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Case Studies



Children on the Front Lines: Responsibility to Protect 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 the 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: Firstly, the need to closely analyse current protection tools particularly under Pillar III of R2P, Secondly, the importance to eradicate unintended effects of protection efforts, and finally the potential contribution of focus on children towards reaching a consensus on a protection regime.

Keywords

Responsibility to Protect – atrocity crimes – Israeli/Palestinian conflict – children and teens – protection

Children and teens are disproportionately affected in violent conflict, are vulnerable to exploitation and as young activists, can be targeted by soldiers or in-prisoned. Children 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 prioritisation of protection of children. While the UN agenda prioritises 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.¹ Skeptics, however, point to R2P as being applied selectively and only when the interests of the great powers align.² 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.³ An effective operationalisation of protection under R2P, however, is dependent on 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 the international agenda, the operationalisation of the norm is 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

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

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

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

effectiveness of a 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.⁴

The Israeli/Palestinian conflict is one of the most divisive and politicised conflicts in the world. It is a conflict that has generated the highest number of vetoes in the Security Council and is commonly perceived as too contentious for the emerging R2P norm.⁵ 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, East Jerusalem and parts of West Bank are fundamental, since all relevant authorities can be argued to be failing in their responsibility to protect. Given the divisive local and international context, East Jerusalem and parts of West Bank 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 culpability, and a lack of basic protection measures are especially evident in Gaza, East Jerusalem and parts of the West Bank, where the failure of a protection regime exposes the fundamental challenges of the operationalisation 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

4 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*, 8 November 2013, [http://dx.doi.org/10.1016/S0140-6736\(13\)62034-6](http://dx.doi.org/10.1016/S0140-6736(13)62034-6), accessed 23 November 2017; 'Global Trends, Forced Displacements in 2015', UNHCR, <http://www.unhcr.org/576408cd7.pdf>, accessed 23 November 2017.

5 Interview with political advisor, Office on Genocide Prevention and Responsibility to Protect, United Nations, 29 June 2016.

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.⁶

Outlined in the 2005 UN World Summit outcome document, the three pillars of R2P form the conceptual framework of Responsibility to Protect (R2P).⁷ R2P norms outline that: first, the state is responsible to protect its population from war crimes; second, the international community (IC) is responsible to assist states to meet this obligation; and third, it is the responsibility of IC to take timely and decisive collective action when a state is ‘manifestly’ failing in meeting this obligation.⁸ As noted by UN Secretary-General, and reiterated by Alex Bellamy, R2P applies everywhere and all the time.⁹ 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.

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. Although protection is of concern for all children and teens affected by the conflict, in the case of Gaza, East Jerusalem and parts of the 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

6 ‘Vital efforts to protect children ‘an entry point’ for wider peace in Colombia – UN child rights envoy’, UN News Centre, 25 October 2016, <http://www.un.org/apps/news/story.asp?NewsID=55393#.WGJEHyNg600>, accessed 23 November 2017.

7 A/RES/60/1, World Summit Outcome, 2005, p. 30, paras. 138–140.

8 Alex J. Bellamy, ‘The Three Pillars of Responsibility to Protect’, <http://www.cries.org/wp-content/uploads/2015/09/006-bellamy.pdf>, accessed 23 November 2017.

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

sharp protection tools have been met with vetoes. 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 analyse 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 regimes for children in the Israeli-Palestinian conflict. The final section will examine hazards and potential opportunities toward the 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 and 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'.¹⁰ Subsequent Special Advisor on R2P Jennifer Welsh placed her main focus on Pillar II, emphasising strengthening state capacities.¹¹ The 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,

10 Edward C. Luck, 'Informal interactive dialogue on early warning, assessment, and the Responsibility to Protect', United Nations General Assembly, 9 August 2010, p. 2.

