

\*\*\* Published in the Journal of: *Global Responsibility to Protect* issue 10 (2018)

***Children on the Front Lines: Responsibility to Protect (R2P) in the Israeli/  
Palestinian Conflict***

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**Abstract**

Children are disproportionately affected in violent conflict, are vulnerable to exploitation and lack protection when a state is failing in its responsibility to protect. In the Israeli/Palestinian conflict, children, particularly those living in Gaza, East Jerusalem, parts of West Bank are not only vulnerable during escalations but are subject to exploitation, detentions and severe security measures. Divisions over culpability have made the local representatives and the international community incapable or unwilling to take collective action to protect this most vulnerable population. Given the divisive international context, are there R2P tools that can be used effectively to enhance protection for children and teenagers in the Israeli/Palestinian conflict? The focus on the protection of children demonstrates: (1) the need to closely analyze current protection tools particularly under Pillar III of R2P, (2) the importance to eradicate unintended effects of protection efforts, and (3) the potential contribution of focus on children towards reaching a consensus on a protection regime.

Key Words

- Responsibility to Protect (R2P)
- Atrocity Crimes
- Israeli/Palestinian conflict
- Children and Teens
- Protection

Children are disproportionately affected in violent conflict, are vulnerable to exploitation and lack basic protection mechanisms when a state or other authorities

are failing in their responsibility to provide protection. Pillar III of the Responsibility to Protect (R2P) norm gives responsibility to the international community to take timely and decisive action when the state or relevant authorities are manifestly failing in providing protection from atrocity crimes. Fear of misuse of measures, particularly under Pillar III, combined with a lack of international consensus in divided conflicts, has placed protection tools on hold in the most difficult contexts. Currently, there are few intersections between R2P and the prioritization of protection of children. While the UN agenda prioritizes prevention and the strengthening of state capacities under Pillar I and II, the most vulnerable population, children living in conditions with no state protection, continue to be exposed to ongoing atrocity crimes.

There has been much debate among scholars and practitioners on the importance and application of the R2P norm. According to supporters of the norm, R2P may be the most dramatic normative development of our time since it managed to finesse the tensions between sovereignty and protection from atrocity crimes.<sup>1</sup> Skeptics, however, point to R2P as being applied selectively and only when the interests of the great powers align.<sup>2</sup> Although R2P has failed to prevent atrocities in some of the most volatile and divisive conflicts, the concept that civilians have a right to protection has gained widespread international support.<sup>3</sup> An effective operationalization of protection under R2P, however, is dependent on common international consensus on the realities of the conflict, culpability for atrocity crimes and a construction of a collective framework for a protection regime. While R2P has become integrated into international agenda, the operationalization of the norm is

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<sup>1</sup> Ramesh Thakur and Thomas G Weiss, 'R2P: From Idea to Norm—and Action?' *Global Responsibility to Protect*, 1/1 (2009), pp. 22 – 53.

<sup>2</sup> Mahmood Mamdani, 'Responsibility to Protect or Right to Punish?' *Journal of Intervention and State Building*, 4/1 (2010), pp. 53-67.

<sup>3</sup> Jon Western and Joshua S. Goldstein, 'R2P after Syria, To Save the Doctrine Forget Regime Change', *Foreign Affairs*, March 13, 2013.

indeed difficult when the interests of the great powers do not align. Pillar III of R2P in particular raises much concern among states and scholars about potential abuse and unintended effects. The use of sanctions and military tools to protect children, raises many red flags, however, lack of any action to protect this most vulnerable population, is also unconscionable.

Children are not only vulnerable in situations of violent conflict; they are also susceptible to exploitation and recruitment by extremists or the state. The effectiveness of protection regime for children can be difficult in complex and divided settings and runs the risk of unintended effects. The contentious military intervention in Libya and the lack of consensus among key interveners in Syria, point to the challenges of international intervention when a state is failing in its protection responsibility. Children whose homes, families and lives have been devastated by conflict, commonly lack agency and are vulnerable to exploitation, which gives the international community an increased responsibility. Children are not only vulnerable during a conflict, they commonly represent half of the displaced population and are at high risk of exposure to violence and exploitation.<sup>4</sup>

The Israeli/Palestinian conflict is one of the most divisive and politicized conflicts in the world. It is a conflict that has generated the most number of vetoes in the Security Council and is commonly perceived as too contentious for the emerging R2P norm.<sup>5</sup> It is also a conflict that has provoked accusations of bias and unfair application against the UN by both Israel and the US, and against the US, which is perceived as shielding Israel from international repercussions. Protection issues, particularly related to children living in Gaza, are fundamental, since all relevant

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<sup>4</sup> Samira Sami, Holly A Williams, Sandra Krause, Monica A Onyango, Ann Burton, Barbara Tomczyk, 'Responding to the Syrian crisis: the Needs of Women and Girls', *Viewpoint*, November 8, 2013, [http://dx.doi.org/10.1016/S0140-6736\(13\)62034-6](http://dx.doi.org/10.1016/S0140-6736(13)62034-6), Global Trends, Forced Displacements in 2015, <http://www.unhcr.org/576408cd7.pdf>.

<sup>5</sup> Interview with senior political advisor at the UN, 2016.

authorities can be argued to be failing in their responsibility to protect. Given the divisive local and international context, are there R2P tools that can contribute to providing protection for children and teenagers in the Israeli/Palestinian conflict? Can tools under R2P contribute towards a consensus on providing protection for children within the most divisive conflicts?

The Israeli/Palestinian conflict provides a good case for an examination of the relevance of Pillar III, and protection tools under the umbrella of R2P in a divided context. The killing and exploitation of children, divisions on responsibility and culpability, and lack of basic protection measures are evident especially in Gaza, East Jerusalem and parts of West Bank, where a failure of a protection regime exposes the fundamental challenges of operationalization of R2P in a divided context. While the Israeli-Palestinian conflict is admittedly one of the most divisive conflicts in the world, it exposes the vulnerability of children to war crimes and highlights an urgent need for a construction of a protection regime. Although consensus among key interveners is difficult to come by in many conflicts, the protection of children can also be used as a common consensus tool. For example, in Columbia, the protection of children was used as an entry point to negotiate the peace agreement.<sup>6</sup>

Outlined in the 2005 UN World Summit outcome document, the three pillars of R2P form the conceptual framework of Responsibility to Protect (R2P).<sup>7</sup> R2P norms outline that: *first*, the state is responsible to protect its population from war crimes; *second*, international community (IC) is responsible to assist states to meet this obligation; and *three*, it is the responsibility of IC to take timely and decisive

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<sup>6</sup> 'Vital efforts to protect children 'an entry point' for wider peace in Colombia – UN child rights envoy', <http://www.un.org/apps/news/story.asp?NewsID=55393#.WGJEHyN9600>, Oct. 26, 2016.

<sup>7</sup> A/RES/60/1, World Summit Outcome, 2005, pg. 30 paragraphs 138-140.

[http://www.un.org/en/preventgenocide/adviser/pdf/World\\_Summit\\_Outcome\\_Document.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/World_Summit_Outcome_Document.pdf) - page=30

collective action when a state is ‘manifestly’ failing in meeting this obligation.<sup>8</sup> As noted by UN Secretary General, and reiterated by Alex Bellamy, R2P applies everywhere and all the time.<sup>9</sup> This article examines Pillar III, which embodies a focus on the most vulnerable population, children under no state protection. Currently there is little consensus on appropriate tools under Pillar III, when a state or responsible authorities are failing in protecting their own population from war crimes, resulting in little protection for the most vulnerable population.

