



Defence for Children International/Palestine Section
الحركة العالمية للدفاع عن الأطفال / فرع فلسطين

NEW
PROFILE

Movement for the Civil-ization of Israeli Society



אב"י-האגודה הבינלאומית לזכויות הילד די.סי.אי.י-ישראל (ע"ר)
DEFENCE FOR CHILDREN INTERNATIONAL
الحركة الدولية للدفاع عن الاولاد - فرع اسرائيل
DCI - Israel-Section די.סי.אי.י - ישראל (ע"ר)

OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT (OPAC)

NGO Answers to the List of Issues¹

**Data provided by Israeli and Palestinian child rights and human rights organisations
compiled by DCI-Palestine in response to the List of Issues prepared by the
UN Committee on the Rights of the Child
in connection with the consideration of the initial report of Israel²
considered during the Committee's 53rd session on 19 January 2010**

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¹ This document was submitted to the UN Committee on the Rights of the Child on 28 December 2009.

² CRC/C/OPAC/ISR/1: <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-OPAC-ISR-1.doc>

CONTENTS

List of authors and contributors	3
List of acronyms	4
Introduction.....	5
1. Penal provisions	8
2. Defence Services Law 5746-1986 and child participation in hostilities.....	9
3. Extraterritorial jurisdiction.....	10
4. Discriminatory definition of the child between Israeli and Palestinian children	10
5. Defence Services Law 5746-1986 and informants/human shields	11
6. Arrest and interrogation of children in the OPT	14
7. ‘Terrorist’ charges and military courts.....	15
8. Juvenile justice and fair trial standards	16
Incommunicado detention and solitary confinement	18
Provision of legal assistance and access to family visits	20
Detention as last resort.....	21
9. Administrative detention.....	22
10. Proportionality and distinction; accountability for IHL violations	23
11. Attacks against schools and hospitals in the OPT; accountability; reconstruction.....	24
12. Compensation, physical/psychological recovery, reintegration.....	26
14. OPAC training to professional groups.....	26
15. Education and training to the Israeli police/military and in OPT; rules of engagement	27
16. Training to teachers at military schools; complaints mechanisms in these schools.....	28
17. Promotion of peace education in schools.....	29
18. OPAC dissemination to the general public	35
19. Recruitment of children into non-State armed groups.....	36
20. Sale of arms to countries where children are or may be used in hostilities.....	40
21. Implementation of Security Council Resolution 1612.....	40
22. Civil society involvement in the preparation of the report	41

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³ Authors have directly contributed data to the report and endorsed the full contents of the report; contributors have forwarded approved, specific information to the authors without reading the full report.

List of acronyms

AIDA	Association of International Development Agencies
UNCRC	United Nations Convention on the Rights of the Child
DCI-Israel	Defence for Children International-Israel Section
DCI-Palestine	Defence for Children International-Palestine Section
DOP	Disturbances of the Peace
H CJ	High Court of Justice
HTA	Hostile Terrorist Activity
IDF	Israeli Defence Forces
IPI	Illegal Presence in Israel
ISA	Israeli Security Agency
MAG	Military Advocate General
MOD	Ministry of Defence
MOJ	Ministry of Justice
MPIU	Military Police Investigation Unit
NGO	Non-Governmental Organisation
OPAC	Optional Protocol on the Involvement of Children in Armed Conflict
OPT	Occupied Palestinian Territory
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
PCHR	Palestinian Centre for Human Rights
PLC	Palestinian Legislative Council
UN	United Nations
UNICEF	United Nations Children's Fund
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
WHO	World Health Organisation

Introduction

The present document compiles data provided by Israeli and Palestinian organisations in response to the List of Issues prepared by the UN Committee on the Rights of the Child in connection with Israel's implementation of the [Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict \(OPAC\)](#). These *NGO Answers to the List of Issues* are co-authored by DCI-Israel, DCI-Palestine and New Profile. It was compiled by DCI-Palestine and submitted to the Committee in December 2009, ahead of the review of Israel's compliance with OPAC.

OPAC reporting process

Israel ratified the Optional Protocol on the Involvement of Children in Armed Conflict on 18 July 2005. As a State Party to OPAC, Israel was due to report to the UN Committee on the Rights of the Child, the body in charge of monitoring implementation of the Convention and its Protocols, two years after ratification. Israel actually submitted its [Initial State Party Report](#) in March 2008.

The report made no mention of the situation of children – Palestinian or Israeli – living in the Occupied Palestinian Territory (OPT). Consequently, in July 2009, DCI-Israel and DCI-Palestine submitted a joint [Alternative Report](#) to the Committee in order to provide Committee members with complementary information relating to implementation of OPAC in the OPT.

On 6 October 2009, at the end of its 52nd Session, the Committee held a pre-session meeting on Israel's OPAC Initial State Party Report and invited representatives of DCI-Israel and DCI-Palestine to present the contents of their Alternative Report to them. The Committee had many questions on Israel's child recruitment practices in the OPT.

List of Issues

On 15 October 2009, shortly after the pre-session meeting on Israel, the Committee sent its [List of Issues](#) (of 22 questions) to the Israeli government, expressing the Committee's concerns and requesting further information on a range of issues, a majority of them connected to the OPT over which the Committee considers that Israel has jurisdiction. The government was given until 19 November 2009 to send its responses in writing to the Committee but it forwarded its [Written Replies](#) late, on 7 January 2010.

Meanwhile, the List of Issues was also forwarded to DCI-Palestine and DCI-Israel, who were again encouraged to submit updated, complementary information to the Committee. DCI-Palestine coordinated the NGO response and gathered expert contributions from Adalah, Yesh Din and UNICEF. In addition, DCI-Palestine's partner in Israel, the organisation [New Profile](#), which had thus far been unable to submit information to the Committee, joined DCI's reporting efforts and provided contributions on all questions pertaining to the recruitment of Israeli

children. NGOs were given until 1 December 2009 to respond so that their answers could be informed by the government's Written Replies. Given the lateness of the government's response, the *NGO Answers to the List of Issues* were sent to the Committee on 28 December 2009.

NGO Answers to the List of Issues

The data compiled in the present document is based, *inter alia*, on: [Adalah](#)'s expertise on the legal and practical aspects of the Israeli military's use of civilians as human shields; [DCI-Palestine](#)'s knowledge of Palestinian law, its research and field documentation of the impact of Operation Cast Lead, and its experience of representing Palestinian child detainees accused of security offences appearing before Israeli military courts; [New Profile](#)'s expertise on Israel's child recruitment laws and practices and its research on the militarisation of the Israeli education system; [Yesh Din](#)'s expertise on the Israeli military court system; and [UNICEF](#)'s perspective on the Israeli government's collaboration and support towards the implementation of the child rights monitoring and reporting mechanism set up by UN Security Council Resolution 1612.

Neither the organisations above nor their partners were able to provide answers to Questions 13 of the Committee's List of Issues⁴. This question is thus left out of the present document. Elements of answers to Questions 13 will be found in the State Party's [Written Replies](#).

Committee Recommendations

An Israeli government delegation met members of the Committee in Geneva on 19 January 2010, 3:00-6:00pm, in order to answer questions on the implementation of OPAC in the territories over which Israel has jurisdiction. The public debate was held at the Palais Wilson during the Committee's [53rd session](#). NGOs were invited as observers only, and both DCI-Israel and DCI-Palestine attended the session.

The Israeli government delegation was composed of the following six representatives:

- Mr. Daniel Taub, Senior Deputy Legal Advisor, Ministry of Foreign Affairs, Jerusalem
- Mrs. Simona Halperin, Director of International Organisations and Human Rights Department, Ministry of Foreign Affairs, Jerusalem
- Mrs. Hila Gilad Tenne, Director of the Department for International Agreements and Litigation, Ministry of Justice, Jerusalem
- Mr. Harel Weinberg, Legal Advisor, Ministry of Defence, Jerusalem
- Mr. Walid Abu-Haya, First Secretary, Permanent Mission of Israel, Geneva
- Ms. Amanda Grudinskas, Advisor, Permanent Mission of Israel, Geneva

Questions asked by the Committee and issues debated covered the following topics: Applicability of the Convention in the OPT – Use of Palestinian children as human shields –

⁴ Question 13 deals with asylum-seeking and refugee children who have been recruited in armed conflict.

Detention of Palestinian children by Israeli authorities – Israeli military juvenile courts – Age of minimum recruitment in Israel – Israeli military schools – Operation Cast Lead – Construction of the Wall in the West Bank – Israeli landmines in the Golan.⁵

On 29 January 2010, the Committee on the Rights of the Child issued its [Concluding Observations](#) to Israel.⁶

Jerusalem, March 2010

⁵ See United Nations Press Release, “Committee on Rights of Child Examines Report of Israel under Optional Protocol on Children and Armed Conflict” (19 January 2010): [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/A8925209BC166878C12576B00042E06A?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/A8925209BC166878C12576B00042E06A?OpenDocument)

⁶ See DCI-Palestine and New Profile, “CRC issues recommendations to Israel on use of children in hostilities” (1 February 2010): <http://www.dci-pal.org/english/display.cfm?DocId=1357&CategoryId=1>

1. Please provide information whether there is a specific penal provision for the crime of recruitment or use in hostilities of a person who is under the age of 18.

No such provisions exist in Israeli law, nor is New Profile aware of the issue ever being brought before an Israeli court (which would be relevant, as Israel has a common law legal system).

A somewhat relevant bill is currently under debate in the Israeli Parliament. It would set the minimum age for receiving a licence to use firearms to 21 and limit weapons practice in a firing range to adults, or children aged 16 or older with parental approval. The Israeli military and its branches would be exempt of this limitation, if enacted. Israel's Firearms Law 5709-1949, Article 5b, paragraph b(1), explicitly authorises the use of unlicensed firearms by anybody aged 14 or older, when this is done with the consent of the Israeli military or police.

Israel follows a very restrictive interpretation of the term "recruitment", as referring exclusively to full-fledged conscription into the Israeli Defence Forces (IDF). Such practices as participation of children in patrols in and around West Bank settlements⁷, military training, in uniform (including weapons training for school pupils)⁸, and the use of children as young as 14 as volunteers (often armed with unloaded guns) in the Civil Guard⁹, are actively encouraged by the Israeli Ministry of Education, other state authorities, and the media. The recruitment of children into armed militias, a practice that has been documented, especially in West Bank settlements¹⁰, does not in itself violate any domestic law, although particular acts conducted by recruits and their commanders would be considered to be criminal offences under Israeli law, and the very creation of a militia, regardless of the age of recruits, could be interpreted as an illegal act.

[New Profile, 29 November 2009]

In view of the State party's international legal obligations, the Committee furthermore requests information regarding the corresponding applicable penal provision in the Palestinian Occupied Territory.

There is no penal provision for the crime of recruitment or use of under-18s in hostilities in applicable law in the Occupied Palestinian Territory (OPT), although the use of children in armed conflict is prohibited by Article 46 of the Palestinian Child Law, applicable in both the West Bank and Gaza Strip, stating: "*It is prohibited to use children in military operations or armed conflict. The State shall take necessary measures and arrangements to guarantee that*

⁷ See *The New Profile Report on Child Recruitment in Israel* [hereinafter 'CRI'] (29 July 2004): http://www.newprofile.org/data/uploads/child_soldiers/english.pdf, pp. 42-43

⁸ CRI, pp. 32-36. More on that below in Question 17 on military involvement in the education system.

⁹ CRI, pp. 38-41.

¹⁰ CRI, pp. 43-47.

children are not used in such a way."¹¹ However, the Child Law does not identify penalties for violations of its provisions.

