

**Joint Alternative Report to the State of Palestine's Initial Report to the
Committee on the Rights of the Child**

CHILDREN'S RIGHTS IN PALESTINE

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Executive Summary

This joint report has been compiled by different human rights civil society organizations to assess the State of Palestine's compliance with the Convention on the Rights of the Child in an effort to be able to make concrete and effective recommendations to the State of Palestine. It provides an analysis and evaluation of the current situation of children's rights in the Occupied Palestinian Territory, methods of analysis including researching, reviewing international and national laws and legal instruments, in addition to reviewing and analysing collected affidavits through the work of Defense for Children International – Palestine. It also analyses available data, statistics, and emblematic cases, in addition to conducting workshops with children in different areas in Palestine to ensure a child-led approach.

The report finds that while some efforts have been made to improve the situation of children's rights in the Occupied Palestinian Territory, there are still significant obstacles in promoting, fulfilling, and protecting children rights. The report highlights these obstacles, including outdated laws that are not in accordance with the Convention on the Rights of the Child or other international child's rights standards, political division between the West Bank and Gaza Strip, lack of specific budgeted funds to prioritize child protection and development, lack of strategic planning for children's programs, and lack of capacity and failure of governmental actors to adequately address and implement international child right's norms.

Our findings and recommendations provide a clear pathway forward for the Committee on the Rights of the Child in assessing the State of Palestine's implementation and compliance with the provisions of the Convention on the Rights of the Child since 2014. The information provided in this report is a call for action for policymakers to address these factors and ensure an environment where children are able to access and fully enjoy their rights.

1. Introduction

- 1.1 This report has been prepared by a group of Palestinian civil society organisations operating within the jurisdiction of the State of Palestine in a range of areas, particularly children's rights, women's rights, the right to health, the right to education and the rights of persons with disabilities.
- 1.2 This report is submitted pursuant to article 45(a) of the Convention on the Rights of the Child (CRC) with respect to providing expert advice on the implementation of the Convention, in order to provide the Committee with a comprehensive insight and knowledge on how the Convention is being implemented by the State of Palestine, prior to the discussion of the initial report with the UN Committee on the Rights of the Child (“the Committee”) by the State of Palestine in January 2020.
- 1.3 The present report highlights several aspects of the status of the rights of the child in the State of Palestine and the State of Palestine’s fulfilment of its obligations to respect, protect and fulfil the children's rights since its accession to the Convention in April 2014. The report also proposes a set of recommendations for the State of Palestine.
- 1.4 This report does not include Israeli violations of the rights of Palestinian children in the West Bank, including East Jerusalem, and the Gaza Strip, referred to collectively as the Occupied Palestinian Territory, despite the fact that the Israeli occupation and its control over east Jerusalem and C areas of the West bank hinders the ability of the state of Palestine to live up to its obligations under CRC. The organisations submitting this report will submit a comprehensive report to the Committee on Israeli violations of the rights of Palestinian children during the next periodic review of the Government of Israel by the Committee. However, this report does address Israeli violations that prevent the State of Palestine from meeting its obligations under the Convention.
- 1.5 The failure to address Israeli violations in this report does not in any way diminish Israel's obligations concerning Palestinian children living in the Occupied Palestinian Territory or its obligations as an occupying power to respect, protect and fulfil the rights of Palestinian children, as affirmed by the Committee in its concluding observations to the Government of Israel following its initial review in 2002 and the second to fourth periodic reports in 2013.
- 1.6 The purpose of this report is to assist the Committee in developing a list of issues relating to the report of the State of Palestine and to provide data and information to ensure a comprehensive interactive dialogue between the Committee and the representatives of the State of Palestine.
- 1.7 This report is based on the Child Rights Connect Guidelines for NGOs reporting to the Committee with respect to the form and content of alternative reports submitted by civil society organisations in line with the principles and procedures approved by the Committee. The present report covers the period from 1 April 2014 to 15 April 2019. NGOs representatives will participate in the presentation of this report to the NGOs pre-session in Geneva.

2. General measures of implementation (Articles 4, 43, 44/6)

Legislative Framework

- 2.1 The legal status in the State of Palestine is complicated because a number of authorities have exercised jurisdiction in the area. Thus, the legal system is a mixture of overlapping bodies of law that now amounts to a web of different legal systems applying to Palestinians living in the West Bank, the Gaza Strip, and East Jerusalem. A number of old Jordanian laws are still in effect in the West Bank, which do not comply with international human rights standards, most notably the Personal Status Law of 1976 and the Jordanian Penal Code of 1960. In the Gaza Strip, the Penal Code of 1936 was enacted during the British Mandate is in effect along with the Egyptian Personal Status Law. Israeli military orders or military law also remains in effect in Gaza. Neither the Palestinian Authority nor the State of Palestine has made sufficient efforts to unify the laws for the purpose of stabilizing the Palestinian legal system.
- 2.2 Furthermore, the challenges facing the legal system in Palestine were exacerbated by the political rift in 2006, which led to the inability of the Palestinian Legislative Council (PLC) to convene to take its role in enacting legislation and the creation of a new reality of two authorities on the ground. Hence, any legislation issued by the Palestinian President after 2006 has not been implemented in the Gaza Strip, such as amendments to the Child Law in 2012¹ and the Juvenile Protection Law in 2016. New legislation was also issued, such as the Education Law of 2013 in Gaza and another Education Law in 2017 in the West Bank.
- 2.3 Resolutions issued by the Palestinian President may be unconstitutional if they are not subject to the “necessity” criterion, since the provisions of Article 43 of the amended Palestinian Basic Law of 2003 do not apply to certain decisions issued by the President,² given that Article 43 constitutes an exception to the original, and that is the issuance of laws by the PLC. Article 43 empowers the President to issue legal decisions in cases of necessity that cannot bear the delay at times when the PLC is not convening in the West Bank. These resolutions must be approved at the next meeting of the PLC.
- 2.4 A study conducted by Muwatin Institute for Democracy and Human Rights showed that between 2007 and 2016 the Palestinian President issued 142 Laws by Decree “regulating” the administrative, constitutional, judicial and security sectors.³ Such resolutions were not urgent. On the contrary, the proposed laws were widely controversial and were criticized by civil society organisations, such as the Cybercrimes Law by Decree that threatens the right to privacy and freedom of expression of citizens, while the drafted Personal Status law, the Penal Code and the Family Protection against Violence draft law have not been passed.

¹ Published in the Palestinian Gazette, page 101, issue No. 101 on 20 August 2013. The Palestinian Child Law No. (7) of 2004, published in the Palestinian Gazette on 18 January 2005, issue No. 52, p. 52

² Palestinian Amended Basic Law for 2003, Article (43), available at: <https://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>

³ Muwatin Institute for Democracy and Human Rights, Legislation in times of political division - Studies in Law By Decrees and Legislations issued since 2007, accessed on 1 February 2019, available at :

<http://www.rightsecretariat.ps/catigory/item/157-2007--النشر-يع-في-ز-من-الانقسام-در-اسات-في-القرارات-يقونين-و-النشر-يعات-الصادر-منذ>

- 2.5 Civil society organizations welcomed the accession of the State of Palestine in April 2014 to several of the most fundamental international human rights conventions after it became a non-member observer state of the UN,⁴ including the Convention on the Rights of the Child and subsequent Optional Protocols.
- 2.6 Despite the commitment of the State of Palestine to implement the Convention upon accession, the entry into force of the Conventions in the Palestinian legal system indicates gaps. Although the Basic Law mentions in Article 10 the need for the Palestinian Authority to join the international covenants, there is no mention in the legal system of how to implement the conventions in the local system.⁵
- 2.7 In 2016, the Palestinian Authority activated The Law of the Supreme Constitutional Court no.3 of 2006 and established upon this the first Palestinian Supreme Constitutional court, with the power of judicial review.
- 2.8 State of Palestine's initial report⁶ mentions the Supreme Constitutional Court Decision No. 4/2017 at its session held on November 19, considering international conventions to be superior to the domestic legislation, but the report did not mention that the Constitutional Court's decision was vague and gave supremacy of international conventions over the domestic legislation as long as they are "in line with national, religious and cultural identity of the Palestinian Arab people."
- 2.9 Such decision may be considered a reservation and may prevent the enforcement of international conventions in a way that is compatible with the international principles of human rights, making their implementation interpretable according to each case.
- 2.10 The Palestinian Authority has not yet published the international conventions in the Official Gazette.
- 2.11 A Harmonization Committee was formed by a ministerial decree in 2017.⁷ The Committee has so far reviewed three legislations, including Family Protection against Violence draft law.
- 2.12 There are general difficulties facing the Law Harmonization Committee that were not addressed in the State party's report, such as the large number of legislations that need to be harmonized with international treaties. In addition, the Palestinian legal system is a mixture of successive periods, the oldest of which dates back to the Ottoman period. Other issues include the fact that Palestine has joined many agreements all in a single step; limited experience in handling such agreements; lack of unity of the Palestinian legal systems in the West Bank, the Gaza Strip and East Jerusalem; and finally, the non-convening of the PLC,

⁴ General Assembly A/RES/67/19 Status of Palestine in the United Nations, accessed on February 13, available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/67/19

⁵ The Amended Basic Law of 2003, published on page 5 of the Palestinian Gazette on 19 March 2003. available at: <https://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>

⁶ State of Palestine's First national report prepared Under article 44 of the Convention on the Rights of the Child

⁷ Cabinet Decision no (59/142/17) for 2017 for Creating a Committee to Harmonize Palestinian Legislations with International Conventions.

which prevents the issuance of legislation by a competent authority to ensure compatibility with the international principles.

2.13 Many Palestinian laws and legislation are still incompatible with the specific principles of child rights protection, including:

- a. Provisions of the Jordanian Penal Code No. 16 of 1960, which applies in the West Bank, permits physical abuse against children. According to Article 62, “The Law allows forms of discipline exercised on children by their parents, as sanctioned by general custom.” Physical abuse in the form of hitting or beating is considered a ‘general custom’ in some areas of Palestine.
- b. The Palestinian Labor Law No. 7 of 2000 provides guarantees for working minors, such as prohibiting work in hard and dangerous industries and reducing working hours. However, the provisions of this section exclude minors who work with their first-degree relatives. In addition, the law does not impose severe penalties on institutions and employers who employ or exploit juveniles in inappropriate circumstances or those under the age permitted by law. Article 134 imposes only small, non-deterrent fines on violators.
- c. The Personal Status Law of 1976 legitimizes early child marriage, stipulating that the legal age of consent for marriage is fifteen (15) years for girls and sixteen (16) years for boys.

2.14 There is a need to adopt regulations for the Palestinian Child Law in order to ensure its implementation, and another executive regulation to the Law by Decree No. 4 of 2016 on the Protection of Palestinian Juveniles, especially those related to mediation and its application mechanisms on the ground.

Recommendations

2.15 The State of Palestine should take immediate action to:

- Resolve the political division between the Gaza Strip and the West Bank;
- Establish a functioning legislative council to review and adopt laws;
- Promulgate new laws to ensure compliance with the CRC, specifically a new criminal code, personal affairs code, and laws concerning family protection from violence;
- Ensure implementation of national laws, like the Criminal Procedure Code, comply with CRC standards and principles, especially for the protection of child victims and witnesses.

Policies and regulations

- 2.16 The State of Palestine's report states that a Strategic Plan for Child Protection was prepared for the years 2011-2013,⁸ however contrary to the recommendations of the Committee on the Rights of the Child in its General Comment No. 5 of 2003 to involve children in government decision-making processes children were not involved in that plan. While children were involved by the Ministry of Social Development in creating a National Strategy for the Childhood Protection System 2018–2022,⁹ such involvement was a mere formality as children were not actually involved in developing the plan that failed to reflect their needs.
- 2.17 The State of Palestine's report describes cooperation taking place at the ministerial level in the West Bank, but fails to mention the reality of cooperation with the ministries in the Gaza Strip, which we view with concern. The genuine enforcement of the Convention requires the State to coordinate between different regions and sectors in order to respect all the principles and standards of the Convention for children under its jurisdiction.¹⁰ There is a need for a unified and comprehensive national strategy for the promotion and actual respect for the rights of the child. Despite the availability of sectoral strategic plans for child protection and child justice, there are overlaps in competencies among different actors. Overlap exists especially with regard to the role of the administrative officials and governors and the Ministry of Justice and Ministry of Social Development in the administration of juvenile justice, which requires regulations for the Child Law and the Juvenile Protection Law to regulate the roles and responsibilities of different ministries.
- 2.18 The State of Palestine's report mentions the development of more than one strategic plan, such as the Strategic Plan for the Protection of the Child 2013–2015 and the National Strategy for the Social Protection Sector 2014–2016, and the formation of committees such as the National Action Committee. However, it does not mention any achievements or impact of these strategies and what, if any, results have been achieved.
- 2.19 There are no regular meetings between representatives and ministries for the periodic discussions of child rights issues.
- 2.20 The Palestinian Council of Ministers ratified the system of the National Child Council on 11 May 2017¹¹ in response to the Convention on the Rights of the Child, as well as article 70 of the Palestinian Child Law, which aims to establish protection policies for children, monitor the implementation of children's rights by various parties, and develop national plans. However, the National Child Council has no independent budget to play an active role and has convened only two meetings since its formation.
- 2.21 The Ministry of Social Development issued the National Strategy for the Child Protection System 2018–2022, although the authority to issue national plans is the National Council

⁸ State of Palestine's First national report prepared Under article 44 of the Convention on the Rights of the Child

⁹ CRC/GC/2003/5 General Measures of Implementation (article 4, 42, 44/6).

¹⁰ CRC/GC/2003/5 General Measures of Implementation (article 4, 42, 44/6).

¹¹ Cabinet Decision no (7) for 2017 in regard to the National Child Council, available at: muqtafi.birzeit.edu/pg/getleg.asp?id=16977

according to Article (4) of the National Council system. In any case, the Ministry has not published these plans in order to be reviewed or implemented by civil society organisations.

- 2.22 The State of Palestine has no clear vision for the distribution of resources and lacks capacity necessary to realize the rights of children in Palestine. While the State of Palestine is working to build a large number of rehabilitation and reform centres in the West Bank governorates, there is no governmental effort to build care homes or detention centres for juveniles, DCIP estimates that about three-quarters of the detained children are held in adult detention centres in rooms fail to ensure basic needs. Furthermore, there is no clear mechanism for maintaining trained and specialised personnel within the Palestinian police and juvenile judge ranks. With an existing shortage of trained staff in the Ministry of Social Development that can work directly with children, lack of properly trained persons in the police and the courts hinders the implementation of government strategies to realize the rights of the child in Palestine.
- 2.23 According to Article 42 of the Convention on the Rights of the Child, States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means. However, the State of Palestine has not complied with this obligation and has not adopted any plan to promote awareness among children and adults by publication, media outlets, or school curricula.
- 2.24 There should be national child-friendly mechanisms to enable children and their families or their representatives to lodge complaints on violations of the rights of the child. In this context, there are scattered efforts that have no strategic dimension to achieve results. The Palestinian Police have established a Human Rights Grievances Bureau, but there are no clear mechanisms for receiving complaints from children and their families. Furthermore, complaints submitted by civil society organisations are not dealt with effectively as there is no clear time period for addressing them. In some cases, inquiry committees are established but fail to produce effective results. Moreover, there are no internal control systems in child detention centres, and individuals authorized by law to inspect the places of detention conduct unorganised visits and do not submit periodic reports. As for the visits carried out by civil society institutions, they are coordinated in advance. In addition, the Public Prosecutor's Office launched a Child Complaints Manual at the end of 2018 on how to lodge complaints, but the mechanism has not yet been implemented.

Recommendations

- 2.25 The State of Palestine should take measures to:
- Meaningfully involve children in the development of national strategies in order to reflect their needs, publish and widely disseminate strategic plans and plans of action, and regularly provide public data and information on implementation of such strategies;
 - Adopt a child-friendly mechanism to enable children to lodge complaints on violations of their rights; and
 - Empower and support meaningful child participation through the National Child Council by allocating funds for this specific purpose and regular convenings.

The public budget

- 2.26 State of Palestine's report mentions the 2018 total budget and its allocation to each of the ministries.
- 2.27 In accordance with Article 3 of Law No. 7 of 1998 Concerning the Planning of the Public Budget and Financial Affairs, every draft annual budget should be approved by the PLC. However, due to the failure of the PLC to convene since 2007, the budget is approved by the Executive Authority.
- 2.28 Civil society organizations are not involved in the approval process of the general budget and none of the proposals suggested by these organisations is taken into consideration.
- 2.29 There is almost no point in mentioning the budgeting process because there are limited accountability and evaluation tools to judge the performance of the budget. So far, the audited final account for 2012–2016 has not been published. This report is the main tool for accountability and the real measure to assess the actual performance of the budget.
- 2.30 There are no items allocated to children within the framework of publicly-approved budgets published by the General Budget Authority.¹² Also, there is no clear accounting tool to measure the level of expenditure allocated to children in order to study the impact of services provided to them and the ability of such services to improve their economic and social conditions.
- 2.31 The percentage allocated to the Ministry of Social Development is 5.06 percent of the total budget for 2018, which is relatively small, whereas the biggest share of the public budget goes to security allocations.¹³
- 2.32 There is a clear lack of detail in the report regarding the allocation of budgets for the implementation of cross-sectoral plans developed by the government in the field of children's rights.
- 2.33 The 2019 Public Budget has not yet been issued, even though Article 31 of the Budget Regulation Act of 1998 requires it should be issued before the beginning of the new year.

