



Defense for Children
International
PALESTINE

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SOS-Torture Network

Israel's Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Alternative Report to the Fifth Periodic Report of Israel

**ILL-TREATMENT AND TORTURE OF PALESTINIAN CHILDREN IN ISRAELI MILITARY DETENTION
AND USE OF EXCESSIVE FORCE BY ISRAELI FORCES**

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Submitted by:

Brad Parker
International Advocacy Officer & Attorney

Bashar Jamal
Advocacy Officer
Defence for Children International Palestine
Al-Sartawi Building 3rd Fl., Sateh Marhaba
Ramallah, Occupied Palestinian Territory
t. +970 2 242 7530
e. advocacy@dcips.org
www.dci-palestine.org

Carolina Barbara
Child Rights Coordinator
OMCT – World Organisation Against Torture
8, rue du Vieux-Billard
1211 Geneva 8, Switzerland
t. +41 (0)22 809 49 39
e. cb@omct.org
www.omct.org

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OVERVIEW

Children represent 46.2 percent of the 4.68 million Palestinians living in the occupied West Bank, including East Jerusalem, and the Gaza Strip, and instability and violence defines much of their lives. Since 2000, Israeli forces and extremists have killed more than 2,045 Palestinian children, including 551 in 2014 alone, the majority during Israeli military offensives on the Gaza Strip, according to documentation collected by Defense for Children International – Palestine.

While the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, and that this prohibition is absolute, Palestinian children living in the occupied West Bank, including East Jerusalem, are routinely subjected to widespread and systematic ill-treatment and torture and the excessive use of force by Israeli forces.

At least 48 Palestinian children from the West Bank, including East Jerusalem, and the Gaza Strip have been killed between October 2015 and March 2016 as a direct result of intensified violence, all except one at the hands of Israeli forces.¹ Of this number, 34 allegedly carried out knife or gun attacks. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported more than 2,177 Palestinian children from the West Bank, including East Jerusalem, sustained injuries.

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

Since 1967, Israel has operated two separate legal systems in the same territory. In the occupied West Bank, Israeli settlers are subject to the civilian and criminal legal system whereas Palestinians live under military law.

Israel applies civilian criminal law to Palestinian children in East Jerusalem. No Israeli child comes into contact with the military courts.

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.² Since 2012, Israel has held an average of 204 Palestinian children in custody each month, according to data provided by the Israel Prison Service.

¹ Of the 48 child fatalities, three children were killed in the Gaza Strip. Marwan Hashem Barbakh, 10, died of a single gunshot wound to the chest on October 10, when Israeli soldiers used lethal force to quash a protest near

² Exact figures on the number of Palestinian children detained each year by Israeli authorities are not published by the Israel Prison Service (IPS). The estimate of 500-700 children is based on figures provided by the IPS of the number children in prison facilities at the end of each month, and the best estimate of DCIP lawyers who appear daily in the military courts and conduct regular prison visits.

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*.³

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.

Interrogators used position abuse, threats, and isolation to coerce confessions from some of these children. DCIP documented 66 children held in solitary confinement for interrogation purposes, 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 ill-treatment and torture occurs at the hands of Israeli soldiers, police, and the security service.

In direct violation of Article 15 of the Convention, Israeli military court judges seldom exclude confessions obtained by coercion or torture. In fact, military prosecutors rely, sometimes solely, on these confessions to obtain a conviction.

Children most commonly face the charge of throwing stones, which carries maximum sentences of 10 or 20 years under Israeli military law depending on the circumstances.

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.

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

Israeli authorities also have recently placed 11 Palestinian teenagers under administrative detention. This is the first time the measure has been used against Palestinian minors in nearly four years.

³ UNICEF, CHILDREN IN MILITARY DETENTION OBSERVATIONS AND RECOMMENDATIONS 1 (2013), http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf.

In November, a series of policy changes imposed harsher sentencing guidelines for children in Jerusalem. The amendments to Israel's penal code included a 10-year prison sentence for throwing stones or other objects at moving vehicles with the possibility of endangering passengers or causing damage, and 20 years for throwing stones with the purpose of harming others.

The amendments also reduced judicial discretion, instituting mandatory minimum sentences of no less than one-fifth of the potential maximum sentence and restricting suspended sentences to special circumstances only.

From the ill-treatment and torture of Palestinian children to the systematic denial of their due process rights and the punitive policies that target them emerges a system absent of any justice.

ILL-TREATMENT AND TORTURE AGAINST PALESTINIAN CHILDREN IN ISRAELI MILITARY DETENTION

Issue Summary

Each year, around 700 Palestinian 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."⁴

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.