Penal legislation currently enforced in the West Bank is the *Jordanian Penal Code*. A Palestinian Penal Code is in draft form but cannot be voted on as the Palestinian Legislative Council (PLC) has been inactive since early 2006, when Israel arrested and detained 45 Hamas-affiliated parliamentarians, following the Hamas victory in the legislative elections in January of that year. The Draft Palestinian Penal Code does not specifically criminalise child recruitment.

[DCI-Palestine, 8 December 2009]

2. Please indicate whether the Defence Services Law 5746-1986 referred to in the State party report foresees sanctions in case of direct participation in hostilities by members of their armed forces below the age of 18 years. Specifically, the Committee would like the State party to clarify the statement in the State party report, paragraph 9, that “*virtually all recruits will be over 18 before they are required to participate in combat duty*” and explain how this is compatible with the State party’s obligations under the Protocol and the declaration made upon its ratification.

No such sanctions are foreseen. Israeli state employees are generally immune from legal sanctions for offences carried out in their official capacity.

Israel's half-hearted effort to conform to its obligations under the Protocol was limited to one change in legislation – a change in Article 2 of the Defence Service Law relating to the manner of calculating a person's age. Article 2 of the Law set out a specific method of calculation based on the Jewish year, which is divided into two halves: for the purpose of age calculation, birthdays used to be considered to be on the first day of each half-year period of the Jewish calendar. Thus, one may be considered to be 17 under this Law up to 6 or 7 months before one's 17th birthday according to the Jewish calendar. The Law has now been changed to indicate that the age of conscription (already set to 18) would not be calculated according to Article 2, and that one would thus be reaching the age of conscription on one's 18th birthday.

However, there are exceptions to this provision. First, one may volunteer to enlist, with parental permission, at the age of 17 (under the old provision for calculating conscription age, so actually at 16). Second, the old provision still stands for people joining the so-called “academic reserves” or “unpaid service”. In both these frameworks conscripts are combining periods of active military duty with other engagements (university studies or various types of agricultural or educational work). In all three groups (volunteers, academic reserves and unpaid service), soldiers are not supposed to be sent to tours of active combat duty before they reach the age of 18. Nevertheless, one may in principle take part in hostilities without being on ‘combat duty’. Soldiers undergoing basic training or other kinds of military training all wear uniforms and carry weapons. They may all be thrown into combat in the event of

¹¹ Unofficial translation by DCI-Palestine.

shortage in troops at wartime and would be required to take part in combat if their training base is attacked. Note also that while most training bases in Israel are located within the 1967 borders, some are located in the West Bank – the closest to a "front line" that Israel has.

[New Profile, 29 November 2009]

3. Please indicate whether Israel assumes extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using them to participate actively in hostilities.

The question of extraterritorial jurisdiction under Israeli law is not clear. Israel has in the past assumed extraterritorial jurisdiction against suspected Nazi war criminals. Palestinians residing in the West Bank and Gaza¹² are customarily tried in Israeli military courts under the Military Judgment Law. On the other hand, there is no basis in Israeli law for universal jurisdiction on crimes not related to Israeli citizens in any way. But in any case, since there is no specific legal provision to ban child recruitment by non-state actors, the point is moot.

Please indicate whether Israeli courts have jurisdiction in case of forced recruitment or involvement in hostilities of a child if committed outside Israel, by or against an Israeli citizen. Please provide copies of jurisprudence, if applicable.

New Profile is not aware of any cases of recruitment of Israeli children outside Israel that have reached Israeli courts. Forced recruitment by non-state actors might be interpreted by Israeli courts as a case of kidnapping. Voluntary recruitment or conscription of an Israeli citizen (presumably, one holding dual citizenship) into a state's armed forces, in accordance with the law of that state, is most unlikely to be brought before an Israeli court; no relevant legal provisions seem to exist.

[New Profile, 29 November 2009]

4. Please inform the Committee of progress made to comply with the recommendation issued to the State party in 2002 (CRC/C/15/Add.195, para. 25) regarding the discriminatory definition of the child between Israeli children (18 years) and Palestinian children in the OPT (16 years according to Military Order 132).

No progress has been made in this matter. Military Order 132 still defines a 'juvenile' as a person between the ages of 12 and 14, and a 'young adult' as a person under the age of 16. Once a person attains the age of 16 they are treated as an adult in the military court system. By way of contrast, the age of majority in the Israeli domestic legal system is 18 years.

¹² Sometimes foreign nationals – see "Israeli Extraterritorial Jurisdiction Challenged", *MERIP Reports* 19, 1973, p.20.

Please clarify whether Military Order 132 has been rescinded.

Military Order 132 has not been rescinded. Further, under Military Order 132, children can still be sentenced based on their age at the date of sentencing, as opposed to the date when the alleged offence was committed.

[DCI-Palestine, 29 November 2009]

5. Please inform the Committee whether the Defence Services Law 5746-1986 prohibits the use of children in hostilities, notably for as informants for intelligence purposes and as human shields.

According to Adalah¹³, Defence Services Law 5746-1986 does not prohibit the use of children in hostilities. The ban on the use of civilians, including children in hostilities is solely, and specifically, enshrined in case law, through the ruling of the 2005 High Court of Justice *Adalah et al. v. Commander of the Central Region et al.* (HCJ 3799/02).¹⁴

[Adalah, 9 December 2009]

Please inform the Committee of measures taken to ensure compliance with the ruling of the High Court of Justice *Adalah et al. v. Commander of the Central Region et al.*

According to Adalah, the Israeli government has shown consistent failure to take tangible steps to ensure compliance with the ruling of the High Court of Justice (HCJ), issued just three months after Israel's ratification of OPAC in July 2005.

In early 2007, several cases of children used as human shields by Israeli soldiers were documented in Nablus.¹⁵ In March 2007, Adalah sent two letters to the Deputy State Attorney requesting investigations into these reports, and asking for the criminal indictment of those found responsible for violating the ban imposed by the Supreme Court in 2005.¹⁶ In March 2007, the Military Advocate General (MAG) responded that an investigation would be open into the allegations, and in October 2007, the Israeli media reported that the Army's Chief of Staff, Gabi Ashkenazi, had merely chastised Brigadier General Yair Golan, the outgoing commander of the Israeli forces in the West Bank, and delayed his promotion for at least nine months, because under his command, soldiers had used Palestinians as human shields. On 25

¹³ Adalah led a group of seven Israeli organisations that petitioned the High Court of Justice on the issue of human shields in 2002, that eventually led to the 2005 ruling.

¹⁴ *Adalah versus Military Commander of the West Bank* (HCJ 3799/02) (6 October 2005): <http://www.adalah.org/features/humshields/decision061005.pdf> .

¹⁵ See DCI-Israel and DCI-Palestine, *Alternative Report for Consideration Regarding Israel's Initial OPAC Periodic Report to the Committee on the Rights of the Child* (July 2009): http://www.dci-pal.org/English/Doc/Reports/DCI_OPAC_Alternative_Report_17_Jul_2009_FINAL.pdf, p.10 and Table 1.

¹⁶ See Adalah Press Release, "Adalah Demands Military Advocate General Publish Clear Directives on Supreme Court's Ruling Banning Army's Use of Palestinians as Human Shields" (28 October 2007): http://www.adalah.org/eng/pressreleases/pr.php?file=07_10_28-1.

October 2007, Adalah sent an urgent letter to the Deputy State Attorney and the MAG emphasising that these steps were wholly inadequate and insufficient, and demanding that they take public measures and impose punishments on the soldiers who violated the HCJ ruling. Adalah also demanded the publication of clear army directives arguing that the Israeli army command had the duty to publish clear, written guidelines to all army units to ensure that soldiers know what is permitted and what is prohibited. The MAG responded that the disciplinary measures were harsh and sufficient; that he had ordered the Military Police Investigation Unit (MPIU) to open investigations into the incidents and that they were still under process. To date, Adalah has never been informed, nor does it have any knowledge, of such directives having been issued as a result of this request, or that any criminal investigation has lead to indictments for the use of human shields (read below).

[Adalah, 9 December 2009]

In view of reports indicating the continued use by the Israeli army of Palestinian children as human shields, please indicate to the Committee whether such reports have been investigated, which jurisdiction has been responsible for such investigations and whether sanctions have been applied.

Since 2007, the Israeli army claimed that it has opened investigations into 10 (i.e. almost all) reports on the use of Palestinian children as human shields, brought to its attention through letters of allegations and follow-up correspondence from Israeli human rights organisations – namely Adalah and DCI-Israel [see table below].

On 27 December 2008, Israeli forces launched a military offensive against the Gaza Strip which continued until 18 January 2009. During the three-week so-called “Operation Cast Lead” (the Operation), more than 350 children were killed. During this military operation, Israeli soldiers ordered civilians to enter buildings to ensure that they were not booby-trapped or to bring people outside, as well as to remove suspicious objects from roads, and to stand in front of soldiers in order to prevent Palestinians from shooting at them. Complaints about these violations were filed by Adalah based on affidavits gathered by Al-Mezan from children used as human shields.

Letters of complaints from human rights organisations are typically answered, after long delays and many reminders, with empty assurances that the incidents will be investigated. However, the incidents documented after Operation Cast Lead have received more attention than usual and are actually being pursued in military police investigations, as shown by the interviews requested as listed in Table 1. As reported by Rana Asali, a lawyer with Adalah:

*“It is unusual for [the Military Police] to want to meet with victims of human shields incidents. Invariably, MAG eventually responds to letters with a declared intention to investigate the alleged incidents. These investigations are internal, conducted by the military itself, and we are seldom informed of their process or outcome”.*¹⁷

¹⁷ See DCI-Israel and DCI-Palestine, *Alternative Report for Consideration Regarding Israel’s Initial OPAC Periodic Report to the Committee on the Rights of the Child*, p.22.

Table 1 – Reported incidents of children used as human shields by Israeli soldiers and subsequent investigations following NGO complaints

