



PALESTINIAN  
**CHILD**  
PRISONERS

2007



Defence for Children International  
Palestine Section

REPORT

PALESTINIAN  
CHILD  
PRISONERS



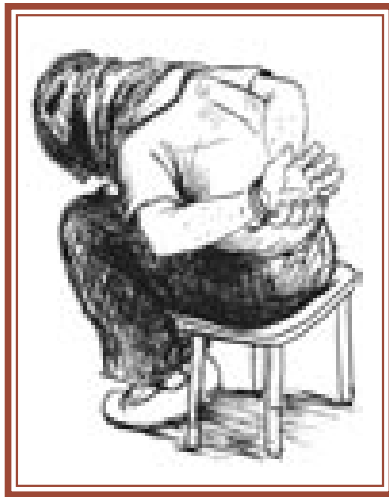


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# PALESTINIAN CHILD PRISONERS



# EXECUTIVE SUMMARY

During 2007 some 700 Palestinian children (under 18) were arrested by Israeli soldiers in the West Bank<sup>1</sup>. Of these, around 30 children were held on administrative detention orders, which impose imprisonment without charge or trial. As in previous years the overwhelming majority of those arrested were boys (98.9%). Of the three girls imprisoned during the course of the year, one was subsequently released in February 2008.

At any given point during the year, there were between 310 and 416 Palestinian children held in Israeli prisons and detention centres in Israel and the Occupied Palestinian Territory (OPT). These numbers are similar to those for 2006 (340 to 420).

As of December 2007, there were 311 Palestinian children held in Israeli detention, of which:

- 192 were awaiting trial;
- 101 were serving their sentences; and
- 18 were serving administrative detention terms.

The number of children arrested in 2007 brings the total number of Palestinian children arrested by Israel since the beginning of the second Intifada in September 2000 to approximately 5,900.

**5900**

The number of Palestinian children arrested and detained by Israeli forces since September 2000

Palestinian child prisoners routinely face violations of their human rights during arrest, interrogation and imprisonment. They are exposed to physical and psychological abuse, amounting to cruel, inhuman and degrading treatment, and sometimes torture. They are denied prompt access to a lawyer and often denied contact with their families and the outside world. Some are held without charge or trial. They face substandard, often inhumane, conditions of detention, both in the facilities where they are initially held and interrogated and in those where they await trial and serve their sentence.<sup>2</sup> Moreover, they are frequently denied access to proper medical care and denied access to proper education services. In many cases, the arrest, interrogation and imprisonment experience has psychological effects that extend far beyond the period of detention.

<sup>1</sup> This report concentrates on the situation in the West Bank. Since the Israeli "Disengagement Plan" from Gaza in September 2005, very few Palestinian children from Gaza are arrested by the Israeli army.

<sup>2</sup> For extensive details on the conditions of detention see DCI/PS's report for 2006 - <http://www.dci-pal.org/english/display.cfm?DocId=559&CategoryId=2>

# PALESTINIAN CHILD PRISONERS



# INTRODUCTION

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

*UN Convention of the Rights of the Child - Article 37 (b)*

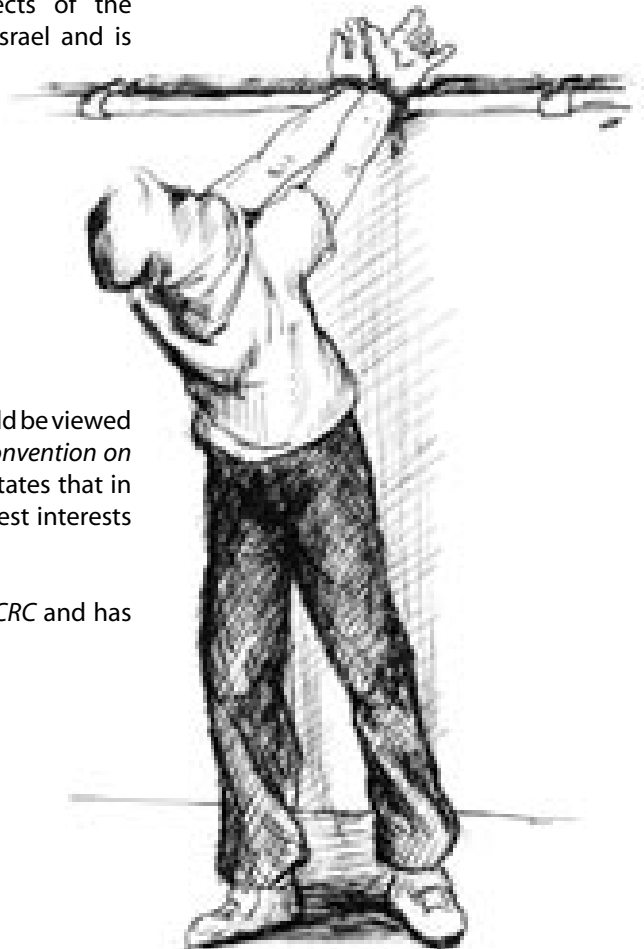
In 2007, Israel continued its policy of arresting and imprisoning Palestinian children in alarming numbers. Under occupation the imprisonment of Palestinian children occurs arbitrarily and as a matter of routine, rather than as a measure of last resort as required under international law.

This report considers selected aspects of the detention of Palestinian children by Israel and is divided into the following headings:

- A.** Israeli Military Courts
- B.** Arrest to Sentencing
- C.** Facts and Figures
- D.** Conditions of Detention
- E.** Education in Prison
- F.** Administrative Detention
- G.** Concluding Remarks
- H.** Recommendations

All of the issues raised in this report should be viewed in the context of article 3 of the *UN Convention on the Rights of the Child (UNCRC)* which states that in all actions concerning children, their best interests shall be a primary consideration.

The State of Israel is a party to the *UNCRC* and has been since 1991.



# PALESTINIAN CHILD PRISONERS





## A. ISRAELI MILITARY COURTS

No child shall be deprived of his or her liberty unlawfully or arbitrarily.

*UN Convention of the Rights of the Child - Article 37 (b)*

Israel imposed military law on the West Bank and Gaza Strip following its occupation of the Territory in 1967. From 1967 to the present, Israeli Military Commanders have been issuing Military Orders which govern the life of Palestinians in the West Bank.<sup>3</sup> There are now 1,500 Military Orders which are enforced in the two Israeli Military Courts currently operating in the West Bank:

- **The Military Court of Samaria** – which operates in an Israeli military base near the village of Salem in the north of the West Bank; and
- **The Military Court of Judea** – which operates in the Israeli military base of Ofer, near Ramallah.