Recommendations

- 2.34 The State of Palestine should take measures to ensure transparency concerning the public budget to assess the amount and impact of funds allocated to child protection, empowerment and participation, and other child-focused programs and services.

¹² Ministry of Finance and Planning, Budget allocation for the year of 2018, accessed on February 13, available at: <http://www.pmf.ps/pmf/internal.php?var=10&tab=04>

¹³ Miftah “Fact-sheet” paper about “Social Development budget and the poverty allocation.” Accessed on February 13, 2019 available at: http://pmf.ps/pmf/documents/budget/2018/BUDGET_BOOK_2018.pdf
http://www.miftah.org/Publications/Books/FactSheet_The_Budget_of_Ministry_of_Social_Development_and_Allowances_for_the_Poor.pdf

Data collection

- 2.35 The Palestinian Central Bureau of Statistics (“PCBS”) is the official body responsible for the overall statistics according to the General Statistics Law No. 4 of 2000.
- 2.36 The 2016 PCBS report did not cover all aspects of children's rights and was limited to subjects related to education, health, economic exploitation and children under occupation, without giving any specific data on children in conflict with the law or child victims of violence.
- 2.37 Lack of comprehensive reports on the reality of children raises questions about any strategies developed for the coming years, as there is no basic information to analyse impact or future needs.
- 2.38 Recent reports¹⁴ do not include real data on child beggars or children working in Israeli facilities.
- 2.39 The state report stated that there were problems facing the PCBS related to lack of experience and accession, such as the failure to establish proper administrative records; the absence of a comprehensive centralized system of data documentation at the national level covering all areas of the Convention; and the inability to reach all categories of children. However, the state report did not include any efforts or steps taken by the State to tackle these issues.
- 2.40 There is no information system or a national system on children's justice systems and children's rights in Palestine. Since there is no unified database that monitors the numbers of children victims of violence and abuse and children in conflict with the law, a national database should be established to monitor the status of children's rights in the State of Palestine. This reflects the discrepancy in figures issued by the Palestinian Police, which have a database that is not linked to the database of the Public Prosecution and the Judiciary System (Mizan 2).¹⁵ The Ministry of Social Development also does not have a database for children in conflict with the law.

Recommendations

- 2.41 The State of Palestine should take measures to:
- Create an independent national child rights commission to monitor the situation of children’s rights by collecting comprehensive data on all areas covered by the CRC; and
 - Publish and disseminate data and information on the situation of children’s rights in the State of Palestine through a national database.

¹⁴ The Palestinian Central Bureau of Statistics, The Status of the rights of Palestinian Children 2016, accessed 13 February 2019, available at: <http://www.pcbs.gov.ps/Downloads/book2275.pdf>

¹⁵ See https://www.courts.gov.ps/details_ar.aspx?id=FGvLEba79947252aFGvLEb

3. Definition of the child

- 3.1 The Palestinian Child Law of 2004 is consistent with the definition of a 'child' included in the Convention on the Rights of the Child as it defines a 'child' as any person below the age of eighteen (18) years.
- 3.2 However, there is a conflict between the provisions of the Palestinian Child Law and the legislative protection mechanisms for children. For example, although Article 42 of the Palestinian Child Law refers to the protection of children from all forms of abuse and exploitation, including economic exploitation, the Labour Law No. 7 of 2000 permits the employment of children since the age of fifteen (15) years, Law No. 8 of 2017 Concerning General Education stipulates education is compulsory until the tenth grade (16 years). The Labour Law also excludes children working with and under the supervision of their first-degree relatives without age determination.
- 3.3 Penal Procedure Law No. 3 of 2001 undermined the legal protection of child victims and witnesses by considering testimony provided by a child under the age of fifteen (15) years is for the purpose of consultation and is not individually considered by the court. Furthermore, the Palestinian Child Law violates a child's right to receive free health services, as these services were restricted to children under the age of six (6) years.
- 3.4 The age standard in the Jordanian Personal Status Law of 1976 applied in the West Bank constitutes a violation of multiple basic child rights. Article 5, for example, stipulates the legal age of consent for marriage is fifteen (15) years for girls and sixteen (16) years for boys, despite the fact that the Palestinian legislative system sets the age of majority at eighteen (18) years. Such article deprives children from physical, mental and emotional development, it violates the CRC where in article 6 states are obliged to ensure the maximum extent possible of the development of the child. It also contravenes with the right to education as a basic right. The percentage of girls who drop out of school for marriage purposes is approximately 90 percent of the total girls' dropout rates; although the Child Law considered that the marriage of minor girls without their consent is one of the reasons threatening their safety, which makes them need protection. Raising the age of marriage becomes a pressing need giving the fact that some draft laws address the reality of marriage of minor girls in Palestine. Family Protection against Violence draft law, for example, considers that protection should be provided for a married minor girl if abused in accordance with the abused women's referral system but does not receive legal protection in terms of reporting and competent authorities in dealing with her as a child.
- 3.5 The Personal Status Law considered age as a criterion for custody, setting the biological maturity at the age of fifteen (15) years in accordance with the Journal of the Judicial Verdicts. According to the Personal Status Law, custodianship of the male child by a woman other than his mother shall terminate once he reaches nine (9) years of age and of the female child once she reaches eleven (11) years of age. The law did not adopt the criterion of the age of childhood stated in the Child Law or the Convention.

Recommendations

- 3.6 The State of Palestine should take measures to ensure all State of Palestine laws and regulations comply with the definition of the child in accordance with the CRC and international norms, including prohibiting treating children as adults and discrimination between children of different ages.

4. General principles

The principle of non-discrimination

- 4.1 Although the Basic Law and the Child Law contain articles protecting children against discrimination,¹⁶ many of the laws in force in the State of Palestine contain gender-based discrimination.
- 4.2 Discrimination is evident in the subject of custody. According to Article 161 of the Jordanian Personal Status Law, custodianship of a boy by a woman other than his mother shall terminate once he reaches nine 9 years of age. For a girl, it terminates when she reaches eleven 11 years of age.¹⁷ Article 165 gives a guardian the right to supervise the female virgin when she is under forty 40 years of age, and in the event the woman disobeys him without cause, her alimony shall not be incumbent on him. The rigid application of this article is commonplace. When the female reaches the age of fourteen 14 years, her father has the custodial rights, and if she refuses, she will be deprived of alimony.

Children born out of wedlock

- 4.3 Despite Ministry of Social Development and the Palestinian government efforts to protect certain groups of children from discrimination and to regulate their legal status, some terms contained in these laws and decisions are not sensitive to respect for this group of children. The Council of Ministers' Resolution No. 10 of 2013 Concerning Foster Families included terms such as “illegitimate children”.
- 4.4 These labels reinforce stigmas and discriminate against children, and the classification of “illegitimate children and children without parentage” and their registration in a special register is a form of a discrimination. This is contrary to the principle of non-discrimination against children, all of whom are equal regardless of gender, colour, religion, origin, or birth. The use of these terms in official discourse harms these children and promotes a culture of community stigma and rejection.

¹⁶ Both the amended Palestinian basic law and the Palestinian child law of 2004 guarantees equality, while the Palestinian basic law prohibits any discrimination based on sex, color, race, religion, political views or disability (article 9), the child laws adds additional factors such as social origin, wealth, or “any kind of discrimination” (Article 3), the child law further stipulates the obligation of the state to take appropriate measures to ensure equality (article 3).

¹⁷ Jordanian Personal Law for 1976, published in the Official Gazette no (4149), available at: http://www.plc.gov.ps/menu_plc/arab/files/%C6%92T%C6%92%C2%AC%C2%BA/t%C6%92dfd%20%C6%92T%C6%92C3%91f%C6%92T%20%C6%92T%C2%BC%C2%AA%C2%A1n%C3%AD%20f%C3%B3p%C2%BAnt%C6%92C3%B38%20%C2%ACtO%2061%20T%C2%BDd%C3%AD%201976.htm

Children with disabilities

4.5 There are insufficient government policies to integrate children with disabilities into education programs, provide them with special protection centres, specifically abused children with disabilities, or provide information programs and plans to raise awareness about the rights of children with disabilities in an effort to address societal perspectives, which create a painful reality for children with disabilities. In addition, there are no sufficient efforts being taken to guarantee their right to mobility through the provision of suitable means of transportation and facilities. Despite the availability of resource rooms, although few in number, children with disabilities experience obstacles and barriers that deprive them of their rights as the facilities are not adapted to allow accessibility. Children with simple or moderate mental disabilities do not have sufficient means to integrate into schools. In cases where a shadow teacher is required, the Ministry of Education asks the child's family to provide a shadow teacher at the expense of the family, and thus many children with disabilities are denied their right to education.¹⁸

Recommendations

4.6 The State of Palestine should take measures to:

- Closely monitor the policies and practices in both public and private institutions to guard against the discrimination of children belonging to different age or gender groups; and
- Develop legal instruments focused on enhancing child protection for children born out of wedlock by eliminating the legal distinction and classification of children as “legitimate” and “illegitimate,” and eliminate the registration of these children in “special forms.”

Best interests of the child

4.7 Although legislative provisions in the Palestinian legal system state that the best interests of child must be the primary consideration in all matters relating to children, state practice are inconsistent with these provisions.

4.8 Article 4 of the Palestinian Child Law stipulates the best interests of the child shall be considered in all proceedings and interactions involving children. This principle is also included in the Juvenile Protection Law, but without setting clear criteria for the implementation of this principle.

4.9 However, treatment of children in conflict with the law indicates there is lack of awareness or a conflict with the principle of the best interests of the child, based on an evaluation of law enforcement mechanisms. Of 320 legal files adjudicated in 2016-2018 of children in conflict with the law, the disposition of 44 cases¹⁹ were linked with the best interests of the child, without specifying the best interest of the child. In many of the cases, the child's detention was extended by the prosecution or the judiciary under the pretext that it was

¹⁸ Three complaints submitted by DCIP to the Ministry of Education in 2017-2018

¹⁹ Defense for children International-Palestine – Child Justice Unit, Annual report, 2018.

actually in their best interests.²⁰ To address this gap in implementation of the best interests principle, priority needs to be given to the training of law enforcement officers, judges, juvenile prosecutors, juvenile police and all officials and individuals that work directly with children on best practices to help them implement the best interest principle and ensure they give primary consideration to children's rights in all proceedings.

- 4.10 Moreover, the criteria on which to determine the best interests of the child are not clear and it is also not clear which parties would decide this criterion. Concerning children in conflict with the law, there are no social, psychological or educational specialists consulted before deciding on measures to be imposed on children.
- 4.11 Article 2 of the Juvenile Protection Law stipulates the judge is the competent authority to determine the best interests of the child according to a recommendation from the Child Protection Officer. Article 4 states the court must make the decision in a manner that achieves the best interests of the child. Article 66 of the amended Palestinian Child Law grants the judge the right to assess the best interests of the child, considering the child's opinion and the participation of the caregiver in relation to the protection of children at risk and children at risk of delinquency. However, the opinions of child victims of violence or abuse, children in conflict with the law, or children at risk of delinquency are not considered for protective measures.
- 4.12 Article 2 of the Juvenile Protection Law of 2016 states the best interest of the child is determined by a report produced by a child protection officer. However, there are only 28 child protection officers, while there were at least 2,199 juvenile cases followed up on in 2018 alone. The lack of an adequate number of protection officers to handle the high number of cases indicates that children are possibly not adequately involved and individual child needs are not addressed. This undermines the right of the child to express his opinion and reduces his chances of identifying programs that contribute to his rehabilitation; which is inconsistent with the determination of his best interest.
- 4.13 Other violations arise in the implementation of the principle of the best interests of the child, including the confidentiality of juvenile cases (Article 9 of the Juvenile Protection Law for 2016). In practice, out of the 176 cases of children arrested in 2018 and followed by DCIP, in 47 cases children were transferred or detained with adults, in violation of the obligation to separate children from adults under CRC Article 37(c). This practice also violates Article 21 of the Juvenile Protection Law that provides for the mandatory separation between juveniles and adults.
- 4.14 The Jordanian Personal Status Law of 1976, applied in the West Bank, and the Egyptian Family Law No. 303 of 1954, applied in the Gaza Strip, do not consider the best interest of the child in determining which parent the child must live with and what guardianship rights are for each parent. Based on these laws, the guardianship is for the father even if the child

²⁰ DCIP lawyers in the Palestinian jurisdiction noticed that many cases of children in detention were extended based on the justification that continued detention was in their best interests despite the fact that under international juvenile justice standards detention is meant to be a measure of last resort only for the shortest possible period.

lives with the mother, and the right of the mother to custody is terminated in cases where she remarried and the right of custody goes to her mother.²¹

Recommendations

4.15 The State of Palestine should take measures to:

- Review all existing laws and policies and repeal those that have a negative impact on children, especially those relating to judicial procedures; and
- Develop and provide extensive and specialized training of law enforcement officers, judges, juvenile prosecutors, juvenile police and other officials and individuals that work directly with children on best practices to implement the best interest of the child principle and to ensure they give primary consideration to children's rights in all proceedings.

The right to life, survival, and development

4.16 Existing Palestinian law protects the lives of children by prohibiting imposition of death penalty against children (Article 7 of the Juvenile Protection Law of 2016).

Child mortality

4.17 Records of the Ministry of Health indicate infant mortality in the Occupied Palestinian Territory in 2016 was 10.5 deaths per 1,000 live births, and mortality for children under five years of age was 12.2 deaths per 1,000 live births.²²

Vaccinations and medicines

4.18 According to Article 22(3) of the amended Child Law of 2012, the Ministry of Health provides free health services for children under the age of six years, in addition to a number of immunizations for children to prevent diseases at birth. The Ministry has recently published a report saying that 99 percent of children in Palestine are vaccinated.

4.19 Health services in the occupied Palestine territory face chronic shortages of medical supplies.²³ The Central Drug Store of the Ministry of Health in Ramallah reported an average of 23 percent of essential medicines and 19 percent of essential medical supplies as completely depleted over the course of 2017. Gaza's Central Drug Store reported a 40 percent

²¹ Jordanian Personal Law for 1976, article (156), available at:

http://www.plc.gov.ps/menu_plc/arab/files/%C6%92T%C6%92%C2%AC%C2%BA/t%C6%92dfd%20%C6%92T%C6%92%C3%91f%C6%92T%20%C6%92T%C2%BC%C2%AA%C2%A1n%C3%AD%20f%C3%B3p%C2%BAnt%C6%92%C3%B38%20%C2%ACiO%2061%20T%C2%BDd%C3%AD%201976.htm.

²² Ministry of Health, PHIC, Health Status, Palestine, 2016, July 2017, accessed on 1 March 2019, available at: https://www.site.moh.ps/Content/Books/ZxRcynmiUofNqt66u4CrHRgmJR6Uv7z77srjIEAho6xnz5V3rgLTu_RhO7xf2j2VusNiIvWkjwp84yXHLdGleB97gKrHHI5iZ9oPJ25owGEN.pdf

²³ World Health Organization, Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan, accessed on 1 March 2019, available at: http://apps.who.int/gb/ebwha/pdf_files/WHA71/A71_27-en.pdf

of essential medicines were totally depleted by end of April and another 10 percent of medicines and 29 percent of disposables had less than a month's supply remaining.²⁴ The shortage of medicines and medical supplies has been continuing since the previous years. According to a World Health Organization (WHO) report in 2016, the shortage of medicines in the West Bank and Gaza Strip in 2015 was between 20 and 30 percent.²⁵

The protection of children from the use of tobacco and alcohol

- 4.20 Jordan's Penal Code No. 16 of 1960, which is in force in the West Bank, and the Palestinian Cabinet Resolution No. 1 of 1996, prohibit all owners of restaurants, cafes and related shops from selling or supplying alcohol, hookah, or tobacco to children below the age of 18 years. Article 6 of the Anti-Smoking Act of 2005 also prohibits the sale or supply of tobacco to persons under 18 years old.
- 4.21 Although the law protects the health of children from the use of tobacco and alcohol, the application is very weak as there is limited accountability for vendors that violate the law. According to the Palestinian Youth Survey 2015, 10 percent of children aged 15-17 years reported they smoke tobacco products.²⁶ There is also a lack of protection for children concerning exposure to second-hand smoke in public places, including schools, despite the provision in Article 4 of the Anti-Smoking Act banning "the smoking of any kind of tobacco in public." Article 5 stipulates "smoking in schoolyards and kindergartens is prohibited."

