed me on my mouth. I didn't know what to do. She kept kissing me and touching sensitive parts of my body for five minutes. Then she stopped and left the room. The *Shabak* person came later to the room and started to show me a videotape of me and the female soldier. He threatened to send the videotape to my family and to create a scandal if I didn't agree to work with him, so I agreed. He asked me to follow some people in my camp and gave me a mobile phone to contact him. I was then released. Two weeks after my release, my older brother saw the mobile and asked me about it. I was afraid and at first, I tried to lie to my brother, but he kept asking so I told him what happened to me in detail. Then he took me to the Palestinian security forces and I told them everything. I went later with my brother to our home and since then I have not contacted the *Shabak*.

Case Study (4)³⁹:

Omar is 16 years old. He is from Nuseirat refugee camp in the Gaza Strip. In his affidavit, Omar stated the following:

I thought that I was working for the Palestinian cause. I was recruited by an older guy, about 36 years old. I was asked to collect information on some people and submit it to him. He is a well-known person in the community. He had a good reputation and used to pray all the time. He used to give me some money and mobile phone cards.

One day, he asked me to go to the border and to check the movement of the Israeli soldiers. There, I was caught and sent to Erez detention facility. I was left in the cell for two days and no one spoke to me. The third day, I was taken to the investigation room and a *Shabak* person started to interrogate me. He knew all about me and the person who recruited me. Then, he started to thank me for the information I provided to them through this person. He told me to work for the *Shabak* or I would not be released. I agreed to work with him, if he released me. I felt like it was too late to say no to him. When I was released, I immediately went to the Palestinian security forces and told them everything. The person who recruited me was arrested by the Palestinian security forces and is still in the prison to this date.

³⁹ Ibid.

Case Study (5)⁴⁰:

Salah was 17 years old and from Tulkarem refugee camp. He was arrested on 7th March 2004 by Israeli special units during a demonstration. He was beaten severely and held at Qadumim detention centre. He spent eight days there and was then sent to court in order for his detention to be renewed for another two weeks. His father stated in an affidavit that he saw his son in the court covered with bruises. After spending 23 days in the detention centre, Salah was released. On the day of his release, he left the house and did not come back. His father stated: "We were worried about him and started to call his friends and our relatives. Later on, we heard on the TV that Salah was killed during an armed attack on Avi Hefitz settlement". The next day, Israeli occupation forces came to Salah's house and demolished it.

Salah left a note in which he wrote:

Dear Mother and Father, you have brought a hero to this world. Be proud of me. God wanted me to be a martyr. To my brothers Adel, Ibraheem and Waleed, I wanted to be a martyr and ask you to take care of my smaller sisters Rania and Suad. I hope that you pray and read the Quran. The Israeli *Shabak* wanted me to be a traitor for the martyrs' blood, but I wanted to be a martyr and hope that you do not cry for me. I understand that leaving is difficult, but God's will is for me to be a martyr. Send my best regards to my friends Mahmoud, Samer and Nadia, and to everybody, and to my uncle Abu Ali. Hopefully, I will meet them in heaven someday.

In an interview with DCI/PS, the legal counsellor of the Palestinian Preventative Security Force (PSF) stated the following:

The Israeli *Shabak* tends to target young children since they are fragile and easy targets. This month we arrested six collaborators, three of them were under the age of 18. Unfortunately, we do not have precise statistics, since PSF offices were destroyed during the invasions of PA institutions. It is estimated that out of every ten collaborators we arrest and investigate, four are children. The youngest age we have encountered was 12. His older brother is a well-known collaborator for Shabak and wanted by the PSF, but he lives in Israel, where the PSF cannot arrest him. He used to call his brother and ask him to collect information about activists and to monitor others. The child was arrested and was sent to a Child Protection Centre, which is run by the Palestinian Ministry of Social Affairs, to get rehabilitation and protection.

When a minor is involved, PSF tends to coordinate with the Ministry of Social Affairs and the juvenile homes to provide care and rehabilitation for the child. Normally, young collaborators are monitored after their rehabilitation and completion of their detention period at the juvenile institution. It is rare for a young ex-collaborator to re-establish contact with the Shabak after the rehabilitation process, but keeping these children under the monitoring system of PSF is necessary to provide protection for the children.

