

The Case for a Treaty with Some Teeth: The Convention on the Rights of the Child and Juvenile Detention in Occupied Palestinian Territory¹

ABSTRACT

The United Nation’s Convention on the Rights of the Child (“CRC”) is the most rapidly and widely ratified human rights treaty in history. Nonetheless, because the CRC lacks an effective enforcement mechanism that binds State Parties to their commitments, the substantive impact of the CRC remains limited. This note illustrates the ineffectiveness of the CRC through a case study on one aspect of the Israeli-Palestinian conflict—the Israeli detention of Palestinian children. Through their military court system, the Israeli military has detained over 50,000 Palestinian children since Israel’s occupation began in 1967. The Israeli military’s inhumane treatment of these detained youths violates the CRC’s provisions relating to juvenile justice. Not only does the CRC fail to effectively protect child offenders living in Occupied Palestinian Territory, it also fails to hold Israel accountable for its violations. However, if the United Nations provided an accurate assessment of treaty violations in signatory states and encouraged enforcement via financial incentive, the lives of Palestinian children impacted by decades of military occupation might finally improve.

¹ I wrote this note prior to the October 7th, 2023, Hamas attack on Israeli civilians. I condemn all acts of violence and support the human rights of Israeli and Palestinian civilians alike.

I. INTRODUCTION

Ahed Tamimi, a teenager from the Israeli-occupied territory of West Bank, has become a global symbol of Palestinian resistance² amid rising tensions between Israeli military and Palestinian youth.³ After witnessing Israeli authorities shoot her cousin in the head with a rubber bullet outside her home in 2017, a viral video featured Tamimi retaliating by pushing, slapping, and kicking the offending officers.⁴ Tamimi faced a dozen charges⁵ in Israeli military court and served eight months in an Israeli-run prison as a result of her globally broadcasted altercation with the Israeli soldiers.⁶ Following her sentencing, Tamimi declared, “[There is] no justice under occupation and this court is illegal.”⁷ While Tamimi garnered an extraordinary amount of public attention, her encounter with the Israeli military and subsequent resistance remains commonplace for youth living in the Occupied Palestinian Territory (“OPT”).⁸

The Israeli-Palestinian issue continues as one of the world’s most lengthy and contentious international conflicts. Since the end of the 1967 War,⁹ the Israeli military occupying the West Bank has enjoyed full

² Ahed Tamimi’s resistance also illustrates the varying perspectives surrounding the broader Israeli-Palestinian Conflict. Palestinians widely praise Tamimi’s activism, comparing her to Malala Yousafzai and Joan of Arc. But for Israelis, her disobedience further confirms the necessity of military rule. See Yasmeen Serhan, *A Symbol of the Palestinian Resistance for the Internet Age*, ATLANTIC (Jan. 5, 2018), <https://www.theatlantic.com/international/archive/2018/01/internet-famous-in-the-west-bank/549557/>. For a comprehensive study on the Palestinian resistance movement, see generally MAZIN B. QUMSIYEH, POPULAR RESISTANCE IN PALESTINE: A HISTORY OF HOPE AND EMPOWERMENT (2011).

³ Serhan, *supra* note 2. See also Daniel Estrin & Larry Kaplow, *Here’s What is Driving the Latest Spiral of Israeli-Palestinian Violence*, NPR (Jan. 28, 2023, 10:42 AM), <https://www.npr.org/2023/01/28/1152314718/israel-jerusalem-west-bank-violence-explained> (highlighting the intensifying violence and continual rising tensions in the Occupied Palestinian Territory today).

⁴ Serhan, *supra* note 2.

⁵ *Id.*

⁶ David M. Halbfinger, *Ahed Tamimi, Palestinian Teen, Gets 8 Months in Prison for Slapping Israeli Soldier*, N.Y. TIMES (Mar. 21, 2018), <https://www.nytimes.com/2018/03/21/world/middleeast/ahed-tamimi-palestinian-israel-soldier.html>.

⁷ Nadeem Muaddi, *This Palestinian Teen Went Viral for Slapping an Israeli Soldier. Now She’s Telling Her Own Story*, CNN (Sept. 10, 2022, 12:00 PM), <https://www.cnn.com/2022/09/10/world/ahed-tamimi-dena-takruri-they-called-me-a-lioness-cec/>.

⁸ Serhan, *supra* note 2. According to the Detainees Affairs Commission of the Palestinian Liberation Organization, Israel has detained more than 50,000 Palestinian children since their occupation began in 1967. *Israel’s Arrest of Minors Adds Fuel to Palestinian Resistance*, TEHRAN TIMES (Nov. 22, 2022), <https://www.tehrantimes.com/news/478949/israel-s-arrest-of-minors-adds-fuel-to-palestinian-resistance>.

⁹ Following years of increasing tensions between Arab States and Israel, the Third Arab-Israeli War, or the 1967 Six-Day War, culminated in Israel capturing the Palestinian Territories (i.e., West Bank and Gaza Strip) from Jordan and Egypt. *History of the Question of Palestine*, U.N., <https://www.un.org/unispal/history/> (last visited Mar. 12, 2023). See also Avner Cohen, *The 1967 Six-Day War*, WILSON CTR, <https://www.wilsoncenter.org/publication/the-1967-six-day-war> (last visited Feb. 28, 2024) (analyzing a collection of historical documents and testimonies outlining the underlying nuclear motivation behind the 1967 Six-Day War).

legislative, judicial, and executive power over the area.¹⁰ Consequently, Israeli military forces control nearly every facet of Palestinian life, including their movement, water supply, access to electricity, and confrontations with law enforcement.¹¹ This hyper-militaristic lifestyle has an immeasurable effect on children who have never experienced a world outside of occupation.¹² Jennifer Moorehead, Director of Save the Children - Palestine, comments, "After 50 years of occupation, generations of Palestinian children remain trapped in an ongoing cycle of violence and diminishing human rights."¹³ Arguably, one of the most severe aspects of occupation for Palestinian children is the reality of becoming a child prisoner under Israeli military rule. This note analyzes the Israeli detention of Palestinian children through the lens of the social and legal development of "childhood" and the function of the primary international legal instrument that addresses children's human rights: The United Nation's Convention on the Rights of the Child ("CRC").

II. THE HISTORICAL DEVELOPMENT OF CHILDREN'S RIGHTS

Although children have existed as long as the human race itself, the modern interpretation of childhood as a separate social category is a relatively recent concept.¹⁴ Throughout history, political, economic, and social developments have transformed global conceptions of childhood. Western society gradually shifted from a sort of cultural indifference

¹⁰ JAMIL RABAH & NATASHA FAIRWEATHER, ISRAELI MILITARY ORDERS IN THE OCCUPIED PALESTINIAN WEST BANK, 1967-1992, at vii-1 (2d ed. 1995). In June of 1967, after capturing the Palestinian territories, Israel formally announced control over the area via Military Proclamation 1 and declared complete control over West Bank's governmental functioning via Israeli Military Proclamation 2. Throughout Israel's lengthy occupation, Israeli forces have continued to announce new protocols and policies through these Military Proclamations and Orders. *Id.*

¹¹ *Israel's Occupation: 50 Years of Dispossession*, AMNESTY INT'L (June 7, 2017), <https://www.amnesty.org/en/latest/campaigns/2017/06/israel-occupation-50-years-of-dispossession/>. Because of Israel's restrictive allocation of water to Palestine, the average Israeli consumes four times the amount of water as the average Palestinian living in the OPT. *Id.* Furthermore, B'Tselem, Israel's largest human rights group, describes the Gaza Strip as one of the largest open-air prisons on Earth. While Israel implements travel restrictions and checkpoints throughout Palestine, the restrictions in Gaza are the most severe. HAGAI EL-AD, *We Are Israel's Largest Human Rights Group – and We Are Calling This Apartheid*, GUARDIAN (Jan. 12, 2021), <https://www.theguardian.com/commentisfree/2021/jan/12/israel-largest-human-rights-group-apartheid>.

¹² See generally Harriet Sherwood, *Children of the Occupation: Growing up in Palestine*, GUARDIAN (Feb. 8, 2014, 4:00 PM), <https://www.theguardian.com/world/2014/feb/08/children-of-occupation-growing-up-in-palestine>, for testimonies from Palestinian children about living under occupation.

¹³ *Generations of Palestinian Children Remain Trapped in 'Ongoing Cycle of Violence and Diminishing Human Rights'*, NEW ARAB (Aug. 18, 2017) <https://www.newarab.com/features/children-palestine-face-worsening-crisis-says-ngo>; FARHAD MALEKIAN, INTERNATIONAL CRIMINAL LAW OF CHILDREN 94-95 (2020).

