Civil Society Perspectives on Children's Rights in the Occupied Palestinian Territories

*Analysis of Universal Periodic Review Discourse 2013–2018*

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**Abstract**

“This study analyses civil society organisations’ (CSOs’) discourse on children’s rights in the Occupied Palestinian Territories (OPT). This is a troubled context, for Israel – the ‘State Party’ to the United Nation’s Convention on the Rights of the Child (CRC), disputes that its obligations extend to the OPT. In consequence, there has been a dearth of official data and scholarly attention to the situation. Discourse analysis of CSOs’ reports to the UN’s monitoring mechanism, the Universal Periodic Review (UPR), shows children are affected by a raft of violations including: sexual abuse, violence and inadequate access to health and education. The Israeli state’s engagement with the UPR, whilst denying responsibility for the OPT, raises questions about legitimation and performativity. The pathologies are compounded by state repression of civil society meaning that the UPR is a singular means of highlighting children’s rights abuses in the Occupied Territories.

**Keywords**

1 Introduction

Against the backdrop of international criticism and a declining human rights ranking, this study explores civil society organisations’ discourse on children’s rights in Gaza and the West Bank (including East Jerusalem), collectively the Occupied Palestinian Territories (OPT). As the following discussion reveals, this is a challenging context because whilst there is a consensus, and a clear statement by the UN Committee on the Rights of the Child, that Israel has obligations to Palestinian children in the OPT, the Israeli Government denies this and refuses to provide information to the UN for the purposes of monitoring the CRC (see Gross, 2007, Roberts, 1989, Ronen, 2011 and Shany, 2016). It is a topic deserving of attention for, as the UN asserts, ‘the Universal Declaration of Human Rights ... [and] Convention on the Rights of the Child ... are applicable to and must be respected in the Occupied Palestinian Territory, including East Jerusalem’ (HRC, 2019a: 1).

The need for greater insight is further underlined by the UN Committee on the CRC which observed:

> the illegal long-lasting occupation of Palestinian territory ... as well as land confiscation, destruction of houses and livelihood of Palestinians constitute severe and continuous violations of the rights of Palestinian children and their families, feed the cycle of humiliation and violence and jeopardize a peaceful and stable future for all children of the region

UNCRC, 2013: 2; see also Reynolds, 2015

Here it should be noted that the CRC violations discussed below collectively stem from direct violation by the Israeli state and its organs (the army, the judiciary etc.) and by “private” settlers (whose actions are enabled – and, arguably, condoned by state elites).

Existing studies of children’s rights in the OPT provide valuable insights, *inter alia*, spanning: the social construction of childhood rights in the West Bank (Awan, 2018), rights-based approaches to children’s national identity (Habashi, 2008), youth politicisation (Habashi, 2015), normative representations of childhood, everyday practice and resistance (Marshall, 2016), and the role of the United Nations, international agencies and civil society actors in addressing threats to Palestinian children arising from Israeli occupation (Pitner, 2000; Hart and Lo Forte, 2013; Shalhoub-Kevorkian, 2018, 2020). The following analysis complements the extant research by using critical discourse analysis to examine civil society organisations’ reports submitted to the 2018
third-cycle United Nations’ Universal Periodic Review (UPR), the five-yearly official monitoring mechanism associated with UN rights treaties. The UN defines Civil Society Organisations (CSOs) as ‘non-state, not-for-profit, voluntary entities formed by people in the social sphere that are separate from the State and the market’. CSOs represent a wide range of interests and ties. They can include community-based organisations as well as non-governmental organisations (NGOs). Examining civil society organisations’ views on the CRC in the OPT is apposite because their participation is a foundational aspect of the UPR. The UN policy guidance is explicit: ‘the UPR should ensure the participation of all relevant stakeholders, including non-governmental organizations’ (OHCHR, 2011: 6). Moreover, in her analysis of Israel and the UPR, Levin (2016: 332) underlines ‘the rising role of NGOs [and how …] greater integration of NGOs into the reporting cycle is consistent with the notion that good governance requires the establishment of “non-state” institutions that can monitor state behaviour’. She continues, ‘civil society also has an important place in ensuring that government officials heed the recommendations of the Treaty Bodies and monitor the implementation of those recommendations’.

Accordingly, further to a raft of earlier studies revealing the suffering of the Palestinian people (e.g., Barber et al., 2017), the following analysis focuses on the UPR in order to understand civil society’s conceptualisation of children’s rights in the OPT and its views on CRC implementation. As noted, it uses discourse analysis of the corpus of CSO submissions. This is a rich data source that complements official narratives. However, whilst civil society UPR submissions have been used elsewhere in international studies of UN treaty implementation (Chaney, 2020a, b), they have largely been overlooked in the context of the OPT. In conceptual terms they provide ‘situated knowledge’ about the prevailing rights environment from those working in and representing the affected communities (Stoetzler and Yuval-Davis, 2002). Moreover, they offer a theoretically-informed insight into the role of civil society as a political space for promoting children’s rights. In turn, this throws a critical light on government claims that, ‘Israel maintains a vibrant dialogue with civil society organizations, in particular within the UN Human Rights treaty bodies and UPR reporting process’ and that, ‘Israel remains determined to protect children’s rights and their welfare and has continued to legislate and act towards the betterment of all children’ (GoI, 2018: 14).

In response, the present analysis is intended as a contemporary benchmark study and a foundation for future work that will draw on complementary data sources, including CSOs’ submissions to the UN CRC Committee. It engages with Allen’s (2013: 193) insightful observation that,
In these times of revolution across the Middle East and economic upheaval throughout Europe, analysts need to consider anew the issues of consciousness, critique, and consent that the Palestinian case highlights [and...]. Take account of the growing consensus that the human rights system and the UN cannot provide meaningful change [... and] How to account for the new level of popular awareness and growing public critique of the masks of state.

This matters, because as Sait (2004) observed,

If the world’s most widely ratified international instrument [CRC] cannot come up with a strategy to protect the Palestinian children, it will no doubt make a mockery of the legitimacy of the child rights regime itself.