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,⁵ an increase from 654 children in 2013.⁶

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

⁴ 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.

⁵ 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>.

⁶ 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.

cumulative or comprehensive so children arrested and released between the last days of consecutive months would not be included in the information shared by the IPS.

Table 1: 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

Table 2: 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 3: 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

The Committee against Torture has concluded that the use of excessive force by law enforcement or military personnel may amount to torture and ill-treatment.⁷ When determining if certain acts constitute torture, the child's age must be taken into account.

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.

⁷ Manfred Nowak & Elizabeth McArthur, *The United Nations Convention Against Torture: A Commentary*, pp. 62, 66, 542, 551, 559, & 556-568 (2008).

The following information is 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. Children repeatedly raised the issues highlighted below in their testimonies.

Table 4: Common complaints and areas of concern between 2012 and 2015			
Type of ill-treatment		West Bank	
		Number of cases	Percentage
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%

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 interrogations.⁸

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.⁹ 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.

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 Huwara 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 and first appeared in a military court on May 18, 2015.

Methods and means of restraint

Once in Israeli military custody, nearly all children (**97.7 percent**) have their hands restrained, typically with plastic cords or in a small number of cases with metal handcuffs. In 379 out of 429

⁸ Military Order 1651, § 4(1).

⁹ Convention on the Rights of the Child, art. 37(b).

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.¹⁰

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 him outside where a military vehicle was waiting. A soldier handcuffed 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.”¹¹ 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.”¹²

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.

¹⁰ 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.

¹¹ Convention on the Rights of the Child, art. 37(c).

¹² 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>.

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.

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 actually receive a 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.¹³

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 entrance to his village. "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 Huwara 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."

¹³ 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.

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.

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 Court of Appeals 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.¹⁴ 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.¹⁵ The child has the right to consult with a lawyer before the interrogation begins, save in exceptional cases.¹⁶ Israeli civilian juvenile justice law also prohibits interrogating minor suspects at night, unless urgently necessary for the investigation.¹⁷

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

¹⁴ Israeli Military Prosecutor v. Nashmy Mohammad Abu Rahmah, Case No. 2919/09 (2009).

¹⁵ Israeli Youth Law § 9H.

¹⁶ Israeli Youth Law § 9H.

¹⁷ Israeli Youth Law § 9J (“A minor suspected of a crime should not be interrogated at the police station at night.”).

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.

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.¹⁸ 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.¹⁹

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,²⁰ in 156 out of 429 cases (**36.4 percent**), Israeli forces used restraints, sometimes inflicting pain, throughout the duration of the interrogation.

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.²¹ 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.²²

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.

¹⁸ 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>.

¹⁹ 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.

²⁰ 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.

²¹ 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.

²² Military Order 1651 §§ 58 & 59.

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.

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.

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

Solitary confinement for interrogation purposes

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 or information 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.²³

Palestinian children held in solitary confinement are subjected to repeated and prolonged interrogations, with the apparent purpose of obtaining a confession. Interrogations are typically

²³ DCIP, Solitary Confinement for Palestinian Children in Israeli Military Detention, p. 6, (2014), https://d3n8a8pro7vhmx.cloudfront.net/dcipalestine/pages/1294/attachments/original/1449851801/Report_Solitary_Confinement_Report_2013_FINAL_29APR2014.pdf?1449851801.

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, often while being held in solitary confinement. 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.²⁴

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.²⁵

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.²⁶ Vulnerability increases when a child in custodial interrogation is denied access 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.²⁷

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.²⁸

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

²⁴ *Id.*

²⁵ 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.

²⁶ CRC Article 40(2)(b)(iv).

²⁷ DCIP, Solitary Confinement for Palestinian Children in Israeli Military Detention (2014), https://d3n8a8pro7vhm.cloudfront.net/dcipalestine/pages/1294/attachments/original/1449851801/Report_Solitary_Confinement_Report_2013_FINAL_29APR2014.pdf?1449851801.

²⁸ *Id.*

Israeli intelligence officers, and the child's interaction with this individual was part of the interrogation process.²⁹

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

Torture

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.³⁰ 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.³¹ The threshold for torture or ill treatment is lower when involving child victims, specifically in the case of children deprived of their liberty.³²

In a 2015 report, the UN Special Rapporteur on Torture, Mr. 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 well-being and compromise cognitive development."³³

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.

²⁹ *Id.*

³⁰ 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>.

³¹ See Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment of 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.