Gaza closure

- 4.22 An important point overlooked in the State's report on the right to life, survival, and development is the effects of Israel's nearly 12-year closure of Gaza on children's health, as well as the role of the Palestinian Authority in the closure for political reasons. Since June 2007, Israel has imposed a land, sea and air blockade on Gaza, affecting all aspects of the population, especially children. As a result of the blockade, about 68.5 percent²⁷ of the population of the Gaza Strip suffers from poverty and food insecurity, which directly affects a child's right to life, survival, and development.
- 4.23 Due to the repeated attacks on the Gaza Strip, most hospitals, primary care facilities, and ambulances were damaged and destroyed.²⁸ According to a WHO report from 2010 to 2016,

²⁴ The world Health Organization, Gaza's health Sector struggles to cope with Massive Influx of Casualties Amid Pervasive Shortages, 2018, accessed on April 2019, available at: <https://www.ochaopt.org/content/gaza-s-health-sector-struggles-cope-massive-influx-casualties-amid-pervasive-shortages>

²⁵ Ibid.

²⁶ Palestinian Central Bureau of Statistics, Main Results of the Palestinian Youth Survey 2015, Ramallah - Palestine.

²⁷ WHO, the State of Palestine, accessed on March 1, 2019. Available at: <https://www1.wfp.org/countries/state-palestine>

²⁸ Al Mezan Center for Human Rights. No More Impunity: Gaza's Health Sector Under Attack. Accessed on March 1, 2019. Available at: <http://www.mezan.org/en/uploads/files/14683072331625.pdf>

during this time the number of beds in hospitals decreased by 9 percent, the number of nurses dropped by 5 percent, and the number of doctors decreased by 21 percent.²⁹

- 4.24 The only power plant in Gaza has been damaged in repeated Israeli military offensives creating an electricity shortage that adversely affects the health sector in Gaza. The electricity shortage worsened in June 2017 when, at the request of the Palestinian Authority, Israel reduced electricity supplies in Gaza by 40 percent.³⁰ Children who rely on medical equipment in their homes face serious health risks due to the ongoing electricity crisis.
- 4.25 After 50 years of continuous decline, infant mortality rose by 2.4 percent in refugee families in the Gaza Strip in 2013 compared to 2008, according to UNRWA.³¹ A subsequent study by UNRWA found the main causes of death in the first year of the infant are: preterm birth, congenital abnormalities, and infections.³² The study also found neonatal mortality and death before four weeks of age increased from 12 deaths per 1,000 live births in 2008 to 20.3 deaths in 2013.³³

Suicide

- 4.26 The Ministry of Health confirmed in a conference in 2017 that there were shortages in psychiatry, nursing, and clinical specialists in Palestine. A study in the 2017 International Journal of Pediatrics and Adolescents showed that 25.6 percent of Palestinian students aged 13-15 years thought about committing suicide.³⁴

Recommendations

²⁹ World Health Organization, Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan, accessed on 1 March 2019, available http://apps.who.int/gb/ebwha/pdf_files/WHA69/A69_44-ar.pdf

³⁰ United Nations Office for the Coordination of Humanitarian Affairs (OCHA). The humanitarian impact of the Palestinian divide on the Gaza strip. Accessed on 1 March 2019, available: <https://www.ochaopt.org/content/humanitarian-impact-internal-palestinian-divide-gaza-strip-june-2017>

³¹ United Nations Relief and Work Agency for Palestine refugees and near east (UNRWA). Infant Mortality Rate Rises in Gaza For First Time in Fifty Years. Accessed on 1 March 2019, available: <https://www.unrwa.org/newsroom/press-releases/infant-mortality-rate-rises-gaza-first-time-fifty-years>

³² United Nations Relief and Work Agency for Palestine refugees and near east (UNRWA). Increasing Neonatal Mortality among Palestine Refugees in the Gaza strip. Accessed on 1 March 2019, available: https://www.unrwa.org/sites/default/files/increasing_neonatal_mortality_among_palestine_refugees_in_the_gaza_strip.pdf

³³ United Nations Relief and Work Agency for Palestine refugees and near east (UNRWA). Increasing Neonatal Mortality among Palestine Refugees in the Gaza strip. Accessed on 1 March 2019, available: https://www.unrwa.org/sites/default/files/increasing_neonatal_mortality_among_palestine_refugees_in_the_gaza_strip.pdf

³⁴ Palestine Economy Portal, 25.6 percent of Palestinian students thought of suicide. Accessed on 1 March 2019, available: <https://www.palestineconomy.ps/ar/Article/13301/256-%D8%A8%D8%A7%D9%84%D9%85%D8%A6%D8%A9-%D9%85%D9%86-%D8%B7%D9%84%D8%A8%D8%A9-%D9%85%D8%AF%D8%A7%D8%B1%D8%B3-%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86-%D9%81%D9%83%D8%B1%D9%88%D8%A7-%D8%A8%D8%A7%D9%84%D8%A7%D9%86%D8%AA%D8%AD%D8%A7%D8%B1>

4.27 The State of Palestine should take measures to:

- Upgrade the quality of health services, including infrastructure, medical devices, pharmaceutical policies, continuous training of health personnel, and support an integrated and fair strategy between the government and private sector to promote children's health;
- Improve the primary health and preventive health of children to address the problems of obesity, poor nutritional status and unsafe water;
- Improve access to health services by implementing laws and policies to mitigate obstacles in accessing healthcare, such as poverty and place of residence, in an effort to ensure children can access and attain the highest level of healthcare and development;
- Conduct regular inspector visits in places that sell tobacco products, and increase the number of information sessions in schools providing information on negative health impacts of tobacco use;
- Remove any restrictions or sanctions imposed on the Gaza Strip, allow the issuance of medical permits for children and their parents to visit the West Bank to access medical treatment, and ensure children do not bear the brunt of any political divisions by prioritizing children's safety, health and well-being; and
- Prioritize programs and policies that address the psychosocial and mental health of Palestinian children, including implementing a strategy to increase the number of professional mental health specialists in health facilities and schools throughout the OPT.

Principle of participation

- 4.28 Although Article 12 of the Palestinian Child Law provides “the views of the child shall be taken into consideration in accordance with age and maturity,” children are not given the opportunity to express their views in proceedings related to intervention and protection measures for children victims of sexual violence or neglect, and are not involved in government strategies related to healthcare, treatment, prevention, and rehabilitation.
- 4.29 For example, the Ministry of Education did not involve children in formulating its Strategic Plan 2017-2022, and the Ministry of Social Development also did not involve children in planning activities. The Strategic Plan for Child Protection 2018-2022 was presented to the DCIP Children's Council as representatives of the child population, but without taking recommendations from child participants in the council into account. Civil society organizations recommend creating a parliament representing Palestinian children in the West Bank and Gaza Strip based on gender and geographical representation, in order to involve children's views in national plans and policies and to contribute to advocacy for the rights of Palestinian children.
- 4.30 One of the foundations of implementing the principle of the best interests of the child is child participation and involvement, which is guaranteed in article 12 in the CRC. This is confirmed in General Comment No. 10 of 2007 and General Comment No. 12 of 2009 from the Committee on the Rights of the Child. The child is a key element in any decision in civil, criminal and administrative proceedings, however children are rarely consulted and their

views are not considered during judicial proceedings, which violates their right to participation.

- 4.31 Children are excluded from expressing their opinion in foster families in accordance with the Council of Ministers' Decree No. 10 of 2013, which stipulates that foster care is terminated when the child's parentage is proven, or by the death or illness of one of the foster spouses, or by the corruption of the foster family. However, there is no provision indicating the mechanism for hearing the child's opinion and choice in staying with or leaving the foster family. Article 21 stipulates the foster child must be informed of his or her social status at the age of seven years.
- 4.32 Furthermore, a child's right to express opinion and participation is denied in most of the legal procedures and stages in courts, according to DCIP lawyers. And if such a right is granted, it is a formality and it directly affects the principles of participation and the best interests of the child.
- 4.33 For example, in the Shariah courts, custody decisions are taken and implemented without the child's involvement, even though they directly affect the child.

Recommendations

- 4.34 The State of Palestine should take measures to ensure children are treated as key elements in any civil, criminal or administrative matters, especially judicial procedures, by implementing child-friendly policies and regulations to promote their participation and protection.

5. Civil rights and freedoms

Birth Registration: Name and Nationality

- 5.1 National laws and legislation are consistent with the Convention concerning the right to be given a name and birth registration. Article 15 of the Palestinian Child Law stipulates a child must be registered immediately after birth in the civil register; whereas Article 16 states a child has the right to a name that does not involve insult or prejudice to dignity. The child shall also be entitled to citizenship in accordance with provisions of the Civil Status Law of 1999, stating the Ministry of the Interior must be informed of the child's birth in order to register the child and grant citizenship.
- 5.2 Where the parentage of a child is of unknown, Article 22 of the Civil Status Law requires the care centre, in cooperation with the Ministry of Social Affairs, to register the child in the civil register by a pseudonym.
- 5.3 Practice indicates that almost all newborns are registered in accordance with the Ministry of the Interior's statements. According to what is applicable, any child has the right to file a claim at the age of majority or through a guardian to have his or her name changed should they provide convincing reasons that his or her name is harmful in any way.

Right to identity

5.4 The Palestinian legal system suffers from a number of problems regarding the issue of nationality.³⁵ Despite the stipulation of the Palestinian Basic Law on the necessity of regulating this matter by law, no law has yet been issued relating to sovereignty for political considerations. The laws governing this matter are obsolete and outdated, including the Jordanian law of 1954 and the unified set of decrees of 1941 in the Gaza Strip. Therefore, the issue of nationality is subject to political considerations related to the Israeli occupation.

Right to freedom of speech

5.5 The conditions of foreign control over the Occupied Palestinian Territory have resulted in the enactment of legislation that contributed to the denial of the right to freedom of speech and publication. After its establishment in 1994, the Palestinian Authority issued a number of laws regulating the right to freedom of opinion and expression.

5.6 The Press and Publication Law No. 9 of 1995³⁶ was issued a year after the establishment of the Palestinian Authority. It is considered the first law issued by the Palestinian Authority, even before the elections of the first Legislative Council. The importance of this law is that it came to replace the previously existing regulations, although it did not include provisions related to the work of the visual, audio and electronic media. The law guaranteed freedom of opinion and expression, restricting it within “the limits of the law and the framework of the preservation of freedoms, public rights and obligations and the respect for freedom and the sanctity of private lives of others,” which are words usually used to widen the margin available to the executive authorities to limit and restrict freedoms.

5.7 The Palestinian Basic Law also guaranteed the right to freedom of opinion and expression. Article 19 states that “Freedom of opinion may not be prejudiced. Every person shall have the right to express his opinion and to circulate it orally, in writing or in any form of expression or art, with due consideration to the provisions of the law.” This means the basis is to allow the expression of opinion, whether such opinion is related to a political, social or economic matter, and regardless of the political affiliation of the person expressing their opinion. If such right is denied, it must be subject to legal justifications.

5.8 With regard to the extent to which the legal framework governing the right to freedom of opinion under the Palestinian Authority conforms to international standards, there have been no positive changes in the legal framework governing the exercise of the right to freedom of opinion and expression in the Palestinian Authority's areas of jurisdiction. The amended

³⁵ Due to the different states who governed or occupied Palestine, these authorities fragmented the Palestinians and separated them into various groups and sub-groups, each subject to different kinds of restrictions and each having access to different kind of rights and freedoms. This resulted to a legal status that is not defined in general, The West Bank, became part of Jordan, and the Gaza Strip was under direct Egyptian control. In 1967, a new distortion took place. The West Bank and the Gaza Strip fell under Israeli occupation. Only those granted an identification number were admitted as residents of the areas under Israeli occupation, who, after the Oslo Accords, became the “citizens” of the Palestinian Authority (residents of the “Areas”), while Palestinian who resided in Jerusalem were granted a “blue” identification card which means residents in Israel, and refugees were out of the picture.

³⁶ The Press and Publication Law No. (9) of 1995, published in Issue No. 6 of the Palestinian Gazette on 29 August 1995, available at: http://info.wafa.ps/ar_page.aspx?id=2428.

Basic Law of 2003 and the Press and Publication Law No. 9 of 1995 remain the constitutional reference governing the exercise of this right.

- 5.9 As for the freedom of opinion and expression concerning children, this right is included under Article 12 of the Palestinian Child law, which stipulates: 1) Every child shall have the right to freedom of opinion and expression in conformity with public order and morality; 2) The views of a child shall be taken into account in accordance with his or her age and maturity; 3) A child shall have the opportunity to express his or her views in judicial proceedings or in social or educational measures of his or her circumstances.” Such article is in line with the provisions of articles 12 and 13 of the Convention on the Rights of the Child.
- 5.10 However, in practice the right to freedom of expression and right to participation is violated. Of all the 171 children represented by DCIP lawyers in Palestinian courts in 2018, not one child was directly involved in the judicial proceedings concerning them. They were not asked about the conditions of their detention or whether they understand the proceedings.³⁷ As for children victims of violence, despite provisions of the Child Law on the need for informed participation in the proceedings, children placed in protection centres are generally not consulted or involved in decisions concerning what procedures to put in place.³⁸ However, the law was based on rigid texts such as age as a determinant and dropping custody for the mother for specific reasons based on witnesses without taking the child's opinion into account.
- 5.11 In 2018, the Palestinian President issued the Cybercrime Law, which was approved by the Palestinian government in complete secrecy without presenting it to the community debate, which violates the freedom of opinion and expression. The law includes a number of provisions that legalize the blocking of websites, criminalize legitimate freedom of expression, and represent a marked decline in the freedom of the media.

Recommendations

- 5.12 The State of Palestine should take measures to implement the right of child participation in judicial proceedings for children in conflict with the law and child victims of violence and ensure the Cybercrime Law is implemented in compliance with the CRC.

Freedom of thought, conscience and religion

- 5.13 The Palestinian Basic Law includes provisions on the right to freedom of thought, conscience and religion. Article 18 stipulates that “Freedom of belief, worship and the performance of religious functions are guaranteed, provided that public order or public morals are not violated.” The Palestinian Basic Law, however, did not include any text on the right to change the person's religion and beliefs, due to the sensitivity of the situation, given the fact

³⁷ Defense for Children International, Year in Review: 2018 reigned deadly force on Palestinian Children, accessed on March 1, 2019, available at: https://www.dci-palestine.org/year_in_review_2018_reigned_deadly_force_on_palestinian_children

³⁸ Six monitoring visits carried out in 2018 by DCIP lawyers to protection centres, care homes and places of detention of children in conflict with the law.

that most of the Palestinian people are Muslims. The law also made the right to perform religious functions and exercise religious freedom conditioned not to disturbing public order (which likely has extensive interpretations restricting this right) and public morals.

- 5.14 The Palestinian Child Law does not contain any specific provisions concerning a child’s right to freedom of religion and belief or the right to change their religion, since children customarily follow the religion of their parents. However, nothing prevents them from taking legal action to change their religion later upon reaching legal age. In this context, it is noticeable that most children are affected by the family environment in which they live in relation to religion.

Recommendations

- 5.15 The State of Palestine should take measures to acknowledge the right to freedom of religion and belief in the Child Law in accordance with Article 14 of the CRC.

Freedom of association and peaceful assembly

- 5.16 The right to freedom of association and assembly is guaranteed by the Palestinian Basic Law. Article 26 states that individuals shall have the right “to conduct private meetings without the presence of police members, public meetings, gatherings and processions, within the limits of the law. Furthermore, the Palestinians shall have the right to form and establish unions, associations, societies, clubs and popular institutions in accordance with the law.”
- 5.17 In checking the legal texts, especially the Basic Law, we find that this right is restricted within the limits of the law, but the Child Law did not restrict this by any text. However, by reference to the law governing this right, specifically the Palestinian Public Meetings Law No. 12 of 1998, we find the right to freedom of association and assembly is subject to restrictions, including a requirement for general meeting or protests organizers to notify the governor or the chief of police 48 hours prior to a meeting.
- 5.18 The limits imposed by the competent and governing authorities in both the West Bank and the Gaza Strip have severely restricted the right to freedom of association and assembly by numerous violations as well as assaults by security forces on the participants in these meetings and gatherings, the Independent Commission for Human Rights received 53 complaints of violations of the right to peaceful assembly, 16 of which were from the West Bank and 37 from the Gaza Strip. The complaints included 58 violations, 18 of them in the West Bank, (40) violations in the Gaza Strip, which varied between attacks on participants, peaceful assembly and the prevention of holding peaceful activities.³⁹ Violations of the right

³⁹ Independent Commission for Human Rights, The Situation of Human Rights in Palestine, 2017, accessed on March 2019, available at:

<https://ichr.ps/ar/1/6/2407/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-%D8%A7%D9%84%D8%AB%D8%A7%D9%84%D8%AB-%D9%88%D8%A7%D9%84%D8%B9%D8%B4%D8%B1%D9%88%D9%86-2017.htm>

to gatherings with political backgrounds were the most widespread violations in the West Bank, while violations of the right to peaceful assembly of groups of an economic or social nature were the most widespread violations in the Gaza Strip.

- 5.19 The Palestinian Child Law stipulated the right to form special associations for children, but it did not stipulate that these associations are mainly formed of children. The Palestinian Associations Law does not guarantee the right of children to form associations due to the civil responsibility linked to age eligibility. Hence, civil society organizations look forward to a greater role for children in participating in the planning process of the child protection policies by the government and in the planning process of cities, because despite the initiatives provided by the Ministry of Development in presenting the child protection plan to children, the children were not actually involved in the planning process and their observations were not considered. The civil society organizations value the inclusion of a girl from DCIP's children's council in the National Children's Council.

