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LEGAL GUIDE TO CHILD'S RIGHTS IN PALESTINE



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Acknowledgements

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Better Learning Programme (Photo: Ahmad Al Bazz/NRC)

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Still smiling (Photo: Yousef Hammash/NRC)



1. BACKGROUND AND INTRODUCTION TO GUIDE

The ‘Legal Guide to Child Rights in Palestine’ is a legal resource for lawyers, child protection workers and humanitarian professionals working with children in the State of Palestine.¹ It consolidates in one document the various laws, regulations, decrees, military orders and procedures relevant to the legal protection of children in Palestine under both Palestinian and Israeli laws. By consolidating the relevant laws into a single text, practitioners will gain a better overall picture of the inter-connected legal framework affecting children’s rights.

The Guide focuses on the **domestic laws applied in practice by Palestinian and Israeli authorities**. These are the laws applied on a daily basis by authorities. However, on account of the prolonged occupation of Palestine by Israel, it is also necessary to set out the key applicable **international humanitarian law (IHL) and international human rights law (IHRL) treaties and conventions** relevant in occupied Palestine, including those ratified by Israel and Palestine. No commentary is provided on the adequacy or fairness of Israeli or Palestinian laws or their compliance with international human rights or humanitarian law standards. The massive gap between international human rights standards and practice for Palestinian children in Palestine, particularly at the hands of Israel as occupying power, is extensively documented.² In no way does the Guide seek to legitimise domestic laws and practices which fall short of international standards.

The Guide covers the various areas of law that are relevant to the protection of children’s rights. These include the legal capacity of children, family or personal status laws including guardianship, custody and age of marriage, laws on the general protection of children from abuse and mistreatment and the rights of children to health, education and social assistance. Additionally, the Guide covers the rights to legal identity and nationality for Palestinian children as well as standards and procedures on juvenile justice for children in contact with the law.

¹ In November 2012 the State of Palestine was recognised by the UN General Assembly as a non-member observer State of the UN. The State of Palestine is considered internationally to comprise the Occupied Palestinian Territories (‘OPT’) which are the areas seized by Israel during the 1967 conflict, namely the West Bank, including East Jerusalem, and Gaza.

² For example, see the legal analysis in ICJ Advisory Opinion, [Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem](#), (ICJ ‘Legality of Israeli Occupation case’), 19 July 2024; see also [UN Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of Israel](#), CRC/C/ISR/CO/5-6, 16 September 2024; OHCHR, Report of the United Nations High Commissioner for Human Rights, [Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice](#), A/HRC/58/28, 20 February 2025; [Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967](#), Francesca Albanese, A/78/545, 20 October 2023.



The Guide is structured around thematic topics so that users can go directly to the section of relevance. The various Ministries and government agencies that are responsible for children's welfare issues, both under Palestinian and any relevant Israeli law, are also covered.

Palestine remains under Israeli occupation and the legal framework is complex. Palestinian law is applied in the West Bank (Areas A and B) whilst Israel applies Israeli law in occupied East Jerusalem and military orders throughout the West Bank. Palestinian civil law is applied in Gaza, whilst Israel imposes its own security regime on Gaza. Each thematic section of the guide sets out the applicable laws in the West Bank, East Jerusalem and Gaza. A select bibliography at the end of the guide provides further references.

Disclaimer

The Guide is intended for use as a general legal resource only and should not be relied upon as legal advice. Instead, legal advice should be obtained from qualified legal practitioners in relation to the particular circumstances of individuals. There are many civil society organisations, INGOs, UN agencies, legal aid providers - both Palestinian and Israeli - as well as individual lawyers working in Palestine, with specialist legal expertise in child rights and the Guide draws on their relevant expertise throughout.

All efforts have been made to ensure that the Guide is up to date and accurate as of April 2025. However, the legal accuracy of the Guide cannot be guaranteed, particularly considering the frequent number of changes in law, regulations and military orders by Palestine and Israel as well the extensive jurisprudence, mainly by Israeli courts, relevant to child rights. The situation in Gaza at time of writing remains highly volatile and it is impossible to predict its future administration or legal framework.

The information in the Guide is based on legal research and analysis conducted by NRC, White & Case lawyers and external legal consultants. NRC is particularly grateful to the extensive pro bono support provided by White & Case for the development of this guide. However, any opinions expressed in this guide are those of NRC alone.



School in Ras Al Tin (Photo: Yousef Hammash/NRC)



2. INTERNATIONAL LAW FRAMEWORK

Whilst this guide focuses primarily on the domestic legal framework for children in Palestine applied under Israeli occupation, **background knowledge of the international law framework applicable to occupied Palestine is essential.** This includes **Israel's obligations as an occupying power over the West Bank, including East Jerusalem, and Gaza, as well as the international law obligations of the State of Palestine in the areas over which it exercises jurisdiction and control.**³ It also requires knowledge of the treaties and conventions both parties have signed and the legal and administrative arrangements in place in Palestine and their basis in international law.

In reality, the law applied throughout Palestine consists of **elements of different legal systems** including Palestinian law (West Bank and Gaza), historical laws including Ottoman and British (West Bank and Gaza), Jordanian (West Bank) and Egyptian laws (Gaza) as well as Israeli domestic law (East Jerusalem) and military orders (West Bank and Gaza). It is important to understand the inter-operability of these laws, both in theory and practice.

2.1 Applicability of International Humanitarian Law

2.1.1 Occupation of the West Bank, including East Jerusalem, and Gaza

Under international humanitarian law, the entirety of the territory seized by Israel in the 1967 war is considered Occupied Palestinian Territory ('OPT'), including East Jerusalem and Gaza.⁴ This position is reflected in the advisory opinion of the International Court of Justice (ICJ) in the *Wall* case in 2004⁵ as well as in its 2024 opinion on the *Legality of Israel's Occupation of the OPT*.⁶

3 The ICJ has held that Israeli is in illegal occupation of the Occupied Palestinian Territory. Its primary de jure obligation is to rapidly end its occupation of Palestine. The State of Palestine has been accepted as a State by the UN and has ratified several international treaties in its capacity as State and has formal legal obligations over the areas in which it exercises effective control. See ICJ 'Legality of Israeli Occupation case', 19 July 2024, para 267.

4 For example, ICJ Legality of Israeli Occupation case, paras 262, 278; For an extensive legal analysis, see NRC [The Legal Status of East Jerusalem](#) | NRC, p 12-22.

5 ICJ Advisory Opinion, [Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory](#), (ICJ 'Wall' case para 78); see also NRC [The Legal Status of East Jerusalem](#), p 22.

6 ICJ, Legality of Israeli Occupation case, para 278.



It has been accepted by many commentators, including the UN and the ICRC, that Israel remains the occupying power over Gaza by virtue of its effective control of the territory.⁷ Following the military re-occupation of Gaza by Israeli ground forces after 7 October 2023, this is irrefutable. **As occupying power Israel is obliged to follow international humanitarian law, over the entirety of territory it occupies and over which it exerts effective control as a matter of practice, even if the occupation has been found to be unlawful.**⁸ This includes the Fourth Geneva Convention which governs the rights of civilians under occupation.

The UN Commission of Inquiry on the Occupied Palestinian Territory has emphasised that, under international humanitarian law, the occupation of territory during wartime is meant to be a temporary situation and does not deprive the occupied power of its statehood or sovereignty. The Commission has confirmed that Israel's policies and actions, including the establishment and maintenance of settlements and the transfer of Israeli civilians into these settlements are a violation of international law.⁹ These findings have been explicitly endorsed by the ICJ.¹⁰

Israel accepts that it is the occupying power over the West Bank, although not East Jerusalem. As Israel has formally annexed East Jerusalem to Israel, it contends that only Israeli domestic law and not international humanitarian law is applicable.¹¹ Whilst Israel previously rejected claims that it occupied Gaza through its land, sea and air blockade, this can no longer be the case.

ICJ Ruling on Legality of Israeli Occupation and its Implications

The ICJ has held that Israel is in unlawful occupation of Palestine and that the continued presence of Israel in the OPT is illegal.¹² Under international law it is obliged to bring to an end its presence in the OPT as rapidly as possible,¹³ and must repeal all legislation and measures creating or maintaining the unlawful situation, including those that discriminate against the Palestinian people.¹⁴ This means that the entire legal, administrative and physical infrastructure of Israel's regime for the prolonged occupation (and annexation) of Palestine, including laws, military orders, courts and administrative bodies is considered unlawful in international law.¹⁵

Nevertheless, as a matter of practical reality, Israel's unlawful occupation of Palestine does not *"release it from its obligations and responsibilities under international law, particularly the law of occupation, towards the Palestinian population and towards such other States in respect of the exercise of its powers in relation to the territory until such time as its presence is brought to an end."*¹⁶ It continues to exercise 'effective control' over Palestine¹⁷ and Palestinians continue to be subject to its laws, practices and institutions as a matter of daily life. As such, Israel must continue to meet its obligations under international humanitarian law to administer the territory for the benefit of the local population in the occupied territory until such time as it (rapidly) ends its occupation.¹⁸

7 The ICRC, for example, considers Israel to be an occupying power in relation to Gaza on account of its effective control over the territory as demonstrated through "tight control over land and sea borders severely limiting movement and access, and curtailing the socio-economic development of the area". <https://www.icrc.org/en/document/fifty-years-occupation-where-do-we-go-here>. The UN Human Rights Council has found that Israel has international humanitarian law obligations in relation to Gaza on account of its blockade of the Strip. Report of the Working Group on the Universal Periodic Review; Israel, Human Rights Council, Tenth session, A/HRC/10/76, 8 January 2009, paras 24, 33.

8 ICJ Legality of Israeli Occupation case, para 264.

9 OHCHR, [Commission of Inquiry finds that the Israeli occupation is unlawful under international law](#), October 2022.

10 See for example ICJ Legality of Israeli Occupation case, paras 155-156, 252-257.

11 Israel formally annexed East Jerusalem to Israel via a series of legislative steps, firstly by The Law and Administration Order (No. 1) 1967, Israeli Collection of Regulations No. 2064, 28 June 1967, p 2690 and later by the passage of the Basic Law: Jerusalem, Capital of Israel, Laws of the State of Israel No. 980, 5 August 1980, p 186, Article 1. See also NRC [The Legal Status of East Jerusalem | NRC](#), December 2013, p 10.

12 ICJ Legality of Israeli Occupation case, paras 259-266.

13 ICJ Legality of Israeli Occupation case, para 267.

14 ICJ Legality of Israeli Occupation case, para 268.

15 If Israel were taking steps to rapidly dismantle its system of occupation in Palestine it would arguably be complying with its international law obligations as found by the ICJ.

16 ICJ Legality of Israeli Occupation case, para 264.

17 ICJ Legality of Israeli Occupation case, para 264.

18 ICJ Legality of Israeli Occupation case, para 105.



At present, Palestinians in both the West Bank and Gaza, are forced to comply with Israel's occupation regime or face the consequences; namely the threat or use of force or punishment under Israeli law. As a result, many Palestinians continue to take action to try and protect their rights under the existing Israeli legal regime to the, very limited, extent possible. Due to the highly coercive environment for Palestinians in occupied Palestine, such defensive or protective actions or engagement with the Israeli legal and administrative system conducted under intense pressure and with no realistic alternatives or choice, should not be considered as validating or legitimizing any part of Israel's unlawful occupation. At the same time, Palestinians have the continuing right to resist the imposition of an unlawful occupation and to assert their right to self-determination over the territory of occupied Palestine.¹⁹

Third State Responsibilities

As a logical consequence of Israel's unlawful occupation of Palestine, Third States are obliged not to recognize any *"changes in the physical character or demographic composition, institutional structure or status of the territory occupied by Israel on 5 June 1967, including East Jerusalem, except as agreed by the parties through negotiations."*²⁰ Further, they are under an obligation not to render aid or assistance in maintaining the situation created by Israel's illegal presence in the OPT and are obliged to ensure compliance by Israel with its international humanitarian law obligations.²¹

2.1.2 Application of International Humanitarian Law by Israel in the West Bank

Israeli settlements, both in Area C of the West Bank as well as in East Jerusalem, are considered illegal under international law as a violation of the prohibition against transfer of civilians from the occupying power (Israel) into occupied territory (Palestine).²² Such actions are considered a breach of the Geneva Convention.²³

19 In para 257 the ICJ notes the right of the Palestinian people to self-determination over occupied Palestine as an inalienable right.

20 ICJ Legality of Israeli Occupation case, para 278.

21 ICJ Legality of Israeli Occupation case, para 279.

22 Article 49(6) of the Fourth Geneva Convention. ICJ Legality of Israeli Occupation case, paras 155-156.

23 Article 147 of the Fourth Geneva Convention.



Settler Violence in the West Bank (Photo: NRC)



International law prohibits the acquisition of territory by force and the transfer or change of sovereignty over occupied territory.²⁴ However, in practice Israel applies Israeli domestic civilian law to the entirety of East Jerusalem as well as to Israeli settlements in Area C.

Whilst Israel accepts that the Hague Conventions reflect customary international law, it does not accept the Geneva Conventions as customary international law. Nor does it accept that the Geneva Conventions apply to occupied Palestine as it was not the territory of a High Contracting Party to the Geneva Convention before the occupation in 1967. Nevertheless, Israel has “voluntarily” accepted the application of the Geneva Conventions “humanitarian provisions” without clarifying which provisions it accepts.²⁵

Under the Hague Regulations, the occupying power is required to preserve the existing situation at the time of the occupation, unless military needs or the welfare of the occupied people, or protected persons, absolutely necessitate changes.²⁶ This includes preserving the legal regime in place prior to the 1967 occupation of Palestine. At this time Jordan occupied the West Bank, including East Jerusalem and applied Jordanian law, whilst Egypt occupied Gaza and applied Egyptian law. Some pre-existing Ottoman and British mandate laws were also used to supplement Jordanian and Egyptian law and are still applicable.

In practice Israel has fundamentally changed the pre-existing situation and prioritised its military, security and political objectives over the welfare of the protected population. A number of Israeli High Court decisions have acknowledged the application of international humanitarian law to the West Bank and to the Israeli military and civilian administration.²⁷ The Court has held that not only do Israeli authorities have a (negative) obligation not to harm protected persons in accordance with the protections afforded under international humanitarian law, but they additionally have a (positive) obligation to actively protect their rights.²⁸

International humanitarian law includes several key provisions in relation to the protection of children during armed conflict. Children are to be treated with special respect and the parties to the conflict are obliged to provide them with the care they require.²⁹ They are to be prioritized in any distribution of humanitarian relief.³⁰ Occupying powers are required to facilitate the proper working of institutions devoted to the care of children in occupied territory³¹ and are prohibited from changing the familial or personal status of children.³² Parents are entitled to receive information on their children who are under the power of a party to the conflict.³³

In summary, international humanitarian law, including the Fourth Geneva Convention, is applicable throughout the OPT and special obligations are owed to children.

2.1.3 Situation in Gaza Post 7 October 2023

Following the near total destruction of all government structures and agencies in Gaza by Israel following the events of 7 October 2023, courts and many government ministries have ceased to operate. Some government ministries continue to operate to a limited degree, whilst local committees attempt to regulate law, order and civil affairs to the degree that they are able in the circumstances. Some Sharia Courts have re-established limited operations in Gaza. The PA do not presently operate within Gaza.

24 See for example, Article 47 of Geneva Convention. Also J. Pictet (ed), Commentary: The Fourth Geneva Convention, 1858, p 275, and the prohibition on the acquisition of territory by force contained in the Charter of the United Nations, Articles 1 and 2 and Common Article 1 of the ICCPR and the ICESCR. See also NRC commentary contained in [A Guide to Housing, Land and Property Law in Area of the West Bank](#), February 2012, p 91.

25 See for example, NRC, ‘A Guide to Housing, Land and Property Law in Area C of the West Bank’, Feb 2012, p 97.

26 Article 43 of Hague Regulations.

27 For example, Israeli High Court of Justice (HCJ) 393/82, Jamait Askan v IDF Commander in Judea and Samaria.

28 HCJ 4764/04, Physicians for Human Rights Israel et al v IDF Commander in Gaza.

29 Article 77, Additional Protocol 1 to the Fourth Geneva Convention.

30 Article 70(1), Additional Protocol 1 to the Fourth Geneva Convention.

31 Article 50, Additional Protocol 1 to the Fourth Geneva Convention.

32 Article 50, Additional Protocol 1 to the Fourth Geneva Convention.

33 Article 136, Additional Protocol 1 to the Fourth Geneva Convention.



As of the date of writing this Guide, Israeli forces occupy Gaza through a large-scale military presence on the ground. Israel considers Gaza 'hostile territory', but does not consider it part of a State, nor does it recognise the State of Palestine.³⁴

However, even prior to Israel's physical presence in Gaza after 7 October 2023, Israeli courts have held that Israel has continuing legal and humanitarian obligations towards Gaza. This is based on the state of conflict between Israel and Hamas, the degree of control exercised by Israel over the border crossings into Gaza and *"the situation that was created between Israel and the territory of the Gaza Strip after years of Israeli military rule in the Gaza Strip region, as a result of which currently an almost complete dependency of the Gaza Strip was created"*.³⁵ These humanitarian obligations include the requirement to *"extend assistance to enable the fulfillment of the local population's essential needs which will remain unfulfilled without it."*³⁶ In the past, Israel's Coordinator of Government Activities in the Territories (COGAT) has set criteria for the passage of goods into and out of Gaza as well as the movement of persons from Gaza into Israel and the West Bank.³⁷ These include criteria based on Israel's interpretation of humanitarian obligations as well those based on political and economic considerations. Travel was previously permitted, on a discretionary basis, for medical treatment, patient visitation, family unification and family visits, including with accompanying children.³⁸

The future status and governance structure within Gaza remains uncertain after the events of 7 October 2023. Israel has vowed not to let Hamas govern Gaza again in any manner. Extensive discussions have taken place with various actors, including Israel, the Palestinian Authority (PA), the UN, Egypt, the US and many other western and Arab states about future options for the governance of Gaza. Regardless of the future governance status of the Strip, it seems likely that Israel will continue to maintain a complete, air, land and sea blockade of Gaza for the foreseeable future, even if it withdraws many or all of its ground forces. **As such, it remains the occupying power of Gaza with full responsibilities under international humanitarian and human rights law, a matter which is affirmed by the recent ICJ advisory opinion.**³⁹

2.2 Applicability of International Human Rights Law

The International Court of Justice (ICJ) has confirmed that both international humanitarian and human rights law are applicable in occupied Palestine.⁴⁰ Specifically, it stated that the Hague Regulations of 1907 and the Fourth Geneva Convention of 1949 were applicable to the Palestinian territories before the armed conflict of 1967. The Court further established that *"certain human rights instruments (International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the United Nations Convention on the Rights of the Child) are applicable in the Occupied Palestinian Territory"*.⁴¹

Through the Palestinian Declaration of Independence, issued by the Palestinian National Council (PNC), Palestine declared the State of Palestine as a free and independent State. In November 2012 **Palestine was formally accepted as a non-member, observer State of the UN by the UN General Assembly.** This status is disputed by Israel who does not accept Palestinian statehood. However, since that time a wide range of human rights treaties and conventions have been ratified by the State of Palestine, including those containing child rights and obligations and which have also become part of the applicable human rights framework in Palestine.⁴²

34 A.P. (Beer Sheva) 15210-07-11 Qara v. Gaza DCO, 8 July 2011.

35 HCJ 9132/07, Jaber Al Bassiouni v Prime Minister, 30 January 1988, para 12.

36 H.J 1169/09 Legal Forum for the Land of Israel v. Prime Minister, 15 June 2009.

37 COGAT is responsible for implementing the civilian aspects of the Government's policy in the territories. The District Coordination Office (DCO) is subordinate to COGAT and implements entry of goods via the various land crossings, the movement of people to and from Gaza and other aspects of trade.

38 For example, as presented to the Israel High Court of Justice in H.C.J. 495/12, Izzat v. Minister of Defense 24 September 2012. See also HCJ. 1912/08 Physicians for Human Rights v. Commander of IDF Forces in Gaza, 16 April 16, 2008, Section 11.

39 See ICJ Advisory Opinion, ICJ Legality of Israeli Occupation case, 2024.

40 ICJ, Wall case, 2004.

41 ICJ, Wall case, 2004.

42 UNGA Resolution 67/19 of 29 November 2012. However, some commentators do not contend that Palestine has the full attributes of a state as defined in the Montevideo Convention.



Israel, in turn, contends that despite its occupation of the West Bank, its human rights treaty obligations do not apply to West Bank, although they do apply to East Jerusalem which it has formally annexed to Israel. Human rights are applicable throughout Israel. It contends that international humanitarian law is exclusive, contains adequate safeguards and leaves no space for the parallel application of human rights law.⁴³ However, Israeli High Court decisions have referred to the application of international human rights law for specific issues within the West Bank.⁴⁴ Despite this, the Court *“has yet to directly apply human rights law...and it certainly has not been willing to consider human rights law as prevailing over the security needs expressed by the Military Commander over the West Bank.”*⁴⁵

In summary, international human rights law is applicable throughout occupied Palestinian territory. Note that both Israel and Palestine have ratified key human rights treaties, including the Convention on the Rights of the Child.

2.3 Administrative and De Facto Governance Arrangements throughout Palestine

2.3.1 West Bank; PA, Oslo Accords and Hebron Protocol

The **Oslo Accords**,⁴⁶ signed between Israel and the Palestine Liberation Organisation (PLO) in 1993 divided the West Bank, excluding East Jerusalem, into three zones, namely **Areas A, B and C**, all with **different categories of jurisdiction and autonomy between the PLO and Israel**. The Oslo Accords also created the Palestinian Authority (PA) as a form of transitional Palestinian self-administration for five (5) years with jurisdiction over civilian and internal security issues in Areas A and B.

Israel retained exclusive civilian and military jurisdiction over Area C, comprising 60 per cent of the territory of the West Bank. Israel exercises its governance responsibilities in Area C through the **Israeli Civil Administration (ICA) and associated bodies and agencies**.⁴⁷

A special security regime was agreed between Israel and the PLO over Hebron ('Hebron Protocol') by which Hebron was divided into two areas, **H1 and H2**.⁴⁸ **H1 is under full Palestinian civilian and internal security control** similar to those agreed for Areas A and B of the West Bank. **H2 is nominally under PA control for issues relevant to Palestinian civilians, however Israel retains full military control and jurisdiction over Israeli settlers**.⁴⁹ In practice, it uses its military and civilian powers to protect Israeli settlers to severely restrict the rights of Palestinians in H2.⁵⁰

2.3.2 Areas A and B

In accordance with the Oslo Accords, the PA has full legislative and administrative authority over Areas A and B of the West Bank, with the exception of external security and defence for which Israel retained control. Whilst the PA has passed a wide range of laws, some past Jordanian laws remain in effect in the West Bank, most notably the Personal Status Law of 1976 and the Jordanian Penal Code of 1960.

Palestine has also taken several measures to incorporate international human rights standards into its domestic law. In 2014, Palestine ratified the CRC and its Optional Protocol on the involvement of children in armed conflict, and many child rights protections are now contained in the Palestinian Child Law.⁵¹

43 See for example, NRC, 'A Guide to Housing, Land and Property in Area C', February 2012, p 100.

44 For example, HCJ 2150/07 Association for Civil Rights in Israel; HCJ 3969/06 Dir Samet Village Council Head Muhammad Abd Mahmud et al v IDF Commander in the West Bank et al; HCJ 7957/04 Zahran Younis Mara'abe et al v Prime Minister of Israel et al.

45 NRC, A Guide to Housing, Land and Property Law in Area C of the West Bank, 2012, p 101.

46 Declaration of Principles on Interim Self-Government Arrangements ('Oslo Accords') signed in September 1993.

47 See for example, NRC, 'A Guide to Housing, Land and Property Law in Area C of the West Bank', February 2012, p 13-14.

48 Protocol Concerning the Redeployment in Hebron ('Hebron Protocol') signed on 17 January 1997.

49 NRC, Driven Out: [The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City](#) July 2013, p 15.

50 NRC, 'Driven Out', July 2013, p 3-5.

51 OHCHR; [Human Rights Treaties ratified by Palestine](#).



Shaufat Refugee Camp (Photo: NRC)

2.3.3 Area C

The **Coordinator for Government Activities in the Territories (COGAT)**, reporting to the Israeli Minister of Defence, **is responsible for the implementation of military law and issuance of military orders in Area C**, including in relation to all Palestinian communities. The Israeli Civil Administration (ICA) is the Israeli administrative body responsible for regulation of day-to-day activities in Area C. Settlements are regulated by local councils and apply Israeli law. Israel purports to apply humanitarian law but not human rights law to Palestinian communities in Area C.

2.3.4 East Jerusalem and the De Facto Application of Israeli Law

Israel applies Israeli domestic law to all Palestinians in East Jerusalem in violation of international law.⁵² Israeli courts, administrative agencies and government departments, including the Ministry of Social Affairs, operate throughout East Jerusalem.

Status of Palestinians in East Jerusalem

The majority of Palestinians in East Jerusalem, hold Jerusalem (Israeli) ID cards for East Jerusalem. According to Israeli law, the **Jerusalem ID is classified as a 'permanent residency permit'** Israeli law also states that this permanent residency permit expires if a Jerusalemite 'renounces' the permit and relocates their 'center of life'⁵³ outside the country, in accordance with Section 11A of the Entry into Israel Regulations of 1974, which stipulate that:

A person is considered to have left Israel and settled in another country if one or more of the following conditions are met:

- Residence outside of Israel for at least seven years, or
- Permanent residency abroad, or
- Acquisition of foreign nationality.

⁵² See NRC 'The Legal Status of East Jerusalem', December 2013, p 10.

⁵³ The 'centre of life' principle is a concept developed by Israel which requires Palestinians to maintain a permanent ongoing presence in Jerusalem in order to remain eligible for legal residence in East Jerusalem. It has no basis in international law and is considered a violation of the right of 'protected persons' to remain lawfully resident within their (occupied) territory. It also breaches the right to freedom of movement for 'protected persons'. For more details on the 'centre of life', see section 5.2.2. of Guide.



It should be noted that, under Israeli law, the West Bank and Gaza are considered 'outside the country.' Consequently, residing in neighborhoods beyond the boundaries of Jerusalem is regarded as relocation 'outside the country.'

In 2018, the Israeli government passed an amendment to the Entry into Israel Law of 1952, granting the Minister of Interior the authority to issue a decision to revoke 'permanent residency' if it is proven that the permanent resident (Jerusalem ID holder) has committed an offence considered a 'breach of trust' under Section 11A of the Entry into Israel Law of 1952.

Application of Laws in relation to Children in East Jerusalem

As a matter of practice, all issues relevant to the legal rights of children in East Jerusalem are dealt with in accordance with Israeli law and practice and Israeli institutions.

Israel has signed the CRC and has established an extensive system of child protection and welfare throughout Israel, primarily regulated by the Ministry of Labour, Social Affairs and Social Services (MLSASS).⁵⁴

It has also set up a number of commissions to look at specific issues of child protection, welfare and development, including poor and excluded populations, particularly children ('Katz Commission'), Israeli law on the subject of children's rights, legal status and welfare in light of Israel's accession to the CRC ('Rotlevi Commission'), out-of-home placements, visitation rights, adoption and the functioning of the child protection service ('Gilat Commission') and childhood maltreatment and children suffering from other forms of social and economic distress ('Schmid Commission'). Other commissions have considered the situation of maltreated minors in serious danger ('Vinter Commission') and children of parents in situations of high-intensity conflict due to separation and/or divorce ('Silman Commission').⁵⁵ Moreover, Israel applies its civil law to the area of East Jerusalem.

The Israeli '360 Degrees – Israeli National Program for Children and Youth at Risk' is an inter-ministerial committee focused on a preventative response to child welfare and protection issues. It includes representatives from the MLSASS, Education, Health, Public Security and other bodies and works with local authorities to implement programmes for family services and support.⁵⁶

2.3.5 De Facto Regime in Gaza

From the 2006 Palestinian Parliamentary Legislative Council elections until at least 7 October 2023, Hamas has exercised control over the internal administration of Gaza. Since 7 October, it is uncertain what continuing control is exercised by Hamas. Hamas is banned as a terrorist organization in many countries and is not recognized as a legitimate authority by many members of the international community.

Whilst many PA laws are implemented in Gaza, the Hamas-controlled parliament in Gaza passed a number of laws and amendments which are inconsistent with PA laws passed in the West Bank, leading to a **legislative fragmentation** in many areas of civil, commercial, personal status and criminal law. Jurisprudence between courts (civil and Sharia) in Gaza and the West Bank have also started to diverge. Whilst efforts have continued over many years to try and harmonise the laws within both territories, this has only been partly achieved. As a result, **there are some significant differences between laws in the West Bank and Gaza.**

At the same time, **many Egyptian and British laws continue to apply in Gaza. For example, the Penal Code No. 37 of 1936, enacted during the British Mandate, is in effect along with the Egyptian Personal Status Law.⁵⁷**

⁵⁴ Gottfried, R, Ben-Arieh, A, [The Israeli Child Protection System: Contemporary Issues in Research and Policy](#), 2019, p 4.

⁵⁵ Gottfried and Ben-Arieh, p 6-7.

⁵⁶ Gottfried and Ben-Arieh, p 7-8.

⁵⁷ [State of Palestine Initial Report to the Convention on the Rights of the Child \(CRC\) Committee](#), CRC/C/PSE/1, dated 25 March 2019 ('State of Palestine Report to CRC Committee 2019').



Since 7 October 2023, it is unclear what future government and judicial structures will exist in Gaza. Consequently, this Guide refers to the previously existing de facto law in Gaza, as well as noting the role of local authorities. For the issue of personal status, it is clear that Sharia law principles will continue to operate. It seems likely that the pre-existing laws in Gaza (either PA laws or laws promulgated by Hamas) will continue to be applied in practice, at least in a transitional manner.

2.4 Key International Human Rights and Humanitarian Law Treaties

2.4.1 Conventions and Treaties ratified by Palestine

The Convention on the Rights of the Child (CRC), as ratified by Palestine in 2014, is the key international human rights treaty in relation to the rights of children. The State of Palestine has ratified a number of international humanitarian law and human rights treaties. Under Palestinian law, international treaties ratified by Palestine take precedence over domestic legislation.⁵⁸ Treaties and Conventions ratified by Palestine include the following:⁵⁹

Name of Treaty or Convention	Ratification Date
▶ Specific Child Rights Treaties	
➤ Convention on the Rights of the Child (CRC)	2 April 2014
➤ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	2 April 2014
➤ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	29 December 2014
▶ General International Human Rights Treaties	
➤ Universal Declaration of Human Rights (UDHR)	
➤ Convention on International Civil and Political Rights (ICCPR)	2 April 2014
➤ Convention on Economic, Social and Cultural Rights (ICESCR)	2 April 2014
➤ Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)	2 April 2014
➤ Convention on the Elimination of Racial Discrimination (CERD)	2 April 2014
➤ Convention on the Rights of Persons with Disabilities and its Optional Protocol (RRPD)	2 April 2014
➤ Convention on the Elimination of Discrimination Against Women (CEDAW)	2 April 2014
▶ International Humanitarian Law Treaties	
➤ Geneva Conventions, 1949	2 April 2014

⁵⁸ Palestine Supreme Constitutional Court ruling No. 04/2017. Such treaties and conventions must be ratified and published, pass through the formal stages required to be issued as domestic legislation and be consistent with Palestinian Basic Law. See also Palestine Report to CRC Committee, para 19.