⁴⁰ Ibid.

The following case studies were provided by the PSF:

Case Study (6):

Iyad is 17 years old from Ramallah. He received a written order from *Shabak* to come to Bet El⁴¹ to meet a *Shabak* officer. Upon the order, Iyad went to Bet El and met the *Shabak* officer. There, the *Shabak* officer showed him pictures of his sister in sexual positions with another collaborator called Sami, who is Iyad's friend. The *Shabak* officer threatened to release these pictures in Ramallah if Iyad did not collaborate with *Shabak*, so Iyad agreed. He was given money, a mobile phone, and assigned, with his friend, to monitor a wanted activist and to plant a bomb inside his car. Iyad and Sami were arrested by the PSF prior to their attempt to plant the bomb and have been tried and sent to a juvenile centre.

Case Study (7):

Samer is 17 years old from a village near Ramallah. He is a shepherd and spends most of his time in the mountains with the sheep. The remote area in which Samer spends much time is a place where wanted Palestinian activists often hide. One day, while Samer was with the sheep in the mountains, Israeli soldiers arrested him and took him to Bet El investigation centre. He was accused of throwing Molotov cocktails and was threatened with a long sentence, of up to five years. Samer was afraid and agreed to work with *Shabak*. He was released, given a mobile phone, money, and was assigned to monitor the wanted activists in the mountains. Samer was discovered by the activists and was turned in to the PSF.

⁴¹ Military base which has a detention centre, a military court and a *Shabak* office. It is located near Ramallah.

4

Responsibility for Recruiting Palestinian Children

Responsibility for recruiting children in the Palestinian context falls on Palestinian resistance groups and the Israeli authorities, as the two main parties. Nations under occupation have a right to self-determination that is guaranteed by international law, including armed resistance. However, these nations are obliged to respect human rights in their struggle for self-determination. Palestinian political parties and their militant wings, thus, have a responsibility not to recruit children in armed attacks.

Depriving an entire nation of people its freedom, through occupation, is itself a major human rights violation. Consequently, the occupying power bears responsibility, both for its direct violations of individual human rights, and for the collective violation that comes in the form of ongoing occupation. It is this latter violation which causes the majority of human rights violations associated with the conflict, including the participation of children in armed conflict. If the situation of occupation were ended, most human rights violations would cease, both those committed by the occupying power and those committed by resistance groups.

Israel, as the occupying power, bears the main responsibility for protecting civilians in times of war. Article 27 of the Fourth Geneva Convention states:

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Additionally, article 51 of the Convention states: “*The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted. ... In no case shall requisition of labour lead to a mobilisation of workers in an organisation of a military or semi-military character.*”

Additionally, article two of the CRC obliges State Parties “to respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” This ban on discrimination includes all actions associated with the recruitment of child soldiers.

It is important to clarify the reason for the distinction made in international law between “children” and “adults”. Its purpose is to determine until what age a person can benefit from the special protection due to children. Article 1 of the CRC states: “For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.

Under Israeli law, majority is attained at 18 years for Israeli children, though Palestinian children aged 16 and 17 residing in the OPT are treated as adults. It is worth noting that a threshold lower than 18 years old has sometimes been provided for participation in armed conflict. The CRC states in Article 38:

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities. 3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed force.

Israel has argued before UN treaty monitoring bodies that it has no obligation to ensure compliance with the major human rights conventions in the OPT. Israel bases this argument on several grounds. First, Israel argues that the majority of the Palestinians live in areas that were transferred to the limited authority of the PA during the Oslo process. Second, Israel argues that human rights law generally does not apply because the situation in the OPT is one of armed conflict. Consequently, Israel argues that only international humanitarian law applies. However, Israel also denies the applicability of the main international humanitarian law treaty, the Fourth Geneva Convention. Major UN bodies, including treaty-monitoring bodies, have uniformly rejected such arguments by Israel.

