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Children

IMPRISONMENT OF CHILDREN

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Approximately 700 Palestinian children under the age of 18 from the occupied West Bank are prosecuted every year through Israeli military courts after being arrested, interrogated and detained by the Israeli army. The most common charge levied against children is throwing stones, a crime that is punishable under military law by up to 20 years in prison. Since 2000, more than 12,000 Palestinian children have been detained.

In practice before the military court system, there are no special interrogation procedures for children detained by the Israeli military, nor are there provisions for an attorney or even a family member to be present when a child is questioned. The majority of children report being subjected to ill-treatment and having forced confessions extracted from them during interrogations. Forms of ill-treatment used by the Israeli soldiers during a child's arrest and interrogation usually include slapping, beating, kicking and violent pushing. Palestinian children are also routinely verbally abused. Despite recommendations by the UN Committee against Torture in May 2009 that the interrogations should be video recorded, no provisions to this effect have yet been enacted.

Many Palestinian children even serve time in the same Israeli prisons and detention facilities as adults. Military Order 1644, issued on 29 July 2009, established a separate military court for Palestinian children and ended 42 years of trying children as young as 12 years of age in the same courts as adults. However, the order fails to correct many of the fair trial deficiencies in the military courts relating to children (including insufficient provisions regarding qualifications for the judges, no added protections during interrogations, and discretionary language granting the prosecutor broad authority to suspend protections for children), which indicate that Military Order 1644 will do little to improve the protection of Palestinian children before the Israeli military legal system.

While the UN Convention on the Rights of the Child defines a "child" as "every human being below the age of eighteen years," according to Israeli military order 132, Palestinian children age 16 and older were previously tried and sentenced by Israeli military courts as adults. By comparison, juvenile legislation defines Israeli children as age 18 or younger. What's more, a Palestinian child's sentence is decided on the basis of the child's age at the time of sentencing, and not at the time when the

alleged offense was committed. Thus, a child who is accused of committing an offense when he or she is 15 will, therefore, be punished as an adult if he or she has a birthday while awaiting sentencing.

On 27 September 2011, the OC Central Command signed an amendment to raise the age of Palestinian minors in the military court system from 16 to 18 years. Another stipulation of the amendment is a requirement to immediately notify the child's parents upon his or her arrest and interrogation. However, the amendment gives interrogators many openings to avoid the requirement. Furthermore, the amendment requires interrogators to inform minors of their right to attorney, but states that they will only notify an attorney "whose particulars were provided by the minor," which is highly unlikely to occur. An additional provision refers to the length of time that has passed since an offense was committed. Previously, if the offense was committed two or more years earlier, the child could not be prosecuted; the new amendment reduces this period to one year. However, the reduced period is negated in instances of "security offenses," which include some of the most common charges against Palestinian youths, such as stone-throwing and participating in demonstrations. Lastly, despite the minority age being raised to 18, the amendment states that minors over the age of 16 may still be held in detention with adults, which is contradictory to the requirements of international law.

As of December 2017, there were approximately 350 Palestinian children detained in two Israeli prisons and detention centers, including Ofer and Megiddo.

Data and Statistics Pertaining to Detainment of Children



The year 2015 witnessed an increase in the number of Palestinian children (as defined as individuals under 18), who were arrested during the October a popular uprising started in the occupied Palestinian territory in response to the Israeli occupation’s widespread human rights violations and escalation at Al-Aqsa Mosque as well as the ever-growing settlement activity and complete impunity to crimes by settlers, the latest of which was the arson and murder of the Dawabsheh family in Duma, Nablus. In response to the recent events, Israeli occupation forces (IOF) intensified human rights violations against Palestinians including mass arrests, leading to an increase in the number of children held in Israeli detention. With the surge in arrests, the number of Palestinian children in Israeli detention nearly doubled to 307 at the end of October 2015 compared with 155 at the end of August 2015. Official Palestinian statistics indicate the arrest of over 929 children in 2015, a sharp increase compared with the number of children arrested in previous years. The occupation forces continued in their policy of arrest of Palestinian children, denying protection due to them by more than 27 international conventions. In this context, since the Aqsa Intifada of 2000, the occupation forces arrested more than 12,000 Palestinian children.

The occupation forces have arrested Palestinian children systematically, and within arrest campaigns for collective punishment. These children are subjected to different forms of psychological and physical torture, and are not afforded protection. The occupation forces exploit the arrest of children for purposes of recruiting them to work as informants, extort their families financially, and force their families to pay large financial fines to secure their release. The arrest of children has a destructive impact on the level of children’s mental health, often leading to children’s drop-out from schools.