⁵⁹ OHCHR; [Human Rights Treaties ratified by Palestine](#).



Name of Treaty or Convention	Ratification Date
➤ Additional Protocol (I) to the Geneva Conventions	2 April 2014
▶ Treaties relevant to Work Rights and Child Labour	
➤ ILO Convention 182 on the Elimination of the Worst Forms of Child Labour	N/A
➤ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	N/A
➤ ILO Convention 138 on the Minimum Age for Admission to Employment and Work	N/A

2.4.2 Conventions and Treaties ratified by Israel

Whilst Israel has signed the CRC, it has not been incorporated into Israeli domestic law. Rather it can be used as a source of human rights law and/or customary international law, as applicable. It is also widely used as an interpretative guide and has been widely cited in decisions of the Israeli High Court and District courts.⁶⁰ Other international humanitarian law and human rights treaties and conventions ratified by Israel include the following:⁶¹

Name of Treaty or Convention	Ratification Date
▶ Specific Child Rights Treaties	
➤ Convention on the Rights of the Child (CRC)	3 October 1991
➤ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	18 July 2005
➤ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	23 July 2008
▶ General International Human Rights Treaties	
➤ Universal Declaration of Human Rights (UDHR)	
➤ Convention on International Civil and Political Rights (ICCPR)	3 October 1991
➤ Convention on Economic, Social and Cultural Rights (ICESCR)	3 October 1991
➤ Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)	3 October 1991
➤ Convention on the Elimination of Racial Discrimination (CERD)	3 January 1979
➤ Convention on the Rights of Persons with Disabilities and its Optional Protocol (RRPD)	28 September 2012
➤ Convention on the Elimination of Discrimination Against Women (CEDAW)	3 October 1991

⁶⁰ Child Rights International Network; [CRIN Israeli laws](#).

⁶¹ OHCHR, [International Human Rights Treaties ratified by Israel](#).



Name of Treaty or Convention	Ratification Date
▶ International Humanitarian Law Treaties	
➤ Geneva Conventions, 1949	6 July 1951
▶ Treaties relevant to Work Rights and Child Labour⁶²	
➤ ILO Convention 182 on the Elimination of the Worst Forms of Child Labour	15 March 2005
➤ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	N/A
➤ ILO Convention 138 on the Minimum Age for Admission to Employment and Work	21 June 1979

Neither Israel nor Palestine have signed the Optional Protocol to the CRC which allows individuals to make complaints to the CRC Committee in relation to breaches of the provisions of CRC by a State Party.

2.5 Regional Agreements

Regionally, the **Arab Charter on Human Rights**, as ratified by Palestine,⁶³ protects a wide range of human rights including those relevant to children. It protects the right to a legal identity,⁶⁴ to education⁶⁵ and the right of youth to greater opportunities to develop their physical and mental abilities.⁶⁶ The family is acknowledged as the fundamental unit of society and the State is obliged to ensure special protection for the family and children.⁶⁷

The **Cairo Declaration on Human Rights in Islam** list a number of human rights specifically applicable to children including the prohibition on discrimination on the basis of the child's parent's or legal guardian's race, color, sex, language, religion, sect, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.⁶⁸ The Declaration further notes the right to such measures of protection as are required by the child's status as a minor, including "nursing, education as well as material, and moral care, on the part of his family, society and the State".⁶⁹ Other rights include the right to birth registration and nationality.⁷⁰ As a member of the Organisation of Islamic Cooperation, Palestine is a signatory to the Cairo Declaration on Human Rights.

Another significant regional document is the **Protocol for the Treatment of Palestinians in Arab States ("Casablanca Protocol")** signed by 22 Arab States which provides for certain rights for Palestinians within the Arab world including the right to retain their Palestinian nationality, the right to leave and return to their hosting state, rights of employment and certain other rights.⁷¹

62 ILO; [ILO Conventions ratified by Israel](#).

63 Palestine ratified the [Arab Charter On Human Rights](#) in 2007.

64 Article 18, Arab Charter on Human Rights.

65 Article 34, Arab Charter on Human Rights.

66 Article 38, Arab Charter on Human Rights.

67 Article 39, Arab Charter on Human Rights.

68 Article 7(a), [Cairo Declaration of Human Rights in Islam](#) ('Cairo Declaration')

69 Article 7(a), Cairo Declaration.

70 Article 7(b), Cairo Declaration.

71 [Protocol for the Treatment of Palestinians in Arab States](#) (Casablanca Protocol). A number of Arab States have agreed to the Protocol with certain reservations.



Bottling Water (Photo: Yousef Hammash/NRC)



3. NATIONAL POLICY FRAMEWORK

The **national policy framework** covers the overall legislative and administrative structures put in place both by the Palestinian Authority throughout Palestine as well as Israel in the West Bank, including East Jerusalem, to ensure the protection of children in the areas under their control. This includes policies and commitments made by the respective Israeli and Palestinian authorities as well as those government agencies responsible for implementing the protection of children's rights.

3.1 Ministries and National Agencies responsible for Child Welfare

3.1.1 Palestinian Ministries and Agencies in the West Bank, including East Jerusalem

Different specialized bodies have been established and mandated by the PA specifically to deal with children's issues. In addition to government Ministries with specific responsibilities, such as the Ministry of Social Development, these include the Juvenile Prosecution Unit, the Family and Juvenile Protection Police Unit (FJP)⁷² and the High Judicial Council which dedicates specialised judges to review cases involving children. The following is a non-exhaustive list of some of these agencies and units.

Ministry of Social Development, Department of Child Protection

Pursuant to the Palestinian Juvenile Protection Law and the Palestinian Child Law, the responsibility for the protection of children in the State of Palestine lays mainly in the hands of the Department of Child Protection within the Ministry of Social Development.⁷³ The Ministry employs 'Child Protection Counsellors', who are public servants in the Department of Child Protection and who are responsible for ensuring child protection in accordance with the laws and regulations in place.⁷⁴ The duties of the Child Protection Counsellors are detailed in the Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.⁷⁵

⁷² The Family and Juvenile Protection Police Units (FJP) in Palestine are specialized departments within the Palestinian Civil Police, established to handle cases involving domestic violence, child abuse, and sexual assault. Their primary responsibilities include receiving and investigating complaints, providing support and guidance to victims, and collaborating with other agencies to ensure comprehensive care.

⁷³ Article 50, Palestinian Child Law No. 7 of 2004 ('Palestinian Child Law'). See also State of Palestine Report to CRC Committee 2019 para 43.

⁷⁴ Article 1, [Executive Regulation on Protection Measures and Granting Rights to the Child No. \(16\) of 2022](#), (Arabic).

⁷⁵ The Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.



Child Protection Counsellors are responsible for assessing and addressing cases of children at risk by verifying reports, conducting initial evaluations, and taking immediate action to protect children when necessary.⁷⁶ They develop and implement child protection plans in coordination with relevant authorities⁷⁷ and may draft protective agreements with guardians to ensure the child's safety.⁷⁸ If guardians fail to comply or an agreement is not reached, the counsellor refers the case to a judge.⁷⁹ In severe cases, they recommend alternative care or corrective measures, such as supervised monitoring or placement in specialized institutions.⁸⁰ Regular follow-ups, reviews, and reports aim to ensure the effectiveness of interventions and prioritise the child's best interests.⁸¹

UNICEF has signed Rolling Workplans with relevant PA Ministries based in Ramallah covering the entire State of Palestine, including Gaza, designed to protect children from violations and abuse.⁸² The goal of the plans is to ensure that UNICEF can work closely with these entities to provide child protection services. The plans include case management operating procedures for child protection and gender-based violence as well as a directory of service providers to facilitate referrals of children needing protection.

Other Bodies

The National Council for Children (NCC) was established by the Council of Ministers in 2018 pursuant to the Palestinian Child Law.⁸³ Its mandate includes proposing strategies and public policies on the care and protection of children, then submitting them to the Council of Ministers for ratification and implementation.⁸⁴

The Palestine Children's Council (PCC) was established by NGOs in Palestine working on child rights issues in 2017 and is accredited to advise the Ministry of Social Development, in matters relevant to children. It has acted as an advisory body for several governorates and ministries.⁸⁵

The **Working Group on Children and Armed Conflict** consists of international organizations, including UNICEF, the Office for the Coordination of Humanitarian Affairs (OCHA), and INGOs with the objective of monitoring the six grave violations to which children are exposed during armed conflicts, namely killing and maiming of children, recruitment or use of children as soldiers, sexual violence against children, attacks against schools or hospitals, denial of humanitarian access for children and the abduction of children.⁸⁶

The **OPT Protection Cluster**, facilitated by the UN Office of the High Commissioner of Human Rights (OHCHR), is operational in both the West Bank and Gaza and acts as a forum to coordinate the protection activities of international and national humanitarian and human rights actors, and advocate human rights and international law in humanitarian action. It contains four sub-groups or Areas of Responsibility (AoR), namely Child Protection and Mental Health and Psycho-Social Support (MHPSS), Gender-based Violence (GBV), Legal Aid and Mine Action.⁸⁷

⁷⁶ Article 21, Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.

⁷⁷ Article 23, Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.

⁷⁸ Article 24, Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.

⁷⁹ Article 26, Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.

⁸⁰ Articles 27-28, Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.

⁸¹ Articles 29-30, Executive Regulation on Protection Measures and Granting Rights to the Child No. (16) of 2022.

⁸² UNICEF, [Protecting children from violations and abuse in Gaza](#).

⁸³ Article 70, Palestinian Child Law.

⁸⁴ State of Palestine Report to CRC Committee 2019, paras 35-36, 84.

⁸⁵ State of Palestine Report to CRC Committee 2019, para 30.

⁸⁶ State of Palestine Report to CRC Committee 2019, para 81.

⁸⁷ [OPT Protection Cluster](#).



Independent Commission for Human Rights

The **Independent Commission for Human Rights** was established in 1993 by a Presidential Decree.⁸⁸ The Commission seeks to protect and promote human rights in accordance with the Palestinian Basic Law of 2003 and international human rights principles, and includes three focus groups: children, women, and Persons with Disabilities.⁸⁹ The Commission collaborates with other organisations in Palestine such as Save the Children, on promoting children's rights.

3.1.2 Israeli Military and Civil Agencies in the West Bank

The main responsibility of Israeli **COGAT (Coordination of Government Activities in the Territories)** is coordinating the activities of the Israeli government in the Palestinian territories (the West Bank and Gaza). COGAT's role is both military and civilian. While it handles military aspects, such as security coordination and the enforcement of military orders, it is also responsible for overseeing civilian matters, including humanitarian aid, permits for movement, and coordination with international organizations. This includes control over Palestinian civilians in Area C who are part of the protected local population.

The **Israeli Civil Administration (ICA)** provides administrative services under the authority of COGAT. However, in practice the ICA have delegated responsibility for dozens of bylaws to the Israeli Ministry of Defence which has civilian oversight.⁹⁰ The transfer of military power by the occupying power to civilian control is in contravention to IHL which requires that such power be exercised by the occupying power for strictly military purposes and in the interests of the protected population and not as a means of expanding Israeli civilian control over occupied territory.

Israeli security forces frequently detain Palestinian minors on security grounds. Complaints by Palestinians in relation to settler violence in Area C, including attacks on Palestinian children, must be made to the Israeli police who are located inside Israeli settlements.

Israeli Defence Forces (IDF) also implement orders which directly affect the basic rights of Palestinian children, including issuance of demolition orders over schools, arrest of children on the way to school, denial of access to school, freedom of movement restrictions, demolition of community water infrastructure and home demolition.⁹¹ Such orders can be appealed to the ICA or to COGAT as well as to the Israeli High Court.

Whilst the PA has no jurisdiction over land and planning issues in Area C, it provides teachers for Palestinian schools operating in Area C.

Under the **Hebron Protocol**, Israeli maintains complete military and civilian control over the H2 area of Hebron city in order to protect the Israeli settlements. H2 includes the entirety of the Hebron Old City which is home to a majority Palestinian population. In practice, Israeli forces restrict Palestinian freedom of movement, search and question children on the way to and from schools at the frequent checkpoints and often deny access to schools.⁹²

88 [Independent Commission for Human Rights in Palestine](#). The Presidential Decree was issued by the first Palestinian President Yasser Arafat in his capacity as President of the State of Palestine and chairman of the Palestine Liberation Organization.

89 [Independent Commission for Human Rights in Palestine](#). See also State of Palestine Report to CRC Committee 2019, para 73-77.

90 Guardian, [IDF transfers power in occupied West Bank to pro-settler civil servants](#), 21 June 2024.

91 See NRC, [Raided and Razed: Attacks on West Bank Education](#), November 2020.

92 NRC, [Driven Out](#), July 2013.



Child in Deir Al Balah (Photo: Ahmad Fayoumi/NRC)

3.1.3 Israeli Ministries and Government Agencies covering East Jerusalem

The **Israel Ministry of Labour, Social Affairs and Social Services (MLSASS)** includes various specialised services including the ‘Service for Children and Youth’ which is the main Israeli government agency responsible for securing the safety and wellbeing of children at risk. The Service for Children and Youth is responsible for national child protection policy making, and the development of interventions for at-risk children and their families. They also supervise social workers specialising in child welfare and protection issues within the local Social Service Departments (SSDs) located throughout Israel.

Social workers specialise in different issues and include; (1) generalist social workers, also known as ‘community/family social workers’, (2) specialist social workers who carry out various investigations and interventions as part of their child protection responsibilities, (3) child investigators who deal with the investigation and testimony in court of children who are direct victims, witnesses or alleged offenders of violence and (4) youth investigators who are specially trained police officers to investigate direct victims, witnesses of crimes or alleged juvenile offenders. Youth investigators are employed by the Investigations Unit of the Investigations and Intelligence Division of the Israeli police force.⁹³ Other services working with children include hospital-based child protection teams and counsellors who provide psychological support and educational counselling services.⁹⁴ Israel also operates Emergency Centres which act as multi-disciplinary services for maltreated children and Child Advocacy Centres which provide an initial investigative response for maltreated children.⁹⁵

3.1.4 Palestinian Agencies providing Support to East Jerusalem

The PLO operate a **Ministry of East Jerusalem Affairs** which is not permitted to operate inside Jerusalem, but which operates a legal aid programme which funds private Palestinian lawyers to protect Palestinian families against right violations, including demolition and eviction orders over their homes. The Ministry of East of Jerusalem Affairs is located in Ar-Ram outside of Jerusalem. However, the Office does not currently provide any other services for Palestinian children or their families in East Jerusalem.

3.1.5 Palestinian Ministries and Agencies in Gaza

Until at least 7 October 2023, the following ministries in Gaza had various levels of responsibility over children’s issues depending on their jurisdiction, namely the **Ministry of Social Development, Ministry of Public Security,**

93 Gottfried and Ben-Arieh, p 5-6.

94 Gottfried and Ben-Arieh, p 6.

95 Gottfried and Ben-Arieh, p 6.



Ministry of Justice, Ministry of Education and Ministry of Health. Since 7 October 2023 the needs of children in Gaza have increased exponentially, although it's not clear which Ministries are currently able to operate.

The body responsible for child protection in Gaza is the **Ministry of Social Development**, which includes a dedicated unit or department for child protection.⁹⁶ The Ministry manages specific vocational training centres aimed at rehabilitating juveniles or children in general. This Ministry also oversees the Al-Rabee Center for Juvenile Care, which was previously located in Gaza City. This centre is intended to receive juveniles in contact with the law, as referred by security or judicial authorities. Additionally, the Ministry employs a specialized official in each of its directorates, known as a 'Behaviour Monitor,' who has judicial authority to inspect police stations and detention centres, in order to ensure compliance with standards and procedures.

The Ministry of Health provides vaccinations and certain medical treatments free of charge for children.

Other Bodies

Due to the ongoing occupation and current situation in Gaza, systems for the protection of children are heavily reliant on local networks, community organisations and international funding. Many of these systems or agencies have been destroyed, or severely limited in operation, due to the war in Gaza since 7 October 2023.

A Child Protection Network was established some years ago in Gaza, comprising several civil society organizations in partnership with the Ministry of Social Development. However, its role has been largely symbolic rather than practical, due to the absence of a clear operational vision and the imposition of obstacles by authorities on civil society organizations aiming to support this group.

3.1.6 UNRWA

The **United Nations Relief and Works Agency (UNRWA)** was established as a subsidiary organ of the UN in 1949 with responsibility for providing relief and works programmes for Palestine refugees within Palestine, Jordan, Lebanon and Syria.⁹⁷ Palestine refugees are defined as "*persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, including their descendants, and who lost both home and means of livelihood as a result of the 1948 conflict*".⁹⁸ Its humanitarian and development mandate is to provide assistance and protection to Palestine refugees pending a just and lasting solution to their plight.⁹⁹

Whilst UNRWA is an independent UN agency, it works closely with Palestinian ministries to provide assistance and protection to registered Palestinian refugees. It provides a wide range of essential educational and health services throughout the West Bank and Gaza to Palestinian refugee children as well as a social safety net programmes and protection activities. Services offered include basic education, primary health care and mental health care, relief and social services, microcredit, and emergency assistance.¹⁰⁰ It operates 96 schools in the West Bank and 257 schools in Gaza for a total population of approximately 2.5 million Palestine refugees in Palestine.

On 28 October 2024, the Knesset approved two bills in the second and third reading that ban UNRWA, from operating in Israel.¹⁰¹ The future operational capacity of UNRWA within Palestine, including the West Bank and Gaza remains uncertain.¹⁰²

96 The Ministry of Social Affairs website in Gaza is not functional for the time being. Information for this section has sourced from judicial decrees, laws, expert lawyers, and private resources by NRC.

97 UNRWA was established as a UN agency by UN General Assembly Resolution 302 of 1949.

98 UNRWA, [Palestine Refugees](#).

99 UNRWA, [What is the Mandate of UNRWA?](#)

100 State of Palestine Report to CRC Committee 2019, paras 392-404; UNRWA, [What is the Mandate of UNRWA?](#)

101 UN News, [Israeli laws blocking UNRWA – devastating humanitarian impact for Palestinians?](#), 31 October 2024.

102 UN, News, [Israel's new laws banning UNRWA already taking effect](#), 30 January 2025.



So Cold (Photo: Yousef Hammash/NRC)

3.2 National Laws

The **domestic child protection framework** in Palestine is governed by Palestinian laws as well as Israeli civil and military laws.

3.2.1 Laws concerning Children applicable in the West Bank

Palestinian laws of relevance to children which are applied in the West Bank include the following:

- **Basic Law of 2003** (and its amendments through 2005) (the 'Palestinian Basic Law'), which serves as the legal and constitutional framework for the Palestinian system of self-administration
- **Child Law No. 7 of 2004** (and its amendments in 2012) (the 'Palestinian Child Law')
- **Juvenile Protection Law Decree of 2016** (the 'Juvenile Protection Law') and its 2021 amendments.
- **Labour Law No. 7 of 2000**, which includes protection of working-age children
- **Law No. 4 of 1999 on the Rights of Persons with Disabilities** and the Cabinet Decision No. 40 of 2004 Issuing the Executive Regulations for this Law
- **Criminal Procedure Law No. 3 of 2001**
- **Law No. 6 of 1998 on Correction and Rehabilitation Centres**
- **Law No. 10 of 2018 on Cybercrime.**

A number of bylaws have also been issued for different specific issues. These include bylaws which have amended the minimum age of marriage, bylaws for temporary foster families and foster family guidelines, bylaws for the protection of children and bylaws concerning basic education and higher education.

Additionally, the Jordanian Personal Status Law No. 61 of 1966 and the Jordanian Penal Code No. 16 of 1960 remain in force in Palestine. Under international humanitarian law, the occupying power is obliged to respect the pre-existing law at the time of occupation. Whilst Palestinian laws are also applicable in East Jerusalem under international law, Israel refuses to recognize them or allow them to be applied.

Due to the lack of elections for the Palestinian Legislative Council since 2007, many laws in Palestine are passed through presidential law decrees signed by the Palestinian President. Presidential decrees have the same power as laws, although the fact that they are not subject to scrutiny and revision through the parliamentary process is a matter of serious concern.



3.2.2 Laws concerning Children applicable in Gaza

Palestinian laws of relevance to children which are applied in Gaza include many of the same laws applicable in the West Bank, as well as other specific, or historical, laws. These include:

- **Basic Law of 2003** (and its amendments through 2005) (the 'Palestinian Basic Law')
- **Child Law No. 7 of 2004** (and its amendments in 2012) (the 'Palestinian Child Law')
- **Law No. 4 of 1999 on the Rights of Persons with Disabilities** and the Cabinet Decision No. 40 of 2004 Issuing the Executive Regulations for this Law
- **Education Law No. 1 of 2013**
- **Criminal Procedure Law No. 3 of 2001**
- **Law No. 6 of 1998 on Correction and Rehabilitation Centers.**

Within Gaza, the **Family Rights Law (Order No. 303) issued in 1954**, issued by Egyptian authorities, remains the applicable personal status law. In relation to criminal law, the **Penal Code No. 74 of 1936** and the **Juvenile Offenders Ordinance No. 2 of 18 February 1937**, both issued under the British mandate, remain applicable.

3.2.3 Israeli Civil Laws applied in East Jerusalem

Relevant Israeli civil laws include:

- **Penal Law No. 5737-1977**
- **Criminal Procedure Law No. 5756-1996**
- **Legal Capacity and Guardianship Law No. 5722-1962**
- **Youth (Care and Supervision) Law No. 5720-1960**
- **Youth (Adjudication, Punishment, and Means of Treatment) Law No. 5731-1971**
- **Evidence Revision (Protection of Children) Law No. 5765-2005**
- **Youth Employment Law No. 5713-1953**
- **Indication of Information Regarding Legislative Influences on the Rights of the Child No. 5762-2002**
- **Adoption of Children Law No. 5741-1981**
- **Kindergartens Supervision Law No. 5725-1965**
- **Safety of Protected Persons Law No. 5726-1966**
- **Welfare (Procedure in Matters of Minors, Mentally Sick Persons and Absent Persons) Law No. 5715-1955**
- **Pupils Rights Law No. 5761-2000**
- **Public Defenders Law of 1995**
- **Compulsory Education Law No. 5709-1949**
- **Marriage Age Law No. 5710-1950.¹⁰³**

103 See Child Rights International Network for a full list of relevant Israeli laws; [CRIN Israeli National laws](#).



3.2.4 Israeli Military Orders and Security Legislation applied in the West Bank and Gaza

Over 1,800 Military Orders (MOs) have been issued by Israeli authorities in relation to the West Bank since 1967. Some of the most significant of those MOs include the following:

- **MO regarding Security Provisions (Judea and Samaria) (No. 1651), 5770-2009**, which includes provisions regarding military courts, detention and arrest, pre-trial and trial proceedings, offences and rules of liability, legal aid, administrative orders and powers.¹⁰⁴
- **MO regarding Security Provisions (Amendment No. 10) (Judea and Samaria) (No. 1676), 2011 – dated 27 September 2011.**
- **MO No. 1500** which permits the detention of Palestinians by senior army and police officers for 18 days and prohibits meetings with lawyers or judicial review during this period.¹⁰⁵

The Israeli **Incarceration of Unlawful Combatants Law of 2002**, has been widely used to detain Palestinians in Gaza, including children.¹⁰⁶

3.3 Child Rights Laws

3.3.1 Palestinian Basic Law and Palestinian Child Law

The CRC has been published in the Official Gazette in Palestine, meaning that it should be applied in courts and harmonized with other Palestinian laws. However, the Palestinian Basic Law does not provide a clear indication on the hierarchy of national laws and international conventions.

Within the State of Palestine, the **Basic Law** sets out the main rights and protections of children, including the following principles:

- Comprehensive protection and welfare of children,
- Protection from exploitation for any purpose whatsoever, and the prohibition of work that might damage the safety, health or education of children,
- Protection from harmful and cruel treatment,
- Protection from beating or cruel treatment by their relatives, and
- Rights of children to be segregated from adults in cases where they are sentenced to a penalty that deprives them of their freedom and
- Rights to be treated in a manner that is appropriate to their age and aims at their rehabilitation.¹⁰⁷

The **Palestinian Child Law** provides further protection for children. The purpose of the law is to promote children's rights in the State of Palestine and prepare children for a life in a free and harmonious society based on principles of justice, equality and democracy.¹⁰⁸ It lists the basic rights of children, including the **right to family, the right to health, social and cultural rights, the right to education and the right for protection from any harm or violence.**

¹⁰⁴ This order came into effect on 2 May 2010 and incorporates a number of previous military orders relating to children, including Military Order 132 (Adjudication of Juvenile Delinquents) and Military Order 1644 (Establishing a Juvenile Military Court). Military Order 1651 also contains the main jurisdictional provisions and specifies the main offences with which Palestinians, including children, who are living in areas under full Israeli control are charged, which were previously contained in Military Order 378 (Security Directives). For full text of the order, see [Military Court Watch](#).

¹⁰⁵ Child Rights International Network, [CRIN Israeli National laws](#).

¹⁰⁶ Incarceration of Unlawful Combatants Law of 2022.

¹⁰⁷ Article 29 of the Palestinian Basic Law notes that maternal and childhood welfare are national duties.

¹⁰⁸ Article 2, Palestinian Child Law.



It also stresses the **need to take account of the best interest of the child in each phase of his or her life as a guiding criteria in all processes and decisions involving children, whether taken by legislative authorities, courts and public bodies, or social welfare public and private institutions.**¹⁰⁹

The law notes the State's duty to take special measures to ensure the protection of children with special needs in all sectors of life.¹¹⁰ In relation to education, the law requires the state to offer **basic education that is free and compulsory**, take all measures to stop children dropping out of school, **erase all forms of discrimination affecting education and employment, create equal opportunity among all children**, ensure **children are a part of decision-making processes** affecting their lives and **protect children's dignity**. The Palestinian State is also obliged to **prevent all forms of violence against students** and support students with disabilities to have access to public education.¹¹¹

3.3.2 Israel's Basic Law

Israel does not have a specific child rights law, although it has a number of laws addressing particular issues for children. **Israel's Basic Law on Human Dignity and Liberty** sets out a series of a fundamental rights applicable to all persons, although none that specifically reference children. This includes **protection from violations of life, body, dignity or property as well as the right to privacy and limitations on the right of entry into private premises or search of private property without permission.**¹¹² **Deprivation or restriction of liberty of a person by imprisonment, arrest or extradition** without due process are also prohibited.

However, such protections are qualified by the significant caveat that, *"There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required."*¹¹³ Further, there shall be *"no restriction of rights under this Basic Law held by persons serving in the Israel Defence Forces, the Israel Police, the Prisons Service and other security organizations of the State, nor shall such rights be subject to conditions, except by virtue of a law, or by regulation enacted by virtue of a law, and to an extent no greater than is required by the nature and character of the service."*¹¹⁴ These limitations allow parliament to pass laws that violate those rights, subject to a test of lawfulness and proportionality. They also grant a large degree of discretion and immunity to security agencies, including police and prisons authorities.

3.4 Principle of Non-discrimination

The Palestinian Child Law adopts the stance taken by the Palestinian Declaration of Independence of 1998 by affirming the **principles of equality and non-discrimination** enshrined in the Declaration of Independence. It specifically prohibits discrimination against children and stipulates that *"The State shall adopt appropriate and effective measures aimed at the eradication of all forms of discrimination in enjoyment of the right to education and shall work to guarantee equal opportunities for all children"*.¹¹⁵

¹⁰⁹ Article 4, Palestinian Child Law.

¹¹⁰ Article 8, Palestinian Child Law.

¹¹¹ Articles 37, 38, 39 and 41, Palestinian Child Law.

¹¹² Articles 4,5,7, Israeli Basic Law on Human Dignity and Liberty.

¹¹³ Article 8, Israeli Basic Law on Human Dignity and Liberty.

¹¹⁴ Article 8, Israeli Basic Law on Human Dignity and Liberty.

¹¹⁵ Articles 2 and 38, Palestinian Child Law.



Amani in Gaza (Photo: Amjad Fayoumi/NRC)

4. LEGAL CAPACITY OF CHILD



4.1 Definition of Child

For the purposes of this Guide, the terms child and minor are used interchangeably to refer to children under the age of 18 years old. The term juvenile is also frequently used.¹¹⁶ It can be used to refer to a child of any age but is used in this Guide to refer to older children or adolescents over the age of criminal responsibility, typically 12 years old or older.

The **Palestinian Child Law** defines a child as any person below the age of 18.¹¹⁷ This definition is in line with the definition of a child under the CRC.¹¹⁸ The same definition of a child is used between the West Bank and Gaza, in accordance with the Child Law.

The **Palestinian Juvenile Protection Law** refers to children who are in contact with the law between the ages of 12-18 years old as juveniles. The **Juvenile Offenders Ordinance** from 1937, which remains applicable in **Gaza**, defines a child as a person under the age of 14, a juvenile as a child between the ages of 14 and 16 and a minor as a child between the ages of 16 and 18.¹¹⁹ Children are subject to different treatment within the criminal procedural system depending on their age.

The **Israeli civil law applied to Palestinians in East Jerusalem** defines a minor as a person below the age of 18.¹²⁰ With regard to Palestinians living in the West Bank, **Israeli military law** previously defined minors as persons under the age of 16.

¹¹⁶ It should be noted that pursuant to [General Comment No. 24 \(2019\) on Children's Rights in the Child Justice System](#), the term 'child' should be used instead of juvenile which can promote stigmatisation. The Comment notes that persons under 18 should be referred to, and treated as, children. UN CRC/C/GC/24, 18 September 2019, para 7.

¹¹⁷ Article 1, Palestinian Child Law.

¹¹⁸ Article 1 of the CRC.

¹¹⁹ Juvenile Offenders Ordinance No. 2 of 18 February 1937.

¹²⁰ Article 3, Israeli Capacity and Guardianship Law of 1962.



However, on 27 September 2011 the Israeli military commander in the occupied West Bank issued Military Order 1676,¹²¹ which raised the age of majority in the military courts from 16 to 18 years whilst Military Order 1651 establishes 12 years as the minimum age of criminal responsibility and sets the maximum penalties that can be imposed on children in various age categories. Children are defined in the Military Order as persons under the age of 12, juveniles are defined as persons between the age of 12-14, whilst persons between the ages of 14-16 are defined as young adults.¹²²

4.2 Age of Majority and Capacity to take Legal Action

Eighteen (18) years old is the age of full majority under both Palestinian and Israeli domestic law, although Israeli Military Order No. 1651, applicable in the West Bank sets the age of majority for Palestinian children at 16 years old after which age they can be sentenced as adults.¹²³ As of 18, children can vote, drive, marry and have full legal capacity to control their own affairs. Prior to this age, children have limited legal capacity.¹²⁴

The Ottoman Civil Code, which remains applicable, in Palestine divides children into two categories, namely young children who have not attained the 'age of discretion' and whose actions have no legal consequences, even if authorized by the child's guardian, and those children who have reached the 'age of discretion' and who thus have the right to take action that has legal repercussions if that action is beneficial. If the action is harmful to the child, there are no legal consequences, even if the acts are authorised by the child's guardian.¹²⁵

Israeli law notes that every person is competent to hold rights and obligations from birth until death, unless their legal capacity is restricted according to law. This includes the right to take legal action.¹²⁶

Under both Palestinian and Israeli law, children have criminal responsibility from the age of 12, may work at the age of 15 and may marry below the age of 18 in certain situations.¹²⁷ They also have the limited capacity to buy and sell goods, subject to parental supervision or that of their legal guardian. Under the Jordan Trade Law (West Bank), children under the age of majority may conduct business operations that involve small sums of money, whilst children aged 15 years can over conduct business operations involving any amount of money subject to consent by their guardians.¹²⁸

4.3 Age of Criminal Responsibility

The age of criminal responsibility for Palestine (West Bank and Gaza) and Israel is 12 years old.¹²⁹

121 Order Regarding Security Provisions (Amendment No. 10) (Judea and Samaria) (No. 1676), 2011 – dated 27 September 2011.