In regards to its first objection, Israel has not relinquished full control over the OPT to the PA. While many powers have been transferred by Israel to the PA, Israel retains the ability to intervene in those areas under the administrative control of the PA. This includes 17 percent of the OPT that is defined under the Oslo Accords as Area A, in which the PA is supposed to have full responsibility for internal security, public order and civil administration. Even if the PA was able to exercise its full authority in these areas, which it has been prevented from doing so by the Israeli authorities, the Fourth Geneva Convention would still apply. For, as Article 47 states:

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or

government of the said territory, nor by any agreement concluded between the authorities of the Occupied Territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Israel still maintains full control over entry into and exit from the entire OPT. Israel has retained the power to block transit into and out of these areas to Palestinian residents of these areas, and to prohibit travel even within these areas. Foreign visitors to the West Bank and Gaza Strip can only enter having first passed through Israeli border controls - whether at the airport on Tel Aviv, or at the land borders with Jordan and Egypt. Thus Israel can and does refuse entry to any foreigner it wishes to prevent from visiting the OPT. On the case of the Gaza Strip, Israel requires any foreigner to obtain written permission to enter from the Israeli Ministry of the Interior. The procedure for obtaining this permission is so bureaucratic as to present an obstacle, and applications are frequently turned down for no apparent reason. There is no equivalent Palestinian authority able to authorise visits to the OPT. Not only does Israel have the ability to intervene and take control of these areas, it has in actual fact done precisely that since September 2000.

On the second of Israel's objections, while it is true that international humanitarian law is binding in situations of military occupation, it is supplementary to international human rights law. Individuals do not lose their human rights just by coming under military occupation. Rather, they gain the extra protections of humanitarian law, including the Fourth Geneva Convention.

Israel however, while a State Party to the Fourth Geneva Convention, denies the applicability of the convention to the OPT. This, briefly, stems from Israel's argument "that no sovereign state was replaced in 1967 when it assumed control of the West Bank, East Jerusalem and Gaza Strip, and therefore these territories are not 'occupied' but 'administered'⁴².

While it is true that certain human rights conventions do contain derogable clauses, there are none in the CRC that are applicable in Israel's case to relieve it of its duty to comply with the Convention in its actions in the OPT.

Media and Palestinian Children

During the 37 years of the occupation, the Israeli and Western media have played a central role in the international and Israeli publics' understanding of the situation in the OPT. Much media coverage fails to provide crucial context necessary for understanding political developments. In some cases, stories are presented that invert reality and leave audiences with a fundamental misunderstanding of the situation.

For example, during the first six months of AlAqsa Intifada, the San Francisco Chronicle reported 150 percent of Israeli children's deaths and only 5 percent of Palestinian children's deaths in headlines and/or lead paragraphs. Chronicle headlines and/or

⁴² Stolen Youth, op.cit. p. 143

first paragraphs reported the killing of 5 Palestinian children and 6 Israeli children. However, far more Palestinian children were killed than Israeli children during this period: 27% of all Palestinians killed were under 18 (93 children), while only 6% of Israelis killed were minors (4 children).⁴³ One Israeli teenager's death was reported three times. Such a pattern of distortion, in which readers were given the impression that the Israeli death rate was greater than that which it was, and that the Palestinian death rate was considerably smaller than it actually was, or that there were equivalent death levels among both parties, serves to misinform the international community, rather than inform it.

Another example of the impact of poor media coverage concerns events following the start of the Oslo process in 1993, which led much of the international public to believe that a peace process was underway. Though the process was ostensibly based on "land for peace", the Israel government relinquished very little land that had been confiscated from Palestinians and no land that Israel had physically occupied through its settlement project was returned. Most of the "concessions" Israel made were cosmetic, while all the time it exercised complete control of the OPT, through checkpoints, closures and other restrictions. Israeli violence against Palestinians - both direct violence and institutionalised violence - continued, as did the denial of human rights.

When Palestinians protested against this situation and threw stones, they were often arrested, injured or killed, by the Israeli army. If Palestinians used armed resistance against Israeli armed attacks, Palestinians were blamed for causing the unrest and labelled "terrorists". Though the Oslo process, in reality, led to worse living conditions for Palestinians and the further entrenchment of Israel's occupation, when the uprising against occupation began in September 2000, Palestinians were portrayed as having chosen the "path of violence."