Name of victim. Age at incident	Date and summary of incident	Information about military investigation
Ameed E. (15)	26-Feb-07 – Forced at gunpoint to walk in front of soldiers and enter two houses while soldiers were shooting behind and around him (Nablus).	<ul style="list-style-type: none"> • Mar-07: Adalah sent two letters to the Deputy State Attorney demanding investigations • Mar 07: MAG responds that incidents are being investigated
Jihan D. (11)	28-Feb-07 – Interrogated and threatened before being forced to walk in front of Israeli soldiers into an abandoned building which the soldiers believed was sheltering combatants (Nablus).	<ul style="list-style-type: none"> • Oct 07: Delayed promotion of Brigadier General Yair Golan • 25 Oct-07: Adalah write to Deputy State Attorney and MAG demanding sanctions and issuance of clear army directives (No response since)
Ismail M. (14)	11-Apr-07 – Ordered to sit on the bonnet of a jeep for 10min while boys were throwing stones at the vehicle during an incursion into Balata Refugee Camp (Nablus). Oday was punched in the face and slapped for 10 min; he was hit by a stone on the ankle. The soldier kept hitting him.	<ul style="list-style-type: none"> • 28-Apr-09: DCI-Israel letter to MOD and MOJ • 11-May-09: Reminder letter • 24- May-09: Reminder letter • 11-May-09: MOD acknowledges receipt • 10-Jun-09: Reminder to MOD • 17-Jun-09: MOD responds that allegations are being investigated (No response since)
Oday G. (15)		
Rana N. (14)	11-Jul-07 – Shot and injured in leg and abdomen while sent by Israeli soldiers to inform her family to evacuate their home.	Documented by B'Tselem n/a
Amin S. (17)	4-Jan-09 – Father and son detained for 10 days and used as human shields in Ezbet Abed Rabbo, Gaza. Interrogated and ill-treated during interrogation.	<ul style="list-style-type: none"> • 18-Jun-09: Adalah reports incident in reminder letter to MAG (below) • 22-Jun-09: Military attorney on operational issues responds that allegations are being investigated • 27-Aug-09: Military police calls to arrange interview with Amin • Interview [date to be confirmed] (No response since)
Ali A. (16)	5-Jan-09 – Brothers Ali, Nafiz and 'Ala and their cousins Hussein and Khalil are detained for 3-10 days and used as human shield during Operation Cast Lead, with nine other male relatives. They held at gunpoint; made to stand blindfolded and handcuffed in a chain to protect soldiers from an explosion; detained in deep muddy trench for two days with limited access to food, water and blankets – soldiers opened fire above the detainees. On 8 January, Ali, 'Ala, Hussein and Khalil were released. Nafiz was taken to Beersheba prison and released seven days after the others.	<ul style="list-style-type: none"> • Apr-09: Adalah sends complaint to Deputy State Attorney • 21-Apr-09: MAG responds that the allegations are being investigated • 18-Jun-09: Adalah sends reminder letter with additional incident (above) • 22-Jun-09: Military attorney on operational issues responds that allegations are being investigated • 2-Jul-09: Military police calls Adalah asking details on 'Ala • 13-Jul-09: Military Police interviews 'Ala • Aug-09: Military Police interviews Ali and Nafiz (No response since)
'Ala A. (15)		
Nafiz A. (16)		
Hussein A. (12)		[Details to be confirmed by Adalah]
Khalil A. (16)		n/a
Majed R. (9)	15-Jan-09 – Used as human shield in Operation Cast Lead. Soldiers stormed building in which his family was sheltering. Soldier pushed him against the wall, shouting at him. Ordered at gunpoint to open bags and suitcases. Struggled to open one and was grabbed by the hair, slapped, slammed against the wall. Soldier fired at the suitcase to destroy lock.	<ul style="list-style-type: none"> • 28-Apr-09: DCI-Israel letter to MOD and MOJ • 11 and 24-May-09: Reminder letters • 11-May-09: MOD acknowledges receipt • 10-Jun-09: Reminder to MOD • 17-Jun-09: MOD responds that incidents are being investigated • 2-Nov-09: Response from IDF requesting contact details • 24-Nov-09: Invitation fax and assurance that no harm will be done to the victim • 25-Nov-09: Military Police interviews Majed (No response since)

These recent investigations by the MPIU are a positive sign, but they are only preliminary and will not necessarily lead to criminal indictments and prosecutions. They will be referred to the MAG, who will then decide on the course to follow.¹⁸ To date, neither Adalah nor DCI-Palestine have ever been informed, nor do they have any knowledge, of any criminal indictment following investigations into the military's use of Palestinians, including children, as human shields.

Adalah, DCI-Israel and DCI-Palestine recommend that the use of civilians, including children, in military operations / hostilities, be criminalised in order to promote and facilitate compliance with the High Court of Justice 2005 ruling banning this practice.

[DCI-Palestine, 9 December 2009]

6. Please inform the Committee of progress made to comply with the recommendations issued to the State party in 2002 (CRC/C/15/Add.195, paras. 62 and 63) regarding the practices of arrest and interrogation of children in the Occupied Palestinian territory.

DCI-Palestine continues to be concerned about reports of the systematic and apparently institutionalised ill-treatment and torture of Palestinian children by Israeli authorities during arrest, transfer and interrogation.¹⁹ Of particular concern is the practice of interrogating children as young as 12 years in the absence of an independent lawyer and family member and the failure to video record such interrogations as is the practice under Israeli domestic non-security related legislation. The adoption of these simple measures could significantly contribute to reducing the level of abuse.

[DCI-Palestine, 29 November 2009]

Please clarify whether provisions in military orders (specifically no. 378 and 1500) which violate international standards on the administration of juvenile justice have been rescinded.

Military Order provisions on practices of arrest and interrogation of children which violate international juvenile justice standards have not been rescinded. Under Military Order 378 a child is only required to be brought before a judicial officer within eight days. Further, in 2008 bail was denied to children in 91% of cases resulting in juveniles being held in detention until the end of the legal process. Military Order 1500 has been re-issued and is now known as Military Order 1591. As before, administrative detention orders are issued, for adults and children [see Question 9].

[DCI-Palestine, 29 November 2009]

¹⁸ *Report of the United Nations Fact-Finding Mission on the Gaza Conflict* (September 2009):

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>, para.1799-1803, pp. 387-388.

¹⁹ See: DCI-Palestine, *Palestinian Child Prisoners: The systematic and institutionalised ill-treatment and torture of Palestinian children by Israeli authorities* (June 2009): <http://www.dci-pal.org/english/publ/display.cfm?DocId=1166&CategoryId=8>.

7. Please provide information on the definition of terrorist charges which can be brought against children and whether such trials have been carried out in the ordinary justice system or in military courts.

DCI-Palestine would like to note that the use of the term ‘terrorist’ implicitly endorses terminology used by the Israeli authorities’ to refer to political activities, and suggests that children are arrested for violence perpetrated against the Israeli *civilian* population. In fact, children are charged with political and security offences under Israeli Military Law – acts which are often directed against Israeli military targets. Whether the children are actually guilty of committing these alleged offences is another matter.

In a 2007 research on due process rights in Israeli military courts, Yesh Din listed the various charges brought against Palestinian detainees appearing before the military courts:

“The indictments filed against Palestinians in the Military Courts concern a broad spectrum of offences, which the IDF divides into five separate categories.

The category of ‘Hostile Terrorist Activity’ (HTA) includes involvement in the performance of terrorist attacks and military training, as well as offenses concerning weapons and arms trading, but also offenses concerning membership in ‘unauthorized associations’ – associations that have been declared forbidden by the Military Commander.

The second category, ‘disturbances of the peace’ (DOP), includes offenses such as stone-throwing and incitement to violence. ‘Classic’ criminal offenses – theft, robbery, trading in stolen property and the like – make up the third category.

In recent years, a new category has been added: ‘illegal presence in Israel’ (IPI), which includes the offense of ‘leaving the Area without a permit,’ with which Palestinians entering Israel without a permit, generally in order to find work, are charged. The last category is that of traffic violations in the Occupied Territories.”²⁰

Table 2 – Breakdown of charges in 172 cases (children) handled by DCI-Palestine in 2008

	Charge	Number	Percentage
1	Stone throwing	46	26.70%
2	Possession of and/or throwing Molotov cocktail	25	14.50%
3	Membership in a banned organisation	14	8.20%
4	Conspiracy and attempting to kill	42	24.40%
5	Possession of explosives	17	9.90%
6	Possession of weapons	11	6.40%
7	Assisting a wanted person	12	7.00%
8	Other	5	2.90%
	TOTAL	172	100.00%

²⁰ Yesh Din, *Backyard Proceedings: The Implementation of Due Process Rights in the Military Courts in the Occupied Territories* (December 2007): <http://www.yesh-din.org/site/images/BackyardProceedingsEng.pdf>, p. 42.

All of the cases in the above table (children aged 12-17) were conducted in the Military Courts. Based on the definition provided by Yesh Din, it would appear that charges 2 to 7 would be categorised as ‘Hostile Terrorist Activity’, which was made in 70% of cases.

[DCI-Palestine, 29 November 2009]

Please indicate how many children have been accused with terrorist offences since July 2005.

Each year approximately 700 Palestinian children are detained and prosecuted in the Israeli Military Court system. DCI-Palestine therefore estimates that, between July 2005 and December 2009, as many as 2,200 children could have been charged with offences categorised under ‘Hostile Terrorist Activity’.

[DCI-Palestine, 29 November 2009]

8. Please inform the Committee whether international juvenile justice standards have been applied and what procedural guarantees have been put in place to guarantee children’s right to a fair trial.

Proceedings in Israeli Military Courts lack many basic fair trial safeguards and fail to take into consideration basic principles of juvenile justice. Some key shortcomings are listed below:

- **Right to be promptly informed of charges in a language the accused understands** – Under Military Order 378, the ‘*substance of the charge*’ must be given to the accused before his trial. There is no requirement that the charge be given ‘*promptly*’ or be written in Arabic, both of which are required under international law. In practice, indictments written in Hebrew containing the charges are given to the defendant’s lawyer on the day of the hearing to determine whether the accused remains in detention until the end of proceedings.
- **Right to be promptly brought before a judge** – Under Military Order 378, a Palestinian detainee, including children as young as 12, can be detained for up to eight days before being brought before a military judge. In contrast, Israeli citizens must be brought before a judge within 48 hours.
- **Right to be granted bail** – In 2008, lawyers for DCI-Palestine represented 265 children in the Israeli military courts. Bail was granted in just 24 cases (9%), or to put it another way, in 91% of cases before the Israeli military courts, the child was kept in pre-trial detention. This would appear to be contrary to well established and legally binding principles of juvenile justice whereby incarceration should be a measure of last resort.
- **Right to be promptly brought to trial** – Under Israeli military orders, once a Palestinian has been held in detention for two years without a military court trial reaching a verdict,

the matter shall be brought before the Military Court of Appeals, which can approve a further period in detention. By way of contrast, under Israeli domestic legislation the corresponding time limitation is nine months.

- **Right to be granted a trial before a competent, independent and impartial tribunal** – It is questionable whether the use of military courts to try civilians can ever satisfy the requirements under international human rights law to a trial before an independent and impartial tribunal, as the judges are all serving officers subject to military discipline and dependent on superiors for promotion.
- **Right to be presumed innocent** – According to Military Order 378, the Israeli Evidence Ordinance applies to proceedings in the military courts and provides for the presumption of innocence. However, according to Yesh Din, in 2006 full acquittals were obtained in just 0.29% of cases in the military courts, suggesting a presumption of guilt.
- **Right to be granted the assistance of an interpreter** – Proceedings to try Palestinians in the State party's military courts are conducted in Hebrew. Usually a soldier present in court provides translation into Arabic, but few if any of these soldiers possess professional translating qualifications. In a 2007 report prepared by the Israeli organisation, Yesh Din, court observers who sat in on hundreds of court sessions, estimated that in 35% of cases the translation appeared '*partial or sloppy*' and in 5% of cases there was no interpretation at all. DCI-Palestine has evidence from a 15-year-old boy whose detention was extended by the military court in circumstances where the boy was not legally represented and the proceedings, in March 2008, were not translated into Arabic for him.²¹
- **Right to examine and cross-examine witnesses** – The military orders provide for the right to examine witnesses for the prosecution. However, a decision of the Israeli Military Court of Appeal provides that as a standard procedure, investigators for the ISA will give testimony in camera. Further, the right of the defence to summon witnesses is not provided for in the applicable law. In practice, very few full evidentiary hearings are heard by the military courts. According to the Israeli human rights organisation, Yesh Din, of the 9,123 cases concluded in the courts in 2006, full evidentiary trials were conducted in only 130 cases (1.42%). The reason:

“Attorneys representing suspects and defendants in the military courts believe that conducting a full evidentiary trial, including summoning witnesses and presenting testimony, generally results in a far harsher sentence, as a ‘punishment’ the court imposes on the defence attorney for not securing a plea bargain”

This belief is shared by DCI-Palestine lawyers who are reluctant to run full evidentiary hearings for fear that the child will remain longer in detention, as is explained by DCI-Palestine lawyer, Khaled Quzmar:

²¹ See: DCI-Palestine, *Palestinian Child Prisoners: The systematic and institutionalised ill-treatment and torture of Palestinian children by Israeli authorities*, p.8.

“There are a number of reasons why we rarely challenge the cases. First, if we challenge the case and argue that the confession before the court was obtained through ill-treatment or torture, the interrogator will come and give evidence and deny any wrongdoing. In over 15 years of experience practising in the Israeli military court system, I can say that the military judge will always believe the military or police interrogator’s word over the word of a Palestinian child.