Recommendations

- 5.20 The State of Palestine should take measures to create and foster respect for the right to freedom of association and peaceful assembly and remove age requirements to allow children to form associations.

Right to privacy

- 5.21 Despite provisions of the Palestinian Child Law that respect the right to privacy of children and not to be subjected to any arbitrary measure of privacy, the privacy of children is not respected in the official or private media. There is limited accountability for violating the privacy of children by the media. The privacy of 15 children victims of domestic violence was violated when their personal circumstances were circulated via social media by the police, child protection officers or private media, as well as some parents for begging purposes. There has been no actual accountability for these actions, contrary to the Juvenile Law which punishes in article (59) any person who inform the public of the identity of the child who was accused or harmed for an imprisonment for a period not exceeding one year, and a fine not exceeding one thousand Jordanian dinars (750\$).

Recommendations

- 5.22 The State of Palestine should take measures to promote and ensure the right to privacy for children by monitoring and investigating violations, and implementing appropriate accountability measures.

The right of children to access appropriate information

- 5.23 Despite the importance of the right to access information and its impact on the building of an open and democratic society, the provisions of the amended Basic Law of 2003 did not
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address this right. However, this right was indirectly regulated by certain legislation that guaranteed the right to access a certain category of information, others required the dissemination of certain information.⁴⁰

- 5.24 The Child Law guarantees the right to access information, but restricts it to the extent that it does not conflict with public order and public morals. Article 33(1) stipulates: “The child shall have the right to seek, receive, transmit and impart information and ideas of all kinds in a way that does not conflict with public order and public morals.” As we have already mentioned in the discussion of the right to freedom of opinion and expression, such broad phrases are usually used to widen the margin available to executive authorities to restrict this right.

Recommendations

- 5.25 The State of Palestine should take measures to respect and ensure the right to access to information without broad barriers in an effort to narrow the discretion available to executive authorities for such restriction, while considering the protection needed for the information that children seek and receive.

6. Family environment and alternative care

Rights, responsibilities and duties of parents in guidance and care (Article 5)

- 6.1 Legislation in force in Palestine inherited from previous administrations, such as the Jordanian Penal Code of 1960 and the Jordanian Personal Status Law of 1976, which regulate penalties for neglect and abuse, rights and obligations within the family, are not consistent with international child rights norms. These laws do not recognize a child as an independent entity with rights under the law, and instead treat the child as if they are property of the family. For example, the Personal Status Law does not allow consideration of a child's opinion or preference when determining custody in the event of a divorce.
- 6.2 Paragraph 2 of Article 5 of the Palestinian Child Law puts emphasis on the importance of preventive action within the family to enable the family to play its role in care and guidance for the child. However, these provisions do not include implementing mechanisms through which the child can approach the competent authorities to put these rights into practice.
- 6.3 Although Article 42 of the Child Law contains a provision prohibiting all forms of violence and abuse against children, paragraph 1 of Article 62 of the Penal Code in force in the West Bank considers the forms of discipline exercised on children by their parents, as sanctioned by general custom, and not a crime. “General custom” is not defined so this exception can be expanded to a wide variety of discipline measures, allowing certain acts to go without punishment. A study conducted by UNCIEF indicates that One quarter of children aged 1-

⁴⁰ See Publication Law (9) for 1995, article (4), General Statistics Law no (4) for 2000 (article 15), Environment Law no (7) for 1999 (article 3)

14 years have experienced violent child discipline (71 percent in the West Bank, 31 percent in the Gaza strip).⁴¹

Recommendations

- 6.4 The State of Palestine should take measures to unequivocally prohibit corporal punishment of children and abolish Article 62 of the Penal Code in force in the West Bank, which permits corporal punishment.

Rights of a child separated from one or both parents (Article 9)

- 6.5 Article 21 of the Palestinian Child Law generally is in accordance with international child rights norms by requiring a child who is separated from one or both parents to maintain personal relations and direct contact with both parents, except where it is not in the child's best interest. Similar to other provisions of the Palestinian Child Law, this provision does not include mechanisms or processes for promoting and ensuring this right.
- 6.6 Article 58 of the Palestinian Child Law stipulates in cases that threaten the child's physical or psychological safety, the protection officer can take a consensual action with the child's family to eliminate the danger or the threat to the child's safety. This is a mechanism in place with children victims of violence and children at risk of delinquency within their families to prevent separating a child from their family. The process allows a child to stay with their family if their life is not at risk. If the family does not comply, the protection officer can remove the child from the family after obtaining the consent of the competent judge. However, in practice, as DCIP lawyers have observed, all procedures for removal of a child are taken without judicial review, which constitutes a violation of the CRC as well as the Palestinian Child Law (article 65-c).
- 6.7 In practice, the child protection officer sometimes takes the removal action arbitrarily without a court order, relying on the outcome of the case conference, in which the protection officer and other institutions participate. In 2017, for example, 105 children were placed in protective centres without judicial authorization.⁴²
- 6.8 There is a lack of protection institutions for child victims of violence. There is only one child protection institution that accepts boys who are victims of violence up to 15 years. There is no institution for the protection of girls who are victims of violence. Girls are placed in a girls' home care centre which also accepts girls in conflict with the law, girl victims of violence, and girls at risk of delinquency. There is no separation of girls based on the charges, which constitutes a clear violation of Article 21 of the Palestinian Juvenile Protection Law. In the Gaza Strip, there are no institutions to protect child victims of violence or children in

⁴¹ United Nation International Children's Emergency Fund, Children in the State of Palestine, 2018, accessed on 1 march 2019, available at: <https://www.unicef.org/sop/media/341/file>.

⁴² Ministry of Social Development, Annual Statistics Report of 2017, accessed on 10 March 2019, available at: http://www.mosa.pna.ps/sites/default/files/studies_research_files/Annual%20statistical%20report%202017.pdf.

conflict with the law. Furthermore, there are no institutions for abused children with disabilities, which causes them greater suffering.

Recommendations

6.9 The State of Palestine should take measures to:

- Monitor and ensure any procedures for the removal of a child from their family are taken with a judicial decision;
- Hold protection officers that fail to seek judicial authorization for their decision accountable; and
- Establish and build additional protection institutions for child victims of violence, making sure child victims of violence are separated from children in conflict with the law.

Parental responsibility for upbringing of the child (Article 18)

6.10 The Palestinian Child Law in Articles 5 and 19 affirms the responsibility of parents to care for and ensure the upbringing of their children and to provide for basic needs, while also reaffirming the State's responsibility to enable parents to secure this right. However, these provisions do not amount to actual implementation due to obstacles raised by other laws. The Jordanian Personal Status Law, applicable in the West Bank, does not regulate the custody of children from separated families in such a way as to ensure joint care or joint custody by the parents. Instead, it regulates the father's financial responsibility to provide for his children. Despite the decree issued by the Chief Justice in 2012, which is a positive step in safeguarding the child's right to live with his parents, it is a problematic system as it depends on age in determining the custodian and does not promote the principle of joint custody.

6.11 The Palestinian Child Law provides social protections for a number of children through the provision of assistance that contributes to their survival and development. Article 31 provides cash assistance to orphans, children with unknown parentage, children placed at social institutions, children with disabilities, children with chronic diseases, children whose houses were destroyed or burned, triplets, children of a person detained, a missing or a jobless parent due to illness or disability or their families.

6.12 But what makes the cash assistance insufficient in achieving its objectives that it has a difficult process, Families are targeted through a targeting model, which contains a set of variables that consider the characteristics of poor families in the Occupied Palestinian Territory. The data entry process is based on the evidence base of the national social protection program. These variables are converted into numeric values by means of a formula for measuring living standards (PMTF). The equation is applied to households whose data have been collected, and then the scores are collected and at a specific point of separation (extreme poverty line) the family is eligible to benefit from the program. The family visit is then conducted again using a check-in form, ensuring that the information provided by the family is correct and that the wrong data is modified, and that the system is used accordingly.

The equation is run again. If the family marker is below the extreme poverty line, the family will benefit from the program or else it will not benefit from the program.⁴³

Recommendations

- 6.13 The State of Palestine should conduct a regular assessment of existing programmes to review objectives, strategies and develop plans of action in an effort to:
- Update the cash assistance program to include families living above the poverty line and not only under the poverty line; and
 - Increase the amount of cash assistance to guarantee that the basic needs for children are met.

Child abuse and neglect (Article 19)

- 6.14 The Basic Law guarantees the prevention of all forms of abuse against children, and the Child Law is consistent with the Convention on the Rights of the Child in this regard. Articles 42 and 68 provide for the protection of children from all forms of violence, abuse and exploitation, but it does not consider concrete implementation. Most provisions fall under principles and guidelines through the use of the term 'shall take' without specifying sanctions for child abuse and neglect. Thus, these provisions are difficult to apply and are not invoked in Palestinian courts.
- 6.15 The Ministry of Social Development, with the technical support of civil society organizations and international institutions, has developed a national referral and networking system to help enhance protection of children from violence and abuse and to form child protection networks as a national body that includes government agencies charged with providing basic services to child victims and civil society institutions. Despite the importance of the system to provide multiple services for child victims, it faces a number of challenges in implementation, such as:
- a. The Jordanian Penal Code of 1960 is referred to when deciding the mechanisms to hold the abuser accountable for violations of the rights of the child, but the foresaid law does not include deterrent penalties or special protection for child victims of abuse. Legislative limitations on the protection of children victims of sexual abuse will be reviewed in the special protection measures section.
 - b. The Palestinian Code of Criminal Procedure of 2001 is cited when deciding means of evidence and proof, but this law does not provide special protections or special procedures for the protection of child witnesses.

⁴³ Ministry of Social Development website, information on Cash assistance services, accessed on March 2019, available at:

<http://www.mosa.pna.ps/ar/content/%D8%A7%D9%84%D9%85%D8%B3%D8%A7%D8%B9%D8%AF%D8%A7%D8%AA-%D8%A7%D9%84%D9%86%D9%82%D8%AF%D9%8A%D8%A9>

- c. In the case of waiver of the personal right, the public right is also waived in most cases or the sentence is reduced, which portrays the judiciary system as weak, especially since most times the victim does not realize the impact of dropping personal right or is under the pressure of tribal reconciliation.
- d. The Code of Criminal Procedure does not provide special protections for child victims when making statements within the child justice system. Lack of child-friendly procedures means that a child victim will provide testimony on several occasions, including to the police, the public prosecution and the judiciary system. This requires the child to recall the experience several times, which can have a negative impact on the child's health and wellbeing. The Code of Criminal Procedure also establishes the means of proof in cases of children similar to cases of adults. It does not provide special protections for child witnesses through hearing them by competent authorities or electronic means of communication. Article 226 states that "persons below the age of fifteen may be heard for information only, without taking the oath."
- e. Often cases of assault, specifically cases of sexual assault, where limited evidence is available such as witness testimony and medical reports, are pointless due to late reporting, and therefore, the percentage of complaints of sexual abuse submitted to the judiciary system is low.
- f. the Public Prosecution tends not to pursue criminal actions in some cases if the abuser is a family member to maintain the family ties, which impedes the right of a child to access justice. As for physical abuse, in order for a complaint to be accepted there must be a medical report and the family itself bears the costs.
- g. Article 42 of the Child Law addresses the right to protection from all forms of abuse and exploitation, whereas Article 43 provides for the protection against begging and economic exploitation. Article 46 deals with situations that threaten the safety and vulnerability of the child, and Article 47 examines cases in which the child is at risk of delinquency. By reviewing these articles and the extent of its realization, the following problems are evident in their application:
 - 1. There is no toll-free number to report cases of violence against children. This makes the detection of child victims limited to cases referred by directorates of education and some institutions and awareness-raising workshops provided by civil society organizations. In 2017, 435 children were reported to have been subjected to violence and abuse.⁴⁴ There are no clear plans to raise awareness of forms of abuse, violence and protection mechanisms, but there are scattered efforts that are not based on actual needs or reported cases.

⁴⁴ Ministry of Social Development, Annual Statistics Report of 2017, accessed on 10 March 2019, available at: http://www.mosa.pna.ps/sites/default/files/studies_research_files/Annual%20statistical%20report%202017.pdf.

2. There are no competent judges to hear cases of child victims of violence, and judges have not received specialized training in the implementation of the Child Law in the judiciary.
3. Article 47 of the Child Law outlines the cases in which the child is at risk of delinquency and explains in Chapter 10 the mechanisms of protection and care for children at risk of delinquency. It provides it is necessary to work with the child and his family in the form of an agreement within 20 days by developing an intervention program without withdrawing the child and placing him in a care home. In the event the agreement is not upheld, the case must be referred to the judge (juvenile judge), according to the Juvenile Protection Law, to take judicial action without subjecting the child to detention. However, this text is not implemented in practice, and children at risk of delinquency are dealt with without an agreement, as they are referred to care measures by the public prosecutor without an agreement that it must be carried out by child protection officer.
4. There are only 14 child protection officers working with child victims of violence in the West Bank.
5. Article 53(2) of the Child Law stipulates that reporting is obligatory on educators, doctors, social workers and persons entrusted with the care and protection of the child. Failing to report is limited to a fine, but this article is not implemented and there are no accountability mechanisms for persons that fail to abide by this mandatory reporting provision. Thus, this reflects the low number of referred cases to the protection services and results in denying children their rights due to ill-treatment and neglect.
6. In 2017 DCIP documented two children that died as a result of abuse by their parents. Collected testimony indicates that one of them was attending school and having received health services in health centres affiliated with the Ministry of Health.
7. Statistics issued by the Ministry of Social Development on protection measures only cover the West Bank, reflecting the lack of accurate statistics from the Gaza Strip and the inability of the government to play its role in the implementation of the provisions of the CRC.

Recommendations

6.16 The State of Palestine should take measures to:

- Establish an accessible, child-friendly reporting mechanisms to address abuse, neglect and mistreatment;
- Provide protection for children who report abuse and establish after care programs for children who experience abuse;

- Update the existing referral system by adopting child-friendly procedures without referring to laws inconsistent with the CRC;
- Increase the number of children protection officers in order to address cases in a timely and efficient manner, ensuring that no cases are referred to protection centres without a judicial decision or approval.

Children deprived of family environment (Article 20)

- 6.17 Article 32 of the Child Law provides for children deprived of the family environment the right to alternative care through an alternative family or public or private social institutions. The Juvenile Protection Law also guarantees that the juvenile should be handed over to a foster family if he cannot be protected and cared for by his own family. The Ministry of Social Development issued an Executive Regulation No. 10 of 2013 concerning foster families. The recent application of this regulation is a move in the right direction, but further efforts are necessary to promote the importance of the implementation of this system and its role in providing protection to many children without family care. The Ministry tends to take a child who has no one to care for them and place them with a member of the extended family who may be entrusted with the child. This is an important guarantee for the protection of children. However, the challenge of protecting children who are without family support is that the foster care system is a limited system, as only six children were hosted by foster families in 2016, whereas 11 children out of 25 children victims of violence reported were hosted temporarily by alternative families in 2017. In addition, other children who were deprived of family care due to being orphans or with disabilities who need special care were placed in institutions managed by NGOs that receive assistance or donations.
- 6.18 One of the challenges facing the system of services offered to children without family care is the lack of a unified database of the services provided and the providers, which deprives many children of this category of services.

Recommendations

- 6.19 The State of Palestine should take measures to improve the foster care system by expanding the category of children that can access services and create stronger and clear standards concerning foster families that consider the best interests of the child.

Periodic review of child placement (Article 25)

- 6.20 Article 66(2) of the Child Law states any party may apply to the judge to request a review of his decision regarding a child in need of protection or care. The judge may accept or reject this request, and such a decision will be binding, confirming the right of the child and his family to a review of the legal and administrative measures taken against the child in need of protection or care.
- 6.21 Article 66 of the Law is not enforced as the protection measure for child victims of violence is taken by the child protection officer without a judicial authorization.

- 6.22 The periodic review of the procedure is carried out according to the national referral system for child victims of violence during the first three months of the procedure based on the improvement of the child's situation or environment, but by a single decision of the child protection officer without a judicial procedure, which is likely to be a right or a wrong decision and exposes many children to violations due to lack of periodic review as stated by the Law.
- 6.23 Through the analysis of 44 cases of child victims of violence followed by DCIP, it is clear there is a clear problem in the ability of the Ministry of Social Development to provide periodic review procedures of the placement of child victims of violence and abuse. Many children are placed in protection centres without the protection officer making serious efforts with the family during the placement period to guarantee that the child is enjoying his rights and enjoying a safe environment. This delays the process of returning the child to the family. In many cases, returning the child is carried out after it is confirmed the child's life is no longer at risk, but without actually addressing the effects of the abuse or the psychological rehabilitation of the child. In other cases, the child is handed over to a member of the extended family after being placed in a protection centre without a clear intervention plan with the child's parents or the child themselves.
- 6.24 Article 48 of the Juvenile Protection Law states the court, after receiving reports from the child protection officer or at the request of the child's guardian, the juvenile prosecutor or the child who violates the law or is at risk of delinquency, may amend or cancel the measure according to the law. This serves the interest of the child through a periodic review of the placement procedure in accordance with the child's response to the intervention plan. Article 51 of the same law allows the court, at the request of the Attorney General or the Minister of Social Development and as recommended by the child protection officer, to release the child in conflict with the law or at risk of delinquency after serving one-third of the period of the measure, provided that the child is released on probation.
- 6.25 Legal representation provided by DCIP's lawyers indicates there is still a need to develop the concept of executing the decisions concerning juveniles.