³² Special Rapporteur on Torture, Juan Mendez, *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>.

³³ *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.

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,”³⁴ 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, interrogation purposes, or for juveniles.³⁵

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.³⁶

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.³⁷

Renewed use of administrative detention orders against Palestinian children

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.³⁸ At the end of 2015, Israeli forces held six Palestinian children in administrative detention. In October 2015, Israeli authorities renewed the use of administrative detention for Palestinian children for the first time in nearly four years.³⁹

³⁴ 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*, UN Doc. A/66/268, ¶ 79, (Aug. 5, 2011), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/66/268.

³⁵ *Id.* at ¶ 80.

³⁶ *Id.* at ¶ 73.

³⁷ *Id.* at ¶ 77.

³⁸ Military Order 1651, § 273(A) and 285(A) (as amended by Military Order 1571).

³⁹ DCIP, Children in Israeli Administrative Detention, http://www.dci-palestine.org/children_in_israeli_administrative_detention (last accessed Dec. 21, 2015).

Table 4 - 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

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 cancelled.

In East Jerusalem, where Palestinian residents are subject to the Israeli civilian criminal justice system,⁴⁰ 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.⁴¹ According to DCIP documentation dating back to 2000, Jerusalem minors had not previously been subject to administrative detention.⁴²

Recent amendments to Military Order 1651 related to children

The primary Israeli military order relevant to the arrest and detention of Palestinians, including children, in Israeli military detention is Military Order 1651 or “Order regarding Security Provisions.”⁴³ This order touches on a range of issues, including the authority to arrest and imprison Palestinians for a range of “security offenses,” such as causing death, assault, personal injury or property damage, throwing stones, and specifically harming a soldier.

Despite repeated calls to end night arrests and widespread, systematic, and institutionalized ill-treatment and torture of Palestinian children in Israeli military detention, Israeli authorities

⁴⁰ See Section 4 above for a brief discussion of the different legal frameworks applied to Palestinians living in East Jerusalem and the West Bank.

⁴¹ 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.

⁴² DCIP, *Children in Israeli Administrative Detention*, http://www.dci-palestine.org/children_in_israeli_administrative_detention (last accessed Dec. 21, 2015).

⁴³ 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*].

have persistently failed to implement practical changes to stop violence against child detainees.⁴⁴ While growing international pressure has forced Israeli leaders to respond by making slight changes to the military law applicable to Palestinian children, these changes undoubtedly fail to address the systematic and widespread ill-treatment Palestinian children face in the first 24 to 48 hours after an arrest.⁴⁵ For more information, see Annex.

A note on East Jerusalem

Contrary to principles of international humanitarian law and international law, Israel established 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. 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 in order to deny 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.

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.⁴⁶

⁴⁴ 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>.

⁴⁵ For more information on the specific amendments to Israeli military law

⁴⁶ 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>.

Table 5 – 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	
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%

Committee against Torture position

In 2009, following review of the fourth periodic report of Israel, the Committee against Torture expressed “deep concern” at reports “that Palestinian minors are detained and interrogated in the absence of a lawyer or family member and allegedly subjected to acts in breach of the Convention in order to obtain confessions.”⁴⁷ The Committee also expressed concern 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.”⁴⁸

Other UN human rights treaty bodies or special procedure positions

During its initial review in 2002, the Committee 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.⁴⁹

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.⁵⁰ In its

⁴⁷ UN Committee against Torture, Concluding Observations (Israel), ¶ 27, U.N. Doc. CAT/C/ISR/CO4 (May 14, 2009).

⁴⁸ UN Committee against Torture, Concluding Observations (Israel), ¶ 17, U.N. Doc. CAT/C/ISR/CO4 (May 14, 2009).

⁴⁹ 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.

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.⁵¹

In 2010, the UN Human Rights Committee expressed concern at the “frequent and extensive” use of administrative detention and recommended that Israel refrain from using the procedure, in particular, against children.⁵² In 2014, the Human Rights Committee 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.”⁵³ 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.”⁵⁴

Despite these recommendations, little to no progress has been made to implement these specific recommendations and improve protections for Palestinian children arrested and detained in the Israeli military detention system.⁵⁵

Specifically regarding juveniles, the UN Special Rapporteur on Torture has determined that “the imposition of solitary confinement, of any duration, on juveniles is cruel, inhuman or degrading treatment and violates article 7 of the International Covenant on Civil and Political Rights and article 16 of the Convention against Torture.”⁵⁶

⁵⁰ See UNICEF, CHILDREN IN MILITARY DETENTION OBSERVATIONS AND RECOMMENDATIONS 1 (2013), http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf.