This article will examine the tools under R2P when it comes to the protection of children in a divided context. Subsequent to an analysis of the challenges of protection of kids under Pillar III, when the relevant authorities are failing in their responsibilities; the article will examine the applicability of the tools under R2P in the context of the Israeli/Palestinian conflict. The focus will be on exploitation of children and examination of areas where there is little to no protection including Gaza, East Jerusalem and parts of West Bank. Although protection is of concern for all children and teens affected by the conflict, in the case of Gaza, East Jerusalem and parts of West Bank under Israeli Military Authority, no state or authority can be said to be providing protection. The article will look at the complexities of the responsibility of the various authorities in providing protection, examining whether R2P can be a constructive tool for enhancing protection for children in a divided context. The article will examine the current local and international protection efforts and tools. As in Syria, the UN Security Council has been deadlocked and attempts to reach a consensus on accountability and sharp protection tools have been met by vetoes.

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<sup>8</sup> Alex J. Bellamy, ‘The Three Pillars of Responsibility to Protect’, <http://www.cries.org/wp-content/uploads/2015/09/006-bellamy.pdf>.

<sup>9</sup> Alex J. Bellamy and Tim Dunne, ed. ‘R2P in Theory and Practice’, *The Oxford Handbook of Responsibility to Protect*, (Oxford, UK: Oxford University Press, 2016), p. 8.

Security Council vetoes are not new to the Israeli-Palestinian conflict where divisions among interveners have longevity predating R2P.

Examining the protection and lack of protection of children in a violent conflict suggests three fundamental elements. First, the focus on children evokes a need to analyze the appropriateness and effectiveness of current protection tools. Second, emphasis on children highlights the importance of protection tools with no unintended effects. Third, in a divided context, the protection of children can potentially serve as a bridge between the warring parties on constructing a protection regime. The article will proceed as follows: the first section will examine the challenges and appropriateness of R2P tools under Pillar III for the protection of children. The second section will examine the realities under current protection regime for children in the Israeli-Palestinian conflict. The final section will examine hazards and potential opportunities toward a construction of a protection regime for the most vulnerable children within the Israeli/Palestinian context. The article will conclude with implications for protection of children under R2P in other divided conflicts.

#### *R2P & Protection of Children: Appropriateness of Protection Tools*

Since 2009, the emphasis of R2P has been on early warning, early engagement, assessment and preventative measures. The first Special Advisor for R2P Edward Luck noted that the key goal of the 2005 Outcome Document: “should be prevention, prevention, prevention.”<sup>10</sup> Subsequent Special Advisor on R2P Jennifer Welsh placed her main focus on Pillar II, emphasizing strengthening state

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<sup>10</sup> Edward C Luck, ‘Informal interactive dialogue on early warning, assessment, and the Responsibility to Protect’, United Nations General Assembly, August 9, 2010, p. 2.

capacities.<sup>11</sup> Activation of Pillar III, is the source of most contention due to fears of breaches to sovereignty and the potential abuse of military tools. The range of potential tools under Pillar III, however, is vast and includes: diplomacy, mediation, public advocacy, conciliation, arbitration, judicial settlement, economic, political and strategic inducements, political support, peacebuilding, and consensual peacekeeping.<sup>12</sup> UNSG 2009 report outlined basket of tools under Pillar III including: on site investigations and fact-finding missions; monitoring of hateful speeches and rallying international support to discourage public incitement; diplomatic sanctions; arms embargoes; financial and trade embargoes and military force.<sup>13</sup>

Although a consensus on Pillar III of R2P was reached in Libya, the subsequent military intervention, conducted by NATO, become a source of much discord.<sup>14</sup> NATO's operations and drones caused panic, killing and displacing children during the air strikes.<sup>15</sup> The ensuing chaos, lack of political progress and preparedness for post Gadhafi Libya, left the country as a failed state. There has been a rise in the abduction of children by armed groups, reported training camps of kids under 16 by ISIS, sexual violence by armed groups as well as summary executions against children.<sup>16</sup> These atrocities are beyond the casualties as a result of shelling, suicide bombings and destruction of schools and hospitals.

Subsequent to the enactment of R2P in Libya, there has been little enthusiasm towards use of Pillar III in other conflicts. Countries including the BRICS (Brazil,

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<sup>11</sup> Jennifer Welsh, 'Remarks of the Special Advisor to the Secretary General on Responsibility to Protect', September 11, 2013.

<sup>12</sup> Alex J. Bellamy, 'The First Response: Peaceful Means in the Third Pillar of the Responsibility to Protect', The Stanley Foundation, (2015).

<sup>13</sup> Implementing the Responsibility to Protect: Report of the Secretary-General, (A/63/677, January 12, 2009), pp. 22-28.

<sup>14</sup> Nathalie Tocci, 'On Power and Norms Libya, Syria, and the Responsibility to Protect', *Global Responsibility to Protect* 8/1 (2016), pp. 51–75, p. 68.

<sup>15</sup> Lere Amusan, 'Libya's Implosion and its Impacts on Children', *Journal of International Women's Studies* 14/5 (2013), p. 74.

<sup>16</sup> Office for the Special Representative for Children in Armed Conflict, A/70/836–S/2016/360, April 20, 2016.

Russia, India, China and South Africa) noted that NATO intervention in Libya abused emerging powers good faith and overstepped UN's mandate.<sup>17</sup> In the case of Syria, UNSC resolutions that advocated the use of tough measures were vetoed by either Russia or China. The 11 resolutions that were passed stayed clear of coercive measures or actions that would compromise Syrian Alex J. Bellamy and Tim Dunne, ed. 'R2P in Theory and Practice', *The Oxford Handbook of Responsibility to Protect*, (Oxford University Press, 2016 sovereignty.<sup>18</sup> Non-intervention in conflicts where a population is vulnerable to ongoing war crimes is a failure of a different type.

A protection regime without unintended effects prioritizes the well-being of children. The Child Protection Working Group (CPWG) set up the minimum standards for child protection in humanitarian action in line with human rights law, humanitarian law and refugee law.<sup>19</sup> Convention on the Rights of the Child (CRC) highlighted four key principles: protection rights, survival and development, non-discrimination and child participation.<sup>20</sup> Protection rights include safeguarding from all forms of violence, exploitation, trafficking and sexual exploitation, detention and child labor. Survival and development rights emphasize the basic right to life and the development of one's full potential. Non-discrimination emphasizes a fair treatment of child regardless of background. Finally, child participation rights outlines that children have the right to be heard and their opinion is taken into account.<sup>21</sup>

Examination of tools is fundamental for noting their effectiveness and unintended effects, especially on children. Monitoring, investigation and fact-finding

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<sup>17</sup> Oliver Stuenkel, 'The Bricks and the Future of R2P: Was Syria or Libya the Exception?', *Global Responsibility to Protect*, 6/1 (2014), pp. 3-28, p. 18.

<sup>18</sup> Nathalie Tocci, p. 63.

<sup>19</sup> Child Protection Working Group, 'Minimum Standards for Child Protection in Humanitarian Action', 2012

[https://www.unicef.org/iran/Minimum\\_standards\\_for\\_child\\_protection\\_in\\_humanitarian\\_action.pdf](https://www.unicef.org/iran/Minimum_standards_for_child_protection_in_humanitarian_action.pdf)

<sup>20</sup> *Ibid.*, p. 15.

<sup>21</sup> *Ibid.*, p. 27-32.



missions can be useful tools to shed light on atrocity crimes and shame the perpetrators. Diplomatic sanctions, halting public incitement, naming and shaming and referring violations to the International Criminal Court (ICC) can be effective tools without unintended effects on children. Ban Ki-moon's 2009 report noted that leadership responsible for atrocity crimes should not be welcomed among their peers.<sup>22</sup> Findings have noted the effectiveness of Human Rights Organizations targeting a regime in the popular press, mobilizing others to take actions to protect a repressed population.<sup>23</sup> Combating incitement and hate speech is another tool without negative effects and a priority for UN Special Advisor for the Prevention of Genocide.<sup>24</sup> Due to its public and explicit character, it is relatively easy to identify incitement and rally international support for efforts to discourage it.<sup>25</sup>

Children living within a violent conflict are easy targets for exploitation by militants or the state. Militancy can be attractive to children because it can provide meaning, group identity, and options that civilian life does not afford.<sup>26</sup> Social media has made it easier to reach and recruit pre teens and teens. Radical groups stand to benefit from exploiting children since it is convenient and cheap.<sup>27</sup> Recruitment of children by armed groups exposes the children to exploitation and engagement in paramilitary activities. The need to protect children is seldom officially disputed among states or belligerents since most are held to account to their support base.