Secondly, a child who pleads guilty will normally be sentenced within one month of arrest. A child who challenges the case, won’t be sentenced for between five to 12 months, during which time they will normally be kept in detention.

Finally, a child who does challenge the case and is found guilty, will typically receive a sentence that is double or even triple what he or she would have received had they pleaded guilty. This is why few cases are challenged in the military courts, it simply makes matters worse for the child.”

- **Discrimination before the courts** – Military Order 378 provides that the State Party’s military courts have the jurisdiction to try, *inter alia*, ‘anyone accused of committing an act outside the occupied territory which would have been considered an offense had it been committed within the occupied territory, provided that the action ‘harmed, or was intended to harm, security in the Area or public order’. This provision grants the military courts extra-territorial jurisdiction that enables them to try any person, resident or non-resident of the Occupied Palestinian Territory, for any offence, whether committed in the Occupied Palestinian Territory or not.

Accordingly, Israeli nationals residing in illegal settlements in the Occupied Palestinian Territory are under the jurisdiction of the military courts, however, they are tried in Israel under the Israeli domestic legal system, with all the substantive and procedural safeguards that those courts provide, whilst Palestinians are prosecuted in the military courts with limited safeguards.

Furthermore, please explain the measures taken to prevent incommunicado detention and solitary confinement of children accused of terrorist offenses.

Incommunicado detention

[See question 9 below]

Solitary confinement

Palestinian children arrested by Israeli authorities and accused of security offences are routinely held in solitary confinement during the interrogation process. Since January 2008,

DCI-Palestine collected testimonies from at least 18 children who were held in solitary confinement for periods of time varying between a few hours and 65 days.

Table 4 –Palestinian children held in solitary confinement and for which period of time since January 2008 (only among children represented by DCI-Palestine)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2008		9 days 15 days 5 days	7 days	65 days				2 days		4 days		
2009	2 days 20 days 2 days ? days 20 days 14 days	8 days	10 days	4 days		3 days		10 days				

At least 13 of these children were held in solitary confinement in Al-Jalame Interrogation and Detention Centre in northern Israel, near the city of Haifa. The children taken to Al Jalame reported to DCI-Palestine lawyers that they had been held in solitary confinement in a small cell (referred to as ‘Cell No. 36’) measuring approximately 2x3 metres. One child reports being held in solitary confinement in this cell for 65 days. The children report either sleeping on a concrete bed, on the floor or on a thin mattress. Meals are passed to the children through a flap in the door depriving them of all human contact. The walls of Cell No. 36 are reported to be grey in colour with sharp protrusions preventing the children from leaning against the walls for support. Perhaps more disturbingly, the cell does not have any windows and only a single dim yellow light that is kept on 24 hours a day. Some children report suffering pain behind their eyes and adverse psychological effects after being detained in Cell No. 36.

It appears that the dominant purpose for detaining children in Cell No. 36 is to break their spirits in order to extract confessions. This conclusion is supported by the testimony of one child who states that *“on the 10th day of interrogation and because I was under so much pressure, I decided to confess so as to get out of the cell.”* All of the children report being kept in Cell No. 36 between lengthy interrogation sessions in which clearly prohibited techniques are utilised, such as excessive shackling of the legs and hands as well as position abuse. Below is an extract from a statement collected one of the children detained in Cell 36:

“I was seated on a small chair. They tied my feet and left hand to the chair, and kept my right hand free due to the injury. I was kept tied in this manner for a long time without being interrogated or asked anything. The interrogator would keep me inside the room and leave for a long time. “I will keep you alone until you rot,” he would say. During interrogation, the interrogator shouted at me and threatened that he would not change the bandages and let my hand rot. Due to the difficult situation I had to go through during the interrogation, I confessed to many things that I do not recall in detail. I wanted to end the interrogation, and I did it because of my bad health situation.” (A.H.A. 16 years old)

Please also provide details whether the provision of legal assistance and access to family visits is guaranteed.

Family visits

Four out of the five Israeli prisons where Palestinian children are detained are inside Israel, in clear violation of Article 76 of the *Fourth Geneva Convention*, which provides that an occupying power must detain residents of an occupied territory inside that territory. The practical consequence of this violation is that many prisoners do not receive any family visits as their relatives are denied permits to enter Israel.

Legal assistance

- **Right to be given adequate time and facilities for the preparation of a defence and counsel of choice** – There is no general statement of law guaranteeing an accused in the military court system the right to adequately prepare his defence. On the contrary, applicable law and practice provide for: Incommunicado detention, preventing attorney/client meetings; Lawyers regularly meet clients for the first time in court where they take hurried instructions; Exemptions from video recording of interrogations; So-called ‘privileged evidence’ that will not be disclosed to the court or the defence; Withholding Israeli Security Agency (ISA) interrogation memoranda relating to the accused unless specifically requested by the defence; and the possibility of withholding ISA interrogation memoranda relating to prosecution witnesses from the defence.

Further, the applicable law does not provide guaranteed access to court materials (transcripts, precedents etc) or require translation of evidentiary materials or court materials (transcript, precedents etc). Regular complaints from lawyers appearing in the military courts include: difficulties in meeting with their clients in detention; the lack of adequate facilities to take confidential instructions; court documents written in Hebrew; and the provision of incomplete prosecution material. In practice, lawyers commonly take instructions from their clients minutes before the hearing in the military court and plea bargains are entered into to avoid harsher sentences.

- **Right to be granted legal assistance and legal aid** – The applicable law provides for the right to defend oneself in person or through legal counsel. The applicable law does not provide for notification of these rights, the right to choose counsel or the right to be tried in one’s presence. Further, while the law provides for the appointment of free legal assistance, this only applies where a person is accused of an offence carrying a sentence of ten years or more. In practice, lawyers are often assigned to unrepresented defendants once the accused is brought into the courtroom. It is a common occurrence that the cost of providing free legal assistance is borne by Palestinian non-governmental organisations, such as DCI-Palestine.

How does the State party make sure that detention of children is only used as a measure of last resort and for the shortest appropriate period of time?

Detention periods under Israeli domestic law and military orders

Table 3 – Comparative table for detention periods for adults under Israeli domestic law and the military orders applying to children

Event	Israeli domestic law	Military Orders
Maximum period of detention before being brought before a judge	48 hours	8 days
Maximum period of detention without access to a lawyer	48 hours	90 days
Maximum period of detention without charge	30 days	188 days
Maximum period of detention between being charged and brought to trial	9 months	2 years

Note on juvenile justice courts

On 29 July 2009, the Israeli military commander in the West Bank issued Military Order 1644 purporting to establish a juvenile military court. DCI-Palestine has some specific concerns regarding Military Order 1644 which came into effect on 1 October 2009:

- The Order provides for the appointment of ‘*juvenile judges*’ by the Military Court of Appeal. These ‘*juvenile judges*’ are themselves, military court judges who ‘*must be prepared to be competent for the post*’. No further information is provided to shed light on how it is anticipated these military court judges are suitably qualified to adjudicate cases involving 12-year-old children.
- The Order exempts all hearings to determine whether a child should be kept in pre-trial detention until the end of the legal proceedings from the requirement of having to be heard before a ‘juvenile judge’.
- Much of the language used in the Order is discretionary in nature, not mandatory. Eg: the ‘*juvenile military court*’ must convene in separate rooms ‘*as much as possible*’ and children must not be brought to the court, or detained with adults, ‘*as much as possible.*’

DCI-Palestine lawyers have been monitoring developments in the military courts since the introduction of Military Order 1644 and confirm the following:

- There are two military court judges that adjudicate in juvenile matters. One is in Ofer Military Court, the other in Salem Military Court. Both judges presided in the court system prior to the issuance of Military Order 1644 and both still adjudicate in proceedings dealing with adults. It is not clear what specific training in juvenile justice they have received.
- Unlike previously, children under 16 are now tried separately from adults and brought into the court room individually. However, procedures inside the court room have not changed.
- Children are still being brought to the courts from the detention facilities with adults.
- Arriving at court, children are still being held with adults before being called in for hearing.

[DCI-Palestine, 29 November 2009]

9. Please clarify whether the State party holds children, and from what age, in administrative detention on terrorist charges and how many children have been subjected to such measures. Please also clarify whether the State party has applied the *Incarceration of Unlawful Combatants Law* to children.

Administrative detention is a procedure whereby a person is detained **without charge or trial**. Under Military Order 1591, Israeli military commanders in the West Bank can issue an order for renewable periods of up to six months. Administrative detention orders are issued either at the time of arrest or at some later date and are often based on “*secret evidence*” collected by the Israeli Security Agency (ISA). Neither the detainee, nor the detainee’s lawyer are given access to the secret evidence, and therefore have no effective means of challenging the detention, as is required under international law.²²

In practice, Palestinians under administrative detention orders can be detained for months, if not years, without ever being informed about the reasons or length of their detention; and detainees are routinely informed of the extension of their detention on the day that the former order expires.

As shown in Table 5, there has been a significant decrease in the number of Palestinian children being held in Israeli administrative detention, from 18 children in January 2008, down to just one child, Hamdi al-Ta’ mari, at the time of writing. However, note that in total there are four persons who were under 18 when they received their administrative detention orders, and had their 18th birthday while in administrative detention (see Table 6).

Table 5 – Number of Palestinian children in Israeli administrative detention at the end of each month since January 2008 (Note: these figures are not cumulative)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2008	18	3	13	12	10	13	13	13	11	8	5	6
2009	5	6	2	2	1	1	1	1	1	1	-	-

Table 6 – Persons currently in administrative detention who were under 18 when arrested

	Name	Age at arrest	Date of first order	Number of orders	Possible release date
1	Hamdi Al Ta’ mari	15	25 July 2008	4	14 December 2009
2	Rami Shilbayieh	17	15 December 2008	3	14 December 2009
3	Wa’ad al-Hidmy	16	28 April 2008	6	24 December 2009
4	Mohammad Baran	17	1 March 2008	5	26 November 2009

This type of detention is arbitrary and contravenes not only the UN Convention on the Rights of the Child (1989) but also the UN Convention Against Torture. DCI-Palestine has submitted complaints on behalf of Wa’ad al-Hidmy, Hamdi al-Ta’ mari and Mohammad Baran to the UN

²² See article 78 of the *Fourth Geneva Convention*.

Working Group on Arbitrary Detention seeking an opinion that their administrative detention amounts to arbitrary detention in contravention of international law.²³

[DCI-Palestine, 4 December 2009]

10. In view of the large number of children who have died in the ongoing armed conflict and the disproportionately high number of Palestinian children among them, please inform the Committee of measures taken by the State party to ensure respect for the fundamental principles of proportionality and distinction between military objects and civilians and to establish accountability for violations of international humanitarian law.

The sheer number of child fatalities resulting from Israel's last military operation in Gaza, and documented by DCI-Palestine (352 in three weeks), suggests blatant disregard for the fundamental principles of distinction and proportionality on the part of the Israeli army. During the operation, 18 schools were completely destroyed and over 260 damaged [see Question 11 below]; 36 out of 124 UNRWA school buildings sustained physical damage; five of these were operating as temporary emergency shelters. At least 116 children were killed with precision missiles launched by unmanned aircraft.²⁴ DCI-Palestine also documented incidents of children directly targeted while clearly signalling their civilian status with white flags. Many attacks were indiscriminately launched in crowded civilian areas and/or apparently aimed specifically at civilian targets and protected persons.

