

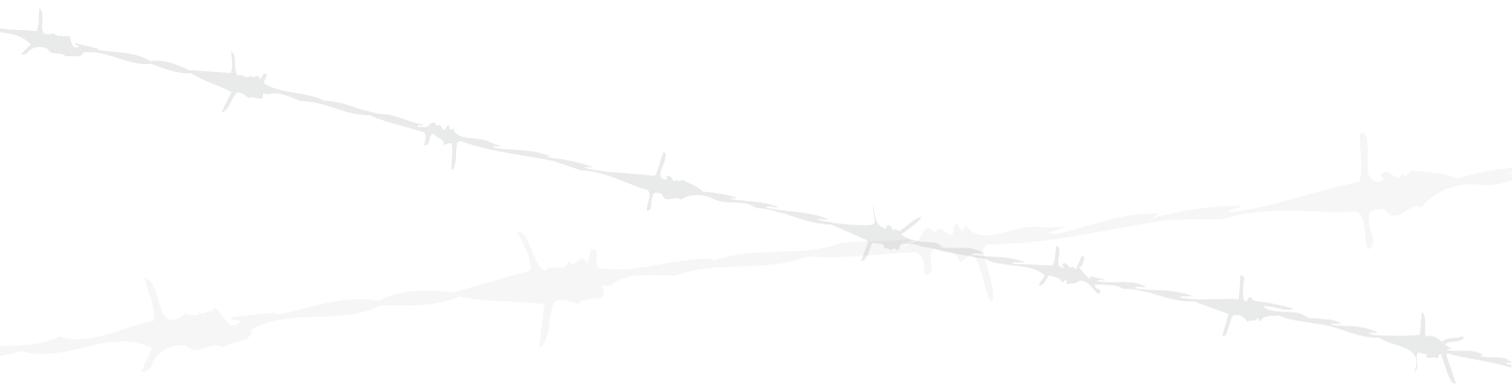
NO WAY TO TREAT A CHILD

PALESTINIAN CHILDREN IN THE
ISRAELI MILITARY DETENTION SYSTEM

April 2016



Defense for Children
International
PALESTINE



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Cover photo: Palestinian children watching Jewish settlers tour in the occupied West Bank city of Hebron on April 1, 2015.

Photo credit: EAPPI / M. Guntern

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Brad Parker, attorney and international advocacy officer, researched, wrote, and edited this report based on investigations conducted by DCIP's legal unit and documentation unit. Bashar Jamal, advocacy officer, served as lead researcher and contributed writing. Priscilla Wathington, consulting editor, and Blythe Hawthorne-Loizeaux, legal intern, contributed research and writing. Ivan Karakashian, advocacy unit coordinator, and Ayed Abu Eqtaish, accountability program director, edited the report.

Defense for Children International – Palestine is an independent, local Palestinian child rights organization dedicated to defending and promoting the rights of children living in the West Bank, including East Jerusalem, and the Gaza Strip. For 25 years, we have investigated, documented and exposed grave human rights violations against children; held Israeli and Palestinian authorities accountable to universal human rights principles; and advocated at the international and national levels to advance access to justice and protection for children. We also provide direct legal aid to children in distress.

For more information, please visit our website:

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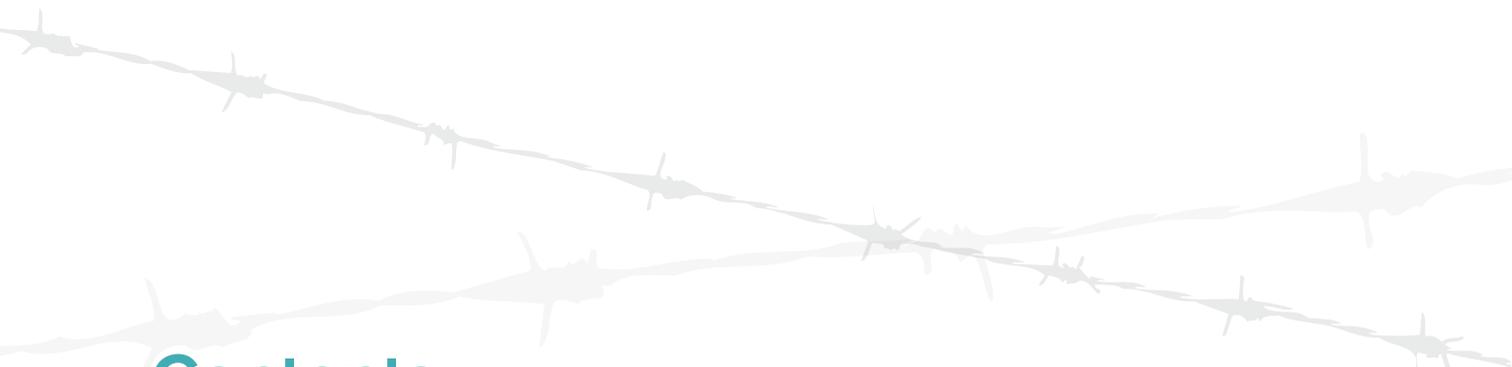
No Way to Treat a Child:

Palestinian Children in the Israeli Military Detention System

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1. Overview

Palestinian children in the West Bank, like adults, face arrest, prosecution, and imprisonment under an Israeli military detention system that denies them basic rights.

Military law has applied to Palestinians in the West Bank since 1967, when Israel occupied the territory following the Six Day War. Jewish settlers, however, who reside within the bounds of the West Bank, in violation of international law, are subject to the Israeli civilian legal framework. Accordingly, Israel operates two separate legal systems in the same territory.

Palestinian children who live in Jerusalem generally fall under Israeli civilian law. The legal distinctions between East Jerusalem and the West Bank also trace back to 1967, when Israel captured that part of the city and declared all of Jerusalem its “indivisible” capital.

Estimates place the number of Palestinian men, women, and children convicted in Israeli military courts in excess of 700,000, according to UN sources. The U.S. State Department’s 2014 human rights report on Israel states that military courts have more than a 99 percent conviction rate for Palestinian defendants.

Israel has the dubious distinction of being the only country in the world that systematically prosecutes between 500 and 700 children in military courts each year. Since 2012, Israel has held an average of 204 Palestinian children in custody each month, according to data provided by the Israel Prison Service.

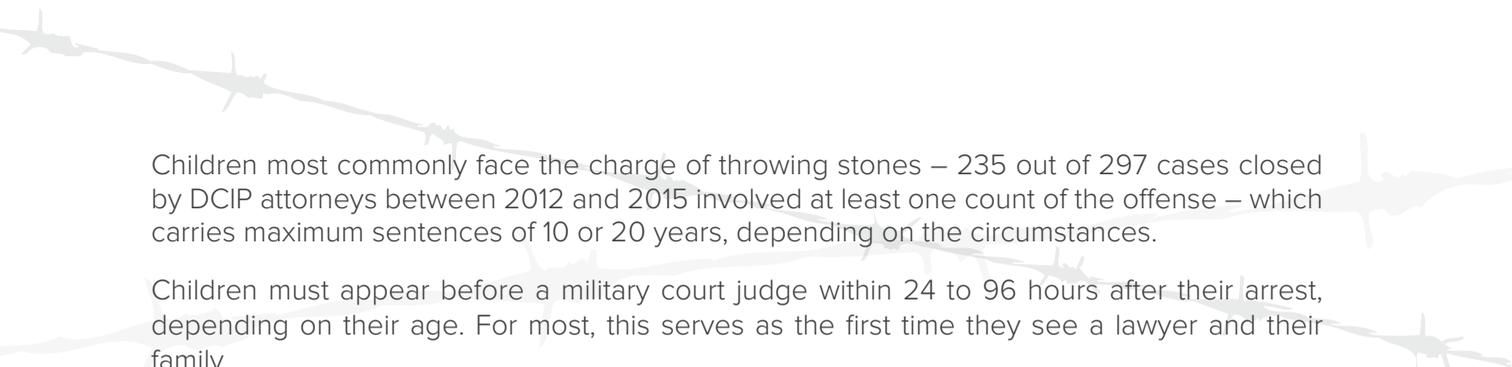
Ill-treatment in the Israeli military detention system remains “widespread, systematic, and institutionalized throughout the process,” according to the UN Children’s Fund (UNICEF) report *Children in Israeli Military Detention Observations and Recommendations*.

Defense for Children International – Palestine (DCIP) collected affidavits from 429 West Bank children detained between 2012 and 2015 that show three-quarters of them endured some form of physical violence following arrest. In 97 percent of the cases, children had no parent present during the interrogation or access to legal counsel. Israeli police also did not properly inform them of their rights in 84 percent of the cases.

Interrogators used position abuse, threats, and isolation to coerce confessions from some of these children. DCIP documented 66 children held in solitary confinement, for an average period of 13 days, during the reporting period. In 2015, Israeli authorities held Abdel-Fatah Ouri, 17, in isolation for 45 days. More than 90 percent of children held in solitary confinement provided a confession.

Recent amendments to Israeli military law concerning children have had little to no impact on their treatment during the first 24 to 48 hours after an arrest, when most of the ill-treatment occurs at the hands of Israeli soldiers, police, and the security service.

Israeli military court judges seldom exclude confessions obtained by coercion or torture, even those drafted in Hebrew, a language that most Palestinian children do not understand. In fact, military prosecutors rely, sometimes solely, on these confessions to obtain a conviction.



Children most commonly face the charge of throwing stones – 235 out of 297 cases closed by DCIP attorneys between 2012 and 2015 involved at least one count of the offense – which carries maximum sentences of 10 or 20 years, depending on the circumstances.

Children must appear before a military court judge within 24 to 96 hours after their arrest, depending on their age. For most, this serves as the first time they see a lawyer and their family.

Many children maintain their innocence, but plead guilty – most receive plea deals of less than 12 months – as the fastest way to get out of the system. Trials, on the other hand, can last a year, possibly longer, during which children remain behind bars as the military courts deny bail in the majority of cases.

Israeli authorities transfer nearly 60 percent of Palestinian child detainees from occupied territory to prisons inside Israel in violation of the Fourth Geneva Convention, according to Israel Prison Service data. As a practical consequence, children have limited family visits as parents struggle to obtain entry permits to Israel.

In no circumstance should children face detention and prosecution under the jurisdiction of military courts. As a minimum safeguard, however, Israeli authorities have an obligation to ensure all procedures from the moment of arrest conform to international juvenile justice standards.

Amid heightened violence in the fall of 2015, the number of Palestinian children in Israeli prisons skyrocketed to the highest it has been since February 2009. At the end of December, 422 Palestinian children were in the Israeli prison system. Among them were 116 between the ages of 12 and 15, the highest known total since January 2008 when the Israel Prison Service began sharing data.

In response to the rising number of child detainees, the Israel Prison Service used a section at Givon prison in October and November to house the overflow of Palestinian minors. Conditions at the prison failed to meet minimum standards. Cells were overcrowded, the building lacked proper heating and shower facilities, and children complained of poor quality and inadequate amounts of food.

Israeli authorities also placed six Palestinian teenagers under administrative detention. This is the first time the measure has been used against Palestinian minors in nearly four years. Administrative detention is the imprisonment of individuals by the state for prolonged periods without charge or trial. The measure should never be used as a substitute for criminal prosecution.

From the widespread ill-treatment and torture of Palestinian children to the systematic denial of their due process rights emerges a system of control that masquerades as justice.



Israeli forces arrest a Palestinian boy as he was taking photos during a weekly demonstration against the occupation on November 9, 2012, in the occupied West Bank village of Al Masara. (Photo credit: Activestills.org)

2. Methodology

Defense for Children International - Palestine (DCIP) monitors, documents, and reports on international human rights and humanitarian law violations stemming from Israel's military occupation of Palestinians living in the West Bank, including East Jerusalem, and the Gaza Strip. Specializing in violations of children's rights as set out in the UN Convention on the Rights of the Child, as well as other international, regional, and local standards, DCIP works to effect positive change in the lives of children living across the Occupied Palestinian Territory (OPT). DCIP implements an integrative approach that utilizes the international human rights framework, evidence-based advocacy, and movement building to advance the rights and protection of Palestinian children.

This report provides an update to DCIP's 2012 version entitled *Bound, Blindfolded, and Convicted: Children Held in Military Detention*,¹ and relies on the testimonies of 429 children detained by the Israeli military or police in the occupied West Bank between January 2012 and December 2015.

DCIP's Accountability Program focuses on child rights as they intersect with Israeli military and legal systems, and includes a legal unit, monitoring and documentation unit, and advocacy unit. DCIP's legal unit provides legal aid to Palestinian children in both the West Bank Israeli military detention system and the Israeli civilian criminal justice system in East Jerusalem.² This unit represents an average of 120 cases each year in Israeli military courts and has developed a reputation for successfully limiting the time children spend in detention. DCIP's monitoring and documentation unit documents human rights abuses and violations against children in the occupied West Bank, including East Jerusalem, and the Gaza Strip.

DCIP lawyers and field researchers collect affidavits from children during prison visits and client meetings in accordance with UN standards, and are trained to ask a series of non-leading questions, specifically focusing on the period of time between a child's arrest and his or her first appearance in an Israeli military court. DCIP also collects precise information and data on alleged violations of Palestinian child detainees' rights through a questionnaire.

In their testimonies, children recount their experiences in chronological order, from the moment of arrest, through their subsequent interrogation, and appearance in an Israeli military court. The time frame covered in the testimonies generally ranges from several days, up to several weeks, but occasionally longer.

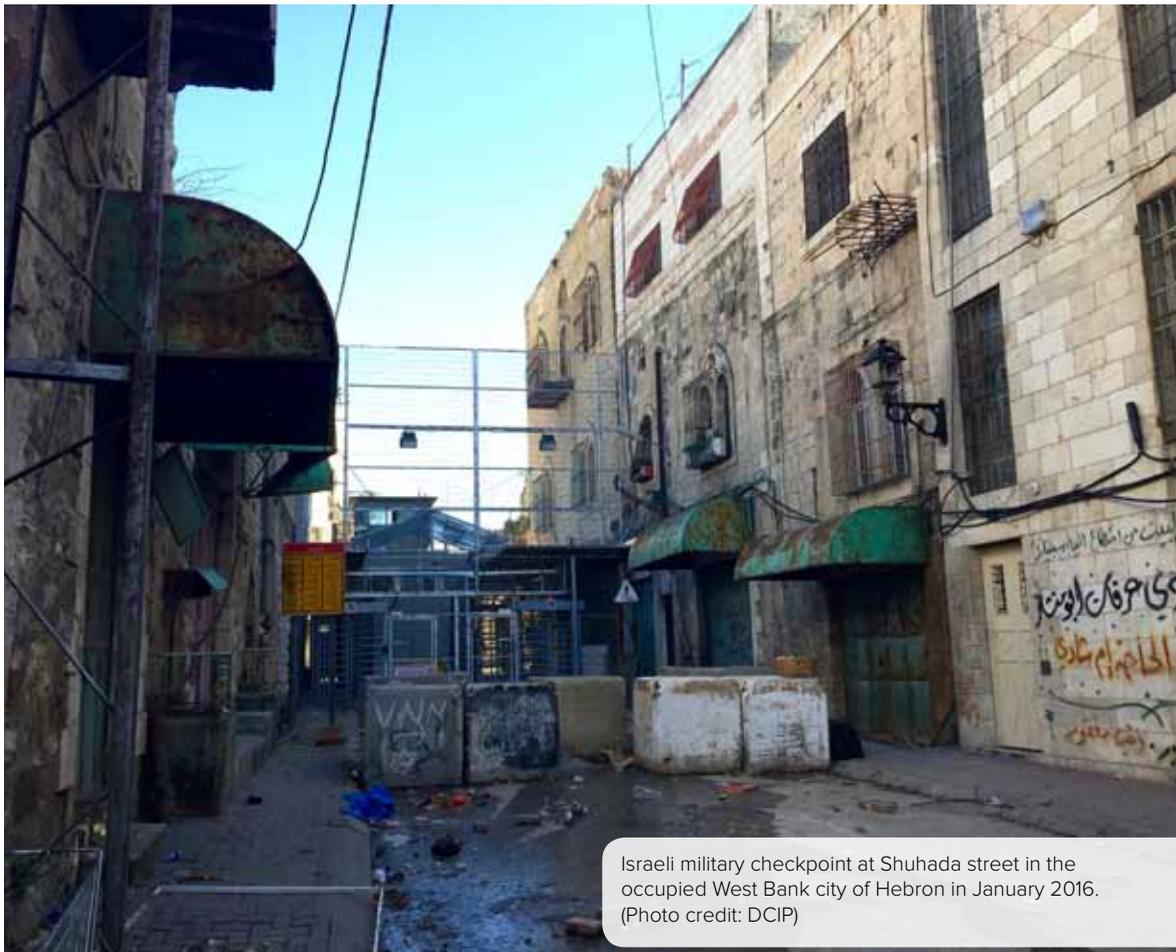
1 DCIP, *BOUND, BLINDFOLDED AND CONVICTED: CHILDREN HELD IN MILITARY DETENTION* (2012), http://www.dci-palestine.org/bound_blindfolded_and_convicted [hereinafter *Bound, Blindfolded and Convicted*].

2 Unlike the occupied West Bank where Israeli military law is administered, East Jerusalem falls under Israeli civilian law. Contrary to principles of international humanitarian law and international law, Israel carried out a de facto annexation of East Jerusalem on June 28, 1967, a move unrecognized by the international community. Over the years since, Israeli authorities have taken various administrative, legislative, and demographic measures to unilaterally annex Jerusalem. One result is that children in East Jerusalem are subject to the Israeli Youth Law, which, theoretically, applies equally to Palestinian and Israeli children and provides special safeguards and protections to children in conflict with the law during the whole process — arrest, transfer, interrogation, and court appearances.

Table 1: Age ranges of the 429 children who provided testimonies

Age range	Number of children	Percentage
0 – 11 years	1	0.2%
12 – 13 years	14	3.3%
14 – 15 years	112	26.1%
16 – 17 years	302	70.4%
Total	429	100%

The report focuses on a Palestinian child’s journey through the Israeli military detention system and seeks to identify recurring patterns of ill-treatment and torture, such as physical violence, coercive interrogations, solitary confinement for interrogation purposes, painful methods of restraint, and systematic denial of due process rights. It also seeks to identify how both widespread and systematic ill-treatment and torture of Palestinian children by Israeli forces and the military law framework further control aspects of Israel’s prolonged military occupation of Palestinians living in the OPT. The report also highlights the adverse impact Israeli military detention has on a child’s physical and mental wellbeing.



Israeli military checkpoint at Shuhada street in the occupied West Bank city of Hebron in January 2016. (Photo credit: DCIP)

3. International children's rights and juvenile justice

Regardless of guilt or innocence, children in conflict with the law are entitled to special protections and all due process rights under international human rights law. International juvenile justice norms are built on two fundamental principles: the best interests of the child must be a primary concern in making decisions that affect them and children must only be deprived of their liberty as a last resort, for the shortest appropriate period of time.³

International human rights law affirms that juvenile justice systems must be child-sensitive, non-violent, and avoid criminalization and punishment of children. Specifically, international human rights law obligates states to create a distinct juvenile justice system that recognizes the special status of children, protects them from violence, and focuses on rehabilitation and reintegration.⁴

International legal protections for children related to juvenile justice are contained primarily in the United Nations Convention on the Rights of the Child (CRC), which is the most widely ratified international human rights treaty in history. The CRC outlines minimum protections and guarantees for children and articulates international human rights norms and principles that specifically apply to children.

International human rights law applies in the OPT, including the CRC, the Convention against Torture (CAT), and the International Covenant on Civil and Political Rights (ICCPR).⁵ These human rights treaties generally provide that in all actions involving or impacting children, their best interests shall be a primary consideration, and they should only be detained as a measure of last resort and for the shortest appropriate period of time. All persons shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal and torture and ill-treatment are absolutely prohibited without exception. International law non-discrimination and equality protections and guarantees prohibit states from discriminating on the basis of race or nationality in the exercise and implementation of penal jurisdiction.

Israel ratified the CRC in 1991, obligating itself to implement the full range of rights and protections included in the convention. During its initial review in 2002, the Committee on the Rights of the Child, the UN body that monitors implementation of the CRC, expressed serious concern regarding “allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children” during arrest, interrogation, and detention.⁶

3 UN Convention on the Rights of the Child, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (Nov. 20, 1989), <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf> [hereinafter *Convention on the Rights of the Child*].

4 See **INTERNATIONAL NGO COUNCIL ON VIOLENCE AGAINST CHILDREN, CREATING A NON-VIOLENT JUVENILE JUSTICE SYSTEM** (2013), http://www.childhelplineinternational.org/media/80443/inco_-_juvenile_justice.pdf.

5 See International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J. 136, ¶¶ 101, 109-113 (Jul. 9, 2004), <http://www.icj-cij.org/docket/files/131/1671.pdf>. Israel ratified the International Covenant on the Elimination of All Forms of Racial Discrimination (CERD) in 1979; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC) all in 1991; and the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR) in 1992.

6 UN Committee on the Rights of the Child, *Concluding Observations: Israel*, U.N. Doc. CRC/C/15/Add.195, ¶ 36 (Oct. 9, 2002), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G02/453/97/PDF/G0245397.pdf>.

In July 2013, over a decade later, the Committee on the Rights of the Child again reviewed Israel's compliance with the CRC and found the situation was even worse. The committee found that Palestinian children arrested by Israeli forces were "systematically subject to degrading treatment, and often to acts of torture" and that Israel had "fully disregarded" previous recommendations to comply with international law.⁷

Below is a summary of specific guarantees and protections included in international human rights law relevant to juvenile justice.

Table 2: International human rights law guarantees relevant to juvenile justice

Issue	Guarantees and protections	Legal authority
Age of majority	A child means every human being below the age of 18 years.	Convention on the Rights of the Child (CRC), art. 1.
Non-discrimination	Rights apply without discrimination of any kind.	CRC, art. 2.
Prohibition of torture	No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.	CRC, art. 37(a); ICCPR, art. 6(5) and 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
Arbitrary detention	No child shall be deprived of his or her liberty unlawfully or arbitrarily.	CRC, art. 37(b).
Notification and reason for arrest	Anyone arrested or detained must be informed, at the time of arrest, of the reasons for arrest and be promptly informed of any charges against him or her.	CRC art. 40(2)(b)(ii); ICCPR, art. 9(1)-(2).
Methods of restraint	Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner that takes into account the needs of persons of his or her age. Restraint or force can be used only when the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted.	CRC, art. 37(c); CRC General Comment No. 10, para. 89.
Presumption of innocence	Every child alleged to have infringed the penal law must be presumed innocent until proven guilty according to law.	CRC art. 40(2)(b)(i); International Covenant on Civil and Political Rights (ICCPR), art. 14(2).
Right against self-incrimination	No child can be compelled to give testimony or to confess guilt.	CRC art. 40(2)(b)(iv).
Right to legal counsel and presence of parents	Every child deprived of liberty shall have the right to prompt access to legal and other appropriate assistance.	CRC art. 37(d) and art. 40(2)(b)(ii)-(iii); ICCPR art. 14(3)(b) and (d).

⁷ UN Committee on the Rights of the Child, *Concluding Observations on the Second to Fourth Periodic Reports of Israel*, U.N. Doc. CRC/C/ISR/CO/2-4, ¶ 73 (Jul. 4, 2013), <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>.

Pre-trial detention	The arrest, detention, or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.	CRC art. 37(b).
Prompt appearance before judge / Independent and impartial authority in a fair hearing	Every child has the right to have the matter determined without delay by a competent, independent, and impartial authority or judicial body in a fair hearing according to law.	CRC art. 40(2)(b)(iii); ICCPR art. 9 and 14(1).
Sentence of detention	Sentence of detention as a measure of last resort and must be proportionate to circumstances, gravity of the offence, age, and needs of the child.	CRC art. 37(b) and 40(4).
Family visits	Every child shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.	CRC art. 37(c).
Review	Detention reviewed periodically to determine if early release is possible.	CRC, art. 25 and 40(2)(b).