122 Military Order No. 1651, Definitions.

123 MO No. 1651, see Military Court Watch, [Military Legal System](#).

124 Under Israeli Penal Code, Article 308, children have legal capacity from birth.

125 Article 966, Ottoman Civil Code of 1876. See also State of Palestine Report to CRC Committee 2019, para 100.

126 Articles 1-2, Israeli Legal Capacity and Guardianship Law.

127 For example, from the age of 16 for males and 15 for females (West Bank), 18 for males and 17 for females in (Gaza) and from 16 in East Jerusalem under the Israeli Marriage Law, but only with the approval of a Family Court judge. They have the capacity to give testimony in criminal proceedings from the age of 15, pursuant to Article 83 of the Code of Criminal Procedure Law No. 3 of 2001. Within Gaza the age of criminal responsibility is nine years old.

128 Jordanian Trade Law No. 12 of 1966. See also State of Palestine Report to CRC Committee 2019, para 111.

129 The age of criminal responsibility was set at nine years old according to the Palestinian Child Law of 2004. In 2012, a Decree Law issued by the PA (Decree-Law No. 19 of 2012) amended the Palestinian Child Law No. 7 of 2004 and stipulated in the amended Article 67 that "a child who has not completed twelve years of age shall not be subject to criminal liability." This decree-law was issued by the Palestinian National Authority in Ramallah. However, due to the political and administrative division between the West Bank and Gaza since 2007, laws and amendments issued in Ramallah are not automatically applied in Gaza.



Palestinian Law

The age of criminal responsibility for children under the the Palestinian Juvenile Protection Law in the West Bank is 12 years old. In accordance with the provisions of the Child Law, a child under the age of 12 is considered at risk of delinquency if they commit an act that constitutes a felony or misdemeanour. Such cases are referred to a Child Protection Counselor for follow-up.¹³⁰ Children between the ages of 12-18 years old are considered juveniles and treated in accordance with the Juvenile Protection Law. Article 1 of that law defines a juvenile as *“a person who was under the age of 18 full calendar years when he or she committed a criminal offence or was at risk of delinquency”*.

The age of the juvenile is established by reference to an official identity document, such as an identity card or birth certificate.¹³¹ If there is no such document, the court or the Office of the Public Prosecutor will appoint an expert to determine the person's age scientifically.

As the Palestinian Juvenile Protection Law is applicable both in the West Bank and Gaza, the age of criminal responsibility in Gaza is 12. This has effectively supplanted the provisions of the Penal Code in Gaza which distinguished between children between 9 and 12. Under the Penal Code, children under the age of nine could not held criminally liable under any circumstance, whilst children between the ages of nine and 12 could only be held liable where it was proved that at the time of doing the act or making the omission the child had the capacity to know that he/she ought not to do the act or make the omission.¹³² The Juvenile Protection Law has now removed this distinction. Children between the ages of 14-18 years old are considered to have different levels of culpability for criminal offences based on their age.¹³³

Israeli Law

The age of criminal responsibility in Israel is 12.¹³⁴

Israeli Military Law

Under Israeli military law, the minimum age of criminal responsibility is 12 years old.

130 Article 5, Palestinian Juvenile Protection Law.

131 Article 1, Palestinian Juvenile Protection Act.

132 Article 9, Gaza Penal Code.

133 Article 2 Juvenile Offenders Ordinance of 1937.

134 Article 34(F), Israeli Penal Code.



Learning to walk (Photo: Yousef Hammash/NRC)



5. LEGAL IDENTITY, CIVIL STATUS AND REGISTRATION OF CHILDREN

To a large degree, issues of legal identity, residential status and Palestinian nationality are interconnected. They are determined by whether a person is registered in the Palestinian Population Registry (West Bank and Gaza) or the Israeli Population Registry (East Jerusalem). The place of residence, whether the West Bank, Gaza or East Jerusalem are also critical, as are the date and place of birth and the registration status and nationality of parents.

5.1 Palestinian Population Registry

5.1.1 Registration in Palestinian Population Registry

All Palestinians in Palestine, with the exception of those in East Jerusalem, must be registered within the Palestinian Population Registry in order to obtain a Palestinian identity card, legal residency in Palestine and a Palestinian passport.

The **Palestinian Population Registry** is based on a census of Palestinians conducted by Israel in the West Bank and Gaza in 1967 and excludes Palestinians who were not in the country at the time.¹³⁵ Israel maintains a separate **Israeli Population Registry** covering Israel and East Jerusalem which registers Palestinians with Israeli nationality as well as Palestinians living in East Jerusalem.

Israel maintains effective control over the Palestinian Population Registry through the requirement that all Palestinian ID documents have an Israeli-issued identification number. Without such a number, Israel will not consider the individual to have residency status in Palestine and will not allow crossings at borders or checkpoints.¹³⁶ Israel has also imposed various restrictions on the registration of children born in and outside occupied Palestine over the years.¹³⁷ Israel determines the classification of Palestinians as either 'Gaza residents' or 'West Bank residents' within the Population Registry.

¹³⁵ Article 28 of Annex III to the Interim Agreement on the West Bank and Gaza (Oslo II Agreement) which sets out the agreement between Israel and Palestine in relation to the Palestinian Population Registry. See also NRC, [Undocumented and Stateless: The Palestinian Population Registry and Access to Residency and Identity Documents in the Gaza Strip](#) pp 18-23 for a detailed analysis of the Palestinian Population Registry.

¹³⁶ NRC, *Undocumented and Stateless*, pp 18-20.

¹³⁷ NRC, *Undocumented and Stateless*, pp 18-23.



Registration of children whose parents are both registered as either West Bank or Gaza residents in the Palestinian Population Registry is not complicated. Where one parent holds a West Bank ID and the other parent holds a Gaza ID, registration of the child (West Bank or Gaza) will likely depend on the place of birth of the child. **Children born in the West Bank are likely to receive a West Bank ID, whilst children born in Gaza will receive a Gaza ID.** However, registration of children born to a parent who is not registered in the Palestinian Population Residency is much more challenging.

Under the current situation, children under the age of 16 who are born to a parent registered in the Palestinian Population Registry in the West Bank or Gaza AND who are in the West Bank or Gaza at the time of application are entitled to be registered in the Palestinian Population Registry. This applies regardless of whether they were born inside occupied Palestine or abroad, although children born outside Palestine can only be formally registered in the Population Registry once they are physically present in Palestine.

Historical Overview of Restrictions on Palestinian Population Registry

Over the years, Israel has imposed different restrictions on the birth registration of Palestinian children which has impacted on their rights to residence in Palestine and their access to identity documents. Eligibility for registration in the Palestinian Population Registry may depend upon when the child was born and what restrictions were in place at the time. The following section provides an overview.

Restrictions from 1987-1995

In 1987, as a result of the outbreak of the first Palestinian intifada, the Israeli military commander issued Military Order No. 1206 on 12 August 1987, significantly changing the requirements for child registration.¹³⁸ The order declared that Palestinian permanent resident children under 16 years old could register in the Palestinian Population Registry based only on their mothers' registration status regardless of their fathers' registration status or their place of birth. Thus, a child born in the occupied Palestinian territory to a father registered in Palestinian Population Registry could not be registered if the child's mother was not an occupied Palestinian territory resident.

The order also prohibited children born abroad from registering after the age of five (5), regardless of either parent's residency status. As a result of the new order, in many Palestinian families, the older children were residents but their younger siblings, born after 1987, were living in Palestine illegally.¹³⁹

1995 Orders and Oslo Accords

In January 1995, Military Order No. 1421 was issued cancelling the previous restrictions.¹⁴⁰

The order issued in 1995 included a new requirement. In order to register a child, it was not sufficient that at least one parent was registered as a resident of the OPT, but they also had to prove that his/her permanent residence was in the OPT. The order also raised the relevant age of registration from 16 to 18. A few months later the situation changed with the signing of the Oslo Accords, pursuant to which it was agreed that *"the Palestinian side shall maintain and administer a population registry and issue certificates and documents of all types"*¹⁴¹ and *"inform Israel of every change in its population registry"*. The agreement granted the Palestinian side *"the right to register in the population registry all persons who were born abroad or in the Gaza Strip and West Bank, if under the age of 16 years and if either of their parents is a resident of the Gaza Strip and West Bank"*.¹⁴²

138 Military Order No. 1206 on August 12, 1987.

139 Order Regarding Identity Cards and Population Registry (Judea and Samaria), No. 297, 1969, Section 11A, as amended by Order No. 1208, of September 13, 1987. A similar order was issued for Gaza.

140 Order Regarding Identity Cards and Population Registry (Amendment No. 23) (Judea and Samaria) Order No. 1421, 5755 – 1995.

141 Article 28(2), Oslo Accord Agreement Annex III, Appendix I.

142 Article 28(12), Oslo Accord Agreement Annex III, Appendix I.



Subsequent to the Oslo Accords Interim Agreement, Israel introduced another policy shift, namely registering Palestinian children under the age of 16 born abroad to a registered parent. However, a new condition was imposed, stipulating that the child must be physically present in the West Bank or the Gaza at the time of applying for residency.¹⁴³

5.1.2 Applications for Birth Registration in the West Bank

Under the Palestinian Child Law, a child must be registered in the civil registry immediately after they are born.¹⁴⁴ Children with Palestinian resident parents must be registered in the Palestinian Population Registry. **A valid marriage contract between the parents is a prerequisite to registering a child in the Palestinian civil registry and obtaining a birth certificate for him or her.**¹⁴⁵

Requirements for birth registration are as follows,

- medical certificate for the child,
- the child's presence at the local registry, and
- the identification cards of the parents.

Procedures for issuance of a birth certificate for newborns in the West Bank are as follows:¹⁴⁶

- presence of at least one of the parents at the local registry,
- presentation of the ID of both parents,
- completion of the application form for issuing a birth certificate,
- payment of application fees,
- review of the application by the Civil Affairs Department,
- if one of the parents is not Palestinian, additional papers and documents may be required.

There are special procedures for registering abandoned children or illegitimate children who were born out of wedlock.

The **Ministry of Social Development** is responsible for placing abandoned children in social care institutions and registering them with a fictitious four-part name in the civil registry within a maximum of three months.¹⁴⁷ If the child's biological mother is known, her name must be recorded in the Ministry's records for illegitimate children, in alignment with the Ministry of Interior's records. However, her name will only be included in the child's civil registry if she consents.¹⁴⁸

Additionally, the Ministry must maintain various records, including those for abandoned children, illegitimate children, children lacking family care, families under assessment, eligible foster families, rejected families, and follow-up records for fostered children.¹⁴⁹ The records relating to abandoned and illegitimate children, as well as those lacking family care, must be integrated with the Ministry of Interior and social care institution records.¹⁵⁰

143 Legal Memo by the NRC on Child Registration in the Occupied Palestinian Territories.

144 Article 15, Palestinian Child Law. See also Articles 17 - 19 of the Palestinian Civil Status Code of 1999.

145 Council of Ministers, [Registration of a Newborn Child in Palestine](#).

146 The official website for the [Palestine Ministry of the Interior](#).

147 Article 4.1, the Cabinet Decision No. (10) of 2013 on the Foster Families System for the Year 2013.

148 Article 4.2, the Cabinet Decision No. (10) of 2013 on the Foster Families System for the Year 2013.

149 Article 5.1, the Cabinet Decision No. (10) of 2013 on the Foster Families System for the Year 2013.

150 Article 5.2, the Cabinet Decision No. (10) of 2013 on the Foster Families System for the Year 2013.



Boys and Girls (Photo: Ahmad Al Bazz/NRC)

5.1.3 Applications for Birth Registration in Gaza

The PA has not operated in Gaza since the election of Hamas in 2007. Until at least 7 October 2023, administrative and governmental functions were exercised by *de facto* authorities controlled by Hamas. All births in Gaza are registered with the Ministry of Health.

Procedures for issuance of a birth certificate for newborns in Gaza are as follows:

- presence of at least one of the parents at the local register,
- presentation of the ID of one of the parents,
- submission of the hospital discharge document,
- presentation of the notification of birth certificate stamped by the hospital,
- formal application prepared by a petition writer.

During the early stages of the conflict in Gaza, registration was done upon submission of an application with a fee of ILS 5, along with an additional ILS 5 for the Interior Ministry. The current procedures for registering newborns in Gaza remain the same, with the only difference being the specified fee.

Following issuance of a birth certificate in Gaza, the Ministry of Health in Gaza notifies the Ministry of Interior of the PA in Ramallah of the birth, with all relevant paperwork indicating identity of the parents. After checking, the PA registers the birth in the Palestinian Population Registry and forwards details to Israeli authorities who conduct their own checks and then issue an Israeli ID number. Children born outside of Gaza to Palestinian parents registered in the Registry can only be registered upon return to Palestine. Fees are the same as those for registering Palestinian-born children.

Following the conflict in Gaza after 7 October 2023, government offices, hospitals and health care centres have been destroyed on a massive scale, resulting in major challenges in registering births. However, the essential process of notification of births by the Ministry of Health in Gaza to the Ministry of Interior in Ramallah currently remains the same as confirmed by the MOI in Ramallah.¹⁵¹ Since October 2023, the Israeli Civil Administration has issued 60,000 Israeli ID numbers to persons resident in Gaza and registered in the Palestinian Population Registry.¹⁵²

¹⁵¹ The PA MOI in Ramallah have confirmed that over 35,000 children were born in Gaza since October 2023 up to August 2024 and the MOI is currently registering those births in the Palestinian Population Registry and dealing with the backlog.

¹⁵² Information as of November 2024 provided by the PA MOI in Ramallah.



However, children born outside of Gaza, such as in Egypt, cannot be registered in the Palestinian Population Registry until they return. These children receive birth certificates from their country of birth and may obtain a 'zero passport,' namely a special travel document for travel purposes, without an Israeli ID number.

5.2 Israeli Population Registry for East Jerusalemites

5.2.1 Registration in Israeli Population Registry

Most Palestinians in East Jerusalem are registered in the Israeli Population Registry as Palestinian permanent residents with Israeli (Jerusalem) ID cards. **Birth registration in the Israeli Population Residency grants residency in East Jerusalem, provided the family's centre of life remains in East Jerusalem.**¹⁵³ Without this registration, East Jerusalemites would face challenges living in East Jerusalem and may be forced to relocate to the West Bank. They would also miss out on crucial rights and entitlements, such as educational, health care and social security rights.¹⁵⁴

Loss of residency would also sever their connection to East Jerusalem and severely reduce the Palestinian population in East Jerusalem. As such, most Palestinians maintain their Jerusalem ID and Israeli residency status. The PA are reluctant to grant West Bank ID cards to East Jerusalemites who would then lose their right to residency in East Jerusalem.

For these reasons, the date of birth of the child, place of birth and registration status of the parents are critical for inclusion in either the Palestinian or Israeli Population Registries.

5.2.2 'Centre of Life' Test

All Palestinians in East Jerusalem must demonstrate that they have an ongoing domicile or 'centre of life' in East Jerusalem in order to keep their East Jerusalem legal residency. If they leave East Jerusalem for a substantial period of time, or move overseas or to the West Bank, their 'centre of life' is assessed as having moved from East Jerusalem elsewhere and their permanent residency in East Jerusalem can be revoked by Israeli authorities.

The **'centre of life' policy** is a principle developed by the Israeli High Court of Justice with reference to the Entry into Israel Regulations.¹⁵⁵ These Regulations stated that the permanent residency of a Palestinian East Jerusalemite expires if they leave Israel and settle in another country. In turn, this was defined to include persons who lived for more than seven years in a foreign country, received the status of a permanent resident in a foreign country or became a citizen of a foreign country.¹⁵⁶ Persons living outside of Israel¹⁵⁷ such as in the West Bank, are also considered to be living in another country and can thus have their permanent residency in East Jerusalem revoked.¹⁵⁸

153 See Section 5.2.2 for more information on the 'centre of life' requirement.

154 Israeli Permit Regime: Separation of Palestinian Families in Jerusalem, 2022.

155 Specifically, in the case of HCJ 282/88, Awad v Prime Minister et al, 1988.

156 Entry into Israel Regulations No. 5734 – 1974. Israeli Collection of Regulations No. 3201, 18 July 1974, p 1517, sections 11(c), 11A. See also NRC [Fractured Lives: Restrictions on Residency Rights and Family Reunification in Occupied Palestine](#) p 36-37.

157 Defined by Israel to include East Jerusalem.

158 See NRC [Fractured Lives](#), p 38-39.



5.2.3 Applications for Birth Registration of Palestinian Children born in East Jerusalem

Children born of East Jerusalemites or Israeli Nationals

Palestinians born to parents who are either both East Jerusalemites or whose parents have Israeli nationality can directly register their children in the Israeli Population Registry. The process is not too complex. Children born to East Jerusalem residents, where both spouses hold the Israeli permanent residency, usually receive their ID number directly at the hospital. The child is afterwards registered in the Israeli Population Registry. After this first registration the parents must apply to the Ministry of Interior within 14 days in order to register their newborn child in their identity cards.

The following procedures are required for registration of Palestinian children in East Jerusalem:¹⁵⁹

- both parents must hold Jerusalem IDs,
- the child must have been born in Jerusalem or within Israel's recognized borders,
- proof of residence in Jerusalem for at least two years must be provided. The birth certificate, copies of both parents' IDs, and the marriage certificate must be attached,
- the child must be under 18. Applications for registration must be submitted before the child turns 18. Beyond that age, registration is no longer possible.

Children born of Mixed East Jerusalemite and West Bank Residents

The situation is much more difficult for Palestinian children born from marriages of 'mixed residencies' where one parent is an East Jerusalemite and the other is a West Bank resident. Such children are not automatically registered based on the residency of their East Jerusalemite parent. The process of registering children differs from family reunification depending on the child's place of birth. If the child is born 'abroad', including within the West Bank, a family reunification application must be submitted instead of a child registration application.

Where only one parent holds a Jerusalem ID, the following eligibility requirements exist, and the following procedures must be followed:¹⁶⁰

- the child must be born in Jerusalem or within Israel's recognized borders,
- the child must be under 18. Applications must be submitted before the child turns 18. After that, registration is permanently closed.
- a child registration application form must be filled out,
- the birth certificate, copies of both parents' IDs, and the marriage certificate must be attached,
- the child must reside with the parent who holds a Jerusalem ID,
- if the parents are divorced or separated, the child must be under the sole custody of the Jerusalem ID holder,
- the application must be submitted within two years of the parents' residence in Jerusalem. However, the Ministry of Interior will only process the application after confirming two years of residence.
- if the minor is over 14 years old, they will be required to fill out a biography form for security screening purposes,

159 If the child is born in Jerusalem, registration is processed under Section 12 of the Entry into Israel Regulations (1974) and reviewed according to internal guideline 5.2.0029.

160 Society of St Yves, [Palestinian Families Under Threat: 10 Years of Family Unification Freeze in East Jerusalem](#) 2013. If the child is born in Jerusalem, registration is processed under Section 12 of the Entry into Israel Regulations (1974) and reviewed according to internal guideline 5.2.0029. The summary of the procedures are taken from the report authored by the Society of St. Yves



- if the child holds a Palestinian ID number, the application must be submitted before the child turns 14. Otherwise, they will not be eligible for a permanent ID number,
- for children over 14 with a Palestinian ID number, a 'biography form' must be attached. In this case, the child will not receive a Jerusalem ID. They are only eligible for a permit to remain within the 'family unit' without any associated social rights. The permit allows them to enter Israel, including East Jerusalem, and stay with their family but does not grant them national insurance or health insurance rights and other social rights.

5.2.4 Family Unification Procedures for Palestinian Children born abroad or in the West Bank

East Jerusalemites who are married to West Bank Palestinians must register their children in the Israeli Population Registry in Jerusalem to ensure their right to residence in Jerusalem as well as other rights within the city.¹⁶¹ Registration in the Israeli Population Registry is not automatic at birth but is achieved only after a protracted procedure, whereby their parents must prove that for the two years preceding the child's birth, their 'centre of life' was in Israel (namely East Jerusalem). This is contrary to cases where both parents are Israeli residents or citizens, whose children are registered and given identity numbers at birth and where no 'centre of life' criteria is applied.¹⁶²

Where the child is born abroad or in the West Bank, registration follows the family reunification process under Israeli internal guidelines.¹⁶³ Upon approval of a family unification application, the child will receive a temporary ID number valid for two years, after which time the parents must request a permanent ID from the Ministry of Interior.

The main policies related to the family unification process are as follows:¹⁶⁴

- If the child is under 14 years old at the time of application and born outside the boundaries of the municipality of Jerusalem or Israel, they must follow a family unification procedure. In this case, the East Jerusalem resident parent must demonstrate that their 'centre of life' is in Jerusalem'. If it is accepted that the family 'centre of life' is in Jerusalem and the application is approved, they are entitled to full residency.
- If they are 14 years or older, they are only eligible for a permit to remain within the 'family unit' without any associated social rights. The permit allows them to enter Israel and stay with their family but does not grant them national insurance or health insurance rights and other social rights.

5.3 Registration and Issuance of Identity and Civil Status Documents by Palestinian Authorities

The administration of the civil registration system in Palestine falls under the jurisdiction of the Ministry of Interior and the Ministry of Health and is governed by the Civil Registration Law.¹⁶⁵ This system operates in a centralized manner, with the Department of Civil Registration within the Ministry of Interior responsible for registering essential civil events such as (i) births (ii) deaths (iii) marriages and (iv) divorces. Additionally, the Ministry of Health is tasked with registering foetal deaths which requires a (i) medical certificate and a (ii) verbal or written declaration from the primary informant.

161 Heinrich Boll Stiftung, [Israeli Permit Regime: Separation of Palestinian Families in Jerusalem](#), 2022.

162 See for example; Hamoked, [The Regional Labor Court rules: children with only one Israeli-resident parent are not entitled to health insurance while their residency status is still unresolved](#), 2 July 2013.

163 Specifically, Israeli internal guideline 5.2.0030.

164 Society of St. Yves, [Palestinian Families Under Threat: 10 Years of Family Unification Freeze in East Jerusalem 2013](#).

165 Occupied Palestinian Territory Legal Framework by the UN Statistics Division.



The existing registration system covers Palestinians with Palestinian identity cards, regardless of their place of residence. However, it does not include Palestinians holding Israeli identity cards or foreigners residing in Palestine.

5.4 Issuance of Identity Cards

Upon turning 16 years old, Palestinians resident in the West Bank are issued with a West Bank ID by the PA.¹⁶⁶ The document may be used for identification and travel purposes.¹⁶⁷

For East Jerusalemites, Israeli authorities issue an Israeli ID card upon turning 16 years old.¹⁶⁸

Palestinian residents of Gaza are issued with an ID card by the authorities in Gaza. The Mol within Gaza can physically print an identity card, but confirmation of registration and inclusion on the Population Registry must still be coordinated with the PA and Israeli authorities.¹⁶⁹

5.5 Correcting Inaccurate Records

Inaccurate details recorded in the Palestinian Population Registry have led to the exclusion of names and the denial of residency for Palestinians. This issue was especially prevalent in the period before the formal computerization of the Population Registry when the system relied on handwritten forms. Despite the transition to a computerized system, challenges continue in the translation of names from Arabic to Hebrew, resulting in omissions and errors in the Population Registry. Obtaining approval from a Palestinian court, along with approval from Israeli authorities, is necessary for any significant alteration to old documents.¹⁷⁰

5.6 Unregistered Persons

Israeli restrictions on the inclusion of Palestinians in the Palestinian Population Registry have resulted in many unregistered Palestinians, the majority of whom are outside Palestine. Without inclusion in the Population Registry, it is almost impossible to obtain residency in the West Bank.¹⁷¹

166 Article 28, Palestinian Civil Status Code.

167 [Palestinian Cabinet Website](#) (Arabic).

168 Kol Zchut, [Issuance of Identity Card](#) (Hebrew).

169 NRC, The Palestinian Population Registry and Access to Residency and Identity Documents in the Gaza Strip.

170 NRC, The Palestinian Population Registry and Access to Residency and Identity Documents in the Gaza Strip.

171 For details, see NRC Fractured Lives, Chapter 3, 4, 5.



Education in Displacement (Photo: Maysaa Saleh/NRC)



6. NATIONALITY, FOREIGN NATIONALS AND FAMILY UNIFICATION

6.1 Eligibility for Palestinian Nationality

The issue of **Palestinian nationality** remains highly contested between Israel and Palestine, firstly because Israel does not consider Palestine to be a state and secondly due to the large number of Palestinians outside of Palestine with a lawful right of return to Palestine under international law.¹⁷² The Palestinian Basic Law states that Palestinian nationality is to be regulated by law and that *"no Palestinian shall be expelled from the homeland, deprived of return, prevented from leaving, stripped of his nationality or handed over to any foreign party."*¹⁷³

In practice, any person registered in the Palestinian Population Registry is entitled to residence in Palestine as well as a Palestinian ID card and a Palestinian passport.¹⁷⁴ Only one of the parents must be registered in the Palestinian Population Registry and children of non-Palestinian fathers with Palestinian mothers are eligible for Palestinian passports.¹⁷⁵

Important to note is that the Palestinian Nationality Ordinances enacted by the British mandate (1925–1941) are currently in effect in Gaza, whilst the Jordanian Nationality Law of 1954 and its amendments are currently in effect in the West Bank. A bill for an updated Palestinian Nationality Law was presented to the Palestinian Parliament in 1995 but has not been discussed by the parliament since that time.

6.2 Passports

6.2.1 Passport Issuance by the PA

Palestinians who are registered in the Palestinian Population Registry are eligible for a PA issued Palestinian passport. The consent of the father is required for a passport.¹⁷⁶ PA passports typically contain an Israeli ID number indicating registration in the Palestinian Population Registry.

¹⁷² See for example, State of Palestine Report to CRC Committee 2019 2019, para 159.

¹⁷³ Articles 7, 28, Palestinian Basic Law.

¹⁷⁴ The Palestinian National Charter of the Palestine Liberation Organization defines Palestinians as, "the Arab citizens who habitually resided in Palestine until 1947, whether those who were expelled therefrom or remained therein. Anyone born to a Palestinian Arab father after that date, in or outside Palestine, is Palestinian."

¹⁷⁵ State of Palestine Report to CRC Committee 2019, Palestine report, para 156.

¹⁷⁶ Embassy of the State of Palestine, [Requirements for the Issuance of a Palestinian Passport](#) (Arabic).



Whilst the PA has the discretion to issue PA passports without an Israeli ID number, it does so only on an exceptional and temporary basis as such documents cannot be used to enter and exit from Palestine, as controlled by Israel.

The following documents are necessary for issuance of PA passports:

- a copy of the birth certificate, or foreign birth certificate issued by the host country, authenticated as per the legal requirements,¹⁷⁷
- a copy of the parent's national ID,
- copies of both parent's passports,
- an authenticated copy of the marriage contract,
- a new picture of the newborn (4x3cm) with a blue background,
- an application for issuance/renewal of a passport issued by the Ministry of Interior, and
- non-objection form from the child's father to obtain the passport, filed in front of a consulate affairs director.

6.2.2 Passport Issuance in East Jerusalem

Palestinian permanent residents in East Jerusalem without Israeli citizenship can apply for a travel document (*Laissez-Passer*) from Israeli authorities, with the possibility of renewal or replacement in case of loss, theft, or damage. The application process involves scheduling an appointment, filling out a biometric form, and providing necessary documents such as a current travel document and parent(s)' ID for minors.

Payment can be made online or at service kiosks. Biometric data, including a facial photo and fingerprint scans, is required for the issuance of the document, and applicants must agree to store their fingerprints in the database, though they can opt out.

6.2.3 Passport Issuance in Gaza

Before 7 October 2023, the PA in Ramallah facilitated **passport issuance for Gaza residents** by using a 'power of attorney' process. Individuals in Gaza who wished to apply for a passport would grant power of attorney to a representative in Ramallah.

This process was managed by 'tourism offices' recognized by the PA, while the Palestinian Bar Association (PBA) in Gaza was given the authority to verify the applicant's identity as a resident of Gaza and issue a power of attorney for a person (agent) in Ramallah, who then handled the passport issuance and followed the procedures through the tourism offices with the Ministry of Civil Affairs in Ramallah.

Following the conflict in Gaza, the disruption of postal services between Gaza and Ramallah, the destruction of the PBA building, and the suspension of tourism and travel office services, the PA's Ministry of Interior (Mol) implemented a new policy, halting the issuance of passports to individuals in Gaza unless they apply while physically present at embassies in Egypt or other third countries.¹⁷⁸

The new policy allows those who can personally visit PA embassies the opportunity to either directly apply for a passport or grant power of attorney to a first or second-degree relative in Ramallah for passport replacement or renewal. This change presents significant challenges for Gaza residents unable to leave the region, effectively limiting their freedom of movement by restricting their access to essential travel documents.

¹⁷⁷ The State of Palestine Ministry of Foreign Affairs.

¹⁷⁸ See also, NRC, No ID, no Humanitarian Aid, Loss of civil documentation in Gaza resulting in barriers to access essential services and humanitarian assistance, January 2024.



Three Generations (Photo: Yousef Hammash/NRC)

Due to the destruction of the Rafah crossing into Egypt, it is presently impossible for residents of Gaza to travel into Egypt. However, the PA have confirmed that if and when the Rafah crossing reopens, the previous system may be reinstated, whereby Egypt issues a travel document authorized by the Palestinian Embassy in Egypt for the people who are approved to leave Gaza in official lists. Once in Egypt, travellers can proceed with biometric passport applications.¹⁷⁹

For medical evacuees from Gaza, including patients and their companions, passports are not required for evacuation or travel between countries for medical purposes. When patients arrive in the country providing treatment, the Palestinian embassy there sends a list of those persons receiving care to the MOI in Ramallah. Due to severe injuries, patients are exempt from biometric requirements, with the embassy and MOI coordinating to simplify the process.¹⁸⁰

6.2.4 Jordanian Travel Documents

West Bank residents who were considered Jordanian nationals during the period in which Jordan claimed sovereignty over the West Bank, namely up to 1 July 1988, and their descendants, are eligible for **temporary Jordanian passports for travel purposes and temporary residency in Jordan**. They are valid for five years and may be renewed. They do not include a Jordanian national ID number and do not grant the holder Jordanian nationality.¹⁸¹ Jordan claimed sovereignty over the West Bank until renunciation of all rights and claims over the territory of Palestine in 1988.

6.3 Legal Residency

Only Palestinians who are registered in the Palestinian Population Registry as West Bank residents are permitted by Israel to reside in the West Bank. Only Palestinians who are registered in the Israeli Population Registry, such as East Jerusalemites, or Israeli nationals are permitted to reside in East Jerusalem or Israel.

Foreign nationals with Israeli visas are permitted to live in Israel, East Jerusalem or the West Bank, subject to the conditions on their visas. Prior to 7 October 2023, many residents of Gaza were permitted to live in the West Bank as temporary residents. However, almost all Gazans in the West Bank have now had their residency permits revoked by Israel and have been removed to Gaza.

¹⁷⁹ There are no formal written procedures outlining the methods used for evacuations at the Rafah crossing. Many individuals have previously been able to leave Gaza by payments to a travel company registered in Egypt, namely the Hala travel company.