Compounding our evidence, the Goldstone Fact Finding Mission has identified an implicit intention on the part of the Israeli military to disregard these fundamental principles:

“Through its overly broad framing of the “supporting infrastructure”, the Israeli armed forces have sought to construct a scope for their activities that, in the Mission’s view, was designed to have inevitably dire consequences for the non-combatants in Gaza. Statements by political and military leaders prior to and during the military operations in Gaza leave little doubt that disproportionate destruction and violence against civilians were part of a deliberate policy.”²⁵

On accountability, the figures speak for themselves: from 2000 to 24 December 2008, at least 623 Palestinian children were killed in Gaza as a direct result of Israeli military action.²⁶ Very

²³ See: 16 July 2009 - <http://www.dci-pal.org/english/display.cfm?DocId=1194&CategoryId=1>; 15 September 2009 - <http://www.dci-pal.org/english/display.cfm?DocId=1250&CategoryId=1>; 16 September 2009 - <http://www.dci-pal.org/english/display.cfm?DocId=1251&CategoryId=1>; <http://www.dci-pal.org/english/display.cfm?DocId=1194&CategoryId=1>.

²⁴ See Al Mezan and DCI-Palestine, *Bearing the Brunt Again: Child Rights Violations during Operation Cast Lead* (September 2009): <http://www.dci-pal.org/english/publ/display.cfm?DocId=1258&CategoryId=8>. Drones have an array of sensors which allow operators to have a clear enough image to distinguish between children and adults. See Human Rights Watch, *Precisely Wrong: Gazan Civilians Killed by Drone Launched Missiles* (June 2009): <http://www.hrw.org/en/reports/2009/06/30/precisely-wrong>.

²⁵ *Report of the United Nations Fact-Finding Mission on the Gaza Conflict*, para.1214-1215, p. 258.

²⁶ Excludes children killed while involved in hostilities. See Al Mezan and DCI-Palestine, *Bearing the Brunt Again*.

few of these deaths have been investigated and, to the best of DCI-Palestine's knowledge, no Israeli soldier has ever been criminally prosecuted. The UN Fact Finding mission concluded that although there is an Israeli system in place to investigate allegations of serious violations of international humanitarian law, this system, when dealing with serious wrongdoing by armed forces personnel, is discriminatory and does not comply with the principles of independence, effectiveness, promptness, and impartiality, required by international law.

*"There are serious doubts about the willingness of Israel to carry out genuine investigations in an impartial, independent, prompt and effective way as required by international law. The Mission is also of the view that the Israeli system presents inherently discriminatory features that have proven to make the pursuit of justice for Palestinian victims very difficult."*²⁷

[DCI-Palestine, 10 December 2009]

11. Please explain what measures have been taken to prevent direct attacks against schools and hospitals in the Occupied Palestinian Territory and establish accountability for such acts. Please inform the Committee of measures taken to ensure their reconstruction and please also provide information on measures taken to address the previous concerns and recommendations issued to the State party by the Committee in 2002 (CRC/C/15/Add.195, paras. 44-45, 52- 53).

Evidence strongly suggests that no effective measure were taken by the State Party to prevent direct attacks on schools and hospitals during Operation Cast Lead. Schools and medical facilities were among civilian objects targeted during the operation, resulting in the killing and injuring of scores of children. According to UNRWA, at least 280 schools and kindergartens were damaged/severely damaged, including 18 schools destroyed (eight government, two private and eight Kindergartens).²⁸ DCI-Palestine has documented the cases of 26 children who were killed either when sheltering in schools, on their way to or from school, or near schools.²⁹

A UN Board of Inquiry, established to investigate attacks on UN facilities during Operation Cast Lead, found that the Israeli military acted negligently or recklessly concerning attacks on or near UNRWA-operated schools. The Board concluded that Israel was responsible for the deaths, injuries, and destruction of UN property that resulted from the attacks in at least two schools (Al-Fakhoura and Beit Lahiya).³⁰

²⁷ Report of the United Nations Fact-Finding Mission on the Gaza Conflict, par.1823, p.394.

²⁸ UNRWA and the Association of International Development Agencies (AIDA), "The Gaza blockade: Children and education fact sheet": <http://www.reliefweb.int/rw/rwb.nsf/db900sid/LSGZ-7UDDVG?OpenDocument>

²⁹ Al Mezan and DCI-Palestine, *Bearing the Brunt Again*, p.64.

³⁰ Summary by the Secretary-General of the report of the UN Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009: <http://unispal.un.org/unispal.nsf/bb6fe1e72803131885256c380071d04c/3800655e522591fd852575cb004ca773?OpenDocument>

In addition, the UN fact Finding Mission on Gaza looked into the destruction of some educational facilities such as the American School and university buildings, and stated that “these were civilian, educational buildings, and the Mission did not find any information about their use as a military facility or their contribution to a military effort that might have made them a legitimate target in the eyes of the Israeli armed forces”.³¹

Despite the significant destruction of educational facilities, reconstruction has been obstructed by Israel’s ongoing near-total blockade of the Gaza Strip. According to UNRWA, in February 2009 over 200 schools had only 40% of their needed book supplies because paper and glue were not allowed into Gaza.³² To justify the restrictions, Israel argues that steel pipes and cement can be used to build rocket launching pads, while stationery and textbooks fall into the category of “non-essential” or “luxury” items.³³ The estimated cost of repair to damaged schools is US\$55 million.³⁴ The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported in July 2009:

“In the Gaza Strip, the ban on the entry of construction materials, in the context of the blockade imposed by Israel in June 2007, has prevented the reconstruction, rehabilitation or expansion of schools, particularly those destroyed or damaged during Israel’s “Cast Lead” military offensive. [...] More than six months after the declaration of ceasefires, none of the schools have been rebuilt or repaired. Construction materials needed include 25,000 tons of iron and 40,000 tons of cement. However, since the end of “Cast Lead”, only 10 truckloads carrying 471 tons of cement have entered Gaza, while no truckload of steel bars was allowed entry. Due to the damage to educational facilities, many students had to be re-located to other facilities, worsening already overcrowded conditions; during the past academic year, around 88% of UNRWA schools and 82% of government schools operated on a shift system to accommodate the high number of students. In government schools, school attendance and performance have declined as a result of aging education infrastructure, overcrowding, and frequent disruptions caused by military operations. During the first semester of the 2007-2008 scholastic year, only 20% of 16,000 students enrolled in the sixth grade in Gaza passed standardized exams in math, science, English and Arabic, compared to around 50% of their peers in Nablus and Jenin in the West Bank.”³⁵

As for hospitals, the number of victims among Gaza medical personnel, and the damage caused to ambulances and other medical facilities during the offensive provide strong evidence of

³¹ Report of the United Nations Fact-Finding Mission on the Gaza Conflict, para.1273, p.271.

³² IRIN Middle East, “Challenges of getting aid to Gazans”: <http://www.irinnews.org/Report.aspx?ReportId=82813> in *Bearing the Brunt Again*, p.78.

³³ Heather Sharp, “Scant movement on Gaza blockade” (6 Jun. 2009): http://news.bbc.co.uk/2/hi/middle_east/8101002.stm. In *Bearing the Brunt Again*, p.78.

³⁴ *The Palestinian National Early Recovery and Reconstruction Plan for Gaza 2009-2010* (2 March 2009): <http://www.palestine-pmc.com/pdf/2-3-09.pdf>, p.40

³⁵ UNOCHA, *Humanitarian Monitor* (July 2009): http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2009_june_english.pdf, p.15.

repeated attacks on medical centres and facilities.³⁶ Twenty six clinics and three hospitals were damaged or totally destroyed.³⁷

DCI-Palestine and Al Mezan's joint report on Operation Cast Lead confirms that throughout the operation, Israeli forces opened fire on emergency teams and ambulance personnel, killing 17 and injuring 50 in the line of duty, and obstructed medical teams as they were attempting to evacuate the injured.³⁸ Al Mezan documentation reveals that at least 258 persons out of the total 1,409 persons killed during the operation died after Israeli forces obstructed medical access; 66 of those victims were children.³⁹

The blockade of the borders has also a direct impact on health facilities and supplies. The facilities cannot be reconstructed and donation stocks are not sufficient to cover the existing crisis. As of July 2009, 16-20% of essential items are out of stock for the Drug and Disposable Stores respectively.⁴⁰

Because of the crisis of the health care system in Gaza, many patients in critical situations, including children, need to be transferred to hospitals outside the region. The number of permits granted, however, is not sufficient and since the beginning of 2009, 20 patients have died while waiting for approval to exit Gaza through Erez and Rafah crossings.⁴¹

[DCI-Palestine, 10 December 2009]

12. With reference to the Committee's recommendations issued to the State party in 2002 (CRC/C/15/Add.195, paras. 31 and 32) to take all necessary measures to provide child victims of the armed conflict with adequate compensation, physical and psychological recovery as well as social reintegration, please indicate what measures the State party has taken in this regard.

Neither DCI-Palestine nor DCI-Israel are aware of any such measures having been taken.

14. Please inform the Committee of the training and dissemination of the Protocol among relevant professional groups working at the national level with children who may have been recruited or used in hostilities, including migration authorities, lawyers, judges, medical professionals, social workers and journalists.

³⁶ PCHR, *War on the Wounded: human rights violations perpetrated against Palestinian medical personnel in the Gaza Strip*: <http://www.pchrgaza.org/files/Reports/English/medical5.htm> .

³⁷ *The Palestinian National Early Recovery and Reconstruction Plan for Gaza 2009-2010*, p.50.

³⁸ Al Mezan, *The Targeting of Medical Centres, Ambulance Teams and Civil Defence Teams during OCL* (March 2009): http://www.mezan.org/en/details.php?id=8569&ddname=gaza%20destruction&id_dept=24&p=center .

³⁹ <http://www.dci-pal.org/english/publ/research/BearingTheBruntAgain.pdf>, p.32.

⁴⁰ WHO, Gaza Health Assessment July 2009.

⁴¹ WHO, Gaza Health Assessment July 2009.

Israel

New Profile does not have any information about training and dissemination of the Protocol among relevant professional groups in Israel.

Palestine

DCI-Palestine conducts regular UNCRC trainings, including on the Protocol, among relevant professional groups working at the national level with children. Some trainings include children and parents. A training workshop on the Protocol itself is currently being planned by DCI-Palestine, which includes the development of an awareness manual for children and communities on the protection children from armed conflict: it is foreseen that the workshop will be held in the middle of January 2010. It will focus on the Protocol and issues of child recruitment and will include representatives of Palestinian political parties. A committee is meeting with the staff at the Palestinian Ministry of Education and Higher Education, the Ministry of Detainees and Ex-Detainees, and with the media for that purpose. Following these meetings, DCI-Palestine will start developing the manual mentioned above.

[DCI-Palestine, 30 December 2009]

15. Please provide information on education and training on human rights, in particular on children's rights, provided to the Israeli police and military. Please also provide information available on such trainings in the Palestinian Occupied Territory. Please indicate whether military codes of conduct and rules of engagement take into account the Protocol.

Israel

New Profile is not aware of any such trainings in Israel. However, regarding rules of engagement, there were concerning media reports a few years ago that, for the Israeli army, any Palestinian who looks 12 or older is "fair game" for snipers⁴². It is doubtful whether this policy was ever incorporated into written commands.

[New Profile, 29 November 2009]

Palestine

No information available as of 30 December 2009.

⁴² Amira Hass, "Don't Shoot Till You Can See They're Over the Age of 12", *Ha'aretz* (12 November 2000), English translation online: <http://www.ifamericansknew.org/stats/hass.html>.

16. Please inform the Committee of the training provided on the provisions of the Protocol for teachers at military schools. Please inform the Committee whether children in military schools have access to complaints mechanisms and whether an independent entity oversees the curricula and administration of such schools.

Israel

New Profile is not aware of any training on the provisions of the Protocol to teachers in Israeli military schools, although we cannot altogether rule out the unlikely possibility that such training exists.