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<sup>22</sup> Ban Ki-moon, *Implementing the Responsibility to Protect* (New York: United Nations, A/63/677), January 12, 2009.

<sup>23</sup> Murdie, Amanda and Dursun Peksen, 'The Impact of Human Rights INGO Shaming on Humanitarian Interventions', *Journal of Politics* 76/1 (2014) pp. 215-228.

<sup>24</sup> See recent statements including in Jerusalem (2016), Burundi (2015).  
[http://www.un.org/en/preventgenocide/adviser/pdf/2015-05-30.SAPG\\_statement\\_on\\_the\\_situations\\_in\\_Burundi.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/2015-05-30.SAPG_statement_on_the_situations_in_Burundi.pdf), <http://pubdocs.worldbank.org/en/515491448037451017/AdamaDieng-Keynote-LJDWeek2015.pdf>

<sup>25</sup> A/63/677, p. 24.

<sup>26</sup> Michael Wessells, *Child Soldier: From Violence to Protection*, (US: Harvard University Press, 2009), p. 4.

<sup>27</sup> *Ibid*, p.2

Children's protection has become a priority for many UN missions and delivered some results. UN led dialogue with national armed forces and armed groups since 2000 has resulted in the release and rehabilitation of more than 115,000 child soldiers.<sup>28</sup> Dialogue with perpetrators in the Central African Republic, Colombia, Mali, Myanmar, the Philippines, Sudan and South Sudan in 2015, resulted in the release of over 8,000 children.<sup>29</sup> Exploitation of children can also be at the hands of the protectors. A 1996 UN study highlighted that the arrival of UN peacekeeping troops had been associated with a rapid rise in child prostitution.<sup>30</sup> The appointment of Special Representative of the Secretary General on Children and Armed Conflict (SRSGCAC) and monitoring of grave violations against children has led to more concrete actions and safety measures focused on children. UN has deployed child protection staff and set up child protection units in many missions including UNMIS (Sudan), UNAMID (Sudan), MONUSCO (Democratic Republic of the Congo), MINUSTAH (Haiti), UNAMA (Afghanistan), UNMIL (Liberia), and UNOCI (Côte d'Ivoire).<sup>31</sup>

Safety and well being of children is a yardstick that can assist in measuring effective protection mechanisms for the civilian population. SRSGCAC identified 6 categories of grave violations against children including: 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 abduction of children.<sup>32</sup> Children and teens in conflict are vulnerable to intended and

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<sup>28</sup> 'Impact of Armed Conflict on Children', <https://childrenandarmedconflict.un.org/graca-machel-report-20th/> 2016.

<sup>29</sup> Department of Peacekeeping Operations, 'Child Protection in the United Nations Peacekeeping', (United Nations: Spring 2011).

<sup>30</sup> UN General Assembly, 'Promotion and Protection of the Rights of Children, Impact of Armed Conflict on Children', (A/51/306/add 1), 1996.

<sup>31</sup> *Ibid.*, p. 18.

<sup>32</sup> SRSGCAC, 'The Six Grave Violations Against Children during Armed Conflict', October 2009.

unintended killings, maiming, exploitation, detentions, recruitment by extremists as well as other abuses such as child labor, lack of access to basic human needs, domestic violence, sexual exploitation and child marriage.

R2P, however, addresses only the most serious atrocity crimes related to: genocide, ethnic cleansing, war crimes and crimes against humanity. This article examines war crimes and crimes against humanity that are arguably the most relevant to the Israeli/Palestinian case. War crimes include crimes that are committed in times of war and violate international humanitarian and human rights law such as proportionality in war, exploitation, and use of child soldiers.<sup>33</sup> Crimes against humanity include degradation or humiliation of human beings based on their culture or religion such as deportation, imprisonment, apartheid, and torture.<sup>34</sup> The office of SRSGCAC has raised many concerns to both Israel and the relevant Palestinian authorities regarding violence and killing of children by Israeli Defense Forces (IDF), exploitation of children by Islamic extreme groups and overall lack of security for children in the Israeli/Palestinian conflict.<sup>35</sup> The examination of the Israeli/Palestinian conflict will look at the intersections of R2P and protection of children in two key areas potentially related to war crimes and crimes against humanity: 1) Proportionality in the Gaza wars and use of children as human shields and 2) Exploitation, Killing, Maiming and Detention of Children.

### Children in the Israeli/Palestinian Conflict

Children within the Israeli/Palestinian conflict are subject to significantly different conditions and protection mechanisms depending on their place of residence

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<sup>33</sup> Prevent Genocide International, 'Rome Statute of the International Criminal Court', 1998 <http://www.preventgenocide.org/law/icc/statute/part-a.htm>.

<sup>34</sup> *Ibid.* Article 5-9.

<sup>35</sup> 'Report of the Secretary-General on Children and Armed Conflict', A/70/836-S/2016/360, 2015.

and their ethno-religious identity, making steps towards R2P regime more complex. The children of Gaza are subject to the most volatile and harsh conditions stemming from the Gaza wars, Israeli military incursions into Gaza, living under radical Islamic regime, being subject to harsh economic sanctions and limited mobility. Although children living in Gaza have the least protection, are the most vulnerable to alleged atrocity crimes, only focusing on the children in Gaza leaves out the interconnectedness of the conflict and potential common solutions. Children living within Israel are subject to sequences of rocket attacks, terrorist attacks and cycles of violence, which traumatize kids and serve as the justification for security measures which infringe on the protection of Palestinian children. Living under harsh conditions of Israeli military occupation, Palestinian children living in the West Bank are subject to cycles of violence, exploitation, detentions, shootings and collective punishment including demolishing of homes, searches and closures.

Local protection measures for children are extensively different depending on the location and ethno-religious identity of the child. Most Israeli homes and buildings are equipped with safe rooms and Israeli children have access to adequate policing and social protection mechanisms. Most vulnerable within Israel are those residing next to Gaza, Palestinian-Israelis (Israeli-Arabs), Beduin communities and visible minorities. Palestinian children and youth living in East Jerusalem are vulnerable not only because they are frequently subject to harsh security measures and lack citizenship, but also since most families do not accept Israeli institutional jurisdiction, children and teenagers have a contentious relationship to the Israeli police and other institutional services. The recent escalation triggered by the change of status quo at the Al Aqsa mosque, demonstrates the lack of protection measures for Palestinians living in East Jerusalem. In order to disperse Palestinian demonstrators

the security forces used tear gas, stun grenades, skunk spray, rubber bullets and live fire. As noted by B'tselem, the Israeli police and security "treated the Palestinian residents as if they were enemy soldiers rather than as a civilian population for whose well being and security it is responsible."<sup>36</sup> The escalation resulted in hundreds of injuries and deaths of 3 young Palestinian protesters at the hands of Israeli security as well as 3 Israeli settlers killed in their home by a young radicalized Palestinian attacker.

For decades, Israel and Palestinian armed groups have been engaged in cycles of violence contributing to a lack of security for the civilian population. Children have been on the front lines of this conflict subject to harsh realities, political manipulation, violence and severe security conditions. The state-centric focus on security has contributed to the justification of security measures that prioritize the protection of one's own groups while infringing on the security of others. Measures that were designed to be temporary and transitional under Oslo Agreement, such as divisions of West Bank into Areas A (under Palestinian authority), Area B (Joint Israeli/Palestinian Control) & Area C (under Israeli Military Authority), have become a permanent reality for generation of Palestinian children growing up with checkpoints, violence, walls, and lack of law and order. Children and youth most vulnerable in the West Bank are those living in rural areas near Israeli settlements and in Area C where there are no Palestinian police.

