



Military Court Watch

Monitoring the treatment of children in Israeli military detention

Children in Military Custody

Progress report – 18 months on

Date: 3 December 2013

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1. Executive summary

- 1.1 On 26 June 2012, a delegation of UK lawyers published the report – Children in Military Custody. The Foreign Office funded report reviewed how children are treated in Israel’s military court system taking into account both the legal framework and practice. The report found breaches of the UN Convention on the Rights of the Child and the Fourth Geneva Convention and concluded by making 40 specific recommendations.
- 1.2 Eighteen months on, Military Court Watch (MCW) has reviewed the report’s 40 recommendations and assessed whether they have been substantially or partially implemented, or not implemented at all. The findings are presented below:

#	Compliance	Number	Percentage
1	Substantially implemented	2	5%
2	Partially implemented	3	7.5%
3	Not implemented	35	87.5%

- 1.3 During the past 18 months there have been a number of positive developments in the military court system, such as: a reduction in the time in which children must be brought before a military court judge for the first time; a reduction in the time a child can be detained before being charged; no children held in administrative detention; children generally being separated from adults in detention; a monthly decline in the number of children detained this year; and for the past two months, no record of any child under 14 being detained in Israeli prisons.
- 1.4 However, the ultimate litmus test of the system is how children are treated. For many years it has been observed that most complaints of ill treatment relate to the first 24 hours following arrest. It was during this time frame that many children were arrested in the middle of the night, painfully hand tied and blindfolded, denied basic care, such as adequate food, water and access to toilets, reported being physically assaulted, and were denied access to lawyers, parents and information about their basic rights, such as the right to silence. Alone and bewildered, these children were then interrogated whilst sleep deprived and would frequently provide confessions under coercion. Conviction before a military court judge was then the norm after bail was denied, which would be followed, in many cases, by transfer and detention to prisons inside Israel in violation of the Fourth Geneva Convention.
- 1.5 Since the publication of the report, the system has come under the scrutiny of UNICEF, which in March 2013 published the report – Children in Israeli Military Detention. After reviewing over 400 affidavits, UNICEF concluded that: “The ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process.” In October 2013, UNICEF again reviewed the situation with reference to affidavit material that showed no improvement in how children are treated in the first 24 hours.

1.6 Since the publication of UNICEF’s report, MCW has independently monitored the treatment of children in the system, specifically focusing on the first 24 hours. Whilst there have been a number of amendments to the military law, it must be noted that none of these changes provide any protection to children during this critical time frame. The findings of MCW’s review, based on 29 affidavits collected from children detained in the system during 2013, are presented in the following table.

#	Description	No	%
1	Hand tied	27	93%
2	Blindfolded	24	83%
3	Signed/shown documents in Hebrew	18	62%
4	Arrested at night	16	55%
5	Physical abuse	16	55%
6	Verbal abuse	16	55%
7	Transferred on floor of vehicle	13	45%
8	Strip searched	10	34%
9	Threats	9	31%
10	Solitary confinement	2	7%
11	Informed of right to silence	2	7%
12	Parent present throughout interrogation	2	7%
13	Consulted with lawyer before interrogation	0	0%
14	Audio-visual recording of interrogation	0	0%

1.7 MCW submits that it is unrealistic to expect any substantive improvement in the system until adequate protection is provided during the first 24 hours. There are six core recommendations that, if effectively implemented, would provide the necessary protection:

- (i) Children should only be arrested during daylight hours except in rare and exceptional circumstances. In all other cases summonses should be used;
- (ii) All children, and their legal guardian, should be provided with a written statement in Arabic informing them of their full legal rights in custody;
- (iii) All children must consult with a lawyer of their choice prior to questioning;
- (iv) All children must be accompanied by a family member throughout their questioning;
- (v) Every interrogation must be audio-visually recorded and a copy of the tape must be provided to the defence prior to the first hearing; and
- (vi) Breach of any of the above recommendations should result in the discontinuation of the prosecution and the child’s immediate release.

2. Introduction

- 2.1 In September 2011, a delegation of nine lawyers from the UK visited Israel and the West Bank for the purpose of conducting an evaluative analysis of Israeli military law and practice as they affect Palestinian children in the West Bank by reference to the law and standards of international law and international children's rights.¹
- 2.2 The visit was funded by the United Kingdom Foreign & Commonwealth Office, which also provided diplomatic support throughout the visit, on the shared understanding that the delegation was to be entirely independent.
- 2.3 In June 2012, the delegation published their findings in a report – Children in Military Custody (UK Report).² The UK Report found undisputed evidence that the system violated at least six articles under the UN Convention on the Rights of the Child (discrimination, best interests, premature resort to detention, non-separation from adults, prompt access to lawyers and use of shackles) and two articles under the Fourth Geneva Convention (unlawful transfer and translation). The report also noted that if the allegations of ill-treatment presented to the delegation from numerous sources were true, then Israel would also be in breach of the prohibition on torture and other cruel, inhuman and degrading treatment.
- 2.4 The purpose of this report is to provide an overview of developments in the military detention system during the intervening 18 months and to review progress in implementing the 40 recommendations made by the UK Report.