¹⁴ See THOKO KAIME, THE CONVENTION ON THE RIGHTS OF THE CHILD: A CULTURAL LEGITIMACY CRITIQUE 65 (2011); PHILIPPE ARIÈS, CENTURIES OF CHILDHOOD 128 (Robert Baldick trans., 1960) (explaining that because Medieval Western Europe failed to differentiate between the nature of children and adults, the idea of childhood was nonexistent).

toward children, to viewing children as “the future” during the eighteenth-century enlightenment.¹⁵ With advances in social understanding, Western culture placed greater emphasis on children as a distinct social group with different needs and characteristics than adults. Throughout the nineteenth and twentieth centuries, the social value of children increased as social movements around issues like child labor, child care, and child mortality gained traction in Western nations.¹⁶ Colonization and globalization caused Western conceptions of childhood to be imputed upon the Global South as well.¹⁷ This evolution of what it means to be a “child” is a useful framework for analyzing the proliferation of children’s rights within the larger human rights movement.

A. The Development of Human Rights Law

The progression of the concept of the child is framed by the development of a global human rights consciousness. Although individual states had recognized basic human rights,¹⁸ the 1864 Geneva Convention and subsequent 1899 Hague Convention represented the inauguration of human rights concepts onto the global stage.¹⁹ Following the aftermath of the First World War, the international community formed the League of Nations: a permanent structure built on the premise of respecting human rights and maintaining peace.²⁰ Subsequent to the Second World War, states organized to form the United Nations (“U.N.”) with the aim to, *inter alia*, “reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . .”²¹ In line with this goal, shortly after

15 EUGÉEN VERHELLEN, CONVENTION ON THE RIGHTS OF THE CHILD: BACKGROUND MOTIVATION, STRATEGIES, MAIN THEMES 12-13 (3d ed., 2000).

16 Arguably, the decrease in a child’s economic value corresponded with an increase in their social value. *See* NANCY SCHEPER-HUGHES, CHILD SURVIVAL: ANTHROPOLOGICAL PERSPECTIVES ON THE TREATMENT AND MALTREATMENT OF CHILDREN 12 (1987) (noting that “the instrumental value of children has been replaced by their expressive value. Children have become relatively worthless (economically) to their parents, but priceless in terms of the psychological worth.”).

17 JAMAL J. ELIAS, ALEF IS FOR ALLAH: CHILDHOOD, EMOTION, AND VISUAL CULTURE IN ISLAMIC SOCIETIES 64 (2018) (“The modern concept of childhood as a time when children are both free and protected from the responsibilities and sober realities of adulthood is a construct of affluent countries in the global North that has subsequently been treated as a universal category and applied (in haphazard ways) to attitudes toward children at a global level.”).

18 The Magna Carta, issued in 1215 by King John of England, is largely considered the first human rights instrument. *VERHELLEN, supra* note 15, at 46.

19 *Id.* at 47.

20 While the League of Nations failed to maintain peace and prevent the Second World War, the organization advanced human rights through the 1926 adoption of the International Convention on the Abolition of Slavery. *Id.* Even as it did little to effectuate abolition, the convention’s global definition of slavery and multilateral condemnation of enslavement was emblematic of a shift in global policy. *See generally* AMALIA RIBI FORCLAZ, HUMANITARIAN IMPERIALISM: THE POLITICS OF ANTI-SLAVERY ACTIVISM, 1880-1940 (2015).

21 U.N. Charter pmb.

its inception, the U.N. General Assembly almost unanimously adopted the 1948 Universal Declaration of Human Rights (“UDHR”).²² As the foundation for international human rights law, the UDHR catapulted the adoption of human rights instruments, including those related to the rights of children.²³

B. Origins of Children’s Rights

In 1924, the League of Nation’s General Assembly adopted the first document dedicated to the promotion of global child welfare: the Declaration of the Rights of the Child (the “Geneva Declaration”).²⁴ The Geneva Declaration, which states in the preamble that “mankind owes the child the best it has to give,” exemplifies the typical twentieth-century notion of childhood which perceives the child as an innocent, deserving, and valuable welfare project.²⁵ Although the Geneva Declaration failed to acknowledge children’s civil or political rights, legal scholars widely recognize the Declaration as inspiring an international campaign protecting the rights of children.²⁶

Following the establishment of the U.N. after the Second World War, the U.N. Economic and Social Council (“ECOSOC”) recommended that the General Assembly consider extending the Geneva Declaration in view of the changing attitude toward the rights of children.²⁷ As a result, the U.N. General Assembly commissioned the 1959 Declaration on the Rights of the Child (the “1959 Declaration”), which introduced the

²² While declarations like the UDHR function as a “significant moral code,” they are not binding law. However, in 1976, the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights absorbed and largely built upon the substance of the UDHR and effectively made the UDHR binding upon the parties that ratified the 1976 conventions. *The Foundation of International Human Rights Law*, U.N., <https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law> (last visited Mar. 12, 2023).

²³ *Id.*

²⁴ The “Declaration of the Rights of the Child” had five fundamental aims:

1. The child must be given the means needed for its normal development, both materially and spiritually.
2. The child that is hungry should be fed; the child that is sick should be helped; the erring child should be reclaimed; and the orphan and the homeless child should be sheltered and succored.
3. The Child must be the first to receive relief in times of distress.
4. The child must be put in a position to earn a livelihood and must be protected against every form of exploitation.
5. The child must be brought up in the consciousness that its best qualities are to be used in the service of its fellowmen.

VERHELLEN, *supra* note 15, at 64.

²⁵ Katharina Stornig, *Geneva, 1924: The Geneva Declaration of the Rights of the Child*, ONLINE ATLAS ON THE HIST. OF HUMANITARIANISM & HUM. RTS. (2015), <https://hhr-atlas.ieg-mainz.de/articles/stornig-geneva>.

²⁶ UN CONVENTION ON THE RIGHTS OF THE CHILD: A COMMENTARY 4 (John Tobin ed., 2019).

²⁷ VERHELLEN, *supra* note 15, at 65.

concept of child's rights *per se*.²⁸ Notably, while the 1924 Geneva Convention regarded children as legal objects,²⁹ the 1959 Declaration addresses children as subjects of the law.³⁰ This is indicative of the greater societal shift from only focusing on child welfare to prioritizing intrinsic child rights. Additionally, the 1959 Declaration was the first legal instrument to outline the uniqueness of the child by providing children with "special protection" that should be implemented after considering the "best interests of the child."³¹

However, despite the universalistic phrasing of the declarations, the applicability of these legal instruments did not extend to children in the Global South. Since most African nations were still under colonial rule during the birth of international child's rights law,³² the comprehensive list of welfare obligations and child's rights were arguably not intended to extend to children dominated by colonialism. Only four states from the African continent (Egypt, Ethiopia, Liberia, and South Africa) were founding members of the U.N., while the majority of the other forty-seven founding states were representatives of the Global North.³³ In 1960, coined the "Year of Africa,"³⁴ a massive influx of seventeen additional African countries became U.N. member states. Even still, the multilateral instruments clearly impacted African policy. In their 1979 Declaration on the Rights and Welfare of the African Child, the Organization of African Unity ("OAU") encouraged their member states to "undertake or continue . . . efforts to renew the current legal codes and provisions relating to the rights of children, particularly by taking into account the 1959 Declaration."³⁵

²⁸ UN CONVENTION ON THE RIGHTS OF THE CHILD: A COMMENTARY, *supra* note 26; U.N. OFF. OF THE HIGH COMM'R FOR HUM. RTS., LEGISLATIVE HISTORY OF THE CONVENTION ON THE RIGHTS OF THE CHILD, Volume 1, U.N. Doc. HR/ PUB/07/1, at 23 (2007) [hereinafter U.N. OFF. OF THE HIGH COMM'R FOR HUM. RTS.].

²⁹ The Geneva Convention treats children as a legal object in stating, "Children *must be given* the care and aid which they need." See VERHELLEN, *supra* note 15, at 67 (emphasis added).

³⁰ *Id.*

³¹ KAIME, *supra* note 14, at 15.

³² U.S. DEP'T OF STATE, *Decolonization of Asia and Africa, 1945-1960*, <https://history.state.gov/milestones/1945-1952/asia-and-africa> (last visited Nov. 17, 2023) (noting Africa was not decolonized until the middle of the twentieth century).

³³ *History of the Mission*, AFR. UNION, <https://www.africanunion-un.org/history> (last visited Mar. 12, 2023).

³⁴ *Reflections on 1960, the Year of Africa*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/02/06/world/africa/africa-independence-year.html> (last visited Mar. 4, 2023) (depicting an archived collection of images from African Nations in 1960 and reactions from people of African descent to the collection).

³⁵ KAIME, *supra* note 14, at 23.