¹⁸⁰ These arrangements occur by way of agreement between the PA and the receiving countries.

¹⁸¹ Article 3, Jordanian Disengagement Regulations for the Year 1988.



Fatima and Grandchildren (Photo: Sherbel Dissi/NRC)

6.4 Family Unification

Since its occupation of the West Bank in 1967, Israel has imposed restrictions on family unification in Palestine. This includes unification of families split across the West Bank, East Jerusalem, Gaza, or Palestinians located overseas.¹⁸²

6.4.1 Family Unification in East Jerusalem

The Citizenship and Entry into Israel Law (Temporary Order) issued in 2003, prohibits Palestinian residents of East Jerusalem or Israeli citizens within the 'Green Line' from seeking family unification with their spouses residing in or being citizens of the West Bank, Gaza, Syria, Iraq, Lebanon, and Iran.¹⁸³ Individuals identified as Gaza residents face an outright prohibition from residing with their spouses in areas under Israeli jurisdiction. The law was first enacted in 2003, originally on a temporary basis, but has repeatedly been extended by the Israeli Parliament, effectively becoming permanent.¹⁸⁴

Minor exemptions were introduced in 2005, allowing the Interior Ministry to grant exceptions in specific cases, such as for male spouses from the West Bank above the age of 35 and female spouses above the age of 25. Additionally, exceptions may be considered by a 'humanitarian committee' appointed by the Interior Minister based on humanitarian grounds and sometimes for employment reasons. However, the committee's approval capacity is capped at 58 applications per year for humanitarian purposes, irrespective of the total number of requests submitted.¹⁸⁵

6.4.2 Family Unification in the West Bank

Many Palestinian families are separated either inside or outside Palestine, including families split between the West Bank and Gaza and between third countries and the West Bank. Whilst Israeli authorities permitted a small number of family unification applications in the past, the process has effectively been frozen by Israeli authorities for many years and few, if any, family unification permits have been granted.

In the past, the Israeli Attorney-General has said that family unification permits would only be granted in exceptional and extremely special cases and criteria for family unification applications have not been published.¹⁸⁶ At present, no family unification permits are granted.

¹⁸² See NRC Fractured Lives, p 18.

¹⁸³ The Green Line refers to the military demarcation line between Israel and areas of Palestine controlled by Jordan (West Bank) and Egypt (Gaza) prior to the 1967 war. The Green Line demarcates the boundaries of what is considered to be occupied Palestinian territory.

¹⁸⁴ Adalah - The Legal Center for Arab Minority Rights in Israel, [Discriminatory Laws Database](#).

¹⁸⁵ Israeli Permit Regime: Separation of Palestinian Families in Jerusalem, 2022.

¹⁸⁶ NRC Fractured Lives, p 18.



However, technically individuals eligible to apply for family unification include:

- individuals who were not registered during the 1967 census,
- first degree relatives of those who were West Bank or Gaza residents (parent, spouse, child or sibling) who lived in the West Bank or Gaza before 5 June 1967 and who left no later than 4 July 1967,
- those whose residency was revoked and whose appeals were denied,
- children born abroad or whose mother was not considered a resident and therefore not registered (post 1987), and
- families where one spouse was not registered and who wished to reside in the West Bank and the Gaza.¹⁸⁷

6.5 Stateless Persons

Palestinians who are not registered in the Palestinian Population Registry are not eligible for a PA-issued passport. Unless they have the nationality of another country, they are effectively stateless. In practice, there are very few, if any, unregistered Palestinians in the West Bank. However, due to the change in legal requirements for issuing visitor permits, there has been no solution for two classes of children: (i) children over the age of 16 born in Palestine to registered parents who never left the Palestinian region but were never registered themselves; and (ii) children born abroad to residents who are over the age of 16 and who passed the age limit during the period when Israel was refusing to accept and approve requests for visitor permits.¹⁸⁸

There are an undetermined number of unregistered Palestinians in Gaza, estimated at between 30-50,000, and this figure is likely to have increased significantly in the aftermath of the events of 7 October 2023.¹⁸⁹ In many cases, they were excluded from registration in the Palestinian Population Registry and entered Gaza on temporary documents or visas, most of which have now expired.

These include the following categories of Palestinians:

- those absent during the 1967 Census conducted by Israel who could not be registered,
- those whose residency has been revoked due to their extended periods abroad and have no other nationality,
- post-Oslo returnees,
- unregistered Palestinians who entered Gaza without Israeli-approved visitor permits, including some who lived on temporary documents in the Gulf,
- unreported or unregistered children.¹⁹⁰

187 See NRC Fractured Lives, p 18.

188 NRC, Legal Memorandum, Child Registration in the Occupied Palestinian Territory, 2016.

189 NRC, Undocumented and Statelessness, January 2012, p 51.

190 NRC, Undocumented and Statelessness, p 51.



Schooling for Sahar (Photo: Yousef Hammash/NRC)



7. PERSONAL STATUS AND FAMILY RIGHTS

Personal Status law refers to the body of family law that governs issues such as marriage, divorce, maintenance, custody, and inheritance. The personal status law applied throughout Palestine depends upon the religious denomination of the persons. Sharia law is applicable for Muslims whilst Palestinian Christians follow ecclesiastical personal status law. However, there is no unified personal status law for Christians and each denomination (Catholic, Orthodox, Protestant, etc) has a different ecclesiastical law.

In the West Bank, the Jordanian Personal Status Law No 61 of the year 1976 remains in force, whilst in Gaza, the Family Rights Law (Order No. 303) issued in 1954 by Egyptian authorities is applicable.¹⁹¹

The different personal status laws, as well the political context and different interpretations by Sharia Courts and religious scholars in the West Bank and Gaza have resulted in different approaches in some cases.

Israel applies religious personal status law in occupied East Jerusalem. Personal status matters for Palestinian Muslims are handled by Sharia courts in East Jerusalem whilst personal status matters for Palestinian Christians are handled by ecclesiastical courts and personal status issues for Jews are dealt with under Jewish law.

As there is no civil (non-religious) marriage in either Israeli or Palestinian courts, parties in mixed religious relationships must either convert to the religion of the other party or can travel outside of the country to a place where civil marriages are permitted, such as Cyprus. A valid overseas marriage is accepted as a valid marriage in Palestine, including in East Jerusalem.

¹⁹¹ As well as the Jordanian Personal Status Law No. 61 of 1976, the Jordanian Code of Sharia Legal Procedure Law No. 31 of 1959 remains applicable in the West Bank. In Gaza Ottoman, Palestinian Personal Status Code from 1917 and the Family Rights Code (Order No. 303 of 1954) apply, together with the Code of Sharia Legal Procedure Law No. 12 of 1965, issued by the governor of Gaza, with additional provisions from the Ottoman Civil Code of 1876. See State of Palestine Report to CRC Committee 2019, para 114.



7.1 Personal Status Courts, including Sharia Courts

7.1.1 Sharia Courts in the West Bank

In total, there are 28 Sharia Courts in the different governorates of the West Bank.¹⁹² The West Bank's Sharia Court system includes ten courts of first instance, three courts of appeal (Nablus, Jerusalem, which is temporarily held in Ramallah, and Hebron), and the Office of the Supreme Judicial Department.

Additionally, there are three appeals bodies.¹⁹³ The Court also includes Family Counselling Units.¹⁹⁴ Decisions of Sharia Courts are enforced through the Sharia Enforcement Law No. 17 of 2016.

7.1.2 Sharia Courts in Gaza

Gaza's Sharia Court system includes ten courts of first instance, two courts of appeal, and one Supreme Court. The two main courts of appeal are in Gaza's main cities of Gaza City and Khan Younis whilst the Supreme Court sits in Gaza City. The court also includes Family Counselling Units, and an office to dispense the *sunduq il nafaqa*, or Alimony Fund.¹⁹⁵

The Alimony Fund operates under Law No. 6 of 2005, which is the same law applied in the West Bank. The fund has operated on a sporadic basis in Gaza since 2009 due to funding shortages and is currently not operational following the 2023 conflict. Decisions of Sharia Courts are enforced through the Sharia Enforcement Law No. 6 of 2021.

Since 7 October 2023 and as a result of the ongoing Israeli military offensive on Gaza, Sharia Courts are functioning on a very limited basis sitting as hubs in different centres and inside hospitals. They are operating in all parts of Gaza including Gaza City, Khan Younis, Deir al Balah and Rafah. These hubs function primarily through the issuance of different types of deeds and contracts such as marriage, and divorce deeds, through facilitating parental consent for children intending to evacuate Gaza and through organising the issuance of inheritance deeds. They do not presently deal with cases or any topic that would include legal procedures, such as payment of maintenance, or alimony, custody rights and other legal issues which require formal notifications.¹⁹⁶ This information reflects the current situation, which is subject to change at any moment due to potential escalations or changes in the circumstances.

7.1.3 Israeli Sharia Courts

Israeli law provides for the establishment of Sharia courts, also known as Muslim religious courts, in districts where there is a significant Muslim population, such as Jerusalem, the Galilee, the Triangle, and Negev regions. The applicable Israeli law governing Sharia courts is primarily the Sharia Courts Law (Consolidated Version), 1984 which outlines the establishment, jurisdiction, and procedures of the Sharia courts in Israel.

Decisions of the Sharia courts may be appealed to the Sharia Court of Appeals, and in certain cases, the decisions of the Sharia Court of Appeals can be appealed to the Israeli civil courts. Most Palestinians in East Jerusalem use the Israeli Sharia Courts.

192 Palestinian Central Bureau of Statistics, [Sharia Courts](#) (Arabic).

193 The Palestinian Sharia Court of East Jerusalem is still administratively part of Jordan's Sharia Court system and currently uses the Jordanian Personal Status Code No. 36 of 2010.

194 Sharia Procedures Law No. 31 of 1959.

195 NRC, [Sharia Courts and Personal Status Laws in the Gaza Strip](#), January 2011, p 24.

196 NRC interview with Sharia Court lawyer in Gaza.



Sahar and her Children (Photo: Yousef Hammash/NRC)

7.2 Marriage

7.2.1 Age of Marriage, including Child Marriage

The age of marriage in Palestine is 18 years of age.¹⁹⁷ Under the Palestinian Child Law, a person must be 18 to sign legally binding documents such as a marriage contract. However, marriages from the age of 15 are possible under Sharia law in certain circumstances.

The **minimum age of marriage** under the respective Personal Status laws in the West Bank and Gaza is 16 for males and 15 for females (West Bank)¹⁹⁸ and 18 for males and 17 for females in (Gaza).¹⁹⁹ Decree Law No. 21 of 2019, applicable in the West Bank only, aimed to harmonise the age of marriage at 18. However, in practice many courts continue to apply the pre-existing applicable personal law.²⁰⁰

Sharia courts in Gaza do not apply the minimum age mentioned in the Personal Status Law, but instead apply a judicial circular issued years ago by the Head of the Sharia Judicial Office in Gaza, which states that a prospective bride is deemed eligible for marriage if she has reached the age of 14 years and 7 months, whilst a prospective groom is considered eligible if he has reached the age of 15 years and 7 months.²⁰¹

Under the Decree Law No. 21 of 2019 applicable in the West Bank, the competent court may, if it is deemed necessary for the interests of both parties and in special cases, authorise the marriage of someone under 18 years of age with the approval of the judge or relevant religious authorities of other sects. This grants the married individual full legal capacity regarding marriage, separation, and related matters.²⁰²

The age of marriage for Syriac Orthodox Christians is 16 for women and 18 for men, whilst the age of marriage for Catholics is determined by the Personal Status Codes of the various Catholic Denominations, including for the Maronite, Melkite Greek Catholic, Armenian, Syriac, Latin and Chaldean denominations.²⁰³

¹⁹⁷ Palestinian Child Law 2004.

¹⁹⁸ Article 5, Jordanian Personal Status Law No 61 of 1976.

¹⁹⁹ Article 6, Order No 303 on Family Rights issued in 1954.

²⁰⁰ Information is based on discussions with practising lawyers in Gaza.

²⁰¹ NRC interview with Sharia Court lawyer in Gaza.

²⁰² Article 2(2) of the Decree Law No. 21 of 2019 amending the legislation regulating personal status regarding determining the age of marriage.

²⁰³ State of Palestine Report to CRC Committee 2019, para 106.



In **Israel**, the legal age for marriage is 18 for both men and women. However, there are provisions that allow for marriage at a younger age under certain circumstances. The legal age for marriage in Israel is governed by the Israeli Marital Age Law 5710-1950. Under this law, individuals who are 16 or above can marry subject to the approval of a judge from the Family Matters Court and provided there are unique reasons to marry linked to the best interest of the minor. The Court must hear from the minor before deciding the issue. For minors below the age of 17, the Court must also request a social worker assessment.²⁰⁴ Minors younger than 16 may marry with the approval of the Minister of the Interior.

7.2.2 Documents necessary for Marriage Registration

Documents necessary for a marriage in the West Bank are as follows:

- personal identification cards of the individuals seeking marriage,
- copies of birth certificate of the individuals,
- copies of personal identification cards of two witnesses, along with their presence during the registration process,
- confirmation that there are no legal impediments to the marriage, such as a pre-existing marriage, if either party is from outside Palestine,
- proof of divorce for previously divorced persons,
- thalassemia test results from a health centre certified by the Ministry of Health,
- AIDS test results for non-Palestinian fiancés or fiancées who have been in Palestine for less than six months.
- where the bride's father is deceased, a death certificate with a confirmation of the transfer of legal guardianship over the bride to the nearest relative.²⁰⁵

Individuals seeking to register their marriage must fill out the information as per the list provided by the Sharia Court and provide the necessary documents. Once all prior steps are completed, the court legal officer assigned to the area will finalise the process. The officer prepares three (3) copies of the marriage contract. The fee is ILS105.²⁰⁶

The required documents for registering a marriage contract in Gaza are largely the same, with only minor differences in terminology. The main differences are in the prescribed fee and a few procedural details. In addition to the documents mentioned above for the West Bank, other necessary documents may include:

- *mukhtar's* affidavit. This document must be signed by the *mukhtar* (community leader) of one of the spouses, typically prepared by legal clerks,
- guardian's approval, is required, depending on the circumstances.

These requirements apply in both ordinary and exceptional circumstances, including during wartime. The fee for the marriage contract is set at ILS295.

Christian marriages follow different procedures. The law provides that, in order for an engagement to be valid, the parties must be of sound mind and have entered into the engagement freely, and that the betrothal must done be in accordance with the marriage laws of the Eastern Church, for Eastern Christians, and in accordance with Canon 1017 of the Latin Code of Canon Law, for Latin Christians.²⁰⁷

204 [State of Israel report to CRC Committee 2022](#), Combined fifth and sixth periodic reports CRC/C/ISR/5-6, 11 November 2022, para 19.

205 Palestine Cabinet website, [Issuing a marriage contract](#) (Arabic).

206 Palestine Cabinet, [Issuing a marriage contract](#) (Arabic).

207 State of Palestine Report to CRC Committee 2019, para 106.



Tahreer and Family (Photo: Yousef Hammash/NRC)

7.2.3 Informal Marriages

Informal marriages, often referred to as ‘common-law’ or ‘unregistered’ marriages, are rare but sometimes take place in Palestine. These informal marriages are not officially registered with the relevant government authorities and may not follow the formal legal procedures set out in the relevant laws.

Informal marriages are often recognized within the community or by religious authorities but don’t have the same legal standing as formally registered marriages. Children born outside of a legally recognized marriage, are treated as children born to unknown parents, even if the identity of the parents is known.²⁰⁸

7.3 Divorce

The grounds for divorce for Palestinians depend on their religious affiliation.

7.3.1 Divorces under Sharia Law

Under *Sharia* law, husbands have the right to unilaterally divorce their wives without cause (*talaq*) and outside of court proceedings.²⁰⁹ However, to formally certify the divorce and resolve issues related to the marriage including custody of children and payment of maintenance and *mahr*, the husband must file a lawsuit confirming divorce with *Sharia* courts.

If a husband makes a unilateral declaration of divorce but does not register the divorce in court, the wife remains registered in the husband’s name in the civil registry. Even after making a unilateral declaration of divorce, husbands can revoke their divorce within a certain period (*idda*), even without the consent or knowledge of the wife.

In Gaza, the same measures apply. However, the husband has a unilateral right to divorce, and the husband is not obligated to file a lawsuit confirming divorce with *Sharia* courts.

208 Human Rights Watch, [Palestine: Repeal of the Law of Marrying the Rapist](#), 10 May 2018.

209 NRC, *Sharia Courts and Personal Status Laws in the Gaza Strip*, p 20.



Women, conversely, can only divorce in more limited circumstances. These include:

- **Isma.** Women can include a specific clause in their marriage contract confirming that both husband and wife have an equal right to divorce. With this clause in the marriage contract, they are free to unilaterally divorce. In practice, on account of the social stigma attached to including *isma* in contracts, very few women do so.
- **Severance.** Severance of marriage occurs when a marriage is terminated by religious courts for certain specific reasons set out in the law. These include the following:
 - Absence for more than one year,
 - Imprisonment for more than three (3) years,
 - Inability to provide adequate maintenance (*nafaqa*),
 - Impotence or inability to consummate the marriage or,
 - Insanity or other serious physical or mental disease.²¹⁰
- **Khul' or quittance.** In accordance with *khul'*, a wife may end her marriage by consent with her husband in return for agreeing to forfeit her financial rights, including payment of maintenance and *mahr*. Women may also pay a sum of money by way of compensation to end the marriage.²¹¹
- **Khul'** is not actively implemented in Gaza's *Sharia* courts. Instead, the courts handle cases of **marital dissolution (*tafriq*)** for various reasons, including:
 - dissolution if the husband is missing,
 - dissolution due to discord and conflict,
 - dissolution due to apostasy,
 - dissolution for abandonment or neglect,
- **Tafwid al-talaq**, in which the husband delegates his powers to divorce either to his wife or to a third party. This is rare, but possible.²¹²

7.3.2 Christian Divorces

It is almost impossible for members of most Christian confessions to obtain a divorce, although divorce is possible under the Evangelical and Greek-Orthodox churches on very limited grounds of adultery. The Catholic, Greek-Orthodox and Evangelical churches permit annulment of marriage, dissolution of marriage or an end to marriage through temporary or permanent desertion in extremely restrictive circumstances.

7.3.3 Religious and Civil Law

In addition to religious laws, civil law can also play a role in divorce proceedings in East Jerusalem. Civil courts may have jurisdiction over certain aspects of divorce, particularly in matters related to civil rights, property division, and child custody arrangements. Civil law may provide additional grounds for divorce, such as irreconcilable differences or other statutory reasons outlined in civil legislation.²¹³

The specific procedures for initiating and obtaining a divorce in East Jerusalem depend on the religious or civil laws applicable to the individuals seeking divorce. Divorce proceedings typically involve filing a petition or application with the appropriate religious or civil authorities, followed by mediation, hearings, negotiations, and the issuance of a decree of divorce. Under Israeli law, mediation between the spouses before Family Assistance Units (FAU) is compulsory before the court will issue a divorce.²¹⁴

210 NRC, *Sharia Courts and Personal Status Laws in the Gaza Strip*, p 21.

211 NRC, *Sharia Courts and Personal Status Laws in the Gaza Strip*, p 21.

212 NRC, *Sharia Courts and Personal Status Laws in the Gaza Strip*, p 21.

213 Family Law Amendment (alimony), 559-1959.

214 Family Dispute Settlement (Temporary Provision) Law 5775-2014. See also State of Israel Report to CRC Committee, 2022, para 89.



Social workers can also make recommendations in family or religious court proceedings in relation to issues of parental custody or divorce. This includes issuing protective orders against violent family members who may affect the well-being of children in the relationship.

7.4 Parental Responsibilities

Legal responsibility for guardianship, care and custody of children are similarly governed by the religious denomination of the parties and the personal status rules and customs of that denomination.

Whilst both parents have responsibility for the upbringing of the child under Sharia law, the mother has a greater formal role under the concept of ‘*hadana*’ which involves custody of the child and daily care and responsibility, including raising the child and attending to daily needs. The *hadana* is always given to a female relative if the mother cannot perform this duty, such as the maternal grandmother, a sister, aunt or any viable female relative.²¹⁵

Legal guardianship or ‘*wilaya*’ typically rests with the father or the paternal grandfather. The guardian is the legal representative of the child and is responsible for major life decisions as well as the child’s legal status and financial affairs. The *wilaya* also guarantees the child’s access to citizens’ rights, such as a passport or enrolment in school. If the father cannot perform his duty for any reason, such as death or insanity, the *wilaya* passes to another male relative on the patrilineal side.

In the event of divorce or separation, the mother generally has maternal custody of the children until a certain age. The custody then reverts to the father or father’s relatives unless a judge determines otherwise in the best interest of the child. Even when the mother is the custodial parent, the legal guardian remains the father. In some cases, both parents can agree on shared custody. The age until which a mother has priority custody differs for the West Bank, Gaza and East Jerusalem, according to the sex and religion of the child.²¹⁶

Under Catholic Personal Status law, the rights and duties of parental authority (apart from breastfeeding) are confined to the father. Armenian-Orthodox law, however, does not limit guardianship to the father.

7.4.1 Guardianship of Children

Legal guardianship involves control over a child’s education, medical treatment, career guidance, consent to marriage and any other affairs concerning the minor’s interests. Guardianship of children is regulated by the religious laws of the parties. However, across all denominations, legal guardianship remains the prerogative of the father.

Sharia Law

Under Sharia law, the father, or the paternal grandfather in the absence of the father, has **legal guardianship** over children of the marriage as well as over any possessions of the child. Legal guardianship formally ends once a child turns 18. There are two types of guardianship, namely legal guardianship (*wilaya*) and appointed guardianship (*wisaya*).

Appointed guardianship (*wisaya*) applies in cases in which a guardian is appointed by the family or court. These are typically situations in which the father or paternal grandfather is not available or not considered suitable to act as guardian. For example, an appointed guardian may be organized by a father who is living overseas, or through the court for a father who is in prison. Further, the father can appoint a guardian for an unborn child in situations of pregnancy and can relieve the guardian from his or her duties. The appointed guardian can be either a male or a female.

If the child does not have a guardian chosen by the father or by the paternal grandfather, a judge of the *Sharia* Court can appoint a guardian to manage the child affairs, taking into account the best interests of the child. The judge appoints a temporary guardian for a particular task or for a specified period according to the child’s need.

²¹⁵ NRC, *Sharia Courts and Personal Status Laws in the Gaza Strip*, p 22.

²¹⁶ Musawah, *Thematic Report on Muslim Family Law and Muslim Women’s Rights in Palestine*, 2018, p 28.



Ashraf's Cave Home, Massafer Yatta (Photo: NRC)

Any other person who wishes to become a guardian for the child must obtain a guardianship certificate from the *Sharia* Court. Such certificates are usually for a certain objective (such as representing the child in a proof of birth lawsuit to issue a birth certificate for him/her and in relation to financial affairs). Such temporary guardianship arrangements are usually very strict and for a certain period of time. The law also differentiates guardianship over the minor/person (*al-wilayat ala al-nafe*) and guardianship over the minor's property (*al-wilayat ala al-mal*).

Other denominations

For Christian communities, the legal framework for matters like guardianship is typically based on the ecclesiastical or religious laws of the respective Christian sects. Each Christian sect has its own ecclesiastical courts that handle personal status matters, including issues related to guardianship. The appointment of a legal guardian for a minor or an incapacitated person is typically done through a legal process that may involve the ecclesiastical court. The guardian may be appointed to make decisions related to the person's well-being, education, and other important aspects of their life.

7.4.2 Custody

In cases of divorce, Palestinian law specifies priority custody for the mother up to a certain age. However, judges often extend the mother's custody in the child's best interest.²¹⁷

Upon divorce in the **West Bank**, in accordance with the Jordanian Law of Personal Status 1976 and *Sharia* Court circular No. 34 of 2018, a mother has priority custody until her children reach the age of 15 for both sons and daughters, provided she does not remarry. Where she remarries, custody transfers to the maternal grandmother. A mother's right to custody over her children may be extended by a judge if it is deemed to be in the best interest of the children.²¹⁸

In **Gaza**, the applicable law is the Law of Family Rights 1954.²¹⁹ For a male child (son), maternal custody continues until the age of 7 years, which can be extended by the judge up to 9 years. For a female child (daughter): maternal custody is until the age of 9 years, which can be extended by the judge up to 11 years. These provisions also provide the judge with the discretion to extend the custody period further based on the best interests of the child.

217 Women for Palestine, Custody in the light of the Palestinian *Sharia* law.

218 Article 162, Jordanian Personal Status Law of 1976 as amended by Article 1 of Law No. 1/2009 amending the Personal Status Law; Musawah, Thematic Report on Muslim Family Law and Muslim Women's Rights in Palestine 2018, p 29.

219 Article 118, Family Rights Law of 1954.



In **East Jerusalem**, parties may choose to use the Jordanian Law of Personal Status 1976 or the laws applicable in Israeli Sharia Courts. Under the laws applicable in Israeli Sharia Courts, the mother has priority custody over her son until the age of seven (7), and her daughter until the age of nine (9), if the mother has not remarried or unless it is otherwise agreed between the parents.²²⁰

Nevertheless, custody remains a challenge for many Palestinian mothers. Instances have been reported in Gaza where widows, having lost their husbands, faced threats of losing custody of their children if they refused to marry the brother of their late husband.²²¹ Additionally, studies in Palestine indicate that some women have felt compelled to relinquish their custodial rights over their children in exchange for their husband's agreement to a divorce.²²² Custody of children is sometimes wielded as leverage by husbands seeking to coerce women into surrendering property or financial rights during divorce, potentially undermining the child's best interests.²²³

Another factor relevant to a mother's custody of their children post-divorce is their frequent financial dependency on their ex-husbands. Whilst women have a right to maintenance for their children, this must often be enforced through court orders, leading to difficulties for women in providing financial support to their children.²²⁴

Loss of Custody

A mother may lose her right to custody in certain cases, such as if she remarries someone who is not a *mahram* to her child, if she does not guarantee the child's religious and moral maintenance, if she considered to be an apostate, or if her misconduct is proven.²²⁵ A *mahram* is a person to whom marriage is not a possibility under *Sharia* law.

7.5 Paternity of Children

In Palestine, the procedures for **establishing paternity** can vary based on the legal system and the specific laws governing family matters. The legal framework in Palestine may involve both religious and civil components.

Sharia Courts: For Muslims in Palestine, issues of paternity, are often dealt with by Sharia courts. In cases of paternity disputes, the *Sharia* court may consider evidence, witnesses, and legal arguments before making a finding on paternity.

Civil Courts: In addition to *Sharia* courts, there are civil courts in Palestine that handle certain family law matters, such as in relation to the payment of maintenance.

Legal Documentation: The determination of paternity may also involve examining legal documentation, such as birth certificates and marriage records. If there is a dispute over paternity, the court may request relevant documentation and may conduct hearings to consider the evidence presented by both parties.

DNA Testing: In cases where paternity remains in dispute, courts may order DNA testing to establish biological parentage definitively.²²⁶

In some instances, especially in mixed communities or families where individuals may be subject to different legal systems (*Sharia* and civil), determining paternity may involve a combination of procedures from both legal frameworks.

220 Musa Abu Ramadan, Latest Development regarding Children Custody in Sharia Courts, 2019, p 83.

221 NRC, The Shari'a Courts and Personal Status Laws in the Gaza Strip, 2011.

222 Musawah, Thematic Report on Muslim Family Law and Muslim Women's Rights in Palestine 2018, p 30.

223 NRC, The Shari'a Courts and Personal Status Laws in the Gaza Strip, 2011, p 14.

224 Musawah, Thematic Report on Muslim Family Law and Muslim Women's Rights in Palestine 2018, p 30.

225 NRC, The Shari'a Courts and Personal Status Laws in the Gaza Strip, 2011, p 22.

226 However, DNA testing is not applicable in Gaza.



Habib in Elementary School (Photo: Ahmad Al Bazz/NRC)

7.6 Maintenance

Palestinian Law

The legal framework for payment of maintenance (*nafaqa*), also known as 'alimony' or 'financial support', varies for Muslims and non-Muslims. However, husbands have a legal duty to provide for their wife and family under the personal status laws and codes of all religious denominations.²²⁷ This includes provision of food, clothing, medical expenses, education, housing and other living expenses.

Child maintenance is also a civil law obligation under the Palestinian Child Law.²²⁸ Where the father cannot afford to pay the maintenance, the obligation moves to the child's grandfather, mother or uncle, in accordance with the Jordanian Personal Status Code or the Gaza Family Rights Law. This obligation of maintenance continues until the male child becomes financially independent and the female child is married. Where the family is in financial hardship, the court-administered Maintenance Funds in both the West Bank and Gaza will contribute to the maintenance.²²⁹

The obligation to provide spousal maintenance continues throughout the marriage but ends if the wife initiates proceedings to terminate the marriage, such as through divorce, is deemed to be a 'recalcitrant wife' or if she fails to fulfil her marital obligations. The amount and duration of maintenance may vary based on factors such as the financial capacity of the husband and the needs of the wife. In Christian courts women lose their right to maintenance if they are found to be at fault for desertion.

The right to maintenance ends with the formal termination of the marriage by the court, although maintenance is payable for the first three months after the divorce during the 'waiting period' (*idda*) in which the husband can revoke the divorce. After this date the husband is no longer obliged to provide maintenance for his wife, although he has an ongoing obligation to provide financial support to his children who may be in the custody of his wife.

For non-Muslims, personal status matters, including maintenance, are typically governed by the religious laws of their respective communities. Different Christian denominations, for example, may have their own rules regarding spousal and child maintenance.

227 See for example, Articles 38-39, 170-171 of the Jordanian Personal Status Code or Article 164 of the Personal Status Code of the Diocese of the Latin Patriarchate of Jerusalem of 1954.

228 Article 29, Palestinian Child Law.

229 State of Palestine Report to CRC Committee 2019, para 242.



Palestine also has a civil legal system that may address certain aspects of maintenance, such as in relation to property issues or payments of maintenance. The civil legal system may be applicable to matters not covered by religious laws or in cases where individuals from different religious communities are involved.

Israeli Law

Women who are divorced, separated or are in non-marital arrangements as common-law spouses are entitled to maintenance for themselves and their children subject to a ruling of the Family Matters Court. In the event their spouse does not pay the spousal or children's maintenance, women can claim payment of maintenance through the National Insurance scheme, provided they have the necessary court order.²³⁰

7.7 Visitation Rights

Non-custodial parents generally have the right to visitation of their children, unless a court order specifically prohibits this. Circular No. 59/2012, issued by the Office of the Islamic Chief Justice (*qadi*) in the Supreme Judicial Court, states that the non-custodial parent shall have the right to host their child for one day (24 hours) per week, subject to the best interests of the child, and considerations of the age and circumstances of the child. This period may be extended by agreement between the parties.²³¹

In the event of disputes about visitation or the timing, dates or locations of parental visits, the Sharia Court, or Christian ecclesiastical court, will decide. Such decisions are based upon the available evidence and information, including the requests, interests and circumstances of the parents, and any other witness or social worker evidence. The court will also take account of the best interests of the child.

In the Sharia courts of Gaza, it is customary that the non-custodial parent is entitled to visit a child in the custody of the other parent at least once a week in a location agreed upon by both parties for a duration of two hours. The visitation schedule varies based on the child's age, as per Judicial Circular No. 22/2010 issued by the Office of the Chief Islamic Justice (*qadi*) in Gaza. If the child is older than three years, visitation is allowed for three hours daily. If the child is younger than three years, visitation is limited to two hours weekly.

