



Defence for Children International – Palestine Section

In their own Words:
**A report on the situation facing Palestinian children detained in the
Israeli military court system**

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Submitted to:

- 1) UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;
- 2) UN Special Rapporteur on the independence of judges and lawyers;
- 3) UN Working Group on Arbitrary Detention; and
- 4) UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.

This report is submitted on behalf of Defence for Children International–Palestine Section (DCI-Palestine), a national section of the international non-governmental child rights organisation and movement, Defence for Children International, established in 1979, with consultative status with ECOSOC.

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1. Executive summary

- 1.1 This Report is based on 36 testimonies collected from children prosecuted in the Israeli military detention system during the past six months. Based on these testimonies, interviews with lawyers, and reports from human rights organisations and the media, the Report concludes that the establishment of a military juvenile court, recent amendments to the military orders raising the age of majority and improved notification requirements upon arrest, have had only a marginal impact on the situation facing Palestinian children prosecuted under Israeli military law. These developments have made no discernable impact on the treatment of children at the point of arrest, transfer or interrogation.
- 1.2 The testimonies collected by DCI-Palestine in the past six months reveal that children continue to be systematically ill-treated during their arrest, transfer and interrogation. This treatment consists of both physical and verbal abuse, as well as threats and intimidation. Further, the cumulative effect of the ill-treatment each child is subjected to, may in some cases, amount to torture. The common complaints and areas of concern raised by the children in their testimonies are presented in Table 1:

Table 1 – Common complaints and areas of concern – 1 July to 31 December 2011

#	Common complaints and areas of concern	Number of cases	Percentage of children
1	Hand ties	35	97%
2	Blindfolds	33	92%
3	Strip searched	27	75%
4	Detention inside Israel in violation of Article 76	26	72%
5	Threatened	25	69%
6	Physical violence	24	67%
7	Arrested between midnight and 5:00 am	23	64%
8	Confession during interrogation	20	56%
9	Verbal abuse	15	42%
10	Signed/shown documents written in Hebrew	15	42%
11	Transferred on floor of vehicle	11	31%
12	Solitary confinement	8	22%

- 1.3 DCI-Palestine is particularly concerned at the sharp increase in the number of children who reported being held in solitary confinement during the reporting period. This number increased from four children, during the first six months of 2011, up to eight children during the previous six month period. DCI-Palestine can offer no explanation for the increase.

2. Introduction

- 2.1 This is the third six-monthly report submitted by DCI-Palestine to the UN in which the situation facing Palestinian children in the Israeli military detention system is considered. The first two reports in the series are available on line, and the executive summary for the previous report is annexed (**Annexure A**).
- 2.2 Each year approximately **500-700** Palestinian children from the occupied West Bank are prosecuted in Israeli military courts after being arrested, interrogated and detained by the Israeli army, police and security agents.¹ It is estimated that since 2000 alone, around 7,500 Palestinian children have been detained and prosecuted in the system. This report focuses on recent developments, as well as persistent and credible reports of torture and other cruel, inhuman or degrading treatment or punishment (torture and ill-treatment) within the system that has now been operating for over 44 years (**Annexures B and C**).
- 2.3 Within this system, children are frequently arrested from the family home by heavily armed soldiers in the middle of the night. The children are then painfully tied and blindfolded before being placed in the back of a military vehicle and transferred to an interrogation and detention centre.² It is rare for a child, or his/her parents to be told the reason for arrest, or where the child is being taken. The arrest and transfer process is frequently accompanied by both physical and verbal abuse.³
- 2.4 On arrival at the interrogation and detention centre, the child is questioned in the absence of a lawyer or family member, and there is generally no provision for the audio-visual recording of the interrogation as a means of independent oversight.⁴ Few children are informed of their right to silence. Children are frequently threatened and physically assaulted during interrogation often resulting in the provision of a coerced confession, or the signing of documents which the child is not given a chance to read or understand.
- 2.5 Following interrogation, children are brought before a military court which has jurisdiction over children as young as 12 years old.⁵ In the overwhelming majority of

¹ 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

² PCATI, 'Shackling as a Form Of Torture and Abuse,' (2009) – available at: http://www.stoptorture.org.il/files/eng_report.pdf;

³ PCATI, 'No Defense: Soldier Violence Against Palestinian Detainees,' (2008) – available at: <http://www.stoptorture.org.il/en/node/1136>;

⁴ DCI-Palestine is aware of several cases during the reporting period in which the interrogations of children were audio-visually recorded and the tapes were made available to defence lawyers: see The Independent, 'How Israel takes its revenge on boys who throw stones' (26 August 2011). Available at: <http://www.independent.co.uk/news/world/middle-east/how-israel-takes-its-revenge-on-boys-who-throw-stones-2344037.html>

⁵ Military Order 1651 – Sections 1 and 191.

cases bail is denied and an order for detention until the end of the legal process will be made. During the reporting period, children represented by DCI-Palestine were denied bail in **90 percent** of cases.⁶ Most children ultimately plead guilty, whether the offence was committed or not, as this is the quickest way out of the system. According to the military court's most recent annual report, **99.74 percent** of cases end in conviction,⁷ with custodial sentences being imposed on children in **98 percent** of cases.⁸ This contrasts with a custodial sentence rate of around 6.5 percent for Israeli children in the civilian juvenile justice system.⁹

- 2.6 Once detained a significant proportion of children (**72 percent**) are transferred to prisons and detention facilities inside Israel, in violation of Article 76 of the Fourth Geneva Convention which prohibits such transfers out of occupied territory. The practical consequences of this violation is that many children receive infrequent, or no family visits, due to the length of time it takes to obtain a permit, or because permits are denied for unspecified "security" reasons. Further, Palestinian children are not permitted use the telephone or send and receive letters whilst in detention.
- 2.7 The findings of this Report are based on **36 testimonies** taken from children held in the military detention system in the six month period between 1 July and 31 December 2011 (**reporting period**). The Report also makes reference to other sources where relevant, such as media and non-governmental reports, as well as data supplied by the Israel Prison Service (IPS). During the reporting period, DCI-Palestine also collected 22 sworn testimonies from Palestinian children arrested in occupied East Jerusalem. These cases are dealt with in a separate report as Israel applies its domestic legal system to these children, and not the military orders it applies to Palestinian children from the occupied West Bank.¹⁰ All of the quotes presented in this Report are taken from the 36 testimonies collected during the reporting period.