C. Overview of the CRC

Toward the latter part of the twentieth century, society and the global legal community continued to move away from viewing children as “parental property” and instead sought to elevate the status of children to persons in their own right.³⁶ In 1979, in an effort to commemorate the “International Year of the Child,” U.N. member states advocated for a legally binding convention rather than a morally symbolic declaration on the legal status of children.³⁷ As the longest and most comprehensive list of rights specific to any social group, the CRC addresses nearly every aspect of a child’s life.³⁸ The convention, which applies to every person under the age of eighteen, contains forty articles that address civil, political, economic, social, and cultural rights.³⁹

The CRC is the most rapidly and widely ratified human rights treaty in history.⁴⁰ With almost near universal ratification with 196 countries as parties,⁴¹ the United States is the only outlier.⁴² However, widespread support for the CRC did not preclude opposition, either in whole or in part. Some critics argued that a binding convention on international

36 VERHELLEN, *supra* note 15, at 40.

37 VERHELLEN, *supra* note 15, at 72. As another incentive, the convention was intended to remedy the inconsistent global child’s rights law created by numerous international instruments published after the 1959 Declaration. *Id.*

38 KAIME, *supra* note 14, at 16-17.

39 *Id.* at 16. *See also* Thomas Hammarberg, *The UN Convention on the Rights of the Child – and How to Make It Work*, 12 HUM. RTS. Q. 97, 100 (1990). Hammarberg, the current U.N. Senior Expert on Human rights in Transnistria and E.U. Special Advisor on Legal and Constitutional Reform and Human Rights in Georgia, groups the concepts outlined in the CRC into three sections: provision, protection, and participation. Provision, refers to the right to basic needs like nutrition, healthcare, education, recreation, etc. Protection includes the right to not be subject to abuse, exploitation, or engagement in warfare. Participation refers to the right of the child to be involved in determinations that affect them.

40 KAIME, *supra* note 14, at 17.

41 *See generally* United Nations Treaty Collection, Chapter IV Human Rights: 11. Convention on the Rights of the Child, <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11.en.pdf> (last updated Aug. 3, 2024) [hereinafter *U.N. Treaty Collection*] (containing a complete list of state’s reservations to the CRC). For context, the CRC achieved near universal ratification within five years—a record feat for a human rights treaty. Whereas the 1979 Convention on the Elimination of All Forms of Discrimination Against Women did not garner a similar level of support through ratification until 30 years after its adoption. Savitri Goonesekere, Introduction and Overview, in *PROTECTING THE WORLD’S CHILDREN: IMPACT OF THE CONVENTION ON THE RIGHTS OF THE CHILD IN DIVERSE LEGAL SYSTEMS*, UNICEF, at I (2007).

42 While the Ronald Reagan and George H.W. Bush administrations claimed to generally support the overall objectives of the CRC, United States ratification remained hotly debated, as critics argued it threatened the United States’ sovereignty to determine the best interests of their own child citizens. Bill Clinton’s Secretary of State, Madeleine Albright, signed the treaty in 1995, signaling an intent to ratify. Yet, no president has presented the Senate with the CRC for its advice and consent to ratification. LUISA BLANCHFIELD, CONG. RSCH., SERV., R40484, THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, 1 (July 27, 2015) [hereinafter CONG. RSCH., SERV. R40484]. *See also* Amy Rothschild, *Is America Holding Out on Protecting Children’s Rights?*, ATLANTIC (May 2, 2017), <https://www.theatlantic.com/education/archive/2017/05/holding-out-on-childrens-rights/524652/> (noting that a CRC ratification would have been beneficial during the Trump administration due to their reduction in funding for affordable housing, education, etc.).

child's rights was duplicative of existing human rights treaties, namely the UDHR.⁴³ Moreover, seventy State Parties amended the scope of their consent to the CRC through various reservations and objections.⁴⁴ Although, in Article 51, the CRC states, "Reservations incompatible with the object and purpose of the provisions shall not be permitted,"⁴⁵ many ambiguous reservations effectually limit the scope of the CRC.⁴⁶

Though the CRC was clearly groundbreaking in respect to the wide array of the rights it conferred to children and its global support, a thorough analysis must also examine the enforcement and effectiveness of the CRC. Article 43 establishes the U.N. Committee on the Rights of the Child ("UNCRC") as the primary enforcer of the CRC.⁴⁷ Each ratifying state must submit reports to the UNCRC within two years following ratification and every five years thereafter to update the UNCRC on the state's adherence to the CRC and their progress in affirming children's rights.⁴⁸ In reviewing the reports, the UNCRC considers the experiences of children in the relative state, examines the state's progress, and recommends further measures each state can implement.⁴⁹ Furthermore, Article 45 of the CRC grants additional enforcement duties to the U.N. Children's Fund ("UNICEF") which assists in considering, implementing, and reporting on children's rights issues outlined in the UNCRC reports.⁵⁰

43 Cynthia Price Cohen, *Introductory Note*, 28 I.L.M. 1448, 1450 (1989).

44 KAIME, *supra* note 14, at 18. These broad reservations create a unique problem in the effectiveness of human rights treaties and the CRC specifically. Typically, according to Article 21 of the Vienna Convention on the Law of Treaties, a state's reservation to a multilateral treaty only affects the reciprocity between the reserving State and the objecting State. But, since human rights treaties are not concerned with state relations, it remains an effective way to minimize the scope of the treaty as it relates to the reserving nation. Daniela Linge, *The Self-Inflicted Red Tape of the Convention on the Rights of the Child: A System of Conflict*, 29 WILLAMETTE J. INT'L L. & DISP. RESOL. 224, 243 (2022).

45 Linge, *supra* note 44, at 242.

46 For example, Syria's reservation states,

The Syrian Arab Republic has reservations on the Convention's provisions which are not in conformity with the Syrian Arab legislations and with the Islamic Shariah's principles

U.N. Treaty Collection, *supra* note 41, at 7.

Similarly, Jordan's reservation states,

The Hashemite Kingdom of Jordan does not consider itself bound by articles 14, 20, and 21 of the Convention, which grant the child the right to freedom of choice of religion and concern the question of adoption, since they are at variance with the precepts of the tolerant Islamic Shariah.

Id.

47 Convention on the Rights of the Child art. 43, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC].

48 *Implementing and Monitoring the Convention on the Rights of the Child*, UNICEF, <https://www.unicef.org/child-rights-convention/implementing-monitoring> (last visited Mar. 23, 2023).

49 *Id.*

50 CRC, *supra* note 47, art. 45.

While the UNCRC thoroughly assesses how well ratifying nations have implemented the CRC, relatively little information is available regarding the CRC's effectiveness in terms of actual outcomes for children on a global level. Undeniably, the CRC has had a significant impact on international awareness of a child's development and needs. But the question remains: has there been any practical effect? UNICEF conducted a study in 2012 assessing the legal implementation in twelve of the CRC's signatory states. The study concluded:

Successful CRC implementation is key to the reali[z]ation of children's rights. However, while all States Parties to the CRC have committed to implementing its principles and provisions in law and practice, there is no single route to be taken. Few of the countries analy[z]ed during this research have fully incorporated the CRC into domestic law, but where this has happened, it has had significant effect.⁵¹

Importantly, by "significant effect," the study is referring to the effect the incorporation of the CRC into domestic law has on a child's legal rights in that nation, not the effect the implementation actually had on the lives of children.⁵² Children born today are twice as likely to reach their fifth birthday compared to children born before the implementation of the CRC due to medical advances and increased attention to maternal and early childhood care.⁵³ Additionally, the number of children in poverty has been divided in half, and according to the World Bank, the number of children who do not attend primary school has decreased from 17.6% in 1989 to 8.2% in 2019.⁵⁴ However, it remains debatable as to whether these societal improvements can be directly correlated to the convention.

While the CRC was not intended to eradicate all humanitarian crises relating to children across the globe, in a great many respects, the victimization of children is increasing. For example, because the number of active conflicts escalated between 2005 and 2022, more than 105,000 child soldiers were verifiably recruited during that period, although the

⁵¹ LAURA LUNDY, ET AL., THE UN CONVENTION ON THE RIGHTS OF THE CHILD: A STUDY OF LEGAL IMPLEMENTATION IN 12 COUNTRIES 4 (2012), https://www.unicef.org.uk/wp-content/uploads/2012/1/UNICEFUK_2012CRCimplementationreport-FINAL-PDF-version.pdf.

⁵² Compare *id.*, with Lynne Marie Kohm, *A Brief Assessment of the 25-Year Effect of the Convention on the Rights of the Child*, 23 CARDOZO J. INT'L & COMP. L. 323 (2015).

⁵³ Julian Sharp, *Thirty Years Since the Convention on the Rights of the Child – Children's Rights Improvements and Problems All Over the World*, HUMANIUM (Nov. 18, 2019), <https://www.humanium.org/en/thirty-years-since-the-convention-on-the-rights-of-the-child-childrens-rights-improvements-and-problems-all-over-the-world/>. See also Gary W. Reinbold, *Effects of the Convention on the Rights of the Child on Child Mortality and Vaccination Rates: A Synthetic Control Analysis*, 19 BMC INT'L HEALTH & HUM. RTS., 2019, at 10. ("CRC adoption may be related to additional reductions in infant and under-5 mortality rates of about 1 to 2 deaths per 1000 live births, on average, during the first three years of adoption, although those relationships are not statistically significant.").

⁵⁴ Sharp, *supra* note 53.

actual number is generally considered to be much higher.⁵⁵ While the rate of female genital mutilation (“FGM”)⁵⁶ is somewhat declining globally, roughly two million FGM procedures are carried out on children annually.⁵⁷ Markedly, Article 24 of the CRC bans this practice by saying, “State Parties shall take all effective and appropriate measures . . . to abolish[] traditional practices prejudicial to the health of children.”⁵⁸ Clearly, in practice, the CRC has failed to reach its desired result.