During the current war in Gaza, the visitation system has been suspended.

7.8 Travel with Children

Palestinian Law

When it comes to **traveling with a child outside of the country**, the consent of the guardian (usually the father) is always required, even when the mother has custody over the child.²³² Moreover, the consent of the father (or the father's family) is required for the issuance of a passport for the child.²³³ In Gaza, Sharia courts have held that, not only children, but also unmarried women require the permissions of a male guardian to travel.²³⁴ However, this decision has not been implemented following its rejection by the majority of civil society organizations.

In cases where one parent attempts to take a child out of the country without the permission of the other parent, the other parent can apply for an administrative decision from the Sharia Court to stop the child's travel abroad without the consent of the other party. The Court advises the MoI of that decision and the child's name is communicated to security officers at the country's border crossings to prevent him or her from travelling. However, this can only be enforced at Palestinian border crossings.²³⁵

230 Alimony (Assurance of Payment) Law 5732-1972. See also State of Israel Report to CRC Committee, 2022 paras 111-112.

231 State of Palestine Report to CRC Committee 2019, para 122.

232 Musawah, Thematic Report on Muslim Family Law and Muslim Women's Rights in Palestine, 2018, p 29.

233 Article 166, Jordanian Personal Status Law of 1976.

234 The Guardian, [Women need male guardian to travel, says Hamas court in Gaza Strip](#), 2021.

235 State of Palestine Report to CRC Committee 2019, para 263.



Israeli Law

In East Jerusalem, pursuant to Sharia principles, the consent of the guardian parent is required for travel of children as well, unless agreed otherwise in the divorce agreement.

Within the West Bank issues related to travel of all individuals, including children, are subject to Israeli military law and regulations, as well as agreements and arrangements between the Israeli government and the PA. Palestinians living in the West Bank, especially Area C, often face significant restrictions on movement imposed by Israeli military checkpoints, barriers, and other security measures. These restrictions can affect the ability of Palestinians to travel within and between different areas, including for visitation purposes. Palestinians may be required to obtain permits from Israeli authorities to enter Israel, including East Jerusalem or Israeli-controlled areas, for visitation purposes. The issuance of permits is often subject to strict criteria and security considerations. There may be challenges, for example, with a West Bank parent who seeks to visit their children in East Jerusalem who are living with the other parent. They would need to apply for a permit or go through a court procedure.

If the spouse has a ban on travel, restriction orders, or if the spouse is not paying maintenance, Israeli courts will circulate the name of the spouse to other executive authorities, including those at borders and checkpoints.

7.9 Family Unification

Palestinians living in the West Bank, including Area C, may face challenges in obtaining family reunification permits to visit children or relatives residing in East Jerusalem. The process for obtaining family reunification permits can be lengthy and bureaucratic.

7.10 Inheritance

Under Sharia law, the father, or the paternal grandfather, acts as legal guardian for any possessions of the child, including **inheritance**. (*al-wilayat ala al-mal*). This includes managing, saving or investing any possessions of the child under guardianship, including any funds or properties. However, the guardianship may be revoked if the legal guardian misuses the funds, there is a risk of the possessions being lost or the guardian is missing, imprisoned or arrested. In such cases a temporary guardian may be appointed. Nor may the legal guardian donate, invest in or sell the properties of the child without a court order.



Nidal and Baby Son (Photo: Yousef Hammash/NRC)



Inheritance disputes for Muslims are usually handled by Sharia courts. Islamic inheritance laws specify the shares that heirs are entitled to receive from the deceased's estate. The rules determine the distribution among close relatives, including spouses, children, parents, and other relatives.

Under Islamic law, a portion of the deceased's estate can be distributed through the rules of inheritance (*faraid*), and the remainder may be subject to testamentary dispositions (*wasiyya*), allowing the deceased to allocate a limited portion of the estate to specific heirs or beneficiaries. Females are only able to inherit half of the male share, under Sharia law.

Different Christian denominations may have specific rules regarding inheritance that are administered by their respective ecclesiastical or church authorities.

7.11 Children of Unknown Descent

Palestinian Law

The Civil Status Law contains special procedures for registering foundlings, namely **abandoned children**, typically infants, who are found by others.²³⁶ The Child Protection Department within the Ministry of Social Development is responsible for matters of child welfare.

When a foundling is discovered, the police are notified. They then notify the Child Protection Department in the Ministry of Social Development, examine the child and conduct an investigation to establish any information about the child's identity and parentage. If no information is available about the background of the child, the child is transferred to a foundation specialising in child welfare issues and which cares for foundling children. Details such as the child's gender, clothing, condition, and location are recorded.

The Mabaret Al-Rahma Foundation performs this function in Gaza, whilst the Al Creche institution in Bethlehem, undertakes this role in the West Bank.

Mabaret Al-Rahma issues a birth notice with an estimated age and date of birth for the child and assigns a specific name, which is then sent by the Ministry of Social Development to the Mol. The Mol issues a birth certificate and an identity number for the child in accordance with the regulations.²³⁷ They hold the birth certificate application until a custodian is appointed by the Sharia courts. Whilst adoption is not legal under Sharia law, a form of custody or fostering, known as *ihtidan* is permissible. The appointed custodian then establishes a relationship of legal kinship with the foundling child.²³⁸ Children born outside of a 'recognized' marriage, even when their parents are identified, are treated as born with unknown parents.²³⁹

Israeli Law

Adoption under Israeli law is covered under the Child Adoption Law. A child may be eligible for adoption in the circumstances set out under the law, including in cases of non-consensual adoption in extreme cases where the child is at high risk of abuse or neglect and parents are unable to properly meet their parenting responsibilities or have a lack of parental capacity. Such decisions are made only following a comprehensive assessment when other placement options have failed to meet the child's well-being and parents are deemed incompetent with no likelihood of this changing in the foreseeable future.

236 Article 22, Palestinian Civil Status Law No.2 for the year 1999.

237 See also, State of Palestine Report to CRC Committee 2019, para 158.

238 Article 22, Palestinian Civil Status Law No. 2 of 1999.

239 Human Rights Watch, [Palestine: Repeal of the Law of Marrying the Rapist](#), 10 May 2018.



Camp Chores (Photo: Sherbel Dissi/NRC)

7.12 Alternative Care Arrangements

Palestinian Law

The Palestinian Child Law provides children who are deprived of their family environment with the right to alternative care through a foster family or public or private social institutions.²⁴⁰ Fostering arrangements may be temporary or permanent, depending on the context.

The Juvenile Protection Law also guarantees that the juvenile should be transferred to a foster family if he or she cannot be protected and cared for by his or her own family, provided that this falls within his or her best interest.²⁴¹ The Ministry of Social Development in the West Bank or Gaza, takes care of children who have no one to care for them and places them with a member of the extended family who may be entrusted with the child's welfare.

More recent procedures enacted in the West Bank after 2013 on the same subject include Cabinet Decision No. (4) of 2014, which outlines the regulation for alternative temporary foster families. This regulation aims to provide care for children at risk or at risk of delinquency by placing them in temporary foster families. It sets the conditions and criteria for these families, as well as the procedures for submitting care requests and the mechanisms for follow-up and supervision. This decision complements Cabinet Decision No. (10) of 2013, focusing specifically on temporary foster care for children in need. In addition to formalised foster care, informal kinship care arrangements are very common in Palestine. This happens where relatives, friends, or neighbours take care of other persons children subject to agreement and without formal arrangements.

In cases where the child's physical or psychological safety is threatened, the Child Law states that a Child Protection Counsellor can take consensual action with the child's family to eliminate the danger or the threat to the child's safety. The process allows a child to stay with their family provided their life or safety are not at risk.

Care within the Family

If it is appropriate to keep the child within his or her family subject to protective measures, the Child Protection Counsellor must do the following:²⁴²

²⁴⁰ Article 2, Palestinian Child Law. See also Article 22, Palestinian Civil Status Law No.2 for 1999.

²⁴¹ In accordance with the Foster System Regulations adopted by the Council of Ministers in 2013.

²⁴² Article 24, Executive Regulations on Child Protection Procedures and Rights Granting No. (16) of the Year 2022.



- hear the child's statements and ensure that there is no danger that requires removing the child from his or her family environment.
- if the child can safely be kept within the family unit, the counsellor must conclude a document setting out the protective measures to be put in place with the child's parents, guardian or caregiver. All parties must sign it and pledge to adhere to all of its provisions.

If the family does not comply, the Child Protection Counsellor can remove the child from the family after obtaining a court order. However, the child's parents, guardian or caregiver, or a child over 13, can object to the Child Protection Department regarding the actions taken by the Child Protection Counsellor within 15 days of being notified of a decision. The objection shall be heard before the Juvenile Prosecution Unit or the competent judge if the decision on protective measures was issued through a judicial decision.

Child Protection Counsellors are required to follow up regularly to make sure the protection measures agreement signed with the parents, guardians or caregivers is being properly implemented within the agreed time period. They must do the following:

- ensure that the implementation of the agreed measures serves the best interests of the child,
- follow up on the results of the agreed measures with the child,
- periodically contact and communicate with the child to determine his or her situation,
- review the provisions of the document and consider amending them if necessary to ensure, that the child remains in his or her family environment and is not separated from his parents or is returned to them as soon as possible,
- educate and guide the child and assist his or her parents, guardian or caregiver,
- provide the parents, guardian or caregiver with advice and counseling on the best interests of the child,
- follow up with the child academically, socially and psychologically through coordination with the school administration.²⁴³

Care outside the Family Unit

In cases where the child cannot be returned to his or her family, it is the responsibility the Ministry of Social Development to identify a **suitable place of residence** for the child and to continue to make routine visits to the child to ensure their needs for protection and safety are being met. The MoSD is also required to ensure that children remain in contact with one or both parents, close family members, or another appointed custodian throughout any trials, investigations, and/or separation procedures.

The MoSD follows a certain hierarchy when handing over the child to a person or entity who can take care of him/her. Children are to be entrusted to carers in the following order of priority:

- the person with guardianship or custody over the child,
- a member of his or her family or relatives,
- a temporary alternative family that undertakes to take care of the child in accordance with the standards and controls specified by Cabinet Resolution No. (4) of 2014 on the Temporary Alternative Families Regulations.
- an entity specialized in childcare and officially recognized.

Children can also be prevented from frequenting certain places, either in coordination with his or her parents, guardian, the person in charge of the child's care, or by the police or by the Child Protection Counsellor. Children may be prohibited from engaging in a certain job or work.

243 Article 25, Executive Regulations on Child Protection Procedures and Rights Granting No. (16) of the Year 2022.



The Child Law further provides that children have the right to express their opinion in legal, social or educational proceedings concerning their personal circumstances. If a court decides to remove a child from their home and family, MoSD and the court will agree upon set procedures that will allow the child to have regular and routine contact with the family under proper supervision.

The removal of children can only occur following significant engagement by the Child Protection Counsellor and with the right of judicial review by parents or guardian in relation to any decision to remove children from their families.²⁴⁴ In practice, there are numerous challenges and obstacles including an absence of institutions who can safeguard child victims of violence in Palestine.²⁴⁵ Another obstacle arises in protecting children lacking family support, mainly due to resource constraints within the foster care system. Children who are orphans or have disabilities and need specialized care are often placed in institutions overseen by NGOs reliant on donations or financial assistance, creating uncertainty about their stability.²⁴⁶

As a result of the current war in Gaza, there are very few alternative care arrangements in place for orphaned or abandoned children. Some children have been transferred to SOS children's villages. These are located in Rafah and established in 2000 as part of the SOS Children's Villages initiative in Palestine, which began in the 1960s. The Al-Amal Institute for Orphan Care in Gaza also hosts dozens of orphaned children, particularly in the context of the current war, providing shelter, education, and other services through its programs.

Israeli Law

Under the **Israeli child protection system**, 'Planning, Intervention and Evaluation Committees' (PIECs) exist to explore welfare and alternative care arrangements for at-risk children. These Committees consist of inter-organisational and multi-disciplinary teams which consider risks and evaluate options for family preservation or alternative care arrangements in intra-family cases for children who require intensive interventions.²⁴⁷ Where children are in situations which jeopardise the ability of children to exercise their basic rights to security, protection and dignity, different options are available including out of home placements.²⁴⁸ The options include residential care, including educational or rehabilitative arrangements, psychiatric hospitalization, foster care, kinship care, adoption or short-term emergency services.

Temporary or permanent removal is only considered as an option in unavoidable situations where other community-based options are not possible.²⁴⁹ However, Interim Orders may be requested from the Juvenile Court which allows at-risk minors to be removed from their home for up to 30 days whilst their situation is assessed. Social workers may also issue an Emergency Order in high-risk intra-family situations which allows them to remove a minor from home for up to seven (7) days in extreme cases.²⁵⁰ The Children Foster Care Law 5776-2016 governs foster care arrangements for children who cannot stay with their natural family. Decisions on foster care families take account of the most suitable foster care arrangements for the child, according to her or his best interests and specific needs. Wherever possible, placement will be among the child's family members.²⁵¹ The Children's and Youth Complaints Commission deals with complaint for out-of-home placed children.²⁵²

Adolescents in situations of delinquency, such as youth in trouble with the law or truancy from school, can be assessed by the Youth Protection Authority Rehabilitative Services Division within the Ministry of Labour, Social Affairs and Social Services who operate a number of hostels.²⁵³

244 Article 65, Palestinian Child Law.

245 This is contrary to the contrary to the obligation outlined in Article 21 of the Juvenile Protection Law.

246 Joint Alternative Report to the State of Palestine's Initial Report to the Committee on the Rights of the Child, 2019, p 29.

247 Gottfried and Ben-Arieh, p 13.

248 Gottfried and Ben-Arieh, p 13.

249 Gottfried and Ben-Arieh, p 14.

250 Gottfried and Ben-Arieh, p 14.

251 State of Israel Report to CRC Committee 2022, paras 31-32, 91-97.

252 State of Israel Report to CRC Committee 2022, para 80.

253 Gottfried and Ben-Arieh, p 14.



School Activities (Photo: Yousef Hammash/NRC)

8. RIGHTS TO HEALTH, EDUCATION, SOCIAL WELFARE AND OTHER RIGHTS



8.1 Right to Health

As occupying power in both the West Bank and Gaza, Israel has ultimate responsibility for the provision of health care to the protected population.²⁵⁴

Under the Oslo Accords, the PA is technically responsible for the delivery of health care in the West Bank and Gaza.²⁵⁵

West Bank

In practice, the PA provides **health care services in Areas A and B of the West Bank** through the Ministry of Health. It is severely limited in its ability to provide health care to Palestinian populations in Area C due to Israel's general refusal to allow the establishment of health care clinics as well as due to restrictions on freedom of movement, such as checkpoints and roadblocks, for both Palestinian communities and for Palestinian medical professionals, including ambulance services.²⁵⁶

Gaza

The laws applied concerning **public health in Gaza** are the same as those in the West Bank, except for restrictions imposed by authorities in Gaza on raising insurance premiums for various social groups annually.

Since 2007 the PA have been unable to exercise any governance functions within Gaza and the *de facto* authorities, including the Gaza Ministry of Health, have been responsible for provision of basic health services. They, in turn, have been severely limited due to the Israeli blockade, the inability to provide the full range of necessary health services and restrictions on the ability of Palestinians to travel outside of Gaza for medical treatment. Many members of the public seek services at private hospitals or certain associations that address medical issues through their centres.

²⁵⁴ In accordance with Article 56 of the Fourth Geneva Convention, the Occupying Power (with the cooperation of national and local authorities) must, to the fullest extent of the means available, ensure and maintain medical and hospital establishments and services and public health and hygiene, and adopt the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics.

²⁵⁵ Article 6, Oslo Accords.

²⁵⁶ State of Palestine Report to CRC Committee 2019, para 316.



Since 7 October 2023 the vast majority of hospitals and health care services in Gaza have been destroyed by Israel and the supply of medicines and life-saving equipment and material is critically limited.

East Jerusalem

Israel provides health care to Palestinians in East Jerusalem with Israeli ID cards (i.e. East Jerusalemites).

8.1.1 Health Care Services and Entitlements for Children

Palestinian Laws

In general, the Palestinian Child Law grants Palestinian children the right to a standard of living suitable for their physical, mental, spiritual, and social development and the State must take all necessary measures to protect such rights.²⁵⁷

According to the Palestinian Public Health Law of 2004, the Ministry of Health must give children and women priority in health care. Moreover, the Palestinian Child Law grants children under the age of six the right to free healthcare subject to the Public Health Law and Health Insurance Law and the regulations in force.²⁵⁸ The Health Insurance Law also grants pregnant women and children under the age of three the right to free primary care services and check-ups regardless of whether they are insured or not, in order to monitor their pregnancy and the growth and development of young children.²⁵⁹

Outside of public health facilities, children can access medical services, provided that their family has valid health insurance.

The Ministry of Health must issue a health card for each child whose data is recorded in the relevant health office. Such cards should be kept in the school file of each school-age child and must be submitted to the school doctor in case of the need for medical examination of the child. The medical condition of the child must also be recorded on the card.²⁶⁰

The Health Insurance Law grants Palestinian visitors the right to health care on an equal basis with Palestinian nationals. This is defined to include Palestinians in Palestine who have a visit permit or any person of Palestinian origin residing in territory controlled by the PA as evidenced by a permanent residency document issued by the Ministry of Interior.

Other health-related rights to which Palestinian children are entitled include the right to childhood vaccinations, the right to food and drinks which meet national health and safety standards,²⁶¹ the right to be protected from hazardous products, such as unsafe toys, and access to appropriate mental health programmes.²⁶² For example, in Palestine, the right to receive vaccinations is regulated by the Palestinian Public Health Law (2004) and the National Immunization Program (NIP), operated by the Ministry of Health (MoH). The law ensures free vaccinations, particularly for children, to prevent diseases like polio and tuberculosis. The program follows WHO and UNICEF guidelines and is supported by international organizations to ensure accessibility, regardless of socio-economic status, through public health centres and health insurance coverage.

²⁵⁷ Articles 22-23, 30, Palestinian Child Law.

²⁵⁸ Article 22, Palestinian Child Law.

²⁵⁹ Annex 2 of the Palestinian Health Insurance Law.

²⁶⁰ Article 23, Palestinian Child Law.

²⁶¹ The National Strategy for Food Safety (2017-2022), developed by the Palestinian Cabinet with the Ministry of Agriculture, Health, and National Economy, sets guidelines for food inspection, quality control, and the management of smuggled products. It addresses coordination issues between institutions for food safety. Additionally, the Palestinian Technical Regulations, issued by the Palestinian Standards Institute (PSI), regulate substances added to foods to ensure their safety and quality.

²⁶² Articles 1, 43, 44, 52, 57, 58, 59, 61, 65, Palestinian Child Law.



Gaza

Whilst the Public Health Law, Child Law and Health Insurance Law apply equally to children in Gaza in theory, as of June 2007, the healthcare system in Gaza was taken over by a separate health ministry (the 'Gaza Health Ministry'), which was created by *de facto* authorities in Gaza independently from the PA.

The Gaza Ministry of Health provides vaccinations and certain treatments free of charge for children, either in health centres or schools. However, for general healthcare, families are required to pay nominal fees based on the family's health insurance coverage. Despite this, public health facilities lack adequate monitoring of the quality of care provided, prompting many families to seek treatment for their children in private hospitals or with private doctors.

Prior to 7 October 2023, children in Gaza with medical needs that could not be met in Gaza could apply for medical transfer to hospitals in East Jerusalem and the West Bank, and sometimes hospitals inside Israel. This is no longer possible.

Before the destruction and full closure of the Rafah crossing on 7 May 2024, the Palestinian Red Crescent (PRC) was able to evacuate a small number of children with urgent and life-threatening needs to Egypt. In practice, the PRC coordinated with Egyptian authorities at the Rafah border. A medical report was provided outlining the medical treatment required by the child. Egyptian health authorities then provided details of the child to Israeli authorities who assessed the situation and made a decision as to whether or not they would permit transfer of the child across the border. A parent or legal guardian was technically permitted to cross with the child into Egypt. However, in many cases Israeli authorities rejected the name of the guardian, especially if they were male. If both Egyptian and Israeli authorities agreed, the child could be transferred into Egypt for medical treatment. After the Israeli occupation of the Rafah Crossing on 6 May 2024, no cases have been evacuated from the Rafah Crossing. A small number of child cancer patients were medically evacuated through the Karem Abu Salem checkpoint to the UAE and Jordan.

Following 7 October 2023, the healthcare system in Gaza has completely collapsed and is considered decimated as declared by the WHO Chief.²⁶³

Israeli Laws

The Israeli healthcare system entitles all Jerusalem ID card holders the right to receive free healthcare services funded by the Israeli government.²⁶⁴ Palestinians with West Bank identity cards do not have access to Israeli health services.²⁶⁵

Under Israeli laws, children in grades 1-9 are entitled to health services in school.

263 UN News, [WHO chief decries 'decimation' of Gaza health system](#), 24 December 2024.

264 Pursuant to the National Health Insurance Law 5754-1994.

265 WHO, [Health conditions in the occupied Palestinian Territory, including east Jerusalem and in the occupied Syrian Golan](#), A76/15, 17 May 2023.



8.1.2 Children with Disabilities

Palestinian Laws

Both the Rights of Persons with Disabilities Law of 1999, and the Palestinian Child Law state that **persons with disabilities (PWD), including children, shall enjoy equal rights and shall not be discriminated against because of their disability.**²⁶⁶ The Law on the Rights of Persons with Disabilities was followed by a Palestinian Cabinet decision that amended and enhanced some of the articles on the procedural aspects of the law.²⁶⁷

Under the Child Law, all Palestinian children are entitled to the same rights without any discrimination, including those with disabilities.²⁶⁸ The law requires the Palestinian State to provide education and training to children with special needs in private schools, classes or centres provided that such places (i) are connected to the standard education centre and adequate to the child's needs; (ii) close to the place of residency of the child and can be easily accessed; (iii) offer all types and levels of education based on their needs; and (iv) provide teachers skilled to educate and train children with special needs.²⁶⁹

In addition, the State is required under the law to take all necessary actions to ensure that children with special needs have necessary care in all aspects, including education, to help them rely on themselves and participate in the society effectively.²⁷⁰ Children with disabilities also receive cash assistance from the MoSD.

Israeli Laws

The key piece of Israeli legislation for persons with disabilities is the Equal Rights for Persons with Disabilities Law 5758-1998 (the 'Equal Rights Law'). This also covers Palestinians legally resident in East Jerusalem. The objective of the law is to protect the dignity and freedom of PWD, promote the rights of PWD to participate equally and actively in society in all the major spheres of life, and provide an appropriate response to their special needs, in such a way as to enable them to live with maximum independence, in privacy and in dignity, realizing their full potential.²⁷¹ Person with disabilities between the ages of three to 21 are entitled to receive free special education services under the Special Education Law 5748-1988.²⁷²

Families with children with disabilities and medical conditions are eligible for Disabled Children's Allowance, as well as different types of support and benefits under the Equal Rights law including financial assistance, rehabilitative day-care, family counselling centres and support programmes.²⁷³ Additional services, including out-of-home placements, and community services are available for persons with disabilities under the Welfare Law (Treatment for Persons with Intellectual-Developmental Disabilities).²⁷⁴ The Israeli Ministry of Health works to rehabilitate and integrate persons with mental disabilities into the community in accordance with the Rehabilitation of Mentally Disabled Persons in the Community Law 5760-2000.²⁷⁵

266 Article 2, Palestinian Rights of Persons with Disabilities Law and Article 3, Palestinian Children' Law.

267 Cabinet Decision No. 40 of 2004 on the [Executive Regulations of Law No. \(4\) of 1999 concerning the Rights of Persons with Disabilities](#).

268 Article 3, Palestinian Child Law.

269 Article 41, Palestinian Child Law.

270 Articles 3, 8, 11, 28, 3, 41 42, Palestinian Child Law.

271 Article 2, Israeli Equal Rights for Persons with Disabilities Law 5758-1998. See also State of Israel Report to CRC Committee 2022, para 118.

272 See also [Israeli Government Report to the Committee on the Rights of Persons with Disabilities](#), CRPD/C/ISR/1, submitted on 18 May 2017, paras 121-122, 330-336.

273 Articles 7, 23, 28, Israeli Equal Rights Law. See also [Israeli Government Report to the Committee on the Rights of Persons with Disabilities](#), paras 330-336.

274 Article 7A(b), Israeli Welfare Law (Treatment for Persons with Intellectual-Developmental Disabilities).

275 See also [Israeli Government Report to the Committee on the Rights of Persons with Disabilities](#), para 191.



Beita Elementary School (Photo: Ahmad Al Bazz/NRC)

8.2 Right to Education

Palestinian Laws

In the West Bank and Gaza, **education** is regulated by the Palestinian Law of Education of 2017 and is under the supervision of the Palestinian Ministry of Education and Higher Education. The Palestinian Basic Law and the Palestinian Child Law, affirm the right of all children to receive free education in State schools, without discrimination, until their completion of secondary-level education.²⁷⁶

Since 2007 there has been a unified education curriculum between the PA authorities in Gaza, particularly with respect to the *Tawjihi* (high school matriculation exams), which are standardized across both regions. The educational curriculum is consistent from early education through to the *Tawjihi*.

West Bank

Whilst the PA have limited authority within Area C of the West Bank, they are responsible for education for Palestinian children.²⁷⁷ They provide teachers for Palestinian schools and teaching materials and sometimes organise transport for school children.²⁷⁸ However, Israeli authorities have overall responsibility for Area C, including for building, planning and civil administration, and generally refuse the building of schools for Palestinians, as well as any alterations, renovations or extension of Palestinian schools. Schools that are constructed without Israeli approval in Area C face demolition. This severely limits the access of Palestinian children to school as well as their educational opportunities.²⁷⁹

Gaza

Certain articles of law the Education Law No. 1 of 2013 within Gaza stipulate the segregation of males and females in all educational institutions after the age of nine and the feminisation of schools, prohibiting men from teaching female students.²⁸⁰ These articles caused widespread controversy within Gaza at the time.²⁸¹

²⁷⁶ Article 24, Palestinian Basic Law and Articles 37-38 of the Palestinian Child Law.

²⁷⁷ Article 9 of the Protocol Concerning Civil Affairs of the Israeli-Palestinian Interim Agreement Oslo Accords. See also NRC, *Raided and Razed*, p 36-37.

²⁷⁸ State of Palestine Report to CRC Committee 2019, para 363.

²⁷⁹ NRC, *Raided and Razed*, pp 7, 19-21. See also Education Cluster/UNICEF, [Protecting the Right to Education for Children in Area C of the West Bank](#), September 2023; State of Palestine Report to CRC Committee 2019 para 374.

²⁸⁰ Birzeit University, [The new education law in Gaza, its implications and challenges](#), (roundtable discussion outputs).

²⁸¹ Articles 46-47 of Education Law No. 1 of 2013.



Israeli Laws

Education in East Jerusalem is subject to Israeli laws. Following the Oslo Accords, Israel implemented policies aimed at asserting control over Jerusalem, pressuring Palestinian schools to adopt Israeli curricula.²⁸² There is a massive shortage of school-classrooms in East Jerusalem and the Jerusalem Ministry is constructing many new classrooms. Despite the status of East Jerusalem as occupied Palestinian territory, only half of the planned new classrooms will be for Arabic-speaking children.²⁸³

8.2.1 Basic Education and Compulsory School Enrolment

Palestinian Laws

Under the Education Law, education is compulsory until grade ten and free in all governmental educational institutions.²⁸⁴ Every guardian or parent is required to enrol his or her children with primary educational institutions and is subject to a fine in case he or she fails to do so.²⁸⁵ Children of Palestinian nationals are eligible to apply to public and private schools and non-Palestinian nationals must hold a residency permit to be accepted into schools. UNRWA schools are free of charge.

The Palestinian Ministry of Education supervises education in public schools, as well as colleges and universities in Palestine. The Ministry of Education issues certificates for:

- **Mandatory general education:** ten years of mandatory primary and intermediate school (ages five years old and six months and above) until the tenth grade, and
- **Secondary education:** two-year academic education for (i) high school to qualify for college and university education; or (ii) trade school, which includes industrial, commercial, agricultural, nursing, or hospitality, which qualifies students for community colleges or certain universities that align with their field of education.²⁸⁶

Gaza

Despite the war, some coordination has taken place between the respective Ministries of Education in the West Bank and Gaza. Some educational staff are affiliated with the Ministry of Education in the West Bank, work in Gaza on behalf of the West Bank-based ministry and receive their salaries from the West Bank Ministry of Education.

With no functioning schools in Gaza, temporary educational points have been established through international organizations and local community efforts. There has been practical coordination with the Ministry of Education through administrative supervisors who conduct visits to camps and educational points. Students are now being registered in the system. However, such educational points still require official recognition in order to be accredited, which would enable them to issue formal academic certificates.

As a result of the current situation, the Ministry of Education is currently concentrating on e-learning initiatives. Online education is being led by teachers from the West Bank and implemented in Gaza. The e-learning platform, known as *eSchools*, caters to more than 250,000 students across all grades.

282 State of Israel Report to CRC Committee 2022, paras 155-156; see also JLAC, [Factsheet: The Israeli measures impacting Palestinian education in East Jerusalem](#), August 2023.

283 State of Israel Report to CRC Committee, 2022, paras 155-156.

284 Within Gaza, an official directive was passed by authorities in 2022 mandating fee and compulsory education in government schools.

285 Article 5, Palestinian Law of Education.

286 The State of Palestine Ministry of Education. (moehe.gov.ps).



Israeli Laws

Under the Israeli Compulsory Education Law 5709-1949, all children between the ages of three to 17 are required to attend school. The Israeli state provides free education to children as of the age of three to four in public kindergartens and subsidized education in private kindergartens in certain cases. Education is also free in primary and high schools.²⁸⁷

The Israeli education system is split into the following:

- **Pre-Compulsory Kindergarten:** This is for children aged between three to five. Pre-compulsory kindergartens are operated by local authorities and the Israeli state provides free education for pre-compulsory kindergartens.
- **Compulsory Kindergarten:** This is for children aged five and is free of charge.
- **Primary School:** This consists of grades 1-6. The school curriculum is compulsory and uniform throughout all state schools.
- **Junior High School:** This consists of grades 7-9 and the school curriculum is not in its entirety compulsory and uniform throughout all state schools.
- **Senior High School:** This consists of grades 10-12 and the school curriculum is not in its entirety compulsory and uniform throughout all state schools.

In East Jerusalem, schools are currently run by two authorities: the PA and the Israeli authorities. The Oslo Accords granted the PA some autonomy over the education system which encompassed activities like textbook creation, exam administration (*tawjihi*), and management of the educational system. However, Israel has been exercising increasing control over various aspects of the education system for Palestinian children, including funding, operations, staffing of schools, land allocation for new educational institutions, teacher training, and program initiatives aimed at supporting underprivileged students.²⁸⁸

Schools in East Jerusalem are divided into the following categories:

- **Official and recognized schools** under the management and funding of the Israeli Ministry of Education (MoE) (Ma'arif schools) (approx. 46 per cent)
- **Private schools**, including religious schools (approx. 30 per cent)
- **Awqaf schools**, which were established pre-1967 and which are managed by the Islamic Waqf, and funded by the Palestinian Ministry of Education, without support from the Israel Ministry of Education. (approx. 14 per cent)²⁸⁹
- **Recognized but unofficial schools** which are often private, partially managed, and funded by the MoE. (semi-Ma'arif schools) (7 per cent)
- **UNRWA schools** (approx. 3 per cent of students).²⁹⁰

287 Israeli Compulsory Education Law, 599-1949.

288 Gad Yair and Samira Alayan, 'Paralysis at the Top of a Roaring Volcano: Israel and the Schooling of Palestinian in East Jerusalem' 2009.