The academic curriculum of all military and semi-military schools is supervised by the Israeli Ministry of Education. Military and other activities, discipline codes and the like are determined by the schools themselves and by the relevant branches of the military command. In the military schools proper, all staff are military personnel, the schools themselves being military units with military administration. It is unclear whether ordinary complaint mechanisms that exist in the Ministry of Education can be used by pupils enrolled to military schools; but in any case, there are no documented cases in which pupils have been sent out to participate directly in hostilities. Those of them who perform military functions while in school perform logistical functions and at most undergo full combat training.

However, there are several other issues to mention regarding military schools in Israel.⁴³

In addition to military schools *per se*, Israel has a number of semi-military schools; these are all civilian schools working in special cooperation with the military. In all these schools pupils are channelled to particular military functions and jobs when conscripted and undergo at least some level of military training related to these functions while still in school. In some schools (e.g. the Mevo'ot Yam school in Michmoret⁴⁴) pupils are required to wear a military uniform. In others (e.g. Amal Ramat David⁴⁵) the school is located inside an Air Force base and pupils are required to work at the base (for a salary) as part of their studies. To this, one could also add ordinary civilian schools, whose principals decide to take the already militarised civilian education in Israel to extremes (e.g. the Galili high school in Kfar Saba⁴⁶, and the Ironi Het high school in Tel Aviv⁴⁷), offering military combat training as part of the school curriculum and ostracising pupils who are not being enlisted for one reason or another.

The age of enrolment into both semi-military and proper military schools in Israel is another issue. Article 3 (5) of the Protocol does exempt States Parties from raising the minimum age for joining military schools above 15, but the same provision also entails that joining a military school is a form of recruitment, which means other relevant international standards

⁴³ For a more detailed answer, see *CRI*, pp. 29-32.

⁴⁴ *CRI*, p. 29.

⁴⁵ *CRI*, p. 31.

⁴⁶ *CRI*, p. 20.

⁴⁷ See Karin Springgold, "Ironi Het, Tel Aviv: Matriculation Certificates to Conscripts Only. No Entry for Draft Evaders", *Zman Tel Aviv* (15 October 2009): <http://www.nrg.co.il/online/54/ART1/954/181.html> [in Hebrew].

apply to it. Namely, Article 38 (2-3) of the *UN Convention on the Rights of the Child*, as well as Article 77 (2) of the *First Additional Protocol to the Geneva Conventions*, and the *Rome Statute of the International Criminal Court*, all set the absolute minimum age for recruitment to 15. This age limit is not respected by military schools in Israel.

Thus, the network of Air Force Technical schools in Israel⁴⁸, which has been rapidly expanding in recent years (now with 10 schools in different parts of Israel plus one school in the West Bank settlement of Maale Adumim) accepts pupils from the 9th Grade, that is, pupils begin their studies in these schools when they are 14 or, for those born between September and December, 13. Even younger pupils may in principle enrol in special cases, although there is no evidence of a particular case in which this has happened. All pupils have to undergo standard military medical tests in a military conscription bureau prior to enrolment. Military boarding schools⁴⁹ accept pupils from the 10th Grade, that is, when most of them are already 15, but some are still 14. At least in the case of the Military Boarding School of Command in Haifa, pupils are also required to undergo weapons training in the summer vacation before joining the school. In all these schools pupils wear a military uniform in school and on the way from home to school and back. In the military boarding schools pupils also carry weapons while in school.

[New Profile, 29 November 2009]

17. Please inform the Committee of efforts to promote peace education for children in all schools within the territorial responsibility of the State party. Does the State party provide parent education on the contents of the Protocol?

Israel

New Profile is not aware of any centralised effort on behalf of the Israeli government to conduct any peace education and parent education on the contents of the Protocol. The little peace education there is, is the result of sporadic private initiatives.

New Profile, however, is aware of the existence of the exact opposite of peace education – militarised education and military presence in schools in Israel.⁵⁰ We will discuss the issue under four headings:

- a. Military training as part of the school curriculum
- b. Official preparation for enlistment curriculum (including a few words on legally mandated military intervention in the lives of children outside the school system proper)

⁴⁸ *CRI*, pp. 30-31. A visit to the website of one of these schools, <http://sites.google.com/site/techni0021/home/arshma> confirmed these findings are updated.

⁴⁹ *CRI*, pp. 29-30. See: <http://www.panmaz.co.il/panmaz/index.php?page=2>, <http://www.panmatzoe.co.il/odot/shocher.html>.

⁵⁰ Here, reference will be made only to state-run secular and state-run religious education systems in Israel, ignoring the Palestinian and ultra-Orthodox Jewish school systems in Israel and the school system of the Palestinian Authority.

- c. Military presence in schools, initiated by either the Ministry of Education, or the military itself, or both
- d. Other forms of military presence in schools, kindergartens and informal or semi-formal educational frameworks in Israel

a. Military training as part of the school curriculum

Under this heading one should first and foremost mention the **Youth Battalions (Gadna) training week**.⁵¹ This is a week of military training that forms part of the official preparation to enlistment curriculum enacted by the Ministry of Education for 11th Grade pupils (aged 15-17). The training is regarded as an optional part of the curriculum, but it is only optional from the perspective of the school management. Once a school opts for having the training week (most Jewish high schools in Israel do), the activity is presented as a mandatory school activity to the pupils themselves. Failing to take part in it normally results in a penalty (typically, a lowered grade for behaviour in the report card or some additional academic assignment to complete). The training itself is conducted on a military base⁵², with the children wearing military uniform and subordinated to military discipline from soldiers running the base throughout the week. A significant part of the week is devoted to weapons training, and all other activities on the base emulate the activities that form part of the usual early training of Israeli conscripts. Children who require medical treatment during the week are referred to military medical personnel. In other words, the Youth Battalions training week is full-fledged child recruitment incorporated into the ordinary school curriculum of Israeli children. The children are often told that, having undergone this week of training, they may be thrown into battle as a last-resort backup military force.⁵³

Another similar part of the preparation for enlistment curriculum is the so-called **Soldier for a Day programme**,⁵⁴ intended for 12th Grade pupils (aged 16-18) – a trip to the Israeli army's Induction Centre, including presentations from different military units. Pupils majoring in Arabic are also often sent out to various activities sponsored by the army's Intelligence Corps, especially to trainings of the Youth Battalions for Orientalists (Gadna mizrakhanim), already in the 10th Grade (aged 14-16).⁵⁵

Finally, and as mentioned above, some high schools, as a local initiative and in cooperation with the military, integrate extensive combat training into their curricula.⁵⁶

⁵¹ *CRI*, pp. 33-35. See e.g.: Eden Naor, "IDF for Youths", *Hadshot ha-Galil* (13 November 2009) p. 30 [in Hebrew], for more recent evidence that the practice continues.

⁵² There are four bases in Israel in which such training is held; three of them are specifically designated for this activity, while the fourth also serves as a regular training base for the Artillery Corps.

⁵³ Whether or not this is true today, the Youth Battalions did take an active part in hostilities in the 1947-1949 Israeli-Arab war; see *CRI*, p.12.

⁵⁴ *CRI*, p.24.

⁵⁵ *CRI*, p.24.

⁵⁶ *CRI*, p.20.

b. The Preparation for Enlistment curriculum

The Israeli Ministry of Education has been operating a mandatory curricular **Preparation for Enlistment Curriculum** for high schools since 1984 (and for a brief period in the mid-1970s). This programme has replaced the earlier practice of military training in schools (from the 9th Grade on) by the Youth Battalion (a military division mentioned above). Below we will discuss this programme in detail⁵⁷, but first, we would like to say a few words about the broader framework and the treatment of Israeli children as soldiers-to-be. With the caveats mentioned above, conscription in Israel is mandatory from the age of 18. However, both legally and culturally, children in Israel are often treated as future soldiers, and it is therefore seemingly natural for Israeli children to be 'owned' as it were by the military and military personnel at various stages. This ranges from the once-popular greeting at a baby's birth: "*One more IDF soldier is born*", to a statement made by a military officer at a ceremony for kindergarten children on children being "*an immense human potential for the future*",⁵⁸ to the legal definition of "Intended for Security Service".⁵⁹

The *Security Service Law* defines any Israeli citizen or permanent resident aged 17 or more⁶⁰ as Intended for Security Service. People in this status are obliged by that same law (Articles 3, 5, 9 and 11) to report when ordered by a military official at a military facility for medical and psychological tests, vaccination, interviews or the presentation of identifying documents. Under Article 44 of that law, the military also has the right to obtain private information about any person in that status from various institutions (schools, hospitals, etc.) In practice, what happens is that every Jewish-Israeli child who reaches the right age is summoned to the nearest military conscription bureau for identification, interviews, intelligence tests and medical tests (vaccination is performed already at the time of enlistment). Failing to report is an offence, and in some cases, after the date is rescheduled several times, the police (either civilian or military) may be sent to the child's home to bring him or her to the conscription bureau by force.⁶¹ Quite often children are also being summoned for complementary procedures (e.g. additional tests by medical specialists or special tests for joining various elite combat units). Note that in all these cases the procedures are being conducted by military personnel in military facilities and the children are under a legal mandate to obey the orders they are being given. This comes in stark contrast with the practice of most states with conscription armies, where the preliminary procedures leading up to conscription are enacted by a civilian administration, and not by the military itself. In Israel, where children are viewed as soldiers-to-be, it is considered benign to put them in the hands of military authorities not only as conscripts, but also in all procedures leading up to conscription. One's childhood seems to be viewed as merely a part of life leading up to military service.

⁵⁷ *CRI*, pp.23-25.

⁵⁸ *CRI*, p.20, and see below; the statement clearly implies that the children are viewed as a human potential for the military, rather than for society at large.

⁵⁹ *CRI*, pp.27-28.

⁶⁰ Under the instructions for calculating age in the law mentioned above in Question 2, that is, normally, aged 16.

⁶¹ Although more often, an order would be given, under Article 12 of the same law, to enlist the child without completing the tests.

This rationale has been expressed succinctly in the teachers' guide of the very first Ministry of Education Preparation for Enlistment Curriculum, in 1974: *The Entire people carry the burden of the war effort, and it is divided between those who wear the IDF uniform and the civilians who are not directly recruited by the IDF. Therefore it should be understood that any civilian – even if he's not wearing a uniform, and no matter what his age is – carries the burden of the war effort.*⁶²

Subsequent programmes have not been so outspoken, but they have marked a constant escalation (especially in the last five years) of military presence in school. In the previous section we have already mentioned the Youth Battalions training week and the "Soldier for a Day" programme, which are both part of this Ministry of Education curriculum. The various forms of direct military presence which this curriculum and complementary programmes puts in Israeli high schools will be the focus of the next section. In the remainder of this section we would like to say a few words about the reach and goals of the curriculum itself.

The **Willingness to Serve and Readiness for the IDF curriculum**⁶³ – the current version of the Ministry of Education Preparation for Enlistment Curriculum – is a mandatory programme for the 10th, 11th and 12th Grades in Jewish schools in Israel. Its official goals are defined thus: *"Preparing the entire youth population to service in the IDF, while strengthening their readiness and willingness to perform a substantial and contributing service, each to his abilities, and emphasizing the importance of serving in combat units".*⁶⁴ Several regular curricular subjects in Israeli high schools are considered to be part of the overall programme or incorporate assignments directly linked to it. These include physical education and homeroom hours, as well as a special curricular subject called "Field, Nation, Society" (shelakh). Field trips are also meant to incorporate preparation for enlistment materials (through visiting past battlegrounds, memorial sites and the like), and on top of that are special teaching hours conducted by soldiers in uniform, discussed below.⁶⁵

As can be seen, preparation for enlistment in Israeli schools involves more than just military training, or even the sharing of information. It also involves educational work not overtly presented as being part of such a curriculum, the explicit purpose of which is to maximise enlistment rates, into the military in general, and into combat units in particular. The civilian education system is here completely subordinated to the labour force needs of the army. Indeed, maximising enlistment rates may be said to be the chief non-academic educational goal pursued by most Jewish schools in Israel. Enlistment statistics are the one and only measurable criterion of "educational success" outside the strictly academic sphere, which school principals and the general public are confronted with. This has been starkly illustrated this summer, when Israel's most widely read daily newspaper (and other media as well)

⁶² Hannah Harel, *When a Nation Reports for Duty – A Teachers' Guide*, The Ministry of Education (1974), quoted in *CRI*, p.23.