Number of Imprisoned Children Between Jan 2010 - December 2017

| Month | Jan | Feb | March | April | May | June | July | Aug | Sept | Oct | Nov | Dec |
|-------|-----|-----|-------|-------|-----|------|------|-----|------|-----|-----|-----|
| 2017 | 300 | | | 300 | 300 | 300 | 320 | 300 | 300 | 280 | 311 | 350 |
| 2016 | 450 | 406 | - | - | 414 | - | 350 | 340 | | 400 | | |
| 2015 | 152 | 163 | 182 | 182 | 164 | 162 | 160 | 153 | 156 | 320 | 420 | 470 |
| 2014 | 154 | 183 | 210 | 202 | 196 | 200 | 192 | 200 | 201 | 182 | 163 | 156 |
| 2013 | 193 | 219 | 185 | 236 | 236 | 222 | 194 | 195 | 180 | 179 | 159 | 173 |
| 2012 | 166 | 166 | 183 | 203 | 218 | 192 | 220 | 210 | 194 | 189 | 164 | 177 |
| 2011 | 209 | 221 | 216 | 224 | 217 | 211 | | 201 | 176 | 262 | 150 | 159 |
| 2010 | 318 | 343 | 342 | 355 | 300 | 286 | 281 | 280 | 269 | 264 | 251 | 225 |

Children detained in the West Bank are treated in accordance with the military orders issued by the military commander of

the area. In the forefront is military order 1651, which includes “security provisions” used by the occupation forces in the treatment of Palestinian security prisoners. Article 212 (2) of order 1651 identified the penalty of stone throwing on persons or property (the charge levied against the vast majority of detained Palestinian children) at imprisonment for 10 years, while article 212 (3) identified the penalty of imprisonment for 20 years if the stone thrower targeted a moving vehicle, and with the intent of causing harm to subjects inside the vehicle.

Military Laws and Orders and Legal Changes Pertaining to Arrest of Children in the West Bank



Some military orders, or articles therein, are specialized for the military courts of the occupation state; for example, military order 1711 of the year 2013, allows for the detainment of a child, whose age falls between 12-13 for a period of 24 hours before referral to the court, while the period reaches 48 hours for children between 14-15; this could be extended to up for 96 hours by the police of the occupation for purposes of interrogation in the cases of that have emergency reasons. As for children between 16-18, their detainment period may reach 96 hours without referring them to court, which is exactly the same treatment adult detainees receive. The period of preventative detention of children before submitting an indictment may be extended to 15 days in necessary cases with the purpose of interrogation, as per military order 1726 of the year 2013; the military court may extend the detention for a period of 10 days each time, for a maximum total of 40 times; thereafter, the only body authorized with giving extensions is the military court of appeal.

Additionally, military order 1727 of the year 2013 specifies procedures followed in juvenile military courts. Among these procedures is the appointment of a lawyer by the court and the presence of the child's parents in the court sessions. The order also included the creation of detention centers and special military courts for juveniles. Additionally, military order 1727 specified the age of children to be any person less than 18. Military order 1745, issued in the year 2014, specified that interrogation sessions of children should be audio-visually recorded, and should be undertaken in a language understood by children. However, military order 1745 excluded children arrested within security pretexts, allowing the occupation forces to deny all of the aforementioned rights under security cases.

Detainment of Jerusalemite Children



Regarding Palestinian children arrested in Jerusalem, the Israeli Juvenile Law of 1971 applies to them. The Israeli courts introduced a substantive change in its policies in dealing with detained Jerusalemite children, following protests and clashes that erupted in occupied Jerusalem after the kidnapping and burning of child Mohammad Abu Khdeir.

During the first half of 2014, the court would release children who were detained under allegations of stone throwing or participation in clashes, without waiting for the report of the Discipline Officer based on article 10 (A) of the Israeli Juvenile Law of 1971, which applies to Jerusalemite children. This law requires the court to take all necessary measures and procedures to refrain from arresting children or perpetuating their arrest.

This was not the only change; in the past, the rulings of underage detainees accused of stone throwing without causing injuries ranged between acquittal or conviction with a suspended sentence and a fine. After 12 June the court started to convict children and incarcerate them for a period of 2 months to 3 months and a half.