Children, or those under the age of 18, are commonly not viewed as children when they are suspected of being perpetrators in the conflict. Children are considered to belong to the enemy making the difference between adults and minors almost

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<sup>36</sup> 'Playing with Fire', B'TSELEM, July 24, 2017.

irrelevant.<sup>37</sup> Palestinian Islamic groups such as Hamas as well as Israeli Military Authorities in the Occupied Territories officially consider children over 16 as adults. Palestinian children as young as 12 can be jailed by Israeli authorities and suspects are commonly labeled as terrorists in the Israeli media.

Palestinian children living in Gaza, have minimal access to protection since neither Israeli authorities nor the current Hamas led Palestinian Authority prioritizes the protection of children. Children have been used as human shields by the IDF, and exploited and recruited for terrorism by Palestinian extremists. Since Gaza is under effective Israeli control and under the governing authority of Hamas and Palestinian Authority, a fundamental question is whether any authority is providing protection for the civilian population in Gaza. Palestinian-ruling Hamas has prioritized fighting Israel and the arming of militants over providing protection. Israel perceives its bombardment of Gaza and other security measures as necessary to protect its own civilians. Palestinian Authority has been unable to govern Gaza, and its current measures of controlling Hamas, such as limiting electricity, only impacts on the hardship of the population.

The current international divisions hinder the application of R2P tools that could be implemented in the Israeli/Palestinian conflict. Since 2000, US has vetoed more than 18 UN security council resolutions including: sending unarmed monitors to West Bank and Gaza (2001), condemning Israel for acts of terror against civilians in the Occupied Territories (2001), immediate cessation of Israeli settlement activities (2011), and condemning Israel for its massive violations of international law in Gaza and the West Bank (2015). Although US did not veto the recent UNSC resolution

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<sup>37</sup> Piet Van Reenen, 'Children as Victims in the Israeli/Palestinian conflict, Policing Realities and Police Training', in Charles W. Greenbaum, Philip E. Veerman and Naomi Bacon-Shnoor, (eds) *Protection of Children During Armed Political Conflict, A Multidisciplinary Perspective*, (Intersentia, 2006), p. 375

2334 on settlements, this was the first resolution to pass since 2009, and was a final act under Obama administration that is unlikely to be repeated under the new Trump administration. US has also blocked other initiatives. In 2015, US placed pressure on U.N. Secretary-General Ban Ki-moon to drop Israel from list of offenders in the report on Children and Armed Conflict.<sup>38</sup> Although the pressure was successful in removing Israel and Hamas from the list, the report included detailed list of incidents that later incited accusations of bias from the Israeli representative.

### Gaza Wars

Children are most vulnerable in Gaza, where they make up close to 40 % of the 1.8 million people living under cycles of violence including bombardment, harsh conditions of the occupation and a Hamas led militant regime. Gaza is one of the most densely populated areas of the world, cut off from outside and almost entirely dependent on foreign aid. Since 2007, the Gaza Strip has been under a tightly controlled land, sea, and air blockade. The economic blockade, severe fuel and water shortages, and Israeli restrictions on many items including basic construction materials have left much of the population vulnerable to not only violence but also natural elements.<sup>39</sup> A 2015 report by UN Conference on Trade and Development warned that Gaza Strip under current trends would become uninhabitable by 2020.<sup>40</sup>

The 2008/9, 2012 and 2014 Gaza wars resulted in many civilian deaths, destruction of homes, schools, hospitals that ensued in accusations of war crimes perpetrated by Hamas and Israeli Defense Forces (IDF), threats of sanctions, and bringing those responsible to justice. Ten-year-old children living in Gaza would have

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<sup>38</sup> 'UN: Ensure Integrity of Children's 'List of Shame', *Human Rights Watch*, June 4, 2015.

<sup>39</sup> Currently Gaza has electricity for 3 – 5 hours per day and most of the water is considered undrinkable.

<sup>40</sup> 'Gaza could become uninhabitable in less than five years due to ongoing 'de-development'', UN Conference on Trade and Development, *UN News Centre*, September 1, 2015.

lived through 3 wars in their lifetime and due to the blockade, most children would have not been able to exit Gaza. Even prior to the 2008 Gaza war, 83% of youth living in Gaza reported witnessing a shooting and 82% of children reported moderate or severe levels of Post Traumatic Stress Disorder (PTSD).<sup>41</sup> Since Gaza is closed and there are few shelters or safe areas, children are exposed to violence during escalations, as well as within schools and their homes. Palestinian children living in Gaza reported that 82% were exposed to tear gas attacks, 74% were exposed to night raids, and 53% had a family member imprisoned.<sup>42</sup> UNICEF has estimated that 95 % of children between the age of 1 and 14 living in Gaza, also experience psychosocial aggression or physical punishment.<sup>43</sup>

In December 2008, Israeli Operation Cast Lead launched massive Israeli airstrikes killing hundreds of people in Gaza within the first four minutes. Around 1,400 people, including up to 431 children, were estimated killed in the 22 days of the war.<sup>44</sup> The attack was a response to the increasing number of Qassam rockets launched from Gaza targeting southern Israeli towns and killing or maiming dozens of Israeli civilians. The subsequent UN inquiry, headed by Richard Goldstone, accused Israeli Defense Forces (IDF) of war crimes, crimes against humanity and serious violations of international law, recommending further investigation and bringing those responsible to justice.<sup>45</sup> The report documented many atrocity crimes against children including the killing of children, the launching of attacks from within civilian areas, the use of white phosphorus, and using children as human shields. The UN

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<sup>41</sup> Samir Quota and Eyad El Sarraj, Prevalence of PTSD among Palestinian children in the Gaza Strip, *Arabysynet Journal* 2, 2004

<sup>42</sup> *Ibid.*,

<sup>43</sup> UNICEF, 'Protecting children from violations and abuse in Gaza, 2016  
[https://www.unicef.org/infobycountry/oPt\\_92946.html](https://www.unicef.org/infobycountry/oPt_92946.html)

<sup>44</sup> Amnesty, 'Operation Cast Lead: 22 Days of Death and Destruction'. *Amnesty International*. MDE 15/015/2009.

<sup>45</sup> UN Human Rights Council, Fact Finding Mission, 'Human Rights in Palestine and Other Occupied Arab Territories'. (Geneva: Human Rights Council, A/HRC/12/48, Sep 24, 2009).



Human Rights Council endorsed the report and the UN General Assembly urged Israel and Palestine to conduct an independent investigation into the alleged war crimes. The EU Parliament also endorsed the report, noting that report's recommendations should be carried out with accountability for all violations. On the other hand, US Congress voted the Goldstone report to be "irredeemably biased" and called on President Obama to maintain his opposition to the report.<sup>46</sup> In response to the criticism from Israel and US, Goldstone noted that the report would have looked different had the Israeli government cooperated with the investigation and toned down criticism of Israel in the final report. There has been little accountability for the 2009 alleged atrocity crimes. In one case that did go to the courts, two Israeli soldiers were convicted of using a 9-year-old Palestinian boy as a human shield to open bags that were suspected of containing explosives, however, their sentences were suspended.<sup>47</sup>

The 2014 Gaza War resulted in more civilian deaths, external investigations and accusations of war crimes and once again little accountability or repercussions for perpetrators. Israeli justification for the military campaign was the kidnapping and murder of 3 Israeli teens and the ongoing rocket fire launched by armed groups from Gaza. In the 2 month escalation leading up to the Gaza war, Israeli forces fatally shot two 15 and one 17 year old unarmed Palestinian teens, Palestinian men killed three Israeli settler teens (16, 16 & 19), and Israeli settlers kidnaped and burned alive a 15 year old Palestinian teen.<sup>48</sup> None of the teens killed were suspected of doing anything inappropriate but were victims of indiscriminate targeting or revenge attacks. The killings of the teens sparked public outrage and led to massive Israeli retributions.