International humanitarian law, which regulates situations of armed conflict, prohibits Israeli forces from targeting civilians, including children, and obligates Israel to protect children from all acts of violence.⁸ By virtue of their age, children enjoy special protection under international humanitarian law.⁹

Israel consistently argues that international human rights law, specifically the treaties it has ratified, does not apply to Palestinians living under Israeli occupation in the OPT. However, these arguments have found no international support and have been consistently rejected by the International Court of Justice and several UN human rights treaty bodies when assessing Israel's obligations under international law toward Palestinians in the OPT.¹⁰

8 See Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, art. 3, Aug. 12, 1949, 75 U.N.T.S. 31 [hereinafter Common Article 3]; Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva IV), arts. 13 & 27, Aug. 12, 1949, 75 U.N.T.S. 287 [hereinafter Geneva IV]; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 51(2), 1125 U.N.T.S. 3 [hereinafter Protocol I]; and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 13(2), Jun. 8, 1977, 1125 U.N.T.S. 609 [hereinafter Protocol II].

9 Protocol I, art. 77. Geneva IV, art. 23 and art. 50.

10 In 2004, the International Court of Justice found that both international humanitarian law and international human rights law applied in the OPT, and that Israel was obligated to implement the rights and protections found therein. The Israeli government and its armed forces must abide, at all times, by international humanitarian law as well as other human rights instruments that it has obliged itself to implement. See International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 136, ¶¶ 101, 109-113 (Jul. 9, 2004), <http://www.icj-cij.org/docket/files/131/1671.pdf>.

4. Israeli military detention system

Israel occupied the West Bank, including East Jerusalem, and the Gaza Strip in 1967, when Israeli forces entered and established authority in the territory.¹¹ In doing so, Israel became the “Occupying Power” for purposes of international humanitarian law, which carries clear obligations to protect the Palestinian civilian population under its control.

Under international humanitarian law, Israel as the occupying power has the authority to establish military courts in the territory it has occupied since 1967.¹² However, international human rights and humanitarian law, which applies to the OPT, restricts the jurisdiction of the Israeli military courts and guarantees basic safeguards for a fair trial. Accordingly, individuals should be presumed innocent, they should not be compelled to testify against themselves or confess guilt, and they should be informed promptly and in detail of the charges against them in a language that they understand.¹³

Despite the fact that Israel has ratified many of the core international human rights treaties, and, as a result, has bound itself to act in accordance with those treaties,¹⁴ Israeli authorities persistently disregard and fail to comply with international law. Trying civilians in military courts should be exceptional, yet Israeli authorities automatically prosecute Palestinian children arrested by Israeli military and police in the occupied West Bank in the military court system.

Aside from the denial of fundamental due process rights, it is doubtful whether the use of military courts to try civilians can ever satisfy the requirements of international human rights law to a trial before an independent and impartial tribunal. The Committee on the Rights of the Child has declared, “the conduct of criminal proceedings against children within the military justice system should be avoided.”¹⁵

4.1. Are Israeli military courts legal?

On June 7, 1967, the day Israeli forces occupied the West Bank, including East Jerusalem, Israeli authorities issued Military Proclamation No. 2, which provided the military commander in the area with full legislative, executive, and judicial powers over the West Bank.¹⁶ Since then, Palestinian children have been living under Israeli military law and prosecuted in military courts that lack basic due process rights.

11 Territory is deemed “occupied” when it, either wholly or in part, is placed under the authority of the hostile army. See Hague Convention (IV): Laws and Customs of War on Land art. 42, Oct 18, 1907, <https://www.icrc.org/applic/ihl/ihl.nsf/xsp/.ibmmodres/domino/OpenAttachment/applic/ihl/ihl.nsf/4D47F92DF3966A7EC12563CD002D6788/FULLTEXT/IHL-19-EN.pdf>. Also, in 1967, the U.N. Security Council recognized that Israeli forces had occupied the West Bank, including East Jerusalem, and the Gaza Strip. See S.C. Res. 242, U.N. Doc S/RES/242 (Nov. 22, 1967), <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/IP%20S%20RES%20242.pdf>.

12 See Hague Convention (IV): Laws and Customs of War on Land art. 43, Oct 18, 1907; Geneva IV arts. 64 and 66.

13 International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), art. 14, U.N. Doc. A/6316 (1966), <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>; UN Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, ¶ 22, UN Doc. CCPR/C/GC/32 (Aug. 23, 2007), http://www.un.org/en/ga/search/view_doc.asp?symbol=CCPR/C/GC/32.

14 Israel ratified the International Covenant on the Elimination of All Forms of Racial Discrimination (CERD) in 1979; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC) all in 1991; and the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR) in 1992.

15 UN Committee on the Rights of the Child, *Concluding Observations: United States of America*, U.N. Doc. CRC/C/OPAC/USA/CO/1, ¶ 30(g) (Jun. 25, 2008), <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.OPAC.USA.CO.1.pdf>.

16 Military Proclamation No. 2 Concerning Regulation of Authority and the Judiciary (West Bank) (1967), <http://nolegalfrontiers.org/military-orders/mil03?lang=en>.

While Israeli military law gives military courts the authority to try any person located inside the occupied territory as long as they are 12 years or older, in practice, the West Bank is governed by two separate systems of law. The military courts only adjudicate cases against the Palestinian population. Israeli settlers who commit offenses in the West Bank appear in the Israeli civilian criminal justice system.

Palestinians from East Jerusalem, who commit an offense in the city or inside Israel, face prosecution in the Israeli civilian criminal justice system. While international law considers East Jerusalem part of the OPT, Israel claims the entirety of the city as its undivided capital.¹⁷ Palestinians living inside Israel, who hold Israeli citizenship, are also prosecuted in the civilian criminal justice system.

Since Israel's September 2005 "disengagement" from the Gaza Strip, Palestinians from the coastal enclave detained by Israeli authorities face prosecution in Israel under civilian security legislation, and not under Israeli military law.

Palestinians in the West Bank that commit offenses against other Palestinians typically face prosecution in Palestinian courts.

Since 1967, over 1,700 military orders have been issued, which regulate all aspects of Palestinian life in the OPT. Israel ultimately retains full authority to enter all areas of the occupied West Bank at any time in the interest of "security concerns" or "maintaining public order."

4.2. A note on East Jerusalem

Unlike the occupied West Bank where Israeli military law applies, East Jerusalem falls under Israeli civilian law. The legal distinctions between East Jerusalem and the West Bank trace back to 1967, when Israel occupied the Gaza Strip and the West Bank, including East Jerusalem, following the Six Day War. Contrary to principles of international humanitarian law and international law, Israel carried out a de facto annexation of East Jerusalem on June 28, 1967, a move unrecognized by the international community.

Over the years, Israeli authorities have taken various administrative, legislative, and demographic measures to unilaterally annex Jerusalem. One result is that children in East Jerusalem are generally subject to the Israeli Youth Law, which theoretically applies equally to Palestinian and Israeli children, providing those in conflict with the law special safeguards and protections during the whole process — arrest, transfer, interrogation, and court appearances. These protections include the use of arrest as a last resort, advance notice before questioning takes place, minimal use of restraints, and the presence of a legal guardian or adult family member during questioning.

In practice, Israeli authorities implement the law in a discriminatory manner, denying Palestinian children in East Jerusalem of their rights during the arrest and interrogation processes. The primary vehicle for this is the overuse of exceptions in the absence of the necessary accompanying circumstances. In other words, for East Jerusalem children, exceptions have become the rule.

As Jerusalem increasingly came into the limelight amid heightened violence in the fall of 2015, Israeli lawmakers introduced a series of policy changes that appeared to target Palestinians, particularly youth, from East Jerusalem.

¹⁷ See International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J. 136 (Jul. 9, 2004), <http://www.icj-cij.org/docket/files/131/1671.pdf>.



On November 2, 2015, the Knesset, or Israeli parliament, passed amendments to the Israeli penal code and Youth Law. The newly minted laws reduced judicial discretion in cases that involve throwing stones or other objects, instituting mandatory minimum sentences of no less than one-fifth of the maximum potential sentence and restricting suspended sentences strictly to special circumstances. The amendments also allowed juvenile courts to fine the families of children convicted of offenses under Israel’s penal code, such as stone throwing, up to NIS 10,000 (US\$2,580).

The changes followed amendments to the penal code in July 2015 that imposed a maximum 10-year prison sentence for throwing stones or other objects at moving vehicles with the possibility of endangering passengers or causing damage, and a maximum of 20 years for throwing stones with the purpose of harming others.

4.3. Military Order 1651

The primary military order relevant to the arrest and detention of Palestinian children is Military Order 1651 or “Order regarding Security Provisions.”¹⁸ This order touches on a range of issues, including the authority to arrest and imprison Palestinians for “security offenses,” such as causing death, assault, personal injury or property damage, kidnapping, and harming a soldier. Military Order 1651 establishes a minimum age of criminal responsibility at 12 years, which provides the Israeli military courts with jurisdiction over any person 12 years and older. Children under the age of 12 cannot be prosecuted in the military courts. However, Israeli forces often detain children under 12 and question them for several hours before releasing them to their families or Palestinian authorities.

¹⁸ See Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651), 5770-2009, § 212(1)-(3) (Nov. 1, 2009), available at <http://nolegalfrontiers.org/military-orders/mil01?lang=en> [hereinafter *Military Order 1651*].

Maximum penalties for children are also set out in Military Order 1651, and can vary dramatically depending on the child's age. Although the age of majority was raised to 18 years in September 2011, this amendment does not apply to sentencing provisions, allowing 16- and 17-year-olds to be sentenced as adults.

The maximum custodial sentence for a child aged 12 to 13 years is six months.¹⁹ The maximum custodial sentence for a child aged 14 to 15 years is 12 months, unless the offense carries a maximum potential sentence of five years or more.²⁰ Children aged 16 to 17 years are subject to the same maximum potential sentences as adults.²¹

Throwing stones is a specific offense under Military Order 1651, which provides as follows:

- Throwing an object, including a stone, at a person or property, with the intent to harm the person or property, carries a maximum penalty of 10 years in prison.²²
- Throwing an object, including a stone, at a moving vehicle, with the intent to harm it or the person traveling in it, carries a maximum penalty of 20 years in prison.²³

Other offenses under Military Order 1651 include insulting or offending a soldier's honor, which comes with a potential maximum penalty of one year in prison.²⁴ Also, any act or omission that "entails harm, damage, disturbance or danger to the security of the region or the security of the [Israeli military], or to the operation, use or security of a road, dirt path, vehicle or any property of the State of Israel or of the [Israeli military]."²⁵ The maximum penalty stipulated for such an act or omission is life in prison.

Under the military legal framework, any soldier or police officer is authorized to arrest persons without a warrant, even children, where they have a suspicion that the individual has committed an act violating one of the "security offenses" in Israeli military law.²⁶ Most children are arrested on suspicion, without arrest warrants. There is little to no independent oversight over arrests.



Israeli forces detain three young Palestinian boys near Shuhada street in the West Bank city of Hebron on March 21, 2013. (Photo credit: EAPPI)



Israeli forces detain a young Palestinian boy following clashes in the center of the West Bank city of Hebron, on June 20, 2014. (Photo credit: AFP / Thomas Coex)

19 Military Order 1651, § 168(B).

20 Military Order 1651, § 168(C).

21 Amendments to Military Order 1651 raising the age of majority from 16 to 18 years are not specified to apply to Chapter J of Military Order 1651, which contains sentencing provisions.

22 Military Order 1651, § 212(2).

23 Military Order 1651, § 212(3).

24 Military Order 1651, § 215(D).

25 Military Order 1651, § 222(A) & (D).

26 Military Order 1651, §§ 31(A) & 32(A).

a. Recent amendments to Military Order 1651

Despite repeated calls to end night arrests and ill-treatment and torture of Palestinian children in Israeli military detention, Israel has persistently failed to implement practical changes to stop violence against child detainees.²⁷ Growing international pressure has forced Israeli leaders to respond by making slight changes to the military law applicable to Palestinian children. However, the changes fail to address the systematic and widespread ill-treatment that Palestinian children face in the first 24 to 48 hours after an arrest.

Military Order 1644: Establishing a juvenile military court

Effective Date: September 27, 2009 (60 days after issue date)

Minors must appear before military juvenile courts. The head of the military appeals court appoints judges from the military courts of first instance who “must be prepared to be competent for the post.”

Regular military courts can proceed with juvenile cases if a minor is “charged with an adult in the same case” or under “certain and special circumstances,” but must act as juvenile courts. If the “outcome is a serious injustice” because a juvenile judge did not preside over the case, the ruling is invalid. Minors also appear before regular military courts for “extension of detention or release” hearings.

Minors should be separated from adults while being brought and returned from military court and while in a holding cell awaiting their sessions “inasmuch as possible.” Minors must be held in separate facilities from adults throughout their incarceration period.

After conviction, the military juvenile court may order a social welfare report on the situation of the minor to hand down the appropriate sentence.

Military Order 1651 incorporated these provisions under article G for a temporary period. Military Order 1727 issued on September 29, 2013, made them permanent.

In practice, the military juvenile courts use the same facilities and court staff as the adult military courts.

Military Order 1676: Raising the age of majority

Effective Date: October 29, 2011 (30 days after issue date)

The order changes the definition of minors from persons under the age of 16 to those under 18.²⁸ The amendment gave military juvenile courts jurisdiction over 16- and 17-year-olds, but did not apply to other articles under Military Order 1651, specifically sentencing provisions. Minors ages 16 and 17 face the same penalties as adults.²⁹

27 See Committee on the Rights of the Child, *Concluding Observations on the Second to Fourth Periodic Reports of Israel*, U.N. Doc. CRC/C/ISR/CO/2-4 (Jul. 4, 2013), <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>.

28 The amendment brought Israeli military law partially in line with international and Israeli civilian law. Article 1 of the CRC provides that “a child means every human being below the age of eighteen unless under the law applicable to the child, majority is attained earlier.” See *also* Israeli Youth (Trial, Punishment and Modes of Treatment) Law (1971), § 1.

29 Military Order 1676 only applies to article 136, in Chapter G, “Adjudicating Juveniles” and puts them in the juvenile courts. This change is only a codification of the de facto practice. Since its inauguration in 2009, children up to age 18 face trial in the juvenile court. The amendment does not apply to the rest of the sections, including in the chapter that contains sentencing provisions.

Police officers must notify the minor's parents as soon as possible upon arrival at a police station of his or her arrest, subject to the minor providing their contact information.³⁰ If the police officer fails to locate the parents, he or she can provide notice to an adult relative or adult familiar to the minor, subject to the minor providing their contact information.

Notice to parents can be delayed for eight hours in instances where officers bring a minor to a police station without arresting him or her. Police officers will also refrain from providing notice if a minor objects on reasonable grounds.

A police officer may withhold notice if he or she is convinced it would harm the minor or another person, disrupt the investigation procedure, or if the crime is a security offence as defined in Military Order 1651.³¹

Note that parents may receive notice, but have no legal entitlement to be present during their child's interrogation, a practical safeguard generally granted to Israeli children.³² In addition, notice requirements only apply to the police. The Israeli army, which carries out arrests in the West Bank and hold minors for several hours, does not have an obligation to notify parents.

Before proceeding with the investigation, the police officer must notify the minor "in a manner which will be understood by him according to his age and level of maturity" of the "right to consult with legal counsel in private."³³

Military Order 1685: Appearing before a military judge

Effective Date: August 1, 2012

Police officers can issue an arrest warrant for a maximum detention period of 96 hours from the time of arrest for adults and minors suspected of committing a security offense as defined in Military Order 1651.

The maximum detention period of an arrest warrant for a person suspected of a non-security related offense is 48 hours.

If a police officer "is satisfied" that a stop in the investigation would harm the outcome, he or she can extend the maximum detention period of a person suspected of a security offense to six days from the time of arrest, given the approval of the Shin Bet security service. If stopping the interrogation process causes harm to someone's life, the maximum detention period rises to eight days.³⁴

A person must appear before a military judge after the applicable maximum detention period elapses.

30 Military Order 1651, § 136(a) (as amended by Military Order 1676).

31 Military Order 1651, § 136(b) (as amended by Military Order 1676).

32 Israeli Youth (Trial, Punishment and Modes of Treatment) Law (1971), § 9H. Under the Israeli civilian juvenile justice system, a parent is allowed to be present at all times during police questioning of a child in circumstances where the child is not formally under arrest, but may not interfere with the interrogation process. An exception to this rule is permitted upon written authority from an authorized officer, and in cases in which the wellbeing of the child requires that the parent not be present.

33 Military Order 1651, § 136c(b)

34 Military Order 1651, § 32(A) (as amended by Military Order No. 1685).

Military Order 1711: Appearing before a military judge*Effective Date: April 2, 2013*

Police officers can issue an arrest warrant for a maximum detention period of 24 hours from the time of arrest for a “boy,” suspected of committing a security offense as defined in Military Order 1651. The maximum detention period doubles to 48 hours for “young adults.”³⁵

The period doubles for boys to 48 hours and for young adults to 96 hours if a police officer believes a “necessary interrogation” must take place.

Boys and young adults must appear before a military judge after the applicable maximum detention period elapses.

Military Order 1711 does not provide an age range for those considered “young adults.” However, Military Order 1651 defines the term as persons between the ages of 14 and 15. As such, minors ages 16 and 17 remain subject to the same maximum detention periods as adults under Military Order 1685.

Under the Israeli civilian legal system, arrest warrants for Israeli children, including those living in Jewish-only settlements of the West Bank, have shorter maximum detention periods. Police officers can hold children below age 14 for 12 hours from the time of arrest and those older for 24 hours.

Under Military Order 1711, a minor imprisoned for one year from the date of indictment without a final ruling from the military court of first instance must appear before a military appeals court judge for review.

Military Order 1726: Maximum detention period for interrogation purposes*Effective Date: October 6, 2013*

A military court judge can detain a minor for interrogation purposes by issuing an arrest warrant for a maximum period of 15 days, and can extend detention for additional periods, provided their total does not exceed 40 days.

The military court of appeal, however, has the authority to extend the detention beyond the 40-day maximum.

Military Order 1745: Audio-video recording of interrogations*Effective Date: September 10, 2014*

Police officers must interrogate a minor suspected of committing an offense in a language that he or she understands. Any written statement must also be in the minor’s language. Interrogations in connection with offenses that carry a maximum sentence of 10 years or more must be video recorded.

The order, however, does not apply to minors suspected of committing security offenses as defined in Military Order 1651, such as stone throwing,³⁶ under which the majority of children face arrest and interrogation.

35 Military Order 1651, §§ 31 & 32 (as amended by Military Order No. 1711).

36 Military Order 1651 §136d(6) as amended by Military Order No. 1745.

4.4. Structural framework

The Israeli military detention system consists of a network of military bases, interrogation and detention centers, and police stations in the West Bank, including East Jerusalem, and inside Israel. Palestinians, predominantly from the West Bank, are initially taken to one of these facilities for questioning and temporary detention. Some of these facilities are inside Jewish-only settlements in the West Bank.

Palestinians, including children, are held at these facilities for interrogation purposes, pre-trial detention, or prior to appearing in the military courts. Following an initial appearance in one of the military courts, Palestinian child detainees are transferred to prisons, some located inside Israel, where they sit in pre-trial detention, wait to be sentenced, or serve their prison sentence. Transfer of Palestinian detainees, including children, to prisons and interrogation and detention facilities inside Israel, even for brief periods, constitutes an unlawful transfer in violation of Article 76 of the Fourth Geneva Convention.³⁷

There are currently two Israeli military courts of first instance operating in the occupied West Bank.

In practice, Israel's Jewish-only settlements in the West Bank are part of the Israeli military detention system's structural framework, as Israeli military and police detain and interrogate children at police stations located in settlements.

On March 17, 2014, Israeli soldiers arrested 14-year-old Waleed Lebdeh, around 8 p.m., after he reportedly threw a stone at a car near the Jewish-only settlement of Ma'ale Shomeron, near the West Bank village of Azzun. The armed guard at the entrance to the settlement saw Waleed, and shouted at him to stay still. The guard radioed Israeli forces, which soon arrived, and Waleed was blindfolded and bound at the wrists with a single plastic cord. He was transported in a military vehicle to Ariel police station, located in Ariel settlement, arriving around 10 p.m.

Waleed was permitted to drink water and use the bathroom before interrogation, which proceeded without a reading of his rights nor any legal guardian or counsel present. "He interrogated me for about an hour," Waleed said. "He was shouting and pounding the table to intimidate me. I confessed to throwing one stone."

Waleed signed a statement in Hebrew without knowing its contents. Although there was a translator in the room, the document was not translated for him.

Waleed was again blindfolded, bound, and transported to Huwwara interrogation and

Outside the Israeli Ofer Military Court, West Bank, September 15, 2010. (Photo credit: Activestills.org)



³⁷ Article 76 of the Fourth Geneva Convention states: "Protected persons accused of offences shall be detained in the occupied country, and if convicted shall serve their sentences therein." Pursuant to Article 147 of the Fourth Geneva Convention, unlawfully transferring a protected person is a grave breach of the Convention and attracts personal criminal responsibility. Under Article 146, all parties to the Convention have a positive legal obligation to search out and prosecute those responsible for grave breaches.

detention center, where he was detained until 10 a.m. the following morning. Subsequently, he was transferred to Megiddo prison inside Israel, arriving around noon. There, he was strip searched and detained in the juvenile section.

He first appeared before a judge in Salem military court on March 19, 2014, and on March 20, 2014, Waleed pled guilty to throwing stones.

a. Military courts: structure and actors

Under Israeli military law, the military courts have the authority to hear security, criminal, and administrative matters. There are two Israeli military courts located in the occupied West Bank that serve as courts of first instance and are used to prosecute Palestinians, including children. Ofer military court is located in Israel's Ofer military base, between Ramallah and Jerusalem. Salem military court is located in the northern West Bank, near the city of Jenin. The military appeals court is also located at Ofer military base.



A Palestinian child prisoner sits during a hearing at Ofer military court. (Photo credit: A. Tritt)

Israeli authorities have also established military courts at interrogation and detention centers inside Israel used by the Israel Security Agency (ISA), also known as the Shin Bet. These military courts hear remand applications, or motions to extend the detention of suspects held for interrogation purposes, often in solitary confinement for extended periods.

Within the Israeli military court structure, judges and prosecutors are active members of the Israeli military. They are subject to military discipline and dependent on superiors for promotion. They are fundamentally part of the system enforcing the occupation.³⁸ Under international human rights law, a fair trial can only occur under an independent and impartial system. As such, DCIP asserts that Israeli military courts cannot be considered impartial and independent arbitrators.

Military judges

There are two types of judicial panels in the Israeli military courts. Where the maximum potential sentence is less than 10 years in prison, a single military judge will preside over the case.³⁹ For an offense that carries a potential maximum sentence of more than 10 years in prison, there is a required panel of three military judges. The Israeli military appeals court has a panel of three military judges, if the appealed prison sentence exceeds three years.

Military judges must have five years of legal experience and at the least hold the rank of captain.⁴⁰ To sit on the military appeals court, military judges need a minimum of seven years legal experience and must at least hold the rank of lieutenant colonel.⁴¹

38 See Sharon Weill, *The Judicial Arm of the Occupation: The Israeli Military Courts in the Occupied Territories*, 89 INT'L REVIEW OF THE RED CROSS 395, 399-400 (2007).

39 Military Order 1651, § 17(C)(1).

40 Military Order 1651, § 11(A)(1).

41 Military Order 1651, § 11(A)(4).

The president of the military appeals court heads the Israeli military court system and is an officer with seven years of legal experience and the rank of colonel.⁴² To maintain tenure, a judge needs to remain an active member of the military.