In theoretical terms, examining civil society organisations’ views on human rights treaty implementation is appropriate because it engages with contrasting conceptualisations of civil society (Sahoo and Chaney, 2021). Whilst some define it as a strong, vibrant arena for associational life that acts as a watchdog for democracy (De Tocqueville 1835/1840; Cohen and Arato, 1993; Habermas, 1994), others such as Gramsci, see it as a site of hegemonic and counter-hegemonic struggle between citizens and ruling elites (Kumar, 1993). In specific contexts, civil society may even exhibit anti-democratic or oppressive, partisan practices (Sahoo, 2014).

In summary, the study aims are to explore CSOs’ understanding of children’s rights when reporting on CRC implementation in the OPT; to offer a critical assessment of how Israel responds to the UPR; and, to reflect on the implications for the future well-being of children in the region. In the conclusion the discussion also reflects on the Israeli state’s engagement with the UPR. The remainder of the paper is structured thus: following an outline of the research context, the study methodology is described. Attention then moves to the findings – with analysis of CSOs’ attention to different rights issues, followed by a critical assessment of how Israel responds to the UPR. The concluding discussion summarises the main findings and reflects upon their implications.

2 Research Context

The State of Israel ratified the CRC in 1990. The Convention states, ‘a child means every human being below the age of eighteen years’, a definition followed in this paper. Israel has also ratified the Optional Protocols to the CRC
on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography (UNICEF, 2017). However, it did not ratify the third Optional Protocol of 2014 allowing children to bring complaints directly to the Committee on the Rights of the Child. Israel is also a signatory to other laws and treaties that extend rights and protections to children. *Inter alia*, these include the International Covenant on Civil and Political Rights; and Conventions by the International Labor Organization.¹

At this point it should also be noted that in 2014 the Palestine Authority signed and ratified the CRC. This is significant in that it sends out an important message underlining the UN view, internationally backed by many states, that Israeli occupancy is unlawful and contrary to UN resolutions (Sfard, 2018). Moreover, it reflects the view that the Palestinian Authority should have a pivotal role in upholding the CRC. However, the first UN Concluding Observations on Palestine published by the UN Committee on the Rights of the Child in 2020 highlighted how the Palestinian Authority’s cooperation with civil society was being hampered by the repressive terms of the Israeli occupancy (in particular, it cited cases of harassment and arbitrary detention of human rights defenders and civil society representatives in both the West Bank and the Gaza Strip (UN Committee on the Rights of the Child, 2020: 4, para. 16; see also Gordon, 2014).

In terms of geography, since 1967 Israel has occupied the West Bank and the Gaza Strip (Oren, 2000). In 1980, Israel officially annexed East Jerusalem and has claimed the whole of Jerusalem as its capital. It should be noted that Israel’s claim is contested by Palestinians who also view Jerusalem/Al-Quds as their capital whilst acknowledging that the status of Jerusalem remains unresolved. Latterly, the United Nations, the European Union and the International Court of Justice have used the term “Occupied Palestinian Territory” to refer to the West Bank and the Gaza Strip (see International Court of Justice, 2004, European Council, 2016, Imseis, 2020). As noted, the Israeli government disputes responsibility for upholding treaty obligations in the OPT (see HRC, 2014). However, the Israeli government’s position has also been rejected by much of the international community, including via the UN Security Council and the International Court of Justice.² Citing Article 27 of the Fourth Geneva Convention (1949), these bodies argue that, as an occupying power, Israel has

¹ For example, the Conventions of the International Labor Organization (ILO), such as the Convention Concerning Medical Examination of Children and Young Persons in Non-industrial Occupations (No. 78, 1946). *Inter alia*, the Hague Convention Concerning the Protection of Children and Cooperation in Respect of Inter-country Adoption (1993).

² In its 2004 advisory opinion, the Court ruled that East Jerusalem is occupied territory that has been illegally annexed by Israel, and to which international humanitarian and human rights law are applicable.
an obligation to protect the Palestinian civilian population. This places extensive obligations on the Israeli government. \textit{Inter alia}, it refers to the need for:

respect for their persons, their honour, their family rights, their religious convictions and practices, and their manner and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

However, this has also been rejected by the Israel Ministry of Foreign Affairs. It asserts that, ‘the Geneva Conventions are not formally applicable to the OPT because sovereignty over the OPT was disputed when Israel assumed control in 1967’ (Israel Ministry of Foreign Affairs, 2003). The language of recent reports attests to the strength of UN condemnation of the Israeli position. They express grave concern at the continuing violations of international humanitarian law and the systematic violation of the human rights of the Palestinian people by Israel. Furthermore, they condemn attacks on school children and educational facilities by Israeli settlers and the Israeli military (see HRC, 2017: 1).

At this juncture it is germane to consider the role of the Palestinian Authority as duty bearer in the West Bank. Following the Oslo Accords, the West Bank was divided into Areas A, B, and C. These measures further explain how the duty-bearer can become complicated to identify. Notably, in the wake of Oslo II, Area C of the West Bank was only meant to be under control of Israel for five years but remains so to this day. This is arguably another reason why Israel shirks its responsibility as duty-bearer over the rights-holders in the OPT (for a discussion see Cavanaugh, 2002, 2004, 2007).