**1500**

The number of Israeli military orders governing the lives of Palestinians in the West Bank

Between 1990 and 2006, the period in which figures are available, more than 150,000 Palestinians have appeared before the Military Courts. This averages out at well over 9,000 per year.<sup>4</sup> In 1991 alone, some 45,000 indictments were filed with the Court.<sup>5</sup>

Cases before the Military Courts are heard by a single judge where the maximum sentence is less than 10 years. In more serious cases proceedings are heard before a panel of three judges. Military Court judges must be officers in the Israeli army with at least five years “legal experience.”<sup>6</sup>

Since 1989 it has been possible to appeal a decision of the Military Courts to the Military Court of Appeals, which consists of a single judge for less serious cases, and a panel of three judges in any case where the punishment exceeds five years. A judge of the Military Court of Appeals must hold the rank of Lieutenant Colonel and have at least seven years “legal experience.”<sup>7</sup>

<sup>3</sup> This report concentrates on the Military Orders relating to the West Bank. Since the Israeli “Disengagement Plan” from Gaza in August 2005, the Israeli Military Court at Erez was closed and all cases from that region were transferred to the Israeli domestic courts.

<sup>4</sup> Yesh Din, Backyard Proceedings – *The Implementation of Due Process Rights in the Military Courts in the Occupied Territories* (December 2007).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

In rare cases, a petition to the Israeli High Court of Justice can be filed regarding a decision of the Military Courts on questions of jurisdiction and reasonableness.<sup>8</sup>

The prosecutors in the Military Courts are Israeli army officers or “legal officers” in regular service in the army or reserve duty in the Military Advocate General’s Corps, who are appointed by the Military Commander.<sup>9</sup>

Palestinians appearing before the Military Courts are mostly represented by Palestinian lawyers as well as by a small number of Israeli lawyers.

## Children in the Military Courts

Palestinian children who are arrested by the Israeli military are prosecuted in the same jurisdiction as adults. There is no specialist branch of the Israeli Military Courts for dealing with children.

### 20 YEARS

The maximum sentence that can be imposed on a Palestinian, including a child, for throwing stones.

*(Military Order 378 – Article 52(A3))*

Military Order 132 defines a “child” as a person under 16 years and provides for the range of sentences that can be imposed according to the age of the accused:

**aged 12 - 13** Up to 6 months imprisonment.

**aged 14 - 15** Between 6 to 12 months imprisonment for offences with a maximum penalty of 5 years or less. In circumstances where the maximum penalty for the offence is greater than 5 years, the child can potentially receive a life sentence.

**aged 16** Adults

The Israeli Military Courts do not have the power to imprison a Palestinian child under the age of 12, although children under this age can be arrested. The usual practice is that children under the age of 12 who are arrested, are detained by military personnel for a number of hours and then released to their parents subject to the payment of a fine.

Whereas a Palestinian child is treated by the Israeli Military Courts as an adult upon turning 16, an Israeli child, whether he or she lives in Israel or in an illegal settlement in the West Bank, is not considered to be an adult until reaching the age of 18. Although technically

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

the Military Courts have jurisdiction over Israeli settlers in the West Bank, invariably it is the Israeli civil courts that exercise jurisdiction. Different laws apply to the same geographical region, depending on whether a child is Israeli or Palestinian.<sup>10</sup>

Perhaps the one fact that best exemplifies the arbitrariness of the Military Court system is that a Palestinian child’s sentence is decided on the basis of the child’s age at the time of sentencing, not at the time when the alleged offence was committed. A child who is accused of committing an offence when s/he is 15, will be punished as an adult if s/he has a birthday whilst awaiting sentence. This places enormous pressure on a 15 year old child, the child’s family and legal advisor to accept a plea bargain rather than risk court delays leading to the child being sentenced as an adult.

DCI/PS follows the widely accepted international standard, recognised in the *Palestinian Child Law* (2004), that a child only becomes an adult on turning 18.

The Israeli Military Courts calculate a Palestinian child’s sentence according to her/  
 his age at the time of sentencing

**NOT**

at the time the alleged offence was committed.



<sup>10</sup> Article 2 of the CRC provides that –“States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind..”The difference in age at which Israeli and Palestinian children are considered adults would appear to contravene this article.

# PALESTINIAN CHILD PRISONERS



## B. ARREST TO SENTENCING

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

*UN International Covenant on Civil and Political Rights  
 - Article 10.1*

### Arrest and transfer

In 2007, as in previous years, the arrest of Palestinian children by Israeli soldiers frequently involved the use of terrifying tactics. Children are arrested at checkpoints, off the street or most commonly, from the family home. In the case of home arrests, a large number of armed soldiers typically surround the home between midnight and 4.00 am. Regardless of weather conditions, the child's family is forced into the street in their nightclothes. The family's home is often violently searched and the child is frequently physically abused. Household property is often destroyed, damaged or confiscated in the process. In most cases the child and his/her family will not be told why they are being arrested or where they are being taken.

The arrested child is then handcuffed, blindfolded and placed in a military jeep, sometimes face down on the floor, ready for transfer to an interrogation centre. The process of transferring the child to an interrogation centre can take several hours, during which time the child is often beaten, kicked, threatened and verbally abused by the soldiers in the jeep.

On arrival at the interrogation centre the child will usually be photographed and given a cursory medical check before either being sent for interrogation or taken to a cell.



## Case Study No. 1

**Name:** Mohanad B.  
**Place of Residence:** Tulkarm, West Bank  
**Date of Birth/age:** 17 years  
**Date of Arrest:** 1 July 2007

The Israeli army arrived at Mohanad's family home at 2.00 in the morning. Mohanad's family woke to the sound of the soldiers throwing stones and sound bombs at the house. Once the soldiers were inside Mohanad's mother was assaulted and fell to the ground. Mohanad was arrested, handcuffed, blindfolded and placed on the floor of a waiting Israeli army jeep for transfer.

Mohanad was not told where he was being taken. During the transfer the soldiers in the jeep pulled his hair, kicked and stepped on him and cursed him and his family.

Mohanad was taken to Huwarra Interrogation and Detention Centre and then transferred to Al Jalame Interrogation and Detention Centre where he was subjected to an abusive interrogation.