⁶³ *CRI*, pp. 24-25.

⁶⁴ Circular of the General Manager of the Ministry of Education, No. 4(a) of December 1999, Permanent directive 7, quoted in *CRI*, p. 24.

⁶⁵ The study of Arabic in Jewish schools, while not part of this curriculum, is also strongly linked to the military, specifically to the Intelligence Corps.

devoted the first four pages of its weekend edition to publishing and uncritically commenting on a ranking of all Israeli high schools compiled by the military, according to the levels of enlistment of its graduates to combat units.⁶⁶

c. *Military presence in Israeli schools as part of regular educational programmes*

As briefly mentioned above, since 1999 the Preparation for Enlistment Curriculum has required Israeli high schools to maintain a regular military presence. A Youth Guide (*madan*) – a conscript in uniform from the Education and Youth Corps⁶⁷ – is stationed in every Jewish high school in Israel, and usually comes to school for 1-2 days a week. This soldier's duties include teaching classes on the military and propagandising enlistment as part of the Preparation for Enlistment Curriculum. The Youth Guide is also meant to be an official representative of the military in the school, offering information (often quite misleading) to pupils' queries about the army.⁶⁸

In recent years, the Education and Youth Corps of the military and its civilian partner for curricula issues, the Society and Youth Administration at the Ministry of Education, found that the Youth Guides were insufficient, and have strived, since 2004, to incorporate lecture series by acting middle-rank career officers in the Preparation for Enlistment Curriculum. More or less senior military officers have been occasionally invited to lecture in Israeli schools as a matter of local initiative. The first attempt to make such military presence more systematic was a programme called “The Next Generation”, launched in 2004, which attempted to include such course as a mandatory part of the curriculum for all high schools. This programme has received some public attention and criticism⁶⁹ and was eventually implemented as an optional, rather than mandatory, programme.

Another form of military presence in schools is represented by the teacher soldiers project. Teacher soldiers are another division of the Education and Youth Corps. The conscripts serving in this function are usually stationed as regular teachers, teaching regular curricular

⁶⁶ Yossi Yehoshua et al., "The IDF Presents: The Ranking of Israeli Schools by the Contribution of Their Graduates. The Combat Service and Draft Evasion Test", *Yedioth Aharonoth* (7 August 2009) [in Hebrew], pp. 1-4

⁶⁷ A military branch that is also involved in drafting many of the curricular programmes discussed here.

⁶⁸ *CRI*, p.22.

⁶⁹ See especially the critical, but also quite informative, review by Meir Shalev, "Chief Education Leader", *Yedioth Aharonoth* weekend supplement (14 January 2005), p. 7 [in Hebrew; English translation available online: <http://lists.econ.utah.edu/pipermail/rad-green/2005-January/017126.html>] For an example of the most recent incarnation of this trend see Or Kashti, "IDF officers to visit schools in bid to boost enlistment", *Ha'aretz* English Edition: <http://www.haaretz.com/hasen/spages/1128737.html>: "Some 279 Israeli Defence Forces officers will be speaking to high-school teachers in a program to increase army service that Education Minister Gideon Sa'ar calls one of his 'central aims'. Sa'ar presented his ideas to the Knesset Education Committee yesterday, and the new program was attacked by some education professionals. The plan is to have the army officers rally teachers in encouraging their students not to avoid conscription and to join combat units. Sa'ar also plans to publish the conscription rates in the IDF of individual schools and to hold a national conference on the subject of conscription and the role of schools with the participation of high-school principals and Chief of Staff Gabi Ashkenazi" (at the time of writing, the conference, highlighted by Ashkenazi's lecture before 600 high school principals, the majority of high school principals in Israel, was scheduled for 1 December 2009).

subjects in uniform, in Israeli high schools and elementary schools, mostly in underprivileged areas.⁷⁰

d. Other forms of military presence in education in Israel

The above-mentioned forms of military presence in schools are but the tip of the iceberg. The military is also involved in education in less formal, but often much deeper, ways. We refer here to not merely of militarised education as such,⁷¹ but of various educational initiatives, for children of all ages, that are more or less directly linked to the military. These include some privately run educational initiatives aimed at bolstering enlistment rates,⁷² as well as state-run efforts to bring Jewish immigrants to Israel, with a strong recruitment drive as an integral element.⁷³ Of special interest are initiatives by elementary schools and kindergartens. Many elementary schools in Israel send children to military sites on field trips.⁷⁴ Activities such as an "army week" for elementary school pupils in Israel are by no means exceptional. Mock military parades at kindergarten ceremonies have also been observed.⁷⁵

Another almost universal practice is that of collecting gift boxes from children to be sent to soldiers.⁷⁶ This is usually linked, especially in kindergartens, with events to mark Israel's Memorial Day and Independence Day (celebrated on two consecutive days), which generally focus on the military. Many municipal authorities organise special ceremonies around this time of the year, in which kindergarten pupils from the entire municipality deliver their gift packages to soldiers of a unit that the municipality "adopts". These ceremonies often feature military weapons exhibits, speeches by military officers, as the one cited above about the "immense human potential", and, of course, the immediate and intimate presence of many conscripts in uniform.⁷⁷

[New Profile, 29 November 2009]

Palestine

DCI-Palestine is not aware of any centralised effort in OPT to conduct any peace education and parent education on the contents of the Protocol. The Palestinian school system is jointly operated by the Palestinian Ministry of Education and Higher Education (for state schools in the West Bank), the Hamas Authorities (in Gaza), the United Nations Relief and Works Agency (UNRWA, for registered refugee children), and the private sector. Curricula are developed by these different operators.

[DCI-Palestine, 13 December 2009]

⁷⁰ *CRI*, pp.21-22.

⁷¹ *CRI*, pp.16-17; Haggith Gor (ed.), *The Militarization of Education* (2005) [in Hebrew].

⁷² The largest and best-known is the Follow Me programme; see *CRI*, p.25.

⁷³ e.g. the Naale project; *CRI*, p.26.

⁷⁴ *CRI*, p.56, footnote 31.

⁷⁵ *CRI*, p.20, citing Aviv Lavie, "Up on the Jungle Gym, Charge!" *Ha'aretz* (28 June 2002).

⁷⁶ *CRI*, pp.17-20.

⁷⁷ See *CRI*, pp.18-20 for a detailed description of two such ceremonies.

18. Please provide information with respect to dissemination to the general public of information related to the issues covered by the Protocol.

Israel

Information related to the issues covered by OPAC remains virtually unknown in the general public in Israel. But New Profile would like to use this opportunity to note in brief the opposite trend, namely, the omnipresence of all things military in the lives of Israeli children and the proclamation of recruitment as a major social goal. On the latter issue, "draft evasion" is framed in Israeli political and media discourse as one of the greatest problems facing Israeli society (despite the fact that about half of all conscription-age Israelis are not being enlisted, mostly on the army's own initiative), and one can find any number of public statements denouncing draft evasion from senior Israeli government officials, up to and including the Prime Minister. This, of course, dovetails with the many forms of militarisation and direct military presence in the Israeli educational system outlined above, but one should also mention the broader atmosphere in Israeli society: armed soldiers in uniform are seen everywhere, on busy streets as well as on public transport. No less prominent is the presence of weaponry and military imagery on the street (as monuments), in advertisement, etc.⁷⁸ Finally, one should mention the Israeli habit of using actual weaponry as an attraction for children. One typical example is the weapons expo held to mark Israel's 60th anniversary on one of the beaches of Rishon Le-Zion (a Tel Aviv suburb) in September 2008.⁷⁹

[New Profile, 29 November 2009]

Palestine

In March 2006, DCI-Palestine conducted a one-week training for members of the Palestinian Network for Children's Rights on the UN Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflict. The training presented the findings of the 2004 DCI-Palestine study on child recruitment entitled *Use of Children in the Occupied Palestinian Territories*.⁸⁰ The third day of the training initiated a discussion on the issue of child soldiers in the context of the Palestinian military resistance struggle. Participants agreed to the need for awareness raising programmes on this issue.⁸¹

[DCI-Palestine, 26 December 2009]

⁷⁸ See *CRI*, pp. 13-15 and the New Profile exhibition "Study War No More": <http://www.newprofile.org/images/exhibition/exhibition-extracts-english.pdf>.

⁷⁹ For a very telling photo reportage on this see: Nir Landau, "Daddy, Can You Buy Me an Anti-Tank Missile?", *Walla News* (26 September 2008): <http://news.walla.co.il/?w=/104/1352641> [in Hebrew].

⁸⁰ See: <http://www.dci-pal.org/english/publ/display.cfm?DocId=277&CategoryId=8>.

⁸¹ See also answer to Question 14 above.

19. Please inform the Committee of measures taken by the State party to prevent the recruitment of children into non-State armed groups.

Israel⁸²

The recruitment of Israeli children by organised armed Jewish militias was documented by New Profile in 2004. The report explains that Kahane Chai is an extreme rightwing movement, which is active mainly, but not exclusively, in the settlements in the areas occupied in the 1967 Arab-Israeli War (the Six-Day War). The group split from the Kach movement – a once extreme rightwing political party established and headed by Rabbi Meir David Kahane.⁸³ New Profile estimates that Kahane Chai has been systematically recruiting children, some as young as 10, for many years and regularly sending children as young as 13 to carry out attacks on Palestinians. According to a witness interviewed by the organisation, children take part in many regular activities, and there are also special duties for them:

*“The children throw torches into Palestinian houses and set them on fire. They set fire to cars, and put bombs under cars. Turn over market stalls and draw the Star of David on them, as well as on the faces of Palestinians. Pee in wells, torture Palestinian children until they cry, and stone vehicles and Palestinian neighbourhoods”.*⁸⁴

New Profile queried human rights groups⁸⁵ about these activities, and received confirmation that in Hebron there have been instances where Palestinian cars and houses were set on fire, and buildings destroyed. Bassam Eid of the Palestinian Human Rights Monitoring Group also told them that there have been unconfirmed rumours about the kidnapping of Palestinian girls.

Despite the fact that Kach and Kahane Chai were declared illegal terrorist organisations by the State of Israel in 1994⁸⁶ and have since been operating as underground groupings, New Profile to date is not aware of *“any effort by the State to specifically address the issue of child recruitment by them, not to mention any effort for the demobilization, rehabilitation and integration of these child soldiers into civilian society.”*⁸⁷ Since 2005 there has been some public awareness campaigns in Israel about the acts of the so-called “hilltop youth” (usually not directly linked to the Kahanist groups). Confrontations with the Israeli military and police have taken place, but there has been no focused state efforts towards ending the use of settler children in hostilities.

[New Profile, 29 December 2009]

⁸² Information on which this answer is based was published in 2004, and the only testimony provided pertains to activities dating back to the 1990s.

⁸³ *“The two movements seem to have been reunited in recent years. While most of the findings presented below date back to the late 1990s, when the groups were still separate, all the information we have indicates that these findings probably hold, on the whole, for the situation at present as well.”* in CRI, p.44.

⁸⁴ CRI, p.46.

⁸⁵ *“For this purpose we were in contact with the Palestinian Human Rights Monitoring Group and Hamoked – Centre for the Defence of the Individual.”* CRI, p.46.