3. A narrative from the field

- 3.1 When the UK Report was published on 26 June 2012, the UK Foreign Office said that it would be challenging the Israeli Government over its treatment of Palestinian children.³ Subsequent statements made to Parliament by the UK Government indicate that concerns over the treatment of children in Israeli military custody have been communicated to Israeli officials on a number of occasions.⁴ This report aims to shed light on how successful these representations have been measured against one meaningful test, namely, has there been a measurable improvement in the treatment of children who come in contact with the system?
- 3.2 In March 2013, some eight months after the publication of the UK Report, UNICEF published a report on the same issue – Children in Israeli Military Detention (UNICEF Report). After reviewing over 400 affidavits taken from children who had been detained in the system, as well as consulting widely with other UN agencies, Israeli officials, civil society and lawyers, UNICEF came to two conclusions:
 - A. “It is understood that in no other country are children systematically tried by juvenile military courts that, by definition, fall short of providing the necessary guarantees to ensure respect for their rights.”

B. “The ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process, from the moment of arrest until the child’s prosecution and eventual conviction and sentencing.”

3.3 The official response to the UNICEF report was similar in nature to the response to the UK Report. The Ministry of Foreign Affairs in Israel stated that it would study the conclusions and work to implement the 38 recommendations through on-going cooperation with UNICEF.⁵

3.4 It is widely acknowledged that the overwhelming majority of complaints concerning the treatment of children held in Israeli military custody relate to the first 24 hours of detention following arrest. In order to monitor the situation, MCW has collected 29 affidavits from children who have been detained in the system since December 2012. The affidavits focus mainly on the first 24 hours from the moment of arrest up until the child’s interrogation. A summary of MCW’s evidence relating to the first 24 hours is presented below.

Analysis of 29 affidavits collected by MCW from 2012 (Dec) to 2013 (Oct).

#	Description	No	%
1	Hand tied	27	93%
2	Blindfolded	24	83%
3	Signed/shown documents in Hebrew	18	62%
4	Arrested at night	16	55%
5	Physical abuse	16	55%
6	Verbal abuse	16	55%
7	Transferred on floor of vehicle	13	45%
8	Strip searched	10	34%
9	Threats	9	31%
10	Solitary confinement	2	7%
11	Informed of right to silence	2	7%
12	Parent present throughout interrogation	2	7%
13	Consulted with lawyer before interrogation	0	0%
14	Audio-visual recording of interrogation	0	0%

3.5 In October 2013, UNICEF published a bulletin to review progress made in implementing the 38 recommendations contained in the UNICEF Report. In its bulletin, UNICEF presented evidence obtained from affidavits collected through the UN Monitoring and Reporting Mechanism on Grave Child Rights Violations. Although the evidence presented by UNICEF consists of a relatively small sample (19 affidavits), the results suggest a deterioration in the treatment of children held in military custody during the three months following the publication of the UNICEF Report. A summary of UNICEF’s evidence relating to ill treatment is presented in the following table.

Analysis of 19 affidavits collected by UNICEF from April to June 2013

#	Description	No	%
1	Painfully hand tied	19	100%
2	Physical abuse	19	100%
3	Verbal abuse	17	89%
4	Blindfolded	16	84%
5	Strip searched	13	68%
6	Consulted with lawyer before interrogation	0	0%
7	Parent present throughout interrogation	0	0%

4. The “typical arrest” remains typical

Arrest

- 4.1 According to the evidence collected by MCW since December 2012, the majority of children (**55 percent**) continue to be arrested in the middle of the night in what are frequently described as terrifying military raids. Almost every child (**93 percent**) was tied with plastic ties, frequently described as being “very painful”. In only one case (**3 percent**) does it appear that the correct Israeli military procedure for the use of hand ties was followed.⁶ In the majority of cases (**83 percent**) children were also blindfolded or hooded, treatment that should never occur according to the UK Report.
- 4.2 According to UNICEF, the UN agency was given assurances by Israeli officials that the military had introduced forms to notify parents of reasons of arrest and whereabouts of the child in April 2013. In spite of these assurances, UNICEF has been unable to find any evidence that these forms are actually being used in the field.⁷ This finding is confirmed by MCW.

Transfer

- 4.3 Nearly half of all children (**45 percent**) continue to report being placed on the metal floor of military vehicles during their transfer to an interrogation centre. Whether a child is placed in a seat or transferred on the floor appears to be entirely arbitrary and dependent on whether there are enough seats in the vehicle for the arresting soldiers. This mode of transport causes additional mental and physical stress to the child who is usually painfully tied and blindfolded at the time.
- 4.4 Over half of all children (**55 percent**) report some form of physical abuse during their arrest, transfer or interrogation consisting of beating, slapping and kicking on various parts of the body including to the head and face. In one case documented by MCW, a child reported being tasered during his arrest, and again during interrogation in the police station in Kiryat Arba settlement in April 2013. A similar percentage of children (**55**

percent) also report being verbally abused, which usually consists of insults directed at the child's mother or sister.