In an interview for the purposes of this report, the attorney of Addameer Mr. Mohammad Mahmoud explained the difference between judicial rulings against Jerusalemite children as follows:

“Since 2010 and until the end of 2013, the Israeli court used to release underage stone throwers without waiting for the report of the Discipline Officer; the ruling used to be issued without condemnation of legal address as per the Juvenile Law of 1971, and particularly article (10/A), with a bail ranging between 1,000-4,000 Israeli Shakels. Around the end of 2013 the Israeli prosecution submitted an appeal to the central court in Jerusalem with the purpose of tightening the penalty on stone throwers. The court accepted the appeal and was able through it to issue an order that tightens the judicial punishment of stone throwers. This was the beginning of the change in convicting children, in addition to receiving a suspended sentence, and a bail. With the beginning of 2014, this situation persisted, except for some exceptional cases, including the inability of the parents of paying the bail, or the refusal of the child of house arrest and preferring doing actual jail time. Only in these two cases children were incarcerated.”

The attorney explains:



“In the midst of the vast arrest campaign undertaken by the occupation forces following the killing of Mohammad Abu Khdeir, Israeli courts started to change its judicial policy in refusing to grant requests of release of children before the issuing of the report of the Discipline Officer, which requires 20-25 days, and without releasing them after the issuing of the report. This made parents prefer not to wait for the issuing of the report and request lawyers to make deals with the prosecution, such that the child spends 2-3 months in jail, and avoid the procedures that entail hearing the testimonies of witnesses, which require 4-5 months. This has practically led to the incarceration of numerous children under allegations of committing security offenses without verifying their occurrence of the perpetrator. Nowadays, courts do not accept to release children to their houses in the period preceding conviction; instead, the ruling is house arrest away from his place of living, where is not allowed to go to school; this is coupled with the paying of a bail.

2012: Israeli courts in Jerusalem ruled mainly the penalty of house arrest of children without a report from the Discipline Officer.

2013: The military courts began to rule for house arrests for Jerusalemite children away from their home following the issuing of the report of the Discipline Officer. The issuing of the report requires 20-25 days.

2014: Israeli courts, following the events that took place in the summer, tightened penalties against children (14-18) who were indicted, and did not release any of them, neither before nor after the issuing of the report of the Discipline Officer.

2016: The Israeli Knesset passed a law allowing the imprisonment of minors under the age of 14 if convicted of murder. The law, which will be temporarily in affect for three years, allows the court to detain minors under the age of 14 in a closed facility and transfer them into prison upon reaching 14 years old to serve the remaining of their sentences.

Indicators and Characteristics of Arrested Children:

From scientific and developmental perspectives, experts in child trauma psychology believe that the arrest, interrogation, and humiliation experience is highly dangerous and traumatizing to a child. The

trauma can alter the child's behavior in what can be characterized with agitation, over reaction, rebellion, or indifference to surroundings. Traumatic experiences in the early stages of a child's life (particularly during childhood and adolescence) increase the risk of psychological and behavioral disorders during adulthood.

Statistics on child arrests and interrogation showcase that Israeli forces target children in formative years as arrests mainly target adolescents. Psychologists in the Rehabilitation Center for Victims of Torture point out that a child's balanced character forms during adolescence. However, the experience of arrest results in the child losing his trust and protection sources, as well being pulled away from his family. Thus the experience disrupts the character formation process and alienates the child from his family and society.

The age group of the targeted children shows that the child's educational process is interrupted at a critical stage with the majority of them having finished primary school and on their way to the final stages of secondary school. Arrest, interrogation, or house arrest - even for several months- can damage beyond repair years' worth of studies. The Rehabilitation Center for the Victims of Torture observed that the majority of these children drop out before they finish their secondary education. Children are among the weak and marginalized groups, and are considered the most vulnerable to torture and degrading treatment. Trauma among children leaves short and long term effects for a number of factors, including:

First - Unexpectedness: Torture is one cause of trauma, and perhaps the most complicated. Psychological trauma results from an unexpected, sudden extreme event outside the realm of the normal human experience, resulting in certain reactions and symptoms. Trauma symptoms can be temporary, or can escalate into chronic physical symptoms.

Second - Personal Factors: These factors relate to gender, age, and level of education. A child lacks enough experience and expertise to cope with traumatic events, thus the children are most vulnerable to leading questions and the various interrogation methods. The children are also more prone to manipulation and deceit than adults. Neuropsychology research indicates differences among children, adolescents, and adults in levels of maturity and cognitive abilities, particularly with regards to decision-making since the process of making decisions is highly susceptible to various psychological, analytical, and cognitive factors.