⁶ This figure is consistent with the findings of a report published by the Israeli organisation, No Legal Frontiers, which found that children were denied bail in 94 percent of the cases sampled: All Guilty! Observations in the Military Juvenile Court (April 2010 – March 2011). Available at: <http://nolegalfrontiers.org/en/reports/77-report-juvenile-court>

⁷ Haaretz, 'Virtually all military court cases in the West Bank end in conviction,' (29 November 2011).

⁸ No Legal Frontiers, 'All Guilty!'

⁹ Israeli National Council for the Child, Annual Report (2009).

¹⁰ Israel purported to annex East Jerusalem following the 1967 war and applies civilian law to this territory. Under international law, the annexation has no legal validity and runs counter to the prohibition against the acquisition of territory by military force – See UN Security Council resolutions 298 and 478; and Article 2 of the UN Charter.

3. Recent developments

Military juvenile court

- 3.1 A military juvenile court was established in September 2009, following mounting criticism relating to the prosecution of children as young as 12 years in the same military courts used to prosecute adults.¹¹ Military juvenile court judges have been appointed from the ranks of existing military court judges to hear cases involving children. However, bail applications and appeals can still be heard by adult military courts, where the judges have not necessarily received training to handle cases involving children.¹²
- 3.2 In practice, the military juvenile courts use the same facilities and court staff as the adult military court. Children continue to be brought into court in groups of twos and threes, wearing leg chains around their ankles and dressed in the same brown prison uniforms worn by adults. Handcuffs are usually removed from the child on entering the court room, and replaced on exiting. On occasion, adults and child defendants have been observed being brought into court together.¹³
- 3.3 According to a recent report published by the Israeli organisation, B'Tselem, there have been few improvements in the situation facing children prosecuted in the military courts since the introduction of the military juvenile court, as the following extract highlights: *“The rights of Palestinian minors are flagrantly violated at every stage of the proceedings conducted against them, from the initial arrest and removal from their homes, through interrogation and trial, to serving the prison sentence, and then release [...] The amendments to the military legislation are marginal and have failed to bring about meaningful change in the military system’s treatment of minors.”*¹⁴ This conclusion is echoed by a report published by the Israeli organisation, No Legal Frontiers: *“The findings show that the establishment of the military juvenile court brought about only a marginal change in the legal proceedings against Palestinian minors in the West Bank. The amendment of military law that led to the establishment of the military juvenile court had no effect at all on the interrogation and arrest procedures, which are the de facto critical stages that dictate the outcome of the whole legal process.”*¹⁵ These conclusions are shared by DCI-Palestine.

¹¹ See UN Committee against Torture, Concluding Observations, (2009), CAT/C/ISR/CO/4 – paragraph 28. As to criticism for attempting to incorporate principles of juvenile justice into military courts see: UN Committee on the Rights of the Child, Concluding Observations, (2010), CRC/C/OPAC/ISR/CO/1 – paragraph 33.

¹² Military Order 1651 – Section 138(A) and (B).

¹³ Interview conducted with DCI-Palestine lawyer, Iyad Misk, on 9 January 2012.

¹⁴ B'Tselem, No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone Throwing (July 2011), pages 25 and 65.

¹⁵ No Legal Frontiers, All Guilty! Observations in the Military Juvenile Court (April 2010 – March 2011), page 7. Available at: <http://nolegalfrontiers.org/en/reports/77-report-juvenile-court>

Raising the age of majority

- 3.4 On 27 September 2011, Military Order 1676 was issued raising the age of majority in the military courts from 16 to 18 years. After 44 years of military rule, this amendment brings Israeli military law in line with international and Israeli civilian law. The new military order also makes provision for the notification of a child's parents of the arrest and informing the child that he/she has the right to consult with a lawyer, but without stipulating when this consultation should occur. These developments are positive, but DCI-Palestine remains concerned that children continue to be questioned in the absence of their parents; generally do not meet with a lawyer until after the conclusion of their interrogations; and children are still not being effectively informed of their right to silence.
- 3.5 At the time of writing, Military Order 1676 has not been published in Arabic and made available to DCI-Palestine lawyers appearing in the military courts. According to Article 65 of the Fourth Geneva Convention, Military Order 1676 has no legal force until it has been published in Arabic and brought to the attention of the local population.

4. Number of children in detention

- 4.1 The following figures relate to Palestinian children detained in Israeli prisons and temporary army detention facilities. The figures are compiled by DCI-Palestine every month from information obtained from the Israeli Prison Service (IPS) and from Israeli army temporary detention facilities. The figures are not cumulative, but a snapshot of the number of children in detention at the end of each month. The shaded area in the table relates to the reporting period.

Table 2 - Total number of Palestine children in Israeli detention at the end of each month

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ave
2008	327	307	325	327	337	323	324	293	304	297	327	342	319
2009	389	423	420	391	346	355	342	339	326	325	306	305	355
2010	318	343	342	335	305	291	284	286	269	256	228	213	289
2011	222	221	226	220	211	209	202	180	164	150	161	135	192

- 4.2 During the reporting period there has been a significant reduction in the number of children in detention, including the release of 55 children in December, as a result of a prisoner swap agreement.¹⁶ Accordingly, from January 2012, DCI-Palestine has revised down its estimate of the total number of children held in detention each year from 700 to

¹⁶ DCI-Palestine, 'Freedom for 55 children – But 106 children remain detained,' (19December 2011). Available at: <http://www.dci-palestine.org/documents/freedom-55-children-%E2%80%93-106-children-remain-detained>

between 500-700 children. The figure remains an estimate as the IPS does not publish the total number of children held in its detention facilities each year.