Military prosecutors

Military prosecutors most often have a legal background, with some of them currently studying law or in training after having just finished their studies. These individuals typically participate in administrative hearings. Others are part of the Israeli bar association. The only requirement to be a military prosecutor is that the individual be a current member of the Israeli military. Some military prosecutors, in order to meet their annual military service requirement, come to the military courts for short periods of time.

When it comes to plea bargains, most military prosecutors are lawyers who have completed their legal degree. Certain military prosecutors specialize in certain offenses, like stone throwing, and often the defense lawyers encounter the same military prosecutors.

Defense attorneys

Defendants have the right to an attorney,⁴³ but they can be prevented from meeting with their attorney for up to 90 days.⁴⁴ At the time of writing this report, five organizations represent children for free, alongside the provision of private lawyers. DCIP represents 22 to 25 percent of cases involving children before the Israeli military courts each year.

Defense attorneys generally speak and read Hebrew as all court proceedings are conducted in Hebrew with Arabic translation. In administrative detention cases, defense attorneys often do not have access to all prosecution material due to the absence of interrogation notes and withholding of information for “security reasons.”



DCIP lawyer, Iyad Misk, speaks with a Palestinian child prisoner at Ofer military court. (Photo credit: A. Tritt)

42 Military Order 1651, § 11(A)(5).

43 Military Order 1651, § 56(A).

44 Military Order 1651, §§ 58(C)-(D) & 59 (C)-(D).

Israeli military juvenile detention system



5. Ill-treatment and torture of children in Israeli military detention

Each year, around 700 children (12-17 years), face arrest and prosecution in Israel's military detention and court system. Children exposed to the Israeli military detention system suffer ill-treatment that is "widespread, systematic and institutionalized throughout the process, from the moment of arrest until the child's prosecution and eventual conviction and sentencing."⁴⁵

Since 2000, Israeli military authorities have detained, interrogated, prosecuted, and imprisoned around 8,500 Palestinian children, according to DCIP estimates. In 2014, the Israeli military reported they had arrested 860 Palestinian children in the occupied West Bank,⁴⁶ an increase from 654 children in 2013.⁴⁷

DCIP compiles the following figures every month from information obtained from the Israel Prison Service (IPS) and from Israeli army temporary detention facilities. The figures provide a snapshot of the number of children in detention on the last day of each month. The data is not cumulative or comprehensive so children arrested and released between the last day of consecutive months would not be included in the information shared by the IPS.

Table 3: Total number of Palestinian children (12-17) in Israeli detention at the end of each month

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
2012	170	187	206	220	234	221	211	195	189	164	178	195	198
2013	223	236	238	238	223	193	195	179	179	159	173	154	199
2014	183	230	202	196	214	202	192	201	182	163	156	152	197
2015	163	182	182	164	163	160	153	155	171	307	412	422	220

During the reporting period the average number of Palestinian children (12-17 years) detained by Israeli authorities at any given time was 204, of which on average, 32 were young children between the age of 12 and 15.

Israeli military authorities stopped imprisoning children aged 12 to 13 during 2014 and for part of 2015. However, in November and December 2015, four young children aged 12 to 13 were in Israeli military detention, an increase from two in October, according to IPS data.

45 UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, at 1 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

46 Jen Marlowe, *Palestinian youths face arrests without warning*, AL JAZEERA AMERICA, Jul. 2, 2015, <http://america.aljazeera.com/articles/2015/7/2/youth-arrests-among-palestinians.html>.

47 UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, at 2 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

Table 4: Total number of young Palestinian children (12-15) in Israeli detention at the end of each month

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
2012	26	24	31	33	39	35	34	30	28	21	21	23	29
2013	31	39	39	44	48	41	35	30	27	15	16	14	32
2014	20	36	24	27	32	32	22	23	19	18	17	10	23
2015	15	25	26	17	21	22	19	21	27	78	116	116	42

Table 5: Total number of Palestinian girls (12-17) in Israeli detention at the end of each month

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
2012	0	0	0	0	0	0	1	1	1	1	1	1	0.5
2013	1	1	1	1	1	0	0	0	0	0	0	0	0.4
2014	0	1	0	0	1	1	1	1	1	1	1	4	1
2015	4	2	1	1	1	1	1	1	1	3	3	8	2.3

Ill-treatment starts from the moment of arrest, as the overwhelming majority of Palestinian children arrested by Israeli forces in the West Bank have their hands tied and eyes blindfolded, while three out of four experience some form of physical violence during arrest or prior to or during interrogation.

Recent amendments to Israeli military law concerning children have had little to no impact on their treatment during the first 24 to 48 hours after an arrest, where most of the ill-treatment occurs at the hands of Israeli soldiers, police, and interrogators.

The following sections are based on an analysis of 429 sworn testimonies collected by DCIP between January 2012 and December 2015. The testimonies describe a child's experience as they pass through the Israeli military detention system.

Israeli forces detain a Palestinian boy in East Jerusalem on May 8, 2013. (Photo credit: Activestills.org)



Table 6: Common complaints and areas of concern between 2012 and 2015

Type of ill-treatment		West Bank	
		Number of cases	Percentage
	Total affidavits collected	429	100%
1	Hand ties	419	97.7%
2	No lawyer/family present during interrogation	416	97.0%
3	Not properly informed of rights	361	84.1%
4	Blindfolds	379	88.3%
5	Not informed of reason for arrest	378	88.1%
6	Physical violence	324	75.5%
7	Verbal abuse, humiliation, and intimidation	306	71.3%
8	Strip searched	299	69.7%
9	Denial of adequate food and water	311	72.5%
10	Threats or coercion	194	45.2%
11	Denial of access to toilet	235	54.8%
12	Night arrest	179	41.7%
13	Position abuse	119	27.7%
14	Transfer on vehicle floor	197	45.9%
15	Shown or signed document in Hebrew	144	33.6%
16	Solitary confinement for more than two days	66	15.4%
17	Detained with adults	24	5.6%
18	Attempted recruitment	7	1.6%
19	Threat of sexual assault	10	2.3%
20	Electric shock	2	0.5%

5.1. Arrest

Many of the communities where Palestinian youth are targeted for arrest are located in close proximity to Jewish-only settlements, Israeli military bases, or roads used by the Israeli army and settlers. Israeli forces arrest children from their homes in the middle of the night, at demonstrations, or near checkpoints, the separation barrier, or other military infrastructure.

Palestinian children are vulnerable to arrest by Israeli forces in areas where there is a higher presence of soldiers and settlers. Israeli military and police both have the authority to arrest children, but the Israeli military carries out the majority of arrests while Israeli police conduct most of the interrogations.⁴⁸

The UN Convention on the Rights of the Child requires that “[n]o child shall be deprived of his or her liberty unlawfully or arbitrarily” and arrest and detention must only be used as a measure of last resort.⁴⁹ Despite these protections in international law, the overwhelming majority of Palestinian children arrested by Israeli forces in the West Bank are held in pretrial detention, often for prolonged periods.

48 Military Order 1651, § 4(f).

49 Convention on the Rights of the Child, art. 37(b).

a. Physical violence during arrest

During arrest, 286 of 429 (**66.7 percent**) Palestinian children experienced physical violence, which typically consists of being pushed, slapped, punched, kicked, or struck with a soldier's helmet or rifle.

International standards allow law enforcement officers to use reasonable and proportional force to carry out a lawful arrest. However, testimonies reveal that children are subjected to physical violence after being tied and blindfolded. The use of excessive force during arrests generally occurs in the context of arrests conducted in daylight hours.

On May 15, 2015, around 6 a.m., Anwar Shalakhti, 17, was walking to work near the West Bank city of Nablus when a group of Israeli soldiers violently arrested him. Anwar was heading to work at the local vegetable market as clashes between Israeli soldiers and Palestinian protesters took place nearby. He changed directions to avoid the clashes, but protesters fleeing the scene quickly surrounded him. He began to run, but stumbled and fell, allowing the Israeli soldiers in pursuit of the crowd to grab him.

"The soldiers kicked me and struck me with the stocks of their rifles," Anwar told DCIP. "One soldier stomped on my leg until it bled."

Anwar's hands were tightly bound and he was blindfolded, and then led to a military vehicle. He was then transported to the nearby Huwwara interrogation and detention center, and was later taken to an Israeli police station in the Jewish-only settlement of Ariel. He was accused of throwing stones, and waited over 10 hours before he was interrogated. Anwar was transported to Megiddo prison inside Israel the following morning. He first appeared in a military court on May 18, 2015.



Israeli forces detain a Palestinian youth during clashes in the West Bank city of Tulkarem on November 12, 2015. (Photo credit: AFP / Jaafar Ashtiyeh)

Anwar's hands were tightly bound and he was blindfolded, and then led to a military vehicle. He was then transported to the nearby Huwwara interrogation and detention center, and was later taken to an Israeli police station in the Jewish-only settlement of Ariel. He was accused of throwing stones, and waited over 10 hours before he was interrogated. Anwar was transported to Megiddo prison inside Israel the following morning. He first appeared in a military court on May 18, 2015.

The UN Committee against Torture, an independent body that monitors implementation of the UN Convention against Torture, has concluded that the use of excessive force by law enforcement or military personnel may amount to torture and ill-treatment.⁵⁰ When determining if certain acts constitute torture, the child's age must be taken into account.

International juvenile justice standards, which Israel has an obligation to implement after ratifying the UN Convention on the Rights of the Child in 1991, prohibit torture and other cruel, inhuman or degrading treatment or punishment. This prohibition is absolute.

⁵⁰ Manfred Nowak & Elizabeth McArthur, *The United Nations Convention Against Torture: A Commentary*, pp. 62, 66, 542, 551, 559, & 556-568 (2008).



Israeli soldier detains Palestinian boy in Beit Ummar in June 2011.
(Photo credit: Husam Abu Allan)

b. Night arrests

On February 1, 2015, around 3 a.m., Israeli forces stormed the Najjar home in the village of Burin, near the West Bank city of Nablus. Abdul-Rahman, 17, woke up to find 10 masked Israeli soldiers in his room. Soldiers grabbed Abdul-Rahman from his bed, slapped him, and pushed him against a wall. Another soldier physically assaulted Abdul-Rahman's father.

"I was frightened by the soldiers because they were masked and they were screaming inside the house," Abdul-Rahman told DCIP.

Israeli forces tied Abdul-Rahman's hands and blindfolded him. He was then forced into an Israeli military vehicle and transported to a nearby military camp.

For Palestinian children like Abdul-Rahman, ill-treatment and torture often begin during a night arrest. Children describe waking to the sound of heavily armed Israeli soldiers banging on their front door between midnight and 5 a.m. Soldiers enter, often ransacking the home as they conduct a search, and demand that all family members remain in one room while a soldier checks identification documents. Children regularly report that Israeli forces shout verbal threats and insults at the family.

Children are promptly blindfolded and have their hands tied, often painfully, with plastic cords. They are escorted out of the home, frequently experiencing some form of physical violence, and placed in an Israeli military vehicle. This moment is most likely the last time the family will see their child until he appears in a military court anywhere from 24 hours to several days or weeks later.

Children and their parents are rarely informed of the reasons for arrest or the charges against them. There is no official notification process to inform parents where their child will be or has



Israeli forces arrest a Palestinian youth in the East Jerusalem neighborhood of Silwan on October 26, 2014. (Photo credit: Activestills.org)

been taken by the Israeli military. Parents are not allowed to accompany their child.

Once in Israeli military custody, children arrive at an interrogation center alone, sleep-deprived, and often bruised and scared several hours after their arrest.

The impact of night arrests can be great and may extend long after the initial arrest. Night arrests traumatize children, distort feelings of personal security when at home and during sleep, and can hinder a child's ability to sleep in the future. Night arrests also have a significant impact on other family members, specifically parents who are helpless to protect their child and younger children that witness the violent arrest of their sibling.

While the Israeli civilian criminal justice system includes restrictions on when children can be interrogated, which in turn, impacts the time of day Israeli children are arrested,⁵¹ no such protection exists in the Israeli military law framework applied to Palestinian children living in the West Bank.

It is difficult to reconcile night arrests with a guiding principle of the UN Convention on the Rights of the Child, which provides "in all actions concerning children [...] the best interests of the child shall be a primary consideration."⁵² Children should generally only be detained and questioned during daylight hours to minimize the sense of fear and parents must be allowed to accompany their child during interrogations.

In 179 out of 429 (**41.7 percent**) cases, children report being arrested from their home between midnight and 5 a.m. However, data suggests the proportion of night arrests has recently decreased from prior levels. In 2015, DCIP research reveals that night arrests took place in 38.2 percent of cases. According to the Israeli military spokesperson's unit, the Israeli military reportedly detained a total of 860 Palestinian children in the West Bank during 2014, of which 180 children were arrested at night (**21 percent**).⁵³

51 Israeli Youth Law, § 9J. No such protection is included in the Israeli military orders applied to Palestinian children from the West Bank.

52 Convention on the Rights of the Child, art. 3.

53 E-mail from the Israel Defense Forces North American Media Desk (Jun. 15, 2015) (on file with DCIP). *Note that* this total figure

While available data shows a disparity in the prevalence of night arrests in the West Bank, evidence collected by DCIP suggests that night arrests are often the default process for arrests and occur in cases where there is no urgent need to interrogate a child. The Israel military regularly declares that night arrests are an operational necessity because entering Palestinian communities during daylight hours presents significant security concerns for Israeli military personnel.⁵⁴ However, this justification falsely presumes that detention and arrest of Palestinian children is the only option that would allow Israeli military and police to question a child.

International juvenile justice standards demand that arrest, detention, and imprisonment shall be used only as a measure of last resort and for the shortest appropriate period of time. The choice is not whether arrests should occur during daylight hours or at night, but whether they are necessary and can be justified under international juvenile justice standards that Israel has obligated itself to implement.

Attempts to limit night arrests

For several years, in an effort to end physical violence during arrest and increase immediate protections for children arrested by the Israeli military, DCIP has advocated for a practical alternative to arresting children at night. DCIP and others have regularly called on Israeli authorities to issue a written summons to appear at a police station during daylight hours for questioning. Summonses could potentially eliminate the need for night raids as the default process for arrest, and would allow parents and/or a lawyer to be present during interrogation.

Responding to mounting international criticism of the Israeli military's ill-treatment of Palestinian children, in February 2014, the Israeli army Central Commander for the West Bank announced he would soon implement a limited, pilot summons program in the West Bank as an alternative to night arrests.⁵⁵

In the same month, DCIP documented six cases involving children summoned for questioning who reported ill-treatment and torture once in Israeli military detention.⁵⁶

The children, all from Beita, a village near the West Bank city of Nablus, were summoned — either by telephone call from Israeli intelligence officers or by written summons delivered by Israeli forces during a night raid — to report for questioning the next morning.

In all cases, the children reported to an interrogation facility in the occupied West Bank as requested, and then were promptly taken into custody, denied access to a lawyer, and interrogated without the presence of a family member.

In sworn affidavits collected by DCIP, all six children reported experiencing some form of ill-treatment while at least one of them, Bashir D, 17, was beaten during interrogation.

Bashir told DCIP: [The Israeli interrogation officer] kicked me twice on my legs, punched me twice in the stomach and three times on the head, while shouting, *'You better confess because I won't stop beating you unless you confess.'*"

includes many children less than 12 years old, which is the age of criminal responsibility. Since these children cannot be prosecuted in the military courts they are often detained for several hours, questioned, and released to Palestinian police.

54 Yonah Jeremy Bob, *EXCLUSIVE: IDF pilot program to end long-standing night arrests of Palestinians*, JERUSALEM POST Feb. 18, 2014, <http://www.jpost.com/Defense/EXCLUSIVE-Chief-West-Bank-Prosecutor-says-IDF-may-end-long-standing-night-arrests-of-Palestinians-341749>.

55 *Id.*

56 DCIP, *Night Raid Alternative Fails to End Violence Against Children*, Apr. 17, 2014, http://www.dci-palestine.org/night_raid_alternative_fails_to_end_violence_against_children.

In two cases, written summonses drafted in Hebrew were delivered by Israeli forces during a night raid, while all the other children received calls to their or their parent's mobile phones, demanding they appear at the Huwwara interrogation and detention center near Nablus.

All six children who spoke to DCIP in February 2014 testified to being strip searched, handcuffed and blindfolded, and interrogated without access to legal advice or the presence of a family member.

On April 6, 2014, Ghazi Edaily received a telephone summons from an Israeli army officer for his son, Ahmad, 17, to report to Huwwara district coordination office (DCO) the next morning. No reason for the summons was given. On April 7, 2014, Ahmad and his father arrived at Huwwara DCO around 10 a.m. His father was told to remain outside while Ahmad was directed inside and strip searched. Ahmad recounts, "While he was searching me, he pushed me against the wall and called me a 'son of a whore.'"

An Israeli intelligence officer told him that he was under arrest without stating charges. Ahmad was bound, blindfolded and detained in a room for about 30 minutes. Soldiers then forced Ahmad to walk—punching and kicking his back and legs—to Huwwara interrogation and detention center (IDC).

During the course of detention, Ahmad was verbally and physically assaulted by soldiers multiple times. One assault caused his ear to bleed and impaired hearing. Ahmad notes that he did not receive any medical attention for this injury — nor food or water — until he arrived at Megiddo prison inside Israel, around 5 p.m.

On April 8, 2014, Ahmad was interrogated for approximately four hours in Salem IDC without the presence of a lawyer, family member, or any explanation of his rights. He was slapped and hit on the head during interrogation, while still shackled. Ahmad signed a confession in Arabic after reading it.

He first appeared before a judge on April 10, 2014.

The Israeli military reportedly suspended the pilot summons program in June 2014 after the launch of a military operation in the West Bank known as *Operation Brother's Keeper*, following the abduction of three Israeli settler teens — two were boys under age 18 — on June 12, 2014. According to an Israeli military spokesperson, the pilot summons program "was resumed a month after the end of the operation" and that the program is "under the close supervision of [Israeli military] officials in order to ensure that it is properly executed."⁵⁷

In 2014, DCIP documented a total of 24 cases involving summonses for questioning made by phone and written summons delivered during night raids by Israeli forces into Palestinian communities. DCIP documented a handful of cases involving summonses during 2015, however, the testimonies reveal that the pilot summons program has done little to end ill-treatment once Palestinian children are in Israeli military custody.

57 E-mail from the Israel Defense Forces North American Media Desk (Jun. 15, 2015) (on file with DCIP).

In focus: Israeli military courts administer control, not justice

Israel's chief military prosecutor for the West Bank, Lieutenant Colonel Maurice Hirsch, declared in February 2014 that Israeli forces would implement a pilot summons program as an alternative to arresting Palestinian children from their homes at night.

Despite repeated calls to end night arrests and ill-treatment and torture of Palestinian children in Israeli military detention, Israel has persistently failed to implement practical changes to stop violence against child detainees.⁵⁸

The Israeli military's resistance to implementing a summons process for Palestinian minors, or other practical changes to address violence and abuse, suggest an inherent conflict within the military court system between seeking justice and legitimizing control of the Palestinian population living under military occupation.⁵⁹

A summons process, if implemented throughout the occupied West Bank, could potentially reduce the number of Palestinian child detainees that experience violence during their arrest and interrogation, but it directly challenges the role night arrests and raids play in furthering the Israeli military's "control" objectives over the Palestinian population.

Night arrests frighten, threaten, and intimidate Palestinian families and communities throughout the occupied West Bank, particularly ones that organize weekly protests or are located near illegal Jewish-only settlements.⁶⁰

Arresting children from their homes in the middle of the night, ill-treating them during arrest and interrogation, and prosecuting them in military courts that lack basic fair trial guarantees, works to stifle dissent and control an occupied population.

A summons process, while it presents an alternative to night arrests, undoubtedly falls short in achieving certain "control" objectives. Indeed, eliminating night raids as the default process for arresting Palestinian children can potentially reduce vulnerability to violence, but further operational changes must be implemented and the current regime of impunity for violence against children must be challenged.

Here are a few key questions to consider. Does the military court system exist to administer justice or is it a practical tool of the occupation that acts to legitimize control of the Palestinian population? Are the military courts something that can be "fixed" or are they working exactly as intended?

The pilot summons process forces Israeli officials to address the competing objectives inherent in these questions. As night arrests continue and due process rights are systematically denied to Palestinian children, it should suggest the military courts are not interested in justice.

58 See Committee on the Rights of the Child, *Concluding Observations on the Second to Fourth Periodic Reports of Israel*, U.N. Doc. CRC/C/ISR/CO/2-4 (Jul. 4, 2013), <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>.

59 Yonah Jeremy Bob, *EXCLUSIVE: IDF pilot program to end long-standing night arrests of Palestinians*, JERUSALEM POST Feb. 18, 2014, <http://www.jpost.com/Defense/EXCLUSIVE-Chief-West-Bank-Prosecutor-says-IDF-may-end-long-standing-night-arrests-of-Palestinians-341749>.

60 Haggai Mattar, *WATCH: Army raids three West Bank villages, arrests activists*, +972 MAGAZINE, Feb. 20, 2014, <http://972mag.com/watch-army-raids-three-west-bank-villages-arrests-activists/87420/>.

c. Notification of reason for arrest and location of detention

Israeli military law includes a limited notification requirement, but the provision only applies to the Israeli police, and not the Israeli military.⁶¹ In practice, it is the Israeli military that conducts arrests in the West Bank, and it is the military that has custody of a child for many hours, and sometimes days, before they are handed over to Israeli police.

Israeli police are obligated to inform a child's parents as soon as possible after the child has been brought to the police station that the child has been detained, provided that the child can supply the parent's contact information.⁶²

In cases where the child is under investigation, but is not formally under arrest, notification can be delayed for up to eight hours if the police officer reasonably believes that notification would disrupt the investigation or if the child is suspected of a "security" offense.⁶³

While Israeli police are obligated to notify parents, there is no legal requirement under Israeli military law entitling parents to be present when their child is undergoing interrogation – a practical safeguard generally guaranteed in regards to Israeli children.⁶⁴

International juvenile justice standards demand that children and their parents be immediately informed of the reasons for arrest, or in the shortest possible time thereafter if immediate notification is not possible.⁶⁵ This information should be conveyed in writing and in a language they understand (i.e., Arabic). As a further safeguard, both the child and parents should be provided with a statement written in Arabic, informing them of their rights while in custody.

In April 2013, the Israeli military reportedly introduced a form, printed in both Hebrew and Arabic, to be given to parents when a child is arrested from home, according to UNICEF.⁶⁶ The form is meant to provide parents with information on where the child will be taken and the reasons for arrest. DCIP documentation suggests that the form is not systematically implemented as in 378 out of 429 cases (**88.1 percent**) children report not being informed of the reasons for arrest or where they will be taken.

Palestinian children arrested from their home in the middle of the night report that Israeli soldiers gather all occupants, regardless of age, in one room or outside the home. The commanding officer will then demand to see everyone's identification documents for inspection. Once a child's identity has been verified from his identification card, the family is often simply told that their child is "wanted" or that he or she will be taken and returned later. Many children report only finding out why they have been arrested during their subsequent interrogation.

On March 10, 2015, around 2:30 a.m., Attiyeh Sabbah, 17, woke up to the sound of Israeli soldiers disassembling the door to his home in the village of Tuqu', near the West Bank city of Bethlehem. Soldiers entered the house and kept the family in the living room while a dog searched the rooms. A soldier asked Attiyeh's mother to sign a document in Hebrew, without

61 See Military Order 1676.

62 Military Order 1651, § 136(a) (as amended by Military Order 1676).

63 Military Order 1651, § 136(b) (as amended by Military Order 1676).

64 Youth (Trial, Punishment and Modes of Treatment) Law (1971), § 9H. Under the Israeli civilian juvenile justice system, a parent is allowed to be present at all times during police questioning of a child in circumstances where the child is not formally under arrest, but may not interfere with the interrogation process. An exception to this rule is permitted upon written authority from an authorized officer, and in cases in which the wellbeing of the child requires that the parent not be present.

65 The primary sources for this guarantee and safeguard are: ICCPR, arts. 9(1) and (2); and the Beijing Rules, rule 10.1.