The power of the media in shaping public opinion has become so strong that one front of the Israeli-Palestinian conflict is a media war, where the battle for images and ideas is waged. During the Al-Aqsa Intifada, Palestinian children have been centre stage, but this is not a new phenomenon. During the first Intifada, an Israeli Justice Ministry paper entitled "Children as Participants in the Intifada", stated that:

Children of all ages are recruited by the PLO and extremist Islamic elements to participate in the street violence... Since the outset, the Intifada has exploited children by placing them in harm's way. Thus it is the inciters and not the IDF, who must be ultimately held responsible for the injury and death of rioting children⁴⁴.

DCI/PS documentation from the first Intifada indicates that the picture presented by the Israeli government and army is completely false. The majority of children killed by gunshot during the first Intifada were not participating in any form of demonstration

⁴³ <http://www.ifamericansknew.org/media/chron/report.html>.

⁴⁴ Alternative Report to the State of Israel's First Periodic Report to the Committee on the Rights of the Child Submitted by Defence for Children International/ Palestine Section and Endorsed by The Palestinian Child Rights Coalition. March 2002.

when killed. In fact, a composite picture of the average child killed by gunfire in the first Intifada shows a non-refugee boy from Nablus of 12 years age who was not participating in a stone-throwing demonstration when a soldier shot him in the face⁴⁵.

The Israeli media has been complicit in the latest stage of distorting the image of Palestinian resistance. Since the beginning of the Intifada, the media repeated claims made by the Israeli government spokesperson - in an attempt to justify the deaths of Palestinian children - that Palestinian children were used as "human shields" by Palestinian gunmen, or because their parents "sacrificed" them for the national cause. Such allegations have no basis.⁴⁶

More recently, the Israeli and Western media has placed great emphasis on the use of Palestinian children as "child soldiers", while virtually ignoring the litany of human rights abuses Palestinian children endure on a daily basis as a result of Israel's occupation. The Israeli military violates the right to life and physical security on a systematic and regular basis. Since the start of the second Intifada in September 2000, the indiscriminate use of lethal force by Israeli forces in the West Bank and Gaza Strip has resulted in the death of over 595 Palestinian children; thousands more have been injured. The violation of other fundamental rights, including the right to freedom of movement, the right to education and adequate healthcare to name but few, continues to pose a serious threat to the physical and psychological wellbeing of Palestinian children. Though well-documented, these daily abuses are rarely reported in the Israeli media.

However, on the infrequent occasions that Palestinian children are involved in the armed conflict against Israel's illegal occupation of their lands, the full force of the media is brought to bear. The apprehension twice in 10 days of two Palestinian children allegedly carrying explosives at Huwara checkpoint near Nablus sparked a media frenzy. The way in which the Israeli media portrayed the two children presents a clear example of the Israeli media's double-standards when it comes to reporting issues affecting Palestinian children

Following the two incidents on 15 and 25 March 2004, the Israeli and international press was quick to report as fact the Israeli army's version of events. No independent sources were quoted as confirming the stories, and in the case of the first child, no evidence was presented to prove that he was actually carrying explosives, as the army had claimed. While Israeli law stipulates that minors deserve special protection from potentially harmful publicity, pictures of the children and their personal details were immediately made available by the military and published in newspapers, on websites and broadcast on television and radio.

In both cases, the media reported the children as being younger than they actually were - the 11-year old was said to be aged 10, while the 16-year old in some articles was reported to be only 14 years old. This reduction in the age of the children gives more impact to the stories and fuels Israel's frequently repeated propaganda that the

⁴⁵ Status of Palestinian Children, Radda Barnen, Sweden 1990, pg. xv

⁴⁶ See DCI/PS, A Generation Denied, 2001.

Palestinians have little respect for the rights of their children. The inflammatory language used to describe the children and their alleged intentions that featured in the press reports, helps justify Israel's exaggerated security policy, which permits the Israeli occupation forces to carry out gross human rights violations against Palestinians, including children. In reporting these distorted and one-sided accounts, the media enables the abuse of Palestinian children.