- 4.3 During the reporting period, DCI-Palestine collected 36 testimonies from children arrested and held in the Israeli military detention system, which includes one girl. The ages of these children at the date of arrest are presented in Table 3:

Table 3 – Age at arrest – 1 July to 31 December 2011

Age group	Number	Percentage
12-13 years	1	3%
14-15 years	13	36%
16-17 years	22	61%
Total	36	100%

- 4.4 For the first time since January 2011, a child has been given an administrative detention order in December 2011, and is being held without charge or trial. These orders are issued by Israeli military commanders for periods of up to six months, renewable indefinitely, and are typically based on secret evidence.

5. Specific issues of concern

- 5.1 The following sections of the Report are based on an analysis of the 36 testimonies. The testimonies describe the passage of a child through the system, from the moment of arrest, transfer and interrogation, concluding with the prosecution of the child in a military court and imprisonment. This section is not intended as an exhaustive list of all issues of concern, but instead focuses on issues that are repeatedly raised by the children in their testimonies.
- 5.2 In assessing the gravity of the ill-treatment reported by the children in their testimonies, it is important to consider the totality of the evidence from the moment of arrest to their appearance in a military court, as well as taking into account their age, physical and psychological development and relative position of inferiority. It should be noted that in all 36 cases, the children reported experiencing multiple forms of ill-treatment, as opposed to a single incident. This feature of the system is relevant when assessing the gravity of the ill-treatment, as the cumulative effect must be taken into consideration, rather than viewing each individual act in isolation. Accordingly, when the totality of the evidence is considered, a pattern of systematic ill-treatment emerges, much of which amounts to cruel, inhuman or degrading treatment or punishment, for the purposes of the UN Convention against Torture, and in some cases, torture – both of which are absolutely

prohibited.¹⁷ Evidence of the cumulative effect of the treatment is presented at the end of the Report (**Annexure D**).

A. Arrested between midnight and 5:00 am (64%)

- 5.3 In 23 out of 36 cases (64 percent), the children report being arrested from their family homes between midnight and 5:00 am. This represents an **increase** of two percent in the percentage of similar reported cases over the previous six-month period. The practice of arresting children in the middle of the night has the tendency to frighten the individual child and the entire family, and can lead to a lasting sense of insecurity.
- 5.4 There are no specific guarantees or safeguards under international or Israeli military law which regulate the times at which a child can be arrested.¹⁸ However, it is difficult to reconcile these night time arrests with one of the guiding principles of the UN Convention on the Rights of the Child, which provides that *'in all actions concerning children ... the best interests of the child shall be a primary consideration.'* To give effect to this guiding legal principle, children should generally only be arrested and questioned during day light hours, in order to minimise the sense of fear which is evident from the testimonies.
- 5.5 On 3 October 2010, the Israeli organisation, B'Tselem, wrote to the Israeli attorney-general demanding that children not be arrested at night. As of July 2011, the organisation had not received a substantive response to its letter.¹⁹

[Qalandiya refugee camp] – *“At around 3:00 am, I was sleeping when I woke up to noise outside my room. I opened my eyes and saw soldiers in my room with my father. I don't know how they got into the house. There were so many of them in my room. ‘Get dressed because you're coming with us,’ one of them said to me in Arabic. I got dressed and the soldiers then grabbed me and took me quickly out of the house.”*

Malek Z. (15) – Arrested 11 July 2011

¹⁷ The State of Israel ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1991, and is legally bound by its terms.

¹⁸ However, Israeli civilian law does restrict the times at which children can be interrogated, which in turn, influences the times at which Israeli children are arrested: Youth Law – Section 9J. No such protection is included in the Israeli military orders applied to Palestinian children from the West Bank.

¹⁹ B'Tselem, 'No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone Throwing' (July 2011), page 29.

[An Nabi Saleh village] – *“At around 1:15 am, I was sleeping when I woke up to soldiers shouting and banging on our door. The rest of the family woke up and the soldiers ordered us to open the door and go out into the yard. It was very cold that night and I was wearing my pyjamas.”*

Mo'tasem T. (15) – Arrested 24 November 2011

[Haris village] – *“At around 2:00 am, I was sleeping when I woke up to banging on the door with people shouting: ‘Open up, it’s the IDF.’ I opened the door and they pointed their rifles at me, ordering me to step aside. Then they stormed the house.”*

Rami J. (17) – Arrested 24 October 2011

B. Hand ties (97%) and blindfolds (92%)

- 5.6 In 35 out of 36 cases (97 percent), the children had their hands tied, often painfully so, and in 33 cases (92 percent), the children were also blindfolded. These figures remain little changed from the previous reporting period. The most usual method of restraining a child is by tying his hands with a single plastic tie, most commonly with the child’s hands behind his back. Many of the children report in their testimonies experiencing pain in their hands and wrists as a result of these ties.
- 5.7 In April 2010, new procedures for tying detainees were introduced after numerous complaints and the initiation of legal action by the Israeli organisation, the Public Committee Against Torture in Israel (PCATI). The new procedures for using restraints were stated as follows:
- Hands should be tied from the front, unless security considerations require tying from behind;
 - Three plastic ties should be used, one around each wrist, and one connecting the two;
 - There should be the space of a finger between the ties and the wrist;
 - The restraints should avoid causing suffering as much as possible; and
 - The officer in charge is responsible for ensuring compliance with these procedures.
- 5.8 During the reporting period, DCI-Palestine documented three cases in which children were tied using three hand ties (8 percent). In one of these cases the child reports that the ties were very tight causing “much pain,” indicating that the finger space requirement between the wrist and the tie was not implemented. In the remaining two cases the new

procedures appear to have been followed, suggesting a compliance rate of **six percent**. This represents a modest improvement over the previous reporting period.