11 Jennifer Welsh, 'Remarks of the Special Advisor to the Secretary General on Responsibility to Protect', 11 September 2013, <http://www.un.org/en/preventgenocide/adviser/pdf/Special%20Adviser%20Jennifer%20Welsh%20remarks.GA%20Dialogue%202013.pdf>, accessed 8 January 2018.

peacebuilding, and consensual peacekeeping.¹² 2009 UN Secretary-General Report outlined a 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.¹³

Although a consensus on Pillar III of R2P was reached in Libya, the subsequent military intervention, conducted by NATO, became a source of much discord.¹⁴ NATO's operations and drones caused panic, killing and displacing children during the air strikes.¹⁵ 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 ISIS training camps of kids under 16, sexual violence by armed groups as well as summary executions of children.¹⁶ These atrocities are in addition to 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 the use of Pillar III in other conflicts. Countries including the BRICS (Brazil, Russia, India, China and South Africa) noted that NATO intervention in Libya abused the good faith of emerging powers and overstepped UN's mandate.¹⁷ 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 avoided coercive measures or actions that would compromise Syrian sovereignty.¹⁸ Non-intervention in conflicts where a population is vulnerable to ongoing war crimes is a failure of a different type.

The well-being of children comes from construction of a protection regime without unintended effects. The Child Protection Working Group (CPWG)

12 Alex J. Bellamy, 'The First Response: Peaceful Means in the Third Pillar of the Responsibility to Protect', The Stanley Foundation, December 2015, <http://www.stanleyfoundation.org/publications/pab/Bellamy3rdPillarPAB116.pdf>, accessed 23 November 2017.

13 'Implementing the Responsibility to Protect: Report of the Secretary-General', A/63/677, 12 January 2009, pp. 22–28.

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

15 Lere Amusan, 'Libya's Implosion and its Impacts on Children', *Journal of International Women's Studies*, 14/5: 66–79 (2013), p. 74.

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

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

18 Tocci, p. 63.

set up the minimum standards for child protection in humanitarian action in line with human rights law, humanitarian law and refugee law.¹⁹ The UN Convention on the Rights of the Child (CRC) highlighted four key principles: protection rights, survival and development, non-discrimination and child participation.²⁰ Protection rights include safeguarding from all forms of violence, exploitation, trafficking and sexual exploitation, detention and child labor. Survival and development rights emphasise the basic right to life and the development of one's full potential. Non-discrimination emphasises a fair treatment of child regardless of background. Finally, child participation rights outlines that children have the right to be heard and their opinion taken into account.²¹

An examination of tools is fundamental for noting their effectiveness and unintended effects, especially on children. Monitoring, investigation and fact-finding 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.²² Findings have noted the effectiveness of Human Rights Organisations targeting a regime in the popular press, mobilising others to take actions to protect a repressed population.²³ Combating incitement and hate speech is another tool without negative effects and one of the priorities for UN Special Advisor for the Prevention of Genocide.²⁴ Due to its public and explicit character, it is relatively easy to identify incitement and rally international support for efforts to discourage it.²⁵

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

19 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, accessed 23 November 2017.

20 Ibid., p. 15.

21 Ibid., pp. 27–32.

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

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

24 H.E. Adama Dieng, Special Advisor for the Secretary-General on the Prevention of Genocide, United Nations, INoGS Conference, Keynote Speech, 'Preventing Genocide Today: Applying the Lessons of the Past to Protect Future Generations', Jerusalem, 26 June 2016.

25 A/63/677, 12 January 2009, p. 24.

provide meaning, group identity, and options that civilian life does not afford.²⁶ Social media has made it easier to reach and recruit pre-teens and teens. Radical groups stand to benefit from exploiting children as it is convenient and cheap.²⁷ 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 by their support base.

Children's protection has become a priority for many UN missions and this has 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.²⁸ 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.²⁹ 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.³⁰ 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. The UN has deployed child protection staff and set up child protection units in many missions including: United Nations Mission in South Sudan (UNMIS), United Nations Mission in Darfur (UNAMID), United Nations Organization Stabilization Mission in the DR Congo (MONUSCO), United Nations Stabilization Mission in Haiti (MINUSTAH), United Nations Assistance Mission in Afghanistan (UNAMA), United Nations Mission in Liberia (UNMIL), and United Nations Operation in Côte d'Ivoire (UNOCI).³¹

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

27 Ibid., p. 2.

28 'Impact of Armed Conflict on Children Twenty Years of Action Following the Publication of Graça Machel Report to the General Assembly', Office for the Special Representative of the Secretary General for Children and Armed Conflict, 25 August 2016, <https://childrenandarmedconflict.un.org/graca-machel-report-20th/>, accessed 2 January 2017.