289 JLAC, Factsheet: The Israeli Measures Impacting Palestinian Education in East Jerusalem, August 2023; NRC, Raided and Razed, p 8.

290 State of Palestine Report to CRC Committee 2019, para 376; JLAC, Factsheet: The Israeli Measures Impacting Palestinian Education in East Jerusalem, August 2023; NRC, Raided and Razed, p 8.



Girls at the Maan Development Center (Photo: Yousef Hammash/NRC)

8.2.2 Documents Required for School Registration

Palestinian Laws

In order to register at school, children in both the West Bank and Gaza must have a birth certificate and the father must have a Palestinian identity card.

Israeli Laws

For registration in kindergarten, school and high school, an Israeli identity card for both parents or immigrant's certificate is required. For school registration, a birth certificate and any documents from educational institutions that the student attended prior to migrating to Israel must also be provided.

For high school registration, certificate of completion of previous grades are additionally required. If the child has studied overseas, they should provide documentation in relation to their studies completed overseas.

8.3 Right to Social Welfare and Assistance

Palestinian Laws

Children have the right to food, clothing, housing, healthcare and education under the Palestinian Child Law. Their parents or guardians are responsible for taking care of their needs. Children are also entitled to a standard of living that ensures their physical, mental, spiritual and social growth and development and the State is obliged to take all necessary measures to protect such rights.²⁹¹

As legal guardians, fathers have the obligation to financially maintain their children until they turn 18, including in situations where father and mother are separated. Where a parent or guardian is unable (or unwilling) to cover the costs of child maintenance, the court-administered Maintenance Fund is required to bear such costs.²⁹²

In addition, the following categories of children are entitled to receive social assistance in accordance with eligibility conditions set by law:

²⁹¹ Articles 29-30, Palestinian Child Law.

²⁹² Article 29, Palestinian Child Law.



- orphans,
- children in social welfare institutions,
- children of divorced or abandoned parents with no breadwinner,
- children of imprisoned, disabled or missing parents,
- children of families whose houses have been destroyed or burnt,
- disabled children and
- triplets (or more).²⁹³

Children deprived temporarily or permanently of a normal family environment have the right to alternative care through foster families or social welfare centres if no foster family is available.²⁹⁴

Israeli Laws

Families with children receive a monthly child allowance (uniform benefit) under the National Insurance (NI) scheme, which also includes an additional monthly allowance by the NI which is allocated to a special long-term savings account run by the NI under the child's name. Various other specific child allowances are available including a birth allowance, study allowance and allowances for children in foster care.²⁹⁵ The NI scheme provides a statutory obligation for certain categories of carers to provide for the needs of persons under their care. If not, they are liable to three years imprisonment. This includes parents of a child under the age of 14 and persons under their care who are unable to provide for his or her own needs. The obligations also apply for persons required by law to provide for the needs of the person under care.

Parents or carers are required to provide food, clothing, bedding and other essentials to the extent necessary for the maintenance of the well-being and health of the persons under care. Israeli law grants children the right to a monthly allowance, but this is only applicable to Israeli citizens and does not appear to apply to East Jerusalemites.

8.4 Right to Freedom of Expression and Association

Both the International Convention on Civil and Political Rights (ICCPR) and the Convention of the Rights of the Child (CRC) confirm the **right to freedom of opinion and expression**,²⁹⁶ as well as the **right to freedom of assembly and association**.²⁹⁷ In accordance with the ICCPR:

*No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*²⁹⁸

Although States have the right and obligation to prohibit “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” they must do so with due respect to the right to freedom of expression.²⁹⁹ In practice, interpretations of what constitutes the legitimate expression of free expression and what freedoms can be restricted on public order grounds are subjective and frequently contested.

²⁹³ Article 31, Palestinian Child Law.

²⁹⁴ Article 32, Palestinian Child Law.

²⁹⁵ State of Israel Report to CRC Committee 2022, paras 135-138.

²⁹⁶ Article 19 of ICCPR and Article 13 of CRC.

²⁹⁷ Articles 21-22 of ICCPR and Article 15 of CRC.

²⁹⁸ Article 19 of ICCPR.

²⁹⁹ Article 20 of (2) of ICCPR. OHCHR, Public Statement, Israel/oPt: Respecting and enabling civil society, human rights defenders and peaceful protests is vital for achieving sustainable ceasefire and just peace, 13 Feb 2024.



In occupied Palestine, young Palestinians are often arrested and charged by Israeli authorities (and sometimes by Palestinian authorities) for 'public order' offences when exercising their right to freedom of expression and association.³⁰⁰

Palestinian Laws

Children have the **right to freely express their opinion** under the Palestinian Child Law. Their opinions should be considered, taking account of their age and level of maturity. Children are entitled to express themselves in judicial proceedings and social and educational contexts based on the child's circumstances.³⁰¹ They also have the right to privacy under the Palestinian Basic Law.³⁰² Children also have the right to form associations or platforms, such as the Palestine National Child Council, to be represented on public policies and to have their opinions taken into account.³⁰³

However, in practice Palestinian children have been charged and convicted for offences related to freedom of expression under the Jordan Penal Code which is still applicable in Palestine. This includes prosecution under articles penalising 'weakening national sentiment' or 'disseminating false news that undermines a nation's morale'.³⁰⁴

300 PBS News Hour, [Palestinians describe harassment from Israeli forces over social media posts during war](#), 4 January 2024; The American Prospect, [Israel Rounds Up Palestinians for Social Media Posts](#), 12 December 2023.

301 Article 12, Palestinian Child Law.

302 Article 32, Palestinian Child Law.

303 Article 15, the United Nations Convention on the Rights of the Child (CRC).

304 Articles 130 and 131, Jordan Penal Code.



Community Day in Khan Younis (Photo: Yousef Hammash/NRC)



Israeli Laws

Under Israeli laws, children have the same right to freedom of expression as adults.³⁰⁵ Children are allowed to express their opinion in schools, as long as they do not contravene Israeli laws.

In practice, many thousands of Palestinian children have been arrested and detained for exercising their right to freedom of expression in breach of Israeli laws, including Military Orders.³⁰⁶ Many children have been arrested for their usage of social media, including posting, forwarding or liking content which may be consistent with international law but is deemed to breach Israeli law.

8.5 Right to Social Development

Social development involves ensuring that children are provided with the proper environment, conditions and opportunities for allowing them to realise their human potential. This includes educational, social, cultural and sporting opportunities.

Palestinian Laws

The right of children to play and rest, to engage in appropriate activities and to participate freely in cultural life and the arts is enshrined in the Palestinian Child Law.³⁰⁷

West Bank

Responsibility for social development lies with the Palestinian Ministry of Social Development, whilst the Ministry of Culture promotes cultural events and programmes, including for children. The MoSD is responsible for overseeing social welfare programs and services and aims to promote social protection and support for vulnerable groups, including children, women, the elderly, and people with disabilities. Key functions of the Ministry include the development and implementation of social policies, the provision of social services and programs, the establishment of community development projects, and the coordination of efforts with other government agencies and civil society organizations. The Higher Council for Youth and Sports operates various sports and recreational programmes.³⁰⁸

Gaza

The Ministry of Social Development is also the entity responsible for the care of children and juveniles in Gaza through its Department of Child and Family Protection. Organisations such as the 'Culture and Free Thought Association' operate the Nawwar Cultural Center, located in Khan Younis which provides services to children aged 6–12 years, their families, professionals, educators, and those working in the field of childhood development.

Israeli Laws

The Israeli Ministry of Community Services runs initiatives in order to promote the participation of children in culture and sports activities. Activities in Jerusalem are coordinated by the Jerusalem Municipality. The Ministry of Labour and Social Affairs has established a unit for Arabic speaking children in East Jerusalem.³⁰⁹

305 Decisions of the Israeli high court have recognised the principle of freedom of expression or "Kol Ha'am", as a constitutional value.

306 For example, under Military Order 1651, Palestinian children can be charged with offences including insulting or offending a soldier's honour or behaving in an insulting manner toward one of the Israeli military authorities. Such offences can be interpreted extremely subjectively and applied arbitrarily and punitively, particularly against children with reduced capacity and judgement in many cases.

307 Article 40, Palestinian Child Law.

308 State of Palestine Report to CRC Committee 2019, paras 381-388.

309 State of Israel Report to CRC Committee 2022, para 165.



In the Market (Photo: Yousef Hammash/NRC)

9. WORK RIGHTS AND CONDITIONS FOR CHILDREN



9.1 Working Age for Minors

The minimum working age for children in Palestine is 15, although minors are permitted to work with immediate family members at any age.³¹⁰

The age of employment in Israel is 15 years old, although even minors aged 15 cannot be employed unless they have completed their compulsory education.³¹¹ Minors under the age of 15 may be employed in certain very exceptional circumstances, such as minors over the age of 14 who have a special permit from the Ministry of Labour and Social Development or minors who are undertaking an apprenticeship.³¹²

9.2 Prohibited Work

Palestinian Law

Minors are prohibited from conducting hazardous work both under the Labor Law and the Palestinian Child Law.³¹³ The Minister of Labor's Decree No. 1 of 2004 on Hazardous Work for the West Bank and Gaza lists thirty-three (33) types of activities that are considered to be hazardous work, including:

- underground work,
- manufacturing of cement and asphalt,
- working in abattoirs or butchers,
- working in public restrooms,
- working in chemical and medical labs and
- waste collection.³¹⁴

310 Article 15, Palestinian Labour Law.

311 Article 2, Israeli Minor Employment Law of 1953.

312 Article 2, Israeli Minor Employment Law of 1953.

313 Articles 94-98 Palestinian Child Law.

314 Palestinian National Authority. Minister of Labor's Decree No. 1 of 2004 on Hazardous Activities and Industries or those Harmful to Health in which Minors are not allowed to Work.



Israeli Law

The types of jobs and workplaces in which minors may not be employed (except as part of mentoring or vocational training or pursuant to permission from the Chief Labour Inspector) are detailed in the Addendum to the Youth Work Regulations which is issued by the Minister of Labour in accordance with the Youth Employment Law.³¹⁵ They include the following types of work and workplaces:

- construction work, including on construction sites,
- heavy mechanical or lifting work other than by mechanical lifting tools, except in certain cases,³¹⁶
- underground work or excavations including for construction of a well, wastewater pit or tunnel, repair of such places or cleaning, as well as work inside the network of sewage pipes,
- work in the manufacture and processing, handling or storage of explosives, ammunition or fireworks,
- cleaning an engine machine if dangerous,
- work with dangerous or hazardous substances or equipment,
- work with certain chemicals,
- work with exposure to biological damage including in hospital wards or laboratories.³¹⁷

9.3 Special Conditions and Entitlements for Minors

Palestinian Law

Daily working hours for minors must be reduced by at least one working hour per day when compared to the standard eight hour working day for adults. Nor can a minor's working shift exceed four consecutive working hours without a rest period. Minors are entitled to one or more rest periods during the working day.³¹⁸

Minors are also entitled to three weeks of annual leave per annum and this annual leave must be taken and cannot be postponed.³¹⁹

Israeli Law

Under Israel's Youth Employment Law, a minor cannot work more than eight hours a day and 40 hours a week.³²⁰ However, if a workplace allows work for more than eight hours daily under the Hours of Work and Rest Law of 1951, a minor (between the age of 16-18) may work up to nine hours a day, provided that their hours do not exceed 40 hours a week.

Additionally, on the day before the weekly rest day and on the day preceding a festival on which the minor doesn't work, they cannot be asked to work more than seven hours.

315 Section 2, Israeli Youth Employment Law.

316 Heavy lifting work by minors is only possible in the following circumstances; As for a teenager – lifting objects is carried out for a maximum of 2 hours a day and each load does not exceed 12.5 kg. If the work is done with the help of a wheelbarrow, the total weight of the cargo and wheelbarrow does not exceed 50 kg. As for a girl – for a maximum of two hours a day, if each load does not exceed 8 kg.

317 Full details are contained in the Addendum to the Youth Work Regulations to the Israeli Youth Employment Law.

318 Article 96, Palestinian Labour Law.

319 Article 97, Palestinian Labour Law.

320 Article 5, Israeli Youth Employment Law.

9.4 Employer Obligations to Minors

Palestinian Law

Employers are required to ensure that minors undergo a **medical examination** at the start of their employment to make sure that their health condition is suitable for the work they are expected to undertake.³²¹ They owe minors an ongoing duty of care to repeat such medical examinations every six (6) months.³²² Additionally, employers must establish a workplace register which must include workplace information relevant to the minor.³²³

Israeli Law

According to the Youth Employment Law, a minor cannot be employed without a medical examination and a certificate from a family physician.³²⁴ For work requiring suitability examinations,³²⁵ a minor must be assessed by an authorized physician and receive a medical certificate confirming their suitability for that specific type of work. This certificate, which can include conditions and trial periods, must be recorded in the minor's work booklet.

321 Article 94, Palestinian Labour Law.

322 Article 94, Palestinian Labour Law.

323 Article 98, Palestinian Labour Law.

324 Article 11, Israeli Youth Employment Law.

325 In this chapter "work requiring suitability examinations" means work for which the Minister of Labour and Social Affairs has prescribed that an advance medical examination of the minor's suitability for such work is required, as well as the conducting of medical re-examinations as to his or her continuing medical suitability for such work.



Meal Time (Photo: Yousef Hammash/NRC)



9.5 Supervision of Workplaces Employing Minors

Palestinian Law

Different agencies and government entities in Palestine are responsible for conducting **workplace inspections** and ensuring that workplaces comply with the applicable law. The table below lists some of those agencies and their mandates.

Agencies Responsible for Child Labor Law Enforcement in the West Bank

Organization/Agency	Role
➤ Ministry of Labor (MoL), General Administration of Labor Inspection and Protection	Enforces labor laws, including those related to child labor.
➤ Ministry of Social Development (MoSD), Child Protection Department	Ensures compliance with the Palestinian Child Law for the West Bank and Gaza, which prohibits the worst forms of child labor and establishes the minimum age for work.
➤ Police Bureau for the Protection of the Family and Adolescents	Investigates violations of laws, including the commercial sexual exploitation and economic exploitation of children. Coordinates with MoSD to monitor cases of child labor and economic exploitation.
➤ Office of the Public Prosecutor for Children	Investigates and prosecutes cases of child exploitation, including child labor.

Implementation of protections against child labour in Gaza remain difficult due to resource constraints and limited attention. Provisions under the law on labor inspection are largely inactive and penalties have generally not been enforced against non-compliant employers or labor establishments.

Israeli Law

Israeli government agencies with a role in combatting child labour include the following:

Organization/Agency	Role
➤ Ministry of Labour and Social Affairs	Enforces labor laws, including those related to child labor. Conduct workplace inspections.
➤ Israeli police	May become involved in cases of child labour, especially if there are reports of exploitation or criminal activity.
➤ The National Council for the Child	Works to promote children's rights and welfare, including issues related to child labour.
➤ Public Prosecutor	Investigates and prosecutes cases of child exploitation, including child labor.



Family Possessions (Photo: Amjad Fayoumi/NRC)



10. PROTECTIONS AGAINST ABUSE OF CHILDREN

Protection risks for Palestinian children include the risks of violence, including sexual violence, threats, harassment, neglect, exploitation, including sexual and economic exploitation and trafficking. Palestinian children also face protection risks at school, including bullying, discrimination and, in some instances corporal punishment, as well as protection risks on the way to and from school.³²⁶

This can include harassment, verbal and physical abuse at the hands of settlers in the West Bank, as well as abusive treatment at the hands of Israeli security authorities at checkpoints, at random street checks or inside school during raids on the school.³²⁷ Protection risks from Israeli security authorities include risks of arrest, detention, physical assault, aggressive questioning, threats and intimidation.

The Palestinian Child Law contains provisions to protect children from certain types of harm or harmful behaviour and states that: *“the child has the right to be protected from all forms of physical, psychological or sexual violence or abuse, neglect, negligent treatment, displacement or other forms of ill-treatment or exploitation.”*³²⁸

The Law also prohibits intentionally exposing children to certain types of difficult situations which threaten a child’s safety or physical or psychological health.³²⁹ Children must also be protected from smoking, alcohol and drugs.³³⁰

It is much more challenging to hold Israeli security forces or settlers accountable under Israeli law for violations committed by them. Security forces often defend their actions on the basis of the ‘lawful use of force or authority’ or as justified on ‘reasonable suspicion’ of involvement in criminal activity or behaviour. Other practices, such as administrative detention of children over the age of 12, are legal in Israeli law. Investigations by Israeli police into attacks by settlers are generally inadequate, with few prosecutions.

³²⁶ NRC, *Raided and Razed*, p 4.

³²⁷ NRC, *Raided and Razed*, pp 4, 8, 14.

³²⁸ Article 68, Palestinian Child Law.

³²⁹ Article 44, Palestinian Child Law.

³³⁰ Article 27, Palestinian Child Law.



Palestinian Law

The most significant law for the protection of children in Palestine is the Child Law. However, the Palestinian Basic Law also covers issues related to children's rights, including the right to protection from exploitation and cruel treatment, and highlights the broader duty and responsibility of the State of Palestine to provide children with comprehensive care and protection.³³¹ Other pieces of domestic legislation also contribute to promoting and protecting the fundamental rights of children.³³² Although the Palestinian Ministry of Social Development is primarily responsible for providing services for children in need, several other service providers, mainly NGOs, provide a range of complementary and protective services.

Under the Child Law, children considered to be at particular risk of delinquency include children:³³³

- found begging or engaging in activities unsuitable as legitimate means of livelihood,
- who are beyond the authority of their parents or caregivers,
- who repeatedly run away from home, school, or an institution,
- who habitually sleep in places not designated for residence or lodging,
- who frequent morally or socially questionable places, or associate with vagrants or corrupt individuals,
- who engage in acts related to prostitution, immorality, corruption, gambling, drugs, or similar activities, or assist those involved in such acts.

Israeli Law

Israeli law similarly contains a wide-ranging series of measures to protect against the abuse of children. Under the Youth Law, social workers have the legal power to impose emergency measures in extreme situations and may also immediately remove children from their home even without the consent of the parents or the decision of a court.³³⁴ Juvenile Courts are authorized to issue any orders which are necessary to protect children, including by issuing restraining orders which prevent parents/adults from making contact with minors.³³⁵ Social Service Departments (SSDs) conduct initial assessments regarding allegations of abuse or mistreatment of children. Only cases which meet the legal standards for child maltreatment are forwarded to the police.³³⁶

10.1 Physical Abuse

Palestinian Law

In addition to the general crimes of physical abuse against any person, **the Jordanian Penal Code**,³³⁷ lists certain offences against the abuse of children including kidnapping or concealing information. These include the following:

- **Kidnapping or hiding a child under seven years of age, replacing one child with another or attributing to a woman a child she did not give birth to.** These are punishable by imprisonment from three months to three years. The penalty is increased if the purpose or result of the crimes was to remove or distort evidence related to the child's personal status or to record fictitious personal status information in the official records.³³⁸

331 All forms of ill-treatment are prohibited pursuant to Article 13 of the Palestinian Basic Law. See also Article 29 of the Basic Law and Articles 42, 68, Palestinian Child Law.

332 For example, the Penal Code applied in Gaza, Law No. 74 of 1936, includes numerous provisions addressing physical abuse and other crimes related to children and juveniles such as Articles 220, 118, 226, 252, 253, 260.

333 Article 47, Child's Rights Law.

334 Gottfried and Ben-Ariel, pp 9-10.

335 Gottfried and Ben-Ariel, p 10.

336 Gottfried and Ben-Ariel, p 12.

337 These include offences of physical assault, including sexual assault, and other offences.

338 Article 287(1), Jordanian Penal Code.



- **Depositing a foundling child in a shelter and concealing their identity.** The punishment is imprisonment for a period of two months up to two years.³³⁹
- **Violating the custody of a minor.** A person who kidnaps or removes a minor under the age of 15, even with his or her consent, with the intention of removing him or her from the authority of the person over whom he or she has guardianship or custody, shall be punished by imprisonment from one month to three years with fines from JOD5-25. For minors under the age of 12 or who have been kidnapped or removed by fraud or force, the penalty is increased from three months to three years imprisonment.³⁴⁰
- **Forced marriage.** Forcing children to marry under duress is a serious offence under the Child Law and the marriage contract can be annulled at the request of the wife.³⁴¹

Abortion is prohibited, except where necessary to save the life of the pregnant woman as certified by medical professionals.³⁴²

The Penal Code in force in Gaza, No. 74 of 1936, includes numerous articles concerning physical abuse and other crimes related to children and juveniles. These include:

- **Child abduction.** Anyone who takes a child under the age of 14 from their parent or guardian by force or deceit, who detains a child, or who accepts a child, knowing that they have been taken by force or deceit is punishable by seven years imprisonment.³⁴³
- **Abduction from Palestine:** A person is said to have abducted another person from Palestine if they transport the person beyond the borders of Palestine without their consent or without the consent of the person legally entitled to guardianship over them.³⁴⁴
- **Abduction from Legal Custody.** Anyone who takes or entices a minor under the age of 14, a girl under the age of 16, or a person with impaired mental capacity, out of the custody of their legal guardian without the guardian's consent is said to have abducted them from their legal guardian.³⁴⁵
- **Abduction for Theft:** Anyone who abducts a child under the age of 14 with the intent to steal any movable property they possess shall be deemed guilty of a felony and sentenced to imprisonment for seven years.³⁴⁶
- **Infanticide.** If a woman intentionally, or by omission, causes the death of her child, she may be sentenced for infanticide if her mental state was considered to be unbalanced at the time.³⁴⁷

Israeli Law

Israeli law contains special offences of abuse against minors, including violence³⁴⁸ and physical, mental or sexual abuse of minors.³⁴⁹ Kidnapping of children in order to deprive the parent, guardian or person with lawful care or charge of the minor's custody and to take that custody for him or herself or for another person is a criminal offence.³⁵⁰

339 Article 288, Jordanian Penal Code.

340 Article 291, Jordanian Penal Code.

341 Article 44, Palestinian Child Law.

342 Article 8, Palestinian Public Health Law No. 20 of 2004.

343 Article 188, The Penal Code No. 74 of 1936. However, an accused may present evidence in their defence to prove that they had a right to keep the child under care or a right of parentage in the event the child was illegitimate.

344 Article 252, Penal Code No. 74 of 1936.

345 Article 253, Penal Code No. 74 of 1936.

346 Article 260, Penal Code No. 74 of 1936.

347 Article 226, Penal Code No. 74 of 1936.

348 Article 368B, Israeli Penal Code.

349 Article 368C, Israeli Penal Code.

350 Article 367, Israeli Penal Code.



Keeping up with Homework (Photo: Yousef Hammash/NRC)

10.2 Sexual Abuse

Palestinian Law

The 2022 amendments to the Palestinian Child Law specifically defined sexual exploitation as follows:

Sexual Exploitation of Children: Any sexual act or practice with or against a child, or the use of a child for sexual activities, or coercing or forcing a child to engage in any sexual activity, or the exploitative use of children in prostitution or other sexual practices, whether for payment or not, directly or indirectly, or the exploitative use of children in pornographic materials or performances, for either compensation or non-compensation. This includes the use of children in pornography by filming any child, by any means, performing or simulating explicit sexual activities, or any depiction of a child's sexual organs for sexual purposes. It also involves the production, display, distribution, publication, or possession of images, films, or drawings via any means of communication, social media networks, or other means, showing the child in a degrading sexual act or exhibition, whether real or simulated. Furthermore, sexual exploitation includes the production, filming, or recording of child pornography, or the dissemination or facilitation of access to child pornography in any form, including downloading, uploading, or sending child pornography via the internet or any communication or information technology.³⁵¹

Specific offences against the sexual abuse of minors are contained in the Jordanian Penal Code.³⁵² These include the following:

- **Intercourse with a female under the age of 15**, which is punishable by temporary hard labor,
- **Intercourse with a female under the age of 12**, which carries a minimum penalty of five (5) years imprisonment.³⁵³
- **Intercourse with a female between the ages of 15-18 years of by a caregiver**, which is punishable by temporary hard labour if the perpetrator is a guardian, stepfather, someone in a supervisory role, or if the perpetrator abuses their authority, such as a cleric or employment office director.³⁵⁴
- **Indecent assault without violence.** Assault on a child under 15 without violence or threat is punishable by temporary hard labor, with a minimum penalty of five years if the child is under 12.³⁵⁵

351 Article 2, Decree-Law No. (43) of 2022 regarding the amendment of the Palestinian Child Law No. (7) of 2004 and its amendment.

352 Whilst there are legal definitions of the sexual offences listed in the Jordanian Penal Code, there are no clear definitions on other types of sexual assaults. However, the Palestinian Child Law has defined sexual exploitation in detail, including the elements of sexual assault.

353 Article 294, Jordanian Penal Code.

354 Article 295, Jordanian Penal Code.

355 Article 298, Jordanian Penal Code.



- **Indecent assault on individuals aged 15-18**, with a penalty of hard labour.³⁵⁶
- **Allowing a child in a brothel.** Caregivers who allow a child aged six to 16 years old to stay in or frequent a brothel face imprisonment of up to six months or a fine of up to JOD20.³⁵⁷

Specific offences against the sexual abuse of minors are contained in the Penal Code No. 74 of 1936 applicable in Gaza. Sexual offenses are defined in the law to include rape, sodomy, and unlawful intercourse with minors under 16. The penalties for these offences are: 14 years imprisonment for sexual offenses and 10 years imprisonment for unnatural acts. The defence of mistaken belief of age is available.³⁵⁸

Other offences under the law include the following:

- **Rape by Deception.** This covers intercourse obtained through threats, deception, or exploiting a victim's mental incapacity. The penalty is ten years imprisonment.³⁵⁹
- **Indecent Acts with Children.** Indecent acts with persons under 16 years are criminalised with a penalty of three years imprisonment.³⁶⁰
- **Inducement to Immorality.** Inducing or attempting to induce minors or females to engage in unlawful sexual acts, prostitution, or immoral activities is criminalised.³⁶¹
- **Indecent Gestures.** Making indecent gestures toward minors under 16 or females, the penalty is one month imprisonment.³⁶²

Sexual exploitation of children through the internet or through use of social media or technology is punishable through Law Decree No. 10 of 2018 on Cybercrime. This covers persons who deliberately transmit or disseminate through the electronic network any indecent material to persons under 18 or which relates to their sexual exploitation. The penalty is one year imprisonment.³⁶³

Israeli Law

Under Israeli law, sexual intercourse with minors under the age of 14 is rape, regardless of consent,³⁶⁴ whilst intercourse with minors between 14 - 16 years old outside of marriage also constitutes rape.³⁶⁵ There are increased penalties for rape of minors under the age of 16. Persons who exploit relationships of dependence, authority, education, supervision or employment, or make false promises of marriage, for the purpose of intercourse with persons aged between 16 to 18 can be imprisoned to up to five years.³⁶⁶ However, it is a defence if the age gap between the parties is less than three years, if the minor consented to the act, and if the act was performed within ordinary friendly relations and without exploitation of the defendant's position.³⁶⁷ Similar liabilities are applicable to persons who commit indecent acts on minors.³⁶⁸ Sexual offences committed by relatives against minors, or by relatives against females between the ages of 14 to 21 years of age carry increased penalties.³⁶⁹

356 Article 299, Jordanian Penal Code.

357 Article 314, Jordanian Penal Code.

358 Article 152, Penal Code No. 74 of 1936.

359 Article 153, Penal Code No. 74 of 1936.

360 Article 159, Penal Code No. 74 of 1936.

361 Article 161, Penal Code No. 74 of 1936. Permitting children to reside in or visit brothels is also punishable by six months imprisonment under Article 165 of the Penal Code.

362 Article 168, Penal Code No. 74 of 1936.

363 Law Decree No. 10 of 2018 on Cybercrime, Article 16(2).

364 Article 345(a) of Israeli Penal Code.

365 Article 346(a), Israeli Penal Code.

366 Article 346(a), Israeli Penal Code.

367 Article 353, Israeli Penal Code.

368 Article 348, Israeli Penal Code.

369 Article 351, Israeli Penal Code.



Life amongst the Rubble (Photo: Mustafa Al Halabi/OCHA)

10.3 Neglect of Children and Street Offences

Palestinian Law

West Bank

The Jordanian Penal Code penalises the **neglect of children**. Leaving children under the age of two years old without a legitimate or reasonable reason in a situation that would endanger the life of the child, or risk causing permanent harm to his or her health, is punishable by imprisonment of between one to three years.³⁷⁰

Persons with carer responsibilities in relation to children also face criminal sanction for failure to meet their carer obligations. Parents, guardians, or custodians of a young child who cannot support himself or herself, or persons who are legally entrusted with the responsibility of preserving and caring for a child, and who refuse or neglect to provide the child with food, clothing, bedding, and other necessities are punishable by imprisonment from one month to one year.³⁷¹ Persons who are parents, guardians, or guardians of a child under the age of 12, or who are legally entrusted to preserve and care for a child but who intentionally abandon them without a legitimate or reasonable reason, are liable to imprisonment in situations where the child is left without the means to support himself or herself, provided that the guardian has the means to support the child.³⁷²

The Palestinian Child Law highlights the fact that family support and appropriate accommodation must be provided to the child, and that appropriate measures must be taken so that the child does not remain homeless in the street, either because of difficult economic circumstances or because he or she has been abandoned by his or her family.³⁷³ The Law lists different categories of children considered to be in 'difficult circumstances' (including homeless children, school dropouts and beggars), and obliges the state to take all appropriate procedures to rehabilitate – physically and psychologically – and to socially reintegrate children in such circumstances.³⁷⁴

Gaza

In Gaza, the Penal Code No. 74 of 1936 contains specific provisions on neglect of children. Abandoning a child under two years old in a way that endangers their life or health is a felony punishable by five years in prison.³⁷⁵

³⁷⁰ Article 289, Jordanian Penal Code.

³⁷¹ Article 290, Jordanian Penal Code.

³⁷² Article 290, Jordanian Penal Code.

³⁷³ Article 32, Palestinian Child Law.

³⁷⁴ Articles 44, 46, Palestinian Child Law.

³⁷⁵ Article 184, Penal Code No. 74 of 1936.



Certain street or begging offences are also criminalized under the law including offences of immoral behavior in public, begging under false pretences, disturbing public order, and suspicious loitering.³⁷⁶ The Custody and Protection of Children Law allows courts to assign custody of children under 16 to relatives, institutions, or guardians if their current caretaker is convicted or prosecuted for certain crimes. Custody orders can be revised or cancelled.³⁷⁷

Israeli Law

Under the Israeli Penal Code, parents or other persons legally responsible for the care of a minor in a household have an obligation to provide *“the necessities of life for [the minor], to care for [their] health, and to prevent [their] abuse, bodily harm or other injury to [their] welfare and health.”*

They are liable for any consequences to the life or health of the minor if they breach these obligations.³⁷⁸ Persons who abandon things that can be dangerous in places accessible to children may also be liable for the consequences to children.