## Interrogation and confession

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

*ICCPR – Article 7*

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

*CAT – Article 2(2)*

Although Israel is a State Party to the *UN Convention Against Torture (CAT)* and the universal ban on torture is a fundamental principle of customary international law, Israeli forces continue to use prohibited techniques during the interrogation of Palestinian children.<sup>11</sup> These practices persist even after the Israeli High Court declared anything beyond a "reasonable interrogation" was illegal in its 1999 ruling.<sup>12</sup>

<sup>11</sup> The Israeli forces primarily responsible for perpetrating this abuse are the Israeli Security Agency (ISA) (formerly known as the GSS or Shabak); the Israeli army and the police.

<sup>12</sup> The Public Committee Against Torture in Israel (and 6 ors) v The State of Israel (and 2 ors)(1999) 53 (4) PD 817 – in paragraph 23 of the judgment, the Court defined a "reasonable interrogation" as one that is free of torture, cruel, inhuman and degrading treatment in keeping with Israel's international obligations.

At different times during the last 40 years of occupation, Israel has relied more on physical forms of torture than on psychological methods, which are currently most commonly used. However, irrespective of whether the abuse is physical or psychological, there is a total prohibition on torture in all of its forms, with no exceptional circumstances.

The frequency with which DCI/PS receives reports of abusive techniques being used on Palestinian children by Israeli forces, suggests that this problem is not simply a failure of persons in authority to control those acting on their behalf, but is in fact an officially sanctioned unspoken policy of the State.

**The main centres used by Israeli forces to interrogate Palestinian children are:**

| Israeli Army   | Israel Prisons Service  | Israeli Police   |
|--|---|--|
| <p><b>Huwarra</b> - Detention and Interrogation Centre (nr. Nablus in the West Bank)</p> <p><b>Etzion</b> – Detention and Interrogation Centre (nr. Bethlehem in the West Bank)</p> <p><b>Salem</b> – Military Court, Detention and Interrogation Centre (nr. Jenin on the border with Israel)</p> | <p><b>Askelon</b> – Prison and Interrogation Centre (nr. Gaza in Israel)</p> <p><b>Jalama</b> – Prison and Interrogation Centre (nr. Haifa in Israel)</p> | <p><b>Mascobiyya</b> – Police Station, Prison and Interrogation Centre (“The Russian Compound”) (Jerusalem)</p> <p><b>Petah Tikva</b> – Police Station and Interrogation Centre (central Israel)</p> |

By the time the child arrives at one of these centres s/he is usually already terrified by the experience of arrest and transfer. Typically one or a group of interrogators question the child using a mixture of physical measures, threats and inducements. The child is almost never told what rights s/he has prior to being interrogated and is invariably denied access to a lawyer until after the interrogation process is over.

The specific techniques used regularly by Israeli interrogators on Palestinian children, include a combination of the following:

- Excessive use of blindfolds and handcuffs
- Beatings (slapping and kicking)
- Sleep deprivation
- Solitary confinement
- Denial of food and water for up to 12 hours
- Denial of access to toilets
- Denial of access to a shower or change of clothes for days or weeks
- Exposure to extreme cold or heat
- Position abuse
- Yelling and exposure to loud noises
- Insults and cursing

In addition to the direct methods of abuse listed above, Palestinian children are routinely subjected to threats. Typically, these threats include:

- Being beaten or having family members beaten
- Being imprisoned for an indefinite period of time
- Revocation of work or study permits
- Being sexually abused
- Being attacked by a dog
- Being tortured with electric shocks or subjected to other forms of physical abuse
- Having the family home demolished

In addition to the various forms of abuse and threats listed above, interrogators also promise children a lenient prison term or release if they confess to the charges or agree to collaborate. These combined tactics succeed in coercing the vast majority of children to confess to the allegations put to them.

## Case Study No. 2

**Name:** Mohammad R.  
**Place of Residence:** Qalqiliya, West Bank  
**Date of Birth/age:** 15 years  
**Date of Arrest:** 15 October 2007

On 15 October 2007, Mohammad was walking home after helping with the olive harvest. On the way Mohammad was approached by a number of Israeli soldiers who began to beat him, accusing him of being involved in throwing Molotov cocktails. The soldiers took him to Huwarra Interrogation and Detention Centre, near the city of Nablus.

On arrival at the detention centre, Mohammad was taken straight for interrogation. There were two interrogators who told Mohammad that their names were Dan and Sulliemman. The interrogators accused Mohammad of throwing Molotov cocktails, which he denied. The two interrogators then began to kick and beat Mohammad. The interrogator who called himself Sulliemman then picked up a tear gas canister and started to beat Mohammad with it about the head and neck.

During the interrogation, one of the interrogators told Mohammad that they would revoke his father's permit to work inside Israel if he refused to confess to throwing Molotov cocktails. Mohammad's father is the sole wage earner in Mohammad's family.

After further beating, Mohammad signed some papers given to him by the interrogators. The content of the papers was not explained to Mohammad and were written in Hebrew.

Mohammad does not speak or read Hebrew.



After verbally confessing, the child will sometimes be asked to write out a confession but more commonly will be given pre-prepared papers to sign. The contents of the papers given to the child to sign are almost never explained and are sometimes written in Hebrew, a language few Palestinian children understand. The child is denied access to her/his family and lawyer in the period leading up to the signing of the confession.

The signed confession obtained during interrogation then forms the basis of the child's indictment in the Israeli Military Courts. According to Khaled Quzmar, Co-ordinator of the DCI/PS Legal Unit and a lawyer with over 15 years experience in the Military Courts, of the 276 cases closed by DCI/PS in 2007, approximately 95% relied on confessional evidence to obtain a conviction.

## Access to lawyers

Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance.

*UNCRC – Article 37(d)*

Under Military Order 378, a Palestinian detainee, including a child, can be denied access to a lawyer for an initial period of 15 days.<sup>13</sup> This period can be further extended up to a maximum of 90 days.<sup>14</sup>

### 90 Days

The period of time a Palestinian detainee, including a child, can be denied access to a lawyer and held in incommunicado detention.

## Extension of detention

A Palestinian detainee, including a child, can be detained for eight days before he or she must be brought before a judge of the Military Court. Interrogation normally occurs within this eight day period without access to a lawyer. After eight days the detainee is brought before the Military Court which has the power to:

- Extend the period of detention without charge for 30 days; then
- Extend the period of detention for a further 30 days; then
- Extend the period of detention for a further 30 days.