Interrogation

- 4.5 The evidence indicates that the majority of children continue to be interrogated by Israeli policemen inside West Bank settlements. In only two cases (**7 percent**) documented by MCW were children informed of their right to silence prior to being questioned. Also in only two cases (**7 percent**) were parents permitted to accompany their child during interrogation. In no case (**0 percent**) documented by MCW or UNICEF were children permitted to consult with a lawyer prior to being questioned. Most children continue to meet with their lawyer for the first time in a military court room after the interrogation has been completed.
- 4.6 MCW is unaware of any case in which a child's interrogation was audio-visually recorded and the tape was provided to the defence lawyer prior to the first hearing in accordance with the recommendation contained in the UK Report. It should be noted that at least part of the interrogations are sometimes audio-recorded.
- 4.7 In nearly two-thirds of cases (**62 percent**) children report being shown, or made to sign, documentation written in Hebrew during their interrogation. The interrogation process takes on a number of different forms and varies from case to case. However, a general description of the manner in which interrogations conducted by the ISA (Shin Bet) and the police are documented is as follows:
- (i) ***ISA (Shin Bet) interrogations*** - ISA interrogations are usually conducted in one of five facilities inside Israel. These interrogations are not audio or visually recorded, or if they are, tapes are never provided to defence counsel. The ISA interrogator generally writes a summary of the interrogation in Hebrew. An interrogation lasting 10 hours will typically be summarised in 4-5 pages. These summaries are generally not signed by the accused.
 - (ii) ***Police interrogations*** – Many interrogations conducted by the Israeli police in the West Bank are audio recorded. This is mainly due to the fact that few Israeli police can write in Arabic. The investigations are conducted in Arabic and written in Hebrew. The accused person is then made to sign the document written in Hebrew. Defence lawyers report that most of the time there are significant differences between the audio recording and the statements written in Hebrew. Further, because most of the military court judges do not speak Arabic, they rely on the signed statements written in Hebrew.
 - (iii) ***Double interrogations*** – MCW has documented a number of cases in which children report being interrogated by a person in civilian clothes that are not recorded or documented in anyway. These interrogations are generally coercive. If the child confesses, he is transferred to another room where there is a

policeman in uniform who then tells the child to repeat the confession whilst the policeman writes in Hebrew. The document is then signed by the child. The second interrogation is frequently audio-recorded.

In very few cases are the interrogations of Palestinian children audio-visually recorded, and in no cases are the tapes provided to defence lawyers prior to the first hearing.

Military court proceedings

- 4.8 In the overwhelming majority of cases children continue to meet their lawyer for the first time in court, after the conclusion of their interrogation. Children continue to be brought to court in brown prison uniforms, handcuffed and shackled by the ankles. Once inside the court room, handcuffs are removed but the ankle shackles remain.
- 4.9 The outcome of the entire court process is generally determined early on during the initial application for bail. In most cases bail continues to be denied with the result that the quickest way to get out of the system for less serious offences is to plead guilty, whether or not the offence was committed.

5. Transfer and detention of children in breach of the Fourth Geneva Convention

- 5.1 According to the Israeli Prison Service (IPS), between 50-60 percent of Palestinian children prosecuted in the military courts continue to be transferred and detained in prison facilities located inside Israel.⁸ The figure for adults is between 80-90 percent.
- 5.2 The transfer and detention of prisoners outside occupied territory breaches article 76 of the Fourth Geneva Convention (the Convention).⁹ By virtue of article 147 of the Convention, the unlawful transfer or confinement of protected persons constitutes a “grave breach” which attracts personal criminal liability by virtue of article 146. Under article 146 of the Convention the UK Government has an obligation “to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts.”
- 5.3 There is credible evidence in the public domain that the UK/Danish security company, G4S, provides and maintains equipment to the IPS for use in prisons where Palestinian adults and children are detained in breach of article 76 of the Convention. G4S has publicly stated that it supplies control rooms and security systems to these IPS facilities.¹⁰ Although these circumstances raise the question of whether the UK directors of G4S are aiding and abetting a grave breach of the Convention, to date, the UK Government appears to have made no attempt to investigate whether or not a crime has been committed. Further, in statements made to Parliament, the UK Government appears to be abrogating its responsibilities under the Convention to search out, and if appropriate, prosecute any breach of the Convention by UK citizens or others.¹¹

5.4 MCW maintains that in order to discharge its legal obligations under the Convention, the UK Government should, as a first step, liaise with the police and Crown Prosecution Service with regard to mounting an investigation to determine if G4S directors and/or the company itself have aided and abetted a grave breach, and if so, whether a prosecution under UK law is warranted, either under the Geneva Conventions Act 1957 or the International Criminal Court Act 2001.

6. Detention figures

6.1 In June 2012, the month in which the UK Report was published, there were 220 Palestinian children (12-17 years) held in Israeli Prison Service facilities. According to the latest figures available from the IPS, there are currently 159 children in detention – a decrease of 27.5 percent. In another positive development, there are currently no children below the age of 14 in IPS detention facilities. However, the annual trend in the number of children in detention is up from 196 per month in 2012, to 206 in 2013, an increase of 5.1 percent.

6.2 The number of Palestinian children detained in IPS facilities in 2013 is presented in the table below. These figures were obtained from the IPS on payment of a fee.

2013	Boys	Girls	12-13	14-15	16-17	Admin Det	Detention in Israel		Total
Jan	218	1	0	31	188	0	131	60%	219
Feb	234	1	0	39	196	0	141	60%	235
Mar	235	1	0	39	196	0	132	56%	236
Apr	235	1	0	44	191	0	135	57%	236
May	222	1	4	44	175	0	128	57%	223
Jun	193	0	4	37	152	0	102	53%	193
Jul	195	0	3	32	160	0	96	49%	195
Aug	180	0	1	30	149	0	83	46%	180
Sep	179	0	0	27	152	0	93	52%	179
Oct	159	0	0	15	144	0	81	51%	159

7. Points of clarification

7.1 On 28 August 2013, the Foreign and Commonwealth Office (FCO) responded in writing to a letter raising concerns about the treatment of children held in Israeli military custody.¹² In the letter the FCO lists a number of steps Israeli officials have taken to address various concerns raised in the UK Report and to reduce the legal disparity between the treatment of Palestinian children and the treatment of children in Israel. These points require some additional clarification.