66 UNICEF, *Children in Israeli Military Detention: Observations and Recommendations Bulletin No. 2: February 2015* (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

explaining its content.

“The soldier didn’t explain the content of these papers to my mother and after she signed, the soldier told her, ‘We will take your son for two days then we’ll bring him back home,’” Attiyeh told DCIP.

In 378 out of 429 cases (**88.1 percent**) documented by DCIP, Israeli forces arrested children without notifying parents of the reason for arrest or the location of detention. Depending on the location of arrest, the child will typically end up in nearby Israeli police station or interrogation center, but since there is no formal process for parental notification at the time of arrest, parents are forced to spend several hours attempting to learn their child’s whereabouts.

Children aged 12-13 must appear before a military court judge within 24 hours after their arrest, while the period is 48 hours for children aged 14-15.⁶⁷ The period for children aged 16-17 is 96 hours, the same time period applied to adult detainees. In all instances, this time period can be extended for additional 24, 48, or 96 hours, depending on the child’s age, for interrogation purposes.

More favorable time limits exist in the Israeli civilian criminal justice system, which is applied to Israeli children living in Jewish-only settlements in the West Bank. An Israeli child below the age of 14 must be brought before a civilian judge within 12 hours of arrest. This increases to 24 hours in the case of older Israeli children. Under international law, no state is entitled to discriminate between people it exercises penal jurisdiction over based on their race or nationality.

In a small number of cases, arresting soldiers present documentation to the families at the time of the child’s arrest. However, documents are generally written in Hebrew, a language they do not understand.

d. Methods and means of restraint

Once in Israeli military custody, nearly all children (**97.7 percent**) have their hands restrained with plastic cords, or in a small number of cases with metal handcuffs. In 379 out of 429 cases (**88.3 percent**), children were blindfolded. The most common method of restraint is tying a child’s hands behind his back with a single plastic cord, a practice that has been prohibited under the Israeli military’s own regulations.⁶⁸

On May 20, 2014, around 2 a.m., Israeli forces stormed a family home in the village of Beita, near the West Bank city of Nablus, to arrest Saad

Dwaikat, 17. After a brief discussion with the family, a soldier grabbed Saad by his arm and took



Israeli forces arrest a Palestinian youth in Jabel Mukaber, a Palestinian neighborhood of East Jerusalem, on September 18, 2015. (Photo credit: AFP / Ahmad Gharabli)

67 Military Order 1651, §§ 31 & 32 (as amended by Military Order 1711).

68 UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, at 9 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

him outside where a military vehicle was waiting. A soldier handcuffed his hands and shackled his legs with metal cuffs.

“While I was on the metal floor of the jeep, one of the soldiers asked me about the metal cuffs,” Saad told DCIP in a sworn testimony. “I told him that it was fine, and he got angry and then he tightened my handcuffs. I was in pain and I begged him to loosen them, but he refused.”

Children report that restraints often cause pain, some describing “extreme pain”, particularly from the plastic restraints. Many children report remaining tied for lengthy periods of time, including throughout their interrogation, causing their hands to swell and turn blue. In a small number of cases, children also report having their feet shackled shortly after arrest.

International juvenile justice standards demand that “[e]very child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner that takes into account the needs of persons his or her age.”⁶⁹ Furthermore, “restraint or force can be used only when the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted.”⁷⁰

In April 2010, the Israeli military issued new standard operating procedures for the use of restraints.⁷¹ The new procedures sought to prevent pain and injury caused by restraints during arrest, and prohibited the use of a single plastic restraint.⁷² The updated procedures were stated as follows:

- Hands should be tied from the front, unless there is a security consideration;
- Three plastic ties should be used, one around each wrist with another connecting the two;
- There should be a space of a finger between the ties and the wrist;
- The restraints should avoid causing suffering; and
- The officer in charge is responsible for ensuring compliance with these regulations.⁷³

While the updated procedures came as a welcomed development, DCIP research since the new procedures were announced in 2010 demonstrates that Israeli forces overwhelmingly use restraints when a child poses no imminent threat of injury to himself or others. In 2015, out of 110 children arrested by Israeli forces in the West Bank, hand ties were used in 106 cases (**96.4 percent**) and child detainees were blindfolded in 95 cases (**86.4 percent**), according to DCIP research.

69 Convention on the Rights of the Child, art. 37(c).

70 Committee on the Rights of the Child, *General Comment 10: Children’s rights in juvenile justice*, ¶ 89, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007), <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>.

71 In 2009, the Public Committee Against Torture in Israel (PCATI) filed a petition with the Israeli Supreme Court acting as the High Court of Justice (HCJ 5553/09) prompting the Israeli military to issue the new procedures, which were announced prior to judgment. See UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, at 9 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

72 UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, at 9 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

73 DCIP, *Bound, Blindfolded and Convicted*, p. 26.

Palestinian boy detained by Israeli forces with his hands tied with a plastic cord behind his back in the West Bank village of Beit Ummar in June 2011. (Photo credit: Husam Abu Allan)



5.2. Transfer

In the Israeli military detention system, children are transferred at various stages of their detention by the Israeli military, police, and the IPS. Despite clear international standards on the treatment of detainees, current practices fall far short of acceptable standards.

Once a child has been arrested, whether during daylight hours or at night, they soon find themselves bound, blindfolded, and forced into a military vehicle. Children generally do not know where they are being taken. In the vehicle, Israeli forces make children sit on the metal floor where the majority of children report being subjected to physical violence and verbal abuse.

This transfer period can last anywhere from several minutes to several hours. Children are frequently not transferred directly to an interrogation center, but rather are detained at military bases located in the West Bank, often in or near Jewish-only settlements. They are held there until daybreak or longer. During this time, children are often bound and blindfolded for lengthy periods of time, and denied food, water, and access to toilets. Children often do not know what will happen next.



Israeli forces detain a Palestinian boy during clashes on September 26, 2014, in the West Bank village of Silwad, north of Ramallah. (Photo credit: AFP / Abbas Momani)

a. Transfer on the floor of a vehicle

In 197 out of 429 cases (**45.9 percent**), children reported being placed on the metal floor of a military vehicle when transported from their place of arrest to an interrogation center or military base. Children are vulnerable to physical violence and verbal abuse as they are generally bound and blindfolded, and surrounded by Israeli soldiers sitting on bench seats on either side.

On August 31, around 3 a.m., Israeli forces stormed 16-year-old Saed Arar's family home, located in the northern part of the West Bank city of Ramallah. Two soldiers detained him and removed him from the house, and then tied his hands and blindfolded him.

"Israeli soldiers seated me on the metal floor of the military vehicle stationed near our house," Saed told DCIP. "I was laying down in an uncomfortable position because the jeep was driving fast over road bumps and each time, my body would slam against the metal floor. This lasted for almost one hour."

On November 19, 2014, around 4 p.m., eight Israeli soldiers arrested Mohammad Karajat, 16, as clashes occurred in the village of Halhoul, north of Hebron. The soldiers punched and kicked Mohammad, and then bound his hands with a single plastic cord and blindfolded him.

"The soldiers grabbed me by my hands and neck while walking," Mohammad told DCIP. "The soldiers insulted me and shoved me, and then placed me on the metal floor of a military jeep." While the jeep was moving, the soldiers slapped and punched him while he sat bound and blindfolded on the metal floor of the military vehicle.

The military vehicle arrived at the Jewish-only settlement of Kiryat Arba, and Israeli soldiers left Mohammad bound and blindfolded laying on the metal floor of the vehicle for around two hours.

At 8 p.m., Israeli forces brought Mohammad to the interrogation room. Mohammad was accused of throwing stones at Israeli soldiers, but he denied the allegation. Around 10 p.m., he was transferred to Etzion interrogation and detention center. In the military vehicle, a soldier tied his hands from the front with a single plastic cord, blindfolded him, and chained his right foot to the seat.

"When I arrived at Etzion center, they did not pull me out of the vehicle," Mohammad told DCIP. "Instead, they kept me inside the jeep until around 7 a.m. One of the soldiers opened the windows to let the cold air in, and I felt really cold all night as I was wearing only a shirt and a pair of jeans...When I told them I wanted to urinate, one of them brought a plastic bottle and ordered me to urinate into it, but I refused."

After nearly nine hours in the jeep, Israeli soldiers took Mohammad inside the detention center, where he was strip searched and allowed to use the bathroom for the first time. He was held until 4 p.m., and then transferred to Ofer military prison where he was strip searched upon arrival.

b. Physical violence, verbal abuse, humiliation, and intimidation

Specifically during transfer, children experienced some form of physical violence in 250 out of 429 cases (**58.3 percent**), and were subjected to verbal abuse, humiliation, or intimidation in 236 out of 429 cases (**55 percent**). Physical violence commonly occurs in the back of a military vehicle or when the child is taken in or out of a vehicle. In most cases, the child is bound and blindfolded when being slapped, punched, or kicked. Verbal abuse usually consists of derogatory statements directed against the child's religion or female family members. Humiliation and intimidation involves shouting curses or degrading statements at a child.

On February 26, 2014, around 1 p.m., Tareq Sbaitan, 15, from Al-Arroub refugee camp, near the city of Hebron, was with his friends when a group of Israeli soldiers nearby shouted at them to approach. A soldier grabbed Tareq and ordered his friends to leave, accusing him of throwing stones earlier that day and saying that he recognized him from his shirt.

"One of them started barking in my ears, while another one shouted: 'Are you a man? You're not a man.'"

The soldiers marched Tareq to a nearby observation tower where he was blindfolded and handcuffed, and made to sit on the ground for 90 minutes. Soldiers kicked and insulted him. He was then put in a military vehicle where more soldiers shouted at and insulted him, and he was taken to Etzion interrogation and detention center.

There, Tareq was taken to a room where an interrogator questioned him in Hebrew with the help of a translator. He was informed of his right to remain silent, but was not allowed to have a parent present or consult a lawyer. After answering some general questions about where he lived and denying the accusation of stone throwing, Tareq signed a statement written in Hebrew that was not explained to him.

Tareq was then detained overnight in a room, and was denied food and water when he requested it. The following morning, he was driven to Ofer military prison, where he was strip searched and detained with other children. He appeared before a military court for the first time on February 28, 2014.

c. Medical checks, prolonged exposure to the elements, and strip searching

Following their arrest, children often will be taken to multiple locations prior to or after undergoing interrogation. During these intermediate stops, many children report being taken to what they describe as a "clinic" where they are asked a series of general questions about their health. The person asking the questions is assumed to be a military doctor or medic. In very few cases do children receive an actual physical examination.

Children generally arrive in the clinic room bound and blindfolded. The child's blindfold is usually removed, but his hands often remain tied during medical questioning. In some cases, children report that they inform the doctor of injuries sustained or ill-treatment they have suffered, but complaints are typically ignored and they are not treated for injuries sustained during arrest.

The medic or military doctor usually ask a series of questions and completes a medical form. The entire process generally takes less than 10 minutes. Once completed, the child's blindfold is replaced and he is taken outside to a military vehicle or held nearby.

Children also report being left outside in the cold, rain, or hot sun for lengthy intervals, usually at one of the intermediate stops. Here, children also report being denied food, water, or the use of a toilet for extended periods of time.

In 299 out of 429 cases (**69.7 percent**), children were strip searched, often multiple times, during transfer or upon arrival at an Israeli interrogation and detention facility. Children are typically strip searched shortly after their arrest and then a second time after interrogation upon arrival at a prison. Children describe experiencing feelings of embarrassment and shame as a result.

While the Israeli police have stated strip searches rarely occur and only when a specific suspicion exists, the IPS confirmed that all detainees, including children, are strip searched each time they arrive or depart a detention facility.⁷⁴

The Convention on the Rights of the Child demands, “[e]very 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.”⁷⁵ It also includes an absolute prohibition on torture or other cruel, inhuman or degrading treatment or punishment.⁷⁶ These internationally recognized norms seek to prohibit the infliction of unnecessary physical hardship and the degrading treatment of detainees during transfer.

On June 12, 2014, around 10 p.m., Munther Saleem, 17, from the village of Azzun, near Qalqiliya, entered a pharmacy after observing a military vehicle near the village’s entrance. “But then a soldier pushed the door hard, grabbed me, twisted my arms behind my back, and dragged me outside the pharmacy,” Munther told DCIP.

He was bound with a single plastic cord, blindfolded, and transported on the metal floor of a military jeep to the nearby Kiryat Shomeron settlement. He was taken out of the vehicle, and verbally assaulted while forced to sit on a plastic chair outside until midnight. The plastic cord was tight, but soldiers refused to loosen the tie or allow him use of a bathroom.

Around midnight, he was transported to Ariel police station, located inside the Jewish-only settlement of Ariel, and interrogated without the presence of a family member or consulting a lawyer, and he was not properly informed of his rights. He did not confess to throwing stones, but signed a statement in Hebrew without knowing its contents. After interrogation, which lasted approximately 40 minutes, he was photographed and fingerprinted, and then forced to sit on the ground outside bound and blindfolded until 5 a.m.

Soldiers put Munther into a military vehicle at 6 a.m., slapped him several times while transporting him to Huwwara interrogation and detention center, where he was strip searched upon arrival.

“Soldiers were pushing me against the wall and shouting at me,” Munther told DCIP. “They untied me and took me to another room, and a military doctor asked me general questions about my health, but he did not examine me.”

74 UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, at 10 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

75 Convention on the Rights of the Child, art. 37(c).

76 *Id.* at art. 37(a).

On June 16, 2014, he first appeared before a judge in Salem military court. The judge granted Munther's release on bail for 1,000 NIS (US\$257) but his family was unable to pay the sum. Although bail was later reduced to 200 NIS (US\$51), his family still did not post bail.

On March 18, 2014, Sameh Qawariq, 17, from the village of Awarta, near Nablus, received a telephone call from the Israeli military, demanding that he appear on March 20 at Huwwara district coordination office for interrogation. He was not informed of the reason for interrogation.

When he arrived on March 20, around 8 a.m., he was taken to a small room and ordered to strip naked in front of soldiers who laughed at and insulted him, ordering him to pass through an electronic metal detector several times. After his identity was confirmed, soldiers promptly bound and blindfolded him.

Sameh was detained with another child outside in direct sunlight. "They took us to a yard with trees nearby, but they made us stand under the scorching sun, without allowing us to use the bathroom," Sameh told DCIP. "They kept us standing in the yard until around noon, when they took us inside [...] About two hours later, they took us outside and made us sit on rocks and dry grass."

After nearly 12 hours in custody, at 8 p.m., Sameh was transported to Megiddo prison inside Israel, where he was strip searched upon arrival.

d. Denial of basic necessities

During arrest, transfer, and interrogation, in 235 out of 429 cases (**54.8 percent**) children report being denied access to a toilet, and in 311 out of 429 cases (**72.5 percent**) children were denied food and water. The denial of basic necessities is most prevalent during the transfer period as children are typically held inside a military vehicle or outside on the ground for prolonged periods, often overnight, while bound and blindfolded.

On February 26, 2014, around 10 p.m., Ayham Mifleh, 16, from the village of Osarin, near Nablus, was with two friends on his way to watch a soccer game when two Israeli soldiers approached them. The soldiers pointed their rifles at the boys, marched them to a nearby military vehicle, and arrested them without stating charges.

At a military camp near Zatara checkpoint, Ayham was bound and blindfolded and forced to sit on the ground outside until morning in cold conditions, where he was slapped several times. He was not allowed to use the toilet or provided with any food or water. Around 7 a.m., he was placed back in a military vehicle and transported to Huwwara interrogation and detention center. He remained in the vehicle for about 30 minutes and then was returned to the military camp, where he was again forced to sit on the ground and denied access to a toilet.

At 9 a.m., he was transported to Ariel police station, located in the Jewish-only settlement of Ariel. There, Ayham was interrogated without the presence of a family member or consulting a lawyer. He was not properly informed of his rights. Despite Ayham's requests, the interrogator denied him food, water, and access to a bathroom.

During interrogation, the interrogator threatened Ayham: "If you don't confess, I'll break your bones and lock you up in a cell for a long time without any food or water and you would starve to death," he shouted. I was scared of him."

After 40 minutes, Ayham confessed to stone throwing on two occasions. Ayham recalls “begging” to use the bathroom, but was not permitted to until 8 p.m., at Huwwara interrogation and detention center, when he was also offered food for the first time. Subsequently, he was transferred to Megiddo prison.

Ayham appeared before Salem military court for the first time on March 2, 2014. At a later court appearance on March 6, 2014, he was knocked down and pushed by soldiers when his mother tried to kiss him.

5.3. Interrogation

After potentially traumatizing military arrests and long transfers, detained children are most often interrogated at a police station or an interrogation center. Children arrive bound, blindfolded, frightened, and sleep deprived.

Interrogation techniques in the Israeli military detention system are generally mentally and physically coercive, frequently incorporating a mix of intimidation, threats, and physical violence with a clear purpose of obtaining a confession. Shouting and intimidation are regularly used to elicit confessions, incriminating statements, and information on neighbors or family members.

Palestinian children who are interrogated in the Israeli military detention system under Israeli military law have only one official right—to consult with an attorney before interrogation. However, in 416 out of 429 cases (**97 percent**), children were denied access to legal counsel prior to and during interrogation.

The Israeli military appeals court has held that children interrogated in the Israeli military detention system have a *de facto* privilege against self-incrimination, though it is not a fully recognized right to silence by law.⁷⁷ In the overwhelming majority of cases, children are not properly informed of their rights, including the right to silence.

The Israeli civilian juvenile justice system includes a number of protections for children in conflict with the law, but Israeli military law contains no comparable provisions. Minors inside Israel are entitled to have a parent or other relative present during interrogation, unless it is in the best interest of the child for the parent to be absent.⁷⁸ The child has the right to consult with a lawyer before the interrogation begins, save in exceptional cases.⁷⁹ Israeli civilian juvenile justice law also prohibits interrogating minor suspects at night, unless urgently necessary for the investigation.⁸⁰

Given the near absence of procedural and due process rights and protections, it is unsurprising that Palestinian children from the West Bank are systemically subjected to a pattern of abuses during interrogation. The most common rights violations documented by DCIP are the frequent use of restraints and physical violence, failure to properly notify children of all their rights, interrogation in the absence of a lawyer or family member, position abuse, the use of threats and verbal abuse, and children signing documents in Hebrew, a language they generally do not understand. Other risks during interrogation include the use of coercive interrogation tactics, including the practice of twice questioning children, and attempted recruitment of children by Israeli intelligence officers as informants.

77 Israeli Military Prosecutor v. Nashmy Mohammad Abu Rahmah, Case No. 2919/09 (2009).

78 Israeli Youth Law § 9H.

79 Israeli Youth Law § 9H.

80 Israeli Youth Law § 9J (“A minor suspected of a crime should not be interrogated at the police station at night.”).

The prohibition against torture applies to any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person to obtain information or a confession.⁸¹ This can include intimidation and other forms of threats, and the victim's age and relative position of inferiority must be taken into consideration when assessing the severity of psychological forms of torture and ill-treatment.⁸²

a. Double interrogations

Before formal interrogation begins, some children are questioned in an unofficial manner. DCIP has documented the process of “double interrogations” where a child is questioned first by a person in civilian clothes or in rare cases a soldier, and then a second time by a uniformed Israeli police officer.⁸³

In a 2011 report, B'Tselem, an Israeli human rights group, described this process further. Citing a testimony file from an internal police investigation in 2010, B'Tselem notes that this period of questioning might be carried out by a number of people, such as the soldier who performed the arrest, a detective for the Israeli forces, or a police intelligence officer.⁸⁴ The interrogator is not required to inform children of their rights since it is outside of the official interrogation period. Although this interrogation is technically inadmissible as evidence, the B'Tselem report states, “In practice, the responses given by the minors at the preliminary questioning stage form the basis for their subsequent statements at the police station.”⁸⁵

International juvenile justice standards demand that persons involved in juvenile justice systems must be specifically trained in working with children and adolescents, with special attention given to vulnerable, disabled, or minority children—as well as to the child's individual circumstances. There is little evidence of these child-focused protections during unofficial questioning, in which Palestinian children's testimonies often describe the interrogator shouting at and intimidating them. During this and later phases of interrogation, children are largely treated in the same manner as adults.

b. Not properly informed of rights

In 361 out of 429 cases (**84.1 percent**), children were not properly informed of their rights, including the right to remain silent and to consult with an attorney prior to questioning.

Prior to interrogation by Israeli police, children are often ordered to sign a form printed in both Arabic and Hebrew that states they have been informed of their rights. This form includes the right to remain silent and the right to speak to a lawyer alone or to request a free public defense lawyer if they do not have their own.

A child's signature on this form in and of itself does not satisfy the legal requirement to properly inform children of their rights. Children report not being allowed to read the form, and even if they are allowed time to read the entire form, children may not fully grasp the

81 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, U.N. Doc. A/RES/39/46 (Dec. 10, 1984), <http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf>.

82 See Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/66/268 (Aug. 5, 2011), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/66/268.

83 In 2004, the United States Supreme Court held that a similar police interrogation tactic of interrogating suspects twice, once before reading them their rights and then after, violated the constitutionally protected right of an individual to remain silent. See *Missouri v. Seibert*, 542 U.S. 600 (2004).

84 B'TSELEM, *NO MINOR MATTER: VIOLATIONS OF THE RIGHTS OF PALESTINIAN MINORS ARRESTED BY ISRAEL ON SUSPICION OF STONE-THROWING 30* (2011), https://www.btselem.org/download/201107_no_minor_matter_eng.pdf.

85 *Id.*

c. Use of restraints during interrogation

Plastic cords are the most common form of restraint used by the Israeli military when arresting Palestinian children, and children generally arrive in an interrogation room with their hands bound.

While Israeli police reportedly have a policy that prohibits the use of restraints during interrogations, except when the suspect presents a risk of physical violence,⁸⁶ in 156 out of 429 cases (**36.4 percent**), Israeli forces used restraints, sometimes inflicting pain, throughout the duration of the interrogation.

According to international juvenile justice standards, restraints should only be used for as long as is strictly necessary.⁸⁷ It is difficult to ascertain from the testimonies any legitimate reason why so many children remain tied during interrogation while inside a secure military or police facility.

d. Denied access to attorney and presence of a parent

In 416 out of 429 cases (**97 percent**), children were denied access to legal counsel prior to and during interrogation, and did not have a family member present during questioning.

Under Israeli military law, children are entitled to consult with a lawyer prior to interrogation, but are not permitted to have an attorney present during interrogation.⁸⁸ In cases where children have successfully accessed this right, their conversations with legal counsel were typically brief and able to be overheard by the interrogator or other police officers. Access to an attorney can be denied by Israeli authorities for up to 90 days from the time of arrest.⁸⁹

International juvenile justice standards provide that children in conflict with the law should have immediate and competent legal assistance.⁹⁰ With scant exceptions, Palestinian children are interrogated in the simultaneous absence of a lawyer and parent or legal guardian, as is their right, according to international law.

In almost all cases where parents have attempted to accompany a summoned child to the police station, they were denied entry to the interrogation room.

Critically, without a parent or legal representative present, there is no guaranteed third-party presence to provide oversight of Israeli interrogation methods, leaving Palestinian children vulnerable to coercion and physical and psychological violence.

e. Verbal abuse, threats, and intimidation

During interrogation, in 96 out of 429 cases (**22.4 percent**), interrogators threatened children, and in 123 out of 429 cases (**28.7 percent**) children were subjected to verbal abuse or intimidation. Children told DCIP that they were threatened with physical violence, long-term imprisonment, solitary confinement, and sexual assault during interrogation.

86 UNICEF, *Children in Israeli military detention: Observations and Recommendations Bulletin No. 2: February*, 10, http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

87 UNICEF, *Children in Israeli military detention: Observations and Recommendations*, 3 (2013), http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf.