[Qalandiya refugee camp] – *“They tied my hands behind my back with one set of plastic ties and did the same to Mahmoud. The ties were so tight that they left marks for a long time. They also blindfolded us.”*

Abdullah S. (15) – Arrested 4 July 2011

[Hebron] – *“After the soldiers verified my identity, one of them grabbed me by the arm and violently twisted it behind my back and tied my hands with two sets of plastic ties and tightened them up. They kept me tied this way until around 10:00 pm.”* [i.e. for 19 hours]

Abdullah E. (15) – Arrested 12 September 2011

[Haris village] – *“The soldiers tied my hands behind my back with one set of plastic ties and tightened them so hard I still feel pain in my right thumb which sometimes goes numb. I shouted because of the pain, but they shouted back in Hebrew and I did not understand what they were saying. Then they blindfolded me.”*

Wadda’ B. (16) – Arrested 21 November 2011

C. Transferred on floor of vehicle (31%)

5.9 In 11 out of 36 cases (31 percent), the children report being placed on the metal floor of a military vehicle for the duration of the journey from their home to an interrogation centre, which in some cases can take many hours. This represents a **decrease** of two percent in the percentage of similar reported cases over the previous six-month period.

[Beit Ummar] – *“They also blindfolded me and put me in the jeep. I was sitting on the metal floor of the jeep and that was painful. The jeep travelled for about 15 minutes until we reached the settlement of Kirya Arba’. The soldiers didn’t talk to me. They were just laughing loudly. I think they were making fun of me.”*

Mohammad A. (16) – Arrested 22 July 2011

[Azzun village] – “After that the soldiers put me inside the truck. While I was climbing the ladder to the truck, one of them pushed me and knocked me down. They kept me lying on the metal floor with my hands tied behind my back and I felt harsh pain in my back. I was lying there in a painful position. Whenever I wanted to move to relax my body, one of them would hit me and kick me hard. He did it many times. He also made fun of me by ordering me to get up. When I got up, he would push me and knock me down. He did it many times. Whenever I refused to get up, because I knew he would knock me down, he would kick me. He kept doing this until we arrived at Zufin settlement, near Qalqiliya, at around 4:00 am.”

Husam S. (16) – Arrested 4 September 2011

[Qalandiya refugee camp] – “One of the soldiers pushed me hard inside one of the jeeps and I hit the metal floor. They kept me sitting on the metal floor. There were other soldiers inside and they started punching me hard all over my body. They were slapping and kicking me as well.”

Mahmoud S. (15) – Arrested 4 July 2011

D. Physical violence (67%)

5.10 In 24 out of 36 cases (67 percent), the children report experiencing some form of physical violence inflicted by soldiers, policemen or security agents during their arrest, transfer or interrogation.²⁰ This represents a **decrease** of 20 percent in the percentage of similar reported cases over the previous six-month period. The types of violence typically reported include: punching; slapping; pushing; and kicking. Much of the reported violence occurs whilst the child is still tied.

[Balata refugee camp] – “The soldiers ordered me to approach them and I did so. Then one of them started beating me. They punched me and kicked me with their military boots. One of them hit me hard several times on the shoulder with the barrel of his rifle. I still have the marks on my shoulder; you can see them clearly.” [Child shows DCI lawyer]

Ibrahim Q. (17) – Arrested 20 September 2011

²⁰ Security agents from the Israel Security Agency (ISA), formerly known as the General Security Service (GSS) or “Shabak”.

[Hebron] – *“There were two desks inside the container. An interrogator was sitting behind one of the desks. Once I walked into the room he asked me if I threw stones or not. ‘I don’t know what you’re talking about,’ I said to him and he started shouting at me. ‘Liar,’ he shouted and slapped me hard across the face [...] About 10 minutes later the interrogator had me sit in a chair. He brought a knife to cut off the ties. He grabbed my hands and started cutting the ties violently and quickly, and that actually cut my hands which started bleeding. I still have the marks as you can see.”* [Child shows DCI lawyer]

Abdullah E. (15) – Arrested 12 September 2011

[Azzun village] – *“A soldier forcibly grabbed me by the arm and took me behind our house. The officer asked me about some neighbours, but I lied and told him I did not know anyone. ‘Liar,’ the soldier shouted in Arabic and slapped me hard across the face. My family did not see him slapping me because they were forced to stay inside the house.”*

Abed D. (15) – Arrested 14 September 2011

E. Threats (69%)

- 5.11 In 25 out of 36 cases (69 percent), the children report being threatened by their interrogator. The testimonies reveal that most interrogations involve a combination of physical violence, threats and verbal abuse. This represents an **increase** of 31 percent in the percentage of similar reported cases over the previous six-month reporting period.

[Al’ Arrub refugee camp] – *“‘Don’t you want to confess?’ the interrogator kept shouting. ‘I got nothing to confess to,’ I kept responding, and he kept kicking me on my bottom. He grabbed my head and started slamming it against the metal closet while saying: ‘You son of a whore, I’ll bring your mother down here.’ He would take a break and then resume hitting and kicking me. He kept doing this for about two hours. Then I got tired. ‘I threw Molotov cocktails at Israeli soldiers,’ I finally said [...] After that he took me to another room and removed the blindfold. A man talked to me and introduced himself as Captain Dawoud.”*

[Osarin village] – *“The interrogator started shouting at me and accusing me of being a liar. He threatened to beat me. ‘I’ll break your head if you don’t confess,’ he said. ‘I’ll put you in prison for a long time,’ he added. He kept shouting and threatening me for about an hour. Sometimes he would raise his hand to hit me. I became very scared of the interrogator, so I had to confess to throwing stones.”*

Abdullah E. (15) – Arrested 12 September 2011

[Osarin village] – *“During the interrogation he shouted and pounded the table to intimidate me. He threatened to beat me if I did not confess, and that scared me a lot, so I confessed to throwing stones one time.”*

Fadel A. (16) – Arrested 28 November 2011

F. Verbal abuse (42%)

5.12 In 15 out of 36 cases (42 percent), the children report some form of verbal abuse or treatment which they found to be humiliating during their arrest, transfer or subsequent interrogation. The verbal abuse frequently consists of derogatory statements made against the child’s mother or sister. This represents a **decrease** of 18 percent in the percentage of similar reported cases over the previous six-month reporting period.