<sup>13</sup> Military Order 378, article 78c(c)(1) – on the written order of the “Supervisor of Interrogation”.

<sup>14</sup> Military Order 378, article 78c(c)(2) – the “Permitting Authority” may extend the initial 15 day period by another 15 days, and under 78d(b)(3) and (4) the period may be further extended by 30 days by a “Jurist Judge” and another 30 days by the “President of the Court”.

After a detainee has been held for 90 days plus the initial eight day period, a Military Appellate Judge may extend the detention for yet a further period of 90 days. Therefore, the total period of time a Palestinian detainee can be held in detention without charge is 188 days.

## 188 DAYS

The length of time a Palestinian detainee, including a child, can be held in detention without charge.

*(Military Order 378 – Article 78(D))*

## Indictment

After a maximum period of 188 days, a Palestinian detainee, including a child, must be either released, charged or given an administrative detention order. Most likely the detainee will be charged with a number of offences from a range of the 1,500 Israeli Military Orders.

After the confession is signed, a charge sheet against the child will be prepared and presented to the Military Court. During this session defence counsel usually asks the court to release the child on bail. In DCI/PS's experience, only in about 3-5% of cases, are children released on bail.

## 3-5%

The percentage of cases in the Israeli Military Courts in which children are released on bail.

## Trial and sentencing

Following the filing of an indictment under the Military Orders, a Palestinian detainee, including a child, can be further held for up to two years whilst awaiting trial. This two year limitation can be further extended on application to the Military Appeals Court. In contrast, under Israeli domestic law, an Israeli citizen must be tried within nine months of arrest.

Palestinian children charged under the Military Orders are then prosecuted in the same jurisdiction as Palestinian adults. There is no specialist branch within the Military Courts that deals with juveniles.<sup>15</sup>

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<sup>15</sup> According to international guidelines, children in conflict with the law should be dealt with by a juvenile court according to child-specific procedures (see for example, article 40(3) of the *UNCRC* and rule 2.3 of "The Beijing Rules"). For example, there should be trained personnel to deal with the child and the child's legal guardians should be present during the child's interrogation, among numerous other child-specific

In 95% of cases the primary evidence against the child is a confession obtained by Israeli officers using physical methods of interrogation and/or threats. In DCI/PS's experience this confessional evidence, which in most other jurisdictions would be rejected having been obtained under duress, is routinely accepted by the Israeli Military Courts. Worse still, the military judges never inquire after the welfare of the child when it should be obvious that the confessions are being extracted illegally.

**95%**

The percentage of cases in the Israeli Military Courts involving Palestinian children that rely on a confession to obtain a conviction.

Lawyers representing Palestinian children in the Israeli Military Courts are placed in the unenviable position of having to choose between boycotting what is clearly a sham imitation of a court of law, and trying to obtain a shorter sentence for their client, which is more likely to be in the best interest of the child. In late 2007 lawyers in the West Bank boycotted negotiating with the Israeli prosecution service after the newly appointed head declared that he would arbitrarily seek a doubling of all sentences imposed on children in the Military Courts. Lawyers for DCI/PS estimate that sentences during this boycott period for stone throwing increased from 1-3 months to 9-12 months.

On 27 November 2007, the Israeli head of prosecution signed a statement withdrawing the threat to increase the sentences imposed on Palestinian children in the Military Courts and the boycott came to an end. However, according to DCI/PS lawyers the sentences imposed on Palestinian children are still increasing. By the end of 2007 the typical sentence imposed for stone throwing was around 2-6 months and 16-24 months for throwing Molotov cocktails, up from 10-14 months.

**2 Years**

The period of time a Palestinian detainee, including a child, can be held between indictment and trial.

Faced with this type of dilemma, most defence lawyers enter into plea bargains with the military prosecution early on to spare the child extra prison time. With little chance of obtaining bail and few of the evidentiary or procedural safeguards taken for granted in other jurisdictions, it is often preferable for a lawyer to accept without question the prosecution's assertion that the child is guilty and seek a reduced sentence. If the lawyer seeks to prove the child's innocence through a series of court hearings and appeals, the

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procedures. While many of these procedures are enshrined in Israeli law and practiced in Israel's domestic legal system, none of these procedures is applied to cases of Palestinian child political prisoners dealt with in the Israeli Military Court system.

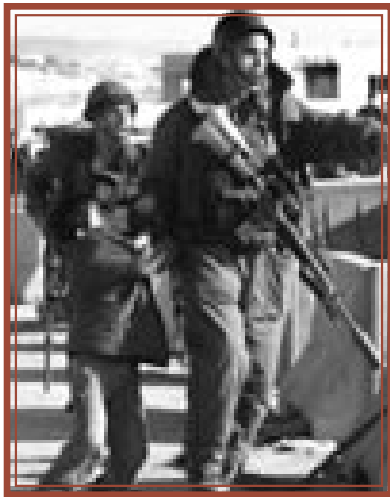


risk is that the child will be given a far harsher sentence if found guilty, and even if successful, in the absence of bail, may spend longer behind bars.

In DCI/PS's experience, a child who refuses to accept a plea bargain offered by the Israeli military prosecutor runs a real risk of receiving a sentence that is double or triple the period he or she would have received by pleading guilty.



# PALESTINIAN CHILD PRISONERS



## C. FACTS AND FIGURES

In 2007 DCI/PS acted on behalf of 334 Palestinian children that appeared before the Israeli Military Courts. This accounts for approximately 50% of all cases of Palestinian children charged with an offence by the Israeli forces. Of the 334 cases, 16 were before the Israeli Military Court of Appeal and nine involved administrative detention orders.

Of the 334 children represented by DCI/PS in 2007, 38 (11%) were released on bail or had their charges dismissed for lack of evidence. Or to put it another way, in 89% of cases before the Israeli Military Courts, the child was kept in detention. This detention is typically extended by the Military Court to the end of proceedings.

The figures in the tables below represent 276 cases closed by DCI/PS during 2007. This compares with 213 cases closed by DCI/PS in 2006. The remainder of the 334 cases in which DCI/PS acted in 2007 are still before the Military Courts.

**89%**

The percentage of Palestinian children appearing before Israeli Military Courts that are charged with an offence and held in detention pending the determination of their case.