(i) Creation of a special court for minors

In September 2009, Military Order 1644 came into effect establishing a military juvenile court. In March 2010, the UN Committee on the Rights of the Child

expressed concern at this attempt to “incorporate juvenile justice standards within military courts” and recommended that children should never be prosecuted in military courts.¹³ In July 2011, the Israeli rights group B’Tselem concluded that “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 shared by MCW primarily due to the fact that no additional protection has been provided to children during the critical first 24 hours following arrest. Further, the military juvenile court continues to admit evidence obtained improperly during the first 24 hours, thereby providing no incentive to the military or police to adopt proper procedures.¹⁵

(ii) *A change in the age of majority*

In September 2011, Military Order 1676 came into effect which, *inter alia*, required that the final hearing for children aged 16 and 17 must be heard before a military juvenile judge. This amendment does not affect the sentencing provisions which still allow for any child aged 14 and above to be sentenced as an adult if the offence they are convicted of carries a maximum penalty in excess of five years. It should be noted that the maximum penalty for throwing stones ranges from 10-20 years, depending on whether a vehicle is involved. Further, all interlocutory applications prior to the final hearing for children aged 12 and above, including bail applications, can still be heard before a military court used for adults, which is frequently the practice. Accordingly, MCW submits that to suggest that the age of majority has been raised to 18 without further qualification, is inaccurate.

(iii) *Reductions in the length of time children can be held in pre-trial detention*

The period of time in which children can be held in detention between being charged and final hearing has been reduced from two years to one year.¹⁶ However, after one year, a judge of the Military Appeals Court can extend the period of detention every three months, with no limit on the number of extensions. Further, the new time limit is still twice as long as that permitted for Israeli children living in the West Bank, a situation that amounts to unlawful discrimination.

(iv) *Reductions in the period children can be held before being brought before a judge*

As a result of amendments to the military law introduced in April 2013, children must be brought before a military judge within four days of their arrest.¹⁷

- 12-13 years – 24 hours
- 14-15 years – 48 hours
- 16-17 years – 4 days (as adults)

It should be noted that all the steps referred to in paragraphs 4.1 to 4.7 above (arrest, transfer and interrogation) generally occur within the first 24 hours, and these amendments provide no additional protection during the critical time frame. Further, the time limits referred to above can be doubled in “special circumstances”. Finally, the time limits applied to Palestinian children under military law are twice as long as those applied to Israeli children living in settlements in the West Bank, a situation that amounts to unlawful discrimination.

8. Translation of military laws into Arabic

- 8.1 The UK Report expressed concern that Military Order 1676 had not been translated into Arabic as required under international law.¹⁸ Under article 65 of the Fourth Geneva Convention “the penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language.” In spite of this provision very few Israeli military orders, and none of the decisions of the military courts, have been published in Arabic by the military authorities.
- 8.2 In October 2013, UNICEF announced that: “The Military Prosecutor informed UNICEF that the Arabic translation of Military Order 1676 was published on the IDF MAG website in 2012 – <http://www.law.idf.il>.”
- 8.3 The authors of this report accessed the IDF MAG website in November 2013, but were unable to locate a copy of Military Order 1676 in Arabic. The authors also invited an Israeli and a Palestinian lawyer to locate a copy of MO 1676 in Arabic on the website but they also were unable to do so. It should be noted that the website identified by UNICEF is in Hebrew and English, but not Arabic. Further, as far as the authors are aware, Military Order 1651 (as amended), which contains the criminal code applicable to the West Bank, as well as Military Orders 1694, 1711 and 1726 have also not been translated into Arabic by the military authorities, thereby technically rendering them without legal effect.

9. Unlawful discrimination

- 9.1 In addition to the 40 specific recommendations made in the UK Report, the delegation made a further three “core recommendations”. One core recommendation was that: “Israel should not discriminate between those children over whom it exercises penal jurisdiction. Military law and public administration should deal with Palestinian children on an equal footing with Israeli children.”¹⁹
- 9.2 Since 1967, Israel has exercised penal jurisdiction over both Palestinians and Israeli settlers living in the West Bank. Although Israeli military law technically applies to all individuals in the West Bank, in practice, the authorities apply civilian law to Israeli settlers and military law to Palestinians.

- 9.3 In most conflict situations the issue of unlawful discrimination does not arise. However, in the context of Israel’s occupation of Palestinian territory, the issue of unlawful discrimination has arisen as a direct consequence of settlement activity in occupied territory. Whilst there is no serious dispute that Israel’s settlements are illegal, there is also no lawful justification upon which Israel can discriminate between persons over whom it exercises penal jurisdiction in the West Bank.
- 9.4 Under the principle of non-discrimination, if a Palestinian child throws a stone at an Israeli child from a settlement, or visa versa, both children should be dealt with equally under the law. This does not mean that Israel must apply its civilian law to Palestinians, as this would be viewed as an indicia of annexation, but the laws that are applied, must treat all residents of the West Bank equally. However, the current reality in the West Bank is that Palestinian children accused of throwing stones are prosecuted in military courts, whereas their Israeli counterparts living in the settlement next door, are dealt within Israel’s civilian juvenile justice system. Not surprisingly, the civilian system has far greater rights and protections than its military counterpart.
- 9.5 The following table presents examples of how Palestinian and Israeli children living in the West Bank are treated differently under the applicable laws. The discrepancies widen considerably when actual practice, as opposed to differential legal provisions, is taken into consideration.