Writing after the incidents at Huwara checkpoint, Israeli journalist Gideon Levy highlighted the double-standard concerning Palestinian children:

Why weren't we shocked by the killing of Christine Sa'ada, who was shot dead in an IDF ambush while travelling in a car with her parents in Bethlehem, exactly a year ago today? Why was there no public outcry following the killing of Jamil and Ahmed Abu Aziz, two brothers who were riding their bicycles in Jenin in broad daylight when a tank fired a shell at them? How is their killing, which was documented on video, less cruel? Why didn't we show pictures of Basil and Abir Abu Samra, who were killed together with their mother in their vineyard near Nablus, just as we displayed pictures of Hussam Abdu [one of the children detained at Huwara]? Why have we never discussed the killing of children at the entrance to the Qalandiyah refugee camp, where a child is killed by Border Police or IDF fire every few weeks? Why is a putting an explosives belt on a child more shocking than firing a shell at him?⁴⁷

⁴⁷ Gideon Levy, "A Sudden Concern for the Palestinian Child," Ha'aretz, 28 March 2004.

Conclusion

Palestinian children are victims of the ongoing occupation of their homeland. They endure the violation of their most basic human rights on a daily basis. By the end of June 2004, a total of 595 Palestinian children in the OPT had been killed since the second Intifada began. They died as a direct result of the occupation, whether shot by Israeli forces, fatally injured by tank shells, asphyxiated as a result of inhaling tear gas, or prevented by Israeli-imposed travel restrictions from accessing hospitals and other medical facilities.

Every day, children see friends or family members killed or seriously injured; watch as their parents are humiliated and harassed by Israeli soldiers at checkpoints or during midnight raids on their family home; similar numbers have relatives in prison; and around 2,800 children have themselves been arrested by the Israeli authorities since September 2000.

With poor education, their parents unemployed, and no end in sight to the occupation, many children face a bleak future. As conditions worsen, they realise that their lives as adults will be even harder than those of their parents. It is this sense of despair - directly resulting from the occupation - that politicises children. They are not "brainwashed" by adults, as certain organisations and interests would like to claim.

A very small number of children perceive martyrdom as a way to counter the hopelessness and at the same time strike a blow against those they hold responsible for the situation. A handful of these children have been recruited by Palestinian political groups to carry out armed attacks, though there is no evidence to suggest such recruitment is a systematic phenomenon within such groups. Senior representatives from these groups acknowledge the cases. However, they insist that their groups, along with the community as a whole, are uniform in their objection to child recruitment as a political strategy.

But it is not enough that the leadership of these groups publicly condemn incidents in which children are used. Such rebukes do not exonerate them from their responsibility in taking effective measures to end the practice of training and using children in military operations. It is vital that the leadership of political groups call upon all resistance groups to sign a compulsory covenant forbidding the recruitment of Palestinian children in the course of armed struggle. Furthermore, political parties are obliged to deepen their members' awareness of this subject, ensuring that every member from the top to the very bottom is fully aware of the relevant international legislation.

The State of Israel too regularly and covertly flouts binding regulations prohibiting the recruitment of child soldiers. Using violence, intimidation or blackmail, it coerces Palestinian children into acting as informers, violating their rights and endangering

their lives. Moreover, official Israeli security forces regularly violate international minimum standards of juvenile detention when dealing with Palestinian children, including torturing those suspected of association with armed groups. As a State Party to the CRC, and other key international treaties including the Fourth Geneva Convention, the Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment, it is imperative that Israel ceases such activities immediately and ensures international standards are upheld.

Israel's obligations do not stop with the treatment of Palestinian children in prison. The state bears the ultimate responsibility for the wellbeing of all Palestinian children in the OPT. Thus it is crucial that the occupying army upholds the rights of Palestinian children, and halts at once its constant oppression and humiliation of the Palestinian population. Palestinian children suffer not only as victims of armed attacks by Israeli forces but also from the soaring unemployment, poverty, loss of services and restrictions on movement in the OPT. Such suffering is a vital component pushing Palestinian juveniles towards involvement in armed attacks against Israeli targets. Consequently, any attempt by Palestinian groups and organisations to minimise the involvement of Palestinian children in armed conflict, is unlikely to meet with complete success as long as Israel's occupation continues.



DCI/PS



DCI/PS