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

30 'Promotion and Protection of the Rights of Children, Impact of Armed Conflict on Children', A/51/306, 26 August 1996.

31 Ibid., p. 18.

The safety and wellbeing 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.³² Children and teens in conflict are vulnerable to intended and 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 as these 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.³³ Crimes against humanity include degradation or humiliation of human beings based on their culture or religion such as deportation, imprisonment, apartheid, and torture.³⁴ The office of SRSGCAC has expressed 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 extremist groups and overall lack of security for children in the Israeli/Palestinian conflict.³⁵ This article's examination of the Israeli/Palestinian conflict will consider the intersections of R2P and protection of children in two key areas potentially related to war crimes and crimes against humanity: firstly, proportionality in the Gaza wars and use of children as human shields and secondly, exploitation, killing, maiming and detention of children.

32 Office for the Special Representative for Children and Armed Conflict, 'The Six Grave Violations Against Children during Armed Conflict: The Legal Foundation', October 2009 (Updated November 2014), https://childrenandarmedconflict.un.org/publications/WorkingPaper-1_SixGraveViolationsLegalFoundation.pdf, accessed 2 January 2018.

33 Prevent Genocide International, 'Rome Statue of the International Criminal Court', 17 July 1998, <https://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7Cf02886/283503/RomeStatutEng1.pdf>, accessed 2 January 2018.

34 Ibid., articles 5–9.

35 Report of the Secretary-General, 'Children and Armed Conflict', A/70/836–s/2016/360, 20 April 2016.

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 and their ethno-religious identity, making steps towards a 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 and 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 traumatise 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 searches, closures and the demolition of homes.

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), Bedoin 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 escalation in the summer of 2017 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 wellbeing and security it is responsible'.³⁶ The escalation resulted in

36 'Playing with fire: Israel's sweeping disregard for the wellbeing and security of East Jerusalem residents has led to four fatalities and dozens of injuries, and disrupted the lives of tens of thousands of residents', *B'TSELEM*, 24 July 2017, http://www.btselem.org/press_releases/20170724_playing_with_fire_in_jerusalem, accessed 30 November 2017.

hundreds of injuries and the 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 radicalised Palestinian attacker.

For decades, Israeli 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 prioritise the protection of its own groups while infringing on the security of others. Measures that were designed to be temporary and transitional under Oslo Agreement, such as dividing the West Bank into Areas A (under Palestinian authority), Area B (Joint Israeli/Palestinian Control) and Area C (under Israeli Military Authority), have become a permanent reality for a generation of Palestinian children growing up with checkpoints, violence, walls, and lack of law and order. The 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 irrelevant.³⁷ 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 prioritises 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 prioritised 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

37 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* (Oxford: Intersentia, 2006), p. 375.

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 the 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 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 UN Secretary-General Ban Ki-moon to drop Israel from the list of offenders in the report on Children and Armed Conflict.³⁸ 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 that include 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.³⁹ A 2015 report by UN

38 'UN: Ensure Integrity of Children's "List of Shame"', *Human Rights Watch*, 4 June 2015, <https://www.hrw.org/news/2015/06/04/un-ensure-integrity-childrens-list-shame>, accessed 2 January 2018.

39 At the time of writing, Gaza has electricity for 3–5 hours per day and most of the water is considered undrinkable. See 'Gaza energy crisis: limited improvement in water and sanitation indicators; concerns over waterborne diseases remain', OCHA United Nations Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, 10 November 2017, <https://www.ochaopt.org/content/gaza-energy-crisis-limited-improvement-water-and-sanitation-indicators-concerns-over>, accessed 2 January 2018;

Conference on Trade and Development warned that Gaza Strip under current trends would become uninhabitable by 2020.⁴⁰

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 IDF, threats of sanctions, and bringing those responsible to justice. Ten-year-old children living in Gaza would have 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).⁴¹ 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.⁴² UNICEF has estimated that 95% of children between the age of 1 and 14 living in Gaza, also experience psychosocial aggression or physical punishment.⁴³

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.⁴⁴ The attack was a response to the increasing number of Qassam rockets launched from Gaza targeting southern Israeli towns, killing or maiming dozens of Israeli civilians. The subsequent UN inquiry, headed by Richard Goldstone, accused IDF of war crimes, crimes against humanity and serious violations of international law, recommending further investigation and the bringing of those responsible to justice.⁴⁵ The report documented many atrocious crimes against children including the killing of children, the launching of

'With Only Three Hours of Electricity a Day, Gaza Is "On Verge of Explosion"', *Haaretz*, 4 January 2017, <https://www.haaretz.com/middle-east-news/palestinians/.premium-1.763586>, accessed 2 January 2018.