There must be reasonable grounds to assume that the children will play with or handle the object. However, there is no liability if the person has taken reasonable precautions to prevent the consequences.³⁷⁹

Other criminal liabilities for neglect or negligence of children for parents or caregivers towards minors under Israeli law include:

- **leaving a child under six without appropriate supervision** and thereby endangering the child's life or causing real injury to his or her welfare or health,³⁸⁰
- **unlawfully abandoning or leaving a child under two** and thereby endangering its life or threatening its health through permanent injury,³⁸¹
- **failure by parents or caregivers of children under 14, to provide the child with food, clothing, bedding and other essentials to the extent necessary for the maintenance of his well-being and health,**³⁸²
- **giving away a minor under the age of 14 into the care of another person who are not the parents or guardian,** except to close relatives or other persons with a lawful basis for responsibility over the child.³⁸³

The Ministry of Labour and Social Affairs operates special identification programs, field work and outreach to identify adolescents in distress, loitering and in extreme risk and runs eight (8) shelters providing accommodation adolescents who have no families or are not in contact with their families.³⁸⁴

10.4 Trafficking of Children

Palestinian Law

Palestine has drafted, but not yet passed, a **human trafficking law** that will facilitate the prevention, investigation, prosecution, and adjudication of cases of trafficking in Palestine. The law is currently before the Council of Ministers.

³⁷⁶ Article 193, Penal Code No. 74 of 1936.

³⁷⁷ Article 389 of Custody and Protection of Children Law.

³⁷⁸ Articles 323, 337, Israeli Penal Code.

³⁷⁹ Article 340, Israeli Penal Code.

³⁸⁰ Article 361, Israeli Penal Code.

³⁸¹ Article 361, Israeli Penal Code.

³⁸² Article 362, Israeli Penal Code. Unless the person can prove that he or she took steps, which under the circumstances were reasonable, to secure the means of supplying those essentials, but was unable to supply them.

³⁸³ Article 365, Israeli Penal Code.

³⁸⁴ State of Israel Report to CRC Committee 2022, para 186.



Palestine has also ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.³⁸⁵ Common cases are those involving sexual exploitation, forced labour, and forced begging.

Neither trafficking nor the sexual exploitation of children is explicitly addressed in the Draft Palestinian Penal Code, although several articles of the Draft Code address sexual violence against children in a general way.³⁸⁶ However, in 2022, a decree was issued by the Palestinian president Mahmoud Abbas which amended some parts of the Palestinian Child Law.³⁸⁷

This Decree-Law No. (43) of 2022 introduces amendments to the Palestinian Child Law No. (7) of 2004, aiming to enhance child protection and align the legal framework with international standards. The amendments address key areas such as children's rights, protection measures, education, healthcare, and legal procedures affecting minors.

Additionally, the law includes provisions to combat child trafficking, reinforcing legal safeguards against exploitation and ensuring greater protection for vulnerable children.

These amendments also define **Customs and Practices Similar to Slavery** as the sale of children for exploitation, servitude, forms of slavery marriages, or any customs or practices that allow one or both parents, or a guardian, to hand over a child or adolescent under the age of eighteen to another person for compensation or without compensation, with the intent to exploit the child or adolescent or their labor.

Israeli Law

Israel's Anti-Trafficking Law prescribes penalties of up to 20 years' imprisonment for sex trafficking of a minor,³⁸⁸ up to 20 years' imprisonment for slavery,³⁸⁹ and up to seven years' imprisonment for forced labour. The exploitation of minors for prostitution is a criminal offence under the Israeli Penal Code.³⁹⁰ Israel ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2008.³⁹¹

The National Anti-Trafficking Unit (NATU), under the Ministry of Justice, coordinates anti-trafficking efforts on a national scale, particularly in relation to prosecution, protection and prevention. The three main services provided by Israeli authorities to assist victims of trafficking in persons are medical care, legal aid and shelters.³⁹²

10.5 Recruitment of Children into Armed Conflict

According to the Palestinian Child Law, the use of children in military operations or armed conflicts is strictly forbidden, and the State is obligated to implement necessary procedures and measures to prevent this.³⁹³

Additionally, the State is obliged to undertake suitable actions for the physical, psychological, and social rehabilitation of any children affected by armed conflicts or facing challenging situations outlined under the law.³⁹⁴

385 The full title is the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons UN Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; see UNDOC, [Palestine: Paving the way to end human trafficking](#), 23 November 2022.

386 Articles 257, 260, 263, 259 and 261 of the Draft Palestinian Penal Code.

387 Decree-Law No. (43) of 2022 on Amending the Palestinian Child Law No. (7) of 2004 and its Amendments.

388 Article 377 (A)b, Prohibition of Human Trafficking Law (Legislative Amendments), 2006.

389 Article 377 (B), Prohibition of Human Trafficking Law (Legislative Amendments), 2006.

390 Articles 203B, 203C, 205A, 205B, 208, Israeli Penal Code.

391 UN Treaties collection, [Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime](#).

392 State of Israel Report to CRC Committee 2022, paras 216-217.

393 Article 46, Palestinian Child Law.

394 Article 44, Palestinian Child Law.



Winter in Gaza (Photo: Yousef Hammash/NRC)

10.6 Economic Exploitation of Children

Palestinian Law

Economic exploitation of children is prohibited under the Palestinian Child Law. This includes making children beg, forcing them to work in dangerous situations that threaten their education or their physical or mental health or safety, or employing children in circumstances that violate the law and legal protections for children.³⁹⁵ The prohibition on child labour is contained in the Labour Law.

Other instances of the economic exploitation of children include those involving prostitution, child pornography, involvement of children in criminal gangs for profit or child begging for others. Both the Jordan Penal Code, covering the West Bank, and the Penal Code for Gaza criminalise certain offences in relation to prostitution and public indecency.

These include the crimes of offering indecent acts, directing indecent speech³⁹⁶ and incitement to morality,³⁹⁷ in the Jordan Penal Code and the crimes of encouraging public indecency³⁹⁸ and prostitution, including involvement of female minors in sexual activities in brothels, in the Penal Code for Gaza.³⁹⁹ Penalties for begging⁴⁰⁰ and unlawful gain are also contained in the penal code of both jurisdictions.⁴⁰¹ The State of Palestine is a signatory to the UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.⁴⁰²

The Ministry of Labour runs vocational training centres to try and rehabilitate children who are the victim of economic exploitation or child labour. Child protection counsellors aim to reintegrate children back into school, and financial assistance is provided to families in financial hardship. Families are asked to provide an undertaking that they won't allow their children to work again.⁴⁰³

395 Articles 42-43, Palestinian Child Law.

396 Article 306, Jordanian Penal Code.

397 Article 310, Jordanian Penal Code.

398 Article 167, Penal Code of Gaza.

399 Article 172, Penal Code of Gaza.

400 Article 389, Jordanian Penal Code.

401 Article 193, Penal Code of Gaza.

402 UN Treaties collection, [UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#).

403 State of Palestine Report to CRC Committee 2019, para 222.



Israeli Law

Child labour is prohibited under the Israeli Minor Employment Law.⁴⁰⁴ Commerce against persons is a criminal offence in Israel. This includes commerce for the purpose of subjecting a person to slavery or forced labour, prostitution, causing someone to participate in an obscene publication or subjecting them to a sex offence.⁴⁰⁵

10.7 Protection of Children in Media and Access to Information

Palestinian Law

In accordance with the Palestinian Child Law, a child has the **right to request, receive, transmit and disseminate all types of information and ideas, provided they align with public order and morals.**⁴⁰⁶ There is a prohibition on publishing or disseminating material directed at children which is counter to public order and morals.⁴⁰⁷

Cybercrimes committed against any individual, including children, are punishable under Law by Decree No. 10 of 2018 on Cybercrime.⁴⁰⁸ This covers persons who illegally access or share personal and private information electronically,⁴⁰⁹ who take a false identity in order to deceive victims,⁴¹⁰ who use technology to threaten or extort another person or persuade them to perform certain acts,⁴¹¹ or who transmit indecent to persons below the age of 18 or who store or share such information.⁴¹² Persons who aid, abet or act as accomplices to such crimes are also liable for prosecution.⁴¹³

Israeli Law

Israel's National Child Online Protection Bureau (NCOPB) was established in 2016 as a joint civil-police bureau dedicated to the prevention of crime and violence against children and adolescents online, led by the MPS and the Police. It investigates and actions cases of violence, sexual exploitation, sexual abuse, prostitution, pornography and child trafficking, and distribution of sexually oriented contents, in cyberspace, including cases resulting in cyberbullying, shaming or ostracism.⁴¹⁴ The Ministry of Justice also conducts a media campaign, including in social media and television, which raises awareness of the prohibition on the publication of videos which constitute sexual harassment.⁴¹⁵ Internet service providers are required to have mechanisms in place for protection against abusive language and harmful content.⁴¹⁶

10.8 Rehabilitation and Re-integration of Child Victims

Children who are victims of violence or abuse are entitled to support and rehabilitation for the abuse they have suffered. This can include legal or social support, support in dealing with trauma and measures of rehabilitation to help children recover from abuse. Both Palestinian and Israeli law contains provisions on the protection and rehabilitation of child victims.

404 Article 2, Israeli Minor Employment Law of 1953.

405 Article 377A of Israeli Penal Code.

406 Article 33, Palestinian Child Law.

407 Article 36, Palestinian Child Law.

408 [Law by Decree No. 10 of 2018 on Cybercrime.](#)

409 Articles 4, 22, Cybercrime Law.

410 Article 14, Cybercrime Law.

411 Article 15, Cybercrime Law.

412 Article 16(2), Cybercrime Law.

413 Article 45, Cybercrime Law.

414 State of Israel Report to CRC Committee, 2022, paras 60-61.

415 State of Israel Report to CRC Committee 2022 para 62. This involves cases of sexual harassment against the Prevention of Sexual Harassment Law 5758-1998.

416 State of Israel Report to CRC Committee 2022, paras 62-63. According to Amendment No. 49 to the Telecommunications (Bezeq and Broadcasts) Law 5742-1982, legislated in 2011.



Palestinian Law

Under the Palestinian Child Law, the State is obliged to undertake suitable actions for the physical, psychological, and social rehabilitation of any children affected by armed conflicts or facing challenging situations outlined under the law.⁴¹⁷ As a large number of Palestinian children are 'affected by armed conflicts' in Palestine, this provision is wide ranging. In dealing with children who are victims of violence or abuse or who are threatened, consultations take place between child protection counsellors, family protection police officers, the Office of the Public Prosecutor, educational counsellors and the authorities relevant to the situation of the child in question.⁴¹⁸

In Gaza the situation is similar to that of the West Bank, and the Palestinian Child Law applies. In practice, the Ministry of Social Development in Gaza performs this role through its affiliated centres, addressing both male and female victims. Additionally, civil society organizations play a significant role through their dedicated centres for the same purpose. The Beit Al-Aman centre provides support services for abused women and girls or those who have been subjected to sexual violence. In Ramallah, the Ministry supervises Dar Al-Amal for children in contact with the law. The Hayat Center was established in Gaza in December 2011 as a multi-purpose facility aimed at protecting women from gender-based violence, empowering them, and reintegrating them into their families and communities.

The Commission for Detainees and Former Detainees is a government agency that supports Palestinian children who have been subject to abuse within the Israeli detention and prison system. It helps facilitate legal representation and advocates for the release of children from detention. Upon release of a child, the Occupational and Social Counselling Department at the Commission advises Child Protection Counsellors within MoSD. Cases of children who require psychological support are then referred by MoSD to partner institutions within the child protection networks.⁴¹⁹ Children requiring long-term treatment and psychological rehabilitation are referred to mental health clinics operated by the Palestinian Ministry of Health.

Israeli Law

Israel's National Child Representation Unit (NCRU) within the Legal Aid Administration of the Ministry of Justice provides legal aid service for children and youth, free of charge, particularly in child protection proceedings. They also provide legal aid and assistance to children and youth victims of severe sexual abuse,⁴²⁰ both throughout the criminal law proceedings against the perpetrator, as well as during any legal or administrative proceeding connected to the penal proceedings (such as protection orders, civil tort suits, etc.).⁴²¹

10.9 Mandatory Reporting of Child Abuse

Palestinian Law

The Palestinian Child Law requires all Palestinian nationals to inform Child Protection Counsellors within the Child Protection Department of the Ministry of Social Development if they suspect a threat to a child's safety or physical or mental health.⁴²² Children can access these procedures themselves by making a complaint to a Child Protection Counsellor, if they are able to.⁴²³ Furthermore, the Law requires adults to assist a child with notification if there is a threat to the child's safety, and imposes a penalty for the failure to notify.⁴²⁴ According to the Palestine Penal Procedures Law, the child's guardian is responsible for filing a complaint to safeguard the child's civil rights if the child is below the age of 15.⁴²⁵

417 Article 44, Palestinian Child Law.

418 State of Palestine Report to CRC Committee 2019, para 121.

419 State of Palestine Report to CRC Committee 2019, para 205.

420 Amendment No. 20 to the Legal Aid Law 5732-1972 which entered force in August 2018.

421 State of Israel Report to CRC Committee 2022, paras 39-40.

422 Article 53(1), Palestinian Child Law.

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

424 Article 54, Palestinian Child Law.

425 Article 6, Palestinian Penal Procedures Law.



Where an allegation of child abuse is received, the Child Protection Counsellor meets the child and the caregiver to gather information about the situation. If the counsellor has sufficient belief that there is a threat to a child's safety or physical or psychological health, they may, if necessary, refer such matter to a competent judge.⁴²⁶ Special obligations are imposed on educators, physicians, social workers and others entrusted with the protection and care of children.⁴²⁷ A penalty of JD 100-200 is payable for non-notification of child abuse.⁴²⁸

In situations of domestic abuse where it is dangerous or not in the best interests of the child to remain in the family, the Child Protection Counsellor may ask the Prosecutor for a decision to remove a child from his or her family. The removal of the child from his or her parents is an option of last resort.⁴²⁹

Israeli Law

Israel's **mandatory reporting obligations** for child abuse are contained in the Israel Penal Code. They require anyone *"who has reasonable grounds for believing that an offense was recently committed against a minor or against a helpless person⁴³⁰ by the person responsible for him [or her]...[to] report that as soon as possible to a welfare officer or to the police."*⁴³¹ Such offences can include any act of abuse or assault that endangers the life or health of a minor, including neglect, abandonment and offences associated with prostitution, obscenity and human trafficking.⁴³² The punishment for failing to report is three months imprisonment. However, other minors are not under any obligation to report.⁴³³ Lawyer-client privileged information is also exempted from the reporting requirement.⁴³⁴

Caregivers and other persons who are responsible for minors or helpless persons and have reasons to believe that another person responsible for minors or helpless persons has committed an offence against them faces imprisonment of up to six months if they do not report such matters.⁴³⁵

There are special reporting requirements for certain categories of professional including physicians, nurses, educators, social workers, social welfare employees, policemen/policewomen, psychologists, criminologists or persons engaged in a paramedical profession, as well as directors or staff members of a home or institution in which minors or persons under care live. If such professionals have reasonable grounds for believing an offence against a child has been committed whilst acting in the course of their professional activities or responsibilities, they must report such issues or face up to six months imprisonment.⁴³⁶

Specific provisions require the reporting of sexual offences or indecent acts against minors or helpless persons in certain circumstances, including when committed by relatives, or persons under the age of 18,⁴³⁷ and when committed in institutions or places of care for minors or helpless persons.⁴³⁸ Once an allegation of abuse has been received by either a welfare officer or the police, they are required to consult with each another in relation to the matter. Police must refer the matter to a social worker appointed by law but are permitted to take any necessary immediate protective action which cannot be postponed.⁴³⁹ Welfare officers must make recommendations into the appropriate course of action in the case.⁴⁴⁰

426 Article 58, Palestinian Child Law.

427 Article 53(2), Palestinian Child Law.

428 Article 53(3), Palestinian Child Law.

429 State of Palestine Report to CRC Committee 2019, para 234.

430 A 'helpless person' is defined as a person who, because of his or her age, illness or physical or mental disability, his or her mental deficiency or for any other reason, cannot take care of his or her living needs, his or her health or his or her well-being.

431 Article 368D(a), Israeli Penal Code.

432 Article 368D(h), Israeli Penal Code; Gottfried and Ben-Arieh, p 11.

433 Article 368D(e), Israeli Penal Code.

434 Gottfried and Ben-Arieh, p 11.

435 Article 368D(c), Israeli Penal Code.

436 Article 368D(b), Israeli Penal Code.

437 Article 368D(c1), (c2), (c3), Israeli Penal Code.

438 Article 368D(d), Israeli Penal Code.

439 Article 368D(g), Israeli Penal Code.

440 Article 368D(f), Israeli Penal Code.



Winter on the Beach (Photo: Amjad Fayoumi/NRC)

11. JUVENILE JUSTICE, CRIMINAL LAW AND MILITARY/SECURITY OFFENCES



Palestinian children can be charged with criminal offences under Israeli and Palestinian domestic criminal codes, as well as with military/security offences under Israeli Military Orders or other specialist Israeli or PA security legislation.

There are three applicable criminal codes. The Israeli Penal Code is applied by Israel in occupied East Jerusalem whilst the Jordanian Penal Code is applied by the PA in Areas A and B of the West Bank. De facto authorities in Gaza apply the Penal Code No. 74 of 1936.

Israeli Military Orders are applied throughout the West Bank whilst the PA have their own set of security laws within Areas A and B of the West Bank. Administrative detention of Palestinian minors without charge is commonly practiced by Israeli authorities. Israel uses the Unlawful Combatants Law to detain Palestinians in Gaza and transfer them into prisons within Israel.

This section provides a brief overview of some of the applicable Israeli and Palestinian criminal laws and procedures, as well as Israeli military and security legislation applied in the West Bank and Gaza. Due to the frequent number of changes and amendments to security legislation, this section cannot be comprehensive or fully up to date.

11.1 Military and Security Laws

11.1.1 Military Orders in the West Bank

Whilst many Israeli Military Orders exist in relation to the West Bank, the most commonly used Order is MO No. 1651.⁴⁴¹ This MO sets out the powers of Israeli armed forces in the West Bank in relation to the questioning, search, arrest and detention of Palestinian suspects as well as the procedures for their treatment, including on remand. The MO authorises the administrative detention of suspects and sets out the procedures and requirements for investigation and prosecution of suspects, including evidentiary standards and trial procedures. The Order contains special provisions on the treatment, investigation, prosecution and punishment of children over the age of criminal responsibility, namely 12 years and older.⁴⁴²

⁴⁴¹ Military Order No. 2, passed on 7 June 1967, gave Israeli military commanders full legislative, executive and judicial authority over the Palestinian civilian population. This MO provides the jurisdictional basis for the passage of subsequent Israeli Military Orders in the West Bank.

⁴⁴² MO No. 1651, Article G (Articles 135-149).



A wide range of security offences are covered by the MO including the offences of:

- assault, causing intentional death, manslaughter,⁴⁴³
- throwing of objects, including stones at vehicles,⁴⁴⁴
- harming or disturbing a soldier in their duties or behaving in an insulting matter to a soldier,⁴⁴⁵
- offences against public order,⁴⁴⁶
- providing false information,⁴⁴⁷
- firearms offences,⁴⁴⁸
- property offences, including arson or malicious damage,⁴⁴⁹
- support of hostile organisations,⁴⁵⁰ and
- participation in protest in which more than ten persons take part.

Many other MOs regulate the investigation, detention, prosecution and treatment of Palestinian minors. These include MOs authorising closed hearings for minors,⁴⁵¹ MOs providing military judges with the discretion to request social welfare reports to determine whether minors should be released on bail,⁴⁵² and MOs setting maximum periods of detention for minors before being brought before a military judge.⁴⁵³ Other MOs require that accused persons be interrogated in their own language, set the age of criminal liability and age of majority of minors, establish separate detention facilities and military courts for minors,⁴⁵⁴ and set maximum limits on the remand of minors before being charged with an offence,⁴⁵⁵ as well as many other matters.⁴⁵⁶

11.1.2 Unlawful Combatants Law in Gaza

Israel's Incarceration of Unlawful Combatants Law permits the detention of anyone, including minors, considered to be an unlawful combatant.⁴⁵⁷ Unlawful combatants are defined as persons who have participated either directly or indirectly in hostile acts against Israel or who is a member of a force conducting hostile acts against the State of Israel.⁴⁵⁸

Unlawful combatants who are considered to constitute a threat to Israel's security may be detained on an ongoing basis, subject to a judicial review of their incarceration every six months.⁴⁵⁹ They may also be prosecuted for criminal offences. Minors must be brought before a judge within 30 days of being detained.⁴⁶⁰

443 Articles 209-211, MO No. 1651.

444 Article 212, MO No. 1651.

445 Articles 215, 218, 219, MO No. 1651.

446 Article 222, MO No. 1651.

447 Article 226, MO No. 1651.

448 Articles 230, 232, MO No. 1651.

449 Articles 235-236, MO No. 1651.

450 Article 251, MO No. 1651.

451 MO No. 1822, September 2019.

452 MO No. 1818, October 2019.

453 MO No. 1745, September 2014.

454 MO No. 1727, October 2013.

455 MO No. 1726, October 2013.

456 For further information, see Military Court Watch, [Military Court Watch](#).

457 Of the estimated 9,900 Palestinian detainees held under the Unlawful Combatants Law as of 1 August 2024, 250 were children. Janan Abud, Institute for Palestinian Studies, [The Law Regarding Detaining Unlawful Combatants: Flagrant Violation of Judicial Frames of Reference and International Conventions](#), November 2024.

458 Incarceration of Unlawful Combatants Law, 5762-2002, Article 2. The definition excludes persons considered to be prisoners of war under the Geneva Convention.

459 Unlawful Combatants Law, Articles 3, 5.

460 Unlawful Combatants Law, Article 5, as amended by Incarceration of Unlawful Combatants Law (Amendment 4 and Temporary Provision – Iron Swords) (Amendment 2) 5784- 2024, dated 8 July 2024.



The Unlawful Combatants Law has been used widely by Israel to detain Palestinians from Gaza, including Palestinian minors, on an ongoing and arbitrary basis.⁴⁶¹

11.1.3 Military Courts and Procedures

Palestinians suspected of committing military offences, including minors, are usually arrested by Israeli armed forces and brought to a military base for questioning. Before being questioned they have no right to a lawyer, nor to have their parents present.

Minors must be brought before a military judge within 24-48 hours and must have access to a lawyer within 96 hours of being detained. Minor Juvenile Courts are located in military bases in the West Bank. Following sentencing, Palestinian minors are transferred to prisons inside Israel.⁴⁶²

11.2 Criminal Law

11.2.1 Common Offences

Palestinian Law

The most common offences for which Palestinian juveniles within Palestine (Area A and B of the West Bank) are charged involve abuse, theft and threats.⁴⁶³

Israeli Law

Offences for which Palestinian minors are routinely charged under the Israeli Penal Code in East Jerusalem include wounding,⁴⁶⁴ grievous harm,⁴⁶⁵ harm with aggravating intent,⁴⁶⁶ harm and wounding under aggravating circumstances,⁴⁶⁷ maliciously endangering persons on a traffic route,⁴⁶⁸ rash and negligent acts,⁴⁶⁹ and assault.⁴⁷⁰

The Israeli Penal Code also includes a wide range of offences against security or public order for which Palestinian minors face prosecution. These include offences of prohibited assembly,⁴⁷¹ riots,⁴⁷² affray,⁴⁷³ uproar and insult in a public place,⁴⁷⁴ public nuisance,⁴⁷⁵ misconduct in a public place.⁴⁷⁶

⁴⁶¹ For a comprehensive analysis of the Unlawful Combatants Law and its compliance with International Humanitarian Law, see Diakonia, [Unlawful Incarceration: An International Law Based Assessment of the Legality of the Military Detention Regime that Israel applies to Palestinians](#), August 2024.

⁴⁶² For further information about the procedures for minors in Israel's military court system, see Military Court Watch; [Military Court System](#).

⁴⁶³ State of Palestine Report to CRC Committee 2019, para 460.

⁴⁶⁴ Article 334, Israeli Penal Code.

⁴⁶⁵ Article 333, Israeli Penal Code.

⁴⁶⁶ Article 329, Israeli Penal Code.

⁴⁶⁷ Article 335, Israeli Penal Code.

⁴⁶⁸ Article 332, Israeli Penal Code.

⁴⁶⁹ Article 338, Israeli Penal Code.

⁴⁷⁰ Articles 378-382, Israeli Penal Code. For further information on criminal procedures against Palestinian children, including treatment in the Israeli prison and detention system, see Save the Children, [Defenceless: The Impact of the Israeli Military Detention System on Palestinian Children](#), 2021.

⁴⁷¹ Article 151, Israeli Penal Code.

⁴⁷² Article 152, Israeli Penal Code.

⁴⁷³ Article 191, Israeli Penal Code. The offence of affray involves the use or threat of force in a public place that causes a reasonable person to fear for their safety.

⁴⁷⁴ Article 194, Israeli Penal Code.

⁴⁷⁵ Article 215, Israeli Penal Code.

⁴⁷⁶ Article 216, Israeli Penal Code.



A prohibited assembly is one in which three or more persons have assembled for purposes of an offense, as defined by the Israeli Penal Code, or have assembled for a common purpose, even a lawful one, and *“conducted themselves in a manner that gives nearby persons reasonable grounds to suspect that the assembled persons will commit a breach of the peace or that by their assembly itself they will provoke others needlessly and without reasonable cause to commit a breach of the peace.”*⁴⁷⁷

These are additional to other more serious offences for which Palestinian juveniles may be charged during protests. This could include assault or interference with a policeman in the performance of his or her duties, whilst resisting arrest.⁴⁷⁸

Pursuant to the Unlawful Combatants Law, Palestinians from Gaza, including minors, may also be charged with criminal offences under the Israeli Penal Code.⁴⁷⁹

11.3 Age of Criminal Responsibility

Palestinian Law

Decree-Law No. 4 of 2016 Concerning Juvenile Protection⁴⁸⁰ sets the age of criminal responsibility at 12 years.⁴⁸¹

Gaza

In accordance with the Palestinian Juvenile Protection Law, the age of criminal responsibility is 12 throughout Palestine, although the Gaza Penal Code provides that a person under the age of nine years is not criminally responsible for an act or omission.

Furthermore, a person under the age of 12 years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he/she had capacity to know that he/she ought not to do the act or make the omission.⁴⁸²

Israeli Law

The age of criminal responsibility in Israeli Law, as applied by Israel to East Jerusalem, is 12.⁴⁸³

Israeli Military Orders and Security Law

The age of criminal responsibility under Israeli Military Order No. 1651 is 12 years.

⁴⁷⁷ Article 151, Israeli Penal Code.

⁴⁷⁸ Articles 273-275, Israeli Penal Code.

⁴⁷⁹ Unlawful Combatants Law, Article 9.

⁴⁸⁰ For a comprehensive review and commentary of the Juvenile Protection Law, see: Dr. Mutaz M. Qafisheh, “The 2006 Palestinian Juvenile Protection Law: A Quest for Further Reform”, Bluebook, 21st Edition, 5 I.J.L.D.L.R. (2016).

⁴⁸¹ Article 5, Palestinian Juvenile Protection Law, as amended in 2021. The UN CRC Committee has recommended to the State of Palestine that the age of criminal responsibility be raised to 14 years of age in accordance with international best practice.

⁴⁸² Article 9, Gaza Penal Code.

⁴⁸³ Article 34F, Israeli Penal Code.



Still surviving (Photo: Yousef Hammash/NRC)

11.4 Special Principles for dealing with Juvenile Offenders

Palestinian Law

The Juvenile Protection Law stresses **“the best interest of the child”** as a primary consideration for dealing with minors.⁴⁸⁴ Restorative justice approaches, such as mediation, are prioritised, as opposed to criminal sanction and punishment. The Law prohibits subjecting children who breach the law to “torture or other cruel, inhuman or degrading treatment or punishment”.⁴⁸⁵

Penalties for minors have been reduced from between 1/3 to 2/3 of those imposed on adults. The Law has also removed both capital punishment⁴⁸⁶ and the possibility of life imprisonment against minors regardless of the gravity of the offence that the child may have committed.

Detention of minors is a matter of last resort and alternatives to detention are prioritised. The Law further requires that detained children should be separated from adults⁴⁸⁷ and that the child should have the right to maintain contact with his or her family through “correspondence and visits”.⁴⁸⁸ Cases of minors should be decided by authorities, including courts, promptly,⁴⁸⁹ and minors have the right to “challenge the legality of the deprivation of liberty before a court”.⁴⁹⁰

The special right to privacy of a minor is protected under the law by making all juvenile trials confidential,⁴⁹¹ and the law penalises any person who reveals information that affects the child's honour.⁴⁹² In addition, the conviction of a child may not be recorded.⁴⁹³ All juvenile cases are exempted from court fees.⁴⁹⁴ The child, while deprived of liberty, has the right to complete his or her primary and secondary education.⁴⁹⁵

484 Article 3 of the CRC; Article 2, Palestinian Juvenile Protection Law.

485 Article 37(a) of the CRC; Article 7(1), Palestinian Juvenile Protection Law.

486 Article 37(a) of the CRC; Article 7(2), Palestinian Juvenile Protection Law.

487 Article 37(c) of the CRC; Article 21(1), Palestinian Juvenile Protection Law.

488 Article 37(c) of the CRC; Article 4, Palestinian Juvenile Protection Law.

489 Article 37(d) of the CRC; Article 8, Palestinian Juvenile Protection Law.

490 Article 37(d) of the CRC; Article 10, Palestinian Juvenile Protection Law.

491 Article 9, Palestinian Juvenile Protection Law.

492 Article 59, Palestinian Juvenile Protection Law.

493 Article 11(2), Palestinian Juvenile Protection Law.

494 Article 14, Palestinian Juvenile Protection Law.

495 Article 13, Palestinian Juvenile Protection Law.



The National Committee for Juvenile Justice has been established as an inter-Ministerial and inter-agency body under the Ministry of Social Development with responsibility for identifying needs and priorities at the national level and developing plans and programmes.⁴⁹⁶

Gaza

Historically, the applicable law in Gaza with respect to juveniles was the British enacted Juvenile Offenders Ordinance No. 2 of 18 February 1937.

Although the Palestinian Juvenile Protection Law abolished this legislation,⁴⁹⁷ *de facto* authorities in Gaza do not currently apply the Juvenile Protection Law but continue to apply the Ordinance of 1937 alongside Decision No. 25 of 2013 and Decision No. 15 of 2014, issued by the Attorney General of Gaza.⁴⁹⁸

The Juvenile Offenders Ordinance defines three different age categories as follows:

- the child, which is a child under the age of 14,
- the juvenile, which is a child between 14 and 16 and
- the minor, which is a child between 16 and 18.

Different procedures and punishments are applicable according to the age of the child. For example:

- a child shall not be sentenced to imprisonment,
- a juvenile shall not be sentenced to imprisonment if he or she can be treated in any other way, such as being placed on probation, fined, placed in detention or in a correctional school, or in any other way; and:
- if a juvenile or minor is sentenced to imprisonment, he or she shall, to the best of his or her ability, not be allowed to mix with adult prisoners.⁴⁹⁹

The death penalty shall not be imposed, and no such sentence is to be recorded against a child, juvenile or minor. Instead, the court shall order the detention of the minor for such period as may be determined by the 'High Commissioner' In practice, the specialized juvenile courts, through their designated judges, act in the role of the High Commissioner.⁵⁰⁰

Israeli Law

Within Israel and East Jerusalem, Israel applies the provisions of the Israeli Penal Code and the Israeli Criminal Procedures Code. The Israeli Youth Law (Adjudication, Punishment, and Means of Treatment) (Youth Law), governs the procedures for minors involved in criminal activities.⁵⁰¹

According to the Youth Law, it is essential to uphold the dignity of the minor when authorities take action against minors and when minors exercise their rights.⁵⁰² Considerations such as rehabilitation, treatment, social integration, and reintegration are to be given due weight during decision making and sentencing, considering the age and level of maturity of minors.⁵⁰³

496 State of Palestine Report to CRC Committee 2019, para 440.

497 Article 65, Juvenile Protection Law. See also State of Palestine Report to CRC Committee 2019, para 15.

498 The International Journal of Restorative Justice 2019 vol. 2(1) pp. 99. As mentioned by the Director of the Social Defence Unit of the Ministry of Social Affairs in Gaza in an interview in 2017.