⁵¹ Committee on the Rights of the Child, *Concluding observations on the second to fourth periodic reports of Israel*, ¶ 73, 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>.

⁵² UN Human Rights Committee, *Concluding Observations (Israel)*, ¶ 7, U.N. Doc. CCPR/C/ISR/CO/3 (Jul. 29, 2010).

⁵³ 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.

⁵⁴ *Id.*

⁵⁵ See UNICEF, CHILDREN IN ISRAELI MILITARY DETENTION: OBSERVATIONS AND RECOMMENDATIONS (2013), http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf; UNICEF, *Children in 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; DEFENSE FOR CHILDREN INTERNATIONAL PALESTINE, BOUND, BLINDFOLDED AND CONVICTED: CHILDREN HELD IN MILITARY DETENTION (2012), http://www.dci-palestine.org/sites/default/files/report_0.pdf; The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, U.N. Doc. A/HRC/25/67 (Jan. 13, 2014), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/101/98/PDF/G1410198.pdf>; U.S. DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2013: ISRAEL AND THE OCCUPIED TERRITORIES (2014), <http://www.state.gov/documents/organization/220568.pdf>.

⁵⁶ Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment of punishment, *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc. A/66/268, ¶¶ 77 and 86, (Aug. 5, 2011), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf>.

International law is clear that juveniles need and are entitled to special protections, safeguards and care due to their status as children,⁵⁷ and children should not be subjected to solitary confinement for any duration, or any reason.

Recommended Questions

1. In February 2013, the Chief Military Prosecutor announced that the Israeli military would implement a written summons pilot program in an attempt to limit night arrests of Palestinian children. There is evidence to suggest that while children have been summoned, there has not been a consistent written summonses program implemented throughout the occupied West Bank. Does Israel's Chief Military Prosecutor have the authority within the military structure to affect changes in military operational procedures? Is the pilot program currently being implemented? If so, how many written summonses have been served on Palestinian children under 18 years old living in the occupied West Bank annually since 2014? What is the compliance rate? Can you provide the Committee with a copy of the written summons used by the Israeli military in the occupied West Bank?
2. Persistent allegations of ill-treatment and torture of Palestinian children in Israeli detention have existed for over a decade. The Committee understands that the Government of Israel is engaged in an on-going dialogue with UNICEF on children's rights while in military detention and on specific actions that can be undertaken to improve the protection of child detainees. However, it has now been over three years since UNICEF published its 2013 report on children in Israeli military detention, and ill-treatment against Palestinian child detainees by Israeli forces appears to remain widespread, systematic, and institutionalized. What concrete measures have been taken to end ill-treatment and torture of Palestinian children in Israeli custody?
3. The Israeli Youth Law applies to Palestinian children living in East Jerusalem, which includes several increased protections as compared to Israeli military law in the occupied West Bank. However, information presented by civil society suggests that the protections included in the Israeli Youth Law are often denied to Palestinian children through the overuse of exceptions. What measures are in place to ensure that the law is implemented in a non-discriminatory manner? Can you provide data on the location of residence for children arrested in East Jerusalem during 2014 and 2015? Can you provide data on the location of residence for all children sentenced to house arrest during 2014 and 2015? Can you provide any other relevant data on arrests of Palestinian children conducted in East Jerusalem to show the Israeli Youth Law is implemented in a non-discriminatory manner?

⁵⁷ Convention on the Rights of the Child, G.A. Res. 44/25, Art. 19, (Nov. 20, 1989), <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>; 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/view_doc.asp?symbol=A/RES/45/113.

4. What happens in cases where confessions are obtained through torture? Do victims of torture have an enforceable legal right to rehabilitation in accordance with the Convention?
5. Information from civil society suggests that perpetrators of torture and ill-treatment enjoy near complete impunity for alleged violations of the Convention.⁵⁸ Can the Government of Israel provide the number of incidents that were subject to investigation between 2012 and 2015? How many of these investigations resulted in an indictment? For investigations that were closed, what were the reasons for closing the investigations? In investigations involving ill-treatment and torture of children, are complainants allowed to provide testimony with their parents and counsel present?