Third - Tendency to believe figures of authority: In ordinary circumstances, children and adolescents operate primarily within the authority of dominating figures (usually the father, teacher, or police officer). Given the patriarchal nature of society, children and adolescents are inclined to follow the father, family, or clan. As a result of the extraordinary circumstance of interrogation, the targeted group lacks the free will to defy instructions and demands, or resist coercion.

Threats of Sexual Violence



Increasingly, Israeli soldiers and ISA officers use sexual threats including threats of rape as a way of inflicting fear upon children and coercing them into giving confessions. In 2009, Addameer has documented at least five cases of children who report having been sexually assaulted or threatened with sexual assault during the operation of arrest, transfers to detention centers and during interrogation. Sexual assaults by Israeli interrogators against children take numerous forms, including the form of grabbing a child's testicles and threats of rape or sodomy with an object. *From the Testimony of Child Othman Sulaiman (15 years old,)* The occupation forces arrested Othman on 25 December 2014. He was subjected to interrogation in the Russian Compound Interrogation Center for 28 days. Sessions of interrogation spanned over 8 hours daily, during which the child was beaten and was threatened with rape. The child told the field researcher of Addameer:

More than one interrogator threatened to rape me, saying "if you don't want to talk from your mouth we'll make you talk from elsewhere." I felt very scared and confessed to something that I didn't do and that never happened.

House Arrests of Jerusalemite Children

The Magistrate Court ruled in the case of child Mahmoud Ramadan Obeid (17 years old) 6 months of house arrest for the charge of stone-throwing. He is a resident of Assawyie and a student in 11th grade in the Abdullah Ibn Al-Hussein in Skeikh Jarrah. The child told field researcher of Addameer:

I still suffer from the impact of house arrests and going to the center. Despite the fact that my father paid a 5000 shekel bail, the case is not over. My house arrest is now affecting the small details of my life, where my academic achievement has declined, and I feel lonely because I can't play with my friends in the neighborhood. I started to feel that the Israeli forces are watching me every moment,

which psychologically bothers me. I don't know until when I'll stay like this.

ACCESS TO EDUCATION

Very limited provisions are made for the education of Palestinian child detainees. The Israeli Prison Service provides education only in Megiddo and Rimonim prisons but imposes restrictions on what subjects can be taught, allowing children to study only mathematics and humanities, and banning other subjects for “security reasons”. Girls under the age of 18 are usually detained with adult female prisoners and receive no formal education. While Israeli boys who are detained in Rimonim receive approximately 20 hours of taught classes per week and study in a special classroom, Palestinian boys detained in Megiddo prison are forced to study in the prison’s courtyard without any protection from weather conditions. Importantly, the Israeli Prison Service refuses to establish any coordination mechanism with the Palestinian Authority and as a consequence, Palestinian child detainees are taught according to the Israeli-Arab curriculum, instead of the official curriculum adopted by the Palestinian Ministry of Education. This has obvious negative consequences on a child detainee’s performance in school after he or she is released from prison.

RECRUITMENT CONCERNS

In the areas of the West Bank and East Jerusalem that are most affected by Israel’s colonial occupation policies, particularly including the Annexation Wall, settler violence and house demolitions, youths and children as young as twelve are often the first ones to be arrested in mass arrest campaigns, either during demonstrations, immediately after them or during night raids. Evidence suggests that the purpose of their arrest and detention is threefold. First, targeting the youngest and most vulnerable is intended to exert pressure on their family and the entire community to put an end to all social mobilization. Second, Israeli soldiers and police often arrest children for recruitment purposes. Addameer has collected testimonies suggesting that children from East Jerusalem and Wall and settlement-affected communities are routinely asked to become informants and provide information on both prominent figures involved in advocacy efforts and other children participating in demonstrations. Lastly, arrest is also used as a strategy to deter children from participating in demonstrations and from throwing stones at the Wall or other targets. However, while stone-throwing is the most common charge used against them, children in high-conflict areas are regularly arrested indiscriminately and remanded in detention with little or no evidence, with the military court often relying only on soldiers’ testimonies to convict.

(1) See DCI-Palestine, Palestinian child prisoners: The systematic and institutionalized ill-treatment and torture of Palestinian children by Israeli authorities, June 2009, p. 8 (available at: <http://www.dci-pal.org/english/publ/research/CPReport.pdf>)