#	Description	Israeli child		Palestinian child	
1	Minimum age of criminal responsibility	12 ²⁰		12 ²¹	
2	Minimum age for custodial sentences	14 ²²		12 ²³	
3	Age of majority	18 ²⁴		16-18 ²⁵	
4	Prohibition against night interrogation	Yes ²⁶		No	
5	Legal right to have a parent present during questioning	Yes ²⁷ (exceptions apply)		No	
6	Legal right to consult with a lawyer prior to questioning	Yes ²⁸		Limited ²⁹	
7	Legal requirement for interrogations to be audio-visually recorded	Partial ³⁰		No	
8	Maximum period of detention before being brought before a judge	12-13 yrs	12 hrs ³¹	12-13 yrs	24 hrs ³²
				14-15 yrs	48 hrs ³³
		14-17 yrs	24 hrs	16-17 hrs	4 days ³⁴
9	Maximum period of detention	48 hours ³⁵		90 days ³⁶	

	without access to a lawyer		
10	Maximum period of detention without charge	40 days ³⁷	130 days ³⁸
11	Maximum period of detention between being charged and conclusion of trial	6 months ³⁹	1 year ⁴⁰

9.6 It is clear from the above table that the Government of Israel is in substantial non-compliance with the prohibition against unlawful discrimination, one of the three core recommendations made in the UK Report. It should also be noted that the Netherlands has recently called for an end to the discriminatory application of law in the West Bank.⁴¹

10. Chronology of developments

10.1 The following table lists, in chronological order, the major developments that have occurred in the military court system since the publication of the UK Report in June 2012.

Date	Description	Comments
June 2012	UK Report: Children in Military Custody	-
August 2012	MO 1694	This order amends MO 1651 (and MO 1685) and reduced the period of time in which adults and children must be brought before a military judge following arrest. The amendment reduced the time period from 8 to 4 days.
March 2013	UNICEF report: Children in Israeli Military Detention	“The ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process.”
April 2013	Military Order 1711	This order amends MO 1651 as follows: <ul style="list-style-type: none"> • Reduces the time period in which some children must be brought before a military judge following arrest. The new time periods can be doubled in “special circumstances”. <ul style="list-style-type: none"> • 12-13 years - 24 hours

		<ul style="list-style-type: none"> • 14-15 years - 48 hours • 16-17 years - 4 days • Reducing the maximum period of detention between being charged and conclusion of trial for minors from 18 months down to one year.
June 2013	ISA complaints procedure	Ministry of Justice announces that complaints against ISA interrogators will no longer be investigated by ISA employees.
June 2013	UNICEF reports that it has been informed by the Military Prosecutor that remand hearings for children will be held separately from adults as a result of a verbal agreement between the prosecution and the judges.	MCW can confirm that remand hearings for children are being held separately from adults in about 70 percent of cases. It should be noted that this was not the subject of a specific recommendation in either the UK Report or the UNICEF Report.
June 2013	UN Committee on the Rights of the Child – Concluding Observations ⁴²	Concluding Observations of Israel's second, third and fourth periodic reports under the Convention on the Rights of the Child.
July 2013	Experts' consultation	UNICEF convened the first experts' consultation with participation by the Military Prosecutor, the Ministry of Foreign Affairs of Israel, the ICRC, independent lawyers and civil society organisations.
October 2013	UNICEF Bulletin No. 1	Considers progress made since publication of the UNICEF report. Evidence of ill-treatment suggests no improvement.
October 2013	Military Order 1726	This order amends MO 1651 and reduces the time period in which a child can be held on remand before being charged from 150 days to 130 days.
November 2013	Experts' consultation	UNICEF convened a second experts' consultation with participation by the Military Prosecutor, the ICRC, independent lawyers and civil society

		organisations.
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11. Table of recommendations and progress

11.1 The following table reproduces the 40 specific recommendations made in the UK Report and considers progress made during the intervening 18 months. A conclusion has also been provided based on whether the individual recommendation has been substantially or partially implemented, or not implemented at all.

#	Specific recommendations	Progress	Conclusion
Arrest			
1	Arrests of children should not be carried out at night save for in extreme and unusual circumstances. A pilot study of issuing summonses as an alternative means or arrest should be carried out.	Evidence collected by MCW indicates that 55 percent of children continue to be arrested at night. UNICEF reports that the Israeli army is considering introducing a pilot study but no start/end date has been announced, locations publicised or parameters circulated to allow independent assessment. ⁴³	Not implemented
2	At the time of their arrest, all children should be informed, in their own language, of the reasons for their arrest and their right to silence, and relevant documents should be provided to them in that language.	Evidence collected by MCW indicates that children are not being informed of their rights at the time of arrest. UNICEF reports that in April 2013, the Israeli army in the West Bank introduced a form of reasons of arrest and whereabouts of the child. However, UNICEF has been unable to find any evidence that these forms are actually being used. This finding is confirmed by MCW. ⁴⁴	Not implemented
3	The parent or guardian of the child should be promptly notified, in their own language, of the arrest, the reasons for it and place of detention.	See above	Not implemented
4	Children should never be blindfolded or hooded.	Evidence collected by MCW indicates that 83 percent of children continue to be	Not implemented