88 Military Order 1676 § 136(c); and UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, 10 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

89 Military Order 1651 §§ 58 & 59.

90 Convention on the Rights of the Child, art. 37(d).

According to child testimonies, interrogators have also made threats toward children’s families. Children report that interrogators threaten to bulldoze their homes and arrest family members if they don’t confess to a particular accusation.

The prohibition against torture and ill-treatment includes acts that cause mental suffering to the victim. In addition to failing to uphold international standards for interrogating children, these conditions increase the likelihood of a child providing a false confession.

Children are especially vulnerable to providing a false confession in order to escape a distressing situation, according to a report by the rights group Physicians for Human Rights – Israel.⁹¹ Sleep deprivation, long periods of questioning, stress, and threats can all “lead to violation of the suspect’s free will,” child and adolescent psychiatrist Graciela Carmon writes. Carmon further warns that “severe interrogation methods” can precipitate “irreversible mental damage” in children.

Confessions remain the central piece of evidence used to prosecute Palestinian children in the military courts.

f. Solitary confinement for interrogation purposes

Children suspected of being involved in a specific incident or those who maintain their innocence during interrogation sessions are sometimes subjected to more severe interrogation methods, including solitary confinement and position abuse.

Between 2012 and 2015, DCIP documented 66 cases involving the solitary confinement of Palestinian children in the Israeli military detention system. The use of isolation by Israeli authorities does not appear to be related to any disciplinary, protective, or medical rationale or justification, and is not generally used after children have been convicted and begun serving their sentences. The longest period one child was held in solitary confinement was 45 days, while the average time spent in solitary confinement was 13 days. During this time, children often only interact with jailers that bring them food to their cell and the individual interrogating them.

Evidence and documentation collected by DCIP overwhelmingly suggests that the use of isolation for Palestinian child detainees is solely for interrogation purposes to obtain a confession and/or gather intelligence on other individuals. In 60 out of 66 cases (**90.9 percent**), children held in solitary confinement provided a confession.

Palestinian child detainees are held in solitary confinement and interrogated by the Israel Security Agency (ISA) at interrogation and detention centers located inside Israel, including Petah Tikva detention center, Kishon detention center (also known as Al-Jalame), and Shikma prison in Ashkelon.

The children taken to Kishon (Al-Jalame) detention center, near Haifa, inside Israel, describe being held in isolation in a small cell measuring approximately 5 feet by 6.5 feet (1.5 meters by 2 meters). The children report either sleeping on a concrete bed, on the floor, or on a thin mattress that is often described as “dirty” and “foul smelling.” There are no windows and no natural light. The only source of light comes from a dim yellow bulb that is reportedly kept on at all hours. Meals are passed to children through a flap in the door. Cell walls are reported to be gray in color with sharp or rough protrusions that are painful to lean against.⁹²

91 Carmen, Graciela, M.D., *Coerced False Confessions: The Case of Palestinian Children*, <http://www.phr.org.il/default.asp?PageID=116&ItemID=1323> (last accessed Dec. 18, 2015).

92 DCIP, SOLITARY CONFINEMENT FOR PALESTINIAN CHILDREN IN ISRAELI MILITARY DETENTION, p. 6, (2014), <http://bit.ly/1ZoSUIX>.

Palestinian children held in solitary confinement are subjected to repeated and prolonged interrogations, with the apparent purpose of obtaining a confession. Interrogations are typically threatening and lengthy, and child detainees are vulnerable to torture, abuse, and other forms of violence.

In 119 out of 429 cases (**27.7 percent**), children were subjected to position abuse during interrogation. Children most commonly report being forced to sit in a low metal chair secured to the floor with their hands and feet cuffed to the chair, often for several hours.⁹³

Abdullah Radwan, 17, was held in solitary confinement at Al-Jalame interrogation and detention center for 26 days between November 20, 2014 and December 15, 2014. On November 20, 2014, at 3 a.m., Israeli forces arrested Abdullah from his home in the village of Azzun, near Qalqiliya. He was bound and blindfolded, transported to a military base in the Jewish-only settlement of Tzufin, where he was strip searched, and then was later transported to Al-Jalame interrogation and detention center inside Israel.

“On the first day of my arrival to Al-Jalame, I was taken to an interrogation room to be interrogated by a Jewish interrogator that spoke Arabic,” Abdullah told DCIP. “He accused me of throwing Molotov cocktails and stones. He interrogated me for two hours. He was shouting at me to intimidate me, but I did not confess.”

“He shouted at me and threatened to beat me. Another interrogator came in, shouting at me and threatening, *‘I’ll smash your head if you don’t confess. And if you don’t talk from your mouth, I’ll make you talk from your ass.’* I was really scared of him.”

Over the course of 12 days, Abdullah was interrogated three separate times and confessed to throwing two Molotov cocktails during the third interrogation session. His detention was extended at least six times by the military court at Al-Jalame, and another two times by the Salem military court.

In 2011, the UN Special Rapporteur on Torture, Mr. Juan Méndez, called for an absolute ban on the use of solitary confinement on children, in a report submitted to the UN General Assembly.⁹⁴

The UN Committee on the Rights of the Child and Committee against Torture also consider the practice of using solitary confinement on children, for any duration, cruel, inhuman or degrading treatment or punishment and in some cases even torture.

Role of informants in interrogation process

Israeli intelligence interrogation techniques sometimes include the use of cellmate or prison informants to fool, manipulate, or coerce child detainees held in solitary confinement into revealing potentially self-incriminating information or information concerning other individuals.⁹⁵

The custodial context of interrogations combined with isolation creates a psychologically compelling atmosphere that infringes on a child’s right not to be compelled to give testimony or to confess guilt.⁹⁶ Vulnerability increases when a child in custodial interrogation is denied access

93 *Id.*

94 Committee on the Rights of the Child, *General Comment No. 10*, ¶ 89; *Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment*, ¶¶ 77 & 86, U.N. Doc. A/66/268 (Aug. 5, 2011), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf>.

95 See DCIP, SOLITARY CONFINEMENT FOR PALESTINIAN CHILDREN IN ISRAELI MILITARY DETENTION, p. 6, (2014), https://d3n8a8pro7vhm.cloudfront.net/dcipalestine/pages/1294/attachments/original/1449851801/Report_Solitary_Confinement_Report_2013_FINAL_29APR2014.pdf?1449851801.

96 Convention on the Rights of the Child, Article 40(2)(b)(iv).

to legal counsel, and his parents are not allowed to be present during interrogation sessions.

In 30 out of 66 cases (**45.5 percent**), children were exposed to informants in connection with their solitary confinement, of which 22 children were later confronted with incriminating statements made to the informant during a subsequent interrogation session.

Following many days held in isolation and subject to prolonged interrogation sessions, a child will be informed that the interrogation is over and that they will be transferred to a prison cell.⁹⁷

Once the child arrives in a typical prison cell, an adult prisoner warmly welcomes him, often bringing warm food, a pack of cigarettes, or other items. The adult prisoner attempts to gain the child's trust by sharing information about the child's family or members of his community. Children report being warned by this adult prisoner not to talk to anyone but him regarding their interrogation. Often, the adult prisoner will either ask a child about the interrogation and what questions were asked, or offer to alert others on the outside if he shares information.⁹⁸

After a day or two, the child is ushered back to interrogation where he is often confronted with an audio recording or statements he made to the adult prisoner informant. During interrogation, the child realizes for the first time that the adult prisoner is an informant collaborating with Israeli intelligence officers, and the child's interaction with this individual was part of the interrogation process.⁹⁹

After being confronted with this reality, children generally provide a confession without access to counsel to allegations made against them during the interrogation.

On August 26, 2015, Israeli forces arrested 17-year-old Mahmoud, after storming his family's house, around 3 a.m. Mahmoud was transferred to a nearby military camp and then to Al-Jalame interrogation and detention center.

Upon his arrival around 5 p.m., Mahmoud was brought for interrogation for three hours. The interrogator did not inform him of his right to remain silent or to consult a lawyer prior to interrogation.

"The interrogator did not accuse me of anything, instead he threatened to revoke my father's work permit and arrest my mother." Mahmoud told DCIP.

After his initial interrogation, Mahmoud was held in solitary confinement for seven days. Israeli forces transferred Mahmoud to Megiddo prison.

At Megiddo, two men, Abu Ahmad and Abu al-Nour, approached Mahmoud and introduced themselves as Palestinian prisoners and the supervisors of the juveniles in the prison. They told Mahmoud he could confide in them.

"At first, I did not tell them anything because I thought they were informants," Mahmoud told DCIP. "Later, when I was in the prison clinic, a Palestinian prisoner was there, and he told me that he is from the village of Abu Dis. He said that he knew some people from my village and he named them. Then he told me that because I am under 18, I should not be afraid of the informants. I asked him about Abu al-Nour, and he told me that he is not an informant and is a

97 DCIP, SOLITARY CONFINEMENT FOR PALESTINIAN CHILDREN IN ISRAELI MILITARY DETENTION (2014), https://d3n8a8pro7vhmx.cloudfront.net/dcipalestine/pages/1294/attachments/original/1449851801/Report_Solitary_Confinement_Report_2013_FINAL_29APR2014.pdf?1449851801.

98 *Id.*

99 *Id.*

respectful man.”

Mahmoud spent two days in Megiddo. Abu al-Nour came back to meet Mahmoud. “I told Abu al-Nour that I once threw stones during clashes and he wrote everything on a piece of paper. The next day, IPS transferred me back to Al-Jalame interrogation and detention center. Once I was back in solitary confinement, someone from the next cell called my name, and told me that he is a Palestinian detainee and it is better for me to confess so they send me to a prison.”

g. Torture

The UN Convention on the Rights of the Child demands that no child be subjected to torture or other cruel, inhuman, or degrading treatment or punishment.¹⁰⁰ It further states that every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner that takes into account the needs of persons of their age.¹⁰¹

The prohibition against torture applies to any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person to obtain information or a confession.¹⁰² This can include intimidation and other forms of threats, and the victim’s age and relative position of inferiority must be taken into consideration when assessing the severity of psychological forms of torture and ill-treatment.¹⁰³ The threshold for torture or ill-treatment is lower when involving child victims, specifically in the case of children deprived of their liberty.¹⁰⁴

In a 2015 report, the UN Special Rapporteur on Torture, Juan Méndez, reaffirmed that “children deprived of their liberty are at a heightened risk of violence, abuse and acts of torture or cruel, inhuman or degrading treatment or punishment.” He further noted, “[e]ven very short periods of detention can undermine a child’s psychological and physical wellbeing and compromise cognitive development.”¹⁰⁵

The prohibition against ill-treatment and torture is absolute, yet, ill-treatment and torture of Palestinian children arrested by Israeli military and police is widespread and systematic.

Physical and psychological violence as torture

Israeli interrogation techniques are generally mentally and physically coercive, frequently incorporating a mix of intimidation, threats, and physical violence with the apparent purpose of inflicting physical or mental pain or suffering for the purpose of obtaining a confession.

In 118 out of 429 cases (**27.5 percent**), children were exposed to some form of physical violence during interrogation. Children most commonly report that the interrogator pushed, slapped, or kicked them during interrogation. In a smaller number of cases, the violence is significantly more serious, including choking, punching, or hitting a child’s head against a wall.

Shouting and intimidation are regularly used to elicit confessions, incriminating statements, and information on neighbors or family members.

100 Convention on the Rights of the Child, art. 37(a) & 40; and International Covenant on Civil and Political Rights, art. 10.

101 Convention on the Rights of the Child, art. 37(c).

102 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, U.N. Doc. A/RES/39/46 (Dec. 10, 1984), <http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf>.

103 See Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, U.N. Doc. A/66/268 (Aug. 5, 2011), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/66/268.

104 Special Rapporteur on Torture, Juan Méndez, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, ¶ 32, delivered to the Human Rights Council, U.N. Doc. A/HRC/28/68 (Mar. 5, 2015), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/043/37/PDF/G1504337.pdf>.

105 *Id.*

Specific acts of torture by Israeli military, police, and intelligence officers typically arise in the context of custodial interrogations where Israeli interrogators create a psychologically compelling atmosphere. Vulnerability increases as children are denied access to legal counsel, and not allowed to have a parent present during interrogation sessions. Combined with widespread, systematic, and institutionalized ill-treatment against Palestinian children from the moment of arrest, interrogations become manipulative and coercive.

In analyzing the gravity of the ill-treatment reported by children, it is necessary to consider the totality of their treatment from the moment of arrest to their appearance in the interrogation room, as well as taking into account their age, physical and psychological development, and relative position of inferiority.

Solitary confinement as torture

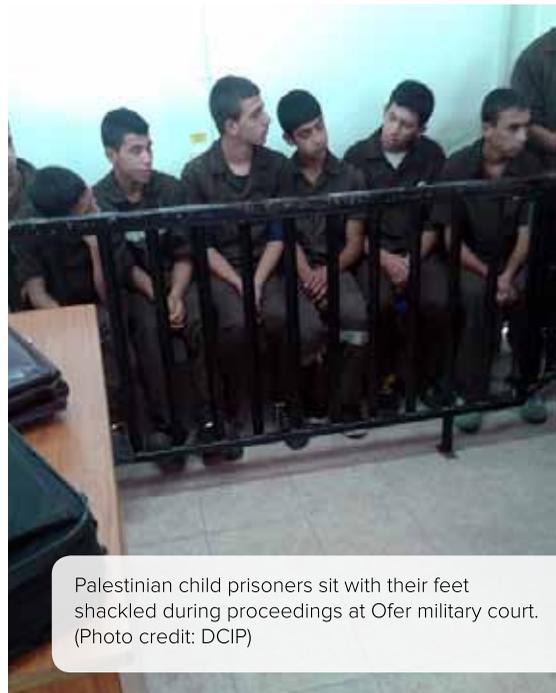
Solitary confinement is a harsh practice that “may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions,”¹⁰⁶ and can amount to acts of torture or to cruel, inhuman, or degrading treatment or punishment due to the severe mental pain or suffering it can cause when used during pretrial detention, for interrogation purposes, or for juveniles.¹⁰⁷

Generally, the use of solitary confinement during custodial interrogation “creates a de facto situation of psychological pressure” that can compel detainees to confess or make statements against other individuals.¹⁰⁸

The UN Special Rapporteur on Torture has explicitly found that solitary confinement, when “used intentionally during pretrial detention as a technique for the purpose of obtaining information or a confession” amounts to torture or cruel, inhuman, or degrading treatment or punishment.

Specifically regarding juveniles, “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,” both international treaties that Israel has obliged itself to implement.¹⁰⁹

International law is clear that juveniles need and are entitled to special protections, safeguards, and care due to their status as children,¹¹⁰ and



Palestinian child prisoners sit with their feet shackled during proceedings at Ofer military court. (Photo credit: DCIP)

106 Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, U.N. Doc. A/66/268, ¶ 79, (Aug. 5, 2011), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/66/268.

107 *Id.* at ¶ 80.

108 *Id.* at ¶ 73.

109 *Id.* at ¶ 77.

110 Convention on the Rights of the Child, art. 19; Committee on the Rights of the Child, *General Comment 8*, U.N. Doc. CRC/C/GC/8, ¶ 18, (Mar. 2, 2007), http://www.un.org/en/ga/search/view_doc.asp?symbol=CRC/C/GC/8; UN Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113, U.N. Doc. A/RES/45/113, (Dec. 14, 1990), <http://www.un.org/en/ga/search/>

children should not be subjected to solitary confinement for any duration, or any reason.

The practice of using solitary confinement against children in Israeli military detention, whether in pretrial detention for interrogation purposes or as a form of punishment, must be stopped immediately and the prohibition must be enshrined in law.

h. Documentation in Hebrew

In 144 out of 429 cases (**33.6 percent**), children were shown or forced to sign documentation written in Hebrew. Interrogations are typically conducted in Arabic, but sometimes in Hebrew with an Arabic translator since the vast majority of Palestinian children do not speak Hebrew. During the interrogation, an interrogator often prepares the children's statements in Hebrew with no verbal or written translation provided to the child. These documents often contain incriminating statements or confessions.

Despite frequent complaints and even appeals by defense attorneys, military prosecutors and judges neither express concern nor consider confessions prepared in this manner invalid.¹¹¹ In other cases, even where documents were written in Arabic, children said they were forced to sign them without having the opportunity to read and understand them.

5.4. Military juvenile court proceedings

Following their interrogation, children appear before a military court within 24 to 96 hours of their arrest, depending on their age.¹¹² Inside the military courtroom, children generally see their lawyer and parents for the first time following their arrest. A child will generally appear in the military court on multiple occasions before the conclusion of his or her case. The journey to and from the prison, with waiting time at court, can take an entire day, leaving the child physically and emotionally exhausted.

International law includes strict limits on the deprivation of liberty of children: pretrial detention should be a measure of last resort, children should appear before a judicial authority within 24 hours of arrest, and continued pretrial detention, for the shortest possible period of time, is only permitted when the child presents a serious risk of causing significant harm to others.¹¹³ In cases involving children, a final judgment should be delivered within six months from the date of the charge.¹¹⁴ Despite these clear protections, the overwhelming majority of Palestinian children are held in custodial pretrial detention.

Israeli military law includes specific maximum periods where a Palestinian child detained by Israeli authorities must appear before a military court judge for the first time. Children aged 12-13 must appear before a military court judge within 24 hours after their arrest, while the period is 48 hours for children aged 14-15.¹¹⁵ The period for children aged 16-17 is 96 hours, the same time period applied to adult detainees. In all instances, this time period can be extended for additional 24, 48, or 96 hours for interrogation purposes. More favorable time limits exist in

[view_doc.asp?symbol=A/RES/45/113.](#)

111 Pursuant to Article 147 of the Fourth Geneva Convention, willfully depriving a protected person of the rights of a fair and regular trial is a grave breach of the Convention and attracts personal criminal responsibility. Further, under Article 146, all parties to the Convention have a positive legal obligation to search out and prosecute those responsible for grave breaches.

112 Children ages 16 and 17 remain subject to the same maximum detention periods as adults under Military Order 1685, which allows Israeli authorities to extend the maximum detention period up to eight days.

113 See Convention on the Rights of the Child; Committee on the Rights of the Child, *General Comment No. 10*, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007), <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>.

114 Committee on the Rights of the Child, *General Comment No. 10*, ¶ 83, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007), <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>.

115 Military Order 1711.

the Israeli civilian criminal justice system, which is applied to Israeli children living in Jewish-only settlements in the West Bank. An Israeli child below the age of 14 must be brought before a civilian judge within 12 hours of arrest. This increases to 24 hours in the case of older Israeli children. Under international law, no state is entitled to discriminate between people it exercises penal jurisdiction over based on their race or nationality.

Following arrest and interrogation, Palestinian children generally first appear in either Ofer or Salem military court. They are transferred from the detention facility where they were interrogated or the prison where they were held following interrogation. The Nahshon unit, a special IPS unit comprised of former Israeli soldiers that served with special forces units, is primarily responsible for escorting prisoners to and from the military court.¹¹⁶

When children appear before the military court, they arrive shackled in their brown prison uniform. Until their case is called, they wait in a holding trailer behind the courtrooms. They can wait for hours and often do not know when their case will be called.

Their parents are generally informed of hearing dates, but they also do not know when their child's case will be called. Israeli authorities provide two permits to each defendant's family, allowing them to observe the military court hearing. Children are brought into the courtroom and sit in a space designated for defendants. Family members are informed when their child's case has been called and are allowed to enter. For most children, their initial hearing before the military court is the first time they see their family since their arrest. Family members are required to sit in the back row of the courtroom, and there is no physical contact permitted with their child. They are not supposed to talk, however, families often whisper quietly back and forth while proceedings are taking place.

All hearings and military court proceedings are conducted in Hebrew, a language most defendants and their relatives do not understand. The military court has an interpreter that translates spoken Hebrew to Arabic. However, interpreters often fail to explain in a detailed and comprehensive manner what is occurring during proceedings.

Under Israeli military law, a minor can be detained for up to one year before legal proceedings have to be completed against them.¹¹⁷ If legal proceedings have not been concluded within the one-year period, the child must appear before the military appeals court.¹¹⁸ The military appeals court is then authorized to extend the child's detention for additional periods up to three months at a time.¹¹⁹ This one-year period begins only after the Israeli military prosecutor charges a child with an offense, which must occur within 56 days from the time of arrest.

In the Israeli civilian criminal juvenile justice system, a trial must begin within 30 days¹²⁰ and if the trial does not conclude within six months, the defendant must be released.¹²¹ A minor can be detained up to six months,¹²² and Israeli law prohibits remand for children under 14.¹²³

116 Israeli Prison Service, About the Organization (website) <http://ips.gov.il/Web/En/About/Organization/Default.aspx> (last visited August 12, 2015).

117 Military Order 1651, § 144 (as amended by Military Order 1711).

118 UNICEF, *Children in Israeli military detention: Observations and Recommendations Bulletin No. 2: February*, p. 11, http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No_2_-_February_2015.pdf.

119 Military Order 1651, § 44.

120 Criminal Procedure Law (Enforcement Powers-Arrest), 5756-1996, § 60.

121 Youth Law § 10.12, subject to certain exceptions.

122 Youth Law § 10.13

123 Youth Law § 10.10

Table 7: Rights of Israeli and Palestinian children compared

#	Event	Civilian juvenile justice system	Military court system
1	Minimum age of criminal responsibility	12	12
2	Minimum age for a custodial sentence	14 ¹²⁴	12
3	Age of majority	18	18 ¹²⁵
4	Legal right to have a parent present during interrogation	Yes ¹²⁶	No
5	Legal right to have a lawyer present during interrogation	No	No ¹²⁷
6	Legal right to have interrogation audio-visually recorded	Partial ¹²⁸	No
7	Maximum period of detention before being brought before a judge	12-24 hours ¹²⁹	24, 48, or 96 hours ¹³⁰
8	Maximum period of detention without access to a lawyer	48 hours	90 days ¹³¹
9	Maximum period of detention for interrogation purposes	40 days	40 days ¹³²
10	Maximum period of time between charge and conclusion of legal proceedings	6 months	1 year ¹³³

a. Pretrial detention and bail

International juvenile justice standards provide that children should not be allowed to remain in pretrial detention and should be released as soon as possible,¹³⁴ and remand until the end of legal proceedings should be avoided to the extent possible.¹³⁵

124 The Israeli Knesset, or parliament, recently considered a bill that proposes custodial sentences for children, as young as 12, convicted of “nationalistic-motivated” violent offences under Israel’s civilian legal system. The actual serving of sentences would be deferred until the child reaches the age of 14. A first reading of the bill on November 25 resulted in a vote of 64 in favor and 22 against. Israel’s current criminal law prohibits custodial sentences against children under 14 in favor of rehabilitation and reintegration.

125 Children ages 16 and 17 are subject to the same provisions as adults concerning sentencing.

126 Under the Israeli Youth Law, there are certain exceptions that allow an interrogation to begin without a parent present, including in cases where the interest of the interrogation or the best interest of the child require the parent be absent from the interrogation. See B’TSELEM, NO MINOR MATTER: VIOLATION OF THE RIGHTS OF PALESTINIAN MINORS ARRESTED BY ISRAEL ON SUSPICION OF STONE THROWING 11 (2011), http://www.btselem.org/download/201107_no_minor_matter_eng.pdf.

127 Military Order 1676, § 136(c) provides that a child must be notified that he has the right to consult with a lawyer, but this right can be suspended for up to 90 days in “security” related offences. See Military Order 1651, § 58(C).

128 The Israeli Criminal Procedure (Interrogation of Suspects) Law 2002, obligates the audiovisual recording of interrogations in serious offenses punishable by a prison term of ten years or more. However, under section 17 of the law, established as a temporary order in 2002, the obligation to document an interrogation of a suspect does not apply to security offences, regardless of their corresponding penalties. This temporary order was initially established for a period of five years from the effective date, but it has since been extended three times – recently until January 4, 2017.

129 Children aged between 12 and 13 must be brought before a judge within 12 hours, and children 14 years and over must be brought before a judge within 24 hours, according to amendment 14 to the Israeli Youth Law.