**Table 1 – Age groups**

*Table 1: Breakdown of DCI/PS cases by age group - 2007*

| Age group     | Number     | Percentage  |
|---------------|------------|-------------|
| 12 - 14 years | 35         | 12.7%       |
| 15 - 16 years | 89         | 32.2%       |
| 17 years      | 152        | 55.1%       |
| <b>TOTAL</b>  | <b>276</b> | <b>100%</b> |

In 2007, the majority of closed cases handled by DCI/PS concerned children in the 17 age category (55.1%). This represents a significant decline compared with 2006 (88.3%) and a return to the longer term trend (50.9% in 2004 and 53% in 2005).

Of particular concern to DCI/PS was the corresponding increase in the number of younger children being incarcerated in 2007. In 2006 out of 213 cases closed by DCI/PS there were no children in the 12-14 year age group and the proportion of children in the 15-16 year age group was 11.7%. However, the figures for 2007 are comparable with those for 2004 and 2005 (see Table 6 below).

**Table 2 – Gender**

*Table 2: Breakdown of DCI/PS Cases by Gender - 2007*

| Gender       | Number     | Percentage  |
|--------------|------------|-------------|
| Boys         | 273        | 98.9%       |
| Girls        | 3          | 1.1%        |
| <b>TOTAL</b> | <b>276</b> | <b>100%</b> |

DCI/PS represented two of the three girls who were detained in 2007. At the time of publication of this report, one of the three girls has been released.

**Table 3 - Sentences**

*Table 3: Breakdown of DCI/PS Cases by Sentence - 2007*

| Sentence       | Number     | Percentage  |
|----------------|------------|-------------|
| Under 6 months | 102        | 37%         |
| 6-12 months    | 34         | 12.3%       |
| 1-3 years      | 99         | 35.8%       |
| Over 3 years   | 41         | 14.9%       |
| <b>TOTAL</b>   | <b>276</b> | <b>100%</b> |

In 2007 the percentage of children receiving sentences of more than three years increased by almost 100% from 7.5% in 2006. In the other categories the percentage of children receiving sentences of less than six months increased by 8.8%, in the 6-12 months category there was a decrease of 4.1% and in the 1-3 years category there was a decrease of 12.1%.





## Table 4 - Charges

Table 4: Breakdown of DCI/PS Cases by Charge

| Charge   | Number     | Percentage  |
|--|------------|-------------|
| Stone throwing                                   | 71         | 25.7%       |
| Possession of and/or throwing a Molotov cocktail | 28         | 10.1%       |
| Membership in a banned organisation              | 17         | 6.2%        |
| Attempting to kill an Israeli and conspiracy     | 83         | 30.1%       |
| Possession of explosives                         | 29         | 10.6%       |
| Weapons possession                               | 31         | 11.2%       |
| Assisting a wanted person                        | 7          | 2.5%        |
| Other  | 10         | 3.6%        |
| <b>TOTAL</b>                                     | <b>276</b> | <b>100%</b> |

In 2007 there was a dramatic increase in the numbers of children charged with more serious offences whilst there has been a corresponding decrease in the number of children charged with throwing stones. In 2006, of the 213 cases finalised by DCI/PS, 63.8% involved the charge of throwing stones, compared with 25.7% in 2007. In 2007, 30.1% of children were charged with the serious offences of "attempting to kill an Israeli" and "conspiracy" which was well above the longer term trend of around 20% (see Table 6 below).

## Table 5 - Region

Table 5: Breakdown of DCI/PS Cases by Geographic Region

| Region             | Number     | Percentage  |
|--------------------|------------|-------------|
| Northern West Bank | 163        | 59%         |
| Central West Bank  | 41         | 14.9%       |
| Southern West Bank | 72         | 26.1%       |
| <b>TOTAL</b>       | <b>276</b> | <b>100%</b> |

In 2007 there was a modest reduction in the proportion of children from the north of the West Bank detained (59% compared with 66.2% in 2006) whilst there was a corresponding increase in the proportion of children detained from the south (26.1% compared with 18.3% in 2006). The levels of detention of children from the centre of the West Bank remained fairly constant (14.9% compared with 15.5% in 2006).

As in previous years the number of children detained from the north is far higher than from the centre and south of the West Bank. This is probably attributable to the fact that the occupation is harsher in the north than in the other regions. For example, entry and exit into the northern city of Nablus is restricted by two Israeli checkpoints which close

every night (8.00 pm/10.00 pm to 5.00 am), restricting movement to around 200,000 Palestinians.

## Table 6 – Trends 2004 - 2007

Table 6: Breakdown of sentences, age groups and charges, 2004 – 2007

| Age Group     | 2004  | 2005 | 2006  | 2007  |
|---------------|-------|------|-------|-------|
| 12 – 14 years | 15.7% | 15%  | -     | 12.7% |
| 15 – 16 years | 33.4% | 32%  | 11.7% | 32.2% |
| 17 years      | 50.9% | 53%  | 88.3% | 55.1% |

| Sentence       | 2004  | 2005  | 2006  | 2007  |
|----------------|-------|-------|-------|-------|
| Under 6 months | 42%   | 34.8% | 28.2% | 37%   |
| 6-12 months    | 9.8%  | 13.9% | 16.4% | 12.3% |
| 1–3 years      | 28.5% | 36.4% | 47.9% | 35.8% |
| Over 3 years   | 19.7% | 14.9% | 7.5%  | 14.9% |

| Charge   | 2004  | 2005  | 2006               | 2007  |
|--|-------|-------|--------------------|-------|
| Stone throwing                                   | 31%   | 22.2% | 63.8%              | 25.7% |
| Possession of and/or throwing a Molotov cocktail | 14.2% | 14.3% | 6.6%               | 10.1% |
| Membership in a banned organisation              | 15.3% | 9.7%  | 18.8%              | 6.2%  |
| Attempting to kill an Israeli and conspiracy     | 18.3% | 21.3% | 3.8% <sup>16</sup> | 30.1% |
| Possession of explosives                         | 7.3%  | 12.2% | 3.2%               | 10.6% |
| Weapons possession                               | 13.9% | 14.5% | 3.8%               | 11.2% |
| Other  | -     | 5.8%  | -                  | 3.6%  |

Perhaps the most noticeable longer term trend is the increase in the percentage of children being charged with the serious offences of “attempting to kill an Israeli” and “conspiracy” (18.3% in 2004 compared with 30.1% in 2007). DCI/PS lawyers are disturbed by the increasing use of the vague charge of “conspiracy” against children in the Military Courts.