In addition to the disputes over Israel’s human rights obligations, commentators such as Chazan (2012) have also highlighted a wider issue with significant implications for government accountability – namely, what they view as a shrinking space for civil society:

\begin{quote}
There is a direct correlation between the intensified efforts of neo-nationalist groups to curtail civil society and its increased centrality as the locus of the ongoing struggle for the assurance of a just, egalitarian and pluralistic Israel.
\end{quote}

According to this account, ‘this campaign against civic institutions promotes a monolithic, ethno-centric definition of Israeli identity, Israeli interests, Israeli society and Israeli aspirations’ (Chazan, 2012: 9). Allied to this, the UN has also raised concerns. For example, a recent report stated that it,
is increasingly alarmed by the systematic efforts of the Israeli government, Israeli public officials, and a vocal portion of the Jewish majority to delegitimize and diminish civil society in Israel. These efforts counter the internationally-recognized human rights of association and expression, which are integral components of healthy democracies and internationally-recognized basic rights’

HRC, 2017: 7

The legislative basis for the restrictions on civil society stem from a series of laws recently passed by the Knesset. For example, the Transparency Requirements for Parties Supported by Foreign State Entities Bill 5766 (Knesset 2016a) – requires that NGO s receiving more than half of their budgets from foreign governments and organisations report to the NGO registrar. According to proponents, the law’s aim is to,

to deal with the phenomenon of NGO’s who represent in Israel, in a non-transparent manner, the outside interests of foreign states, while pretending to be a domestic organization concerned with the interests of the Israeli public

STAFF, 2016: 1

A further example is the Suspension Law (2016). This allows a Member of the Knesset (MK) to be suspended from the Knesset if she or he allegedly supports armed struggle against Israel or incites racial hatred – or supports NGOs that allegedly hold such positions (Newman and Staff, 2016: 1). In addition, the Counter Terrorism Bill 5776 (Knesset 2016b) – broadens the definitions of terrorist organisations and terrorist actions and expands the power of the State to fight terrorism. It codifies counterterrorism measures that impact on the freedom of CSO s, including administrative detention, expropriation of money and property, travel bans and computer surveillance.

3 Methodology

The potential benefits of civil society co-working on CRC implementation have a basis in social theory on knowledge exchange and democracy. Notably, complementarity theory emphasises language and how politicians and policy-makers attempt to cope with complexity by using civil society in policy implementation; this not only strengthens ‘input legitimacy’, but also promotes policy efficacy through the pursuit of shared goals (Klijn and Skelcher,
2006). Such motivations prompted the UN to introduce CSO input to the UPR in 2006. Accordingly, in the following discussion critical discourse analysis is employed to examine their UPR submissions. This ‘is a type of discourse analytical research that primarily studies the way dominance and inequality are enacted, reproduced and resisted by text and talk in a social and political context’ (Van Dijk, 2001: 352). Because it focuses on all CSO submissions to the third cycle UPR, it constitutes corpus analysis (Vaughan and O’Keeffe, 2015), a methodology that eschews sampling and instead is concerned with the issues and framings in an entire dataset. Content analysis (Schreier, 2012) was used to measure the frequency of key words, ideas, or meanings in the CSO’s UPR submissions. This gives an index of the level of attention to (and thus, indicator of prioritization of) key topics – in this case rights violations in respect of the UN Convention on the Rights of the Child – amongst competing issues and agendas.

The content analysis was executed using a hypothetico-deductive approach to code the CRC rights pathologies (Fereday and Muir-Cochrane, 2006; Urquhart, 2012). First the author undertook a close reading of the UNCRC and the related literature on children’s rights in the OPT (See References at the end of the paper) in order to identify potential rights violations (e.g., violence, denial of education etc.). Next a close reading of the CSO Third Cycle UPR submissions was completed. This allowed additional violations (e.g., Article 45 violations – failure of government to respond to earlier UPR recommendations) to be added to the coding frame. Using this analytical framework, the content analysis allowed examination of the ‘issue-salience’ of different rights violations. Using appropriate software, the UPR reports were divided into ‘quasi-sentences’ (or, ‘an argument which is the verbal expression of one political term, idea or issue’) (Volkens 2001: 96). Sub-dividing sentences in this manner controlled for long sentences that contained multiple policy ideas related to rights pathologies. This technique reflects the fact that many CRC Articles and associated rights pathologies are not discrete but overlapping. It is derived from the methodology used in election manifesto studies (similarly, recognising that policy pledges are often not discrete but overlap subject areas) (see for example, Libbrecht, et al., 2009; Rohrschneider and Whitefield, 2009). It is a robust approach because it offers a relative index of the comparative level of attention to – or prioritisation of – rights pathologies in the UPR corpus and avoids reductive coding of the text where the researcher is forced to allocate a single, principal code to a sentence. A worked example illustrates the method. Using this technique, the text:
Palestinian children in Israeli prisons are often denied access to learning materials and educational activities. This is all the more troubling because of the state's failure to address this issue following the second UPR in 2013.

This would be coded under three categories. It falls under “education”, because of Israel's violation of Article 28 ('States Parties recognize the right of the child to education ...'). It also falls under “criminal justice”, because of the violations of relevant articles, such as Article 37(c) ('Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age'). In addition, because these violations had already been highlighted in previous UPR recommendations, they would fit into a third category: ‘failure to implement previous UPR recommendations’ (Article 45). To ensure accuracy the coding was repeated by a research assistant. In the small minority of cases (12) where coding differed, such instances were re-checked and a final coding agreed. All incidences were logged into a database that, inter alia, allowed for disaggregation and analysis by CRC pathology.

As noted, the data source for the present analysis is the corpus of CSOs’ submissions to the third cycle (2018) UN Universal Periodic Review. This constitutes a rich and singular dataset that informs understanding of the role of civil society as a political space for resisting child oppression and realising rights. The UPR was established following a 2006 UN General Assembly resolution (60/251). According to its proponents, it is not designed to be an elite process. Instead, it provides the chance for state and civil society organisations to provide formal written submissions. Thirty CSO reports submitted to the UPR were analysed here (see Appendix 1). The latter figure under-reports the breadth of CSO input to the UPR – for many of the reports are joint submissions by alliances of CSOs (one regional network organisation – the Arab NGO Network for Development, reports an extended membership of 250 CSOs). Many of the CSOs were organisations based and working in the OPT or Israel (as determined by organisations' self-authored overviews in the reports – and the address of their headquarters). The remainder were international CSOs, many with local fieldworkers in the OPT. As a burgeoning international literature highlights (see Matua, 2001; Golan and Orr, 2012; Hendrix and Wong, 2013; Walton, 2015; Gruffydd Jones, 2019), using such a hybridised dataset combining NGOs and INGOs is particularly useful in analysing rights observance under authoritarian regimes (Chaney 2020a, b), as well as conditions of occupancy, as in the case of the OPT. The reason for this is that repressive state practices in the latter contexts (through monitoring, imprisonment and use of “Foreign Agent” laws) undermines CSOs’ independence and criticality. Whereas, INGOs
have greater freedom: they can use local informants and technologies (such as WhatsApp) to draw covertly on the situated knowledge of civil society organisations in the OPT, whilst being outside the judicial reach of the repressive legislation. To provide a critical assessment of Israel’s response to the UPR, the discourse analysis was also undertaken of the Israeli Government’s submission to the UPR and its official response to the UN’s third cycle UPR Recommendations. Attention now turns to the analysis – and the rights violations highlighted by CSOs.