Recommendations

- 6.26 The State of Palestine should take measures to enhance the ability of the Ministry of Social Development to provide periodic review procedures on the placement of child victims of violence and abuse by enhancing the role of protection officers to regularly monitor the status of the child in protection centres.

7. Basic healthcare and welfare

Impact of the occupation and political division on the health rights of children

- 7.1 The long-term Israeli occupation and the political division between the West Bank and the Gaza Strip have directly impacted Palestinian children's enjoyment of their right to health. Structural discrimination toward Palestinians under Israel's occupation have damaged the overall living and economic situation, undermining the basic conditions needed for humans to grow and thrive. Daily violations and difficulties have directly impacted children's access

to healthcare services, including preventive, therapeutic and rehabilitation services,⁴⁵ in addition to the shortage of medicines and medical supplies. Furthermore, children do not enjoy their right to personal growth and development in order to achieve their full potential of physical and mental health.

- 7.2 The political divide in 2007 between the West Bank led by Fateh and the Gaza Strip led by Hamas resulted in the imposition of sanctions on the Gaza Strip by the Palestinian Authority, which has had a significant impact on approximately 2 million Palestinians living in already dire humanitarian and health conditions. The Gaza Strip has been suffering for more than 11 years from sanctions that have further exacerbated children's health and living conditions, including, the spread of poverty, impoverishment, destitution, and deterioration of the livelihood security of families and their children.

Food security and access to safe water

- 7.3 The Palestinian population, including children, suffers from a lack of basic needs. Approximately a third of the population suffers from food insecurity at moderate to severe rates, 36.4 percent of the population dependent on humanitarian assistance for water and sanitation and 5.3 percent facing gaps and vulnerabilities in accessing adequate shelter.⁴⁶ The water availability rates for the population range from 53 litres per capita per day in the Gaza Strip to 79 litres per capita per day in the West Bank, which is far below WHO's recommended 100 litres per capita per day.⁴⁷
- 7.4 Malnutrition is a serious risk for many Palestinian children, especially in the Gaza Strip. According to a UNICEF report one quarter of children under 5 suffer from anaemia, 21.5 percent in the West Bank, and 30 percent in the Gaza Strip, and nearly two third of children under 5 suffer from zinc deficiency.⁴⁸ The prevalence of stunting in the Gaza Strip was 10 percent; the highest rates are among children of refugee families and low-income families.⁴⁹
- 7.5 The Central Bureau of Statistics Population Report for 2017 indicates that 6 out of 10 people in the West Bank and Gaza Strip do not have access to safe drinking water, 9 out of 10 in Gaza strip and less than 1 out 10 in the West Bank don't have access to safe water⁵⁰.

⁴⁵ PMJ Journals, Access to healthcare for children in Palestine, accessed on February 20, available at: <https://bmjpaedsopen.bmj.com/content/1/1/e000115#ref-16>

⁴⁶ World Health Organization, Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan, accessed on 1 March 2019, available at: http://apps.who.int/gb/ebwha/pdf_files/WHA71/A71_27-en.pdf

⁴⁷ Ibid.

⁴⁸ United Nation International Children's Emergency Fund, Children in the State of Palestine, 2018, accessed on 1 march 2019, available at: <https://www.unicef.org/sop/media/341/file>.

⁴⁹ World Health Organization, Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan, accessed on 1 March 2019, available at: http://apps.who.int/gb/ebwha/pdf_files/WHA71/A71_27-en.pdf

⁵⁰ Preliminary Results of the Population, Housing and Establishments Census, 2017 <http://www.pcbs.gov.ps/Downloads/book2364.pdf>

- 7.6 The situation has worsened since the beginning of 2018 when the State of Palestine halted the financial assistance program for poor households supervised by the Ministry of Social Development, targeting Palestinian families in extreme poverty, including families with children with disabilities, orphaned children and children with chronic diseases. The Government did not provide an explanation as to why such subsidies have been discontinued, adversely affecting the health status of children.
- 7.7 To date, the State of Palestine has not enacted any legislative incorporation of the concept of children's health rights in the Basic Law and the Public Health Law, and there has been no interpretation of these rights in the executive regulations. President Mahmoud Abbas recently issued Law No. 31 of 2018 concerning Medical and Health Protection and Safety, without accompanying any of the executive regulations concerning records of medical errors in children, and without a permanent committee to investigate cases of medical errors in children, restricting the powers of the committee to the recommendation of the Minister of Health who is granted the authority to appoint the head of the committee, as well as the absence of a fund to compensate the victims of medical practice errors that harmed children.

Recommendation

- 7.8 The State of Palestine should take measures to strengthen measures and protocols to realize children's right to basic needs, development and rehabilitation through legal instruments, and to reintroduce financial assistance programs for poor households.

Expenditure on the healthcare sector

- 7.9 The Palestinian Cabinet has not yet published the audited final account according to the Basic Law and Budget Regulation Law since 2011 that outlines the actual expenditure and distribution of the detailed budget on the health services for children.⁵¹

Recommendation

- 7.10 The State of Palestine should take measures to:
- Reevaluate economic policies in light of a deteriorating health system and increase funding for child healthcare programs and initiatives;
 - Implement a progressive increase in budget allocation and expenditure for healthcare, including materials, supplies, equipment and infrastructure; and
 - Partner with other stakeholders including NGOs and service providers to improve systems of providing health and other services to children.

Accountability for violations of children's health rights

⁵¹ Preliminary Results of the Population, Housing and Establishments Census, 2017
<http://www.pcbs.gov.ps/Downloads/book2364.pdf>

7.11 The health sector suffers from problems related to inadequate effective measures of accountability for violations of the children's right to health. Data from the Ministry of Health indicates that the Ministry receives complaints about the health sector and forms committees to deal with complaints. However, the Ministry did not disclose the nature and content of these complaints, nor the nature of the complaints to which committees of inquiry were formed, nor the nature of the recommendations made by these committees. Hence, the Ministry did not indicate the accountability procedures for these complaints concerning children's health rights.

Road accidents

7.12 The number of road accidents in 2017 amounted to 11,541 in the West Bank according to the annual statistics report by the Ministry of the Interior. This amounts to an increase of 8.6 percent since 2016. A total of 1,942 children were injured and 44 children were killed, representing 20.4 percent of all road accident deaths in 2017. Despite the increasing number of child deaths caused by road accidents, the Government has not yet developed a rigorous and unified strategy or measures to address child safety on roads. Furthermore, there is no strict legislation and policies relating to use of helmets, seat belts, child safety car seats, safe sidewalks and the lack of a preventive and media awareness strategy to improve road and vehicle safety for children.⁵²

Neonatal Health

7.13 The neonatal period spans the first 28 days of a newborn's life and is considered an integral predictor of a child's long-term survival. The burden of neonatal mortality is heavily borne, where 99 percent of neonatal deaths occur. To date, there is no national strategy by the Palestinian Authority for newborns in order to guide and monitor indicators of neonatal health. The Ministry of Health's annual 2017 report stated there were 78,046 live births in the West Bank and 58,303 live births in the Gaza Strip.⁵³

7.14 Inadequate number of facilities and equipment may contribute to the neonatal mortality rate. There is a total of 38 neonatal care units, of which 35 also provide delivery services. About 79 percent of neonatal units and 75.1 percent of incubators in Palestine are in the West Bank, thus the total number of incubators in the Gaza Strip serving for a population of around two million is far below what is required.⁵⁴

7.15 In 2018, only 19 of the 38 facilities had basic services (electricity, back-up power supply, running water, heating or air-conditioning). This means the other 19 facilities are unsuitable

⁵² State of Palestine, Ministry of Interior, General Directorate of Police, Annual Statistics Report 2017.

⁵³ Ministry of Health, Annual report 2017, accessed on 1 February 2019, available at:

https://www.site.moh.ps/Content/Books/Z8xvh651F8hYKqGw8ZZwzfh4ciTWcEARGA5tGhi3K3SzDhqdRiKkDI_QO5cg6K76I2ykBKIXZ6nOM5HTVPxqnDbPI9URRkDlqH9sHx3f3PhYp.pdf .

⁵⁴ World Health Organization, Palestinian national of public health, Assessment of availability, accessibility and distribution of neonatal health services at Palestinian hospitals 2018, accessed on 1 February 2019, available at: <https://www.pniph.org/public/uploads/Full%20Report%20-%20Neonatal%20Study.pdf>

for the essential care of sick newborns. Without the basic amenities, morbidity and mortality risks are exacerbated.⁵⁵

- 7.16 Not all of the facilities are optimized to promote breastfeeding although it is a free and proven tool in combating infant mortality.
- 7.17 Shortfalls in neonatal medical staff mean not all newborn infants requiring care are served by specialized staff. There are 10 neonatologists currently working in the Occupied Palestinian Territory, and some of them work on a part-time basis. Furthermore, in 2018, a total of 86 neonatal nurses were practicing in the Occupied Palestinian Territory. Of these, 55 were in the West Bank, 31 were in East Jerusalem and none were in the Gaza Strip.⁵⁶
- 7.18 No comprehensive and unified national neonatal strategy currently exists to guide and monitor neonatal health indicators and practice standards. The gaps in knowledge of neonatal health impede policymakers and health practitioners and the lack of comprehensive policies results in uneven care standards.⁵⁷

Recommendations

- 7.19 The State of Palestine should take measures to create and ensure a comprehensive and unified national neonatal strategy to guide and monitor neonatal health indicators and practice standards, and increase number of specialized neonatal medical staff to address staff shortages.

Access of children with disabilities to health services

- 7.20 Children with disabilities suffer from obstacles and discriminatory procedures with regard to access to health goods, facilities, and services. The Ministry of Health's facilities and primary healthcare clinics remain largely unsuitable to various disabilities, hampering children's access to health services. The Ministry determined disability rates at 60 percent, which leaves big portion left out of the enjoyment of health services. It is not clear if the measures and actions taken by the Ministry enable children with disabilities to access health services and facilities. In addition, the Ministry is not doing enough to facilitate training of medical personnel to deal with children with disabilities and to introduce sign language to facilities. Also, the Government is not fully committed to providing and expanding the assistive tools and devices on the list covered by health insurance services. Other obstacles include the absence of a government-issued disability identification card that entails a range of health services, besides the services of the Ministry of Social Development and other ministries.⁵⁸

⁵⁵ *ibid*

⁵⁶ *ibid*

⁵⁷ *Ibid*

⁵⁸ National Strategy for lobbying and advocacy for organisations of persons with disabilities in Palestine 2017-2022. Palestinian Consultative Staff for NGOs Development

- 7.21 A study, conducted by the YMCA, Jerusalem- rehabilitation program in 2015,⁵⁹ on the status of children with disability in accessing healthcare, education and protection services, shows that there is a prominent misdiagnosis and mismanagement of disability cases among children by healthcare personnel/providers, especially that the latter believe that it is enough that children with disability reach the primary healthcare centres to consider that these children accessed the needed healthcare. Nevertheless, respondents in this study stressed that the provided care for children with disabilities does not respond to their actual needs or health conditions. Additionally, access to healthcare services for children with disabilities is also affected by the fact whether they have health insurance coverage or not. The in-depth interviews conducted with families of children with disabilities in this study also showed that early diagnosis services provided by primary healthcare are neither efficient nor sufficient, as many cases of disability in this study were diagnosed late by the families themselves.
- 7.22 The study also highlights the fact that many of the specialized healthcare service- (related to disability and early diagnosis) are not available at the Ministry of Health's clinics, nor are they included in the service package of the public health insurance. Hence, families of children with disabilities are obliged to pay out of pocket for these services shall they be made available by other healthcare providers, which constitutes increasing financial burdens on these families, who normally suffer from impoverishment, and makes them unable to pay for these costly services. It is also important to note that half the respondents in the study sample did not receive the needed medications from the Ministry of health at all, and that only 22 percent of them only received some. Moreover, 82 percent of people with disabilities in this study were not provided with the needed assistive equipment from the Ministry of health; 83 percent did not receive the needed specialized health services, and 86 percent did not receive any rehabilitation services from the Ministry. Alternatively, in most cases, these services are provided by civil society organizations working in the field of disability provide or are purchased by the families at high prices.
- 7.23 With regard to social protection, the findings of the study showed that only 38 percent of the families of people with disability are registered as beneficiaries at the Ministry of Social Development, while the majority of the families (62 percent) are not registered nor do they have the right to benefit from the services provided by the Ministry. 47 percent of the families stated that they were provided with a minimum of one service by the Ministry of Social Development, compared to 53 percent who remained excluded from those services. It is important to note the registration of the families and the provision of these social protection services by the Ministry are based on the economic status of the families in relation to poverty index, and that disability is not taken into consideration as a criterion of receiving social aid.
- 7.24 There are several gaps in the provision of services for people with disabilities by the Ministry of Social Development, which include:

⁵⁹ YMCA, 2015. The status of children with disability in accessing healthcare, education and protection services.

- a. Field follow-up and psychosocial counseling program (provided by social workers): only 5 percent of the families received the full services of the program, while 5 percent benefited partially.
- b. Support for assistive equipment: 2 percent of the families fully benefited from this service, and 2 percent benefited partially.
- c. Home adaptation for children with disabilities: Less than 1 percent of the families received this service either fully or partially.
- d. Support in protection programs: None of the families fully benefited from this program, while 1 percent benefited only partially.

Recommendations

7.25 The State of Palestine should take measures to:

- Set standards for inclusive health, medical and rehabilitation services considering international standards and conventions;
- Develop monitoring systems to control the service provision process and facilitate follow-up, assessment and accountability processes;
- Adopt a comprehensive system to safeguard just, accurate and early diagnosis and assessment of disability, based on the social definition of disability; and
- Take the necessary measures and actions to ensure children with disabilities have equal access to medical and rehabilitative services.

Child mortality

7.26 Reported infant mortality rate in Palestine in 2017 was 10.7 per 1,000 live births. In 2016, the infant mortality rate was 10.5 per 1,000 live births and in 2015 were 10.9 per 1000 live births. In 2017, the reported under five years child mortality rate was 12.1 deaths per 1,000 live births. In 2016, reported under five child mortality rates were 12.2 deaths per 1,000 live births in Palestine.⁶⁰

Child health insurance

7.27 On 11 July 2018, the Palestinian Government issued a decision to amend the health insurance system with respect to the waiting period for new registrants to have access to health insurance services applied to children aged seven years and beyond, whereas in the past there was no waiting period. In accordance with this amendment, those not enrolled in the health insurance system but have applied to benefit from the health insurance must wait 90 days to

⁶⁰ Ministry of Health, Health Annual Report, Palestine 2017, accessed on 1 February 2019, available at: https://www.site.moh.ps/Content/Books/Z8xvh651F8hYKqGw8ZZwzfh4ciTWcEARGA5tGhi3K3SzDhqDRiKkDI_QO5cg6K76I2ykBKIXZ6nOM5HTVPxqnDbPI9URRkDlqH9sHx3f3PhYp.pdf

take advantage of the services covered by the health insurance. The Government has taken this decision without any national consultations with competent and concerned parties working in the health, social and economic sectors or representatives of various segments of the Palestinian society. The Government has failed to ensure a comprehensive national review of the health insurance systems to promote the Government's commitment to ensure children are protected and have access to healthcare services. Such a decision will only worsen the health risks to children and increase financial burdens on the various categories of poor and low-income families.⁶¹

Recommendations

- 7.28 The State of Palestine should take measures to promote a fair, comprehensive and compulsory health insurance system by raising the age of exemption for children from insurance fees to the age of 18.

Children's reproductive rights and mental health

- 7.29 The health sector suffers from weak procedures, legislation and executive regulations concerning reproductive rights and mental health of children. In addition to a lack of experienced health workers and specialists, there is poor training of workers and mental health service providers in dealing with child behavioural and psychological disorders in the West Bank and Gaza Strip. Weak policies and services exist for both boys and girls concerning reproductive health, and this is amplified for marginalized populations in Area C and within Bedouin communities. An estimated 312,000 children needed psychosocial support in 2018, the majority in the Gaza Strip. The Occupied Palestinian Territory has one of the highest burdens of mental disorders in the Eastern Mediterranean Region. About 54 percent of Palestinian boys and 47 percent of Palestinian girls aged between 6 and 12 reportedly have emotional and/or behavioural disorders.⁶²
- 7.30 Early marriage is a concerning issue in Palestinian society. More than one-fifth of girls marry under the age of 18,⁶³ which negatively affects their access to educational and economic opportunities and can even impact their right to life due to pregnancy and delivery at a young age. There is an urgent need to intensify efforts to enact laws and legislation to prohibit and criminalize the marriage of minors and to increase community awareness programmes on the dangers of early marriage. The marriage of underage girls is still subject to the Shariah [religious] judge's assessment and some cultural considerations at the expense of physical and psychological health and empowerment of underage girls.