Suggested Recommendations

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:

1. Detention must only be used as a last resort, and only for the shortest appropriate time;
2. Child detainees must not be subjected to physical or psychological violence;
3. Child detainees must have access to legal representation and parents prior to and during interrogations;
4. Children must only be arrested during daylight hours;
5. Children must be properly informed of their right to silence;
6. Children must not be blindfolded or painfully restrained;
7. Children must not be subjected to coercive force or threats;
8. All interrogations must be audio-visually recorded;
9. Any incriminating evidence obtained during interrogation where a child was not properly and effectively informed of their right to silence must be excluded by the military courts;
10. Any statement made as a result of torture or ill-treatment must be excluded as evidence in any proceeding;

⁵⁸ 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.

11. 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;
12. The practice of using administrative detention orders against Palestinian children must stop immediately and the prohibition must be enshrined in law;
13. 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;
14. Children must not be transferred out of the West Bank in violation of the Fourth Geneva Convention; and
15. Establish an independent, effective, and confidential child-friendly complaint mechanism to facilitate the submission of complaints by victims of torture and ill-treatment to a competent and independent authority, and to ensure in practice that complainants are allowed access to legal counsel and protected against any reprisal as a consequence of their complaint or any evidence given.

EXCESSIVE USE OF FORCE AND UNLAWFUL KILLING

Issue Summary

Israeli forces have increasingly targeted Palestinians, including children, with live ammunition to quash protests since the beginning of 2014, and recently have routinely employed the use of excessive force and intentional lethal force in situations not justified by international norms.

In response to escalating violence Israeli forces now appear to be implementing a ‘shoot-to-kill’ policy, which in some incidents may amount to extrajudicial or wilful killings. This comes alongside the decision by Israeli authorities to relax open-fire rules, allowing Israeli forces to use live ammunition during protests in Jerusalem when there is a “threat to life.” Previously, live ammunition was permitted only when there is a direct, mortal threat to the life of a police officer or soldier.

Through March, at least 45 Palestinian children from the West Bank, including East Jerusalem, have been killed since October as a direct result of intensified violence, all except one at the hands of Israeli forces.⁵⁹ Of this number, 34 allegedly carried out knife or gun attacks. A further 130 Palestinian adults were shot dead, according to media reports. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported more than 2,177 Palestinian children from the West Bank, including East Jerusalem, sustained injuries.

International law requires that intentional lethal force be used only when absolutely unavoidable. Where individuals allegedly carry out a criminal act, they should be apprehended in accordance with international law and afforded due process of law.

At least 28 Palestinian children were fatally shot by Israeli forces in 2015. In several cases, DCIP found that children did not pose a direct, mortal threat at the time they were killed. Israeli authorities have not opened investigations into any of these shootings and have refused family requests for autopsies, which could independently verify the circumstances of their deaths.

Accountability for shootings by Israeli forces is extremely rare. Israeli authorities have rejected opening full and transparent investigations into the recent incidents.

Nadeem Nawara, 17, and Muhammad Abu Daher, 16, killed May 15, 2014

On May 15, 2014, Israeli forces killed two Palestinian teens during clashes near Israel’s Ofer military prison outside the occupied West Bank city of Ramallah. Nadeem Nawara, 17, sustained a fatal gunshot wound to the chest, and Mohammad Abu Daher, 16, was shot in the back a few hours later. The fatal shootings were captured on video and prompted widespread criticism of Israeli forces. Forensic video and spatial analysis commissioned by DCIP identified the Israeli border police officer that shot and killed Nadeem.

The boys were participating in a demonstration near Ofer military prison to mark Nakba Day and express solidarity with hunger striking prisoners held in administrative detention by Israel. The

⁵⁹ Note that an additional three Palestinian children from the Gaza Strip have also been killed since October 2015.

demonstration reportedly began peacefully and then turned violent when Israeli forces clashed with Palestinian youths. A third teen, Mohammad Abdullah Hussein al-Azzeh, 15, sustained a gunshot wound when he was hit with live ammunition in the back and left lung while taking part in the same demonstration.

Security camera footage obtained and released by DCIP showed the two Palestinian teens being shot and killed.⁶⁰ The images captured on video show unlawful killings where neither child presented a direct and immediate threat to life at the time of their shooting.

After undertaking an autopsy of the body of Nadeem Nawara, 17, on June 11, 2014, forensic pathologists determined that a live bullet was the cause of his death.⁶¹

The autopsy was undertaken at Al-Quds University's Institute of Forensic Medicine in Abu Dis and revealed the entry and exit wounds caused by the bullet, and recovered metallic fragments presumed to have been lead from the bullet's core.

Israeli forces consistently denied that live ammunition was employed during the incident, maintaining that only rubber-coated metal bullets and tear gas canisters were used. The autopsy findings, however, rule out a rubber bullet injury as the cause of death.