499 Article 12, Juvenile Offenders Ordinance of 1937.

500 Article 13, Juvenile Offenders Ordinance of 1937.

501 Israeli Youth Law (Adjudication, Punishment, and Means of Treatment), No. 5731-1971; ACRI, [Arrested Childhood: The Ramifications of Israel's New Strict Policy toward Minors Suspected of Involvement in Stone Throwing, Security Offenses, and Disturbances](#), February 2016.

502 Article 1(A), Israeli Youth Law of 1971.

503 Article 1(A), Israeli Youth Law of 1971.



The law requires that any legal proceedings taken that involve a minor must be conducted in a language that they understand,⁵⁰⁴ and that court hearings must be conducted in a private manner, protecting the right to privacy of the minor.⁵⁰⁵ In addition, the law prohibits convicting a minor alongside an adult and prohibits holding court hearings for minors at the same time and place as those for adults.⁵⁰⁶

Israeli Military Orders and Security Laws

Within the West Bank, including the H2 area of Hebron, MO 1651 is the key military order relevant to the arrest and detention of Palestinian children. It sets out the maximum custodial sentence for a child aged:

- 12 to 13 as six months⁵⁰⁷ and
- 14 to 15 years old as 12 months, unless the offense carries a maximum potential sentence of five years or more.⁵⁰⁸

Persons who throw stones in a manner which harms traffic, which harms persons or property, or which is thrown at a moving vehicle with the intent to harm the vehicle or the person travelling in it are punishable by sentences of up to ten years imprisonment.⁵⁰⁹

In addition, insulting or offending a soldier's honour comes with a potential maximum penalty of one year in prison.⁵¹⁰ The maximum penalty for any act or omission that – “entail[s] harm, damage, disturbance or danger to the security of the region or the security of the [Israeli military]” or to the “operation, use or security” of a road, dirt path, vehicle or any other means of public transport, or public communication or any factory, institution or equipment used or able to be used for the manufacturing, supplying, storing, transporting, transfer or distribution of water, petrol, gas or electricity or any property of the state of Israel or of the Israeli military – is life in prison.⁵¹¹

The **Unlawful Combatants Law**, applied to Palestinians detained by Israeli forces in Gaza, contains minimal safeguards for minors. Persons who are detained are provided with a temporary detention order and minors must be provided with a detention (incarceration) order within 20 days (as compared to 30 days for adults). Minors must be brought before a judge within 30 days (as compared to 45 days for an adult).⁵¹²

504 Article 1(B), section b and Article 1 (C), Israeli Youth Law of 1971.

505 Article 9 (B), section (C-1), Israeli Youth Law of 1971.

506 Article 4, Israeli Youth Law of 1971.

507 Article 168(B), MO 1651.

508 Article 168(C), MO 1651.

509 Article 212, MO 1651.

510 Article 215(D), MO 1651.

511 Articles 222(A) and (D), MO 1651.

512 Amendments to Unlawful Combatants Law of 28 July 2024. See also Diakonia, Unlawful Incarceration.



Difficult Living Conditions (Photo: Yousef Hammash/NRC)

11.5 Juvenile Courts and Fair Trial Guarantees

Palestinian Law

Juvenile courts are to be established in Palestine with full-time, specialised, judges dedicated to resolving children's cases.⁵¹³ The courts are obliged to conduct hearings in locations and times which are different to those of adult criminal sessions,⁵¹⁴ and only Child Protection Counsellors, the child's parents or guardian, court staff and persons directly related to the case are permitted to attend the courts' sessions.⁵¹⁵ Juvenile courts are required to use certain procedures that differ from those of adults and impose lighter penalties,⁵¹⁶ including non-custodial dispositions, where appropriate.⁵¹⁷ The law also establishes a system for enforcing the decisions of Juvenile Courts that ensures the suitability of each judgment for each child on a case-by-case basis.⁵¹⁸

Gaza

The Juvenile Offenders Ordinance of 1937 provides that courts, when considering charges against children, juveniles or minors, shall be deemed to be a juvenile court, unless the person being tried is accused jointly with another person and his accomplice is not a child, juvenile or minor.⁵¹⁹

In collaboration with the Ministry of Justice, the Ministry of the Interior established a specialized Juvenile Court in Gaza in line with the Juvenile Offenders Ordinance. In practice, special locations have been designated for juvenile trials. Since 2014, a permanent Juvenile Court has been established at the Al-Rabee' Institution for Juvenile Care.⁵²⁰ The court addresses juvenile cases once a week or more, depending on the caseload and court needs. While the building specifications and schedules align with those of regular courts, the environment is designed to be less intimidating for juveniles.⁵²¹

513 Article 24, Juvenile Protection Law.

514 Article 27, Juvenile Protection Law.

515 Articles 8 and 30(1), Juvenile Protection Law.

516 Articles 24-35, Juvenile Protection Law.

517 Articles 36-46, Juvenile Protection Law.

518 Article 47, Juvenile Protection Law.

519 Article 3(1), Juvenile Offenders Ordinance of 1937.

520 Private sources indicate that cases are presented before the Magistrate Court. In cases involving felony charges, the First Instance Court is convened. See also Articles 3(1) and 3(2), Juvenile Offenders Ordinance of 1937. If the juvenile court finds that the accused is 16 or older during the proceedings, or if another court discovers that the accused or the person involved is under 16, this article allows the court to proceed with the case if it believes delaying it is not necessary.

521 NRC interview with legal experts in Gaza.



Israeli Law

Israeli Juvenile Courts function within a specialized judicial framework designed to address offenses committed by minors. These courts are presided over by judges with specific training in juvenile justice. Juvenile Courts are intended to safeguard vulnerable minors, promote their well-being and development, and facilitate their rehabilitation as productive members of society.

Juvenile Courts serve a dual purpose: judicial and rehabilitative-therapeutic. The Youth Law Act sets out key principles in relation to the operation of Juvenile Courts as follows:

- **Emphasis on Authority and Minor's Involvement:** Court proceedings are intended to prioritize authority and be centered around the minor, whether as a protected party or a defendant. Minors are provided with the opportunity to participate in the proceedings independently from their parents.
- **Parental Participation:** The law acknowledges the unique status of parents and allows their involvement in the proceedings.
- **Confidentiality:** All Juvenile Court proceedings are strictly confidential. Only authorized individuals, including experts and professionals, are permitted to participate in the hearings.
- **Efficient Hearings:** Hearings should be conducted promptly and without delay, with judges dedicating sufficient time to each case.⁵²²

Israeli Military Orders and Security Laws

Military Order 1644 ('MO 1644') establishes Juvenile Military Courts to deal with matters affecting minors in the West Bank (Areas A, B, C).⁵²³ The head of the Military Appeals Court appoints judges from the military courts of first instance to Juvenile Military Courts.⁵²⁴ Regular military courts can proceed with juvenile cases if a minor is "charged with an adult in the same case" but must act as juvenile courts.⁵²⁵

Minors also appear before regular military courts for "extension of detention or release" hearings.⁵²⁶ Minors should be separated from adults while being brought and returned from military court⁵²⁷ and while in a holding cells awaiting their sessions "as much as possible."⁵²⁸

The Juvenile Military Court has the power to appoint a lawyer for the child if it finds that is in the child's interest.⁵²⁹ The child's family has the right to attend the sessions of the Juvenile Military Court at any time.⁵³⁰

After conviction, the Military Juvenile Court may order a social welfare report on the situation of the minor in order to be able to hand down the appropriate sentence.⁵³¹

⁵²² [Juvenile Courts](#), Israeli Judicial Authority website.

⁵²³ Order No. 1644, Order Concerning Security Provisions (Temporary Order) (Amendment No. 109) dated July 29, 2009, was extended annually until it became permanent through the Order Concerning Security Provisions (Amendment No. 35) (Judea and Samaria), 5773-2013. Currently, it is codified under Sections 137–148 of the Order Concerning Security Provisions.

⁵²⁴ Article 137, Military Order Concerning Security Provisions.

⁵²⁵ Article 140, Military Order Concerning Security Provisions.

⁵²⁶ Article 140, Military Order Concerning Security Provisions.

⁵²⁷ Article 139 and 143, Military Order Concerning Security Provisions.

⁵²⁸ Article 139, Military Order Concerning Security Provisions.

⁵²⁹ Article 146, Military Order Concerning Security Provisions.

⁵³⁰ Article 147, Military Order Concerning Security Provisions.

⁵³¹ Article 46(L)(c), MO 1644.



Jibril and his grandson (Photo: Yousef Hammash/NRC)

11.6 Criminal Procedures for Juvenile Offenders⁵³²

Palestinian Law

The Juvenile Protection Law established a separate system to enforce juvenile cases under the supervision of the court, prosecution, and Child Protection Counsellors.⁵³³ This includes the following actors and agencies:

Ministry of Social Development

Matters of juvenile justice are primarily assigned to the Ministry of Social Development which is responsible for implementing the Juvenile Protection Law. The Ministry operates the juvenile justice system through its Child Protection Department,⁵³⁴ which acts as the central administration for Child Protection Counsellors and manages juvenile institutions. The Child Protection Department deals with complaints involving children, which are referred to child protection counsellors for follow-up.⁵³⁵

Child Protection Counsellors

Child Protection Counsellors are responsible for dealing with juvenile justice issues within the Ministry of Social Development.

The role of Child Protection Counsellors commences with the arrest of a child by the police.⁵³⁶ If detained and transferred to the Prosecution, the Child Protection Counsellor must monitor the minor's case in each session of interrogation by the police or prosecutor.⁵³⁷ At the court hearings, the Child Protection Counsellor is required to provide a preliminary inquiry report on the minor's personal and social status.⁵³⁸ The court is required to assess the best interests of the child based on the report of the Child Protection Counsellor and the evidence presented. This must include ensuring respect for the rights of the child, including the method for their rehabilitation and prospects for prompt reintegration into society.

⁵³² Also known as children in contact with the law.

⁵³³ Articles 47-55, Palestinian Juvenile Protection Law.

⁵³⁴ Article 64, Palestinian Juvenile Protection Law.

⁵³⁵ State of Palestine Report to CRC Committee 2019, para 64.

⁵³⁶ Article 18(2), Palestinian Juvenile Protection Law.

⁵³⁷ Article 20, Palestinian Juvenile Protection Law.

⁵³⁸ Article 30 (3 and 6), Palestinian Juvenile Protection Law.



If the report of the Child Protection Counsellor is not refuted by the parties to the case or the court itself, it is considered a basis for assessing the juvenile's condition and best interests and should be considered instrumental in the court's ruling.⁵³⁹

The Child Protection Counsellor is then required to supervise the execution of any orders or decisions made by the court during the criminal proceedings. They should submit reports regarding the child's situation to the court every three months.⁵⁴⁰ The court, based on such reports, can change or terminate the disciplinary measures or sentence.⁵⁴¹ Child Protection Counsellors also have the power to: (i) bring a child, prior to the completion of his or her disciplinary measure, to the court to request an extension to that measure;⁵⁴² or (ii) ask the court to release the minor after spending one-third of his or her term at the social care institution.⁵⁴³

Prosecutors and Criminal Procedures Law

In principle, the Juvenile Protection Law permits the investigation⁵⁴⁴ and questioning⁵⁴⁵ of children, in an identical way to that of adults.⁵⁴⁶ However, the Law creates a specialized Juvenile Prosecution Unit with different procedures and safeguards for minors.⁵⁴⁷ In accordance with the law, the prosecutor shall instruct the Child Protection Counsellor to carry out any necessary tasks and social research to establish the factual circumstances in relation to the child's situation and in relation to the child's personality in order to help decide the most appropriate means to rehabilitate and protect him or her.

In addition, the Juvenile Protection Law; instructs prosecutors to review the report of the Child Protection Counsellor,⁵⁴⁸ prohibits prosecutors from interrogating a child in the absence of the Child Protection Counsellor,⁵⁴⁹ and empowers prosecutors to offer mediation to reach agreement between the parties. Aside from these exceptions, the treatment of children before the prosecution is similar to that of adults. For example, the prosecutor shall undertake the questioning of the minor within the first 24 hours after the minor has been referred,⁵⁵⁰ and the prosecutor has the option to detain or release the child.

Gaza

The Juvenile Offenders Ordinance of 1937 provides that measures shall be taken where possible to prevent the mixing of any minors under the age of 16 with adult offenders during their transfer to or from the court or while waiting before or after their appearance before the court.⁵⁵¹

Furthermore, no one shall be allowed to:

- attend the ongoing trial before the Juvenile Court other than the members and employees of the court, the parties to the proceedings and others directly involved in the case, unless the court so authorizes; and

⁵³⁹ Article 25, Palestine Juvenile Protection Law.

⁵⁴⁰ Article 48(1), Palestine Juvenile Protection Law.

⁵⁴¹ Article 48(2), Palestine Juvenile Protection Law.

⁵⁴² Article 52, Palestine Juvenile Protection Law.

⁵⁴³ Article 51, Palestine Juvenile Protection Law.

⁵⁴⁴ Articles 55-63, Palestine Juvenile Protection Law.

⁵⁴⁵ Articles 94-105, Palestine Juvenile Protection Law.

⁵⁴⁶ Palestinian Criminal Procedures Law No. 3 of 12 May 2001, Palestine Gazette No. 38, 5 September 2001, p 94.

⁵⁴⁷ Article 18, Palestine Juvenile Protection Law.

⁵⁴⁸ Article 17, Palestine Juvenile Protection Law.

⁵⁴⁹ Article 19, Palestine Juvenile Protection Law.

⁵⁵⁰ Article 105, Palestine Juvenile Protection Law.

⁵⁵¹ Article 3(3), Juvenile Offenders Ordinance of 1937.



- publish the name of a child or juvenile appearing before the Juvenile Court, or to publish his or her place of residence, the name of his school, his or her photographic drawing, or anything or matter that may lead to the identification of his or her identity, except with the permission of the court or to the extent required by the provisions of the law.⁵⁵²

Israeli Law

According to the Israeli Youth Law 1971, when summoning a minor for questioning, their parents or guardians must be notified and have the right to be present during the interrogation.⁵⁵³ Interrogations with minors cannot take place at night. The law distinguishes between minors under 14 and those over 14 regarding interrogation hours: minors under 14 cannot be questioned between 20:00 and 07:00, while those over 14 cannot be questioned between 22:00 and 07:00.⁵⁵⁴

Additionally, minors who are suspects must be informed of their rights prior to their questioning and investigation: the right to remain silent, to consult with a lawyer in private prior to the investigation, to be represented by the Public Defender Office (PDO).⁵⁵⁵ In cases where it is decided according to the law to postpone the realization of some of these rights, the juvenile investigator must inform the minor. The Regulations include the specific wording the juvenile investigator shall use when informing the minor of his/her rights. Israeli authorities state that interrogations by staff of the Israeli Security Agencies (ISA) take place pursuant to the approval of the highest position holders in the ISA and according to special Guidelines on the interrogation of minors.⁵⁵⁶

Detention of minors should only be considered if no other method can achieve the intended goal and should be as brief as necessary. Any decision on detention should take into consideration the minor's age and its impact on their physical, mental, and developmental well-being, as should any decision to shackle or restrain them.⁵⁵⁷ The law also requires that detained minors be kept separately from adults in detention facilities.⁵⁵⁸

Israeli Military Orders and Security Laws

Under MO 1644 in Area C, police officers are required to notify a minor's parents without delay upon arrival of the child at a police station following his or her arrest.⁵⁵⁹ However, a police officer may withhold providing the notice if he or she is convinced it would harm the minor or another person.⁵⁶⁰ Minors are entitled to consult with a lawyer prior to interrogation,⁵⁶¹ however judges or persons responsible for investigations are allowed to delay access to a lawyer for up to eight, fifteen, or even thirty days, on security grounds or if they feel it would compromise the investigation.⁵⁶²

There are minimal protections for Palestinian minors under the Unlawful Combatants Law, applied to Palestinians detained in Gaza. Minors must be issued with a detention order within 20 days of being detained and must be brought before a judge within 30 days. Detainees are entitled to meet with a lawyer within 75 days of detention (same time period as for adults).⁵⁶³

552 Article 3(3), Juvenile Offenders Ordinance of 1937.

553 Articles 9(A) and 9(H), Youth Law 1971.

554 Article 9(D), Youth Law 1971.

555 Regulations for the Evidence Procedure Revision (Children Protection (Wording of the Notification of Rights to a Minor Suspect Prior to an Investigation)) 5778-2018. See also State of Israel Report to CRC Committee 2019, para 199.

556 State of Israel Report to CRC Committee 2019, paras 76-79.

557 Articles 10(A) and 10(B), Youth Law 1971.

558 Article 13(A), Youth Law 1971.

559 Article 53(A), MO 1651.

560 Article 53(B), MO 1651.

561 Article 136(c), MO 1676.

562 Articles 57-59, MO No. 1651.

563 Amendments to Unlawful Combatants Law, 28 July 2024.



Painting Class (Photo: Yousef Hammash/NRC)

11.7 Reform and Care Measures for Juveniles

Palestinian Law

The Palestinian Child Law guarantees **care and rehabilitation measures** for children at risk of delinquency, including placement of children in vocational, cultural, sports or social training courses and/or temporary placement in a family, social, educational or appropriate public or private health-care institution.⁵⁶⁴

The Palestinian Juvenile Protection Law incorporates a wide range of reform or sentencing options as alternatives to custody.⁵⁶⁵ Options include:

- **warning** the child not to reoffend,⁵⁶⁶
- **financial guarantees** by one of the child's parents or guardian to ensure that the child is brought to investigations or court hearings,⁵⁶⁷
- **transferring** the child to an alternative family if the parents are unable to take care of the child or if they are the reason for the child's delinquency,⁵⁶⁸
- **referral** of the child to a vocational training institution,⁵⁶⁹
- **obliging the child to do certain things**, such as attending counselling sessions, banning him or her from accessing specific locations that endanger the youth,⁵⁷⁰
- **placing the child under judicial examination**,⁵⁷¹
- **subjecting the child to social probation** by Child Protection Counsellors,⁵⁷²
- **diverting the child to any social care institution**,⁵⁷³ or to a hospital.⁵⁷⁴

⁵⁶⁴ State of Palestine Report to CRC Committee 2019, para 220.

⁵⁶⁵ Article 36, Palestinian Juvenile Protection Law.

⁵⁶⁶ Article 37, Palestinian Juvenile Protection Law.

⁵⁶⁷ Article 20(2-3), Palestinian Juvenile Protection Law.

⁵⁶⁸ Article 38, Palestinian Juvenile Protection Law.

⁵⁶⁹ Article 39, Palestinian Juvenile Protection Law.

⁵⁷⁰ Article 40, Palestinian Juvenile Protection Law.

⁵⁷¹ Article 41, Palestinian Juvenile Protection Law.

⁵⁷² Article 42, Palestinian Juvenile Protection Law.

⁵⁷³ Article 43, Palestinian Juvenile Protection Law.

⁵⁷⁴ Article 44, Palestinian Juvenile Protection Law.



Other dispositions include release-on-bail in the pre-trial phase,⁵⁷⁵ post-trial conditional release after spending one-third of the term in a childcare institution,⁵⁷⁶ and public community⁵⁷⁷ services.⁵⁷⁸

In addition, the law provides the possibility for mediation for misdemeanours and minor offences before initiating a criminal proceeding. If the mediation succeeds, the criminal proceedings are closed.⁵⁷⁹ Within Gaza, courts implemented a model of diversion called the family conference.

The Ministry of Social Development in Gaza manages specific vocational training centres aimed at rehabilitating juveniles or children in general, helping them acquire a craft or skill suitable for future employment upon completion of training. The Al-Rabee' Institution for Juvenile Care provides services and support to detained juveniles aged 12 to under 18 years. The Ministry of Social Development has recently been working on establishing the Al-Zaharat Institution for the care of juvenile girls, similar to the Al-Rabee' Institution. However, due to the current situation this is not yet functional.

Israeli Law

Instead of sentencing a convicted minor to prison, a Juvenile Court may opt to confine them to a supervised residence for a period of time less than the maximum prison term prescribed for their offense. Additionally, the juvenile court must consider the child's age at the time of the offense when deciding on their punishment. A minor under the age of 14 at the time of sentencing shall not be incarcerated.⁵⁸⁰

Under the Youth Law, Juvenile Courts also have the court's power to impose a fine on the parents of a minor, in lieu of a criminal conviction, even if the minor was convicted.⁵⁸¹ Parents of minors convicted of a security offense (as defined in the Counter-Terrorism Law) or of the offense of stone-throwing (as defined in the Penal Law) when committed with a nationalistic motive or in connection with terrorist activity, and sentenced to imprisonment are banned from receiving National Insurance payments.⁵⁸²

A number of measures aimed at the rehabilitation and care of a minor, are contained in the Israeli Youth Law including the following:

- **entrusting the minor to the care of a suitable individual** who is not their parent, for a court-determined period of time, and limiting the parental rights during this period,
- **placing the minor on probation,**
- **obtaining a commitment,** with or without a guarantee, from the minor or their parent regarding the minor's future conduct,
- **enrolling the minor in a day care centre** for a court-determined period,
- **confining the minor in a day care centre** for a court-determined period, or in a secure day care centre for a period of time no longer than the maximum prison term for the minor's offense,
- **issuing any other necessary directives for the minor's rehabilitation,** as deemed fit by the court,
- **imposing a fine or court costs** on the minor,
- **ordering the minor to compensate the victim of the offense.**⁵⁸³

575 Article 20(3), Palestinian Juvenile Protection Law.

576 Article 51, Palestinian Juvenile Protection Law.

577 Article 46(2), Palestinian Juvenile Protection Law.

578 See Qafisheh, The 2006 Palestinian Juvenile Protection Law: A Quest for Further Reform.

579 Article 23, Palestinian Juvenile Protection Law.

580 Article 25, Israeli Youth Law 1971.

581 State of Israel Report to CRC Committee 2022, para 214.

582 State of Israel Report to CRC Committee 2022, para 215.

583 Article 26, Israeli Youth Law 1971.



Israeli Military Orders and Security Laws

Judges in Military Courts are permitted request a report from the Welfare Officer of the Civil Administration following the minor's conviction and prior to sentencing. This report must include information about the minor's background, family, economic and health status, as well as any other relevant circumstances for determining the sentence. The report may also address potential rehabilitation options for the minor.⁵⁸⁴

11.8 Police Special Procedures

Palestinian Law

Specialized police units have been created under the Palestinian Juvenile Protection Law to deal with juvenile offenders.⁵⁸⁵ Children who are arrested by the police in cases of flagrant offence, should be immediately transferred to the Juvenile Police Unit. The Juvenile Police should then notify the child's guardian and the Child Protection Counsellor.⁵⁸⁶ A complaints department within the Office of the Public Prosecutor investigates any violations against children and submits reports on the matter to the Public Prosecutor.⁵⁸⁷

Gaza

There are no specialized prosecution offices or investigative units dedicated to juveniles in Gaza. Even police stations lack such capacities. The only measure taken in this regard is Judicial Circular No. 25/2013, which requires public prosecutors to ensure:

- Juveniles are not interrogated without the presence of a Behavior Monitor.
- No case is referred to court without a Behavior Monitor's report being submitted.

Israeli Law

Police powers in Israel when arresting juveniles are contained in the Youth (Trial, Punishment and Modes of Treatment) Law 1971, as well as other criminal and procedural laws. Arrest of juveniles is to be used as a matter of last resort and only when no other alternative is available. Police are encouraged to summons juveniles, rather than arresting them, for less serious offences.

At the time of arrest, the parent or guardian of the juvenile must be notified and should normally be present during questioning, unless the police consider that immediate interrogation is necessary due to the nature of the offense or if the guardian's presence could obstruct justice.⁵⁸⁸ Juveniles have the right to a lawyer⁵⁸⁹ and the juvenile's age, level of maturity, and understanding should be taken into account during questioning.

When detaining juveniles, police should only use force when necessary and proportionate to the situation. Any force used must be the minimum required in the circumstances. Any search of a juvenile must be carried out in a way that preserves their dignity and privacy.

Juveniles must be advised of their right to a lawyer in a way that they can understand. They have the right to remain silent during questioning.⁵⁹⁰

584 MO No. 1651, Article 148.

585 Article 15, Palestinian Juvenile Protection Law.

586 Article 18, Palestinian Juvenile Protection Law.

587 State of Palestine Report to CRC Committee 2019, para 66.

588 Articles 10-11, Israeli Youth Law 1971.

589 Article 12, Israeli Youth Law 1971.

590 Article 24, Israeli Youth Law 1971.



School in Gaza (Photo: Yousef Hammash/NRC)

Israeli Military Orders and Security Laws

Under the military legal framework, any soldier or police officer is authorized to arrest persons without a warrant, even children, where they have a suspicion that the individual has committed an act violating one of the “security offenses” in Israeli military law.⁵⁹¹ Following their arrest, they are subject to the investigative procedures contained in MO No. 1651.

11.9 Detention of Juveniles

Palestinian Law

The Juvenile Protection Law generally bans the **detention of a minor**. However, if a minor is detained, the law requires that the prosecution order their detention to be in a care institution.⁵⁹² Where there are no available or suitable care institutions, minors shall be held in a place designated for juveniles.⁵⁹³

Gaza

Within Gaza, where a person who appears to be under the age of 18 is arrested with or without an arrest warrant and cannot be brought to court immediately, the police officer who brought him or her in shall investigate the case and may, in any case, release him or her on the basis of an undertaking. The undertaking may be provided by the father, guardian or other person of responsibility, either with or without a guarantee of bail. The bail guarantee can be set at the amount that the police officer considers sufficient to make sure he or she attends at the hearing regarding the charge against him or her.⁵⁹⁴ However, no bail guarantee is available if:

- that person is charged with murder or any other serious crime,
- detention in his or her ‘interest’ to prevent him from mixing with any undesirable person, or
- the police officer believes that his or her release may frustrate the course of justice.⁵⁹⁵

⁵⁹¹ Articles 31(A) and 32(A), MO 1651.

⁵⁹² Article 20(1), Palestinian Juvenile Protection Law. See also Article 24, Reform and Rehabilitation Centres Law No. 6 of 1998.

⁵⁹³ Article 20(4), Palestinian Juvenile Protection Law.

⁵⁹⁴ Article 4, Juvenile Offenders Ordinance of 1937.

⁵⁹⁵ Article 4, Juvenile Offenders Ordinance of 1937.



Additionally, the Ministry of Social Development employs a specialized official in each of its directorates, known as a 'Behavior Monitor,' who has judicial authority to inspect police stations and detention centres. Their role is to ensure that children or juveniles are not detained in inappropriate facilities. However, this mechanism is not effectively implemented due to the lack of dedicated detention facilities for children and juveniles.

Israeli Law

The Youth Law 1971 states that incarceration is the last resort for minors, and it is prohibited to incarcerate minors under 12 years. In practice, incarceration of Palestinian minors is common in the Israeli legal system. Minors under the age of 14 may be sentenced to prison, on the condition that they shall be held in a children's facility rather than a prison until they reach the age of 14.

At the age of 14, they can be transferred to a prison. In making such an order, the court must take into account the circumstances of the case, the effect of the prison on the minor, his or her age at the time of the offense and his or her personal circumstances.⁵⁹⁶

On 7 November 2024, the Knesset Plenum approved in its final reading a law establishing a temporary five-year emergency regulation. This regulation grants Israeli courts the authority to impose prison sentences on children under the age of 14 if their offense is classified in Israel as a 'terrorist act' or an act motivated by nationalism. This expands the current law, which limits such penalties to cases involving murder convictions.⁵⁹⁷

According to the Israeli Penal Law, minors shall be placed in a separate section of the detention centre or in a facility entirely distinct from adult detainees. Once indicted, a minor detainee has the right to participate in educational and recreational activities. Detainees who are minors are permitted to receive visits from immediate family members, correspond with them via letters, and communicate with them via telephone. Within 24 hours of arrest, a minor in custody is entitled to meet with a social worker to assess their needs and provide support during detention.⁵⁹⁸

Administrative Detention

Administrative detention is a procedure through which the Israeli military or police detain individuals indefinitely based on confidential and non-disclosable information, without formally charging them or granting them a trial. Israel uses three separate laws to hold individuals without trial, namely:

- The Emergency Powers (Detentions) Law, 1979 which is applied to Palestinians in East Jerusalem.
- Military Order 1651 which applies in the West Bank,⁵⁹⁹ and
- The Internment of Unlawful Combatants Law which has been applied to residents of Gaza since 2003.

East Jerusalem

In East Jerusalem, the Israeli Minister of Defense has the authority under the Emergency Powers (Detention) Law to issue an administrative detention order where he or she has *"reasonable grounds to assume that the interests of state security or public safety require that a certain person be detained. The period of detention is specified in the warrant, signed by the minister, and does not exceed six months. However, the order can be renewed indefinitely, each time for a period not exceeding six months."*⁶⁰⁰ This law has been widely criticized as subject to abuse and for failure to comply with international human rights standards.

⁵⁹⁶ State of Israel Report to CRC Committee 2022, para 214.

⁵⁹⁷ Youth Law (Trial, Punishment, and Methods of Treatment) (Amendment No. 25 – Temporary Provisions), 2024.

⁵⁹⁸ Kol Zchut, [Detention Conditions for Minors](#) (Hebrew).

⁵⁹⁹ Article 285, MO No. 1651.

⁶⁰⁰ Article 2(A) and 2(B), Emergency Powers (Detentions) Law 1979.



Israeli Military Orders and Security Laws

Under MO No. 1651, soldiers are authorised to detain minors over the age of 12, if they have a reasonable basis to suspect that the minor has committed a security offence, or that he or she is about to commit an offense which liable to endanger the well-being or security of a person, or the public order or security more generally. Soldiers are authorized to detain persons, including minors, in order to check their identity and residential address and to detain them for interrogation and investigation.⁶⁰¹

Police officers can issue an arrest warrant for a maximum detention period of 96 hours from the time of arrest for adults and minors suspected of committing a security offense as defined in MO 1651.⁶⁰² The maximum detention period of an arrest warrant for a person suspected of a non-security related offense is 48 hours.⁶⁰³

If a police officer is satisfied that a stop in the investigation would harm the outcome, he or she can extend the maximum detention period of a person suspected of a security offense to six days from the time of arrest, given the approval of the Shin Bet security service.⁶⁰⁴ If stopping the interrogation process causes harm to someone's life, the maximum detention period rises to eight days.⁶⁰⁵

The Unlawful Combatants Law permits the detention of any person, including minors, who are considered to be an unlawful combatant on an ongoing basis, subject to a six-monthly review of the detention before a judge.⁶⁰⁶

601 Article 22, MO No. 1651.

602 MO 1685.

603 MO 1685.

604 MO 1685.

605 MO 1685.

606 Articles 2, 3, 5, Unlawful Combatants Law.



Looking for Safety (Photo: Yousef Hammash/NRC)



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