[Nablus] – *“I could hear many soldiers talking loudly, shouting and insulting me. ‘You’re a dog, son of a whore,’ one of them said to me, and I insulted him back. He became very upset and at least three soldiers started kicking me in the stomach.”*

Thaer A. (17) – Arrested 13 November 2011

[Azzun village] – *“They put me in a metal cage at the entrance to Huwwara interrogation centre. They made me stand against the wall and there were so many flies inside the cage. I tried to chase the flies off my body, but a soldier kept shouting at me and ordering me to face the wall. I kept standing there facing the wall for about an hour. About an hour later, the soldier said: ‘Come here motherfucker.’ He took me out of the cage and made me stand in the burning sun. ‘Take off all your clothes,’ he ordered me and I became scared of him. I took off all my clothes except my underwear. Then he ran a metal detector over my body and gave me big prison clothes and detained me in Room 2 with three adults.”*

Husam S. (16) – Arrested 4 September 2011

[Haris village] – *“I was transferred to Megiddo prison. At the entrance of the prison I asked to use the bathroom, but one of the soldiers started shouting at me and insulting me saying ‘your mother’s a cunt.’”*

Ali D. (16) – Arrested 14 December 2011

G. Solitary confinement (22%)

- 5.13 In eight out of 36 cases (22 percent), the children report being held in solitary confinement for up to 24 days. This represents an **increase** of 13 percent in the percentage of similar reported cases over the previous six-month reporting period. The practice of placing children in solitary confinement and depriving them of meaningful external stimuli appears to be most common at the Al Jalame interrogation centre, near Haifa; the Petah Tikva interrogation centre, near Tel Aviv; and the Al Mascobiyya interrogation centre, in Jerusalem.
- 5.14 The detrimental psychological and physical effects of detaining persons in solitary confinement are well documented and include: panic attacks; fear of impending death; depression, including clinical depression; social withdrawal; a sense of hopelessness; unprovoked anger; short attention span; disorientation; paranoia; psychotic episodes; self-mutilation; and attempted suicide.
- 5.15 For these reasons, the UN Special Rapporteur on Torture, Mr. Juan Méndez, called for a complete ban on the use of solitary confinement for children, in a report submitted to the UN General Assembly, in October 2011.²¹ In his report, Mr. Méndez concluded that the use of solitary confinement “can amount to torture or cruel, inhuman or degrading treatment or punishment when used as a punishment, during pretrial detention, indefinitely or for a prolonged period, for persons with mental disabilities or juveniles.” The call for the prohibition on the use of solitary confinement for children echoes a similar demand made by the UN Committee on the Rights of the Child in 2007, which recommended that the practice be “strictly forbidden” in the case of children (see: General Comment No. 10 – paragraph 89).²²

[Nablus] – “I arrived at Petah Tikva at around 1:00 pm [...] The cell was very small with dark grey walls and a dim yellow light in the ceiling. The light was on the whole time. The toilet had a horrible and nasty smell. The cell also had a mattress and two blankets. I was detained in this cell for four days, before being taken to other cells of the same description.”

Osaid H. (17) – Arrested 7 December 2011
(Held in solitary confinement for at least four days)

²¹ Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, 5 August 2011, A/66/268. Available at: http://www.dci-palestine.org/sites/default/files/sr_report_aug_2011_solitary_confinement.pdf

²² See also DCI-Palestine, Urgent Appeal (UA 1/12) – Solitary Confinement, 5 January 2012. Available at: http://www.dci-palestine.org/sites/default/files/ua_1-12_-_solitary_confinement.pdf ; and B’Tselem and Hamoked, Kept in Darkness: Treatment of Palestinian Detainees in the Petah Tikva Interrogation Facility of the Israel Security Agency (October 2010). Available at: http://www.btselem.org/publications/summaries/201010_kept_in_the_dark

[Haris village] – *“I was transferred to Al Jalame. I arrived about two hours later. They pulled me out and took me to one of the rooms where I was strip searched and given a prison uniform. Then they took me to an interrogation room with a low metal chair tied to the floor in the middle of the room. A jailer forced me to sit in the chair and he tied my hands to it. After that an interrogator came into the room and introduced himself as ‘Assaf’. He said he would interrogate me and hoped I would cooperate [...] About an hour later I was detained in Cell No. 36. It is a very small cell, which had a mattress on the floor and a toilet with a horrible smell, as well as two concrete chairs. The lights in the ceiling were dim yellow and on 24 hours, and they hurt my eyes. The walls were grey and had a rough surface. The cell had no windows, just two gaps for letting air in and out. The food was served through a flap in the door [...] Assaf and Amos interrogated me for several days and I eventually decided to confess because of the pressure they put on me. I was in a bad psychological state because they kept my hands tied for several hours during interrogation and detained me in a small cell.”*

Rami J. (17) – Arrested 24 October 2011
(Held in solitary confinement for 24 days)

[Haris village] – *“The interrogator accused me of throwing Molotov cocktails, but I denied it, and he accused me of lying to him. ‘Let’s not waste each other’s time because eventually you’ll confess,’ he shouted. But I did not confess at all on day one. At around 9:00 pm he untied me and locked me in Cell No. 36. The cell was very small and had a toilet, a sink and two concrete chairs. The walls were rough and in the ceiling there were two yellow lights that hurt my eyes. It had no windows except holes to let air in and out. The air inside the cell was very cold and unbearable.”*