In November 2014, video analysis conducted by Forensic Architecture on behalf of DCIP identified the Israel Border Police officer that shot and killed Nadeem Nawara.⁶² Although Israeli authorities initially asserted that no live fire was used by soldiers during the May 15, 2014 protests, one Israel Border Police officer, Ben Deri, has since been arrested by Israeli police and faces manslaughter charges in the killing of Nadeem Nawara. No charges have been issued in the killing of Mohammad Abu Daher.

Mohammad Dudeen, 15, killed June 20, 2014

Mohammad Dudeen, 15, was shot dead on the morning of June 20, 2014 as the Israeli military continued to use crowd-control weapons and live ammunition against civilians in the search for three missing Israeli teens as part of Operation Brother's Keeper.⁶³

A single live bullet fired by an Israeli soldier killed Mohammad after dozens of Israeli soldiers descended on his home village of Dura, near the southern West Bank city of Hebron. Israeli soldiers raided the village as part of a weeklong crackdown on civilians in the West Bank in response to the disappearance of three Israeli teenagers on June 12.

⁶⁰ DCIP, Unlawful killing of two Palestinian teens outside Ofer, YouTube, May 19, 2014, https://www.youtube.com/watch?v=CaibEqx2m_k&feature=youtu.be.

⁶¹ DCIP, Use of live ammunition confirmed in Nawara shooting, Jun. 12, 2014, <http://www.dci-palestine.org/documents/use-live-ammunition-confirmed-nawarah-shooting>.

⁶² DCIP, New Forensic Architecture evidence identifies Nadeem Nawara's killer, Nov. 20, 2014, http://www.dci-palestine.org/new_forensic_architecture_evidence_identifies_nadeem_nawara_s_killer.

⁶³ DCIP, 15-year-old boy shot dead as Israeli forces raid West Bank, Jun. 20, 2014, <http://www.dci-palestine.org/documents/15-year-old-boy-shot-dead-israeli-forces-raid-west-bank>.

In sworn testimonies collected by DCIP, eyewitnesses stated that clashes erupted between local residents and soldiers as the Israeli military forced entry into over 20 homes. Soldiers used crowd-control weapons and live ammunition against youths throwing stones.

The fatal shooting took place as Israeli soldiers prepared to leave the village at dawn. Eyewitnesses report that soldiers stationed in Haninia neighborhood fired tear gas canisters, stun grenades, and live ammunition at civilians. The soldier who fired the shot was reportedly not more than 80 meters (262 feet) from the victim.

Hashem Khader Abu Maria, 45, killed July 25, 2014

Hashem Khader Abu Maria, 45, was killed on July 25, 2014, by Israeli forces while peacefully participating in a solidarity march with Gaza.⁶⁴

Israeli forces shot Hashem in the chest with live ammunition as he stood still at the demonstration in solidarity with Palestinians in Gaza after Friday prayers in the West Bank town of Beit Ummar.⁶⁵

Clashes between Israeli forces and Palestinian youth erupted when the Israeli military attempted to disperse the crowd with lethal force. Hashem was not participating in the violence when a bullet struck him from a distance of 100 meters (328 feet), witnesses told DCIP. Two other protesters were killed in the same march, and at least 10 sustained injuries.

Hashem served as the coordinator of DCIP's community mobilization unit, promoting constructive child participation throughout the Occupied Palestinian Territory. His most recent work focused on Palestinian teens monitoring and documenting child rights violations in Hebron.

Mohammad Sami Ali Kasba, 17, killed July 3, 2015

Around 6:30 a.m., a group of Palestinians hurled stones at five Israeli soldiers in a military vehicle traveling through Al-Ram heading toward Qalandia checkpoint, the main entryway between Ramallah and Jerusalem.

The soldiers stopped the jeep when a stone struck their windshield. Among them was Israeli brigade commander, Col. Yisrael Shomer, who shot dead Mohammad Sami Ali Kasba, 17, from a distance of about 15 meters according to witnesses. Two soldiers nudged Abu Kasba's body with their feet while he lay on the ground.

At least three bullets struck Mohammad in the back, face, and upper side of his torso as he attempted to flee from soldiers, witnesses told DCIP.