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<sup>46</sup> US Congress, 'Opposing any endorsement or further consideration of the Report of the United Nations Fact Finding Mission on the Gaza Conflict', *Congressional Record*, November 3 2009.

<sup>47</sup> "Israeli soldiers who used Palestinian boy, 9, as a human shield avoid jail", *The Guardian*, November 21, 2010.

<sup>48</sup> Defense for Children International, Palestine, 'Child Fatalities', [http://www.dci-palestine.org/child\\_fatalities\\_statistics](http://www.dci-palestine.org/child_fatalities_statistics)

Israeli bombardment of Gaza destroyed residential buildings, hospitals, schools, much of the infrastructure and displaced close to a third of the population.<sup>49</sup> Two universities, 7 UN schools and 141 local schools suffered severe damage.<sup>50</sup> UN report noted that of the 2,251 people killed in Gaza, about 1,462 were civilians. The war also resulted in the death of 551 Palestinian children and 1 Israeli child.<sup>51</sup> At least 2,955 Palestinian children were injured in Gaza with up to one-third (1000) disabled permanently.<sup>52</sup> During July and August period, Palestinian militants indiscriminately fired 4,881 rockets and 1,753 mortars towards Israel, killing 6 civilians.<sup>53</sup> Alarms, safe rooms and the air defense system (Iron Dome) prevented loss of more Israeli lives, however, many civilians were under the threat of bombardment and unable to move freely. Studies have shown that children, especially younger children exposed to missile attacks, suffered from posttraumatic stress symptoms.<sup>54</sup>

An investigation by the United Nations Human Rights Council found serious violations of international humanitarian and human rights law by both Israel and Palestinian militants that were investigated as potential war crimes.<sup>55</sup> Defense for Children International reported at least 7 cases of Palestinian children, aged 9 to 17, were used as human shields by the IDF during the 2014 Gaza Conflict.<sup>56</sup> The kids were forced at gunpoint to search buildings, tunnels, and held in captivity for days in

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<sup>49</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 'Fragmented Lives Humanitarian Overview 2014', March 2015.

<sup>50</sup> Educational Toll of Gaza War: At Least 2 Universities, 148 Schools, GCPEA, August 3, 2014

<sup>51</sup> *Ibid*, p. 6

<sup>52</sup> 'Children and Armed Conflict Report of the Secretary General', A/69/926 S/2015/409, 5 June 2015.

<sup>53</sup> UN Human Rights Council, *Report of the Independent Commission of Inquiry established Pursuant to Human Rights Council Resolution, S-21/1*, 2015.

<sup>54</sup> L.E. Miller-Graff, E.M. Cummings, *Developmental Review*, 43 (2017) pp.1–47.

<sup>55</sup> UN Human Rights Council, *Report of the Independent Commission of Inquiry*, 2015.

<sup>56</sup> Defense for Children International, 'Palestinian Children Being Used as Human Shields', Feb 1, 2015 [http://www.dci-palestine.org/palestinian\\_children\\_being\\_used\\_as\\_human\\_shields](http://www.dci-palestine.org/palestinian_children_being_used_as_human_shields)

dire conditions without the knowledge of their families.<sup>57</sup> UN Secretary General noted that he was deeply alarmed at the extent of grave violations suffered by children as a result of the Israeli military operation. “The unprecedented and unacceptable scale of the impact on children in 2014 raises grave concerns about Israel’s compliance with international humanitarian law, notably the principles of distinction, proportionality and precaution in attack, and respect for international human rights law, particularly in relation to excessive use of force.”<sup>58</sup>

According to Alex Bellamy, there were at least four principles of acceptable war conduct that IDF violated; targeting (when the target is not clearly military), principle of due care (minimizing civilian harm), principle of proportionality (proportionate to the military objective) and the use of indiscriminate weapons in civilian areas.<sup>59</sup> As noted by Bellamy, “whilst Israel has a right – and a responsibility - to protect its citizens from war crimes against humanity, it also has a responsibility to do the same for the Palestinians in Gaza.”<sup>60</sup> The protection of civilian population was essentially non-existent or completely ineffective in Gaza and children and teens were on the front lines. UNRWA Schools were used as shelters for internally displaced women and children, however, many were directly hit by missiles or artillery. An UNWRA school in Beit Hanoun was struck by several missiles, which killed 11 people including 7 children. A school in Jabalia was also struck by artillery killing 15 including 4 children.<sup>61</sup> The targeting of schools was blamed on Israel as well as Hamas. The UN found evidence that Hamas deliberately used Gaza’s civilian

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<sup>57</sup> ‘Operation Protective Edge, War Waged on Gaza’s Children’, *Defense for Children International*, April 2015.

<sup>58</sup> Children and Armed Conflict, June 2015.

<sup>59</sup> Alex J. Bellamy, *The Responsibility to Protect and the 2014 Conflict in Gaza*, *E- International Relations*, 2014.

<sup>60</sup> *Ibid*, p. 2.

<sup>61</sup> OCHA, ‘Fragmented Lives’, March 2015, p. 20.

population including children to shield military assets.<sup>62</sup> UNRWA announced the discovery of approximately 20 rockets hidden in one of its vacant schools.<sup>63</sup>

Israeli Defense Forces (IDF) claimed that measures such as leaflets recommending evacuation and a small blast on the roof were intended as warning for people to evacuate residential buildings targeted for bombardment. However, civilians had nowhere to flee; no location in Gaza was considered safe, and even those areas that were designated as “safe” such as UN schools were targeted. In densely populated areas, the ‘small blasts’ created confusion as individuals did not realize their building was targeted, or were hurt or killed while escaping the building.<sup>64</sup> In addition, children, the elderly and those providing for their care were challenged to escape.

In some cases, armed groups including Hamas purposely fired from built-up areas and prevented civilians from evacuating.<sup>65</sup> Hamas authorities recommended to the civilian population to ignore IDF instructions and remain in their homes. The IDF considered all those who were warned to leave but remained in areas designated to be targeted, as voluntary shields. According to interviews with IDF soldiers who took part in the operation, the rules of engagement in 2014 were quite lax.<sup>66</sup> Discussing the operation in Bureij, an IDF soldier interviewed noted, “I asked my commander: ‘Where are we firing at?’ He told me: ‘Pick wherever you feel like it.’ And later, also, during talks with the other guys – each one chose his own target, and the commander, on the two-way radio, called it ‘Good Morning al-Bureij’”.<sup>67</sup> Hannibal directive,

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<sup>62</sup> UN Human Rights Council, A/HRC/29/52, 2015.

<sup>63</sup> ‘UNRWA strongly condemns the placement of rockets in school’, July 17, 2014.

<sup>64</sup> UN Report, A/HRC/29/CRP.4, p.65.

<sup>65</sup> UN Human Rights Council, A/HRC/29/52, 2015.

<sup>66</sup> Breaking the Silence. This is how we fought in Gaza; testimony 43, p. 110; at: <http://www.breakingthesilence.org.il/testimonies/database/?tzuk=1>

<sup>67</sup> “Good Morning al-Bureij”, testimony # 783044, Breaking the Silence, <http://www.breakingthesilence.org.il/testimonies/database/?tzuk=1>

which gives leeway to Israeli soldiers for shooting at all targets in order to prevent abduction of soldiers, was reportedly activated in Rafah and Shujaija.<sup>68</sup> In Rafah, where 2 Israeli soldiers were killed and one was suspected of being kidnapped, every person and moving vehicle became a potential target.<sup>69</sup>

The 2014 Gaza war had an unprecedented effect on children's sense of well-being and security. UNICEF had estimated that about 373,000 children in Gaza strip required specialized psychosocial support.<sup>70</sup> Studies have found majority of Palestinian children show signs of posttraumatic stress syndrome.<sup>71</sup> The psychological impact on children subsequent to the war include: excessive nervousness, difficulty in concentrating, sleep disturbances, eating problems, fear, withdrawal and violent behavior.<sup>72</sup> The high levels of political violence exposure have also been linked to higher rates of family, school and interpersonal violence.