		blindfolded or hooded. UNICEF reports that children continue to be blindfolded in 84 percent of cases. ⁴⁵	
5	Methods of restraint should not be used unless strictly necessary. If used, they should respect the child's dignity and not cause pain or suffering.	Evidence collected by MCW indicates that children continue to be restrained with plastic ties in 93 percent of cases. Meanwhile, UNICEF reports that children continue to be painfully hand-tied in 100 percent of cases. ⁴⁶	Not implemented
6	Single plastic hand ties should never be used. The existing prohibition should be monitored and enforced, and arresting personnel should be trained accordingly.	Evidence collected by MCW indicates that Israeli military procedures for restraining children were followed in 3 percent of cases. Meanwhile, UNICEF reports that children continue to be painfully hand-tied in 100 percent of cases. ⁴⁷	Not implemented
7	Children should not be transported on the floor of vehicles. They should be properly seated and treated with dignity at all times.	Evidence collected by MCW indicates that children continue to be transferred on the floor of vehicles in 45 percent of cases.	Not implemented
8	Children should be conveyed to the place of interrogation or detention without delay and provided with food and water.	Evidence collected by MCW indicates children continue to experience delays involving many hours before being conveyed to a place of interrogation or detention, during which time food and water is rarely provided. This situation is in part due to the fact that a majority of children are arrested at night.	Not implemented
9	The prohibition on violent, threatening or coercive conduct towards children should be strictly observed throughout all stages of arrest.	Evidence collected by MCW indicates that children continue to be subjected to physical violence in 55 percent of cases. Meanwhile, UNICEF reports that in 100 percent of cases they reviewed children complained of physical violence. ⁴⁸	Not implemented
Interrogation			
10	On arrival at a place of detention, children should	Evidence collected by MCW indicates that in 93 percent of	Not implemented

	be immediately reminded of their right to silence. Their right to consult a lawyer prior to interrogation (in accordance with Military Order 1676) should be respected.	cases children are not being informed of their right to silence and that children are not consulting with lawyers prior to their interrogation. Evidence released by UNICEF confirms that children are not consulting with lawyers before they are interrogated. ⁴⁹	
11	Children should have a parent or guardian present prior to and during their interrogation.	Evidence collected by MCW indicates that children are not accompanied by a parent during interrogation in 93 percent of cases. This finding is confirmed by UNICEF that found no children were accompanied by their parents in its sample of evidence. ⁵⁰	Not implemented
12	Children should have access to a full medical examination both prior to and after interrogation. The assessment should document any complaints and findings and consider both the psychological and physical state of the child. The child's lawyer should have access to the assessment.	There has been no discernable change in the practice whereby children are brought briefly before a medical officer prior to interrogation and made to answer a list of questions about their health. This process lasts approximately five minutes, complaints are generally ignored and children sometimes remain tied during the process. The process appears not to take into consideration the child's psychological state.	Not implemented
13	Interrogations should be conducted during daytime (in accordance with Israeli youth law), after an appropriate period of rest and refreshment, and only by specially trained youth interviewers.	The majority of children continue to be arrested at night and denied any rest or refreshment before being interrogated.	Not implemented
14	Interrogations should be audio-visually recorded and the tapes should be made available to the child's lawyer.	Few interrogations are audio-visually recorded and the tapes are never made available to the child's lawyer prior to the first hearing.	Not implemented

15	Children should not be required to sign confessions and statements written in a language other than their own.	Evidence collected by MCW indicates that 62 percent of children are being shown, or made to sign, documentation written in Hebrew during their interrogations.	Not implemented
16	The prohibition on violent, threatening or coercive conduct towards children should be strictly observed throughout all stages of interrogation and detention.	Evidence collected by MCW indicates that children continue to be subjected to physical violence in 55 percent of cases. Meanwhile, UNICEF reports that in 100 percent of cases they reviewed children complained of physical violence. ⁵¹	Not implemented
Bail hearings, plea bargains and trial			
17	The maximum period of detention before production at court should be reduced to 24 hours and the periods of detention without charge should be reduced in line with Israeli youth law.	In April 2013, Military Order 1711 came into effect reducing the time period in which children aged 12-13 must be brought before a judge to 24 hours. Children aged 14 and above need not be brought before a judge for 48-96 hours. The time periods for all children can be doubled in “special circumstances”. In October 2013, Military Order 1726 came into effect reducing the time period in which a child can be held without charge to 130 days. This time period is more than twice as long as the time period permitted under the Israeli youth law. It should be noted that “partial implementation” only relates to children aged 12-13, who make up approximately 2 percent of the total number of children in detention.	Partially implemented
18	The Israeli Government should develop and implement procedures and programmes for children that constitute viable alternatives to custody.	No developments	Not implemented
19	All hearings, including	Many interlocutory applications	Not