130 Military Order 1685 reduces the time period during which a person has to be brought before a military court judge from eight to four days. This provision went into effect on August 1, 2012. On April 2, 2013, Military Order 1711 reduced the time period to 48 hours for 14-15 year olds and 24 hours for 12-13 year olds. The time period for 16-17 year olds remains 96 hours, the same as adults. However, these periods can be extended for additional periods depending on the age of the child.

131 The interrogation officer and the permitting authorities are allowed to prevent detainees from meeting a lawyer for a maximum period of 30 days, according to Military Order 1651, § 58. Additionally, a first instance court is allowed prohibit access to an attorney for an additional 30 days, and the military appeals court may extend the period for another 30 days, according to Military Order 1651, § 59.

132 See Military Order 1726.

133 See Military Order 1711.

134 Committee on the Rights of the Child, *General Comment No. 10*, ¶¶ 80–81, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007), <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>.

135 Convention on the Rights of the Child, art. 37(b); UN Human Rights Committee, *General Comment 35*, http://www.un.org/en/ga/search/view_doc.asp?symbol=CCPR/C/GC/35.

In accordance with these standards, DCIP attorneys, representing children in the Israeli military courts, routinely request that military judges release their clients, usually suggesting alternatives to detention, such as bail and house arrest. These requests are overwhelmingly denied, highlighting the widespread and systematic use of pretrial custodial detention, a critical feature of the Israeli military detention system. In practice, this means children will rarely be released on bail and instead are remanded into custody until the conclusion of the legal process.¹³⁶

In clear contravention of the international juvenile justice standard that arrest, detention, and imprisonment must only be used as a measure of last resort, Israeli military court judges order pretrial detention apparently by default. Of 297 cases closed by DCIP attorneys between 2012 and 2015, Israeli military court judges released children on bail in only 40 cases (**13.5 percent**). Bail, if granted, typically ranges from 1,000 to 5,000 NIS (US\$260 to US\$1,300) and is generally only granted in cases involving children under 14.

b. Evidence

With little to no independent oversight over arrests and the fact that Israeli soldiers have the authority to arrest children on suspicion without warrants, evidence against children charged in the Israeli military courts is typically limited and weak.

Interrogation sessions serve as the primary means of securing evidence against children. Interrogation techniques in the Israeli military detention system are generally mentally and physically coercive, frequently incorporating a mix of intimidation, threats, and physical violence with a clear purpose of obtaining a confession. Shouting and intimidation are regularly used to elicit confessions, incriminating statements, and information on other children. A child's own confession or incriminating statements from other children are often the foundation of the Israeli military prosecutor's case against a child.

The chief Israeli military prosecutor recently explained that the right to consult with legal counsel has been recognized by Israel's Supreme Court as a fundamental right of a suspect, and that breach of that right could lead to the inadmissibility of any statement given, according to a recent UNICEF report.¹³⁷ However, according to DCIP documentation, children were denied access to legal counsel prior to and during interrogation in 416 out of 429 cases (**97 percent**), and DCIP attorneys regularly report that incriminating statements and confessions are rarely excluded on these grounds.

Military court judges tend to attribute a great deal of weight to defendant confessions and statements by arresting Israeli soldiers, according to DCIP attorneys.

Since interrogations are generally not recorded, evidence often turns on the credibility of the interrogator compared to that of the child. According to DCIP attorneys, military judges almost always accept as true the military or police interrogator's word over the child.

In 2009, the UN Committee against Torture, which monitors the implementation of the UN Convention against Torture, noted concern regarding allegations that in 95 percent of cases involving Palestinian child detainees, the Israeli military courts relied on confessions to obtain

¹³⁶ B'TSELEM, PRESUMED GUILTY: REMAND IN CUSTODY BY MILITARY COURTS IN THE WEST BANK (2015), http://www.btselem.org/download/201506_presumed_guilty_eng.pdf.

¹³⁷ UNICEF, *Children in Military Detention Observations and Recommendations Bulletin No. 2: February 2015*, at 10 (2015), http://www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.

a conviction.¹³⁸ DCIP attorneys report that this generally remains the state of affairs in the Israeli military courts.

It is important to note that under international law, the prohibition against torture applies to any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person to obtain information or a confession.¹³⁹ International law demands that any statement made as a result of torture or ill-treatment must be excluded as evidence in any proceeding.¹⁴⁰

c. Plea agreements

Regardless of guilt or innocence, Palestinian children overwhelmingly plead guilty in return for a lighter sentence. The alternative would be a prolonged period of remand that would likely exceed any sentence imposed from a plea agreement, according to DCIP attorneys.

The systematic denial of bail by military court judges removes any incentive to challenge the system, and instead incentivizes plea agreements between the military prosecutor and child, where the child agrees to plead guilty in return for time served or credit for time served. This is often the quickest way for a child to get out of the Israeli military detention system whether an alleged offense was committed or not.

It is extremely rare for a child to plead innocent or be found innocent after charges have been filed against them. If a child does decide to plead innocent, it will likely prolong the proceedings and they will spend a much longer time in pretrial detention. DCIP's experience representing Palestinian children in the military courts shows that in the end, a child will almost certainly receive a guilty verdict. This comes along with stiffer sentences than if he had pleaded guilty from the start.

Between 2012 and 2015, DCIP attorneys closed 297 cases. A total of 295 cases (**99.3 percent**) were settled with a plea agreement.



Israeli soldiers deployed near a military checkpoint on Shuhada Street in the West Bank city of Hebron on January 16, 2016. (Photo credit: DCIP)

138 Committee Against Torture, *Concluding Observations: Israel*, U.N. Doc. CAT/C/ISR/CO/4, ¶ 27, (Jun. 23, 2009).

139 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, U.N. Doc. A/RES/39/46 (Dec. 10, 1984), <http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf>.

140 Convention against Torture, art. 15.

5.5. Sentencing

There are three parts to a military court sentence: imprisonment, a fine, and a suspended sentence. Sentences are tailored to each case, and there is not necessarily a relationship between the length of the sentence, the length of the suspended sentence, the time period of the suspended sentence, or the size of the fine, according to DCIP attorneys.

Israeli military law establishes maximum sentences for children aged 12 to 15. No person under age 12 can be prosecuted in the military courts, since the minimum age of criminal responsibility is 12 years.¹⁴¹ The maximum prison sentence for a child aged 12 to 13 years is six months.¹⁴² The maximum prison sentence for a child aged 14 to 15 years is 12 months, unless the offense carries a maximum potential sentence of five years or more.¹⁴³ Children aged 16 to 17 years are subject to the same maximum potential sentences as adults.¹⁴⁴ A child's age for sentencing purposes is determined at the time of sentencing, not by the date when the alleged offense occurred.¹⁴⁵

Table 8 - Sentencing under Israeli military law

Age	Criminal responsibility
0–11 years	No child shall be arrested or prosecuted in the military courts.
12–13 years	Maximum six months in prison.
14–15 years	Maximum 12 months in prison, unless the offense carries a maximum penalty of five years or more.
16–17 years	Same provisions that apply to adults.

The most common offense charged by the Israeli military prosecutor against Palestinian children in the military courts is throwing stones, which is a specific offense under Military Order 1651. Military law states:

- Throwing an object, including a stone, at a person or property, with the intent to harm the person or property, carries a maximum penalty of 10 years imprisonment.¹⁴⁶
- Throwing an object, including a stone, at a moving vehicle, with the intent to harm it or the person travelling in it, carries a maximum penalty of 20 years imprisonment.¹⁴⁷

For a single charge of stone throwing, a child aged between 12 and 13 years can receive a maximum sentence of six months. A child aged 14 and 15, can in law, receive the maximum penalty of 10 or 20 years, as the maximum penalty for the offense exceeds five years. A child aged 16 or 17 has no child-specific protection under Israeli military law and can receive the maximum potential sentence of 10 or 20 years, the same as an adult.

While in most cases children prosecuted in the military courts could be subject to the potential

141 Military Order 1651, § 191. Not that while the minimum age of criminal responsibility is 12 years, children younger than age 12 are sometimes detained by Israeli forces, questioned, and released after several hours without formally being charged or interrogated in the Israeli military detention system.

142 Military Order 1651, § 168(B).

143 Military Order 1651, § 168(C).

144 Amendments to Military Order 1651 raising the age of majority from 16 to 18 years are not specified to apply to Chapter J of Military Order 1651, which contain sentencing provisions.

145 Military Order 1651, § 136

146 Military Order 1651, § 212(2).

147 Military Order 1651, § 212(3).

maximum sentences in the military law, generally children receive custodial sentences significantly below those maximum potential sentences.

Between 2012 and 2015, DCIP attorneys closed a total of 297 cases, and only two cases (**0.7 percent**) proceeded to trial, both resulting in acquittals. Out of the remaining 295 cases, 151 children (**51.2 percent**) received a custodial sentence between three to 12 months. In 54 cases (**18.3 percent**) children received custodial sentences between one and three years. In five cases (**1.7 percent**), children received custodial sentences in excess of three years.

Table 9 - Sentences received by Palestinian children charged in Israeli military courts

Year	Acquitted	Under 1 month	1-3 months	3-6 months	6-12 months	1-3 years	3+ years	Total
2012	0	20	7	30	18	12	0	87
2013	0	23	4	36	16	11	2	92
2014	2	9	11	13	14	12	0	61
2015	0	6	5	16	8	19	3	57
Total	2	58	27	95	56	54	5	297
%	0.7	19.5	9.1	31.9	18.9	18.2	1.7	100

a. Custodial sentences

Children aged 12 to 13 cannot be sentenced to imprisonment for a period longer than six months.¹⁴⁸ The military appeals court held that this limitation applies to both the length of the custodial sentence as well as the period of the suspended sentence.¹⁴⁹

Custodial sentences for children aged 14 and 15 cannot exceed 12 months, unless the maximum penalty is greater than five years.¹⁵⁰ Since stone throwing, the most common charge against Palestinian children in the military courts, carries a maximum sentence greater than five years, most children aged 14 to 15 do not benefit from this limitation.

For comparison, the Israeli civilian juvenile justice system prohibits custodial sentences for children under the age of 14.¹⁵¹ However, in the final months of 2015, Israeli authorities have pushed forward a measure that could eliminate this protection for children in the Israeli civilian juvenile justice system.¹⁵²

b. Suspended sentences

A suspended sentence is similar to a probationary period, but allows the military court to impose a mandatory minimum custodial sentence if a person commits a separate, additional offense within the time period specified in the suspended sentence. A suspended sentence is separate from the custodial sentence imposed for an original offense, and the suspended sentence period is not allowed to exceed five years.¹⁵³

148 Military Order 1651, § 168(B).

149 Mil. Ct. App. (Judea and Samaria) 358/03, 378/03 R.N. v. Military Prosecutor. (“the term ‘imprisonment’ includes actual imprisonment and conditional imprisonment.”).

150 Military Order 1651, § 168(C).

151 Israeli Youth Law, § 24.

152 DCIP, *Israel targets Palestinian children in East Jerusalem with harsh policies*, Nov. 28, 2015, http://www.dci-palestine.org/israel_targets_palestinian_children_in_east_jerusalem_with_harsh_policies.

Between 2012 and 2015, DCIP attorneys closed a total of 297 cases, and in all 295 cases (**99.3 percent**) that resulted in convictions, children received suspended sentences. In 256 out of 295 cases (**86.8 percent**), children received a suspended sentence between three and five year periods.

Table 10 - Suspended sentences received by Palestinian children charged in Israeli military courts

Year	less than 1 year	year 1	years 2	years 3	years 4	years 5	None	Total
2012	2	3	12	44	14	12	0	87
2013	2	3	3	35	9	40	0	92
2014	0	5	7	15	0	32	0	59
2015	0	0	2	13	2	40	0	57
Total	4	11	24	107	25	124	0	295
%	1.4	3.7	8.1	36.3	8.5	42	0	100

c. Fines

Between 2012 and 2015, Israeli military court judges imposed fines in 261 out of 295 cases (**88.5 percent**) closed by DCIP attorneys. The average fine for children during this period was around 1550 NIS (US\$400).

Fines collected are directed to the general budget of the Civil Administration, part of Israel's Coordinator of Government Activities in the Territories Unit (COGAT) that is responsible for implementing Israeli government policy in the OPT.¹⁵⁴

The military courts are empowered under Israeli military law to order a child's parents to pay any fine imposed on their child.¹⁵⁵ Where parents are unable to pay the designated fine, the child will serve additional prison time.

Table 11 - Fines (in NIS) imposed against Palestinian children charged in Israeli military courts

Year	1 - 499 (\$129)	500≤999 (\$129≤\$257)	1000≤1999 (\$257≤\$514)	2000≤2999 (\$514≤\$771)	3000≤3999 (\$771≤\$1028)	4000+ (\$1028+)	No fine	Total
2012	0	12	29	27	7	0	12	87
2013	1	4	31	35	4	7	10	92
2014	0	8	16	17	6	4	8	59
2015	1	2	13	20	8	9	4	57
Total	2	26	89	99	25	20	34	295
%	0.7	8.8	30.2	33.6	8.5	6.7	11.5	100

154 B'TSELEM, NO MINOR MATTER: VIOLATION OF THE RIGHTS OF PALESTINIAN MINORS ARRESTED BY ISRAEL ON SUSPICION OF STONE THROWING 22 (2011), http://www.btselem.org/download/201107_no_minor_matter_eng.pdf.

155 Military Order 1651, § 176(A).

5.6. Detention and imprisonment

Palestinian children held in pretrial detention, which have not yet been sentenced, are held in a variety of detention centers and prisons across the occupied West Bank and inside Israel. Once children have been sentenced, they are typically imprisoned in one of three prison facilities with juvenile sections administered by the IPS. Hasharon and Megiddo prisons are located inside Israel, while Ofer prison is located in the West Bank, near the city of Ramallah.

Approximately 40 to 50 percent of the 500 to 700 Palestinian children detained in the Israeli military detention system each year are held in Megiddo prison. An all-male prison for political prisoners, Megiddo prison is located in northern Israel.

DCIP investigated conditions in the juvenile section of Megiddo, conducting a survey of 25 current and ex-child prisoners, as well as six in-depth child interviews. All children surveyed and interviewed were detained in Megiddo prison between 2013 and 2015. DCIP also spoke with officials from the Palestinian Authority Ministry of Education, the Commission on Detainees and Ex-Detainees Affairs, the International Committee of the Red Cross (ICRC), and current and past adult prisoner supervisors for Megiddo, Ofer, and Hasharon prisons. Additionally, the information here incorporates data supplied by the YMCA Hebron Office and the Palestine Counseling Center.

DCIP attempted to contact officials from the IPS, but they failed to respond. As a result, DCIP relied on the most recent data available on the IPS and Ministry of Public Security websites.

a. Prison management

DCIP research found that the wellbeing of child prisoners has improved since the introduction of a new Palestinian prisoner-led supervision system in 2009. Following negotiations with the IPS, the Palestinian prisoners group, National Prisoners Committee (NPC), secured the right to appoint Palestinian adult male prisoners with long-term sentences to supervise the daily life of child prisoners. These adult prisoners serve out their sentences in the juvenile section, but sleep in a separate room from the children.

The scope of their responsibilities is broad and includes tasks such as ordering food and hygienic supplies, tracking children's court appearances and family visits, communicating with the International Committee for the Red Cross (ICRC), advocating for child prisoners' rights, and resolving social conflicts. In Ofer and Hasharon prison, some supervisors also serve as teachers.

According to child testimonies, this management shift has significantly decreased the number of violations against children that came about as a result of contact with Israeli prison guards. Palestinian child detainees in Megiddo now report extremely limited interactions with the prison guards, outside of routine counts. During weekly room inspections or unannounced cell raids, the supervisors direct children to wait in the shower room until the guards leave the cell. At times, furnishings, such as mattresses, are damaged or ripped during cell inspections and are not replaced or repaired.

b. Child protection

For the stated goal of child safety, the adult prisoners group have prohibited the following behaviors among children: fighting, talking after lights out, communications with IPS guards, and sharing details of their personal cases for the first few weeks after placement in Megiddo's juvenile section. These rules aim to protect children from physical and sexual assault as well

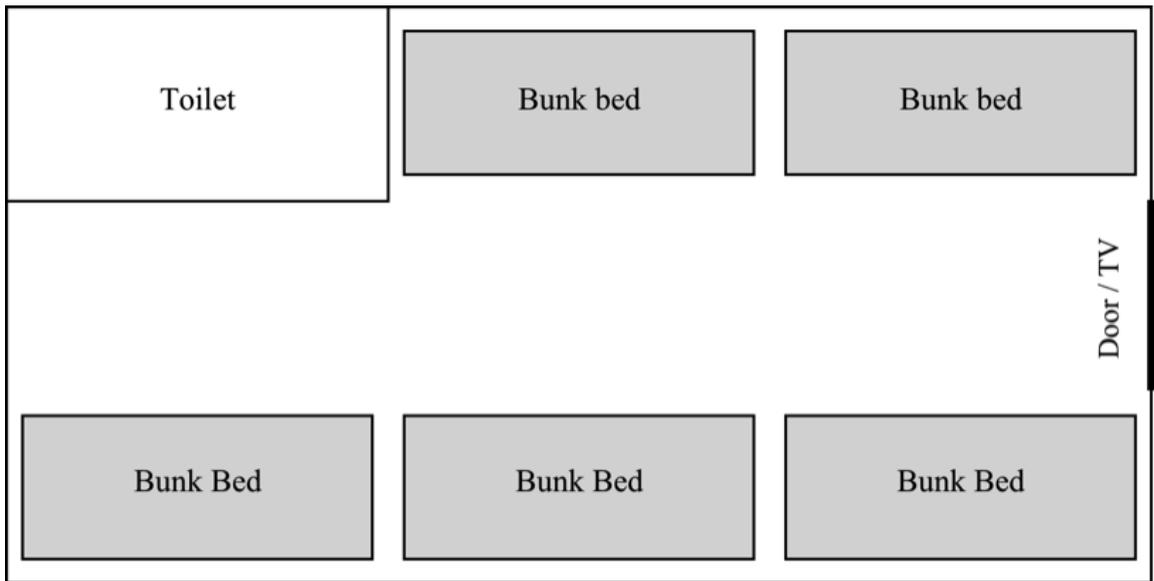
as the risk of being pressured into providing information to Israeli forces on members of their family or communities.

Raed Riyahi, the current head supervisor of Megiddo’s juvenile section, told DCIP that the adult prisoners maintain order primarily through conflict resolution strategies. If a child prisoner violates one of the conduct rules, a supervisor will attempt first to speak to the child about his actions. If further infractions occur, a child may be asked to clean up his cell, wash dishes, or be banned from leaving the cell for one or two hours.

Although rare according to reports by children, a strike across a child’s open palms is administered as a last resort. While this form of corporal punishment mirrors practices in Palestinian schools, it violates children’s rights and is prohibited by international juvenile justice standards.¹⁵⁶ Overall, children described supervisors as kind and believed that they treated everyone equally regardless of their identity.

c. Cell conditions

For the first two weeks after their placement in the juvenile section of Megiddo, which is Section 3, children are typically detained in Room No. 2. There are three surveillance cameras in Room No. 2, and it was originally intended to monitor children with suicidal tendencies. It is now mostly used for observation as children transition into prison. This can be a stressful time for children who have recently undergone the trauma of military arrest and must now adjust to living in prison, apart from their families often for the first time.



General layout of a cell in the juvenile section of Megiddo prison.

¹⁵⁶ Committee on the Rights of the Child, *General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment*, U.N. Doc. CRC/C/GC/8 (Mar. 2, 2007), http://srsg.violenceagainstchildren.org/sites/default/files/documents/docs/GRC-C-GC-8_EN.pdf.

Like the other cells, Room No. 2 measures approximately 20 feet by 10 feet (6 meters by 3 meters) and can accommodate 10 children. Three bunk beds line one length of the room. On the other side of the room, there are two more bunk beds and a small-enclosed bathroom. In the center, above the door, a television hangs. The children are only allowed to watch three channels: MBC2 (a 24-hour movie channel featuring predominantly American movies), MBC Action (action-themed TV shows and films), and National Geographic.

Child detainees spend an average of 18-20 hours per day inside their assigned shared cell, including meal times. In the winter, children told DCIP that the prison is often very cold, and the allotted blankets and heaters are insufficient. Extra sheets, used for additional warmth, can be purchased from the canteen at the prohibitive price of 140 NIS (US\$32.50) per sheet. Children also said that summer temperatures can also be uncomfortably hot, despite the five fans provided for each room.

d. Section conditions

Megiddo’s juvenile section houses approximately 60 to 70 children at a time. It consists of two floors, connected by an outside staircase in the prison yard. On each floor, there are eight equally sized rooms and a shower room. The lower floor is comprised of four detention cells, a communal shower room, the canteen, a classroom, the laundry room, and a room set aside for the adult prisoners who supervise the children. On the upper floor, there is a second shower room, five detention cells, two storage rooms, and a room that was converted into a library in 2011.

First Floor

Layout of Meggido juvenile section

Yard								
Stairs/Kitchen								
Shower	No. 5	No. 4	No. 3	No. 2	No. 1	Laundry Room	Class-room	Canteen

Second Floor

Hallway								
Shower	No. 6	No. 7	No. 8	No. 9	No. 10	No. 11 Library	Food Storage	Long Term Storage

According to Jamal al-Tirawi, former head of the National Prisoners Committee in Megiddo as well as the former head supervisor for its juvenile section, the library books were gathered, a few at a time, from the 11 adult sections of Megiddo prison. The supervisors screened each book to ensure they were appropriate for children. The library now includes a range of genres including fiction, history, religion, and textbooks. Child prisoners are appointed to help manage the library and make sure books are returned.

In addition to the library, children are permitted to visit the canteen or the yard during the few hours when they are not in their cells or classes. The canteen carries drinks, packaged snacks, pencils, and cigarettes, despite the fact that both Palestinian and Israeli law forbid the sale of cigarettes to minors. The prison's canteen prices are noticeably inflated compared to market rates.

The yard is made of poured concrete, painted red, measuring approximately 230 feet by 50 feet (70 meters by 15 meters). It is bounded on one side by the prison with high concrete walls on the other three sides. A wire grid runs across the top.