Human Rights Council report noted; "impunity prevails across the board" and recommended an enquiry into war crimes by the International Criminal Court (ICC).<sup>73</sup> Israel and the US rejected the UN investigative report and have remained steadfast against the ICC.<sup>74</sup> Israel, as the US, have not ratified the Rome Statute for fear it may be used to persecute its own citizens. However, the Government of Palestine accepted the jurisdiction of ICC and opened a formal investigation. ICC is currently investigating over 3,000 reported incidents and crimes that occurred during the 2014

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<sup>68</sup> Human Rights Council, A/HRC/29/52, June 24, 2015, p. 13.

<sup>69</sup> *Ibid.*, p. 14.

<sup>70</sup> "Gaza two years on: the psychosocial impact on children", August 2016, OCHA

<sup>71</sup> Catherine Muller and Laila Barhoum, 'Violence Against Women in the Gaza strip after the Israeli Military Operation Protective Edge 2014, Institute of Development Studies, Alianca Por La Solidaridad, Action Aid, October 2016. p. 24

<sup>72</sup> Laura E. Miller-Graff and E. Mark Cummings, The Israeli-Palestinian conflict: Effects on youth adjustment, available interventions, and future research directions, *Development Review*, 2016, p. 27

<sup>73</sup> UN Human Rights Council, A/HRC/29/52, p. 19 – 22.

<sup>74</sup> US State Department (2015) Statement on ICC Prosecutor's Decision.

Gaza conflict.<sup>75</sup> ICC's preliminary investigation into alleged crimes noted that the conflict had a significant impact on children.<sup>76</sup>

*Exploitation, Killing, Maiming and Detention of Children in the Israeli/Palestinian Conflict*

Within the Israeli/Palestinian conflict, children and youth participating in actions such as demonstrations, throwing stones or attempted assaults are subject to maiming, arrests, detention and extrajudicial killings. Children and youth are also vulnerable to being exploited by members of their families, the community, in schools, and manipulated through cultural activities and social networks by paramilitary organizations. While Palestinian paramilitary groups have been accused of recruitment of children, IDF have been accused of intentional or unintentional killing of children and teens and as well as military detentions of children. Some of the attacks by Palestinian youth have been attributed to suicide attempts by frustrated teens, lacking opportunities or having personal problems, knowing they will likely be swiftly killed if they take out a knife or scissors in front of Israeli soldiers.<sup>77</sup> Children and teens may also lack appropriate skills or coping mechanisms for passing through strict military checkpoints and searches and some unarmed Palestinian teens been killed for suspicious behavior or not following instructions. In some areas, especially around Israeli settlements, Palestinian youth engaged in regular activities such as

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<sup>75</sup> *Ibid.*, p. 30.

<sup>76</sup> Office of the Prosecutor, 'Report on Preliminary Examination Activities', *International Criminal Court*, November 14, 2016 [https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-pe\\_eng.pdf](https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-pe_eng.pdf), p. 27

<sup>77</sup> Gideon Levy and Alex Levac, 'Israeli Police Help Palestinian Girls Commit Suicide', *Haaretz*, June 03, 2016.

walking home from school are subject to harassment by settlers, border police and private security guards.<sup>78</sup>

Since the 2014 Gaza war, dozens of children have been killed in demonstrations, crossing checkpoints or while involved or suspected of being involved in attacks against Israelis. In 2015, heightened tensions resulted in cycles of violence, demonstrations and individual attacks by Palestinians, killing more than 20 Israelis. During 2015, 14 Palestinian youths were shot dead while involved in or suspected to be involved in stabbing attacks against Israelis. Children found to be holding knives or scissors as young as 14, have been killed on the spot by Israeli security or vigilante civilians. In 2015, 30 Palestinian children (25 boys and 5 girls) were killed and at least 1,735 injured (1,687 boys and 48 girls) in the West Bank and East Jerusalem.<sup>79</sup> IDF was responsible for the killing of most of the children in the West Bank. The number of Palestinian children killed in the West Bank went up in 2016 with 33 minors killed under the age of 17.<sup>80</sup>

Palestinian children living under the Occupation in Gaza and West Bank are subject to military rule, where the current age of responsibility is 12 years. According to UNICEF, the majority of children on trial in Israeli military courts have been charged with throwing stones.<sup>81</sup> In 2016, the Israeli Knesset (Parliament) passed amendments to the penal code increasing the maximum sentence for throwing stones to 20 years. While a child between the age of 12 and 13 can receive a maximum sentence of 6 months, a teen between the ages of 14 to 15 charged with throwing stones can receive a maximum penalty of 20 years. The Knesset also approved a new bill that allowed a child “terrorist” as young as 12 to be jailed within Israel. The

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<sup>78</sup> “Settlers’ presence in Batan al-Hawa results in local minors being arrested and detained by security forces”, *B’Tselem*, [http://www.btselem.org/jerusalem/20161228\\_batan\\_al\\_hawa\\_minors](http://www.btselem.org/jerusalem/20161228_batan_al_hawa_minors)

<sup>79</sup> A/70/836 S/2016/360.

<sup>80</sup> Defense for Children International, [http://www.dci-palestine.org/child\\_fatalities\\_statistics](http://www.dci-palestine.org/child_fatalities_statistics)

<sup>81</sup> Children in Israeli Military Detentions, Observations and Recommendations, *UNICEF*, 2013, p. 8.

justification for the new legislation noted: “The seriousness that we attach to terror and acts of terror that cause bodily injury and property damage, and the fact that these acts of terror are being carried out by minors, demands a more aggressive approach including toward minors who are convicted.”<sup>82</sup> Anat Berko, a member of Benjamin Netanyahu’s Likud party, said that the law is borne of necessity, “A society is allowed to protect itself. To those who are murdered with a knife in the heart it does not matter if the child is 12 or 15”.<sup>83</sup>

General escalation in violence, political incitement, influence of social media, and vigilantism has all contributed to the killing of the teens. Several members of the Israeli government praised extrajudicial killings by police, private security guards and vigilante civilians. Interior Security Minister Gilad Arden stated that “every terrorist should know that he will not survive the attack he is about to commit.” MK Yair Lapid declared that “you have to shoot to kill anyone who pulls out a knife or screwdriver.” In 2015, the Major of Jerusalem suggested to all Jewish residents with gun permits to carry their weapons. Senior IDF officers took a more moderate tone to the politicians. IDF Chief of Staff Lt.-Gen. Gadi Eisenkot emphasized that “I don’t want to see a soldier empty a magazine [to shoot] a young girl with scissors.”<sup>84</sup> In one of many instances of questionably proportional responses, 14 and 16 year old girls armed with scissors were shot repeatedly after they stabbed and lightly wounded a man in West Jerusalem.<sup>85</sup> Human rights organizations noted that instead of acting in a manner consistent with the nature of each incident, police officers and soldiers are quick to shoot to kill and criticized political and public support for such actions. “Politicians and senior police officers have not only failed to act to calm the public

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<sup>82</sup> ‘Israel approves new law to jail child ‘terrorists’ as young as 12’, *Independent*, 2016.

<sup>83</sup> *Ibid.*,

<sup>84</sup> ‘IDF Chief: No Need To Pump Bullets Into Palestinian Girl With Scissors’, *Jerusalem Post*, February 17, 2016.