D. The CRC and Juvenile Justice

More specifically, the CRC’s provisions relating to juvenile justice have served as a catalyst for major reforms. For child offenders, the CRC emphasizes fundamental principles: best interests of the child, dignity and respect, legal and procedural safeguards, and a promotion of reintegration and proportionality of punishment.⁵⁹ Therefore, the CRC prohibits capital punishment and life imprisonment without the possibility of parole for persons under the age of eighteen.⁶⁰ The CRC and other international human rights treaties have largely eliminated the practice of juvenile capital punishment.⁶¹ Notably, the United States remains both the only country that is not a party to the CRC and the only country in the world to routinely sentence child offenders to life in prison without the possibility of parole.⁶²

55 *Children Recruited by Armed Forces or Armed Groups*, UNICEF, <https://www.unicef.org/protection/children-recruited-by-armed-forces> (last updated Dec. 22, 2021). Moreover, the U.N. Office for Children and Armed Conflict found that the number of child soldiers in Middle Eastern and African conflicts doubled in 2019 alone. Mick Mulroy et. al., *Begin with the Children: Child Soldier Numbers Doubled in the Middle East in 2019*, MIDDLE E. INST. (Apr. 14, 2020), <https://www.mei.edu/publications/begin-children-child-soldier-numbers-doubled-middle-east-2019>.

56 While the removal or cutting of female genitalia is a historical and celebrated practice in some cultures, the World Medical Association and the World Health Association oppose the practice. Erica Weir, *Female Genital Mutilation*, 162 CAN. MED. ASS’N J. 1344, 1344 (2000).

57 Kohm, *supra* note 52, at 339.

58 CRC, *supra* note 41, art. 24.

59 *Id.* art. 3, 12, 37, 40.

60 *Id.* art. 37.

61 VICTOR L. STREIB, THE JUVENILE DEATH PENALTY TODAY: DEATH SENTENCES AND EXECUTIONS FOR JUVENILE CRIMES, JANUARY 1, 1973 - APRIL 30, 2004, at 8 (2004), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/juvenile-death-penalty-today-death-sentences-and-executions-3>. By 2004, juvenile capital punishment was considered a “uniquely American practice” with a few exceptions. *Id.* But by 2005 the U.S. Supreme Court banned capital punishment for persons who committed crimes under the age of eighteen, specifically referencing the CRC in its opinion. *Roper v. Simmons*, 543 U.S. 551, 576 (2005) (“As respondent and a number of amici emphasize, Article 37 of the United Nations Convention on the Rights of the Child, which every country in the world has ratified save for the United States and Somalia, contains an express prohibition on capital punishment for crimes committed by juveniles under 18.”).

62 Lisa Armstrong, *The U.S. Is the Only Country that Routinely Sentences Children to Life in Prison Without Parole*, INTERCEPT (June 3, 2016, 11:19 AM), <https://theintercept.com/2016/06/03/the-u-s-is-the-only-country-that-routinely-sentences-children-to-life-in-prison-without-parole/>.

While the 2012 U.S. Supreme Court decision *Miller v. Alabama* banned *mandatory* life without parole sentences for children under 18, the U.S. court system still regularly sentences minors to life

While the CRC has positively impacted global standards regarding the death penalty and death by incarceration,⁶³ the convention has largely failed to practically protect the legal rights of child offenders living in conflict zones. The CRC calls for State Parties to “take all feasible measures to ensure protection and care of children who are affected by an armed conflict.”⁶⁴ But, according to a 2016 Human Rights Watch report, countries affected by armed conflict regularly detain children without charge in conditions that violate international legal standards.⁶⁵ Accounting for this trend, this note focuses on the effectiveness of the CRC as it specifically relates to child incarceration in the conflict-ridden OPT.

III. THE MILITARY OCCUPATION OF PALESTINE AND ITS IMPACT ON PALESTINIAN CHILDREN

Israel operates two distinct legal systems. While Israel’s civilian justice system adjudicates Israeli criminal proceedings, Israel’s military court system is reserved specifically for Palestinians.⁶⁶ International humanitarian law allows Israel, as the occupying power, to establish military courts in the OPT, but with basic safeguards.⁶⁷ Accordingly, Palestinians tried in military courts should be guaranteed a fair trial which entails, *inter alia*, a presumption of innocence, protection from self-incrimination, and prompt access to knowledge of the charges against them (in a language they can understand).⁶⁸ But Israel remains the only country in the world to automatically prosecute children in military tribunals

without the possibility of parole after a jury considers mitigating factors prior to sentencing. *Id.* (emphasis added). But, even as a non-state party the CRC has impacted U.S. jurisprudence.

⁶³ See Eric Finley, *Is Death by Incarceration the New Normal for Aging Prisoners?*, PRISON JOURNALISM PROJECT (Jan. 10, 2023), <https://prisonjournalismproject.org/2023/01/10/is-death-by-incarceration-the-new-normal-for-aging-prisoners/>, for an analysis on death by incarceration by an incarcerated journalist.

⁶⁴ CRC, *supra* note 41, art. 38.

⁶⁵ HUMAN RIGHTS WATCH, EXTREME MEASURES: ABUSES AGAINST CHILDREN DETAINED AS NATIONAL SECURITY THREATS 3 (2016), https://www.hrw.org/sites/default/files/report_pdf/crd_detained0716web_1.pdf.

⁶⁶ DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, NO WAY TO TREAT A CHILD: PALESTINIAN CHILDREN IN THE ISRAELI MILITARY DETENTION SYSTEM 9 (2016), https://www.dci-palestine.org/no_way_to_treat_a_child_palestinian_children_in_the_israeli_military_detention_system [hereinafter DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE]. Although the Palestinian Authority has created a penal code as well as a judiciary, all Palestinians still fall under the Israeli military court’s jurisdiction if they violate Israeli law. Israeli jurisdiction is both broad and biased. Since the beginning of its occupation, Israel has deemed over 400 Palestinian organizations illegal, including all political organizations. In an effort to repress the Palestinian political movement, Israeli military courts frequently prosecutes civilians for “membership and activity in an unlawful association.” Sahar Francis, *Israel’s Military Courts for Palestinians Are a Stain on International Justice*, GUARDIAN, (Mar. 6, 2021, 5:00 PM), <https://www.theguardian.com/commentisfree/2021/mar/06/israel-military-courts-palestinians-law-uk>.

⁶⁷ Hague Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land. art. 43, Oct. 18, 1907, 36 Stat. 2277.

⁶⁸ DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 9.

that lack these basic fair trial rights.⁶⁹ Moreover, in direct defiance of international law, Israeli authorities use military courts by default, instead of by exception.⁷⁰

A. Arrest and Pre-Trial Detention Procedure

The structural framework of Israel's military legal system consists of a network of military bases, interrogation centers, and detention centers inside both the West Bank and Israel. Following an arrest by Israeli military, Palestinians are detained for questioning and interrogation.⁷¹ Then they are sent to one of the two military courts that operate in the West Bank (the Ofer and Salem military court), or to a military court inside Israel run by the Israel Security Agency.⁷² Notably, transfer to any facility inside Israel constitutes an unlawful transfer under Articles 49 and 76 of the Fourth Geneva Convention, which Israel has ratified.⁷³ Following an initial appearance in one of the military courts, Palestinian detainees are transferred to pre-trial detention.⁷⁴ While Palestinian defendants technically have a right to an attorney, a military order allows for the court to prevent defense attorneys from meeting with their clients for up to ninety days.⁷⁵

Many problems exist relative to trying civilians in military courts. Thus, the U.N. Human Rights Committee ("UNHRC") has long critiqued

69 *Id.* at 1. Israel prosecutes somewhere between 500 to 700 Palestinian children in their military tribunals every year. *Id.*

70 *Id.* at 9.

71 *Id.* at 16.

72 *Id.* at 17.

73 UNICEF, *Children in Israeli Military Detention: Observations and Recommendations, Bulletin No. 2*, at 1, 13 (Feb. 2015), <https://www.unicef.org/sop/media/216/file/Children%20in%20Israeli%20Military.pdf> [hereinafter *Children in Israeli Military DetentionId.* In a more recent development, the High Court ruled in May of 2022 that Israel can legally evict around 1,200 Palestinian residents from their homes in the Masafer Yatta community in order for Israeli forces to use the area for military training. The "[c]ourt narrowly construed the definition of 'forcible transfer'" which is "prohibited under international humanitarian law." Press Release, Human Rights Office of the High Commissioner, UN Experts Alarmed by Israel High Court Ruling on Masafer Yatta and Risk of Imminent Forcible Transfer of Palestinians, (May 16, 2022), <https://www.ohchr.org/en/press-releases/2022/05/un-experts-alarmed-israel-high-court-ruling-masafer-yatta-and-risk-imminent>. This reasoning could have a detrimental effect on future proceedings as it relates to Palestinians forcibly transferred outside the OPT as well.