At one end of the yard, there is a table tennis table and pull-up bars. At the other end of the yard, there are open-air showers and a staircase that leads to the second floor. A makeshift kitchen, where all the children's food is prepared, is located under this staircase.

e. Food and health

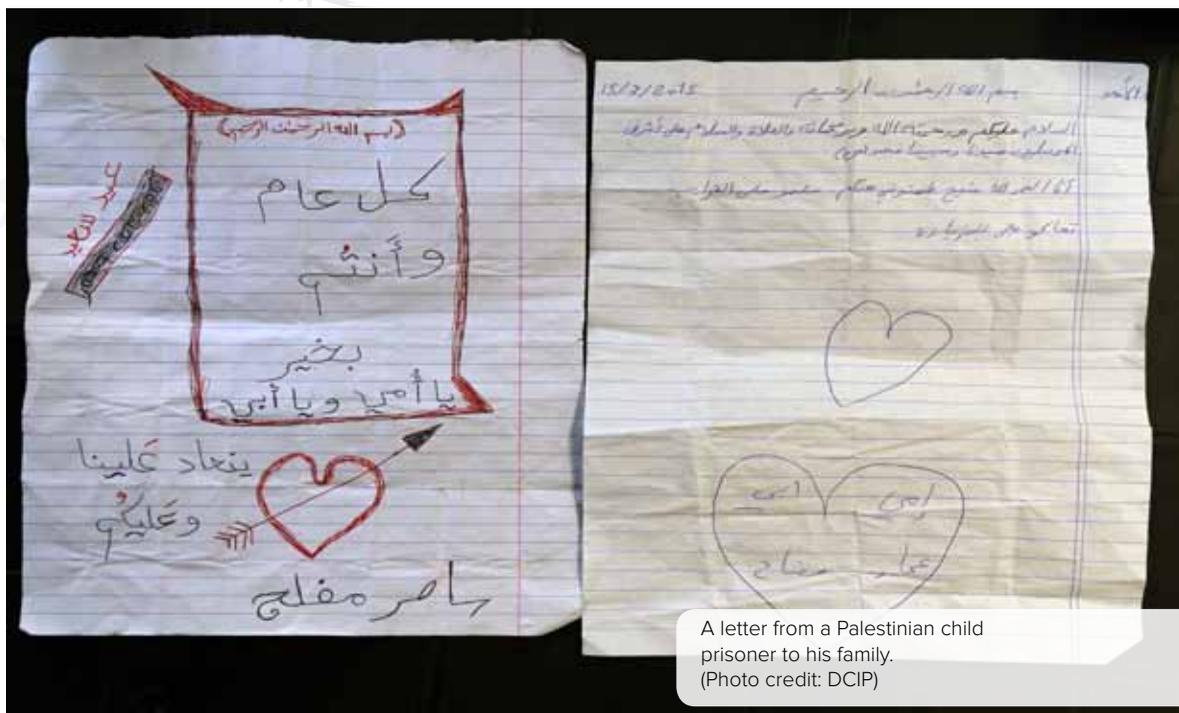
All the food for the juvenile section is prepared by child prisoners in the yard, in an open air space of about 6.5 feet by 13 feet (2 meters by 4 meters) under the staircase. An adult prisoner supervisor oversees two groups of child volunteers and they prepare meals on alternating days. IPS only provides two electric burners, making it difficult to cook a full meal for a large number of children. As a result, the children have invented creative ways to cook, such as tying an electric plate to a plank and suspending it from the stairs to create a makeshift broiler. Since knives are not permitted, they use the sharp edge of an aluminum can lid to chop vegetables.

While the children are in the custody of Israeli authorities, food purchases are made from funds provided by the Palestinian Authority. The Palestinian Authority allocates \$100 (387 NIS) per month per prisoner for food, which can amount to a substantial sum. This money is transferred to the adult prisoner supervisory group, who place bulk food orders from an Israeli company, Dadash, the same company that stocks the canteen. Typically, the diet is of adequate nutrition, consisting of Palestinian foods, such as hummus, labneh (strained yoghurt), and fuul (fava beans). A few times a month, the supervisors are able to order specialty items to celebrate a holiday or a release.

f. Family visits

Parents typically first see their child following their arrest during military court appearances. Military court regulations mandate that family members sit in the back row of benches, about 10 feet (3 meters) away from the detained child. Physical contact with the detained child is strictly forbidden. Communication during military court proceedings is also prohibited, but many judges allow families to whisper quietly back and forth with their child, according to DCIP lawyer, Iyad Misk.

While a child is in detention, families may apply for visitation permits through the ICRC, which



A letter from a Palestinian child prisoner to his family.
(Photo credit: DCIP)

coordinates the permit process through its Palestine Family Visits program. Once a family has completed the application, the ICRC submits it to the Israeli authorities that unilaterally approve or deny the application. In the absence of exceptional circumstances, only immediate family members who have not been previously incarcerated are eligible to apply. Four of the 25 children surveyed by DCIP had family members who were banned from visiting.

In its 2014 annual report, ICRC reported that they facilitated 51,000 family visits between Palestinians detained in Israeli prisons and their families. Based on children’s survey responses, the average time that it took for a child to receive their first visitor was three months. One child prisoner interviewed by DCIP, however, said his family was unable to attain a permit for six and a half months.

In addition to permit delays, the illegal transfer of Palestinian children to prisons inside Israel, such as Megiddo, presents an undue obstacle to family visits. Families must travel long distances and pass through checkpoints in order to visit their children.

Some families also cited harassment and security checks as a barrier to visitation, since each person must undergo a thorough screening—which may include a strip search—before entering Megiddo.

Once they have completed their security checks, family members may visit with child prisoners in Megiddo through a glass barrier for a maximum of 40 minutes. Visitors may also bring items for the child, such as clothes, books, and photos without political symbols. All items are screened before being turned over to the recipient.

In between visits, children detained in Megiddo may write letters to their families through the ICRC. However, due to long delivery periods, many children reported that they do not write letters.

Unlike Israeli children held in prisons, children incarcerated in Megiddo do not have access to a phone. The supervisory group continues to advocate for phone access for the children. One supervisor reported that children especially suffer emotional distress from family separation during holidays.

g. Education

The right to education is not granted to children detained by Israeli forces without having been convicted of a crime, despite Israel's international law obligations. After negotiations between the prisoners' representatives and IPS, an informal arrangement was made to include non-convicted children detained in the juvenile sections in the classes offered to convicted children also held there.

Based on DCIP research, educational conditions for juveniles held at Ofer, Megiddo, and Hasharon prisons appear to be comparable in most areas. For each of the juvenile sections, IPS provides a small number of teachers. The teachers are Palestinians who hold Israeli citizenship and are selected by the Israeli Ministry of Education.

In all three prisons, Israeli authorities have restricted the types of formal classes available to just a couple subjects—namely, Arabic and Math. Recently, children detained at Ofer have begun to study Hebrew. All sciences are reportedly prohibited because of “security concerns.”

Classes are offered in 45-minute periods for four to five hours a day, five days per week. Children are divided into groups based on their academic levels, and are thus not always educated with their peer group.

At Ofer prison, there is one teacher to every 10 students, based on the most recent data available. As of 2013, the ratio at Hasharon is only slightly higher. Child detainees at Megiddo reported that sometimes there were as few as five children in a class.

All three juvenile sections reported that classes took place in well-ventilated or air-conditioned rooms. In Ofer prison, the classrooms had televisions, but no educational programming was available. The laundry room and a storage room were converted into classrooms in Megiddo prison.

Child representatives and adult prisoner supervisors for all three prisons told DCIP that they enforce children's attendance although IPS has not made the classes mandatory. Abdul-Fatah Dawleh, the representative for Ofer's juvenile section, told DCIP that children are only allowed to miss classes for family visits, court appearances, or illness.

However, a 2015 DCIP survey of children detained in Megiddo found that children attended classes an average of twice per week. Children who had completed higher levels of education prior to arrest reported that they were assigned to attend classes less frequently, or simply skipped classes. Some children told DCIP that all the classes were below their education level and were not compatible with the Palestinian curriculum.

For children in Megiddo who had dropped out of school prior to imprisonment, some reported that the basic skills approach in the Arabic language classes had helped them to become literate. For children who were attending schools before imprisonment, education at Megiddo marked a substantial interruption. The lack of age-appropriate classes for advanced high school students and the extremely limited subjects created an obstacle to their return to school after release.



A picture frame made out of folded up pieces of cigarette packs with Hebrew text on them. Crafts from scraps and a limited set of art supplies are one of the few therapeutic activities available to Palestinian child detainees held at Megiddo. (Photo credit: DCIP)

Students who were planning to take the “*tawjihi*,” the Palestinian matriculation exam, also faced difficulties. Some were forced to wait to take the exam after their release. Others tried to sit the exam in prison, but few met the Palestinian Ministry of Education’s criteria to register. Raed Riyahi, the current head of the adult prisoner supervisors for Megiddo’s juvenile section, told DCIP that only five of 30 students who registered in the last year were able to sit the exam. Children reported that the prison classes did not prepare them for the exam.

Ofer prison also saw five juveniles sit the *tawjihi* exam in 2015. To help these and other students, the supervising adult prisoners at Ofer have developed an informal education program as well. They teach a *tawjihi* preparation class, in addition to Arabic, English, math, and general culture.

Based on evidence gathered, DCIP found that the quality of education offered to detained Palestinian children is inadequate, as it does not prepare children to return to school after release. This shortfall is quite poignant when compared to the robust educational program that Israeli juvenile criminal offenders enjoy at Ofek prison.

An IPS newsletter from 2007 stated that the Israeli Ministry of Education spends NIS 2.5 million annually on schooling for Ofek’s juvenile detainees. At that time, 38 teachers were serving the 250 adolescents held there, yielding a teacher to student ratio of just under one to seven. Israeli children at Ofek reportedly follow a specially crafted curriculum “for students with problems to advance their learning.” In that same year, 34 children sat the Israeli matriculation exam, 95 percent of which received passing scores. One child highlighted in the newsletter took the exam with a parrot on his shoulder as a tool to help him stay calm.

In addition to academic classes, students at Ofek are offered a large number of enrichment opportunities such as soccer and theater. These offerings, as described in the newsletter, demonstrate a strong understanding of the potentially rehabilitative benefits of education that should be available to all children, regardless of the crime they have been convicted of.

h. Psychological support and rehabilitation

Similarly, in stark contrast to the psychological support available to Israeli juvenile criminal offenders at Ofek prison, Palestinian child prisoners—many of whom undergo traumatic experiences during military arrest—have few therapeutic outlets.

Although both Ofer and Ofek prisons are administered by IPS, Ofek offers a wide array of formal and non-formal therapeutic opportunities. According to the IPS newsletter, “New Horizon,” these include a petting zoo, targeted treatment groups, counseling sessions, Scouts club, and meditation.

Megiddo’s child prisoners have no comparable extracurricular activities. The only recreational options open to them are watching television, exercising or playing table tennis in the yard, making crafts, or playing board games donated by the ICRC.

Ofek also supports its detained youth through a highly specialized and trained staff. They reportedly maintain a one to 40 ratio of social workers to child prisoners, as well as psychologists, psychiatrists, and trained rehabilitation counselors.

Adult prisoners serving long-term sentences are the main caretakers of Palestinian children detained in Megiddo’s juvenile sections. This group of men is selected based on merit, background, and reputation, but may or may not have any relevant training prior to imprisonment.

Prior to release, Israeli criminal offenders undergo a number of steps designed to improve their chances of successful reintegration into their communities, according to the IPS newsletter. These include an in-depth counseling session and three months of access to a halfway house.

IPS offers no specific rehabilitation-targeted support to Palestinian child detainees in Megiddo. On a child’s final day in prison, the adult prisoners organize a “release party.” According to an interview with a child ex-prisoner, the children gather in one of the cells, listen to music, and shake hands before the child is released.

5.7. Administrative detention

Administrative detention is a procedure whereby a person is detained without charge or trial, by order of a military commander or other government official, often renewable indefinitely. Administrative detention is permitted under international law in strictly limited circumstances in only the most exceptional cases when there is no other alternative.¹⁵⁷ Further, under the Convention on the Rights of the Child, “no child should be deprived of his or her liberty arbitrarily and detention should only be used as a measure of last resort for the shortest appropriate period of time.”¹⁵⁸ Administrative detention should never be used as a substitute for criminal prosecution where there is insufficient evidence to obtain a conviction.

In the occupied West Bank, where military law applies to the Palestinian population only, Israeli Military Order 1651 permits administrative detention for a period of up to six months, subject to indefinite renewals.¹⁵⁹ At the end of 2015, Israeli forces held six Palestinian children in administrative detention. In October 2015, Israeli authorities renewed the use of administrative

¹⁵⁷ See Fourth Geneva Convention, arts. 42 and 78; and ICCPR, art. 4.

¹⁵⁸ Convention on the Rights of the Child, art. 37(b); and ICCPR, art. 9.

¹⁵⁹ Military Order 1651, § 273(A) and 285(A) (as amended by Military Order 1571).

detention for Palestinian children for the first time in nearly four years.¹⁶⁰

Administrative detention orders are issued at the time of arrest or at some later date, and are often based on “secret evidence” collected by the Israeli Security Agency (ISA). The detainee must be brought before a military judge within eight days of the issuing of an administrative detention order at which point the order can be confirmed, reduced, or canceled.

In East Jerusalem, where Palestinian residents are subject to the Israeli civilian criminal justice system,¹⁶¹ Israeli authorities rely on Israel’s Emergency Powers Law to authorize the use of administrative detention. In October 2015, Israeli authorities placed three Palestinian teenagers from East Jerusalem under administrative detention.¹⁶² According to DCIP documentation dating back to 2000, Jerusalem minors had not previously been subject to administrative detention.¹⁶³

Table 12 - Total number of Palestinian children (12-17) held in Israeli administrative detention at the end of each month

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
2008	18	3	13	12	10	13	13	13	11	8	5	6	14.2
2009	5	6	2	2	1	1	1	1	1	1	1	0	3.3
2010	0	0	2	2	2	2	2	2	2	2	2	1	1.6
2011	0	0	0	0	0	0	0	0	0	0	0	1	08.
2012	0	0	0	0	0	0	0	0	0	0	0	0	0
2013	0	0	0	0	0	0	0	0	0	0	0	0	0
2014	0	0	0	0	0	0	0	0	0	0	0	0	0
2015	0	0	0	0	0	0	0	0	0	4	5	6	1.3

In 2009, the UN Committee against Torture expressed that Israel’s extensive use of administrative detention on Palestinians frequently amounts to cruel, inhuman, or degrading treatment or punishment and deprives detainees of basic safeguards, including the right to challenge the evidence. The committee found that the procedure was being used for “inordinately lengthy periods.”¹⁶⁴ In 2010, the UN Human Rights Committee also expressed concern at the “frequent and extensive” use of administrative detention and recommended that Israel refrain from using the procedure, in particular, against children.¹⁶⁵

160 DCIP, Children in Israeli Administrative Detention, http://www.dci-palestine.org/children_in_israeli_administrative_detention (last accessed Dec. 21, 2015).

161 See Section 4 above for a brief discussion of the different legal frameworks applied to Palestinians living in East Jerusalem and the West Bank.

162 DCIP, *Three East Jerusalem Teens Held in Administrative Detention*, Oct. 27, 2015, http://www.dci-palestine.org/three_east_jerusalem_teens_held_in_administrative_detention.

163 DCIP, Children in Israeli Administrative Detention, http://www.dci-palestine.org/children_in_israeli_administrative_detention (last accessed Dec. 21, 2015).

164 UN Committee against Torture, *Concluding Observations: Israel*, ¶ 17, U.N. Doc. CAT/C/ISR/CO4 (May 14, 2009)..

165 UN Human Rights Committee, *Concluding Observations: Israel*, ¶ 7, U.N. Doc. CCPR/C/ISR/CO/3 (Jul. 29, 2010).

5.8. In focus: East Jerusalem

On April 28, Ahmad Zaatri, 9, and his cousin, Mohammad, 12, were walking in an olive field near their houses in Wadi Al-Joz, an East Jerusalem neighborhood near the Old City. At approximately 7 p.m., they noticed 10 Israeli police officers running toward them. Police pushed Ahmad and his cousin to the ground. “An officer hit me with his gun on my back, and I was in pain and horrified, but I did not cry,” Ahmad told DCIP.

During the course of their detention, the two cousins were subjected to physical attacks and verbal insults. Neither boy was informed properly of his right to remain silent, consult a lawyer, or have a parent or family member present during questioning.

After denying the accusation of throwing stones, Ahmad was released at 2:30 a.m. to his father. “On our way back home, I was exhausted, terrified, hungry, and thirsty,” Ahmad said.

Meanwhile, Mohammad was interrogated at 3 a.m. for a four-hour period. He was then transferred to Mascobiyya detention center, where he appeared before the court. On May 3, the court ruled to release Mohammad on a 2,000 NIS (US\$520) bail and banned him from entering Jerusalem for a week.

The treatment of Ahmad and Mohammad — both East Jerusalem residents — illustrates a gross misapplication of the Israeli Youth Law, which, theoretically, applies equally to Palestinian and Israeli children. Unlike the West Bank where Israeli military law is administered, East Jerusalem falls under Israeli civilian law.

The legal distinctions between East Jerusalem and the West Bank trace back to 1967, when Israel occupied the Gaza Strip and the West Bank, including East Jerusalem, following the Six Day War. Contrary to principles of international humanitarian law and international law, Israel carried out a de facto annexation of East Jerusalem on June 28, 1967.

Today, in theory, the Israeli Youth Law provides special safeguards and protections to children in conflict with the law during the whole process — arrest, transfer, interrogation and court appearances. These protections include the use of arrest as a last resort, advance notice before questioning takes place, minimal use of restraints, and the presence of a legal guardian or adult family member during questioning.

Israeli police’s poor implementation of the law has been depriving Palestinian children in East Jerusalem of their rights during the arrest and interrogation processes, DCIP research reveals. The primary vehicle for this is the overuse of exceptions in the absence of the necessary accompanying circumstances. In other words, for East Jerusalem children, exceptions have become the rule.

DCIP’s findings are based on sworn testimonies of 65 children, aged between 9 and 17, who were arrested and interrogated by Israeli police between January and December 2015. In the previous year, Israeli authorities arrested 700 Palestinian children in East Jerusalem.¹⁶⁶

Of the 65 cases analyzed by DCIP, Israeli police summoned six Palestinian children (**9.2 percent**) for questioning. A total of 59 Palestinian children (**90.8 percent**) were arrested directly from their homes or nearby streets. Children were arrested from their homes between

¹⁶⁶ Jen Marlowe, *Palestinian youths face arrest without warning*, AL JAZEERA AMERICA, Jul. 2, 2015, <http://america.aljazeera.com/articles/2015/7/2/youth-arrests-among-palestinians.html>.

midnight and 6 a.m. in 25 cases (**38.5 percent**).

These statistics fly in the face of the Youth Law, which states that police should summon children ahead of questioning. The intent behind this law is to protect the mental wellbeing and development of the child. Advance notice enables children to prepare themselves and also allows time for parents to make the necessary arrangements to accompany their children during questioning.

Additionally, the law states that a child should not be arrested if it is possible to achieve the goal of arrest through less damaging means. Effectively, the arrest of a child is intended as a last resort.

As an exception to this rule, the Criminal Procedures Law permits the arrest of a suspect when it is impossible to summon the suspect at a later date or when it is essential to investigate the suspect immediately. However, DCIP analysis revealed that Israeli police officers arrested and interrogated Palestinian children for offenses that had happened weeks before the arrest, or without specifying the date of the offense.

A pointed example of the misapplication of rule-exception is the arrest of Tareq Mohammad, 13, from the Palestinian neighborhood of Issawiya in East Jerusalem. On June 10, 2015, at 2:30 a.m., Israeli police entered Tareq's home while he was asleep and arrested him. The police rejected his father's request to surrender his son at 8 a.m. to the police.

Once in custody, Tareq was held until 8 a.m., and then brought into an interrogation room. The interrogator accused Tareq of throwing stones and firecrackers on May 15 at a police car.

"I told the interrogator I do not remember what I was doing on that date, it has been a while, and I may have been at school, or preparing myself for school exams," Tareq told DCIP. "Then the interrogator informed me that May 15 was a Friday [day-off at schools], I responded that I was with my father praying in Al-Aqsa mosque."

Another safeguard enshrined in Israel's Youth Law is the right to have a parent or other family member present during interrogation. Parental presence may be prevented during interrogation in particular circumstances — such as if requested by the child or the interrogation could expose personal details of another minor.

The decision to deny parental presence, whether requested by the child or the authorized officer, must be justified in written form.

In 58 out of 65 cases (**89.2 percent**), children were interrogated without the presence of a parent. The affidavits indicated that no justification for their absence was provided.

Besides the legal mandate, DCIP research found that parental presence during interrogation may protect children from other forms of ill-treatment and violations.

Significantly, 24 children were subjected to physical violence during interrogation. The violence reported consisted of choking, punching, and slapping.

On May 11, Israeli police arrested Rami Natsheh, 14, at 5 a.m., from his home in Palestinian neighborhood of Thawri in East Jerusalem. Musa, Rami's father, accompanied his child to the Mascobiyya police station. Upon arrival, police informed him that the authorized officer had elected to interrogate Rami without his parent.

Israeli police interrogated Rami for five hours. During questioning, the interrogator forced Rami to carry out painful physical exercises while threatening him and shouting at him.

Table 13 – Israeli police arrest and interrogation practices toward Palestinian children in East Jerusalem in 2015

Type of ill-treatment	East Jerusalem	
	Number of cases	Percentage
Total affidavits collected	65	100%
Summoned for questioning	6	9.2%
Arrested from houses or nearby streets	59	90.8%
Arrested between midnight and 6 a.m.	25	38.5%
Handcuffed during arrest	57	87.7%
Interrogated without parent present	58	89.2%
Not properly informed of right to silence	22	33.8%
Physical violence during interrogation	24	36.9%
Shackled during interrogation	28	43.0%
Signed documents in Hebrew	61	93.8%

“As a result of that and because I no longer could endure the pressure and because I was extremely tired and scared of the interrogator, who kept insulting me and shouting at me all the time, I eventually burst into tears and told him I would confess to anything he wanted me to confess to,” Rami told DCIP.

A further protection extended by the Youth Law is a prohibition against shackling an arrested child, if the same goal can be achieved through other measures. When restraints are used, Israeli police are obliged to handcuff a child for the shortest duration possible.

Evidence compiled by DCIP indicates that Israeli police handcuff and shackle Palestinian children frequently during the transfer and interrogation phases. In 57 out of 65 cases (**87.7 percent**), Israeli police used hand restraints during arrest and transfer, and 28 children (**43 percent**) were shackled during interrogation.

Following a series of rights violations in the arrest and interrogation processes, in 61 out of 65 cases (**93.8 percent**) children signed documents in Hebrew, a language they do not understand. Israeli police did not explain the content of the documents to them.

Israeli police practices in the analyzed cases demonstrate a lax interpretation of the Youth Law and liberal use of rule-exception for Palestinian children in Jerusalem. Palestinian children in East Jerusalem are subjected to discrimination and abuses based on their identity despite the legal safeguards.

Despite the difference between the legal systems — civil law and military law, Palestinian children in East Jerusalem and the West Bank fall victims to the same ill-treatment during the arrest and interrogation processes.

6. Effects of military detention

After release, many children struggle to reintegrate into their communities, which illustrates how the arrest and detention of Palestinian children serves to further distress and control the occupied population. Children often withdraw from their community, staying indoors for many hours a day, and seldom leave their home or village. Children report that they avoid, to the best of their ability, areas where it is likely they would interact with or encounter Israeli forces. The fact that almost all child ex-detainees receive a suspended sentence and could be subject to an additional custodial sentence only amplifies a child's self-imposed restrictions on movement.

Impacts on education

Depending on the length of detention, missed schooling while at prison can present a major obstacle to Palestinian children's success.

In accordance with the Palestinian Authority Ministry of Education's regulations, a child must repeat the academic year if he or she misses more than 15 percent of the approximately 185 school days in the school year. However, under the guidelines, imprisonment is an excuse allowing a child to miss up to 30 percent of annual school days before he or she must automatically repeat the school year. Given that the prison educational program does not follow the Palestinian curriculum, all school days in prison are counted as absences.

In November 2015, children aged 16 to 17 comprised 71.8 percent of the total Palestinian child prisoner population, according to data compiled by DCIP. Children aged 14 to 15 accounted for the bulk of the remaining children, while four children under the age of 14 were held in Israeli detention. Between 2012 and 2015, in 151 out of 295 cases (**51.2 percent**), children received a custodial sentence between three to 12 months.

Repeating a school year was cited by a number of children who dropped out of school after prison as one of their motivations. Some children said they found it humiliating to be educated with younger children. Other children stated their families could not afford the cost of private tutors that they would need in order to catch up.

Children who decide to return to school are not guaranteed any formal schooling support, officials from the Commission on Detainees and Ex-Detainees Affairs told DCIP. They are, however, offered an exemption from university fees as an incentive to continue their education as adults.

The YMCA Rehabilitation Program targets children who were previously arrested and detained by Israeli forces. Counselors attempt to convince children to return to school, but offer vocational training to those who decide to drop out. YMCA staff meet with children to assess their capabilities and offer counseling about vocational career options. The children are then connected with trained professionals who are contracted to teach the children the skills of their selected field.