Wadda’ B. (16) – Arrested 21 November 2011
(Held in solitary confinement for 12 days)

H. Confessions (56%) and documentation written in Hebrew (42%)

- 5.16 In 20 out of 36 cases (56 percent), the children report confessing at the end of what is typically a coercive interrogation. In other cases, children report being forced to sign documents without being given the opportunity to read them. In 15 out of 36 cases (42 percent), the children report being shown, or forced to sign, documentation written in Hebrew – a language the overwhelming majority of Palestinian children do not

understand. These documents are then included in the court files which are in the possession of both the military prosecutors and judges, neither of who express criticism or surprise regarding this practice.²³

[Qalandiya refugee camp] – *“‘Liar,’ the interrogator shouted. ‘You better confess,’ he shouted, but I never confessed. He was typing what I was saying in the computer. Then he printed it out in Hebrew and ordered me to sign it, but I refused so he slapped me hard across the face while shouting. He got up and pushed me towards the wall and I slammed against it. I was so scared of him I immediately signed the papers.”*

Malek Z. (15) – Arrested 4 July 2011

[Hebron] – *“The two interrogators kept me standing and never allowed me to sit in a chair. They kept slapping me around, but I never confessed. The interrogation lasted about two hours. After that, they printed out some papers in Hebrew and forced me to sign them. Later on it turned out that I had signed a confession saying I threw stones. This is what my lawyer told me later in court.”*

Husam S. (15) – Arrested 12 September 2011

[Hebron] – *“He printed out some papers written in Hebrew and laid them in front of me. ‘This is your statement and confession. Sign it,’ he said. ‘But it’s in Hebrew and I don’t understand Hebrew,’ I said. ‘This is your statement. I didn’t make it up,’ he shouted, and refused to explain it to me. He untied me for a few seconds so I could sign the papers and then tied me all over again.”*

A. J. (17) – Arrested 7 December 2011

I. Detention inside Israel in violation of the Fourth Geneva Convention (72%)

5.17 In 26 out of 36 cases (72 percent), the children report being detained inside Israel in violation of Article 76 of the Fourth Geneva Convention. Article 76 provides that: *“Protected persons accused of offences shall be detained in the occupied country, and if*

²³ Pursuant to Article 147 of the Fourth Geneva Convention, wilfully depriving a protected person of the rights of a fair and regular trial is a grave breach of the Convention and attracts personal criminal responsibility. Further, under Article 146, all parties to the Convention have a positive legal obligation to search out and prosecute those responsible for grave breaches.

convicted they shall serve their sentences therein.”²⁴ The practical consequences of this violation is that many children receive either limited, or no family visits, due to freedom of movement restrictions, and the time it takes to issue permits.

J. Presence of a family member during interrogation

- 5.18 Under Section 9H of the Youth Law (1971), Israeli children, including those residing in settlements in the occupied West Bank and East Jerusalem, generally have the right to have a parent present during interrogation. Although no such right is granted to Palestinian children under Israeli military orders, the President of the Military Court of Appeals, Colonel Aharon Mishnayot, has expressed the view that the “spirit” of the Youth Law also applies to Palestinian children living in occupied territory:²⁵

“Although the provisions of Amendment No. 14 of the Youth Law do not apply in the Region, it is impossible to ignore their spirit or the principles underlying the protection of a minor’s rights, even if he is suspected of committing offenses, and dominant weight must be given to the supreme principal of the best interest of the minor, as stated in the proposed law. Ultimately, a minor is a minor is a minor, whether he lives in a place where Israeli law applies in its entirety, or in another place, where, although Israeli law does not apply it its entirety, it is subject to the significant influence of the Israeli legal system [...] Amendment No. 14 includes, as aforesaid, also restrictions on the interrogation of minors. These are restrictions that should be implemented, in principle, in every properly administered court, even where there is no explicit legislative requirement. I am referring primarily to the prohibition on interrogation late at night and the right of the minor to have a parent or other relative present during the interrogation, who can take action to realize the minor’s rights.”

In spite of this statement by the President of the Military Court of Appeals, in all 36 cases (**100 percent**) documented by DCI-Palestine during the reporting period, no child was accompanied by a parent during their interrogation.

6. Expert psychiatric opinion on the effects of interrogation

- 6.1 At the request of Physicians for Human Rights – Israel (PHR), Dr. Graciela Carmon, M.D. (Child and Adolescent Psychiatrist), wrote an expert psychiatric opinion on the mental and developmental factors that lead children to make false confessions during

²⁴ Pursuant to Article 147 of the Fourth Geneva Convention, unlawfully transferring a protected person is a grave breach of the Convention and attracts personal criminal responsibility. Further, under Article 146, all parties to the Convention have a positive legal obligation to search out and prosecute those responsible for grave breaches.

²⁵ Mil. Ct. App. (Judea and Samaria) 2912/09, Military Prosecutor v N.A.

interrogations, and the implications of these confessions.²⁶ Extracts from this opinion are presented below:

“Every person in detention and under interrogation, but especially a child or adolescent, may give a false confession despite his or her innocence, in order to escape from the situation, and particularly in the following circumstances: emotional and/or physical stress, threats, mental and/or physical torture, cruel treatment, humiliation, physical and/or mental exhaustion, sleep deprivation, prolonged questioning for many hours, leading questioning, and the use of deceptive and manipulative techniques [...] I would like to particularly not that severe interrogating methods such as isolation may lead to irreversible mental damage, from behavioural changes to a loss of touch with reality (a psychotic state).

Following the application of such methods, the detainee feels helpless and out of control of the situation. This state of mind may lead the detainee to surrender totally to the will of the interrogators, yield to their requests and provide a confession according to their demands, a confession that will free the detainee from the interrogation.