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

41 Samir Quota and Eyad El Sarraj, 'Prevalence of PTSD Among Palestinian Children in the Gaza Strip', *Arabysynet Journal*, 2: 8–13 (2004).

42 Ibid.

43 UNICEF, 'Protecting children from violations and abuse in Gaza', 25 October 2016 https://www.unicef.org/infobycountry/oPt_92946.html, accessed 23 November 2017.

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

45 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).

attacks from within civilian areas, the use of white phosphorus, and using children as human shields. The UN 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 the 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.⁴⁶ 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 alleged atrocity crimes of 2009. 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.⁴⁷

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 and 19) and Israeli settlers kidnaped and burned alive a 15-year-old Palestinian teen.⁴⁸ 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.

Israeli bombardment of Gaza destroyed residential buildings, hospitals, schools and much of the infrastructure, and displaced close to a third of the population.⁴⁹ Two universities, 7 UN schools and 141 local schools suffered

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

47 'Israeli soldiers who used Palestinian boy, 9, as a human shield avoid jail', *The Guardian*, 21 November 2010, <https://www.theguardian.com/world/2010/nov/21/israeli-soldiers-human-shield-avoid-jail>, accessed 23 November 2017.

48 Defense for Children International, Palestine, 'Child Fatalities', http://www.dci-palestine.org/child_fatalities_statistics, accessed 23 November 2017.

49 United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 'Fragmented Lives: Humanitarian Overview 2014', 26 March 2015.

severe damage.⁵⁰ A UN Human Rights Council report noted that of the 2,251 people killed in Gaza, about 1,462 were civilians.⁵¹ The war also resulted in the death of 551 Palestinian children and 1 Israeli child.⁵² At least 2,955 Palestinian children were injured in Gaza with up to one-third (1000) disabled permanently.⁵³ During the July and August period, Palestinian militants indiscriminately fired 4,881 rockets and 1,753 mortars towards Israel, killing 6 civilians.⁵⁴ Alarms, safe rooms and the air defense system (Iron Dome) prevented the 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.⁵⁵

An investigation by the UN 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.⁵⁶ Defense for Children International reported at least 7 cases where Palestinian children, aged 9 to 17, were used as human shields by the IDF during the 2014 Gaza Conflict.⁵⁷ The kids were forced at gunpoint to search buildings and tunnels, and were held in captivity for days in dire conditions without the knowledge of their families.⁵⁸ The UN Secretary-General noted that he was deeply alarmed

50 Rasha Faek, 'Educational Toll of Gaza War: At Least 2 Universities, 148 Schools', *Al Fanar Media*, 3 August 2014.

51 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1', A/HRC/29/CRP.4, Human Rights Council, 23 June 2015.

52 'Fragmented Lives: Humanitarian Overview 2014', 26 March 2015, p. 6.

53 'Children and Armed Conflict', Report of the Secretary-General, A/69/926-S/2015/409, 5 June 2015.

54 UN Human Rights Council, *Report of the Independent Commission of Inquiry Established Pursuant to Human Rights Council Resolution S-21/1*, 2015, www.ohchr.org/Documents/HRBodies/HRCouncil/CoIGaza/A-HRC-29-52_en.doc, accessed 23 November 2017.

55 L.E. Miller-Graff and E.M. Cummings, *Developmental Review*, 43: 1–47 (2017).

56 'Report of the detailed findings of the Commission of Inquiry on the 2014 Gaza Conflict', A/HRC/29/CRP.4, 23 June 2015.

57 'Palestinian Children Being Used as Human Shields', Defense for Children International, 1 February 2015, http://www.dci-palestine.org/palestinian_children_being_used_as_human_shields, accessed 25 November 2017.

58 'Operation Protective Edge, War Waged on Gaza's Children', Defense for Children International, April 2015, https://d3n8a8pro7vhm.cloudfront.net/dcipalestine/pages/530/attachments/original/1436292897/OPE_A_War_Waged_on_Children.pdf?1436292897, accessed 2 January 2018.