4 Children’s Rights in the OPT – Analysis of Civil Society Organisations’ UPR Submissions

The organisational narrative of this section is derived from the research methodology (see above). As noted, issue salience is a mode of contents analysis. Here it is used to identify and rank the CRC pathologies – or rights violations, that the CSOs’ UPR submissions identify – and then discuss them in turn – starting with the pathologies that are given greatest attention in the UPR corpus. This organisational narrative is summarised in Table 1.

Article 19 of the CRC requires that, ‘States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse’. However, violence is the first-ranked violation in the civil society UPR discourse (22.8 per cent of quasi-sentences) (Table 1). As a burgeoning literature attests, it pervades many aspects of children’s lives in the OPT (See for example, Bisharat, 2013; Massad, Khammash and Shute, 2017; Veronese et al., 2016; Veronese, Cavazzoni and Antenucci, 2018; Shalhūb-Kīfūrkiyān, 2019). The civil society discourse underlines the endurance of these pathologies. Several accounts refer to violent attacks by settlers on children. For example,

Expansion of settlements and settler violence ... [we] collected testimonies from women on the prominence of arbitrary settlers’ violence, especially against women and children. They reported that many women fear their children will be injured, arrested, or killed for being in the wrong place at the wrong time

Womens Center for Legal Aid and Counseling et al., 2018: 6

Others alluded to violence towards children from the Israeli authorities. For example, ‘affidavits from 590 West Bank children detained and prosecuted under the jurisdiction of Israeli military courts between 2012 and 2016. The
Data show that 72 percent of children endured some form of physical violence following arrest and 66 percent faced verbal abuse, humiliation, and/or intimidation (Defense for Children International – Palestine, 2018: 5).

**CRC Article 28** asserts that, ‘States Parties recognize the right of the child to education …’ However, as a recent study notes,

for children who face the everyday uncertainty of political violence, education can also be a place of routine in the midst of daily violence and oppression. Yet, the boundaries separating school as a safe place from the violent context outside school have become blurred in the current post-second intifada era ... accessing school can be a dangerous activity for children.

Akesson, 2015: 198; see also Perugini, 2010

The current study supports this. Article 28 violations were the second-ranked issue in the Third Cycle UPR discourse, accounting for a sixth (17.1 per cent) of quasi-sentences. The UPR dataset alluded to a range of issues and barriers that...
children face when trying to access education in the OPT. For example, one CSO noted that:

recurrent conflict and occupation has negatively impacted education. These conditions include armed conflict, military incursions, and violence; violations of rights including the right to education; damage and destruction of property and schools; arrest and detention of children and youth; disruption of schooling; restrictions on movement including access to education and schooling

Arab NGO Network for Development, 2018: 3

War damage and its consequences for education is a further key trope. Over 200 schools, including three UN schools, were destroyed by Israeli attacks. CSOs highlighted how this constituted collective punishment of civilians in the region. One reported how,

The inequality of access to education for Palestinians is the consequence of attacks to school, university campuses and students, especially arrests of student activists, discriminatory policies, the violation of the freedom of movement including the movement of academics

Organization for Defending Victims of Violence, 2018: 2

In the wake of the occupation, several authors describe the curriculum as a site of a hegemonic and counter-hegemonic struggle (Rowe, 2008: 3). For example, Abu-Saad and Champagne (2006: 1048) observe,

Within the context of the ongoing Israeli/Palestinian conflict, the stereotypical and ahistorical picture of Palestinian Arabs fostered by the state of Israel serves ... to cripple any efforts to resolve the conflict concerning land, nationality, and the basic rights of Palestinian Arabs because they are portrayed as a non-people, without a history.

Such views pervade the CSO discourse. For example:

The Israeli education system is discriminative; forcibly integrating their curriculum and culture to the Palestinian official curriculum in East Jerusalem schools, with no respect for the religious and cultural rights of Palestinians

Arab NGO Network for Development ECOSOC, 2018: 14
Article 19 violations (the right of the child to appropriate legal protection) were the third-ranked issue in the CSO discourse, accounting for 15.1 per cent of quasi-sentences. Specifically, many of these references were to shortcomings and incompatibilities between the Israeli legal code and the CRC, and the resulting impact on children’s access to justice. The reason for their prominence in the UPR discourse is evident from the extant literature. For example, Viterbo (2018: 789) refers to the legal situation of children as part of ‘Israel’s burgeoning divide-and-rule apparatus’, whilst Veerman and Levine (2001) highlight the challenges and complexities of children’s access to rights and justice under occupancy. This is backed up by the Human Rights Council which has spoken of its,

regret at the lack of progress [and ...] the existence of numerous legal, procedural and practical obstacles in the Israeli civil and criminal legal system contributing to the denial of access to justice for Palestinian victims and of their right to an effective judicial remedy

HRC, 2019b: 3

Thus, the current analysis supports Kovner’s (2020: 241) earlier observation that,

children are often perceived as a security threat by the Israeli law enforcement and justice systems ... the institutional reaction is of a penal nature ... which deprives them of their basic rights and is defined by threat, control, oppression, and incarceration.

A key issue is Israeli authorities’ continuing use administrative detention introduced under emergency powers 50 years ago. For example, one CSO alluded to how, ‘the Israeli authorities try children in military courts, which have a near-100 percent conviction rate. Some adults and children are detained or imprisoned for engaging in nonviolent activism’ (Human Rights Watch, 2018: 5).