	applications for bail, should be heard in the youth court. Children should not be shackled at any time.	continue to be heard before adult military court judges and children continue to wear ankle shackles in court.	implemented
20	There should be a presumption in favour of bail. At the first hearing, the court should only order custody as a last resort and should provide its reasons for any denial of bail.	Release on bail continues to be the exception and there appears to be a presumption against bail in cases involving stone throwing.	Not implemented
21	The audio-visual tapes of the interrogations and viewing equipment should be provided to the defence prior to the first hearing.	Few interrogations are audio-visually recorded and the tapes are never made available to the child's lawyer prior to the first hearing.	Not implemented
22	Military prosecutors should not base prosecutions of children solely on confession evidence without first adopting a system of the kind set out in these recommendations, and should fully assess the conditions under which any confession was obtained.	No developments	Not implemented
23	Allegations or evidence from other children should not be relied upon if obtained in breach of these recommendations.	No developments	Not implemented
24	Any confession written in any language other than the child's own should not be accepted as evidence.	No developments	Not implemented
25	Trials should be dealt with expeditiously and in full compliance with international standards of justice.	No developments	Not implemented
Sentencing and detention			
26	The Israeli prohibition against imprisoning children under the age of 14 should be extended to include	Israeli military law still allows for the imprisoning of children aged 12 and 13 inclusive. Since January 2013, the IPS has	Partially implemented

	Palestinian children.	published disaggregated figures for 12-13 year olds. In four out of 10 months (40 percent) children under 14 were imprisoned. This recommendation should be implemented in every case and enshrined in law.	
27	Children should only be deprived of their liberty pending trial as a measure of last resort and for the shortest possible period of time.	The majority of children continue to be held on remand pending their trial.	Not implemented
28	Solitary confinement should never be used as a standard mode of detention or imprisonment.	Evidence collected by MCW indicates that in 7 percent of cases children continue to be held in solitary confinement.	Not implemented
29	The Israeli Government should develop and implement procedures and programmes for children that constitute viable alternatives to custody focusing on rehabilitation and development.	No progress	Not implemented
30	Probation reports should be mandatory in all cases, unless the defence waive the right to have a report.	Defence lawyers report that social welfare reports are not mandatory and applications to obtain one are sometimes denied by the military courts.	Not implemented
31	At sentencing hearings all alternatives to custody should be fully considered. If a custodial sentence is passed, it should be for the minimum possible term.	No progress	Not implemented
32	All Palestinian children detained under Israeli military law should be held in facilities in the Occupied Palestinian Territories and not in Israel, which constitutes a breach of article 76 of the Fourth Geneva Convention.	According to figures published by the IPS, between 50-60 percent of Palestinian children continue to be detained inside Israel in violation of the Fourth Geneva Convention. ⁵² In the case of adults the proportion rises to above 80 percent.	Not implemented

33	There should be separate detention for children and adults subject to an independent assessment to the contrary based on the best interests of the child.	Over the years substantial improvement has occurred in ensuring separation between adults and children. Some mixing still occurs during the early stages of detention and in Ofer prison.	Substantially implemented
34	Children should be able to access a full education whilst in detention.	Children's education in prison continues to be restricted based on "security" considerations and is generally limited to two subjects, maths and Arabic.	Not implemented
35	Parents or guardians should be granted regular access and visiting rights to children in detention.	Under IPS regulations parents are supposed to be able to visit their children once every two weeks for 45 minutes. In reality, some parents are denied permits to visit for unspecified "security" reasons, whilst in other cases permits can take several months to be issued. On average, children receive visits approximately once per month. In contrast with Israeli child detainees, Palestinian children are not permitted to have any telephone contact with their parents whilst in prison. ⁵³	Not implemented
36	Parents or guardians should be informed of release dates and places in good time and given proper facilities for meeting the children.	Evidence collected by MCW indicates that in 17 percent of cases parents were not informed of their child's release date and in 7 percent of cases parents were informed that their child would be released at the wrong checkpoint. ⁵⁴	Not implemented
37	No child should be the subject of administrative detention.	No child has been held in administrative detention since December 2011. A prohibition against imposing administrative detention on persons under 18 should now be incorporated into military law with binding legal effect.	Substantially implemented
38	Breach of these principles should result in the discontinuation of the	Military court judges are now more frequently criticising the manner in which children are	Not implemented

	prosecution and the child's release.	being arrested and interrogated but continue to allow evidence obtained in breach of these principles to be used to convict.	
Complaints and monitoring			
39	There should be prompt independent investigation of any complaint made by, or in respect of, a child about unlawful or ill-treatment.	<ul style="list-style-type: none"> - Army complaints - 100 percent of investigations were closed without indictment in 2012. - Police complaints – 95 percent of investigations were closed without indictment between 2000 and 2011. - ISA complaints – 100 percent of complaints rejected without a criminal investigation being opened between 2001 and 2011. 	Not implemented
40	There needs to be a comprehensive and independent monitoring system.	In June 2013, the Israeli Ministry of Justice announced that complaints against ISA interrogators will no longer be investigated by ISA employees. It is too early to say whether this development will lead to genuine accountability. However, it should be noted that the results arising out of complaints made against the army, police and ISA are discouraging.	Partially implemented

