115th Congress
1st Session

H. R. ______

To require the Secretary of State to certify that United States funds do not support military detention, interrogation, abuse, or ill-treatment of Palestinian children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. McCollum introduced the following bill; which was referred to the Committee on ______

A BILL

To require the Secretary of State to certify that United States funds do not support military detention, interrogation, abuse, or ill-treatment of Palestinian children, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Promoting Human Rights by Ending Israeli Military Detention of Palestinian Children Act”.

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October 25, 2017 (3:08 p.m.)
SEC. 2. FINDINGS.

Congress finds the following:

(1) Israel ratified the Convention on the Rights of the Child on October 3, 1991, which states—

(A) in article 37(a), that “no child shall be subject to torture or other cruel, inhuman or degrading treatment or punishment”;

(B) in article 37(b), that the arrest, detention or imprisonment of a child “shall be used only as a measure of last resort and for the shortest appropriate period of time”;

(C) in article 37(c), 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 which takes into account the needs of persons of his or her age”; and

(D) in article 37(d), that “[e]very child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action”.

(2) In the Israeli-occupied West Bank, there are two separate legal systems, with Israeli military law imposed on Palestinians and Israeli civilian law applied to Israeli settlers.

(3) The Israeli military detains around 500 to 700 Palestinian children between the ages of 12 and 17 each year and prosecutes them before a military court system that lacks basic and fundamental guarantees of due process in violation of international standards.

(4) Approximately 2,700,000 Palestinians live in the West Bank, of which around 47 percent are children under the age of 18, who live under military occupation, the constant fear of arrest, detention, and violence by the Israeli military, and the threat of recruitment by armed groups.

(5) Since 2000, an estimated 10,000 Palestinian children have been detained by Israeli security forces in the West Bank and prosecuted in the Israeli military court system.

(6) Children under the age of 12 cannot be prosecuted in Israeli military courts. However, Israeli military forces detain children under the age of 12 and question them, for several hours, before
releasing them to their families or to Palestinian authorities.

(7) Human Rights Watch documented, in a July 2015 report titled “Israel: Security Forces Abuse Palestinian Children”, that such detentions also included the use of chokeholds, beatings, and coercive interrogation on children between the ages of 11 and 15 years.

(8) The United Nations Children’s Fund (UNICEF) concluded, in a February 2013 report titled “Children in Israeli Military Detention”, that the “ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process, from the moment of arrest until the child’s prosecution and eventual conviction and sentencing”.

(9) The 2013 UNICEF report further determines that the Israeli system of military detention of Palestinian children profoundly deviates from international norms, stating that “in no other country are children systematically tried by juvenile military courts that, by definition, fall short of providing the necessary guarantees to ensure respect for their rights”.
(10) UNICEF also released reports in October 2013 and February 2015 noting that Israeli authorities have, since March 2013, issued new military orders and taken steps to reinforce existing military and police standard operating procedures relating to the detention of Palestinian children. However, the reports still found continued and persistent evidence of ill-treatment of Palestinian children detained by Israeli forces.

(11) In 2013, the annual Country Report on Human Rights Practices for Israel and the Occupied Territories (“Annual Report”) published by the Department of State noted that Israeli security services continued to abuse, and in some cases torture, minors, frequently arrested on suspicion of stone-throwing, in order to coerce confessions. The torture tactics used included threats, intimidation, long-term handcuffing, beatings, and solitary confinement.

(12) The 2013 Annual Report also stated that “signed confessions by Palestinian minors, written in Hebrew, a language most could not read, continued to be used as evidence against them in Israeli military courts”.

(13) The 2016 Annual Report noted a “significant increase in detentions of minors” in 2016, and
that “Israeli authorities continued to use confessions signed by Palestinian minors, written in Hebrew.” It also highlighted the renewed use of “administrative detention” against Palestinians, including children, a practice in which a detainee may be held indefinitely, without charge or trial, by the order of a military commander or other government official.

(14) The nongovernmental organization Defense for Children International Palestine collected affidavits from 429 West Bank children who were detained between 2012 and 2015, and concluded that—

(A) three-quarters of the children endured physical violence following arrest;

(B) under Israeli military law, children do not have the right to a lawyer during interrogation;

(C) 97 percent of the children did not have a parent present during their interrogation;

(D) 84 percent of the children were not properly informed of their rights by Israeli police;

(E) interrogators used stress positions, threats of violence, and isolation to coerce confessions from detained children; and
(F) 66 children were held in pre-trial, pre-charge isolation for interrogation purposes for an average period of 13 days.

(15) Amendments to Israeli military law concerning the detention of Palestinian children have had little to no impact on the treatment of children during the first 24 to 48 hours after an arrest, when the majority of their ill-treatment occurs.

(16) In 2002, the United Nations Committee on the Rights of the Child, which monitors implementation of the Convention on the Rights of the Child, reviewed Israel’s compliance with the Convention and 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.

(17) In 2013, 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” the previous recommendations of the Committee to comply with international law.
SEC. 3. PURPOSE.

The purpose of this Act is to promote and protect the human rights of Palestinian children and to ensure that United States taxpayer funds shall not be used to support the military detention of Palestinian children.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that the detention and prosecution of Palestinian children in a military court system by the Government of Israel—

(1) violates international law and internationally recognized standards of human rights;

(2) is contrary to the values of the American people and the efforts of the United States to support equality, human rights, and dignity for both Palestinians and Israelis;

(3) undermines efforts by the United States to achieve a just and lasting peace between Israel and the Palestinians; and

(4) should be terminated and replaced with a juvenile justice system in which Israeli authorities do not discriminate between the treatment of Israeli and Palestinian children and that adheres to internationally recognized standards of human rights and obligations.
SEC. 5. STATEMENT OF POLICY.

It is the policy of the United States not to support the military detention of Palestinian children, a practice that results in widespread and systematic human rights violations against Palestinian child detainees and is inconsistent with the values of the United States.

SEC. 6. PROHIBITION ON UNITED STATES FUNDS TO SUPPORT MILITARY DETENTION OF PALESTINIAN CHILDREN.

(a) PROHIBITION.—Notwithstanding any other provision of law, none of the funds authorized to be appropriated for assistance to Israel may be used to support the military detention, interrogation, abuse, or ill-treatment of Palestinian children in violation of international humanitarian law or to support the use against Palestinian children of any of the following practices:

(1) Torture or cruel, inhumane, or degrading treatment.

(2) Physical violence, including restraint in stress positions.

(3) Hooding, sensory deprivation, death threats, or other forms of psychological abuse.

(4) Incommunicado detention or solitary confinement.

(5) Administrative detention, as described in section 2(13).
(6) Denial of access to parents or legal counsel during interrogations.

(7) Confessions obtained by force or coercion.

(b) Certification.—Not later than October 15, 2018, and annually thereafter, the Secretary of State shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate—

(1) a certification that none of the funds obligated or expended in the previous fiscal year for assistance to the Government of Israel have been used by such Government to support personnel, training, lethal materials, equipment, facilities, logistics, transportation or any other activity that supports or is associated with any of the activities prohibited under subsection (a); or

(2) if the Secretary cannot make such a certification, a report describing in detail the amount of such funds used by the Government of Israel in violation of subsection (a) and each activity supported by such funds.

(c) Additional Matter in Existing Reports.—The Secretary of State shall include, in each report required under section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n), a description of the nature
and extent of detention, interrogation, abuse, or ill-treatment of Palestinian children by Israeli military forces or police in violation of international humanitarian law.