<sup>85</sup> Al Jazeera, November 23, 2015.



climate of incitement, but on the contrary have openly called for the extrajudicial killing of suspects.”<sup>86</sup>

Shooting rubber and live ammunition at Palestinian youth while they are demonstrating has also resulted in many serious injuries. In 2016, there were 3215 known injuries of Palestinians by Israeli Forces in the Occupied Territories, many of them against children and youth.<sup>87</sup> There is seldom investigation even though some of the injuries result in permanent damage. Israeli Army has recently been accused of shooting to cripple campaign due to a sharp rise in shooting injuries directly to the knees. A security officer, referred to by youth as “Captain Nidal”, has been said to be behind a campaign that targets demonstrators with bullet to the knees with an alleged intent to cause permanent damage. Youths in the Dheisha refugee camp in the Bethlehem area said that Captain “Nidal” on visits to the camps and to their homes has threatened to cripple them. According to youth living in the camp, the officer tells the young people that ‘there will be no martyrs in the camp but all of you will end up on crutches’.<sup>88</sup>

The 2014 Gaza war and its coverage in social media had a strong impact on especially the young population in West Bank, East Jerusalem and within the Israeli-Arab community in Israel. Unedited photos and videos of violence and atrocities were passed in social media such as Facebook affecting and radicalizing population already sympathetic to the Palestinian suffering. East Jerusalem Facebook sites such as Bab Al-Amud Al-A’n called for solidarity with the Gaza people and punishment for the perpetrators of the violence, protests and a violent uprising.<sup>89</sup> ‘The social network

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<sup>86</sup> “Human Rights Organizations in Israel: Politicians’ calls to police and soldiers to shoot rather than arrest endorse the killing of Palestinians”, <https://www.adalah.org/en/content/view/8659>

<sup>87</sup> OCHA, ‘Protection of Civilians Report’, March 7-20, 2017

<sup>88</sup> Amira Hass, ‘Is the IDF Conducting a Kneecapping Campaign in the West Bank?’, *Haaretz*, August 27, 2016.

<sup>89</sup> Maya De Vries, Asmahan Simry, Ifat Maoz, “Like a Bridge Over Troubled Water:

sites of Palestinian boys invite you to many angry marches in the West Bank and in the security zones and the Mukataa headquarters [the headquarters of the Palestinian Authority]— burn them because they are the reason for the Mahmoud Abbas betrayal of our brothers in Gaza. “Fight, victory or death”<sup>90</sup>

For Hamas and Islamic Jihad, recruitment of children particularly in Gaza but also within West Bank and inside Israel is an ongoing phenomenon. Inside the Palestinian territories, Hamas runs mosques, schools, orphanages, summer camps, sports leagues, student unions and cultural activities which are used to socialize young children and youth.<sup>91</sup> Other radical Islamic groups have been linked to NGO’s and schools and pictures of martyrs are commonly displayed in schools and other public areas. A graduation ceremony at a kindergarten run by al-Jam’iya al-Islamiya, featured 1,600 preschool age children wearing uniforms and carrying pretend rifles.<sup>92</sup> In 2015, the Izz el-Deen al-Qassam Brigades ran a military camp for 25,000 children and young people between 15 and 21 years of age in Gaza.<sup>93</sup> The Popular Front for the Liberation of Palestine reportedly held a graduation ceremony during a camp for girls, which included training in weapons.<sup>94</sup>

Harsh security measures and fear of recruitment of Palestinian teens by radical groups has made them one of the primary targets for arrest and detentions. Approximately 7,000 Palestinian children have been detained, interrogated, prosecuted and/or imprisoned within the Israeli Military Justice System in the past 10 years.<sup>95</sup> According to UNICEF, this is an average of 700 kids per year or 2 children

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Using Facebook to Mobilize Solidarity Among East Jerusalem Palestinians During the 2014 War in Gaza, *International Journal of Communication* 9 (2015), 2622–2649, p. 2637

<sup>90</sup> *Ibid.*, p. 2638.

<sup>91</sup> Matt Hewitt, From Cradle to the Grave, *Middle East Quarterly*, Winter 2004, pp. 3-15.

<sup>92</sup> *Ibid.*

<sup>93</sup> Children and Armed Conflict, Report of the Secretary General, A/70/836 S/2016/360, p. 14

<sup>94</sup> *Ibid.*, p. 14

<sup>95</sup> ‘Children In Israeli Military Detention, Observations and Recommendations’, *UNICEF*, February 2013.

per day and has been one of the focal points of concern for protection for humanitarian organizations. Many arrests take place at night and children report being blindfolded, painfully hand-tied, strip searched and subject to physical violence. A 2014 working group on *Grave Violations Against Children* gathered 208 affidavits from children: 162 reported being blindfolded, 189 being painfully hand-tied, 171 subjected to physical violence and 148 reported being strip-searched.<sup>96</sup> Since October 2015, the numbers have risen. UNICEF has identified practices “that amount to cruel, inhuman or degrading treatment or punishment according to the Convention on the Rights of the Child and the Convention against Torture”.<sup>97</sup>

According to UNICEF, in no other country are children systematically tried by juvenile military courts, which fall short of providing the necessary guarantees to ensure respect for their rights.<sup>98</sup> Committee on the Rights of the Child expressed “its deepest concern about the reported practice of torture and ill-treatment of Palestinian children arrested, prosecuted and detained by the military and the police”.<sup>99</sup> Human rights groups have also requested that Israel end the practice of night-arrests and solitary confinement for children. Although the impact of the conflict on the lives of children has been the source of external investigation and criticism launched against Israeli authorities and Palestinian Paramilitary groups, there has been little action towards construction of a protection regime.

Palestinian and Israeli representatives have utilized the dim realities of children affected by the conflict to hurl accusations against the opposing side. Israel’s representative to the UN Amit Heumann publicly pointed out that in Gaza, Hamas uses young boys to dig terror tunnels, used children as human shields and embedded

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<sup>96</sup> *Ibid.*, p. 4.

<sup>97</sup> *Ibid.*, p. 9

<sup>98</sup> *Ibid.*

<sup>99</sup> Children in Israeli Military Detention, p. 4.

its terror infrastructure in schools, hospitals and civilian neighborhoods. “For the sake of peace, for the sake of the children on both sides, the international community must send a clear message to the Palestinian leadership,” he said.<sup>100</sup> Nadya Rasheed, UN observer for the State of Palestine, said that Palestinian children continued to be killed, injured and terrorized by the occupying power with impunity and pressed the Council to provide protection to Palestinian children and hold accountable violators of international law.<sup>101</sup>

### **Children and R2P in Israeli-Palestinian Conflict: Towards a Protection Regime**

Invoking R2P within the Israeli/Palestinian conflict is a complex process given the deep external divisions, existing realities, and the question of appropriate protection tools under the relevant authorities. Currently there is little protection of children and teens, particularly those living in Gaza, East Jerusalem or parts of West Bank. The first challenge is the potential of reaching a consensus among local and international interveners on prioritizing protection of children. The second challenge is constructing a protection regime within the current complex reality. The third challenge is appropriate protection tools given the differing authorities and the potential of unintended effects on children.

Political solutions, namely a final status peace agreement, is the ideal solution towards a creation of a protection regime but far from a realistic option given the current local and international political context, heightened tensions and lack of an acceptable external broker. One can outline three different categories of protection tools: those that are likely to cause more harm for children such as military solutions or collective economic sanctions. Second, those that are helpful and do not cause

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<sup>100</sup> ‘Children’s Rights Violations during Armed Conflicts on Rise despite National Action Plans to End Abuse, Security Council Told in Day-long Debate’, Security Council/12470, August 2, 2016.

<sup>101</sup> *Ibid.*.

harm but may not alleviate or prevent war crimes and crimes against humanity such as humanitarian solutions and monitoring, observing and fact finding missions. Third, those that may contribute to preventing war atrocities and are less likely to cause unintended effects on children such as monitoring hate speeches, international policing missions, justice tools such as International Criminal Court (ICC) and targeted sanctions.

The use of an external military force is clearly inappropriate or impossible in the Israeli/Palestinian context. If one prioritizes the protection of children, it is difficult to perceive any type of military intervention that would contribute to the protection of the civilian population in densely populated areas. Financial and trade embargoes can have unintended effects on children are unlikely to work effectively in the context of international disunity. Sanctions against Hamas since 2005, have only served to harm the civilian populations in Gaza without contributing to a political solution or protection. Hamas in Gaza have managed to smuggle in weapons and goods while the general population has become more vulnerable. Boycott, Disinvestment and Sanctions (BDS) against Israel has caught the attention of the international community as well as Israel but international divisions on its application has thus far resulted in only marginal impact. The current American administration would also likely block any sanctions against Israel.