The UPR discourse highlights a further range of legal issues, including the Youth Bill (Knesset 1977) that allows the authorities to imprison minors as young as 12 years of age convicted of serious crimes. As one CSO submission complained, ‘this punishment, already provided for by military courts, hampers the rights of children in detention and should be considered as a last resort, and for the shortest period as possible’ (Alkarama Foundation, 2018: 2).

Article 37 of the CRC states that,

No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity
with the law ... every child deprived of liberty shall be treated with humanity ... and in a manner which takes into account the needs of persons of his or her age.

Similarly, Article 3 asserts that,

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

However, the UPR data reveal that criminal justice violations of children’s rights are fourth-ranked in the corpus (13.8 per cent of quasi-sentences). The civil society submissions chronicle the different dimensions of state malpractice, including shooting to disperse civil demonstrations (See Ben-Naftali and Zamir, 2009). Thus, for example, one highlighted the authorities’ failure to abide by special procedures that apply to children including conducting arrests and investigations during the late hours of the night, preventing children from meeting with a lawyer, and preventing parents from being present with their children during the investigation, as required by law

Women for Peace; Al Tufula Pedagogical & Multipurpose Women’s Center et al., 2018: 4

Another strand of the discourse referred to Article 37 child imprisonment violations, including how the Israeli authorities are holding increasing numbers of Palestinian children in solitary confinement for long periods. In its UPR submission, one CSO reported that in 2016, for interrogation purposes ‘25 were held in solitary confinement for interrogation purposes for an average period of 16 days, a 23 percent increase over the previous year’ (Defense for Children International, 2018: 4). Another observed, ‘at the end of May 2017, 331 children (12–17 years) were held in military detention’ (Military Court Watch 2018: 2). For its part, the HRC recently noted its ‘deep concern that thousands of Palestinians, including many children and women and elected members of the Palestinian Legislative Council, continue to be detained and held in Israeli prisons or detention centres under harsh conditions’ (HRC, 2019b: 7).

Article 34 of the CRC requires that, ‘States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse...’ However, the
current analysis shows sexual abuse to be the fifth-ranked CRC pathology (10.6 per cent of quasi-sentences). Notwithstanding Israel’s ratification of the Optional Protocol on child prostitution and child pornography, a recent UN report noted:

the State party does not have sufficient programmes specifically targeting children in vulnerable and marginalized situations; [And …] There is insufficient information on the scale of sexual exploitation of children, in particular child prostitution and child pornography…

UNCRC, 2015: 4

There is also a dearth of research on the issue. As one CSO explained, ‘the extent of the phenomenon of trafficking of young women, including minors and girls who are forced into prostitution remains undetermined’ (Euro-Mediterranean Human Rights Network, 2015: 7). One report provides some insight:

In the old city of Jerusalem, there exists a small prostitution hotel ... most of the girls working there are school girls. I know also of a group of women in a Refugee Camp in Ramallah that work in phone sex service. Their husbands work inside Israel and most of their clients are garage workers

SAWA – All the Women Together Today and Tomorrow, 2008: 22

Much of the CSO discourse on sexual abuse of children centred on jurisdictional issues and a rebuttal of the Israeli government’s denial of responsibility. For example, one CSO asserted that, ‘Palestinian children should be protected from CSE ... the government has a special duty of care as many children flee the OPT into the territory of the State of Israel and survive through prostitution without any state support’ (ECPAT International, 2018: 7).

Other CSO accounts complained about how the authorities are amongst the perpetrators of CSE:

Palestinian children continue to be arrested in the middle of the night by Israeli soldiers, and taken to unknown destinations shackled and blindfolded without a goodbye to their families. They are systematically subjected to physical and verbal violence, humiliation, sexual assaults, and threats to their lives or the life of family members

Geneva International Centre for Justice, 2018:6
As Akesson et al. (2016: 369) observe, ‘there is limited international recognition that homicide – or intentional destruction of home – is a violation of children’s rights’. Moreover, the Universal Declaration of Human Rights (UN, 1948) does not provide specific principles to protect those whose homes have been destroyed in conflict. However, UN legal guidance is unambiguous,

The housing rights of children – Both the United Nations Declaration of the Rights of the Child (1959) and the Convention on the Rights of the Child (1989) address the special housing rights of children. Article 27 of the Convention requires States parties to take appropriate measures to assist parents and others responsible for the child to implement the right to an adequate standard of living, and: in case of need [to] provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing

United Nations, 2007: 2

This has been supported by a series of UN General Assembly resolutions – including 42/146, entitled, “The realization of the right to adequate housing” (adopted on 7 December 1987). It asserts:

The General Assembly reiterates the need to take, at the national and international levels, measures to promote the right of all persons to an adequate standard of living for themselves and their families, including adequate housing; and calls upon all States and international organizations concerned to pay special attention to the realization of the right to adequate housing

UN, 1987: 4

Notwithstanding these provisions, violation of a child’s right to a home was the sixth-ranked pathology (9.6 per cent of quasi-sentences) in the third cycle UPR data. Official studies also confirm the harsh day-to-day realities facing children in the OPT. The UN Office for the Coordination of Humanitarian Affairs reports that since 2009, 7,671 Palestinian-owned homes in the West Bank have been destroyed, displacing 11,511 people (UNOCHA, 2021). As one CSO observed:

Since 1967, Israel has continued to demolish and evict Palestinians from their homes in East Jerusalem. We have seen increasing numbers of punitive home demolitions each year ever since, violating the right of adequate housing and the international prohibition on collective punish-
ment, leaving innocent children homeless on behalf of someone else’s action, therefore fostering violence

The Civic Coalition for Palestinian Rights in Jerusalem, 2018: 3

Article 24 of the CRC asserts: ‘States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services...’. However, earlier work by Giacaman et al. (2009: 841) describes the troubling situation in the OPT:

... after a period of improvement in Palestinian health in the occupied Palestinian territory, socioeconomic conditions have deteriorated since the mid-1990s, with a humanitarian crisis emerging in the Gaza Strip and intensifying as a result of the Israeli military invasion in December, 2008, and January, 2009, and because of destruction of homes and infrastructure, the death and injury of civilians, and shortages of food, fuel, medicines, and other essentials, all requiring urgent world concern.