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.⁵⁹

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), the principle of due care (minimising civilian harm), the principle of proportionality (proportionate to the military objective) and the use of indiscriminate weapons in civilian areas.⁶⁰ 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'.⁶¹ The protection of civilian populations was essentially non-existent or completely ineffective in Gaza. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) schools were used as shelters for internally displaced women and children, however, many were directly hit by missiles or artillery. An UNRWA 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.⁶² The targeting of schools was blamed on Israel as well as Hamas. The UN found evidence that Hamas deliberately used Gaza's civilian population including children to shield military assets.⁶³ UNRWA announced the discovery of approximately 20 rockets hidden in one of its vacant schools.⁶⁴

IDF claimed that measures such as leaflets recommending evacuation and a small blast on the roof were intended as warnings for people to evacuate

59 'Children and Armed Conflict', A/69/926-S/2015/409, 5 June 2015.

60 Alex J. Bellamy, 'The Responsibility to Protect and the 2014 Conflict in Gaza', *E-International Relations*, 22 July 2014, <http://www.e-ir.info/2014/07/22/the-responsibility-to-protect-and-the-2014-conflict-in-gaza/>, accessed 25 November 2017.

61 *Ibid.*, p. 2.

62 OCHA, 'Fragmented Lives', p. 20.

63 UN Human Rights Council, A/HRC/29/52, 24 June 2015.

64 'UNRWA strongly condemns the placement of rockets in school', 17 July 2014, <https://www.unrwa.org/newsroom/press-releases/unrwa-strongly-condemns-placement-rockets-school>, accessed 2 January 2018.

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 realise their building was targeted, or were hurt or killed while escaping the building.⁶⁵ In addition, children, the elderly and those providing for their care found escape especially challenging.

In some cases, armed groups including Hamas purposely fired from built-up areas and prevented civilians from evacuating.⁶⁶ 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.⁶⁷ Discussing the operation in Bureij, an IDF soldier interviewed note:

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".⁶⁸

The Hannibal Directive, 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.⁶⁹ In Rafah, where two Israeli soldiers were killed and one was suspected of being kidnapped, every person and moving vehicle became a potential target.⁷⁰

The 2014 Gaza war had an unprecedented negative effect on children's sense of wellbeing and security. UNICEF estimates that about 373,000 children

65 UN Report, A/HRC/29/CRP.4, 23 June 2015, p. 65.

66 UN Human Rights Council, A/HRC/29/52, 24 June 2015.

67 'This is How We Fought in Gaza: Soldiers' Testimonies and Photographs from Operation "Protective Edge", *Breaking the Silence*, 2014, Testimony 43, p. 110, <http://www.breakingthesilence.org.il/pdf/ProtectiveEdge.pdf>, accessed 2 January 2018.

68 'This is How We Fought in Gaza: Soldiers' Testimonies and Photographs from Operation "Protective Edge", *Breaking the Silence*, 2014, Testimony 29, p. 80, <http://www.breakingthesilence.org.il/pdf/ProtectiveEdge.pdf>, accessed 2 January 2018.

69 Human Rights Council, A/HRC/29/52, 24 June 2015, p. 13.

70 *Ibid.*, p. 14.

in the Gaza strip required specialised psychosocial support.⁷¹ – The psychological impact on children subsequent to the war include: excessive nervousness, difficulty in concentrating, sleep disturbances, eating problems, fear, withdrawal and violent behaviour.⁷² The high levels of exposure to political violence 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 inquiry into war crimes by the International Criminal Court (ICC).⁷³ Israel and the US rejected the UN investigative report and have remained steadfast against the ICC. Israel, like the US, has 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 the ICC and opened a formal investigation. The ICC is currently investigating over 3,000 reported incidents and crimes that occurred during the 2014 Gaza conflict.⁷⁴ The ICC’s preliminary investigation into alleged crimes noted that the conflict had a significant impact on children.⁷⁵

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 organisations. While Palestinian paramilitary groups have been accused of recruitment of children, the 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

71 ‘Gaza two years on: the psychosocial impact on children’, UNOCHA, 6 September 2016, <https://www.ochaopt.org/content/gaza-two-years-psychosocial-impact-children>, accessed 25 November 2017.