Finally, it is the experience of DCI/PS lawyers that the prosecutors in the Israeli Military Courts routinely exaggerate the seriousness of the charges and inflate their numbers in order to place additional pressure on the defence during plea bargain negotiations.

<sup>16</sup>This figure only represents the charge of “attempting to kill an Israeli” not “conspiracy”.



# PALESTINIAN CHILD PRISONERS



## D. CONDITIONS OF DETENTION

Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

*UN Rules for the Protection of Juveniles Deprived of their Liberty - Rule 31*

In 2007 DCI/PS continued to receive complaints from children about the conditions in which they were being held in Israeli Interrogation and Detention Centres and prisons. The complaints received tell a very similar story to the complaints DCI/PS has received in previous years.<sup>17</sup>

### Israeli Interrogation and Detention Centres

Israeli Interrogation and Detention Centres are meant as temporary holding facilities. However, some children who are sentenced to less than three months imprisonment end up serving their entire sentence at these facilities due to lack of space in Israeli prisons. This results in poor conditions and overcrowding. Common complaints received by DCI/PS are:

- Foul smelling cells with poor ventilation;
- Lack of natural light;
- No toilet facilities in the cells and access to outside toilets restricted;
- The only change of clothes is provided by the child's lawyer;
- Limited supply of cleaning materials for the children to clean their own cells; and
- Poor quality and limited supply of food.

### Prisons

Juveniles in institutions shall receive care, protection and all necessary assistance - social, educational, vocational, psychological, medical and physical - that they may require because of their age, sex, and personality and in the interest of their wholesome development.

*UN Minimum Rules for the Administration of Juvenile Justice, "Beijing Rules" – Rule 26.2*

<sup>17</sup> Conditions in Israeli prisons and detention centres were dealt with in detail in a report prepared by DCI/PS in 2006 - <http://www.dci-pa.org/english/display.cfm?DocId=559&CategoryId=2>

There are currently five Israeli prisons run by the Israel Prisons Service (IPS) where Palestinian children are detained:

- An Naqab (Ketziot)
- Ofer
- Telmond Compound (includes HaSharon and Ofek prisons)
- Megiddo
- Addamoun

All but one of these prisons, Ofer, is located inside Israel, in breach of article 76 of the Fourth Geneva Convention (1949) which provides that an occupying power must detain residents of occupied territory in prisons inside the territory. As with the Interrogation Centres, DCI/PS continues to receive complaints about the conditions of detention in Israeli prisons, including:

- Overcrowding forcing some children to sleep on the floor
- Windows covered with metal plates to exclude the light
- Poor quality food forcing the children to purchase their own food from the prison canteen.

Whilst in prison children are subjected to the following forms of punishment:

- Solitary confinement;<sup>18</sup>
- Denial of family visits;<sup>19</sup>
- Fines; and
- Deprivation of recreation time.

## Family visits

Palestinian detainees, including children, do not receive family visits for the first 60 days of their detention. After 60 days, the detainee is, in theory, entitled to 24 family visits per year (except at Ketziot prison where the number is 12 visits). In order to visit a detainee, the family must apply to the Israeli authorities for a permit which takes between one and three months to obtain and is only valid for three months. In reality, due to the difficulties involved in obtaining a permit, detainees actually only receive about half of their allotted number of visits – 12 per year.

Once permits are obtained, family visits are limited to once every two weeks, and to 45 minutes each. During the visit, families are separated from the detainee by a glass partition.

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<sup>18</sup> Under rule 67 of the UN Rules for the Protection of Juveniles Deprived of their Liberty – “All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.”

<sup>19</sup> Under article 37 (c) of the UN Convention on the Rights of the Child – “Every child deprived of liberty shall .... Have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.”

Communication takes place through a telephone or through holes in the glass. Only three family members are permitted to visit a detainee at any one time.

Approximately 30% of Palestinian detainees do not receive any family visits as their family are not granted permits on security grounds.

## **Detention with adults**

In Ketziot, Ofer and Megiddo prisons, children are still being detained alongside adults in contravention of Article 37 (c) of the *UNCRC*.

# PALESTINIAN CHILD PRISONERS





## E. EDUCATION IN PRISON

The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

*Fourth Geneva Convention – Article 94*

Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided ... by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty.

*UN Rules for the Protection of Juveniles Deprived of their Liberty – Rule 38*

In 1997 a number of child detainees petitioned the Israeli District Court in Tel-Aviv seeking an order that Palestinian child prisoners held in Israeli detention be given the same rights to education as Israeli child prisoners.<sup>20</sup> The Court ruled that Palestinian child prisoners were entitled to the same education rights as Israeli child prisoners, which included an education programme based on the Palestinian curriculum, but that this right was “subject to the security situation”.

### “Subject to the security situation”

Since the Court decision in 1997, Israeli prison authorities have interpreted “subject to the security situation” to permit the limited teaching of Arabic, Hebrew, English and mathematics, and sometimes science. Geography, for example, is not taught to Palestinian children on the grounds of “security”.

### Education of Palestinian child detainees

In contravention of international law, no education is provided to Palestinian children detained in Huwarra, Etzion, Salem, Askelon, Jalama, Mascobiyya and Petah Tikva interrogation and detention centres. In only two out of the five prisons holding Palestinian children, Telmond and Addamoun, is any form of limited education provided.

### Telmond Boys Prison

One Arab Israeli teacher attends the prison five days a week to teach Arabic, Hebrew, mathematics and some science. The teacher provides two classes per day of two hours

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<sup>20</sup> Mohammad Frehat and ors v IPS (1997) 400/97

duration (9 am to 11 am and 1 pm to 3 pm). There are currently around 147 children in the prison and each child only receives a maximum of two hours education per week. The only equipment available is some exercise books and pens which the teacher distributes at the start of each class and collects at the end.

No education is provided to Telmond Girls Prison. Education for the girls is provided, if at all, by other female prisoners.

## **Addamoun Prison**

The situation in Addamoun prison is slightly better. One Arab Israeli teacher attends the prison five days a week and teaches for three hours per day. Arabic, mathematics, science and occasionally history are taught. There are 70 Palestinian children in the prison and they are divided into two groups. Group A (35 children) is taught on Sunday and Monday, and Group B (35 children) is taught on Wednesday and Thursday. On Tuesdays, the two groups combine and are taught together (70 children). Each child in Addamoun prison receives approximately nine hours education per week.