Recommendations

⁶¹ Council of Ministers' Decision No. 6 of 2018 on the validity of public health insurance

⁶² Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan Report by the Director-General.2018

http://apps.who.int/gb/ebwha/pdf_files/WHA71/A71_27-en.pdf

⁶³ United Nations Population Fund, Palestine 2030 Demographic Change: Development Opportunities, 2016.

7.31 The State of Palestine should take measures to:

- Prioritize addressing mental health problems in children by increasing child-specific training to workers and mental health service providers in order to better provide child-specific interventions and care; and
- Amend laws to ensure compliance with the CRC and enact laws to prohibit and criminalize early marriage.

Prevention, protection and rehabilitation measures for non-health behaviours

7.32 While the Occupied Palestinian Territory prides itself on high rates of child immunization and established systems for monitoring communicable diseases, the number of non-communicable diseases is increasing. According to data from the Ministry of Health, cardiovascular diseases, cancers, and cerebrovascular diseases cause more than half of the total Palestinian deaths at an early age. There is an urgent need for preventative care including educational programs and risk identification screenings during childhood to combat high frequency diseases.

7.33 Childhood obesity is a growing concern for children's health, impacting approximately 60 percent of children under the age of five. The Ministry of Health has not taken sufficient and responsive measures to prevent an overwhelming wave of chronic diseases such as diabetes, hypertension, heart diseases, cancers, and obesity.

7.34 Childhood tobacco smoking poses serious risks to children's immediate and long-term health, causing or increasing the likelihood of the onset of a number of chronic diseases. Based on a 2013 study, the average smoking age in the Occupied Palestinian Territory is 16 with 40 percent of smokers having started smoking between the ages of 7-15. 33 percent of them have started between the ages of 13-15 years.⁶⁴

The Legal Status of Children with Disabilities in Palestine

7.35 Article 22 of the Palestinian Basic Law requires the State to care for persons with disabilities and ensure they have access to education, health and social insurance.

7.36 There are several laws concerning the rights of persons with disabilities, including children. Law No. 4 of 1999 Concerning the Rights of the Disabled provides for rights and protections of persons with disabilities and reaffirms the obligation of all concerned to work for the care and rehabilitation of persons with disabilities in all areas, including social, health, education and in the field of rehabilitation and employment, as well in the field of public awareness.⁶⁵ The law stresses the need to introduce sign language at government facilities and notes the government's obligation to make adjustments and accommodations to public places for persons with disabilities. It also requests the Ministry of Education and Higher Education to provide an environment suited to the needs of children with disabilities in schools, colleges and

⁶⁴ Juzoor, Risky Behavior Among Palestinian Youth Study, 2013.

⁶⁵ Law Concerning the Rights of the Disabled, published in the Official Gazette edition 30, in 10-10-1990.

universities. Furthermore, the law issued a directive to the Ministry of Transportation to work to create an accessible environment to facilitate the movement of people with disabilities as well as granting them special deductions when using public transportation.

- 7.37 The Council of Ministers Decree No. 40 of 2004 issued the Executive Regulation of Law No. 4 of 1999 Concerning the Rights of the Disabled,⁶⁶ stipulating a number of provisions relating to the rights of persons with disabilities, including the application of the Compulsory Education Law within the mandate of the Ministry of Education. While considering the situation and mental, motor, sensory and psychological abilities of children with disabilities; universities, institutes and educational centres must give equal opportunities for children with disabilities to join within the framework of the curricula in force. The Ministry of Education must be committed to supporting specialised education only for cases where education is not guaranteed within a standard environment. The decree stressed the disability does not in itself constitute a reason for rejecting the enrollment or access application to any public or private educational institution. The Ministry of Education is obliged to adapt and make improvements to schools and other education facilities and centres commensurate with a person's needs. The decree also provides for the establishment of a special section within the Ministry of Education for catering to the needs of persons with disabilities and developing programs and curricula in accordance with the philosophy of public education and the rights of individuals in education.
- 7.38 In addition, laws that provide general protections for children, such as the amended Palestinian Child Law and Juvenile Protection Law, apply to all children, including those with disabilities.
- 7.39 Laws that address the rights of persons with disabilities, including children with disabilities, have limitations and inadequacies. Law No. 4 of 1999 refers to persons with disabilities as "handicapped" and focuses on body disability and dysfunction (degree of disability or difficulty) to the extent that it restricts the fulfilment of their daily activity. This definition is not consistent with the definition as contained in the Convention and results in policies and procedures which only address disability as a physical health issue.
- 7.40 Legislation addressing rights for persons with disabilities lack mechanisms of accountability and implementation of the provisions of laws. There is also a lack of clarity around the laws' regulations and executive systems. It should be noted that this law does not include any articles guaranteeing the right to a free and decent life for children with disabilities. It also lacks articles and principles that recognize respect for children with disabilities and guarantee their right to participate in expressing their views on matters of concern to them.
- 7.41 The Public Health Law No. 20 of 2004, which consists of 85 articles, does not consider or provide specific language concerning the needs of persons with disabilities. No provisions mention persons with disabilities either in terms of individual privacy or in dealing with disability issues as cross-sectoral issues. For example, the criteria on which a health centre

⁶⁶ The Executive Regulation Concerning of Law no 4 for 1999 for the Rights of the Disabled, Published in the Official Gazette, edition 50, in 29-8-2004.

or institution is licensed do not include a requirement for accommodations for persons with disabilities.

- 7.42 With regard to the Health Insurance System No. 213 of 2003, persons with disabilities who benefit from this system are treated and considered as social cases, which necessarily means that budgets allocated for health insurance for these persons are deducted from the Ministry of Social Development. This insurance includes a range of services and medications that do not consider the specificity of disability. In this context, it should be noted that the health insurance system does not include medical devices, headsets and many medicines that are not included on the list of medicines approved by the Ministry of Health, as well as artificial limbs and other needs.

Recommendations

- 7.43 The State of Palestine should take measures to update laws that address the needs of persons with disabilities, including special measures for children with disabilities. The State should also align its own definition of disability with that of the CRC. The State should also update the insurance system to better accommodate the needs of children with disabilities.

The judicial reality of the rights of persons with disabilities

- 7.44 In 2005, The Supreme Court of Justice recognized the Palestinian Authority's failure to implement the provisions on Law No. 4 of 1999. Their decision in Case No. 56/2005 stated that: "Human dignity is the right of all human beings and the persons with disabilities have the right to take all measures aimed at enabling them to achieve the greatest possible degree of independence and self-reliance and to facilitate their participation and integration into society. And since such cannot be achieved in isolation from the application of the law with its rules and provisions, and since the appeal is submitted by the appellant to challenge the administration's failure to take legal action to implement the provisions of the Law No. 4 of 1999 Concerning the Rights of the Disabled on the subject of adapting public places for persons with disabilities as stated in Articles 12-15, the Court hereby decides to oblige the defendants; i.e. the Council of Ministers, Minister of Local Government and Minister of Social Affairs, to implement the provisions of the said articles and to take all actions and procedures that guarantee this."
- 7.45 Although this decision was issued by the High Court of Justice, it has not been implemented on the ground, as many public facilities are still not suitable for persons with disabilities.

Recommendations

- 7.46 The State of Palestine should take measures to ensure judicial decisions are fully implemented concerning accommodations and adaptations to public spaces to ensure access for persons with disabilities.

8. Education, leisure and cultural activities

The legal framework

- 8.1 Articles 37-41 in Chapter 7 of the Palestinian Child Law No. 7 of 2004 regulate the educational rights of children. The law affirmed the right to free education in public schools until the completion of secondary education and compulsory education in the upper elementary stage (until 10th grade). The law also mandates that the state take all appropriate and effective measures to prevent early dropout, eliminate discrimination in education, promote the participation of pupils and their parents in child-related decisions, and develop programs to prohibit all forms of violence in schools.
- 8.2 The Child Law also affirms the right of children with disabilities to education and training in the same schools and centres designed for non-disabled students. In cases of exceptional disability, the State is obliged to provide education and training in special classes, schools or centres; provided that such facilities are linked to the regular education system and are suitable for the needs of the child, close to the place of residence and easy to access. In addition, education should be suitable to a student's needs by providing qualified teachers.
- 8.3 In September 2015, State of Palestine signed a commitment to achieve the Sustainable Development Goal 2030 (SDGs).⁶⁷ SDG 4 focuses on “Ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all.”⁶⁸
- 8.4 In 2017, the Palestinian President issued Law No. 8 Concerning Public Education. However, the executive regulations and bylaws that contribute to the implementation of this law have not been passed, allowing for violations without accountability. There is a need to approve and implement these regulations as soon as possible, and to develop action to ensure the optimal implementation of this law which grants different guarantees such as free and compulsory education, non-discrimination, and prohibiting using violence as a disciplinary method. Although the education directorates set up inquiry committees to investigate violations committed against students in schools either physical or verbal abuse, most committees do not effectively hold teachers accountable for their violations of the rights of children in schools.⁶⁹

Free and compulsory education

- 8.5 Compulsory and free education is one of the key indicators of the realization of the right to education, which is emphasized by the Palestinian legal framework. Article 24 of the Palestinian Basic Law stipulates that “education shall be compulsory until at least the end of the basic level and free in public schools and institutions.”

⁶⁷ Teacher Creativity Centre and the Observatory for Social and Economic Policies, shadow of Education Report, 2017.

⁶⁸ Sustainable development goals knowledge platform, accessed on February 13, available at: <https://sustainabledevelopment.un.org/?menu=1300>

⁶⁹ 30 complaints submitted by DCIP to the Ministry of Education on violations against students by their teachers in 2016-2018

- 8.6 The percentage of children dropping out of the basic stage was 0.71 percent⁷⁰ in the 2016–2017 scholastic year. While low, this does not reflect the actual dropout rate because it does not include children who failed to enter school or those who dropped out during transitions between schools under different supervisors.⁷¹
- 8.7 Moreover, the education statistics yearbooks issued by the Ministry of Education and Higher Education do not include the cumulative dropout rate at the beginning and the end of the basic stage, so there is no clear picture of the extent to which compulsory education is applied during the basic stage. UNICEF reported that almost all children between the ages of 6 and 9 years are enrolled in school, while 25 percent of boys and 7 percent of girls dropped out of school at the age of 15.⁷² Boys, aged 14 and 15, make up nearly half of all children, up to the compulsory school age of 15, who are out of school. Also, more boys in this age group are missing out on education in the West Bank (18.3 percent), compared to the Gaza Strip (14.7 percent).⁷³ The main reasons for drop out include low quality education that is also often seen as not relevant to their lives, physical and emotional violence in schools, including from teachers and peers, and armed conflict.⁷⁴
- 8.8 Although Article 50 of Decree Law No. 8 of 2017 Concerning Public Education stipulates explicitly that education is compulsory and any person that prevents a child from attending school or withdraws a child before the age of 16 should be punished for imprisonment for a period that doesn't exceed one year, or a fine that doesn't exceed 1000 Jordanian Dinar (1350 \$). There is weakness in the enforcement of the law, especially the penalties against those who prevent children from school enrolment.⁷⁵
- 8.9 With regard to free education, this does not apply to preschool years. The vast majority of kindergartens are affiliated with the private sector. In the scholastic year 2016–2017, the number of children enrolled in kindergartens reached 146,800 children; 51.1 percent of whom were boys compared to 48.9 percent girls.⁷⁶ The largest percentage is private kindergartens that are not affiliated or funded by the government. Of the 1,954 kindergartens

⁷⁰ Ministry of Education and Higher Education, Education Statistics Yearbook for Scholastic year 2017-2018, accessed on 1 March 2019, available at:

https://www.mohe.pna.ps/Portals/0/MOEHE_Resources/%D9%85%D9%86%D8%B4%D9%88%D8%B1%D8%A7%D8%AA%20%D9%88%D8%AF%D8%B1%D8%A7%D8%B3%D8%A7%D8%AA/%D8%A7%D9%84%D9%83%D8%AA%D8%A7%D8%A8%20%D8%A7%D9%84%D8%A7%D9%95%D8%AD%D8%B5%D8%A7%D9%8A%D9%94%D9%8A%20%D8%A7%D9%84%D8%AA%D8%B1%D8%A8%D9%88%D9%8A%20%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A%20%D9%A2%D9%A0%D9%A1%D9%A8%20%D9%84%D9%84%D9%86%D8%AA.pdf?ver=2018-09-04-081957-127

⁷¹ The Palestinian National Information Center, The Right to Education between Reality and Ambition, accessed on March 2019, available at: http://info.wafa.ps/ar_page.aspx?id=2868

⁷² UNICEF press release on 26 July 2018, accessed on March 2019, available at: <https://www.unicef.org/mena/press-releases/nearly-25-cent-boys-aged-15-out-school-state-palestine>

⁷³ Ibid

⁷⁴ Ibid

⁷⁵ The Palestinian National Information Center, The Right to Education between Reality and Ambition, accessed on March 2019, available at: http

⁷⁶ Teacher Creativity Centre and the Observatory for Social and Economic Policies, shadow of Education Report, 2017.

in the West Bank and Gaza Strip in the scholastic year 2017–2018, only 159 are public kindergartens.⁷⁷

- 8.10 A study, conducted by the YMCA, Jerusalem- rehabilitation program in 2015,⁷⁸ highlights several barriers and challenges that face students with disabilities in enjoying the right to education and accessing educational services. Of the main obstacles that face children and their families in this regard are : the lack of awareness of public school teachers and administrations about the needs and requirements of children with disabilities to facilitate their access to education; the associated financial burdens on the families to arrange special transportation to schools for their children, which are usually costly and unaffordable; the absence of the physical adaptations in school buildings needed for children with disabilities as well as the lack of adapted curriculum and educational methods for the needs of these children including technologies and assistive equipment. Respondents (children with disabilities) in this study also stressed the fact that teachers’ and peers’ attitudes towards them highly hinder their ability to stay enrolled in schools. It is important to note that the above factors, investigated in this study, harm children with disabilities and force them to withdraw from schools, in addition to the fact that there is a lack of interest among the educational bodies to ensure that these children acquire suitable and equal educational opportunities.
- 8.11 With regards to access to education and educational outcomes for children with disabilities, a specialized survey on the challenges facing children with disabilities and their care givers conducted by UNICEF in 2016,⁷⁹ showed that around 38 percent of children with disabilities were out of school entirely and less than 45 percent were enrolled in regular education, with an average age of 11.9 years at which these children leave school. Nearly two thirds of children with disabilities surveyed stressed that “their disability limited their access to education”. The survey further investigated the major reasons for children with disabilities to refrain from going to or drop out of schools. The main reasons came as follows: 48.9 percent stated that transportation was inadequate, 42.2 percent stressed the negative attitudes of the community; 33.3 percent felt inadequate to be invested in, as their families were not supportive of their education; 28.9 percent emphasized the negative teacher’s attitudes; 24.4 percent underlined the fact that buildings and equipment were not adapted to their needs; while 11.1 percent and 6.7 percent stated that the Israeli checkpoints and living in Area C hinder their access to education respectively.

⁷⁷ Ministry of Education and Higher Education, Education Statistics Yearbook for Scholastic year 2017-2018. accessed on 1 March 2019, available at :

https://www.mohe.pna.ps/Portals/0/MOEHE_Resources/%D9%85%D9%86%D8%B4%D9%88%D8%B1%D8%A7%D8%AA%20%D9%88%D8%AF%D8%B1%D8%A7%D8%B3%D8%A7%D8%AA/%D8%A7%D9%84%D9%83%D8%AA%D8%A7%D8%A8%20%D8%A7%D9%84%D8%A7%D9%95%D8%AD%D8%B5%D8%A7%D9%8A%D9%94%D9%8A%20%D8%A7%D9%84%D8%AA%D8%B1%D8%A8%D9%88%D9%8A%20%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A%20%D9%A2%D9%A0%D9%A1%D9%A8%20%D9%84%D9%84%D9%86%D8%AA.pdf?ver=2018-09-04-081957-127

⁷⁸ YMCA, 2015. The status of children with disability in accessing healthcare, education and protection services.

⁷⁹ UNICEF, Dec 2016. Every child counts: understanding the needs and perspectives of children with disabilities in the state of Palestine.

Recommendations

- 8.12 The reality of access of children with disability to educations, calls for integrated and comprehensive efforts, by all actors, to develop and adopt general policies, programs, services and procedures controlling and regulating the enrollment of children with disabilities in the various educational institutions free of any form of discrimination. These interventions should include:
- a. Targeting families of children and youth with disabilities to enhance their role in ensuring the access of their children to educational services;
 - b. Setting clear procedures, based on inclusive benchmarks for medical, educational and vocational diagnosis of people with disabilities;
 - c. Monitoring admission systems and procedures in educational institutions to ensure equality and non-discrimination on the basis of disability;
 - d. Developing programs and mechanisms that encourage students with disabilities to receive educational services on equal basis with others, as well as to ensure the presentation and inclusion of people with disabilities in the curricula and educational methodologies; and
 - e. Developing clear harmonized and publicized coordination and monitoring mechanisms that enhance the accountability of the Ministry of Social Development in the provision of in-kind and financial aids.