The current analysis reveals little progress since this assessment. The CSO discourse reveals a raft of Article 24 violations. This was the eighth-ranked pathology (2.8 per cent of quasi-sentences). The health violations are revealed to stem from a range of causes including punitive military actions and a chronic lack of capacity amongst healthcare providers (Challand, 2008). For example, one CSO account alluded to how ‘Israel revokes health and social security entitlements as a punishment to family members of alleged attackers’ (Women’s Center for Legal Aid and Counselling et al., 2018: 4). Another asserted that, ‘gaps in infant mortality rates remain as high as in previous years ... the Bedouin population is only about a third of the population of the area, [yet...] 73% of the infant mortalities were among this population’ (Negev Coexistence Forum for Civil Equality, 2018: 3).

The CSO discourse also vividly underlines how poverty is a key issue impacting on children’s rights in the OPT (it is the ninth-ranked pathology, 2.2 per cent). The scale of this pathology is revealed by the UN’s Human Development Index which ranks the OPT 119 out of 189 countries and territories and notes that over a third (37.6 per cent) of the population is estimated to be in multidimensional poverty (UNDP, 2018: 7). As one CSO explained, ‘in Gaza, due to 10 years of military blockade, children continue to slip deeper into poverty, with many still living in protracted displacement’ (Defense for Children International Palestine, 2018: 5). According to another, ‘Poverty – Israel’s ongoing blockade of the Gaza Strip ... the
ten years of closure has created a man-made humanitarian crisis: 80 per cent of Gazans are now dependent on humanitarian aid, while poverty and unemployment rates have soared to over 40 per cent’ (Al-Haq, 2018: 2).

On other matters, Article 45 of the CRC requires the ‘effective implementation of the Convention’. However, as Benvenisti (2019) notes, there are tensions and incompatibilities between Israeli law and the CRC. A further issue is CSOs’ anger and frustration at the Israeli government’s failure to address UN recommendations from earlier UPR cycles (this was the tenth-ranked pathology, 1.2 per cent). This underlines a basic flaw in the enforceability of the UPR process (Bowman, 2007) – and, at the same time reveals the importance of the deliberative dimension to the five yearly UPR by allowing CSOs a platform to highlight government’s failings. For example, one CSO submission said, ‘Israeli authorities persistently disregard and fail to comply with international law, including the recommendations concerning the rights of the child that were accepted and noted in Israel’s 2nd-cycle Universal Periodic Review’ (ECPAT, 2018: 2). Another opined that insufficient progress has been made since institutionalised inequality was addressed during the 2nd cycle review. It recalled how,

Israel was called to “mainstream the principle of non-discrimination and equality in the Basic Law of Israel that discriminates against non-Jewish children and undertake measures necessary to stop policies and measures that affect Palestinians resident in the occupied State of Palestine” (Arab NGO Network for Development, 2018: 4).

Article 32 of the CRC asserts that, ‘States Parties recognize the right of the child to be protected from economic exploitation’. It goes on to require that they, ‘shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; [and] (b) Provide for appropriate regulation of the hours and conditions of employment’. However, several UPR submissions referred to core child labour violations (see Grinburg, 2016). These included employers’ denial of basic medical insurance and/or social insurance benefits. There were also reports of child workers having to pay for their own work-related injuries or illness. For example, one CSO noted ‘the situation of hundreds of Palestinian children, as young as 11, who work in Israeli Agricultural Settlements. Their unsuitable working conditions include working in hot temperatures, exposure to hazardous pesticides and carrying heavy loads’ (Organization for Defending Victims of Violence, 2018: 6).

A re-occurring trope that crosscuts the foregoing CRC violations is how recent Israeli legislation has affected CSOs’ ability to mobilise and advocate
for children’s rights in the OPT. For example, one referred to ‘the closing of civil society space’. It proceeded to note the authorities’ practice of:

refusing to give authorization for protests, claiming threats to public order; declaring in advance that assemblies are illegal; imposing restrictive conditions, to prevent demonstrations ... making illegal preventive arrests; using excessive force and brutality against demonstrators ... and failing to abide by special procedures that apply to children

Human Rights Defenders Fund: Coalition of Women for Peace et al., 2018: 7

Others gave specific examples of repressive practice:

a peaceful sit-in was held demanding the opening of Qurtuba stairs in occupied al-Khalil (Hebron). The stairs were an important passageway between Palestinian neighbourhoods, but the IOF closed it off for Palestinians to use it in June 2016 and only allow access to settlers. The peaceful sit-in, which included Palestinian, Israeli and international protesters, was violently broken up by the IOF leaving one Palestinian child injured and four protestors arrested

CIVICUS: World Alliance for Citizen Participation et al., 2018, PARA 5.4.

Following analysis of the nature of rights violations identified by CSOs in relation to the OPT, attention now turns to the Israeli government’s submission to the UPR.

5  A Critical Assessment of Israel’s Response to the UPR

In this section attention turns to how Israel manages public perceptions of its engagement with the UPR process while denying it is an occupier; and how, in essence, it diverts attention from the main findings of the CSO reports. To do this the discourse of the Israeli Government’s submission to the UPR (GoI, 2018) is examined and its official response to the UN’s third cycle UPR recommendations (UN, 2018). This reveals that the Israeli response has four (non-discrete) aspects: 1. Dissembling, 2. Denial (of responsibility for the OPT and children’s rights issues therein); 3. Selective engagement with UN UPR recommendations; and 4. Repression of civil society and promoting the idea that championing Palestinian rights is a threat to security.
5.1 Dissembling
This aspect of the Israeli government’s strategy involves making statements about how the state embraces the ethos of the UPR and welcomes the opportunity to take part in it: whereas the case of children’s rights and the OPT the present analysis suggests otherwise. Thus, in its state submission Israel claims that it maintains a vibrant dialogue with civil society organisations and remains determined to protect children’s rights and their welfare; whilst in its response to the UN’s UPR recommendations it reasserts that it remains committed to the Universal Periodic Review. It proceeds to assert that if implemented properly, the UPR can be a useful instrument in promoting human rights worldwide. Furthermore, it claims that it wants to explore ways to improve Israel’s human rights record.