74 DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 16.

75 *Id.* at 18; *Israeli Military Orders Relevant to the Arrest, Detention, and Prosecution of Palestinians: Introduction to Israeli Military Orders*, ADDAMEER (2017), https://www.addameer.org/israeli_military_judicial_system/military_orders.

the practice.⁷⁶ In 1984, the UNHRC commented that, “[Military courts] could present serious problems as far as the equitable, impartial, and independent administration of justice is concerned. Quite often the reason for the establishment of such courts is to enable exceptional procedures to be applied which do not comply with the normal standards of justice.”⁷⁷ Given the “special protection”⁷⁸ human rights law affords children, the UNCRC wholly condemns the use of military courts for criminal proceedings against juveniles.⁷⁹

Israel officially launched its Military Juvenile Court in July of 2009. This court only oversees the actual trial and does not handle arrest or detention procedures.⁸⁰ Promulgated as a safeguard meant to protect the rights of Palestinian children, the structure of the Military Juvenile Court fails to comport with international legal standards.⁸¹ For example, in 2015 alone, Israeli authorities placed six Palestinian minors in administrative detention, which permits Palestinians to be detained by order of a military commander without charge or trial for up to six months, with indefinite renewability.⁸² While this kind of administrative

76 Fionnuala Ní Aoláin, *Children, Military Courts and Occupation*, JUST SEC. (Feb. 27, 2018), <https://www.justsecurity.org/52809/children-military-courts-occupation/>. Sahar Francis, director of Addameer Prisoner Support and Human Rights Association, comments, “The military judicial system is part of a ‘separate and unequal’ reality. . . . Two populations, two different legal systems – Israel’s largest human rights group is therefore right to call this a form of apartheid.” Francis, *supra* note 66.

77 Hum. Rts. Comm., CCPR General Comment No. 13: Article 14 (Administration of Justice), Equality before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law, ¶ 4, U.N. Doc. HRI/GEN/1/Rev.1 (Apr. 13, 1984). Moreover, the Israeli Information Center for Human Rights in the Occupied Territories critiques military courts saying that they “are not an impartial, neutral arbitrator – nor can they be. They are firmly entrenched on one side of this unequal balance and serve as one of the central systems maintaining Israel’s control over the Palestinian people.” *The Military Courts*, B’TSELEM (Nov. 11, 2017), https://www.btselem.org/military_courts. Likewise, Michael Lynk, the U.N. Special Rapporteur on the situation of human rights in the OPT, states, “[C]hildren are to be deprived of their liberty only as a last resort, and only for the shortest appropriate period of time.” Lynk also commented on Palestinian teenager Ahed Tamimi’s case, saying that in light of the CRC, the facts of her case do not justify Tamimi’s pre-trial detention. Press Release, Human Rights Office of the High Commissioner, UN Rights’ Experts Alarmed by Detention of Palestinian Girl for Slapping Israeli Soldier, (Feb. 13, 2018), <https://www.ohchr.org/en/press-releases/2018/02/un-rights-experts-alarmed-detention-palestinian-girl-slapping-israeli>.

78 KAIME, *supra* note 14, at 15.

79 DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 9.

80 Yael Stein, MINORS IN JEOPARDY: VIOLATION OF THE RIGHTS OF PALESTINIAN MINORS BY ISRAEL’S MILITARY COURTS 11 (Mar. 2018), https://www.btselem.org/sites/default/files/publications/201803_minors_in_jeopardy_eng.pdf [hereinafter *Minors in Jeopardy*].

81 See DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 48. Israeli military judges place children in pre-trial detention by default, with only about 13.5% of children released on bail. The UNCRC says that pre-trial detention of children should be a last resort and denounces holding children for over 24 hours without appearing before a judge. While Israeli military authority places children ages 12 and 13 in front of a judicial authority in that time frame, older children can sit in pre-trial detention for up to 96 hours before speaking to a judge. *Id.* at 46.

82 DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 61. See *Israel Holds Even Palestinian Minors in Administrative Detention*, B’TSELEM (Nov. 18, 2021), https://www.btselem.org/sites/default/files/publications/202111_israel_holds_minors_in_administrative_detention.pdf.

detention is permitted under the Fourth Geneva Convention, in 2009 the U.N. Committee against Torture determined that Israel's frequent use of administrative detention amounts to cruel, inhumane, or degrading treatment.⁸³ Furthermore, inconsistencies between Israeli military law and the Israeli civil justice system are apparent. Palestinian children can legally be detained for up to one year before the court proceedings must conclude.⁸⁴ If court proceedings last longer than one year, the Palestinian child will appear before a military appellate court authorized to extend their detention. Conversely, an Israeli child can legally only face detention of up to six months before their trial must end or they are automatically released.⁸⁵

B. The Israeli Military's Inhumane Treatment of Palestinian Children

A study conducted by the Defense for Children International Palestine ("DCIP") relying on the testimonies of 739 Palestinian children offers a snapshot of the Israeli military justice system's inhumane and abusive practices. The study determined that 27.5% of children experienced some form of physical violence during or following arrest, 33.6% of children were improperly informed of their rights,⁸⁶ and an astounding 97% were interrogated without the presence of a legal guardian.⁸⁷ In 2013, 162 of the 654 children arrested in the West Bank were taken into custody using the pre-planned night-time arrest method.⁸⁸ A typical night-time arrest includes armed Israeli soldiers banging on the family's door between the hours of 12:00 AM and 5:00 AM, a search of the premises, and verbal threats and insults.⁸⁹ The UNCRC expressed deep concern

lem.org/administrative_detention/20211128_israel_holds_even_palestinian_minors_in_administrative_detention (detailing the testimony of two families coping with the administrative detention of their minor children). Due to an administrative order's indefinite nature, prisoners subject to administrative detention frequently participate in months-long hunger strikes to place pressure on prison officials to release them. *Israel Has Issued 1,056 Administrative Detention Orders This Year Alone*, MIDDLE E. MONITOR (Aug. 11, 2022, 10:33 AM), <https://www.middleeastmonitor.com/20220811-israel-has-issued-1056-administrative-detention-orders-this-year-alone/>.

⁸³ Geneva Convention Relative to the Protection of Civilian Persons in Time of War art. 78, Aug. 12, 1949, 75 U.N.T.S. 287; Comm. Against Torture, Concluding Observations on the Fifth Periodic Report of Israel, ¶ 22, U.N. Doc. CAT/C ISR/CO/5 (June 3, 2016). According to the Palestine Center for Prisoner Studies, Israel issued over one thousand administrative detention orders between January and August of 2022. *Israel Has Issued 1,056 Administrative Detention Orders This Year Alone*, *supra* note 82.

⁸⁴ DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 47.

⁸⁵ *Id.*

⁸⁶ *Id.* at 44, 46. 33.6% of surveyed Palestinian youth signed documents in Hebrew. This points to an improper notification of rights since Palestinians typically do not speak Hebrew. *Id.* at 46.

⁸⁷ *Id.* at 40.

⁸⁸ *Children in Israeli Military Detention*, *supra* note 73, at 2.

⁸⁹ DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 24.

that soldiers continually take Palestinian children from their homes in the middle of the night, tie their hands together, and blindfold them. Usually, neither the child nor the parent knows where the soldiers are taking them.⁹⁰

The severe and abusive intake process is especially abhorrent given its incongruence with typical offenses.⁹¹ The most common offense charged by the Israeli military prosecutor is throwing stones.⁹² Military Order 1651 allows for a maximum penalty of ten years imprisonment for throwing an object at a person or property with the intent to harm and twenty years imprisonment for throwing an object at a moving vehicle with intent to harm the vehicle or the person inside.⁹³ While courts rarely issue the maximum sentence for these crimes, Israeli military courts have more than a 99% conviction rate for Palestinian child defendants.⁹⁴

One especially heinous practice utilized by the Israeli military police is holding children in solitary confinement for interrogation purposes.⁹⁵ Between 2012 and 2015, this practice was implemented against sixty-six children who either maintained their innocence or were suspected of being involved in a serious incident.⁹⁶ The longest period a child spent in solitary confinement was reportedly forty-five days, with the average stint lasting about two weeks.⁹⁷ Scholar and Professor in the Sociology of Law at Oslo University, Peter Scharff Smith, contends:

The overall conclusion must be that solitary confinement—regardless of specific conditions and regardless of time and place—causes serious health

⁹⁰ Comm. on the Rts. of the Child, Concluding Observations on the Second to Fourth Periodic Reports of Israel, Adopted by the Committee at its Sixty-Third Session (27 May – 14 June 2013), ¶ 35(a), U.N. Doc. CRC/C ISR/CO/2-4 (July 4, 2013) [hereinafter Concluding Observations]. The West Bank recently launched a pilot test for replacing night arrests with a summons procedure for children suspected of security offenses. *See Children in Israeli Military Detention*, *supra* note 73, at 2, 5 (“The summons pilot is an important operational measure to halt the practice of night arrests and tackle some of the protection concerns which occur during the first 48 hours of arrest, transfer and detention of children.”).

⁹¹ CRC, *supra* note 41, art. 40 (“Alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offen[s]e.”).

⁹² Notably, if a child commits a security offense, such as stone throwing, they are not allowed to have regular telephone communication with their relatives. *Children in Israeli Military Detention*, *supra* note 73, at 14.

⁹³ DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 51.

⁹⁴ *Id.* at 51-52.