72 Laura E. Miller-Graff and E. Mark Cummings, ‘The Israeli-Palestinian Conflict: Effects on Youth Adjustment, Available Interventions, and Future Research Directions’, *Development Review*, 43: 1–47 (2016), p. 27.

73 UN Human Rights Council, A/HRC/29/52, 24 June 2015, pp. 19–22.

74 *Ibid.*, p. 30.

75 Office of the Prosecutor, ‘Report on Preliminary Examination Activities’, International Criminal Court, 14 November 2016, https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-pe_eng.pdf, accessed 25 November 2017, p. 27.

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.⁷⁶ Children and teens may also lack appropriate skills or coping mechanisms for passing through strict military checkpoints and searches, and unarmed Palestinian teens have been killed for suspicious behaviour or not following instructions. In some areas, especially around Israeli settlements, Palestinian youth engaged in regular activities such as walking home from school are subject to harassment by settlers, border police and private security guards.⁷⁷

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.⁷⁸ The 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 17.⁷⁹

Palestinian children living under the Occupation in Gaza and the 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.⁸⁰ 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

76 Gideon Levy and Alex Levac, 'Israeli Police Help Palestinian Girls Commit Suicide', *Haaretz*, 3 June 2016.

77 'Settlers' presence in Batan al-Hawa results in local minors being arrested and detained by security forces', *B'Tselem*, 28 December 2016, http://www.btselem.org/jerusalem/20161228_batan_al_hawa_minors, accessed 25 November 2017.

78 A/70/836-S/2016/360, 20 April 2016.

79 Defense for Children International, 'Child fatalities'.

80 UNICEF, 'Children in Israeli Military Detentions: Observations and Recommendations', February 2013, p. 8.

young as 12 to be jailed within Israel. The 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.⁸¹

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'.⁸²

General escalation in violence, political incitement, influence of social media, and vigilantism has all contributed to the killing of 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'.⁸³ Knesset Member Yair Lapid declared that 'you have to shoot to kill anyone who pulls out a knife or screwdriver'.⁸⁴ 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, Lieutenant-General Gadi Eisenkot emphasised that 'I don't want to see a soldier empty a magazine [to shoot] a young girl with scissors'.⁸⁵ 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.⁸⁶ Human rights organisations 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 criticised political and

81 Lizzie Dearden, 'Israel approves new law to jail child "terrorists" as young as 12', *Independent*, 3 August 2016, <http://www.independent.co.uk/news/world/middle-east/israel-approves-new-law-to-jail-palestinian-child-terrorists-as-young-as-12-human-rights-stabbings-a7170641.html>, accessed 25 November 2017.

82 Ibid.

83 'Human Rights Organizations in Israel: Politicians' calls to police and soldiers to shoot rather than arrest endorse the killing of Palestinians', *B'Tselem*, 14 October 2015.

84 Ibid.

85 Noam Amir and Maariv Hashavua, 'IDF Chief: No Need To Pump Bullets Into Palestinian Girl With Scissors', *Jerusalem Post*, 17 February 2016.

86 'Palestinian teens armed with scissors shot in Jerusalem', *Al Jazeera*, 23 November 2015, <http://www.aljazeera.com/news/2015/11/israeli-palestinian-violence-151123101833511.html>, accessed 6 January 2018.

public support for such actions. 'Politicians and senior police officers have not only failed to act to calm the public climate of incitement, but on the contrary have openly called for the extrajudicial killing of suspects'.⁸⁷

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 to children and youth.⁸⁸ There is seldom investigation even though some of the injuries result in permanent damage. The Israeli Army has recently been accused of a 'shoot 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 a 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'.⁸⁹

The 2014 Gaza War and its coverage in social media had a strong impact on especially the young population in the West Bank, East Jerusalem and within the Israeli-Arab community in Israel. Unedited photos and videos of violence and atrocities were shared in social media such as Facebook, affecting and radicalising populations 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, punishment for the perpetrators of the violence, protests and a violent uprising.⁹⁰ For example:

The social network 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

87 'Human Rights Organizations in Israel: politicians' calls to police and soldiers to shoot rather than arrest endorse the killing of Palestinians', *Adalah*, 14 October 2015, <https://www.adalah.org/en/content/view/8659>, accessed 25 November 2017.