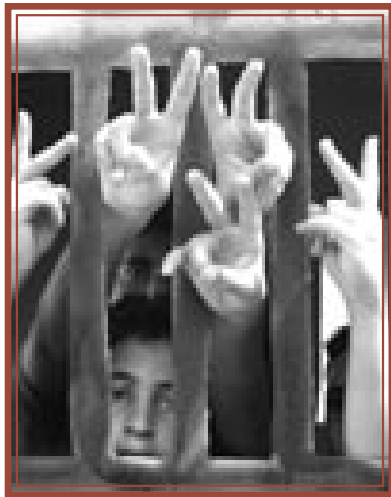
The only equipment available to the children during class time is exercise books and pencils.

### **"Security"**

The reason given by Israeli prison authorities for not teaching Palestinian child detainees geography.



# PALESTINIAN CHILD PRISONERS



## F. ADMINISTRATIVE DETENTION

The internment ... of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

*Fourth Geneva Convention – Article 42*

Administrative detention is a procedure whereby a person is detained without charge or trial. This form of detention is an instrument of the executive (or military) as opposed to the judicial branch of government.

### International law

Administrative detention is permitted under international law in limited circumstances. Due to the lack of due process and the risk of abuse in detaining a person without charge or trial, strict restrictions have been placed on administrative detention under international law, including:

- Administrative detention should only be ordered if the security situation makes it absolutely necessary, such as in cases of public emergency which threatens the life of the nation;<sup>21</sup>
- No child should be deprived of his or her liberty arbitrarily and detention should only be used as a measure of last resort for the shortest appropriate period of time;<sup>22</sup>
- An administrative detainee should be informed promptly of the reasons for his or her detention;<sup>23</sup>
- An administrative detention order should only be made in accordance with regular procedure which shall include the right of appeal;<sup>24</sup>
- An administrative detention order should be reviewed every 6 months;<sup>25</sup> and
- An administrative detainee should be released with the minimum delay possible and in any event, as soon as the circumstances justifying the detention have ceased to exist;<sup>26</sup>

<sup>21</sup> The Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, (1949) (Geneva IV) – Article 42; International Covenant on Civil and Political Rights (1966) (ICCPR) – Article 4.

<sup>22</sup> UN Convention on the Rights of the Child (1989) (CRC) – Article 37 (b).

<sup>23</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) (1977) (Additional Protocol I) – Article 75 (3).

<sup>24</sup> Geneva IV – Article 78.

<sup>25</sup> Ibid.

<sup>26</sup> Additional Protocol I – Article 75(3).

## Military Order 1229

Military Order 1229 (1988) empowers commanders of the Israeli army to detain Palestinian West Bank residents, including children, for up to six months if they have “reasonable grounds to presume that the security of the area or public security require the detention”. No definition of “public security” is given and the initial six-month period can be extended by additional six-month periods indefinitely.

Administrative detention orders are issued either at the time of arrest or at some later date and are often based on secret evidence collected by the Israeli Security Agency (ISA). Neither the detainee, or the detainee’s lawyer are given access to the secret evidence. The detainee is brought before a Military Court within eight days of his or her arrest, for the court to decide on the legality of the detention, however, information concerning the reasons for the detention remains classified. Thus, the detainee and his lawyer have no effective means of challenging the legality of the detention in the initial hearing, on appeal or at the periodical six month reviews.

### *“Secret Evidence”*

Israeli military commanders can detain Palestinian children based on secret evidence which is not shown to the child, or the child’s lawyer.

In practice, Palestinians under administrative detention orders can be detained for months, if not years, without ever being informed about the reasons or length of their detention; and detainees are routinely informed of the extension of their detention on the day that the former order expires. In reality, Palestinians have no effective means to challenge administrative detention orders which falls far short of the standard set under international law.

## Trends 2004-2007

*Table 7: Child administrative detainees – 2004-2007<sup>27</sup>*

| 2004 | 2005 | 2006 | 2007 |
|------|------|------|------|
| 30   | 20   | 25   | 30   |

In 2000, before the start of the second Intifada, there were no children being held in administrative detention. The number since that time has steadily risen up to 30 in 2007. This rise is consistent with the increase in the use of administrative detention orders against Palestinian adults in what appears to be an effort to stifle political dissent and resistance to the occupation. The most notorious example of this policy occurred in 2007, when 45 members of the Palestinian Legislative Council (34%) were detained by Israel, including four in administrative detention.

<sup>27</sup> DCI/PS estimates

### Case Study No. 3

**Name:** Obaidah A.  
**Place of Residence:** Nablus District  
**Date of Birth/Age:** 17 years  
**Date of Arrest:** 23 May 2007

At 4.00 in the morning on 23 May 2007, Israeli soldiers surrounded Obaidah's home and told the family to come outside. The soldiers then threw sound bombs into the house, after which they conducted a search. A computer was confiscated and Obaidah was arrested in front of his family. He was handcuffed and blindfolded and placed in an Israeli military jeep for transfer to Huwarra Interrogation and Detention Centre. During the transfer Obaidah was beaten and kicked by the soldiers in the jeep.

Obaidah spent 13 days in Huwarra without being questioned. He was then transferred to Petah Tikva Interrogation and Detention Centre (near Tel Aviv) where he spent 9 days in solitary confinement. During this period he was interrogated for 3 hours each day, while handcuffed and shackled. During his 2 months there, he was not permitted to see any family members or a lawyer.

On 26 July 2007, Obaidah was brought before the Israeli Military Court at Salem. He was charged with assisting a person suspected of being a member of Islamic Jihad. It was alleged that this person asked Obaidah to contact a member of Islamic Jihad in Syria and request this person to transfer money. Whether or not Obaidah made the telephone call was not relevant to the offence. The offence was that a conversation regarding assistance had taken place. The evidence contained in the file compiled by the chief interrogator was based on an apparent confession made by Obaidah under interrogation, the confession of another child, and the statements of the interrogator and an Israeli police officer in charge of the investigation.