⁹⁵ DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 41. The U.N. Standard Minimum Rules on the Treatment of Prisoners (the “Nelson Mandela Rules”) define solitary confinement as, “confinement of prisoners for 22 hours or more a day without meaningful human contact.” Ashley T. Rubin & Keramet Reiter, *Continuity in the Face of Penal Innovation: Revisiting the History of American Solitary Confinement*, 43 LAW & SOC. INQUIRY 1604, 1607 (2018).

⁹⁶ DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 41. That the Israeli police only hold children in solitary during the pre-trial stage suggests that the purpose is to obtain confessions and/or other evidence. *Id.*

⁹⁷ *Id.*

problems for a significant number of inmates. The central harmful feature is that it reduces meaningful social contact to an absolute minimum: a level of social and psychological stimulus that many individuals will experience as insufficient to remain reasonably healthy and relatively well functioning.⁹⁸

Solitary confinement can cause irreparable damage to a developing child's brain.⁹⁹ The U.N. Special Rapporteur on Torture found that, "the imposition of solitary confinement of any duration on juveniles is cruel, inhuman, or degrading treatment and violates Article 7 of the International Covenant on Civil and Political Rights and Article 16 of the Convention against Torture."¹⁰⁰

Additionally, many Palestinian child prisoners are detained in inhumane conditions. The UNCRC describes the detention facilities as overcrowded, poorly ventilated, and without access to natural light.¹⁰¹ The UNCRC continues, "Poor quality and inadequate amounts of food, harsh treatment by prison officials and deprivation of any form of education add to their plights."¹⁰² Furthermore, according to the Commission for Detainees and Former Detainees, every single one of the 1,384 children arrested in 2016 reported that they had been the victim of maltreatment,

98 Christopher Logel, *Ghastly Signs and Tokens: A Constitutional Challenge to Solitary Confinement*, 56 IDAHO L. REV. 365, 370 (2020). While extensive bodies of research report adverse psychological and physiological effects of isolation outside of a correctional facility, conducting research of this phenomenon from inside prison walls proves to be more difficult. Rosalind Dillon, *Banning Solitary for Prisoners with Mental Illness: The Blurred Line Between Physical and Psychological Harm*, 14 NW. J. L. & SOC. POL'Y 265, 274 (2019). Because psychologists' primary method of inquiry is interviewing prisoners, this process diminishes an inmate's social isolation and thereby affects the legitimacy of that research. Logel, *supra* note 98, at 369.

99 Because they are still developing, juveniles are psychologically unable to cope with solitary confinement like an adult. Isolation can exacerbate mental health problems and cause physical harm to a child's over-all health and well-being since they are frequently denied physical exercise. Kyle B. describes his experience as a child experiencing solitary confinement by saying, "Being in isolation to me felt like I was on an island all alone[.] dying a slow death from the inside out." HUMAN RIGHTS WATCH & AMERICAN CIVIL LIBERTIES UNION, GROWING UP LOCKED DOWN: YOUTH IN SOLITARY CONFINEMENT IN JAILS AND PRISONS ACROSS THE UNITED STATES 1, 2 (2012), <https://www.aclu.org/files/assets/us1012webwcover.pdf>.

100 U.N. Secretary-General, *Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ¶ 79, U.N. Doc. A/66/268 (Aug. 5, 2011).

101 Concluding Observations, *supra* note 90, ¶ 73(g).

102 *Id.* A report from Israel's Public Defense Office called Israeli prisons "unfit for human residence." The report disclosed that prison employees at Ofek Prison in West Bank, a detention center for both adults and children, bind inmates to their beds. Michael Bachner, *Report Finds Inhumane Treatment of Inmates Widespread in Israeli Prisons*, TIMES ISR. (May 12, 2019, 8:52 AM), <https://www.timesofisrael.com/report-finds-inhumane-treatment-of-inmates-widespread-in-israeli-prisons/>. Heba, a former child prisoner speaks about her experience in Israeli prison, saying, "The food wasn't fit for humans. For example, when they gave us chicken once a week, it still had its feathers on it and it wasn't properly cooked, with blood inside." Claire Nicoll, *What It Means to Be a Palestinian Child in an Israeli Prison in Coronavirus Times*, SAVE CHILD. (May 15, 2020), <https://www.savethechildren.net/blog/what-it-means-be-palestinian-child-israeli-prison-corona-virus-times>.

torture, humiliating treatment, or the deprivation of basic human rights.¹⁰³

IV. ISRAEL, PALESTINE, AND THE CRC

Israel's treatment and detention of Palestinian children nullifies Israel's commitment to juvenile justice as a ratifying nation of the CRC. Israel's hyper-militaristic occupation has greatly impacted the role of the child in Palestinian society. Notably, children under eighteen comprise about half of Palestine's total population.¹⁰⁴ These staggering numbers thrust children like Ahed Tamimi¹⁰⁵ to the frontlines of the conflict to lead the resistance movement. Clearly defying a twentieth century understanding of children as victims and welfare projects,¹⁰⁶ the modern Palestinian child is an active participant in the legal process. Still, Palestinian children are largely denied the civil, political, economic, social, and cultural rights afforded to them by the CRC.¹⁰⁷

As previously emphasized, the CRC is not to be interpreted hierarchically; however, a number of the CRC's articles are especially applicable to the situation in Palestine. Article 40 emphasizes that, "Every child . . . accused of, or recognized as having infringed the penal law [is] to be treated in a manner consistent with the promotion of the child's sense of . . . worth . . ."¹⁰⁸ The convention guarantees that children involved in a criminal legal proceeding must be "presumed innocent until proven guilty" and "informed promptly and directly of the charges against [them]."¹⁰⁹

Further, children have the right to "have the matter determined without delay by a competent, independent and impartial authority or judicial body" and "not be compelled to give testimony or to confess guilt."¹¹⁰ Accordingly, the current practices of the Israeli government exercised in Palestine do not comport with the standards set forth in Article 40.

After Israel submitted its latest report to the UNCRC, the UNCRC made several observations praising Israel's treatment of the children inside its official boarders while condemning their treatment of children

¹⁰³ Comm. on the Rts. of the Child, Initial Report Submitted by the State of Palestine Under Article 44 of the Convention, Due in 2016, ¶ 216, U.N. Doc. CRC/C/PSE/1 (Mar. 25, 2019).

¹⁰⁴ *H.E. Dr. Awad, Highlights the Palestinian Children's Situation on the Occasion of the Palestinian Child Day, 05/04/2022*, PALESTINIAN CENT. BUREAU STAT. (May 4, 2022), <https://pcbs.gov.ps/post.aspx?lang=en&ItemID=4213>.

¹⁰⁵ See Serhan, *supra* note 2.

¹⁰⁶ See Stornig, *supra* note 25.

¹⁰⁷ See KAIME, *supra* note 14, at 16.

¹⁰⁸ CRC, *supra* note 47, art. 40.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

living in the OPT. For example, the UNCRC commended Israel's 2009 legislative measure that prioritized rehabilitation over punishment of Israeli children accused of a crime and prohibited detention of children below the age of fourteen without a court order.¹¹¹ "The UNCRC was however concerned that [Israel] fully disregarded the recommendations it made in 2002 and 2010 in relation to arrest and detention of Palestinian children . . ."¹¹² Not only has the Israeli legal system totally left Palestinian child prisoners out of its reforms, the rate of incarceration for Palestinian children is also increasing. The UNCRC estimates that nearly 7,000 Palestinian children have been arrested and detained by the Israeli army during the relevant reporting period, but the rate of those arrested increased by 73% between 2011 and 2013.¹¹³ Markedly, the UNCRC noted that Israel's continuous refusal to provide responses to its written questions regarding children living in Palestine greatly affects Israel's accountability when implementing the convention.¹¹⁴

The UNCRC plead with Israel in their response to Israel's report:

The Committee strongly urges the State party to guarantee that juvenile justice standards apply to all children without discrimination and that trials are conducted in a prompt and impartial manner, in accordance with minimum fair trial standards. The Committee also urges the State party to dismantle the institutionalized system of detention and use of torture and ill-treatment of Palestinian children at all stages of the judicial procedure. All those who have been involved in this illegal system should be brought to justice and punished if found guilty. The Committee also urges the State party to comply with the recommendations it made in 2002 and 2010 and which have been constantly reiterated by all human rights mechanisms . . .¹¹⁵

In the near decade since the UNCRC's last suggestions to Israel, Israel has continued to ignore their requests.¹¹⁶ But a budding issue that could perhaps change Israel's pattern of dormant behavior is the looming International Criminal Court ("ICC") investigation into the situation in Palestine.¹¹⁷ In December of 2019, ICC Prosecutor, Fatou Bensouda,

¹¹¹ Concluding Observations, *supra* note 90, ¶ 4(a). Notably, the Youth Code, or 'The Youth (Judiciary, Punishment, and Methods of Treatment) Law, 5731-1971, which is the primary piece of legislation that governs Israeli juvenile criminal courts, meets the requirements of the CRC. The legislation explicitly favors rehabilitation to imprisonment, as evidenced by Article 10(a) of the Youth Code, which states, "it will not be decided to detain a minor if the purpose of detention can be achieved in a manner that does not violate their freedom." *See Born a Target: The Arrest and Prosecution of Jerusalem's Palestinian Children*, ADDAMEER (Apr. 22, 2018), <https://www.addameer.org/publications/born-target-arrest-and-prosecution-jerusalem-palestinian-children-1>.