The right to education for children with disabilities

- 8.13 With respect to the right to education in the laws governing education, it is important to refer to Decree Law No. 8 of 2017 Concerning Public Education, where inclusive education is defined in Article 1 as "The education that excludes none of the students, regardless of difficulty, disability, gender or colour, provided that individual differences are taken into account and needs are met as required to make radical changes to the education system, and in line with the agreed international principles." Article 4, which provides for a number of tasks undertaken by the Ministry of Education and Higher Education, contains more than one paragraph that takes students with disabilities into account to ensure their enjoyment of the right to education on an equal basis with others, as follows: (6) Provide learning opportunities for students with different individual differences, tendencies and levels of performance, including those with disabilities, juveniles, abused children, students who drop out as a result of their social circumstances, and create an environment conducive to innovation. (7) Provide educational tools and facilities for students, including gifted students and students with disabilities. (8) Provide education buildings conforming to specifications and standards that considered age group, students with disabilities, characteristics of students, and objectives of the curriculum.
- 8.14 With respect to Article 10, which includes a number of texts, some of which are related to the age at which the students are accepted, paragraph two states: "The age of admission for students with disabilities shall be determined by instructions issued by the Minister and in conformity with the relevant international standards and covenants, and upon coordination

with the relevant authorities. Article 14 specifies the Ministry's commitment to the policy of inclusive education by stipulating that: 'The Ministry shall adopt a policy of inclusive education and supportive education that meets the needs of all students by providing: (1) Qualitative education for most excluded and marginalised students, such as students with disabilities, (2) Appropriate facilities, resources, and qualified and specialized education staff, and (3) Appropriate curricula, flexible assessment mechanisms that are responsive to the individual needs of students to provide quality education to them.

- 8.15 Article 35 sets out the foundations upon which the Ministry of Education relies to develop the curricula for all stages, including: flexibility and responsiveness to the individual needs of gifted students and students with disabilities. Article 36 states that the Ministry must print and distribute textbooks at the beginning of the academic year, including textbooks printed in Braille.

School adjustments for children with disabilities

- 8.16 While an inclusive education policy was adopted in 2015 by the Ministry of Education, which aims to remove barriers to participation for disadvantaged groups like children with disabilities, and it is based on a belief in the ability of every child to learn and enjoy his entrenched right by improving the education system and school practices, accessibility adjustments made by schools to help children with disabilities still fall short. The Palestinian Central Bureau of Statistics reported that 63.6 percent of public schools made accessibility adjustments to bathrooms and 53.3 percent made floor adjustments but failed to make other accessibility adjustments related to transportation and classrooms.⁸⁰
- 8.17 children with intellectual disabilities are often the most marginalized and disadvantaged in the education sector. This is due to the lack of adjustments made by schools to meet their needs, the lack of specialized training among the academic and supervisory staff, and lack of comprehensive teaching methods and evaluation tools that address social, emotional, and educational development. These issues should be addressed in order to develop optimal assessment tools and implement action plans to ensure child with disabilities can access their right to education.
- 8.18 Despite the launch of this policy that does not exclude any child from education and despite the existence of the Palestinian Education Law, children with intellectual disabilities still have limited access to their right to education as required. While some schools refuse to enroll children with disabilities, other schools fail to address and adapt curriculum to a child's life and learning skills. In addition, school staff are not fully aware of the laws and policies issued by the Ministry of Education and Higher Education, which are optimal in theory but are not applied on the ground.⁸¹ The PCBS study reported that there was a lack of accurate

⁸⁰ The Palestinian Central Bureau of Statistics, The Status of the rights of Palestinian Children 2016, accessed 13 February 2019, available at: <http://www.pcbs.gov.ps/Downloads/book2275.pdf>

⁸¹ Teacher Creativity Centre, Realizing a comprehensive environment for students with intellectual disabilities in public schools under the inclusive education policy and the Education Law, 2018.

statistics on the number of children with intellectual disabilities who were not enrolled in any educational institution.

- 8.19 Despite the launch of mentioned policy there has been no plan formulated to implement the policy. The education sector lacks knowledge on the policy despite efforts exerted by civil society organizations to implement it. These obstacles are attributed to the fact that implementing the policy and developing an action plan is contingent on international donor funding.

School violence

- 8.20 The Ministry of Education's efforts to prevent violence in schools have intensified in recent years. In 2012, a national policy of non-violence and discipline in schools was issued, followed by the distribution of several regulations to address the use of corporal punishment in schools, and a plethora of programs promoting a culture of non-violence in schools. Yet, corporal punishment remains a widely utilized method of discipline in public schools.⁸² Despite a modest decrease in recent years, more than two-thirds of children in grades 1 to 10 still report being exposed to violence in school.⁸³ Children report that experiencing emotional or physical violence perpetrated by teachers or peers at school were the main reasons for dropping out of public schools.⁸⁴
- 8.21 Findings of the focus groups held by Teacher Creativity Centre as part of its projects indicate that school violence was due to a number of reasons, including family pressures and environment that can negatively affect the child, making them more violent with their classmates. School environment also increases violence due to intimidation, lack of appealing facilities and playgrounds, teachers unqualified to address different emotional, social and developmental situations children experience, the traditional dictating education system, as well as cancellation of sports programming and fine arts classes.⁸⁵ The focus groups indicated a difference in the type of violence among boys and girls. Males tend to use physical violence rather than verbal violence, unlike females. Furthermore, instances of violence increase in UNRWA schools within the refugee camps compared to violence in other schools due to crowding in the UNRWA camps.⁸⁶
- 8.22 According to the statistical report of the Ministry of Social Development in 2017, 47 percent of children in conflict with the law were enrolled in schools,⁸⁷ indicating a failure in

⁸² UNICEF, State of Palestine country report on out of school children, 2018, accessed on March 2019, available at: https://www.unicef.org/oPt/OOSC_SoP_Full_Report_EN.pdf.

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Teacher Creativity Centre, Realizing a comprehensive environment for students with intellectual disabilities in public schools under the inclusive education policy and the Education Law, 2018.

⁸⁶ Ibid.

⁸⁷ Ministry of Social Development, Annual Statistical Report for 2017, accessed on February 2019, available at: <http://www.mosa.pna.ps/ar/node/892>.

implementing the violence-free school policy. This is due to several reasons, including the fact that not all schools have counsellors and lack of extracurricular activities.

Recommendations

- 8.23 The State of Palestine should take measures to explicitly prohibit the corporal punishment of children and other humiliating and degrading treatment in all settings, and eliminate legal defences and justifications for such conduct, and to establish a complaint system for students with clear accountability measures for those who commit any violence against children.

Unequal investment in education in the West Bank and the Gaza Strip

- 8.24 The Ministry of Education's education statistics yearbook for scholastic year 2017–2018 indicated that there were 1,954 total kindergartens, including 1,263 kindergartens in the West Bank and 691 kindergartens in the Gaza Strip. Also, there were 81,316 children in kindergartens in the West Bank compared to 69,534 children in kindergartens in the Gaza Strip. The vast majority of these kindergartens are non-governmental. The Ministry of Education started to open preschool classes in some public schools since the scholastic year 2013–2014. In 2017–2018, there were 146 government kindergartens in the West Bank and 13 in the Gaza strip.
- 8.25 Average class size in West Bank schools is significantly lower in than schools located in the Gaza Strip. The Ministry of Education's education statistics yearbook for scholastic year 2017–2018 reported the overall average number of students per class in the West Bank was 26.3, compared to 38.3 in the Gaza Strip.⁸⁸ Together, the average number of students per class was 30.4 children in the West Bank and Gaza Strip combined. Previously, based on data from 2015–2016, the average number of students per class in public schools was 26.9 in the West Bank and 37.1 in the Gaza Strip.⁸⁹
- 8.26 An analysis of the geographical distribution of public kindergartens shows a clear distinction between the West Bank and the Gaza Strip. Although 40 percent of all kindergartens are in the Gaza Strip, only 8 percent are public kindergartens.⁹⁰ There is also a distinction in the distribution of education resources between the West Bank and the Gaza Strip, as reflected in the analysis of the number of schools operating on a double shift system. Of the 218 schools that operate on a double shift system, 210 are in the Gaza Strip, compared to only 8

⁸⁸ Ibid

⁸⁹ The Palestinian Central Bureau of Statistics, The Status of the rights of Palestinian Children 2016, accessed 13 February 2019, available at: <http://www.pcbs.gov.ps/Downloads/book2275.pdf>

⁹⁰ Ministry of Education and Higher Education, Education Statistics Yearbook for Scholastic year 2017-2018, accessed on 1 February 2019, available at: https://www.mohe.pna.ps/Portals/0/MOEHE_Resources/%D9%85%D9%86%D8%B4%D9%88%D8%B1%D8%A7%D8%AA%20%D9%88%D8%AF%D8%B1%D8%A7%D8%B3%D8%A7%D8%AA/%D8%A7%D9%84%D9%83%D8%AA%D8%A7%D8%A8%20%D8%A7%D9%84%D8%A7%D9%95%D8%AD%D8%B5%D8%A7%D9%8A%D9%94%D9%8A%20%D8%A7%D9%84%D8%AA%D8%B1%D8%A8%D9%88%D9%8A%20%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A%20%D9%A2%D9%A0%D9%A1%D9%A8%20%D9%84%D9%84%D9%86%D8%AA.pdf?ver=2018-09-04-081957-127

in the West Bank.⁹¹ The increase in the number of schools operating on a double shift system in the Gaza Strip is due to the increase in the number of schools run by UNRWA compared to schools run by UNRWA in the West Bank. Also, 115 out of 397 public schools in the Gaza Strip operate on a double shift system.⁹²

9. Special protection measures

Economic exploitation, including child labour (Article 32)

- 9.1 Palestine has acceded to 54 international conventions,⁹³ none of which include ILO Conventions on the Protection of Juveniles such as Minimum Age Convention, Medical Examination of Young Persons Convention, Night Work of Young Persons (Industry) Convention, or the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- 9.2 The Palestinian Labour Law No. 7 of 2000 prohibits the employment of children under the age of fifteen (15) years and provides guarantees for working minors aged 15-18 years, such as prohibiting work in hard and dangerous industries and reducing working hours. However, minors who work for their relatives of the first degree, self-employed children such as street vendors and households' servants, are exempted from the application of the provisions stated in this chapter. Perhaps the largest percentage of working children are those employed by their families and street vendors, exposing them to inadequate working conditions, although the Child Law guarantees the protection of children from all forms of abuse and exploitation. Article 43 contains a special provision for the protection of children from all forms of economic exploitation, but it does not include penalties for any person who employs a child under the legal age or in inappropriate working conditions. Furthermore, Article 53 explains the role of the child protection counsellor in providing a preventive and therapeutic protection without reference to criminal accountability for child abuse. Also, the Labor Law does not impose severe penalties on institutions and employers employing minors under inappropriate conditions or under the legal age. Article 134 imposes minor, non-deterrent fines such as a fine that is not below 200 Jordanian Dinar (282 USD) and does not exceed 500 Jordanian Dinars (702 USD)
- 9.3 Minors are not represented in trade unions, although there is nothing to prevent such a representation. There is a juvenile division within the General Administration of Labour Inspection and Protection in the Ministry of Labour responsible for the inspection visits related to juveniles.
- 9.4 The percentage of cases of economic exploitation of children is 10.6 percent according to the situation of the Palestinian children report prepared by the Palestinian Central Bureau of

⁹¹ Ibid

⁹² Ibid

⁹³ Palestinian Ministry of Foreign Affairs, a List of Ratified Conventions by the State of Palestine until 2017, accessed on 28 February 2019, available at: <http://www.mofa.pna.ps/ar/archives/13674>

Statistics in 2017.⁹⁴ However, the statistics available on the economic exploitation of children do not explain the size of the problem, as there are no detailed statistics related to child labour for 2018 by the Palestinian Central Bureau of Statistics. Also, the statistics published by the PCBS in its 2016 do not match the classifications outlined in the Labour Law because it classifies children aged 10-17 years, and this does not provide accurate statistics on children under the legal age; i.e. 15 years, and it does not distinguish between children aged 15 years and those above the age of 15 years. Also, it does not provide information on working children below the age of 10 years.

- 9.5 The number of juveniles and children (according to the Palestinian Ministry of Labour's inspection and protection department reports, a juvenile is any person above the age of 15 years, and a child is any person under the age of 15 years) seized by the Ministry of Labour's inspectors during routine inspections in 2018 was 882, including 169 children (166 boys and 3 girls), and 713 juveniles (708 boys and 5 girls), according to a 2018 report by the Ministry of Labour. The legal procedures against the facilities that violated child labour regulations included 156 notices, 96 warnings and 16 cases were referred to court.⁹⁵ However, the 2018 report did not indicate the nature of the offenses, whether they were related to employing children under the legal age, under the minimum wage, dangerous industries, or inappropriate environment. Most of the procedures involved notices, which may not be considered as a strong deterrent to facilities and employers that employ children.
- 9.6 The number of beneficiaries of awareness campaigns and guidance organized by the Ministry of Labor in 2018 was 171 juveniles and 68 children, which is a small number if compared with the number of those working on such campaigns.⁹⁶
- 9.7 Child Protection Networks (CPNs) carry out market tours to take measures to protect children who work as street vendors. Although there are no clear statistics on the number of children working as street vendors and in shopping centres, the concern is the young age of these children, the majority of whom are under the age of 10 years, and their work without adult supervision, as they are sometimes exploited by adults and subjected to various forms of abuse and ill-treatment. Through DCIP's role in CPNs and follow-up to the plans developed by the Ministry of Development and implemented with partners in CPNs, we believe these tours are of limited utility because they are unorganized, as they are carried out only in the official working hours of employees and, therefore, do not provide protection for children working late hours and in harsh working conditions. The government has no clear plans for improving the working conditions of children under the legal age or those working in inhumane conditions due to the financial need, the poor economic situation of their families or the absence of the breadwinner, noting that the cash assistance system includes families living below the poverty line.

⁹⁴ Palestinian Central Bureau of Statistics, the situation of Palestinian children in the year of 2017, accessed on 28 February 2019, available at: <http://pcbs.gov.ps/Downloads/book2394.pdf>

⁹⁵ Palestinian Ministry of Labour, the annual report in 2018 for the General Administration of Labour inspection and protection, accessed on 28 February 2018, available at: <http://www.mol.pna.ps/images/pdf/ins2018.pdf>

⁹⁶ Ibid

- 9.8 The Child Law stipulates in Article 37(2) that education is compulsory until the end of the basic primary stage, the end of the tenth grade, in which the child reaches the age of 16 years. The Education Law No. 8 of 2017 stipulates that education is compulsory until the end of the tenth grade, which requires amending the Labor Law by raising the legal working age to 16 years so as not to conflict with the age of compulsory education for children.
- 9.9 According to the 2016 annual report of the Palestinian Bureau of Statistics, the economic activities of juveniles included activities prohibited by the Labour Law due to their gravity. A total of 19 percent of the working juveniles worked in mining, quarrying and manufacturing, 15 percent in building and construction, and 6 percent in other activities.⁹⁷ In 2017, 16.9 percent of working juveniles worked in construction, and 18.9 percent in mining, quarrying and manufacturing, indicating that there is no effective control over the work of juveniles in these industries.⁹⁸
- 9.10 Between January and April 2016, DCIP field workers collected 10 affidavits from child laborers working in harsh hazardous conditions in Gaza. Many of their roles were informal, such as collecting scrap metal or street vending.⁹⁹
- 9.11 With regard to child labour in Israeli settlements, the Palestinian Authority cannot implement its law in these areas, but it can carry out monitoring procedures against individuals that recruit child laborers. In a report by Human Rights Watch, which examined the situation of 38 children working in settlements in 2015, all children reported that they had been employed by Palestinian brokers on behalf of Israeli settlers.¹⁰⁰

Recommendations

- 9.12 The State of Palestine should take measures to include self-employed children, such as street vendors and household servants and children who work for their relatives of the first degree, in the chapter of the Labour Law that guarantees the rights of the working minors, and to carry out monitoring procedures against individuals that recruit child laborers, imposing strong deterrents to facilities and employers that employ children.

Sexual exploitation and sexual abuse (Article 34)

- 9.13 Article 308 of the Penal Code allows rapists to be pardoned if they marry their victim. While this article was abolished on 8 March 2018 by a presidential decree, such a decree is not applicable in the Palestinian courts, which gives impunity to the rapists for reasons related

⁹⁷ Palestinian Central Bureau of Statistics, the situation of Palestinian children in the year of 2016, accessed on 28 February 2019, available at: <http://pcbs.gov.ps/Downloads/book2394.pdf>
<http://www.pcbs.gov.ps/Downloads/book2262.pdf>

⁹⁸ Palestinian Central Bureau of Statistics, the situation of Palestinian children in the year of 2017, accessed on 28 February 2019, available at: <http://pcbs.gov.ps/Downloads/book2394.pdf>

⁹⁹ Defense for Children International, Gaza's children go to work in trash pits, 2016, accessed on March 2019, available at: https://www.dci-palestine.org/gaza_s_children_go_to_work_in_trash_pits_part_1.