5.2 Denial (of Responsibility for the OPT and Children’s Rights Issues therein)
In terms of denial, as noted, the Israeli Government’s UPR submission makes no reference to the OPT. Historically, as the State Party to the CRC, it has repeatedly rejected claims by the UN that its obligations extend to the Occupied Territories. To this end the Israeli Government simply refuses to engage on the issue; as evidenced by the Human Rights Council general debate on the human rights situation in Palestine and other occupied Arab territories (Circa March 2019). The official record recalls: ‘Israel was not present in the room to take the floor as the concerned country’ (OHCHR 2019, 1). Moreover, in its response to the UN’s UPR recommendations, the Israeli Government was explicit in its denial that it is an occupier. In the wake of the UN’s adoption of General Assembly resolution 67/19, it asserted that it categorically opposed the designation of the Palestinian entity as a State, claiming that it does not satisfy the criteria for statehood under international law.

5.3 Selective Engagement with UN UPR Recommendations
This is illustrated in Israel’s response to the UN’s Third Cycle UPR Recommendations on children’s rights. By way of context, the Israeli Government employed three categories of response to the 240 third cycle UPR recommendations from the UN: 1. ‘Recommendations that fully enjoy the support of the State of Israel ... those recommendations that are either already implemented or which underlying spirit is supported by the State’ (70 in total); 2. Those that ‘partially enjoy the support of the State of Israel ... ’; and, 3. ‘Recommendations that were noted [These] are those recommendations that we cannot commit to implement at this stage for legal, policy, or other reasons. These also include recommendations made, which we categorically denounce.
based on gross misrepresentation or perversion of facts’ (170 in total) (UN 2018: 2, para. 4).

Children’s rights were the subject of nine recommendations; six enjoyed the support of Israel, and three were “noted” (in other words, rejected). The recommendations that were supported were highly generalised in nature and, given the Israeli Government’s denial of responsibility for the OPT, did not require specific action of the part of the Israeli state. For example, Recommendation 118.118: ‘Continue efforts aimed at strengthening policies to protect children’s rights’.

In contrast, the three Recommendations that were “noted” (or rejected) by Israel had direct relevance to the plight of children in the OPT. Two were concerned with citizenship rights typified by Recommendation 118.120: ‘Ensure that all children, whether born to migrants, asylum seekers or refugees living within its territory, have access to birth registration’. The remaining Recommendation (No. 118.125) called on Israel to, ‘Desist from abusing human rights defenders and cease the arbitrary detention of children’.

5.4 Repression of Civil Society/ Promoting the Idea that Championing Palestinian Rights is a Threat to Security

The Israeli state has taken serial legislative measures to restrict the actions of human rights defenders and civil society organisations. This practice has developed over the past decade. The first batch of legislation dates from the Nineteenth Knesset (2009–13). It includes the Boycott Law Amendment No. 28 to the Entry into Israel Law (No. 5712-1952), which defined calls for boycott (a nonviolent form of political expression) as a civil offence (2011); and the “Admissions Committee” law, effectively allowing discrimination against Arabs wishing to live in small residential Jewish communities (Adalah, 2014: 1). More recently, the Transparency Requirements for Parties Supported by Foreign State Entities Bill 5766 (2016) – requires that NGOs that receive more than half of their budgets from foreign governments and organisations to report to the NGO registrar (Knesset 2016b). In addition, the Suspension Law (2016) allows a Member of the Knesset (MK) to be suspended from the Knesset if she or he supports NGOs that allegedly back armed struggle against Israel or incites racial hatred (Newman and Staff, 2016: 1). Moreover, the Counter Terrorism Bill 5776 (2016) codifies counterterrorism measures that impact on the freedom of CSOs, including administrative detention, expropriation of money and property, travel bans and computer surveillance (Holmes, 2019: 1). Lastly, the “Nakba Law” decrees that any public institution that observes the “Nakba” (or what Palestinians call the “catastrophe” of 1948) on Independence Day will lose public funding.
What all these laws have in common is the way they limit civil society’s role as a free and critical arena that can champion diverse interests and hold governing elites to account. In effect these enactments are concerned with controlling ideas about the state and they cast government as the key arbiter. This trend is further illustrated by Israel’s outgoing Minister of Culture’s sponsoring of a “loyalty in culture” bill, making state funding for cultural endeavours conditional on content that Israel’s political authorities have deemed loyal to the state. It is also demonstrated by Israel’s highest court’s recent decision to uphold the government’s use of repressive legislation (Knesset, 1952, as amended) to deport the local director of a prominent international human rights NGO, thereby underlining the ruling elite’s ability to expel its critics.

6 Conclusion

In the absence of official data on children’s rights in the Occupied Palestinian Territories, the present study of civil society organisations’ submissions to the third cycle Universal Periodic Review covering the period 2013–18 provides needed critical analysis. The “situated knowledge” of CSOs working in the OPT presents a troubling picture. It shows that children face widespread rights violations spanning diverse fields including denial of education and healthcare, incompatibility between the domestic legal code and the CRC, maladministration in criminal justice, sexual abuse, domicide, and poverty.