¹¹² Concluding Observations, *supra* note 90, ¶ 73.

¹¹³ *Id.*

¹¹⁴ *Id.* ¶ 3.

¹¹⁵ *Id.* ¶ 74.

¹¹⁶ *Id.* ¶ 3. *See also The Question of Palestine*, U.N., <https://www.un.org/unispal/document-source/committee-on-the-rights-of-the-child/> (last visited Mar. 29, 2024) (Israel has not submitted any more information to the U.N. since 2013 despite requests to do so).

¹¹⁷ *Statement of ICC Prosecutor, Fatou Bensouda, on the Conclusion of the Preliminary Examination of the Situation in Palestine, and Seeking a Ruling on the Scope of the Court's Territorial*

concluded that a reasonable basis exists to proceed with an investigation into the war crimes committed in Palestine.¹¹⁸ If the ICC, a court of last resort, decides to prioritize an investigation into the Israeli detention of Palestinian children, Palestinian children might be able to achieve some semblance of justice.¹¹⁹

V. ISRAEL'S RESPONSE TO THEIR DETENTION OF PALESTINIAN CHILDREN

Israel has commonly taken the stance that, although they ratified the Geneva Conventions in 1951, they are not bound by the Fourth Convention with respect to the responsibility of occupying powers.¹²⁰ Israel argues that since the Jordanian and Egyptian control over the area now referred to as Palestine is considered illegitimate by the global community, they did not officially become an occupying power when the Israeli army captured West Bank and the Gaza Strip during the Six-Day War in 1967.¹²¹ Israel contends, "these territories were not, prior to the occupation, under the sovereignty of any state, and could not, therefore, be considered 'occupied territory' once Israel seized control."¹²² Despite Israel's argument to the contrary, the international body that oversees global adherence to the Geneva Conventions, the International Committee of the Red Cross ("ICRC"), takes the position that all articles of the Geneva Conventions are applicable to Israel, including Articles 4, 49, and 76 of

Jurisdiction, ICC (Dec. 20, 2019), <https://www.icc-cpi.int/news/statement-icc-prosecutor-fatou-bensouda-conclusion-preliminary-examination-situation-palestine> [hereinafter *Statement of the ICC Prosecutor*]. Criminal enforcement of the CRC might be the best course of action considering that Israel has failed to comply with the International Court of Justice's Advisory Opinion on the Legal Consequences of the Construction of a Wall in the OPT. While Israel describes the concrete wall encircling Palestinian communities as a necessary security precaution aimed to prevent terrorist attacks, the barrier annexes Palestinian land from the outside world. Ghassan Daghlas, a Palestinian official, states, "Israel has continued to build and expand the separation wall and has acted as though the ICJ decision did not happen. . . . This has resulted in the strangulation of the West Bank, and has affected the course of life for Palestinians." Linah Alsaafin, *Israel's Separation Wall Endures, 15 Years After ICJ Ruling*, AL JAZEERA (July 9, 2019), <https://www.aljazeera.com/news/2019/7/9/israels-separation-wall-endures-15-years-after-icj-ruling>.

¹¹⁸ *Statement of the ICC Prosecutor*, *supra* note 117.

¹¹⁹ However, the odds of the ICC prosecution focusing on children's rights is debatable. The 2022 U.N. Secretary-General's Annual Report on Children and Armed Conflict reported Israeli security forces caused more child casualties than "any other armed force or group in the twenty-one "conflict countries" covered by the report. Yet, Secretary-General Guterres declined "to include the Israeli military in his annual "list of shame" for violations against children in armed conflict. Jo Becker, *UN Chief Leaves Child Rights Violators Off 'List of Shame'*, HUM. RTS. WATCH (July 12, 2022, 10:41 AM), <https://www.hrw.org/news/2022/07/12/un-chief-leaves-child-rights-violators-list-shame>.

¹²⁰ HUMAN RIGHTS WATCH, THE OBLIGATIONS OF ISRAEL AND THE PALESTINIAN AUTHORITY UNDER INTERNATIONAL LAW (2001), https://www.hrw.org/reports/2001/israel/hebron6-04.htm#P26_4_39104.

¹²¹ *Id.*

¹²² *Id.*

the Fourth Geneva Convention.¹²³ Furthermore, a large portion of the international community supports the ICRC's reading of the applicability of the Fourth Geneva Convention's occupation articles to the citizens of Palestine living under Israeli occupation.¹²⁴

In response to the treatment of Palestinian children, the Israeli Military Court Unit has stated, "To the best of our knowledge, the careful safeguarding of minors' rights is unparalleled in legal systems engaged in lawful enforcement in conflict areas or in systems that operate pursuant to the laws of *belligerent occupation*."¹²⁵ As evidence of the belligerent occupation, Israeli Ministry of Justice Reports detail challenges that Israeli Defense Forces face in dealing with Palestinian minors. The Ministry of Justice emphasizes that Palestinian terrorist organizations instill a sense of hatred against the State of Israel through the indoctrination of children,¹²⁶ which results in violent juvenile behavior.¹²⁷

123 *Id.* The Fourth Geneva Convention refers to all civilians in Occupied Territory as "Protected Persons." Article 4 of the Convention states, "Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals." *Id.*

124 See S.C. Res. 465 (Mar. 1, 1980) ("Affirming once more that the [Fourth] Geneva Convention . . . is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem."); Press Release, Comm'n on Hum. Rts., Commission on Human Rights Addresses Situation in Occupied Arab Territories, U.N. Press Release HR/CN/01/12, 10 (Mar. 26, 2001), <https://www.ohchr.org/en/press-releases/2009/10/commission-human-rights-addresses-situation-occupied-arab-territories> ("The European Union reaffirmed once more its position that the [F]ourth Geneva Convention . . . was fully applicable to the Palestinian occupied territories, including East Jerusalem, and constitutes binding international humanitarian law.").

125 *Minors in Jeopardy*, *supra* note 80, at 10 & n.12 (emphasis added). However, 2022 was reportedly the deadliest year for Palestinian children in well over a decade, with thirty-four children killed at the hands of occupying forces. And the number of killings by Israeli military are increasing at an alarming rate given that the number of Palestinian children killed doubled from 2021 to 2022. *2022 Becomes the Deadliest Year for Palestinian Children in the West Bank in Over 15 Years – Save the Children*, SAVE CHILD. (Nov. 23, 2022), <https://www.savethechildren.net/news/2022-becomes-deadliest-year-palestinian-children-west-bank-over-15-years-save-children>. Jack Hunter et al., *Israel-Gaza Violence: The Children Who Have Died in the Conflict*, BBC (May 19, 2021), <https://www.bbc.com/news/world-middle-east-57142627>.

126 See Toi Staff, *Gaza Kids Put on Play About Stabbing, Killing Israelis*, TIMES ISR. (Apr. 27, 2016, 1:02 AM), <https://www.timesofisrael.com/gaza-kids-put-on-play-about-stabbing-killing-israelis/> (describing a children's production that simulated violence against Israeli military and was broadcast on Hamas television); Itamar Marcus & Nan Jacques Zilberdik, *Palestinian Children's TV – A World of Hate*, CLEV. JEWISH NEWS, (Nov. 20, 2018, 7:25 AM), https://www.clevelandjewish-news.com/jns/palestinian-children-s-tv-a-world-of-hate/article_f4a0e9df-f991-51ec-8fdc-e68b22046496.html ("With Palestinian children being brought up in this world of hate, denial of Israel's right to exist, and violence promotion and glorification of terrorists, it's no wonder that so many Palestinian terrorists in recent years are teenagers.").

127 *Minors in Jeopardy*, *supra* note 83, at 10. Viewed through a different lens, Palestinian and Israeli children who grow-up in a hyper-militarized environment are regularly exposed to violence as a result of the ongoing conflict. Consistent exposure to violence creates a significant risk of psychopathology in young people. One study sponsored by the World Health Organization found elevated symptoms of depression and anxiety in Palestinian youth. Glenn Wagner et al., *Exposure to Violence and Its Relationship to Mental Health Among Young People in Palestine*, 26 E. MEDITERRANEAN HEALTH J. 189, 189 (2020). Additionally, Palestinian children affected by traumatic experiences like physical violence, coercive interrogations and night-time arrest can experience

VI. IMPLEMENTING NEW ENFORCEMENT MECHANISMS AND THE PATH FORWARD

Unfortunately, Israel's silent treatment toward the UNCRC and blatant disregard of their recommendations is not unique to this contentious conflict or to this human rights treaty.¹²⁸ The UNCRC regularly expresses their "abhorrence" and "condemnation" of a given CRC State Party's flagrant neglect of the treaties.¹²⁹ In many ways, the CRC is toothless—it fails to hold violators accountable despite its implementation and enforcement provisions. While the CRC is a legally binding document, there is currently no enforcement mechanism that binds State Parties to their commitments.¹³⁰ Ultimately, the inadequate accountability mechanism of the UNCRC, compounded with the allowance of vague reservations, fractures the impact of the most comprehensive and universally ratified human rights treaty in history.¹³¹

severe psychologically distress. DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, *supra* note 66, at 67. Likely, this hyper-incarceration of Palestinian children only perpetuates a cycle of violence that further instills a sense of hatred against the State of Israel. Dena Takruri of Palestine comments, "One thing you have to keep in mind about this generation is that all they've known their entire lives are a violent occupation, checkpoints, a separation wall, no freedom of movement, no rights and a deeply entrenched system of apartheid imposed by Israel." Muaddi, *supra* note 7.