Although some detainees understand that providing a confession, despite their innocence, will have negative repercussions in the future, they nevertheless confess, as the immediate mental and/or physical anguish they feel override the future implications, whatever they may be.

The groups most vulnerable to these methods of interrogation, which have a high likelihood of providing a false confession under coercion, are children and adolescents, drug addicts and/or alcoholics, and people with mental illness or mental retardation.”²⁷

7. Impunity for violations

- 7.1 Many Palestinian families refuse to file complaints alleging mistreatment against Israeli authorities for fear of retaliation, or simply because they do not believe the system is fair or impartial. There is evidence to support this last concern:

²⁶ PHR-Israel – Available at: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1323>

²⁷ See also: PHR-Israel, Adalah and Al-Mezan, ‘False Confessions by Palestinian Children and Adolescents under Coercion (November 2011). Available at: <http://www.phr.org.il/uploaded/False%20Confessions%20PP.pdf>

- (i) Between January 2001 and late 2010, 645 complaints were filed against Israeli Security Agency (ISA) interrogators for alleged ill-treatment and torture of Palestinian detainees. No criminal investigations were conducted.²⁸
- (ii) Between 2000 and 2010, a complaint lodged by a Palestinian against an Israeli soldier had a 96.5 percent chance of being dismissed without an indictment being filed.²⁹
- (iii) On 27 January 2011, an Israeli military court refused to imprison Lt. Col. Omri Burberg who was convicted of shooting a bound and blindfolded Palestinian detainee at close range in the foot with a rubber coated steel bullet. The court declined to impose a custodial sentence even though this was recommended by the prosecution.³⁰

In the words of one Israeli organisation: *“The chances of a criminal offense carried out by an IDF soldier against a Palestinian successfully navigating the obstacle course of the complaint procedure [...] are almost nil.”*³¹

8. Concluding remarks

8.1 Reports of torture and ill-treatment in the Israeli military detention system are not new and have been well publicised for many years. The testimonies collected by DCI-Palestine during the reporting period indicate that Palestinian children held in Israeli military detention continue to be systematically ill-treated. Further, the cumulative effect of the ill-treatment experienced by all of the children must also be considered when assessing its gravity. In some cases this cumulative effect, coupled with the child’s age, may result in the treatment being properly categorised as torture. It is important to note however, that both ill-treatment and torture are absolutely prohibited and criminalised under international law.

²⁸ B’Tselem and HaMoked, *Absolute Prohibition: The Torture and Ill-Treatment of Palestinian Detainees*, May 2007, page 79. See also the joint report by Hamoked and B’Tselem, *Supplemental Information for the Consideration of Israel submitted to the UN Committee Against Torture*, dated April 2009, pages 3 to 4. See also Haaretz, ‘Israel’s Justice Ministry to probe claims of Shin Bet torture and abuse’ (18 November 2010) - <http://www.haaretz.com/print-edition/news/israel-s-justice-ministry-to-probe-claims-of-shin-bet-torture-and-abuse-1.325282>

²⁹ Yesh Din, *Alleged Investigation: The Failure of Investigations into Offenses Committed by IDF Soldiers Against Palestinians* (August 2011).

³⁰ Haaretz, ‘IDF commander involved in shooting bound Palestinian evades jail,’ (27 January 2011) – available at: <http://www.haaretz.com/news/diplomacy-defense/idf-commander-involved-in-shooting-bound-palestinian-evades-jail-term-1.339516>

³¹ Yesh Din, *Alleged Investigation: The Failure of Investigations into Offenses Committed by IDF Soldiers Against Palestinians* (August 2011), page 101. See also Haaretz, ‘Officer who defended beating Palestinians to take over infantry’ (16 August 2011). Available at: <http://www.haaretz.com/print-edition/news/officer-who-defended-beating-palestinians-to-take-over-infantry-1.378802>

8.2 Recent amendments to the military orders relating to children have had little impact whatsoever on their treatment during the critical first 48 hours, where most of the ill-treatment occurs, at the hands of soldiers, policemen and interrogators.

9. Recommendations

9.1 No child should be prosecuted in military courts which lack comprehensive fair trial and juvenile justice standards. DCI-Palestine recommends that as a minimum safeguard in the light of consistent reports of torture and ill-treatment, the following:

- (i) Except in extreme and unusual circumstances, all arrests of children should occur during daylight hours;
- (ii) The use of single plastic hand ties must be prohibited in all circumstances and the prohibition must be effectively enforced;
- (iii) The effective implementation of independent oversight within the system, such as the audio-visual recording of all interrogations and the presence of family members and lawyers of choice;³²
- (iv) The exclusion of all evidence obtained by torture or ill-treatment, and in cases where the child was not effectively informed of his right to silence;
- (v) The practice of using solitary confinement on children in Israeli detention facilities should be stopped immediately;
- (vi) Effective accountability measures, to ensure all credible reports of torture and ill-treatment are appropriately investigated in accordance with international standards, and perpetrators are brought promptly to justice; and
- (vii) In accordance with recommendations made in 2002 by the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard, an independent inquiry meeting with international standards should be established to investigate reports of torture and ill-treatment of children in the Israeli military detention system.