88 OCHA, 'Protection of Civilians Report', 7–20 March 2017.

89 Amira Hass, 'Is the IDF Conducting a Kneecapping Campaign in the West Bank?', *Haaretz*, 27 August 2016.

90 Maya De Vries, Asmahan Simry, Ifat Maoz, 'Like a Bridge Over Troubled Water: Using Facebook to Mobilize Solidarity Among East Jerusalem Palestinians During the 2014 War in Gaza', *International Journal of Communication*, 9: 2622–2649 (2015), p. 2637.

them because they are the reason for the Mahmoud Abbas betrayal of our brothers in Gaza. “Fight, victory or death”.⁹¹

For Hamas and Palestinian Islamic Jihad, recruitment of children particularly in Gaza but also within the 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 socialise young children and youth.⁹² Other radical Islamic groups have been linked to NGOs 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.⁹³ In 2015, the Izz el-Deen al-Qassam Brigades ran a military camp in Gaza for 25,000 children and young people between 15 and 21 years of age.⁹⁴ The Popular Front for the Liberation of Palestine reportedly held a graduation ceremony during a camp for girls, which included training in weapons.⁹⁵

Harsh security measures and fear of recruitment of Palestinian teens by radical groups has made them one of the primary targets for arrest. Approximately 7,000 Palestinian children have been detained, interrogated, prosecuted and/or imprisoned within the Israeli Military Justice System in the past 10 years.⁹⁶ According to UNICEF, this is an average of 700 kids per year or 2 children per day and has been one of the focal points of concern for protection for humanitarian organisations. 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.⁹⁷ Since October 2015, the numbers have risen. UNICEF has identified practices ‘that amount to cruel, inhuman or degrading treatment or

91 Ibid., p. 2638.

92 Matthew Levitt, ‘Hamas from Cradle to the Grave’, *Middle East Quarterly*, Winter: 3–15 (2004).

93 Ibid.

94 ‘Children and Armed Conflict, Report of the Secretary General’, A/70/836-S/2016/360, 24 August 2017, p. 14.

95 Ibid.

96 ‘Children in Israeli Military Detention, Observations and Recommendations’, UNICEF, February 2013.

97 Ibid., p. 4.

punishment according to the Convention on the Rights of the Child and the Convention against Torture'.⁹⁸

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.⁹⁹ The 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'.¹⁰⁰ 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 utilised 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, children as human shields and it embedded 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.¹⁰¹ Nadya Rasheed, UN observer for the State of Palestine, said that Palestinian children continue to be killed, injured and terrorised by the occupying power with impunity and pressed the Council to provide protection to Palestinian children and hold accountable violators of international law.¹⁰²

Children and R2P in the 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

98 Ibid., p. 9.

99 Ibid.

100 Children in Israeli Military Detention, Observations and Recommendations', *UNICEF*, February 2015, p. 4.

101 'Children's Rights Violations during Armed Conflicts on Rise despite National Action Plans to End Abuse, Security Council Told in Day-long Debate', *SC/12470*, 2 August 2016.

102 Ibid.

protection of children and teens, particularly those living in Gaza, East Jerusalem or parts of the West Bank. The first challenge is the potential of reaching a consensus among local and international interveners on prioritising the protection of children. The second challenge is constructing a protection regime within the current complex reality. The third challenge is discerning appropriate protection tools given the differing authorities and the potential of unintended effects on children.

Political solutions, namely a final status peace agreement, would be the ideal step towards the creation of a protection regime, but this is 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 to children such as military solutions or collective economic sanctions; those that are helpful and do not cause harm but may not alleviate or prevent war crimes and crimes against humanity such as humanitarian solutions and monitoring, observing and fact finding missions; and 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 prioritises 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 and 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 US administration at the time of writing would also likely block any sanctions against Israel.

Operationalisation of a 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 and the cycles

of violence and incitement by both Islamic organisations and members of the Israeli government. Under Pillar I of R2P, the Israeli state is responsible for providing protection, however, the current security measures, such as the policy of shooting-to-kill civilians suspected of terror attacks is 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 extrajudicial killings 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 the International Criminal Court (ICC). Although the 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 war crimes, ICC investigations may indeed be a game changer in the Israeli/Palestinian conflict.¹⁰³ Although the ICC may be the most powerful preventative tool, it is yet 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 did not receive a blanket amnesty from prosecution by the ICC.¹⁰⁴ Subsequent to the 2016 UN Security Council Resolution 2334, Trump questioned the value of the UN, and cut US funding to UNWRA.