⁸⁶ State of Israel Official Gazette (Yalkut Ha-Pirsumim) for 1993/4, p. 2786. In CRI, p.44.

⁸⁷ CRI, p.46.

Palestine

Documenting the recruitment of children by Palestinian armed groups and remains a challenge, and the extent of the phenomenon is not well known. Armed factions are reluctant to acknowledge the issue and unable, or unwilling, to make efforts to tackle it. Although there is no evidence of systematic attempts to recruit children, DCI-Palestine has come across cases of children killed while participating in hostilities, some of them as formal recruits of a faction.

According to DCI-Palestine data, 352 children were killed by Israeli military activities during Operation Cast Lead. Among these 352 children, 13 children were killed while they were participating in hostilities in some capacity, or at least too close to combat scenes, whether they were directly involved in combat activities or assisting resistance fighters by evacuating injured fighters or bringing them food [See Table 7 below]. DCI-Palestine was able to confirm that four out of the 13 belonged to a military group; one was wearing a uniform. One additional child killed during Operation Cast Lead belonged to an armed group, Ezz al-Din al-Qassam Brigades, although he was not involved in hostilities at the time he was killed. Tareq Afana (16), was killed while near the Siam family house, adjacent to his. An F16 targeted the Siam house and Tareq sustained shrapnel injuries to his head while trying to rescue them.

According to a leaflet circulated after Tareq's death and collected by a DCI-Palestine Fieldworker: "*[Tareq] loved the resistance and he was very eager to carry weapons against the Zionist army. He urged his brothers in the mosque to accept him as a member of Ezz al-Din al-Qassam Brigades. As a result of his insistence, they accepted him in Ezz al-Din al-Qassam Brigades. He participated in reconnaissance missions for Ezz al-Din al-Qassam Brigades. He attended several military trainings, from beginner level to advanced level.*"

Table 7: Nature of involvement in combat of children killed during Operation Cast Lead

Nature of involvement	Number
Participating in hostilities at the time they were killed	6
Carrying or fetching weapons but seemingly not participating	3
Assisting fighters (providing food, evacuating injured, reconnaissance)	2
Unknown type of involvement (cases 6 and 12)	2
Total	13
Uniformed	1
Belonging to military group	4

Extract from the 2008 *Child Soldiers Global Report* from the London-based Coalition to Stop the Use of Child Soldiers, to which DCI-Palestine contributed.⁸⁸

Armed Groups

Political groups provided parallel services for the Palestinian civilian population. Hamas ran a number of schools, nurseries and clinics for children. These activities were understood to include a component of propaganda. Hamas and Fatah controlled television stations featuring children's programmes. These included political content and some glorification of "martyrdom".

Fatah and Hamas ran voluntary summer camps for children in Gaza involving ideological training. The convenor of one of the Hamas camps in Maghazi refugee camp denied that military training was included. However, anecdotal reports indicated that military training took place during some summer programs in 2007. There was a report that an unnamed group had attempted to enlist older children outside schools in Gaza to take part in paramilitary training.

All the Palestinian armed groups condemned child recruitment in military conflict, most notably in the verbal "code of conduct" of 2002. However, some recruitment had been noted since then, which the groups said was due to mistakes by individuals. Documentation on child recruitment remained limited. The best available indicator was the record of child deaths as a result of direct involvement in the conflict. This figure fell from a high of 22 incidents recorded in 2004 by Defence for Children International-Palestine Section (DCI-Palestine), a non-governmental organization (NGO), to three incidents in 2005. In 2006 there were two incidents, both involving children killed while participating in armed clashes. From January to October 2007 there were no deaths of under-18s during clashes, although there were three cases where children without any armed group affiliation were killed trying to get across the Israeli border. From 2005 children who were involved in violence on behalf of armed groups were between the ages of 16 and 18. There was no documented evidence of child involvement in suicide bombings after 2004.

From January to July 2007, 28 Palestinian children were killed by Palestinian forces, including in interfactional clashes and misuse of weapons. A further 217 were injured during the same period, compared with 27 deaths and 260 injuries in 2006. After a misfired rocket killed two siblings aged nine and six in August 2007, a Hamas spokesman urged "resistance factions to take all the necessary measures to avoid causing any harm to civilians".

Hamas – Izz al-Din al-Qassam Brigades

Following strong public declarations in 2002, Hamas leaders reiterated their opposition to the recruitment of children during contacts with the Coalition in 2005 and 2006. A Hebron MP, Dr Samir al-Qadi, said, "*We need to respect children's rights and the right to childhood. Children are sacred to us – bodily, mentally, spiritually*". However, this message was not consistently applied by its military wing, the Izz al-Din al-Qassam Brigades.

⁸⁸ For references, see footnotes in the original report online at:
<http://www.childsoldiersglobalreport.org/content/occupied-palestinian-territory>

In 2005 one older child was reported to have been killed participating in armed action claimed by Hamas, but there had been no documented incidents since that time. However, limited involvement by older children was recorded on the group's website. It listed six members killed from January 2006 to mid-November 2007 who were aged 15–17 when they joined the armed wing from 2000 to 2004. All were over 18 when they died. In 2007 a local NGO reported that a 13-year-old in Gaza had been assigned to monitor the streets for the group. He said that he was supposed to gather information on drug dealers and collaborators from 8pm to 4am.

Fatah – Al-Aqsa Martyrs Brigades and affiliates

Fatah condemned the use of children by armed groups. Nevertheless, in 2005 there was documented evidence that one older child affiliated with the al-Aqsa Martyrs Brigades was killed in clashes with the Israeli army. No incidents had been recorded on group websites since then, although the fragmentation of Fatah made monitoring difficult. There were unconfirmed media reports that the Fatah-affiliated Tanzim had attempted to recruit children, including an alleged attempt to coerce a 14-year-old in Nablus into a suicide bombing, when he was forced to write his own will.

Popular Front for the Liberation of Palestine (PFLP) – Abu Ali Mustafa Brigades

The PFLP claimed one suicide bombing perpetrated by 16-year-old Umar Abdullah al-Fa'r, in late 2004. Another 16-year-old, Sa'id al-Majdlawi, joined the armed wing and was killed the same year, according to the PFLP's website. No other cases of child involvement had been recorded since then.

Islamic Jihad – Al-Quds Brigades

Islamic Jihad also criticized the participation of children in armed conflict. However, in contacts with a Coalition member, Islamic Jihad members suggested that children over the age of 15 and a half were adults. In 2005 the group claimed responsibility for an attack on an Israeli settlement during which an older child was killed. Group websites indicated that two adult members of the group killed from January 2006 to mid-November 2007 had been able to join at the age of 15 in 2001. Both were initially involved in lookout and surveillance work. The al-Quds Brigades took part in most of the suicide bombings and rocket attacks on Israel after 2005, during which Israeli and Palestinian children were killed (see also Israel entry).

Popular Resistance Committees (PRC) – Al-Nasser Salah al-Din Brigades

The PRC was primarily made up of former members of other groups. It launched rocket and other attacks on Israeli military targets in recent years. No children were reported to have participated in its operations. However, obituaries on its official website suggest that four adult members who were killed in action from January 2006 to mid-November 2007 had joined the group when they were 17, 50 and another member joined at 15 in 2000.

Disarmament, demobilization and reintegration (DDR)

There were a number of psychological support programs for Palestinian children affected by the conflict. UNICEF had 14 active teams in 2007 carrying out home visits and training, counselling and playground

activities. DCI-Palestine, the Gaza Community Mental Health Programme and Save the Children-US also ran psychosocial programmes. The government did not have rehabilitative services for children who had participated in the conflict. The International Committee of the Red Cross (ICRC) ran international humanitarian law training courses for members of militant groups in Gaza in October–November 2007.

Developments

Israel and the Occupied Palestinian Territory were noted as situations of concern in the UN Secretary-General's reports to the Security Council on Children and Armed Conflict in February 2005 and October 2006. In 2006 he remarked that the "*plight of Palestinian children in the Occupied Palestinian Territory, including East Jerusalem, has become more precarious since the previous reporting period, as the Israeli-Palestinian conflict intensified*".

The Special Representative of the Secretary-General for Children and Armed Conflict visited Israel and the Palestinian Territory in April 2007. She urged the need for proper respect of the civilian/combatant distinction in Israeli military actions in the territory. She highlighted settler attacks on Palestinian children in Hebron and al-Tuwami. She also suggested the establishment of independent investigation mechanisms to follow up alleged violations of children's rights.

During the visit President Abbas and the then foreign minister, Abu Amr, agreed "*to revive the code of conduct among Palestinian groups not to involve children in political violence, and to engage with UNICEF to devise a plan of action to prevent the use of children in such violence*".

[DCI-Palestine, 28 December 2009]

20. Please inform the Committee whether national legislation prohibits the sale of arms when the final destination is a country where children are known to be, or may potentially be, recruited or used in hostilities.

The sale of arms has only recently been put under legal regulation in Israel, under the *Defence Export Control Law, 5766-2007*. The law requires all arms exports to be licensed by the Ministry of Defence. Article 22 specifically prohibits the export of weapons to countries under embargo from the UN Security Council. However, no provision in this law, nor any other provision we know of, specifically bans the sale of weapons to countries where children are known to be recruited.

[New Profile, 29 November 2009]

21. Please inform the Committee how the State party collaborates and supports the implementation of the Security Council Resolution 1612.

The Israel/OPT Working Group on Grave Violations against Children reports on a voluntary basis to the Security Council, as such there is no formal "Country Task Force." There has

been no regular discussion with the Government of Israel on 1612 reporting, although the UN Special Representative on Children and Armed Conflict visited Palestine and Israel in February 2009 and met with senior Government of Israel officials, attending the meetings with senior UNICEF advisers. UNICEF leads the inter-agency Working Group which includes both Israeli and Palestinian organisations. The group is made up of both UN and NGO organisations.

[UNICEF, 19 December 2009]

22. Please inform the Committee how civil society was involved in the preparation of the report.

On 15 January 2009, DCI-Israel received a letter from the Israeli Ministry of Justice, addressed to “Mailing list”, and informing addressees that the government was preparing Israel’s second periodic report on the implementation of the Convention on the Rights of the Child. The letter stated that information from NGOs might be helpful in compiling the report, and that information could be forwarded by fax or email before 1 March 2009. It was specified that the letter could be shared with any other concerned NGO, and that the Ministry of Justice could not guarantee that information submitted would be included in the report.

DCI-Israel responded to the Ministry of Justice on 1 March 2009 with a three-page letter pointing to child rights issues that needed special attention and recommended the government to cover the situation of Palestinian children in its second periodic report. The Ministry of Justice acknowledged DCI-Israel’s response on 2 March 2009, saying that their contribution would be reviewed. On 20 October 2009, DCI-Israel wrote to the Ministry to ask about the status of the report, the expected date of submission, and whether it would be made public. On 29 October 2009, the Ministry responded by email that they were making good progress with the report, and that it would be ready in January 2010. DCI-Israel responded on 2 November 2009 requesting a copy of the report when it is ready.

DCI-Israel never received any correspondence from the Israeli government specifically related to OPAC implementation. However, the above-mentioned call for NGO information on general on CRC implementation was signed by Mrs. Hila Gilad Tenne⁸⁹, who was one of the members of the Israeli government delegation that travelled to Geneva for the review of Israel’s compliance with OPAC. It is assumed that the government considered the 15 January 2009 letter to constitute sufficient involvement of civil society in the CRC reporting process. However, DCI-Israel does not consider that it was adequately consulted in the OPAC reporting process.

[DCI-Israel, 22 December 2009]

⁸⁹ Director of the Department for International Agreements and Litigation, Israeli Ministry of Justice