³² These recommendations have been endorsed by the UN Committee Against Torture, Concluding Observations, Israel, May 2009, CAT/C/ISR/CO/4 – paragraphs 16 and 27; and the UN Human Rights Committee, Concluding Observations, July 2010, CCPR/C/ISR/CO/3 – paragraph 22. On 15 June 2011, ACRI, Yesh Din and DCI-Palestine wrote to the Israeli Chief Military Advocate General with similar demands. At the time of publication no substantive response has been received. The letter is available on-line at: <http://www.dci-palestine.org/documents/acri-dci-palestine-and-yesh-din-demand-equality-palestinian-children>

Annexure A
Executive summary (1 January– 30 June 2011)

- 1.1 Each year, approximately **700** Palestinian children as young as **12** years are arrested, interrogated and prosecuted in the Israeli military detention system. Credible reports of torture and/or ill-treatment within the system are common and persistent. This Report covers a six month period between 1 January and 30 June 2011, and is based on the sworn testimonies of **45** children detained in the system during this period. In **62** percent of the cases, the children were accused of throwing stones. The common complaints and areas of concern raised by the children in their testimonies are presented in Table 1:

Table 1 – Common complaints and areas of concern – 1 January to 30 June 2011

#	Common complaints and areas of concern	Number of cases	Percentage of children
1	Hand ties	44	98%
2	Blindfolds	41	91%
3	Physical violence	39	87%
4	Detention inside Israel in violation of Article 76	34	76%
5	Confession during interrogation	31	69%
6	Arrested between midnight and 5:00 am	28	62%
7	Verbal abuse	27	60%
8	Strip searched	25	56%
9	Threatened	17	38%
10	Transferred on floor of vehicle	15	33%
11	Signed/shown documents written in Hebrew	13	29%
12	Solitary confinement	4	9%

- 1.2 The Report also highlights the involvement of illegal Israeli settlements in the military detention system, evidenced by the fact that in **67** percent of cases, the children report being ill-treated by soldiers or policemen whilst inside a settlement.
- 1.3 DCI-Palestine is of the view that no child should be prosecuted in military courts which lack comprehensive fair trial and juvenile justice standards. However, as a minimum safeguard the Report recommends that all interrogations of children be audio-visually recorded and that parents be permitted to accompany their children during questioning, as is the right afforded to Israeli children in most cases. The Report further recommends that an independent inquiry be established to investigate the treatment of children in the Israeli military detention system.

Annexure B
NGO reports during the reporting period

Date	Report	Brief description
Dec	DCI-Palestine – The use of solitary confinement on Palestinian children held in Israeli detention	This report focuses on the use of solitary confinement at the Al Jalame and Petah Tikva interrogation centres. ³³
Aug	Yesh Din – Alleged Investigation: The Failure of Investigations into Offenses Committed by IDF Soldiers Against Palestinians	This report considers issues of accountability. ³⁴
Jul	B'Tselem - No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone-Throwing	This report focuses on the treatment of children accused of throwing stones in the military court system. ³⁵
Jul	No Legal Frontiers – All Guilty! Observations in the Military Juvenile Court	This report focuses on 71 cases of children prosecuted in the military juvenile court. ³⁶
Jul	DCI-Palestine - In their own Words: A report on the situation facing Palestinian children detained in the Israeli military court system	This report focuses on children in the military court system. ³⁷
Jul	Physicians for Human Rights-Israel – Coerced False Confessions: The Case of Palestinian Children	This report considers the psychological and social factors that affect children and adolescents who are in custody and undergoing police interrogation. ³⁸

³³ DCI-Palestine – Available at: http://www.dci-palestine.org/sites/default/files/solitary_confinement_website_dec_2011.pdf

³⁴ Yesh Din – Available at: <http://www.yesh-din.org/infoitem.asp?infocatid=166>

³⁵ B'Tselem – Available at: http://www.btselem.org/download/201107_no_minor_matter_eng.pdf

³⁶ No Legal Frontiers – Available at: <http://nolegalfrontiers.org/en/reports/77-report-juvenile-court>

³⁷ DCI-Palestine – Available at: http://www.dci-palestine.org/sites/default/files/un_sp_-_detention_-_west_bank_-_july_2011.pdf

³⁸ Physicians for Human Rights-Israel – Available at: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1323>

Annexure C
Media reports during the reporting period

Date	Agency	Article title
18 Jul	The Guardian	‘Hundreds of Palestinian minors jailed for throwing stones, says report’
18 Jul	Haaretz	‘Israel convicts most stone-throwing Palestinian children, right group says’
27 Jul	The National	‘Palestinian children endure systematic abuse from Israel’s military courts, say reports’
16 Aug	Haaretz	‘Officer who defended beating Palestinians to take over infantry’
26 Aug	The Independent	‘How Israel takes revenge on boys who throw stones’
16 Sep	The Independent	‘Military whistleblower tells of ‘indiscriminate’ Israeli attacks’
28 Sep	The Guardian	‘Palestinian children woken in night to be photographed by soldiers’
1 Oct	Middle East Monitor	‘Forget the distractions; the realities of Israel’s Occupation demand its end’
5 Oct	Haaretz	‘Following criticism, IDF raises age for Palestinians to be tried as minors to 18’
20 Oct	NewStatesman	‘Gilad Shalit is free – now release 164 jailed Palestinian children’
20 Oct	Haaretz	‘UN rights expert: Palestinian children subject to arrests, violence by Israel’
24 Oct	The Huffington Post	‘Understanding why the prisoner exchange matters’
29 Oct	American Psychological Association	‘The arc of a frontline’
3 Nov	The Guardian	‘Israeli doctors ‘failing to report torture of Palestinian detainees’
26 Nov	The Australian	‘Stone cold justice’
29 Nov	Haaretz	‘Virtually all military court cases in the West Bank end in conviction’
14 Dec	Haaretz	‘Jewish rock-throwers are more equal’
17 Dec	The Australian	‘Rudd seeks action on torture allegations involving Palestinian children’
23 Dec	The Huffington Post	‘Israel Release 55 But 106 Palestinian Children Remain in Jail as Shackling Continues’

#	Name	Age	Date of arrest	1	2	3	4	5	6	7	8	9	10	11	12
31	Deia' A.	17	28 Nov												
32	Rebhi A.	17	28 Nov												
33	Fadel A.	16	28 Nov												
34	Osaid H.	17	7 Dec												
35	Ala' J.	17	7 Dec												
36	Ali D.	16	14 Dec												
Totals				23	35	33	11	24	25	15	8	27	15	20	26
				64%	97%	92%	31%	67%	69%	42%	22%	75%	42%	56%	72%

DCI-Palestine
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