128 Eric Posner, a law professor at the University of Chicago, points out that the widely ratified U.N. Convention Against Torture prohibits torture and requires prosecution for torture. But, since the convention went into effect, roughly the same number of countries commit torture in at least some contexts. Today, over 150 nations, including the United States, engage in torture. Eric Posner, *Change Has Come About Without Human Rights Treaties*, N.Y. TIMES, (Dec. 28, 2014, 7:36 PM), <https://www.nytimes.com/roomfordebate/2014/12/28/have-human-rights-treaties-failed>. But see Kenneth Roth, *Human Rights Treaties Have Made a Difference*, N.Y. TIMES (Dec. 28, 2014, 7:36 PM), <https://www.nytimes.com/roomfordebate/2014/12/28/have-human-rights-treaties-failed>, where Roth details the effectiveness of human rights treaties by listing several positive treaty-driven outcomes. Kenya cited a women's rights treaty as a motivating factor upon granting women equal access to inheritances; Ireland decriminalized homosexual behavior due to a European human rights treaty; South Africa was motivated by a human rights treaty to grant people with HIV access to anti-retroviral drugs. *Id.*

129 See Comm. on the Rts. of the Child, Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, ¶ 39, U.N. Doc. CRC/C/AFG/CO/1 (Apr. 8, 2011) ("The Committee is extremely concerned by the high level of violence against children in [Afghanistan] and abhors that child victims of abuse and violence, especially girls, are often treated as perpetrators and sent to juvenile rehabilitation centres [sic], while most of the perpetrators of violence against children enjoy impunity.").

130 Linge, *supra* note 44, at 257. One of the reasons the United States gives for not becoming a State Party to the convention is the CRC's ineffectiveness. While they agree with the overall goal of protecting children's rights on an international scale, the United States suggests that a multilateral treaty is an ineffective mechanism that actually serves as a façade for governments that have ignored children's rights. As evidence of this they point out that "countries that many regard as abusers of children's rights – including Sudan, Democratic Republic of Congo, and China – are party to the convention." *Id.*; CONG. RSCH., SERV. R40484, *supra* note 42, at 15.

131 KAIME, *supra* note 14, at 16-17.

This lack of meaningful enforceability plagues human rights treaties in general¹³² but specifically impacts the CRC.¹³³ Most human rights treaties rely on charter or treaty-based organizations to monitor treaty compliance via self-reporting.¹³⁴ Human rights treaties, including the CRC, contain no punitive repercussions for signatories failing to comply with self-reporting protocols or with the treaty itself.¹³⁵ A 2022 comprehensive study determined that international treaties have consistently failed to produce their intended effects, except for treaties concerning international trade and finance.¹³⁶ Instead of relying on inadequate transparency and oversight mechanisms, the study recommends implementing methods of financial enforcement.¹³⁷

Furthermore, the current CRC voluntary reporting system fails to take a clear snapshot of what life is actually like for children living in areas of conflict. Not only do states in conflict not have the capacity to accurately report data relevant to children's rights, but there is also little incentive to do so. States violating CRC provisions are unlikely to self-report violations that would negatively influence the Committee's findings on themselves.¹³⁸ Given that the UNCRC is unlikely to collect extremely accurate data from State Parties self-reporting violations, the UNCRC will also be hard-pressed to adequately address the needs of children living in violating states.¹³⁹ Moreover, the current reporting framework also incentivizes over-representing a State's conformity with the

132 Regardless of enforceability, proponents of human rights laws argue that codifying a widely endorsed set of principles fosters dialogue that can eventually shape governmental action. Emilie M. Hafner-Burton & Kiyoteru Tsutsui, *Justice Lost! The Failure of International Human Rights Law to Matter Where Needed Most*, 44 J. PEACE RSCH. 407, 408 (2007).

133 Steven J. Hoffman et al., *International Treaties Have Mostly Failed to Produce Their Intended Effects*, 119 PNAS, Aug. 1, 2022. The PNAS study found that not only is the CRC ineffective, but also labeled the CRC as the treaty with the most unintended harmful impacts. The CRC's ratification is associated with, "lower Amnesty International human rights ratings, no improvements in health outcomes, worsened human rights practices, and, paradoxically, increases in child labor." *Id.* at 3.

134 Oona A. Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 YALE L.J. 1935, 2008 (2002).

135 *Id.* When relying on a system of self-reporting by signatory states, treaty non-compliance is unlikely to be thoroughly examined, except by already strained non-profit organizations. *Id.*

136 Hoffman, *supra* note 133. The PNAS study synthesized 224 primary studies with the purpose of evaluating the effectiveness of international treaties by measuring the impact of treaties in six policy domains: environmental, human rights, humanitarian crises, maritime issues, trade and finance, and security. *Id.*

137 *Id.* While nine of the twenty evaluated trade and finance treaties contained enforcement mechanisms, no human rights treaties contained such mechanisms. Notably, of the five environmental treaties analyzed, the two that contained these enforcement mechanisms were deemed most effective. *Id.*

138 Linge, *supra* note 44, at 246. See Daniel W. Hill, Jr., *Estimating the Effects of Human Rights Treaties on State Behavior*, 72 J. POL., 1161, 1162 (2010), (stating that states obviously lack the incentive to adhere to honest self-reporting practices given that there is no legal consequence for failing to report wrongdoing).

139 Linge, *supra* note 44, at 246-47.

CRC. For example, in Afghanistan's official UNCRC reply, the State Party reported zero cases of children's rights violations between 2018-2019—a clearly erroneous claim.¹⁴⁰

As a possible solution to Israel's rampant CRC violations in the treatment of children living in the OPT, I propose transforming the CRC by adding some teeth. My proposed amendment to the CRC would (1) include financial sanctions on violating State Parties and (2) establish a U.N. committee specifically designated to examine the effectiveness of the treaty. These financial sanctions could mimic those found in Part III Section 2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS").¹⁴¹ TRIPS contains an entire section on enforcement which includes civil and administrative procedures and remedies. The treaty also prescribes special criminal and broader control sanctions on more egregious infringements.¹⁴² In modeling the CRC's enforcement mechanisms after TRIPS, violating countries would have an economic incentive to improve their human rights practices regarding children. Furthermore, by establishing a new U.N. committee to supplement or replace a state's voluntary reporting, the global community could be more aware of, and therefore better address child's rights issues.

CONCLUSION

Surprisingly, the most rapidly and widely ratified human rights treaty in history remains toothless and largely unenforceable.¹⁴³ The human

140 *Id.* at 253-54. Notably, in 2018 the extremist group ISIS carried out multiple attacks impacting children. For example, on August 15, 2018, an ISIS bombing in a neighborhood of western Kabul, killed thirty-four and injured seventy people, including many children. And, on January 28, 2018, a Taliban car bomb killed over 100 civilians in Kabul. *Afghanistan: Events of 2018*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2019/country-chapters/afghanistan> (last visited Jan. 11, 2023). *See also Afghanistan 2022*, AMNESTY INT'L, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/afghanistan/report-afghanistan/> (last visited Jan 11, 2023) (discussing the up tick in human rights violations in Afghanistan since the 2021 Taliban takeover).

141 Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299 [hereinafter *TRIPS Agreement*]. The 1995 TRIPS Agreement, sponsored by the World Trade Organization, is known for being the most comprehensive multilateral treaty concerning intellectual property rights. Overview: The *TRIPS Agreement*, WTO, https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm (last visited Jan. 14, 2023). The general obligations of TRIPS signatories are detailed in Article 41(1):

Members shall ensure that enforcement procedures as specified in this Part are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

Id. art. 41(1).

142 *TRIPS Agreement*, art. 41(1), 61.

143 Hoffman, *supra* note 133. Linge, *supra* note 44, at 257.

rights violations perpetrated by the Israeli Government via the detention of Palestinian children illustrates the CRC's null impact on the situation in the OPT. Even with resistance from children like Ahed Tamimi, Palestinian children need the international community's support in obtaining the protection of the civil, political, economic, social, and cultural rights afforded to them by the CRC.¹⁴⁴ Detained Palestinian children require a human rights treaty with better enforcement mechanisms—the situation necessitates a treaty with some teeth. If the U.N. were able to provide an accurate assessment of treaty violations in signatory states and encourage enforcement via financial incentives, the lives of Palestinian children impacted by decades of military occupation might finally improve.

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¹⁴⁴ See KAIME, *supra* note 14, at 16.

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