⁶⁴ DCIP, DCI-Palestine mourns the loss of Hashem Abu Maria, colleague and friend, killed by Israeli forces, (Jul. 25, 2014) <http://www.dci-palestine.org/documents/dci-palestine-mourns-loss-hashem-abu-maria-colleague-and-friend-killed-israeli-forces>

⁶⁵ Human Rights Watch, Israel: Shooting Deaths after West Bank Protest, (Aug. 3, 2014) <http://www.hrw.org/news/2014/08/03/israel-shooting-deaths-after-west-bank-protest-0>

A Palestinian ambulance transferred Mohammad to the Palestine Medical Complex in Ramallah. Doctors at the hospital extracted several bullet fragments from his body. They said a shot to the jaw left his teeth shattered.

Video footage captured by security cameras at the location of the shooting showed an Israeli soldier firing at Mohammad as he fled after throwing a stone.⁶⁶

Laith Fadil al-Khalidi, 15, killed July 31, 2015

Israeli forces shot and killed a Laith Fadil al-Khalidi, 15, during clashes near the Atara military checkpoint near the West Bank town of Birzeit.

A witness at the Atara checkpoint told DCIP that around 5:30 p.m., he saw a group of about 15 Palestinian youths running away from the Israeli military watchtower.

One of them, Laith Fadil al-Khalidi, fell to the ground approximately 100 meters from the watchtower. Another youth helped the wounded teen to a private car nearby, according to the witness. Laith died overnight at the Palestine Medical Complex in the West Bank city of Ramallah.

An autopsy showed that Laith had sustained a gunshot wound that entered the middle of his back and exited the top right side of his stomach, according to media reports.

Abdel-Rahman Shadi Obeidallah, 13, killed October 5, 2015

Clashes erupted between Israeli forces and Palestinian youth near Aida refugee camp, north of the occupied West Bank city of Bethlehem.

Abdel-Rahman Obeidallah, 13, was standing with another child, Othman Qaraqea, 11, at a distance of about 70 meters away from the protest. Around 1:45 p.m., an Israeli soldier fired three shots in their direction.

Witnesses said that neither boy had participated in the confrontations.

Doctors at Beit Jala Hospital said Abdel-Rahman died of a single gunshot wound to the chest. Othman sustained a bullet wound to the leg and received outpatient care.

Ahmad Awad Abu al-Rub, 16, killed November 2, 2015

Israeli forces killed Ahmad Awad Abu al-Rab, 16, on November 2, 2015, near Jalame checkpoint, north of the West Bank city of Jenin.

Jamal al-Far, 43, witnessed the incident and told DCIP the following: “I work in a gas station 300 meters away from the Jalame checkpoint. Around 8:30 a.m., I saw two teenagers, Ahmad

⁶⁶ B’Tselem, *Video footage shows that Binyamin Brigade Commander shot and killed Muhammad ‘Ali-Kosba, 17, while the youth fled after throwing a stone*, Jul. 12, 2015, http://www.btselem.org/press_releases/20150712_killing_of_muhammad_ali_qusbah.

and another Palestinian youth walking toward the gas station. They asked to use the toilets. Five Israeli soldiers in a military jeep approached them and searched them at gunpoint. One of the soldiers grabbed Ahmad by the neck, when the others found a pocketknife on his friend. Ahmad managed to get away and took out his pocketknife, at which point that soldier fired at his legs from a distance of approximately 3 meters.”

The witness added, “Several military jeeps then arrived at the scene and ordered us to vacate the area. When I left, I saw Ahmad was still alive, on his knees, and surrounded by soldiers.”

The cause of death and exact circumstances remain unknown. The Israeli authorities handed over Ahmad’s body to the Palestinian authorities on December 3, 2015.

Hadeel Wajih Awwad, 14, killed November 23, 2015

Hadeel Wajih Awwad, 14, and Nurhan Ibrahim Awwad, 16, carried out a stabbing attack near Jerusalem's Mahane Yehuda market, wounding a 70-year-old fellow Palestinian with scissors.

Security cameras showed an off-duty police sapper, or bomb disposal specialist, and a security guard knocking the girls to the ground, after which the police officer shoots them multiple times.⁶⁷

Hadeel died at the scene. Nurhan sustained serious wounds and underwent surgery at Shaare Tzedek hospital in Jerusalem to remove two bullets from her abdomen, according to media reports.

Haitham Ismail Saada, 14, killed February 5, 2016

Three Palestinian cousins, all teenagers, from the occupied West Bank village of Halhul, near Hebron, set out to throw stones at vehicles on a nearby main road used by Jewish settlers on February 5. Israeli troops patrolling the area spotted them. One cousin escaped, another was caught, and the third died of multiple gunshot wounds to the upper body.

“My cousins and I did not throw any stones and did not make any move that showed we were about to do so,” Wajdi Yousef Mohammad Saada, 16, told DCIP.