Operationalization of protection regime under R2P is challenging given the complex context. The realities and vulnerability of children and youth are significantly different depending on the location and identity of the kids. The most serious protection issues for the children living within Israel are the rocket attacks that indiscriminately target the civilian population, cycles of violence and incitement by both Islamic organizations and members of the Israeli government. Under Pillar I of

R2P, Israeli state is responsible for providing protection, however, the current security measures, such as the policy of shoot to kill civilians suspects of terror attacks, has been deadly for teenagers. For the most part, young teenagers armed with scissors, screwdrivers or knives do not pose a serious risk to soldiers or armed civilians and force should be used proportionally to the threat. Israeli politicians and senior police officers have not only failed to calm the public, but on the contrary have openly called for the extrajudicial killing regardless of age or the level of threat of the suspect.

On site investigations and fact-finding missions are tools without harm to children and are already conducted in the Israeli/Palestinian conflict. Conclusions of investigations have been used to bring atrocity crimes to the attention of International Criminal Court (ICC). Although ICC is free from unintended effects on children, it is a challenging tool given the opposition from the US, Israel and the divided international context. However, as noted by Ercan, if successful in pressuring local investigation of atrocity crimes or persecuting individuals responsible for atrocity crimes, ICC investigations may indeed be a game changer in the Israeli/Palestinian conflict.<sup>102</sup> Although the ICC may be the most powerful preventative tool, it is to be seen whether the international judiciary body is powerful enough to withstand opposition from Israel and the US. In 2002, the US government threatened to veto every UN peacekeeping operation on the ground if its personnel would not receive a blanket amnesty from prosecution by the ICC.<sup>103</sup> Subsequent to the recent UN Council Resolution 2334, Trump questioned the value of the UN, and some Republican lawmakers threatened to cut US funding to the UN.

In Areas 'A' of the West Bank, it is the Palestinian Authority, Palestinian security and police, who are responsible for providing protection. The protection

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<sup>102</sup> Ercan, p. 1106.

<sup>103</sup> Ariela Blatter and Paul D. Williams, 'The Responsibility Not To Veto', *Global Responsibility to Protect* 3/3 (2011) pp. 301-322, p. 310.

issues of most concern are in areas under no local Palestinian authority, namely in Area C, where Palestinian civilians live under Israeli military rule without access to Palestinian police or any protection. Similarly, in East Jerusalem kids and teens are vulnerable since they do not have full Israeli rights, their families do not accept Israeli authority, and are cut off from Palestinian institutions including police and judiciary. Thus, Area C of West Bank as well as East Jerusalem arguably falls under the category of Pillar III of R2P, since currently no authority is providing protection for the population. The role of international policing missions such as EU COPPS, which currently mentors, trains and advises Palestinian police, can also be expanded deployed in Areas B and C. This could serve as a transitional phase towards transference of full authority under the Palestinian security and state.

Monitoring of hateful speeches in local media and rallying international support to discourage public incitement are tools without unintended effects on children provided the information is not used to detain children. Monitoring of media and hateful speeches for public incitement is particularly important to prevent children and teens from being recruited into terrorist activities. Israeli authorities are focused on monitoring of hate speech, and are one of the leading countries in favor of this R2P tool. In 2016, five Palestinian children were placed in Israeli administrative detention following accusations of inciting or threatening to commit violence in Facebook posts.<sup>104</sup> The arrest of children living under the military occupation and the treatment of Palestinian minors in detention, is of special concern, and needs to conform to international law.

Currently, all relevant authorities are arguably failing in providing protection to children living in Gaza, which makes Gaza also a prime case for Pillar III of R2P.

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<sup>104</sup> Defense of Children International, 'Year in Review, Worst Abuses against Palestinian Children in 2016'.

The civilian population, in particularly the children, are vulnerable not only to alleged war crimes committed by both Israel and Islamic militant groups, but also to natural elements due to the harshness of the occupation and economic sanctions. Evoking Pillar III in the Gaza context is a challenge both from the perspective of appropriate tools and reaching an international consensus. A deployment of regional or international police force in Gaza would contribute towards law and order currently in short supply. Reaching an international consensus in a divisive context is not a simple task.

Reforms of the UN machinery such as responsibility while protecting, restraints on the use of veto and shifting the role of executer from the Security Council to the General Assembly have been recommended as potential roadmaps towards improved operationalization of R2P. Ercan noted that the R2P's dependency on the Security Council is arguably the greatest handicap for an effective global implementation of R2P.<sup>105</sup> The veto rights of the five permanent members (US, China, Russia, France and UK) of the UNSC have been noted to be obstructive in many conflicts including Israel/Palestine. The responsibility not to veto (RN2V) in response to atrocities has been seen as a mechanism to improve the implementation of R2P. Sixty-three states as well as the EU have so far called for reform of the Security Council outlining restraint on the use of veto in mass atrocity situations.<sup>106</sup>

R2P norms ascended as a mechanism for reaching a consensus on appropriateness of international intervention. Alex Bellamy noted that R2P is a label that can be tagged to a conflict in order to generate the will and consensus necessary

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<sup>105</sup> Ercan, "Responsibility to protect and inter-state crises", p.1108.

<sup>106</sup> Simon Adams, 'Failure to Protect: Syria and the UN Security Council', *Global Centre for Responsibility to Protect*, March 2015, pp. 1-32, p. 20



to mobilize a decisive international response.<sup>107</sup> Focusing on the protection of children in the Israeli/Palestinian conflict is a potential uniting point for initiating the construction of a protection regime. Tools without unintended effects such as investigations by the ICC, or supportive policing missions in Gaza that could assist to establish rule of law, prevent firing rockets against Israel, and work with local and international authorities to prioritizing protection, could contribute towards protection of the most vulnerable. Using appropriate tools without unintended effects especially on children, R2P can become as it was intended, a mechanism for reaching consensus in conflicts where population is vulnerable to atrocity crimes.

### Conclusion

Legitimacy and effectiveness of R2P is entwined with providing protection for the most vulnerable population. Children and teens are commonly the most vulnerable not only because they are vulnerable as victims but also because they may challenge existing realities and be easily exploited by extremists. Pillar III of R2P raises particular concerns due to the possibility of military intervention and unintended effects on children. Even as a last resort, military intervention, in particularly the use of bombing campaigns is an inappropriate protection tool if one prioritizes welfare of children. However, Pillar III of R2P norm has a wide array of tools and gives responsibility to the international community to take timely and decisive action when the state is manifestly failing in providing protection. Operationalizing R2P in divided settings such as the Israeli/Palestinian conflict is challenging given the divisions on culpability for war crimes and accusations of bias, however, if one prioritizes the welfare of children, it can also be used to construct a consensus.

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<sup>107</sup> Alex. J. Bellamy, 'The Responsibility to Protect - Five Years On', *Ethics and International Affairs* 24/2, 2010, pp. 143 – 169, p.159.

There are several implications for protection of children under Pillar III of R2P relevant in other conflicts. First, protection of children is a good yardstick to predict and measure effectiveness of protection tools. Unintended effects, such as killing of children under the guise of protection, are simply unacceptable. International community would be well advised to unpack tools under Pillar III and use protection mechanisms, which enhance protection for the most vulnerable. Policing missions that emphasize law and order, human rights and working with local authorities and civil society would be far more effecting in contributing to a protection regime than those that solely punish the perpetrators. A focus on protection with children in mind can emphasize the importance of zero tolerance on unintended effects such as exploitation. Pillar III of R2P norm, however, should not be placed on a shelf, since it addresses the needs of the most vulnerable. Rather if one prioritizes the protection of children, Pillar III of R2P could be a useful tool to construct a consensus in the most divisive conflicts.