The case again came before the Military Court at Salem on 29 July 2007. The prosecutor asked the judge not to release Obaidah on bail pending the determination of the case. DCI/PS lawyer Adnan Al-Rabi requested that bail be granted on the basis that there was insufficient evidence to detain Obaidah. The Military Court agreed with DCI/PS's lawyer and ordered that Obaidah be released on bail of 1,000 NIS (US\$250). The prosecutor then applied to the Military Court for an order suspending the granting of bail for 72 hours. The Military Court rejected this application. While Obaidah's parents were arranging for the money to be deposited, the prosecutor lodged an appeal to the Military Court of Appeal asking for bail to be revoked. It was 5.00 pm; the Court of Appeal determined the matter in the absence of Obaidah's lawyer who was in another Court and granted the suspension of the bail order, revoked Obaidah's bail, and re-listed the case for the next day, 30 July 2007.

On 30 July 2007, the Military Court of Appeal found that there was insufficient evidence against Obaidah and he was granted bail again on the same conditions.

Immediately afterwards, the prosecutor obtained an administrative detention order from the Military Commander of the West Bank. Military Order 1229 gives the Military Commander the power to arrest a person and place them under administrative detention, for “security reasons” which he is not obliged to disclose.

Obaidah was placed under administrative detention for 6 months, from 30 July 2007. Obaidah’s first administrative detention order was set to expire on 29 January 2008. According to Military Order 1229, an administrative detention order made by a Military Commander must be reviewed before a Military Court within a week from the making of the order. The Military Court has the power to confirm, amend or cancel the administrative detention order.

On 2 August 2007, Obaidah was brought back before the court, this time under administrative detention, for a review of the administrative detention order. The order was confirmed by the court. The two months he had already spent in prison, were not taken into account in making the order. It is not known what evidence was presented to the Court on this occasion, and whether or not the prosecutor had obtained additional evidence not available to the lower Court when Obaidah was initially charged, or relied on the evidence already in the prosecutors file and revealed to the defence.

Obaidah’s family approached the lawyers for DCI/PS and requested that they attempt to negotiate with the prosecution for a fixed sentence rather than the uncertainty of administrative detention. Accordingly, on 30 October 2007 the case came back before the Military Court at Salem on the family’s application. The prosecutor told Obaidah’s lawyer that he would cancel the administrative detention order if Obaidah agreed to confess to the list of charges and accept a 7 month prison sentence and a fine of NIS 2,500. Obaidah accepted the prosecution offer, which included time already served, and was due for release on 1 December 2007.

In 1 December 2007 DCI/PS lawyers received a telephone call from Obaidah’s family saying that he had not been released. On 2 December 2007, DCI/PS lawyers searched the records of the Administrative Detention Court and discovered that Obaidah had just been issued with a second administrative detention order for 6 months. DCI/PS lawyers contacted the prosecution to complain about the breach of the plea agreement. The prosecutor responded that the second administrative detention order was for “activities within the prison”.

On 6 December 2007, Obaidah was brought back before the court for a review of the second administrative detention order. DCI/PS lawyers reminded the court of the previous plea agreement. The Military Court confirmed the order but reduced the period of detention from 6 to 4 months.



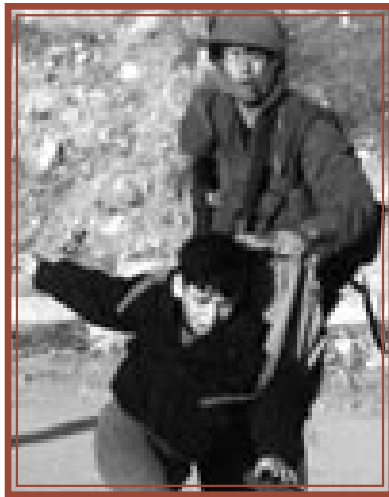


The second administrative detention order made no mention of “activities within the prison” and simply repeated the allegations contained in the first administrative detention order.

Obaidah is now due for release on 31 March 2008, unless the Military Commander decides to issue him with a third administrative detention order.\*

\* For further updates on Obaidah's case please check DCI/PS's website.

# PALESTINIAN CHILD PRISONERS



## G. CONCLUDING REMARKS

Through a system of international treaties and covenants to which it is bound, Israel agrees that in all actions concerning children the best interests of the child shall be a primary consideration. Israel also agrees that detaining children shall be a measure of last resort and be for the shortest appropriate period of time. No child shall be detained arbitrarily and no child shall be tortured or subjected to cruel, inhuman or degrading treatment or punishment. All detained children shall be treated with respect and have prompt access to legal assistance. Finally, during the period of detention, Israel agrees that all of the child's requirements for health and human dignity shall be provided, including the provision of a comprehensive education.

In 2007 Israel comprehensively failed to fulfill the duties and obligations it owes to Palestinian children arrested, interrogated and sentenced by its military and detained in its interrogation and prison facilities.

During the year Israeli forces detained Palestinian children as a matter of routine. Israeli law continued to discriminate against Palestinian children by classifying them as adults as soon as they turn 16, not 18 as is the case for Israeli children and arbitrarily calculated the child's age for sentencing purposes, at the date of sentence and not at the date of the alleged offence.

The overwhelming majority of Palestinian child detainees remain in prison whilst awaiting trial and Israeli interrogators routinely abuse and torture Palestinian children in order to extract confessions. It is a sad testament to the techniques employed by Israeli interrogators on children, that 95% of convictions in the Military Courts are obtained through the use of confessional evidence. Once sentence is imposed, Palestinian children can expect poor prison conditions and limited or no education.

It is with regret that DCI/PS is unable to report any appreciable improvement in the treatment of Palestinian detainees by Israel during the course of the last 12 months.



# PALESTINIAN CHILD PRISONERS



## H. RECOMMENDATIONS

With a view to putting an end to Israel's policy of mass, arbitrary arrest and detention of Palestinian children, DCI/PS recommends that:

- The State of Israel should raise the age of adulthood contained in Military Order 132 from 16 to 18 years, as is the case under Israeli domestic legislation.
- The State of Israel should end the practice that exists in the Military Courts of calculating a child's sentence according to the child's age at the time of sentencing, not at the time when the alleged offence was committed.
- The State of Israel should immediately ensure its compliance with the UN Convention Against Torture and thoroughly investigate all allegations of torture and abuse of Palestinian detainees and bring those found responsible for such abuse to justice.
- The State of Israel should ensure that all detained children have prompt access to their families and to a lawyer.
- The State of Israel should ensure that all confessions obtained from children under duress should be rejected as evidence in proceedings in the Military Courts.
- The State of Israel should end the practice of detaining persons under the age of 18 in administrative detention and promptly charge all child detainees with a recognisable offence or immediately release them.







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