Ibtisam Adileh, supervisor of the YMCA's East Jerusalem rehabilitation programs, told DCIP that two factors—children's home towns and their age at the time of release—appear to bear some weight on their decision to return or drop out of school. She has found that child ex-prisoners from the West Bank and over the age of 16 tend to opt for vocational training, whereas younger children are more likely to return to school. East Jerusalem children, however, strongly trend toward continuing their education, regardless of age, Adileh said to DCIP.

In 2014, the YMCA Rehabilitation Program offered education support to 112 previously detained Palestinian children and 148 received vocational training.

Living with trauma

A second critical long-term risk for former Palestinian child detainees is untreated trauma symptoms following military arrest. Murad Amro, clinical psychologist at the Palestine Counseling Center, told DCIP that when trauma is treated within few days, the impact of the trauma could be significantly reduced.

Without psychological supports, detained Palestinian children who underwent traumatizing experiences such as night arrest, physical violence, and coercive interrogations may repress their memories. The repressed memory can surface later and cause disruptive psychological symptoms. “Manifestations of trauma are very much variable and wide,” Amro told DCIP.

DCIP has previously documented symptoms of psychological distress in children after military arrest, including bed-wetting, trouble sleeping, and self-restricting movement.

Suspended sentences can also negatively impact reintegration. As Ala’ Abu Ayyash, psychosocial supervisor of the YMCA’s Hebron office told DCIP, children who have been arrested dread interacting with soldiers, and sometimes avoid leaving their houses or traveling outside their villages.

In 256 out of 295 cases (**86.8 percent**) resulting in a conviction between 2012 and 2015, children received suspended sentence periods between three and five years.

The YMCA and the Palestine Counseling Center both offer counseling to children who suffer from trauma. These centers assess children for signs of post-traumatic stress disorder and set up a plan to address the child’s therapeutic needs. Sometimes the psychologists also speak with other family members.

Adileh said that group therapy could have a very positive impact on the children. Hearing that other children shared the same experience, such as a strip search, can break down the fear and stigma surrounding a child’s memory of a particular incident.

In focus: settlements and detention

Israeli settlements and their accompanying fixtures in the West Bank have created a hyper-militarized environment for Palestinian children to grow up in. Permanent and temporary checkpoints, the separation barrier, and inter-settlement roads are major features of Palestinian children’s daily life. Recent field research and analysis undertaken by DCIP found that in addition to inconvenience and insecurity, Palestinian children living in close proximity to Israeli settlements are at higher risk of military arrest.

Ammar Mifleh, from Osarin, was 14 years old when he was first arrested by Israeli forces on March 8, 2014. Located in the southern part of the Nablus governorate, this small village is one of several Palestinian villages and towns surrounded on three sides by Israeli settlements. Kfar Tappouah and Yizhar settlements surround Osarin and the neighboring areas from the west, while Itamar and Maale Efrayim settlements border it from the north and south.

According to his sworn testimony, Ammar was arrested near the main entrance to the village after throwing stones at a passing Israeli military vehicle. A military court sentenced Ammar to three-months in prison and a 500 NIS (US\$130) fine.

Two weeks after his release in June 2014, Israeli forces stormed Osarin and fired teargas at the residents in the center of the village. Ammar witnessed the raid and decided to throw stones at the jeeps again. Israeli soldiers arrested him immediately.

“People in Osarin are used to similar raids by the Israeli forces and flying [temporary] checkpoints at the entrances of our village. I could not just watch the Israeli forces attack us and do nothing,” Ammar told DCIP. “We cannot go to our agricultural lands near the road because it is dangerous.”

In addition to the settlements themselves, Osarin and the neighboring areas are flanked by road 505 from the south and highway 60 from the east. These roads connect the Israeli settlements to each other as well as to Israeli cities behind the Green Line, Israel’s pre-1967 boundary with the West Bank. Both Israeli settlers and Palestinians use these roads.

Israeli military towers are planted along these roads and at each entrance to the Palestinian villages and towns in the West Bank. To the west of Osarin, Israeli forces stationed at two permanent checkpoints monitor and restrict Palestinians’ movements.

“It is dangerous for Palestinian children from Beita to be on their lands near road 60, since there are Israeli forces stationed along the road who can shoot or arrest you based on suspicion,” Wassif Mualla, the mayor of Beita, told DCIP. Beita is located just west of Osarin in the Nablus governorate. “Israeli settlers are also a threat since they carry guns and in some cases, shoot or attack children near the streets.”

Between 2013 and 2014, DCIP documented the arrest of 68 Palestinian minors from the Nablus governorate. Of these cases, 13 were from Osarin and 15 from Beita.

The vast majority of these arrested children were accused of throwing stones or firebombs at either Israeli settlements or Israeli forces. Nearly 37 percent of the children were arrested near checkpoints, while in the street, or on their way to school.

Azzun village, in the eastern part of the Qalqiliya governorate, is similarly situated between settlements, inter-settlement roads, and the separation barrier. The village is surrounded by road 55 from the north. Maale Shomron and Karmel Shomron settlements, which were established in the 1980s, lie to the east. Israeli authorities constructed the separation barrier on the southern territories of Azzun, cutting off Palestinian families from their agricultural lands.

“In Azzun, residents have to go to Nablus or Qalqiliya [city] for medical and educational services through routes with an intense military presence,” Hassan Shbieta, a human rights activist, told DCIP. “Usually, Israeli soldiers are stationed on the lands near road 55 and there are at least three military towers at the entrances.”

On September 9, 2013, 14-year-old Ali Swidan was heading to his family’s olive field near road 55 when a military jeep pulled up near him. “A soldier got out and asked what I was doing there and told me to leave. I told him that I would not. Then, he approached me and started beating me. Later on, the soldier forced me to carry stones and throw them at the road, as he took pictures of me,” Ali told DCIP.

Israeli forces transferred Ali to a nearby military camp and then to a police station in Ariel settlement, where he was interrogated. The interrogator accused Ali of throwing stones, which Ali denied.

“The interrogator got so angry he called soldiers in the room and spoke with them in Hebrew. Then, two soldiers started hitting me with their rifles for about 10 minutes. The soldiers took me back to the interrogation room and the interrogator ordered me to confess, but I refused. Then the interrogator forced me to sign papers in Hebrew without explaining their content. I found out later that the papers included my confession of throwing stones.” Ali told DCIP in his sworn testimony.

Ali is one of 37 children from the Qalqiliya governorate whose military detention was documented by DCIP between 2013 and 2014. Nearly three quarters of the arrested children were residents of villages and towns in close proximity to the city of Qalqiliya. Israeli forces arrested 57 percent of the children from the streets or at checkpoints.

Settlements, military zones, and other Israeli-controlled areas across the OPT have consistently expanded since the start of the military occupation of the West Bank. Since 1967, Israeli authorities have established some 125 government-sanctioned Jewish-only settlements in the West Bank, as well as an estimated 100 “settlement outposts”, according to the Israeli human rights organization, B’Tselem. Outposts are informal Israeli settler communities in the West Bank that have sprung up without governmental authorization.

Israeli settlements and outposts in the occupied West Bank, including East Jerusalem, house an estimated 547,000 Israelis, according to B’Tselem. Both settlements and outposts in the occupied West Bank, including East Jerusalem, are illegal under international law.

Despite this fact, Israeli soldiers, police, and private security firms stationed throughout the West Bank protect these settler populations at the expense of Palestinian civilians. Unlike Israeli civilians living on the other side of the Green Line, many settlers carry government-issued arms.



Israeli forces detain a Palestinian boy in East Jerusalem on March 29, 2014. (Photo credit: Activestills.org)

7. Accountability

7.1. Domestic mechanisms

Palestinian children that have violence perpetrated against them during their arrest, transfer, or interrogation have little recourse because accountability for such abuses is nearly impossible through Israeli complaint mechanisms. There is no rights-based, child-sensitive complaints mechanism as part of the Israeli military detention and court system. Over the past five years, only three percent of criminal investigations launched by the Israeli military into soldier violence against Palestinians resulted in an indictment, according to Yesh Din, an Israeli human rights group.¹⁶⁷

Between 2012 and 2015, DCIP filed 35 complaints on behalf of Palestinian children subjected to ill-treatment and torture by Israeli forces during their arrest, interrogation, and detention. Not a single indictment has been issued against a perpetrator, and in many cases, it is unclear if an investigation has been initiated. Of the 35 complaints, 16 have been closed without indictments and the remaining 19 complaints are presumed to be pending.

Further complicating accountability for violence against children in the Israeli military detention system is that many Palestinian families refuse to file complaints for fear of retaliation or simply because they do not believe the system is fair or impartial.

7.2. International mechanisms

International mechanisms currently available to Palestinians have also failed to provide justice or redress for abuses, since they exist with little actual means of enforcement. While Israel has ratified many of the core international human rights treaties and regularly appears before United Nations human rights treaty bodies to have its compliance reviewed, its engagement rarely results in any practical measures that end violations.

UN human rights mechanisms

During its initial review in 2002, the Committee on the Rights of the Child, the United Nations body that monitors implementation of the Convention on the Rights of the Child, expressed serious concern regarding “allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children” during arrest, interrogation, and detention.¹⁶⁸

After more than a decade, the only change since Israel’s initial review is that ill-treatment of Palestinian children in Israeli military detention has become widespread and systematic. In its 2013 report, the committee declared that Palestinian children arrested by Israeli forces continue to be “systematically subject to degrading treatment, and often to acts of torture” and that Israel had “fully disregarded” previous recommendations to comply with international law.

167 Yesh Din, LAW ENFORCEMENT ON IDF SOLDIERS SUSPECTED OF HARMING PALESTINIANS (2015), http://www.yesh-din.org/userfiles/file/datasheets/Law%20enforcement_IDF_Decmber%202015_English.pdf.

168 Committee on the Rights of the Child, *Concluding Observations: Israel*, ¶ 36, U.N. Doc. CRC/C/15/Add.195 (Oct. 9, 2002), http://www.un.org/en/ga/search/view_doc.asp?symbol=CRC/C/15/Add.195.

In 2014, the UN Human Rights Committee, the UN body that monitors implementation of the International Covenant on Civil and Political Rights, expressed concern at continued “reports of the use of torture and other ill-treatment” in Israeli detention facilities, “including widespread, systematic and institutionalized ill-treatment of Palestinian children.”¹⁶⁹ The committee requested that Israeli authorities “take robust measures to eradicate torture and ill-treatment against adult and child detainees and carry out prompt, thorough, effective, independent and impartial investigations into all allegations of torture and ill-treatment.”¹⁷⁰

The UN Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 noted in a 2015 report that widespread and systematic ill-treatment of Palestinian children was a serious concern, and that “[i]mpunity for these violations is likely to perpetuate the ill-treatment of children in the future.”¹⁷¹ Criticism by the Human Rights Committee and the Committee on the Rights of the Child as well as actions taken by the UN Human Rights Council and growing international pressure have forced Israeli leaders to respond by making slight changes to the military law. However, these changes undoubtedly fail to address the systematic and widespread ill-treatment that Palestinian children face in the first 24-48 hours after an arrest.



UN Special Rapporteur on the Occupied Palestinian Territory, Makarim Wibisono of Indonesia, delivers a speech during the Human Rights Council session on March 23, 2015 in Geneva. (Photo credit: AFP / Fabrice Coffrini)

169 Human Rights Committee, *Concluding Observations on the Fourth Periodic Report of Israel*, ¶ 15, U.N. Doc. CCPR/C/ISR/CO/4 (Nov. 21, 2014), http://www.un.org/en/ga/search/view_doc.asp?symbol=CCPR/C/ISR/CO/4.

170 *Id.*

171 Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, ¶ 63, U.N. Doc. A/HRC/28/78 (Jan. 22, 2015), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/008/27/PDF/G1500827.pdf>.



UN Security Council's children and armed conflict agenda

Over the past 15 years, the Office of the UN Secretary-General, the Security Council, and various UN agencies have repeatedly affirmed that protection of children in situations of armed conflict is a fundamental peace and security concern. Security Council Resolution 1612, adopted in 2005, formally established a UN-led, evidence-based monitoring and reporting mechanism (MRM) on grave violations against children during armed conflict. The stated purpose of the MRM “is to provide for the systematic gathering of accurate, timely, objective and reliable information on grave violations committed against children in situations of armed conflict.”¹⁷²

Since 2007, a UNICEF-led working group has worked to monitor and report on grave violations against children in Israel and the OPT. The working group includes international, Israeli, and Palestinian NGOs and UN agencies, including DCIP, UNICEF, OCHA, OHCHR, and UNRWA. The working group monitors and reports on killing and injuries, arrest and detention, ill-treatment and torture, recruitment and use of children by armed forces and groups, attacks on schools and hospitals, displacement, and denial of humanitarian access.

Each year, the UN Secretary-General submits a report on children and armed conflict to the UN Security Council that includes a “list of shame” of armed forces and groups. In 2015, Israel’s armed forces were reportedly recommended by Leila Zerrougui, UN Special Representative of the Secretary-General for Children and Armed Conflict (SRSG-CAAC), for inclusion in the list.¹⁷³ However, the United States reportedly pressured Ban Ki-moon,¹⁷⁴ who holds sole discretion in the matter, against taking this action, and Israel’s armed forces were not included in his annual

172 See Office of the Special Representative of the Secretary-General on Children and Armed Conflict (OSRSG-CAAC), UNICEF & UN Department of Peacekeeping Operations, GUIDELINES: MONITORING AND REPORTING MECHANISM ON GRAVE VIOLATIONS AGAINST CHILDREN IN SITUATIONS OF ARMED CONFLICT (2014), [http://www.mrmtools.org/mrm/files/MRM_Guidelines_-_5_June_2014\(1\).pdf](http://www.mrmtools.org/mrm/files/MRM_Guidelines_-_5_June_2014(1).pdf).

173 Louis Charbonneau, *U.N. report cites alleged Israel crimes against children, no consensus on listing*, REUTERS, Jun. 5, 2015, <http://www.reuters.com/article/us-israel-palestinians-children-un-idUSKBN0OL2DZ20150606>.

174 Colum Lynch, *Israel's Shield*, FOREIGN POLICY, Jun. 1, 2015, <http://foreignpolicy.com/2015/06/01/israels-shield/>.

list of groups that commit grave violations of children's rights.¹⁷⁵ This is believed to be the first time the Secretary-General has not accepted the recommendation of the SRSG-CAAC.

The children and armed conflict framework has failed to foster accountability and compliance of Israeli forces with international child protection standards. While each annual report since 2007 includes mention of violations committed by Israeli forces, specifically ill-treatment during arrest and detention, killing and maiming, and attacks against schools; these and other grave violations committed by Israeli forces against children living in the OPT have continued unabated.¹⁷⁶

International Criminal Court

On January 1, 2015, the Government of Palestine accepted the jurisdiction of the International Criminal Court involving crimes committed in the OPT, including East Jerusalem, since June 13, 2014.¹⁷⁷ The Office of the Prosecutor opened a preliminary examination into the situation of Palestine on January 16, 2015, and is currently evaluating issues of jurisdiction and admissibility to determine if there are grounds to open war crimes investigations related to alleged crimes committed after June 13, 2014.¹⁷⁸

The Office of the Prosecutor has already reportedly received at least 66 communications concerning crimes alleged to have been committed after June 13, 2014.¹⁷⁹ The Office of the Prosecutor staff are in the process of conducting a thorough factual and legal assessment of available information, "in order to establish whether there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been or are being committed."¹⁸⁰

Possible crimes committed that likely fall within the jurisdiction of the International Criminal Court include the illegal transfer of Palestinian detainees from occupied territory to prisons inside Israel; the denial of fair trial rights in Israeli military courts; and the widespread and systematic ill-treatment and torture of Palestinian detainees.

175 DCIP, *UN Shields Israel from Accountability for Atrocities against Children*, Jun. 8, 2015, http://www.dci-palestine.org/un_shields_israel_from_accountability_for_atrocities_against_children.

176 See UN OCHA-OPT, *Situation Report*, Sep. 4, 2012, http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf; UN Committee on the Rights of the Child, *Concluding observations on the second to fourth periodic reports of Israel*, U.N. Doc. CRC/C/ISR/CO/2-4 (Jul. 4, 2013), <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>; UN Human Rights Committee, *Concluding observations on the fourth periodic report of Israel*, U.N. Doc. CCPR/C/ISR/CO/4 (Nov. 21, 2014), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/225/55/PDF/G1422555.pdf>; and *Report of the United Nations Fact Finding Mission on the Gaza Conflict*, U.N. Doc. A/HRC/12/48 (Sep. 25, 2009), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/158/66/PDF/G0915866.pdf>.

177 State of Palestine, Declaration Accepting the Jurisdiction of the International Criminal Court, Dec. 31, 2014, http://www.icc-cpi.int/iccdocs/PIDS/press/Palestine_A_12-3.pdf; and International Criminal Court, The State of Palestine accedes to the Rome Statute, Jan. 7, 2015, http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1082_2.aspx.

178 See Office of the Prosecutor of the International Criminal Court, 2015 Report on Preliminary Examination Activities (2015), <https://www.icc-cpi.int/iccdocs/otp/OTP-PE-rep-2015-Eng.pdf>.

179 *Id.* at 11.

180 *Id.* at 17.



Israeli settlers from the Jewish-only settlement of Tel Rumeida speak with Israeli forces on a hill overlooking the Old City of Hebron in the occupied West Bank. (Photo credit: DCIP)

8. Conclusions and recommendations

Often in the international community, there is a notion that Israeli military courts are “broken” and can be improved or “fixed.” This mistakenly presumes that the Israeli military detention and court system is interested in administering justice. As Palestinian children continue to experience widespread ill-treatment and torture and the systematic denial of due process rights, it becomes evident that the Israeli military detention and court system is not interested in justice.

Rather, the widespread and systematic ill-treatment of Palestinian children from the moment of arrest by Israeli forces illustrates how the system serves control interests of the occupation. As long as Palestinians live under Israeli occupation, the military courts will continue to systematically deny basic rights and Israeli authorities will continue to only make cosmetic changes to the Israeli military law.

In actuality, the Israeli military detention and court system is working exactly as it is intended to, and failing to acknowledge this simply perpetuates injustice for Palestinian children.

To be clear, in no circumstance should children be detained or prosecuted under the jurisdiction of military courts. However, as a minimum safeguard while Palestinian children living under Israeli military occupation continue to be arrested and prosecuted within the Israeli military court system, Israeli authorities must respect and ensure basic due process rights and the absolute prohibition against torture and ill-treatment. From the moment of arrest, operations and procedures must be carried out in accordance with international juvenile justice standards, specifically the UN Convention on the Rights of the Child.

In order to challenge systemic and seemingly perpetual impunity and increase immediate protections for children, Defense for Children International – Palestine strongly urges that the following measures be taken:

1. The Government of Israel should ensure that:

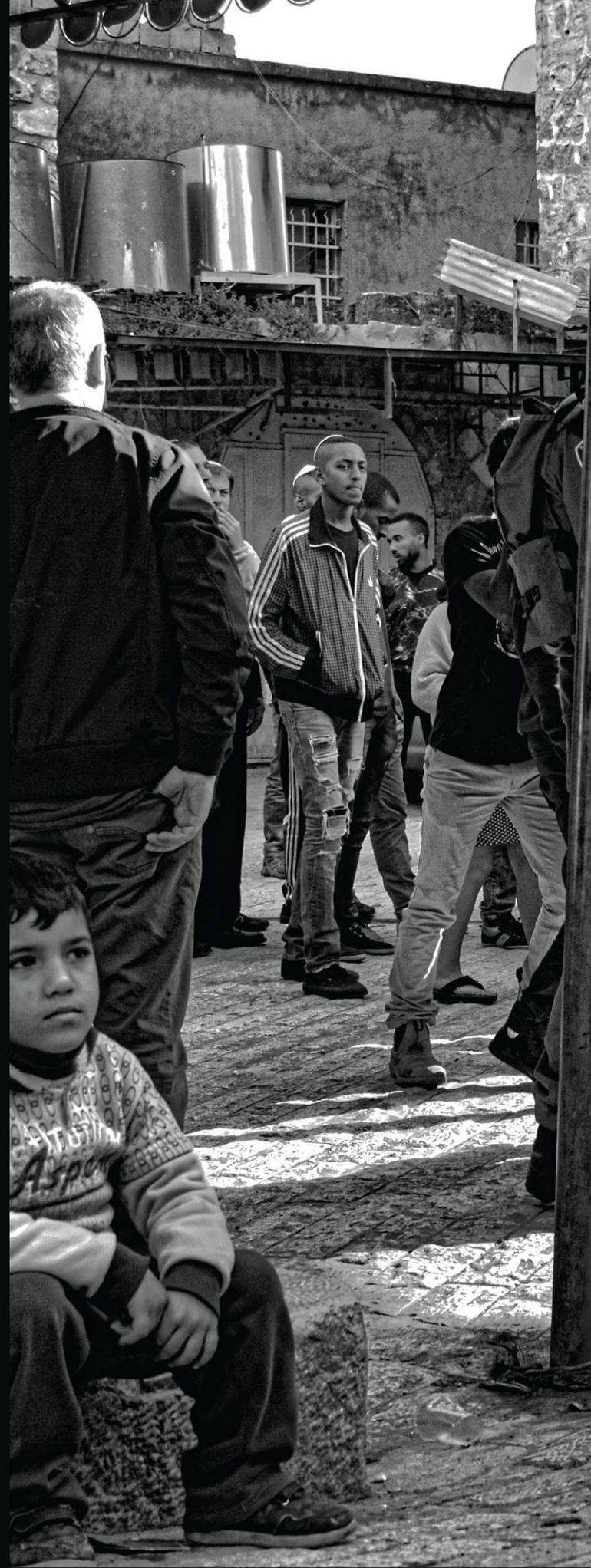
- Detention must only be used as a last resort, and only for the shortest appropriate time;
- Children must not be subjected to physical or psychological violence;
- Children must have access to legal consultation and parents prior to and during interrogations;
- Children must only be arrested during daylight hours;
- Children must be properly informed of their right to silence;
- Children must not be blindfolded or painfully restrained;
- Children must not be subjected to coercive force or threats;
- All interrogations must be audio-visually recorded;
- Any incriminating evidence obtained during interrogation where a child was not properly and effectively informed of his or her right to silence must be excluded by the military courts;
- Any statement made as a result of torture or ill-treatment must be excluded as evidence in any proceeding;
- The practice of using solitary confinement on children in Israeli military detention, whether in pretrial detention for interrogation purposes or as a form of punishment, must be stopped immediately and the prohibition must be enshrined in law;
- The practice of using administrative detention orders against Palestinian children must stop immediately and the prohibition must be enshrined in law;
- All credible allegations of torture and ill-treatment must be thoroughly and impartially investigated in accordance with international standards, and perpetrators brought promptly to justice; and
- Children must not be transferred out of the West Bank in violation of the Fourth Geneva Convention.

2. The State of Palestine should:

- Reissue a declaration accepting the ICC's jurisdiction over crimes committed in the Occupied Palestinian Territory since July 1, 2002;
- Take efforts that enhance the capacity of former child prisoners to cope with the trauma and negative impact of incarceration after the children's release from Israeli military detention; and
- Take efforts that help society understand the situation of former child prisoners, particularly in schools, to mitigate stigmatization and prepare society to accept these children through family intervention and community education.

3. The international community should:

- Demand that Israeli authorities implement effective accountability measures to ensure all credible reports of torture and ill-treatment are properly investigated in accordance with international standards and that perpetrators are brought to justice;
- Ensure that no foreign military aid or assistance is provided to Israeli military and police units where credible information exists that the unit has committed a gross violation of human rights, including involvement in the arrest and detention of Palestinian children;
- Fully support the International Criminal Court's exercise of jurisdiction over the Occupied Palestinian Territory, and oppose and refrain from taking any punitive measures against the State of Palestine for engaging with the International Criminal Court; and
- Call on Israel to accede to the Rome Statute of the International Criminal Court.



Founded in 1991, Defense for Children International - Palestine (DCIP), an independent, local child right organization, defends and promotes the rights of children living in the Occupied Palestinian Territory.

dci-palestine.org