¹⁰⁰ Human Rights Watch, Palestinian Children Labor in Israeli Agricultural Settlements, accessed on 28 February 2019, available at: <https://www.hrw.org/report/2015/04/13/ripe-abuse/palestinian-child-labor-israeli-agricultural-settlements-west-bank>.

to culture and family honour, encouraging the victims to marry their rapist in order to save her honour and the honour of her family, and thus putting her at even a greater risk.

- 9.14 According to the Penal Code, the consent of a female under the age of eighteen (18) years is not valid in cases of rape. However, the prosecution of a case of incest can be launched by a complaint filed by a relative, or a relative by marriage, of one of the offenders up to the fourth degree, which means the prosecution cannot file it on its own. The Child Law provides the child protection counsellor the power of judicial authority to file a complaint on their own; an action is enforced according to the law, but some cases are closed by the Public Prosecution. According to the Penal Procedure Law, where the deputy prosecutor is of the opinion that the act is not punishable by law, the action has lapsed by prescription, death, general amnesty or because the accused was previously tried for the same crime or is not liable under penal law by reason of his youth or mental illness, or the circumstances of the case entail that it be dismissed for lack of importance, they send a memorandum with their opinion to the Public Prosecution for further action.
- 9.15 The Penal Code does not provide a clear definition of child sexual harassment or child rape.
- 9.16 The Personal Status Law allows early marriage of children. Girls who are fifteen (15) years of age and boys who are sixteen (16) years of age can marry. The percentage of women married before the age of eighteen (18) years reached 10.8 percent in 2017. The percentage of women aged 20-24 years who gave birth before the age of eighteen (18) years reached 22 percent.¹⁰¹ Article 7 of the Jordanian Personal Status Law applied in the West Bank constitutes a clear violation of child rights and a form of child trafficking by allowing the judge to approve the marriage of a girl under the age of 18 years to a male who is 20 years older than her on the basis of her consent, despite the fact that she is not fully qualified, as well as her interest. The concept of interest is subject to the judge's discretion, which allows parents to marry girls to men who are more than 20 years older just because such men are financially qualified. DCIP's lawyers documented cases of girls who were married to older Palestinians inside the Green Line, noting that the Palestinian Authority does not have the power to provide protection for these children in such areas. Moreover, the Jordanian Penal Code of 1960 does not provide a deterrent action to those who conclude an illegal marriage contract of a girl or a marriage contract of a girl under the age of 18 years without the consent of her father. The penalty under Article 279 of the Law is imprisonment from one to six months, which allows the conclusion of contracts of customary marriage of minor girls without any legal deterrent.

Recommendations

- 9.17 The State of Palestine should take measures to promulgate a new penal code that criminalizes early marriage and includes clear definitions of what constitutes child sexual harassment and child rape.

¹⁰¹ Palestinian Bureau of Statistics, annual report in 2017, accessed on 10 April 2019, available at: <http://www.pcbs.gov.ps/postar.aspx?lang=ar&ItemID=3214>

Refugee Children

- 9.18 Palestinian refugee children remain among the poorest and most vulnerable children. Some families live in buffer zones in the Gaza Strip and in West Bank Area C locations, which lack security and economic growth.
- 9.19 The Palestinian Central Bureau of Statistics (PCBS) reported in 2017 that the refugee population reached up to 42.5 percent of the total Palestinian population living in the State of Palestine. Additionally, 26.6 percent and 66.2 percent of the population in the West Bank and the Gaza Strip respectively are refugees.¹⁰²
- 9.20 According to the PCBS report, Palestinian refugees in the State of Palestine were described as “young people”, as the percentage of individuals under the age of 15 years was 39.9 percent of the total population in Palestine and 38.3 percent of the total refugee population.¹⁰³
- 9.21 The State of Palestine’s report only refers to UNRWA's role in dealing with Palestinian refugees. However, the increase in the number of refugees, in addition to the recent cuts in UNRWA funding, have affected UNRWA's main areas of work, especially those in the education and health sectors, which could have serious impact on refugee children.
- 9.22 There are eight UNRWA-run camps in the Gaza Strip and 19 UNRWA-run camps in the West Bank according to UNRWA's areas of operation.¹⁰⁴ These camps suffer from health crises, poor housing that lacks minimum living standards, and a lack of law enforcement, exposing them to internal conflicts that threaten the public safety.

Use of children in the production and trafficking of illicit narcotic drugs and psychotropic substances (Article 33)

- 9.23 Pursuant to the decision of the Council of Ministers issued on 19 May 2015, Decree Law No. 18 of 2015 Concerning the Control of Narcotic Drugs and Psychotropic Substances was issued.
- 9.24 Palestine acceded to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and the Convention on Psychotropic Substances of 1971.
- 9.25 According to Article 22 of the Anti-Narcotics Law, the punishment for offenses punishable by law must be maximized in the case of involvement of a minor.
- 9.26 Until 2018, there was no governmental treatment centre for the rehabilitation and treatment of addicts.

¹⁰² Palestinian Bureau of Statistics, Palestinian Refugee's situation, accessed on 28 February, available at: http://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Press_Ar_20-6-2018-REF-ar.pdf

¹⁰³ Ibid

¹⁰⁴ see <https://www.unrwa.org/ar/where-we-work/%D8%A7%D9%84%D8%B6%D9%81%D8%A9-%D8%A7%D9%84%D8%BA%D8%B1%D8%A8%D9%8A%D8%A9>

- 9.27 A study prepared by Ramallah-based National Institute of Public Health in cooperation with the United Nations Office on Drugs and Crime, the Ministry of Health and the World Health Organization in Palestine, found that 81 percent of drug users started doing drugs before reaching the age of 18 years.¹⁰⁵
- 9.28 Most of the cases documented in the study in the West Bank used drugs due to physical, psychological or sexual abuse, which indicates the absence of effective mechanisms for the protection and rehabilitation of victims.
- 9.29 Other reasons cited as a cause of abuse were related to unemployment and poverty, as well as easy access to drugs due to lack of effective government policies to prevent the spread of drugs.

Recommendations

- 9.30 The State of Palestine should take measures to develop a comprehensive and relevant treatment program for children who use drug and other harmful substances, which should include adequate and child-focused rehabilitation centres and programs to develop the capacity of teachers, parents, local officials, police and the justice system to deal with children in situation of drugs and substance abuse.

Torture and ill-treatment (Article 37)

- 9.31 State of Palestine legislation affirms the absolute prohibition of torture. This is part of the State of Palestine's commitment to the international system by joining a number of international conventions prohibiting torture such as the Convention against Torture, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and others. National law also provides legal protection against torture at the legislative level through the Basic Law, the Child Law and the Juvenile Protection Law.
- 9.32 The laws in force in the State of Palestine do not include explicit stipulation considering the crime of torture as an independent crime punishable by law, but it was referred to in the illegal proceedings against the person. The Basic Law stipulated that no one should be subjected to coercion or torture and that eliciting a confession under torture is prohibited. The Reform and Rehabilitation Centres Law of 1998 also prohibits the management of detention centres from practicing acts of torture or force against inmates. The Code of Criminal Procedure requires confessions to be legal and to be issued voluntarily and freely without the use of force or coercion.¹⁰⁶ The laws, however, did not provide clear mechanisms for monitoring and how to file complaints in cases of torture and ill-treatment.
- 9.33 Although the Juvenile Police is the competent authority to collect evidence in cases of juveniles in accordance with Article 15 of the Juvenile Protection Law, the detention of

¹⁰⁵ The Palestinian National institute for Public Health and others, Illicit Drug Use in Palestine, accessed on 28 February 2019, available at: <https://www.unodc.org/middleeastandnorthafrica/en/web-stories/unodc-supports-a-study-on-illicit-drug-use-in-palestine.html>.

¹⁰⁶ Independent Commission for Human Rights, legal review of the provisions of torture in Palestine in 2009

juvenile by non-competent bodies is a common practice. In 2018, DCIP documented the detention of 42 children by non-competent bodies, including 22 by the *Mabahith* [General Investigations Directorate], nine by the Preventive Security Forces, four by the Intelligence Services, one by the Guards Department, three by the National Security Forces, two by the Special Police Forces, and one by the Presidential Guard.¹⁰⁷ In 2017 and through the analysis of 154 forms and affidavits collected from children by DCIP, 16 children were arrested by the security services and another 24 were arrested by a non-competent police, constituting more than a quarter of the cases documented by DCIP.¹⁰⁸

- 9.34 Of the 176 children in conflict with the law who were legally represented by DCIP in 2018, 47 children were detained with adults, 35 children were beaten and kicked, and 47 children had their hands tied. What calls for concern in cases of torture is that no one has been compensated and none of the perpetrators has been tried for torture due to lack of mechanisms to protect the victims. It is, therefore, important that an independent national body be established to provide protection against torture and a compensation fund for child victims of torture in the State of Palestine.

Legal aid

- 9.35 Article 10 of the Juvenile Protection Law provides juveniles with right to legal representation and aid, which starts from the stage of investigation and continues throughout all stages at the expense of the state through the public prosecution or the court, if a lawyer is not assigned by the family of the child. However, the reality indicates the lack of legal support services from the State of Palestine, and the institutionalization of the legal aid is hindered by juvenile justice actors. Furthermore, such services are provided through donor-funded projects provided by civil society organizations and international institutions operating in the Occupied Palestinian Territory, as there are no government budgets available for such services.

Alternatives to detention

- 9.36 The Juvenile Protection Law stipulates in many articles that detention should be a measure of last resort and for the shortest possible time in response to Article 37 of the Convention on the Rights of the Child. Official figures indicate the number of children held in detention every year is decreasing following the approval of the law. In 2016, 884 children were held in detention compared to 391 children in 2017 and 359 children in 2018.

Conditions of detention

- 9.37 The report of the State of Palestine does not address juvenile detention centres and the conditions of such centres, despite the importance of these centres in rehabilitating and

¹⁰⁷ DCIP's Annual Report 2018

¹⁰⁸ DCIP's Annual Report 2017

training juveniles. Article 24 of the Reform and Rehabilitation Centres Law states that juveniles should be placed in specialised centres.

- 9.38 There is one care home for boys in conflict with the law in the West Bank and another one in the Gaza Strip. As for girls, there is only one care home available for girls in the West Bank, in which girls in conflict with the law, girl victims of violence, and girls at risk of delinquency are placed.
- 9.39 In addition, there are only two juvenile detention centres in the West Bank and the remaining juveniles are being held in non-specialized cells or rehabilitation and reform centres. Of the 884 children detained in 2016, 170 children were detained in Dar Al-Amal, indicating that about 80 percent of the children were detained in reform and rehabilitation centres, which are adult prisons and are supervised by non-competent bodies. In 2017, 202 children out of 391 children arrested were detained in Dar Al-Amal in the West Bank, indicating that nearly half of the children were detained in reform and rehabilitation centres.
- 9.40 The five reform and rehabilitation centres, where juveniles are placed, are monitored by the Civil Police and supervised by the General Administration of Prisons and not the Juvenile Police as a competent authority as stated in the law. The children detained in these centres are deprived of their right to education and are detained in poor conditions due to lack of facilities suitable to their needs. In addition, a number of juveniles are detained with adults in temporary detention cells at police stations or detention centres.
- 9.41 Through monitoring visits, DCIP lawyers interviewed 111 children in 2018,¹⁰⁹ including 80 children in police stations and rehabilitation centres, and 31 children in care homes. Police detention centres suffer from inadequate ventilation, lack of hygiene, as well as high levels of humidity.

Monitoring of juvenile detention centres

- 9.42 The Juvenile Protection Law gave powers to juvenile judges and prosecutors to inspect children's places of detention, whereas the Reform and Rehabilitation Centres Law gave powers to the heads of the courts, prosecutors, governors and representatives of the Minister of Justice to monitor these places. However, there are no internal standards or mechanisms for monitoring the places of detention of children, whether in police detention cells, rehabilitation centres or care homes. Those authorized, including the judicial and executive bodies, visit these places regularly or periodically according to the law. These are routine visits, where no reports are produced to follow up any violations. Also, there are no clear complaints systems known to children to file complaints within the place of detention in case of any violations. Visits made by civil society organisations to these places are scheduled in advance and pre-coordinated.

Right to be informed and ill-treatment

¹⁰⁹ DCIP's Annual Report 2018

9.43 Of the 171 children represented by DCIP's lawyers in 2018, only 34 reported being informed of the reasons of arrest and detention, which means that 80 percent of the children arrested were deprived of this important guarantee.

9.44 Although Article 7 of the Juvenile Protection Law stipulates that children should not be handcuffed or bound unless they resist being arrested, 56 children represented by DCIP lawyers in 2018 and had their cases reviewed by the prosecution and the judiciary reported being handcuffed during detention or transfer, in spite of the issuance of circular by the Attorney General in the beginning of 2018 banning the handcuffing of juveniles.¹¹⁰

Restorative justice

9.45 Article 23 of the Juveniles Protection Law provides for mediation as a mechanism of restorative justice. The Public Prosecution responded to the requirements of the law which are consistent with international standards by resorting to mediation by assigning specialised prosecutors trained to conduct mediation sessions. However, mediation is still applied as a form of reconciliation without achieving its results in the rehabilitation and reintegration of juveniles. According to the statistical report of the Public Prosecution in 2018, 841 cases involving children were resolved through mediation in 2017 and 602 cases in 2016.¹¹¹ These files, although they contributed to spare children being detained and was a positive step worthy of mention, were not associated with protection, care and reintegration measures, exposing many children to break the law again.¹¹²

Obstacles in the implementation of the Juvenile Protection Law

9.46 The approval of the Juvenile Protection Law is a positive step at the legislative level for the protection of juveniles and the administration of juvenile justice in the State of Palestine. This law stipulates for a new approach in considering children in conflict with the law as victims and provides a range of guarantees that are consistent with the CRC, the most important of which is raising the age of criminal responsibility to 12 years. However, the challenge facing the law is the availability of implementation mechanisms and the disparity between juvenile justice actors in responding to the requirements of the law. The gaps in the application of the law are:

- a. The absence of an executive regulation of the law, which creates obstacles in practice and impedes certain guarantees provided by the law.

¹¹⁰ DCIP's Annual Report 2018

¹¹¹ Public Prosecution, The statistical report, 2018, accessed on March 2019, available at:

<http://www.pgp.ps/ar/pub/layouts/15/WopiFrame.aspx?sourcedoc=/ar/pub/AnnualReports/%D8%A7%D9%84%D8%A7%D8%AD%D8%B5%D8%A7%D8%A6%D9%8A%D8%A7%D8%AA%20%D9%84%D8%AF%D8%A7%D8%A6%D8%B1%D8%A9%20%D9%86%D9%8A%D8%A7%D8%A8%D8%A9%20%D8%A7%D9%84%D8%A7%D8%AD%D8%AF%D8%A7%D8%AB%20%D8%A8%D9%85%D9%83%D8%AA%D8%A8%20%D8%A7%D9%84%D9%86%D8%A7%D8%A6%D8%A8%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85%20%20%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1%20%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A%20%D9%84%D8%B9%D8%A7%D9%85%202018%20%281%29.pdf&action=default>

¹¹² Defense for Children International, a study on mediation in juvenile cases, 2017.

- b. There is a clear shortage in the number of juvenile police officers and juvenile prosecutors. There are 34 prosecutors in all the governorates of the West Bank, and this number is disproportionate to the 2,199 juvenile cases¹¹³ as reported in the statistical report of the Juvenile Prosecution for 2018. In addition, there are 35 child protection counsellors.
- c. Lack of specially designed buildings for the juvenile courts to ensure full confidentiality. It is worth mentioning that a special juvenile court was opened in the Gaza Strip in 2018.

Recommendations

9.47 The State of Palestine should take measures to:

- Reassess its approach towards the issue of juvenile criminality and stop treating the child as a preparator;
- End ill-treatment against children in conflict with the law and hold preparators accountable for any violations;
- Guarantee that evidence collection in juvenile cases is conducted by competent authorities established by laws.
- Monitor places of detention of juveniles, and issue immediate reports on their situation;
- Inform children in conflict with the law in an easy and child-friendly way of the complaint system in case of any violations;
- Work to develop the knowledge of local officials and service providers on children's rights and continue education and capacity building for local officials and service providers on child rights and child-friendly juvenile justice standards and mechanisms;
- Establish specialized courts for juvenile cases.
- Establish fund to cover the expenses of legal representation for children in conflict with the law.

¹¹³ Public Prosecution, The statistical report, 2018, accessed on March 2019, available at:

<http://www.pgp.ps/ar/pub/layouts/15/WopiFrame.aspx?sourcedoc=/ar/pub/AnnualReports/%D8%A7%D9%84%D8%A7%D8%AD%D8%B5%D8%A7%D8%A6%D9%8A%D8%A7%D8%AA%20%D9%84%D8%AF%D8%A7%D8%A6%D8%B1%D8%A9%20%D9%86%D9%8A%D8%A7%D8%A8%D8%A9%20%D8%A7%D9%84%D8%A7%D8%AD%D8%AF%D8%A7%D8%AB%20%D8%A8%D9%85%D9%83%D8%AA%D8%A8%20%D8%A7%D9%84%D9%86%D8%A7%D8%A6%D8%A8%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85%20%20%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1%20%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A%20%D9%84%D8%B9%D8%A7%D9%85%202018%20%281%29.pdf&action=default>