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

103 Pinar Gözen Ercan, 'Responsibility to Protect and Inter-state Crises: Why and How R2P Applies to the Case of Gaza', *The International Journal of Human Rights*, 19/8: 1018–1111 (2015), p. 1106.

104 Ariela Blatter and Paul D. Williams, 'The Responsibility Not To Veto', *Global Responsibility to Protect*, 3/3: 301–322 (2011), p. 310.

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 the EU Coordinating Office for Palestinian Police Support (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. However, in 2016, five Palestinian children were placed in Israeli administrative detention following accusations of inciting or threatening to commit violence in Facebook posts.¹⁰⁵ 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. 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 lack of basic human needs 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. The deployment of a regional or international police force in Gaza would contribute towards law and order, which is currently in short supply. However, reaching an international consensus in a divisive context is not a simple task.

Reforms of the UN machinery such as Responsibility while Protecting (RwP), restraints on the use of veto and shifting the role of executor from the Security Council to the General Assembly have been recommended as potential roadmaps towards improved operationalisation of R2P. Ercan noted that R2P's dependency on the Security Council is arguably the greatest handicap

105 Defense of Children International, 'Year in Review, Worst Abuses against Palestinian Children in 2016', 1 January 2017, http://www.dci-palestine.org/year_in_review_2016, accessed 8 January 2018.

for an effective global implementation of R2P.¹⁰⁶ The veto rights of the five permanent members of the UNSC (US, China, Russia, France and UK) 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.¹⁰⁷

The R2P norm has ascended as a mechanism for reaching a consensus on the appropriateness of international intervention in a sovereign state. Alex Bellamy noted that R2P is a label that can be tagged to a conflict in order to generate the will and consensus necessary to mobilise a decisive international response.¹⁰⁸ 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 prioritise 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 the population is vulnerable to atrocity crimes.

Conclusion

The legitimacy and effectiveness of R2P is entwined with providing protection for the most vulnerable populations. Children and teens are commonly the most vulnerable not only because they are victims but also because they may challenge existing realities and be easily exploited by extremists or incarcerated by authorities. 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, particularly the use of bombing campaigns, is an inappropriate protection tool if one prioritises the welfare of children. However, Pillar III of the R2P norm has a wide array of tools and gives responsibility to

106 Ercan, 'Responsibility to Protect and Inter-state Crises', p. 1108.

107 Simon Adams, 'Failure to Protect: Syria and the UN Security Council', *Global Centre for Responsibility to Protect*, March 2015, pp. 1–32, p. 20.

108 Alex. J. Bellamy, 'The Responsibility to Protect – Five Years On', *Ethics and International Affairs*, 24/2: 143–169 (2010), p. 159.

the international community to take timely and decisive action when the state is manifestly failing to provide protection. Operationalising R2P in divided settings such as the Israeli/Palestinian conflict is challenging given the divisions about culpability for war crimes and accusations of bias, however, if one prioritises the welfare of children, it can be used to construct a consensus.

There are several implications for the protection of children under Pillar III of R2P that would be relevant to other conflicts. First, protection of children is a good yardstick with which to predict and measure the effectiveness of protection tools. Unintended effects, such as killing of children under the guise of protection, are simply unacceptable. The 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 emphasise law and order, human rights and working with local authorities and civil society would be far more effective in contributing to a protection regime than those that solely punish the perpetrators. Protection can be in parallel with empowerment since children and teens are not without resilience. The 2018 incarceration of 16-year-old Palestinian activist Ahed Tamimi for slapping a soldier has made her into a symbol of Palestinian resistance. A focus on protection with children in mind can also emphasise the importance of zero tolerance on unintended effects such as exploitation. Pillar III of the R2P norm, however, should not be left on the shelf, since it addresses the needs of the most vulnerable. Rather, if one prioritises the protection of children, Pillar III of R2P could be a useful tool to construct a consensus in the most divisive conflicts.