Wajdi heard two gunshots and saw his cousin, Haitham, 14, fall to the ground. “A soldier then jumped on me, punched me hard in my face, knocked me down to the ground, and ordered me to take off my shirt,” Wajdi said. “I did so while I was looking at Haitham.”

Palestinian doctors, who examined Haitham’s body later that day, told DCIP that one of the bullets struck his back, pierced through his lungs and chest, and exited from his mouth, killing him instantly.

Wajdi, on the other hand, was blindfolded and his hands were tied tightly behind his back with a single plastic cord. The soldiers transferred him first to a military base near the Jewish-only

⁶⁷ Video of the shooting is available at <https://www.youtube.com/watch?v=2CDt37X5yJs> (last accessed on March 17, 2016).

Karmeit Zsur settlement, where he stayed for several hours, then to a police station for interrogation.

“They pulled me out and sat me down in a yard for about one and a half hours,” Wajdi said. “They never spoke with me, but they kept me out there in the cold weather, tied and blindfolded.”

At half past midnight, the soldiers brought Wajdi in for interrogation. “The interrogator asked me through an interpreter what I was doing there in that area and I told him, ‘Nothing,’” Wajdi told DCIP. “So, he got up, grabbed my head, banged it against the wall, slapped me hard on my face, and pushed me out of the room.”

An hour later, the interrogator brought Wajdi back into the room. He showed Wajdi a video of him and his cousins near the main road. Wajdi told DCIP it did not show them throwing stones.

The interrogator wanted Wajdi to confess that Haitham, his cousin, was carrying a firebomb when he was shot dead. “I told him that was not true,” Wajdi said. “He shouted at me, pounded the table, and told me to say we were carrying Molotov cocktails.” The interrogator typed up Wajdi’s statement in Hebrew, refused to translate it for him, and forced him to sign it.

A policeman escorted Wajdi out of the room and untied his hands for first time in nearly 11 hours. Soldiers transferred him to Etzion detention center, where he spent the night, and the next day took him to Ofer prison.

Mahmoud Mohammad Shaalan, 16, killed February 26, 2016

On February 26, 2016, around 4 p.m., Israeli soldiers shot dead 16-year-old Mahmoud Mohammad Shaalan, a U.S. citizen, as he allegedly attempted to stab them at a military checkpoint near Beit El settlement, north of the occupied West Bank city of Ramallah.

A witness, waiting to cross the checkpoint in his car, told DCIP that he saw the teenager approach the soldiers and he did not appear to be carrying a weapon in his hands. The distance between the witness and Mahmoud was nearly 30 meters.

He then heard three gunshots and decided to turn his car around, at which point he saw a soldier fire two shots at Mahmoud while he was already on the ground.

A doctor at the Palestine Medical Complex in Ramallah confirmed that Mahmoud sustained three gunshot wounds to the chest and two to the hand.

Recommended Questions

1. The Committee has received information about several cases of excessive use of force and extrajudicial killings of Palestinian children. How many investigations have been carried out in relation to similar allegations? How many investigations resulted in disciplinary or criminal sanctions? How many perpetrators have been prosecuted and convicted? While one Israeli Border Police officer was charged with manslaughter in the May 15, 2014 killing of Nadeem Nawara, I understand that there has been no other

charges in the killing of a second Palestinian boy in nearly the same location just hours later. Was an independent investigation conducted into the killing of Mohammad Abu Daher, 16, on May 15, 2014, in Beitunia near Ofer military prison? If yes, what was the outcome of the investigation?

2. What safeguards exist within Israeli military and police guidelines to prevent the use of excessive force against children? Is there any independent investigation mechanism in place to review and evaluate the proportionality and proper use of non-lethal “crowd control” weapons or the use of live fire to ensure that weapons are being used in accordance with international norms and Israeli military and police guidelines?

Suggested Recommendations

1. The Government of Israel should take immediate measures to investigate, prosecute, and appropriately punish persons under their jurisdiction responsible for torture, unlawful detentions, and extrajudicial killings; and take immediate steps to end the apparent “shoot-to-kill” policy in response to recent stabbing and other criminal attacks.
2. Victims, their families, witnesses, and others who intervene on their behalf should be protected at all times against retaliation for claiming their legitimate right to obtain redress and accountability for past violations.
3. Special safeguards should be implemented to protect the civilian population, particularly children, from violence and harm during military operations, including that crowd control weapons not be misused or used indiscriminately by Israeli military and police, and be deployed in accordance with the principle of proportionality.