At this juncture it is appropriate to reflect on how the present findings relate to the literature on civil society’s role and perception of children’s rights more broadly, and on the specific rights of children in the OPT. In the former regard, the analysis supports Fuchs’ (2007: 408) assessment of civil society’s key contemporary role in advancing ‘declarations of public pressure against norm-violating countries [and the emergence] of transnational advocacy networks as new powerful norm entrepreneurs [so that] norms may become internalized and no longer disputable’. It also tells us how CSOs’ role in child rights advocacy is contingent on context and history (Smith, 2016). In this way the present study aligns with earlier work (Jamal, 2008; Risley, 2014) underlining that through platforms such as the UPR, civil societal actors can become politically influential even in political environments characterised by authoritarianism. Indeed, the present case study of CRC implementation in the OPT resonates with contemporary work (Holzscheiter, Josefsson and Sandin, 2019) on how civil society’s attitude and role in CRC advocacy is deeply shaped by diverse patterns and processes of governance, including in this case, military occupancy.
In the specific case of civil society’s role and perception of children’s rights in the OPT, the present study supports Kovnera and Shalhoub-Kevorkiana’s (2018: 616) analysis that under military occupation, ‘civil society actors, particularly those dealing with children, are often unable to [directly] challenge violations of Palestinian children’s rights [through mobilisation, protest and disobedience...] and prevent the racialised state from breaching local laws and ethical and international standards’. It also supports Hart and Lo Forte’s (2013: 630) work on how civil society faces a dual system [that] has been created in the OPT whereby Palestinian children are dealt with by military courts whereas Israeli settler children appear before civil courts. This makes discrimination between children a matter of routine – itself a violation of Article 2 of the 1989 United Nations Convention on the Rights of the Child (UNCRC), to which Israel is a signatory.

Furthermore, the current findings concur with Shalhoub-Kevorkian’s (2016) analysis that, rather than being a discrete CRC pathology, violence against children in the OPT crosscuts many contemporary rights violations – including criminal justice, education and housing.

In contrast to civil society views, analysis of the Israeli Government’s UPR discourse shows how it seeks to give the external impression to the international community that it is engaging with UN monitoring processes. Yet the endurance of children’s rights violations in the OPT means that in the case of Israel, the UPR process is characterised by performativity and legitimation rather than legitimacy and accountability. “Performativity” here refers to the ‘reiteration of a norm or set of norms, and to the extent that it acquires an act-like status in the present, it conceals or dissimulates the conventions of which it is a repetition’ (Price and Shildrick, 1999: 624). It is what Hajer calls the ‘performatory dimension of policy deliberation’ (Hajer, 1999: 624). Applied to the present case, it underlines how the Israeli government’s submission to the UPR appears to embrace civil society engagement and the promotion of children’s rights in a way that advances political legitimacy – when, for the OPT, the reality is exactly the opposite. In this sense the Israeli government’s performativity in its engagement with the UPR resonates with what Emily Hafner-Burton et al. (2008: 141) identify as mechanisms that present:

opportunities for rights-violating governments to display low-cost legitimating commitments to world norms, leading them to ratify human
rights treaties without the capacity [or, political will]... to [subsequently] comply with the provisions.

As Abram Chayes and Antonia Handler Chayes (1993: 178) point out, the reality is that such regimes may sign international treaties without full intent to comply. Instead, they do so in order ‘to appease a domestic or international constituency’. As Israel’s denial of responsibility for the OPT attests, it lacks any intent to fully comply with the Convention of the Rights of the Child in the Occupied Territories.

The urgent need for critical evaluation of state practices is further underlined by the recent raft of legislation constraining civil society. This suggests that for all the UPR’s flaws (such as treaty enforcement and justiciability and civil society organisations should not boycott it because, in an increasingly repressive political context for NGOs, their use of the UPR to criticise the Israeli Government’s children’s rights record in the OPT is a valuable mode of ‘symbolic politics’ (Edelman, 1964) – or, a political act designed to make a statement. In this case, notwithstanding the fact that – owing to Israel’s denial of responsibility for the OPT – the UPR is limited in its ability to hold the Israeli Government to account for rights violations in the territories, CSOs’ participation is a statement to (and key source of evidence for) the international community. Thus, CSOs should continue to engage with the UPR for two reasons. First, because, in the absence of official analyses on children’s rights in the OPT, their submissions provide an invaluable dataset. This has the power to counter the legitimation and performativity associated with Israel’s participation in the UPR. Second, whilst slow to change, in the future the UN as an institution may instigate reforms that lead to much-needed legal enforceability of its UPR recommendations to states like Israel. There are two potential routes to this outcome: mandatory treaty revision binding on existing CRC signatories requiring its incorporation into states’ legal codes – thereby ensuring justiciability in domestic courts – or, justiciability at the international level – via the International Criminal Court – or similar body (Cole, 2015).

For the present, in the absence of such reforms, a vibrant and free civil society remains key to safeguarding citizenship rights across the generations (Lewis, 1992). As Neumayer (2005: 921) asserts, ‘improvement in human rights is typically more likely the more democratic the country... [And] ratification [of human rights treaties] is more beneficial the stronger a country's civil society is’. Ahead of the fourth cycle UPR in 2023, future progress will in large measure depend on securing greater international awareness and state responsiveness
to civil society views on children's rights. Without this, enduring violations will continue in the Occupied Palestinian Territories.

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UN Committee on the Rights of the Child, *Concluding observations on the initial report of the State of Palestine*, CRC/C/PSE/CO/1, (NY: UN, 6 March 2020).


**Appendix**

**NGOs based and Working in the OPT and/or Israel.**

Adalah: The Legal Centre for Arab Minority Rights in Israel; Addameer Prisoner’s Support and Human Rights Association; Al-Haq – a Palestinian human rights organisation established in the West Bank in 1979 to protect and promote human rights and the rule of law in the Occupied Palestinian Territory (OPT); Al-Marsad (“Observatory” in Arabic) – an Independent Arab Human Rights Centre in the Golan Heights; BADIL Resource

International NGOs
Access Now; Alliance Defending Freedom – a global alliance-building legal organisation that advocates for religious freedom, life and marriage and family before national and international institutions; Amnesty International; Alkarama Foundation; Associazione Comunità Papa Giovanni XXIII (APG23); ECPAT – An International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children; Front Line Defenders, the International Foundation for the Protection of Human Rights Defenders; Geneva International Centre for Justice (GICJ); Human Rights Watch; Joint Submission – Community Action Center (CAC) – Al-Quds University, The Palestinian Center for Development and Media Freedoms (MADA), Women’s Center for Legal Aid and Counselling (WCLAC), Women’s International League for Peace and Freedom (WILPF); Scholars at Risk (SAR); Civicus; Medical Aid for Palestinians (MAP); Organization for Defending Victims of Violence (ODVV).