12. Concluding words

- 12.1 Evidence collected by MCW and UNICEF in 2013 confirms that the ill-treatment of children held in Israeli military custody continues to be widespread, systematic and institutionalised. The overwhelming majority of complaints concerning ill-treatment continue to relate to the first 24 hours following arrest.
- 12.2 It should be noted that none of the developments introduced since the publication of the UK Report or the UNICEF Report provide any additional protection to children during the first 24 hours. Without the effective implementation of recommendations relating to the first 24 hours, it is highly improbable that there will be a measurable reduction in the number of reports of ill-treatment during this critical time frame.
- 12.3 The UK Report made 40 specific recommendations covering all phases of the system. To date, over 87 percent of these recommendations remain un-implemented. Whilst every effort should be made to ensure the implementation of all 40 recommendations, six core recommendations, if effectively implemented, would have a transformative effect:
- (i) Children should only be arrested during daylight hours except in rare and exceptional circumstances. This can be safely and practically achieved through the issue of summonses.
 - (ii) All children and their legal guardian should be provided with a written statement in Arabic informing them of their full legal rights in custody. This statement must be provided at the time of arrest, or as soon as is feasibly possible, but prior to questioning.
 - (iii) All children must be given the opportunity to consult with a lawyer of their choice prior to questioning.
 - (iv) All children must be accompanied by a family member throughout their questioning.
 - (v) Every interrogation must be audio-visually recorded and a copy of the tape given to the defence lawyer prior to the first hearing.
 - (vi) A breach of any of the above recommendations should result in the discontinuation of the prosecution and the child's immediate release.

Annexure A
Evidence of ill-treatment

1	Arrested at night	8	Strip searched
2	Hand ties	9	Solitary confinement
3	Blindfolds	10	Not informed of right to silence
4	Transferred on floor of vehicle	11	No lawyer prior to interrogation
5	Physical violence	12	Parent not present throughout interrogation
6	Threats	13	Signed/shown documents in Hebrew
7	Verbal abuse		

#	Name	Age	Date	1	2	3	4	5	6	7	8	9	10	11	12	13
2012																
1	W.T.	17	2 Nov													
2	N.M.	15	28 Dec													
2013																
3	M.Z.	14	2 Jan													
4	A.I.	14	3 Jan													
5	Y.M.	17	7 Jan													
6	B.H.	14	21 Feb													
7	S.S.	15	14 Mar													
8	H.S.	14	14 Mar													
9	U.S.	16	15 Mar													
10	S.M.	14	31 Mar													
11	A.M.	-	5 Apr													
12	A.N.	15	7 Apr													
13	B.S.	16	9 Apr													
14	F.M.	15	10 Apr													
15	K.A.	15	10 Apr													
16	M.B.	15	10 Apr													
17	M.T.	17	10 Apr													
18	A.J.	15	11 Apr													
19	M.A.	15	14 Apr													
20	Q.Z.	14	22 Apr													
21	M.H.	14	15 May													
22	H.A.	16	16 May													
23	M.A.	15	6 Jun													
24	Z.Q.	15	2 Jul													
25	M.B.	15	6 Jul													
26	A.S.	15	29 Jul													
27	S.W.	15	6 Aug													
28	M.T.	16	25 Aug													
29	M.B.	16	9 Sep													

Annexure B
Sample of evidence

Name: F.M.
Age: 15 years
Date of incident: 10 April 2013
Location: Al 'Arrub, West Bank
Accusation: Throwing stones/striking a soldier

On 10 April 2013, a 15-year-old boy from the Al 'Arrub refugee camp, near Bethlehem, is arrested by Israeli soldiers during clashes at the entrance to the camp.

“At around 5:00 p.m., on Wednesday, 10 April, there were clashes with soldiers near the entrance to the camp. I was there. The clashes got worse and some people were throwing stones at the soldiers. All of a sudden a soldier aimed his gun and fired rubber bullets directly at me. I was hit in my stomach and leg. About 20 soldiers ran in my direction and started to beat me. They hit me all over my body using the back of their guns and batons. I was beaten so badly that I was bleeding from my mouth. My back still hurts nearly three months later.”

“One soldier tied my hands behind my back with a single plastic tie. It was so tight that I couldn't stand the pain so I used all my strength and snapped it open. A soldier got so upset he hit me in my face. He also verbally abused me and called me son of a whore. Another soldier then handcuffed me with metal cuffs. He also verbally abused me so I kicked him back. He then tasered me which was very painful and scary. I was then blind folded and taken to an army jeep that was nearby. They banged my head against the window and made me sit on the metal floor of the jeep. The soldiers continued to beat and verbally abuse me inside the jeep.”

“I was taken to the nearby Israeli settlement of Kiryat Arba. I waited for about two hours and was then taken to an interrogator. The interrogator asked me why I threw stones. I denied the accusation and told him I was on my way home back from work. He told me I was a liar and whipped me. He told me to confess but I told him I had nothing to confess. At this point he called three men who lifted me by my arms and legs and hung me on a wooden structure on the wall. The structure looked like a cross except that it had two pieces for the legs that were spread apart and a circle for the head. It also had two metal hand cuffs attached to it and two metal leg shackles. My hands and legs were tied to the structure and I stayed there for about five hours. It was a painful position that hurt my back. The interrogator whipped me while I was on the wall and shouted at me saying 'confess...confess'. I told him I wasn't going to confess to anything I didn't do. Later, another man entered the room and said: 'you look like you are a strong decent young man, confess and I will send you home'. When I refused to confess he banged my head against the table and called me son of a whore. He then took me to another small room.”

“At this point about nine people entered the small room. They were masked and were carrying batons. I was sitting on a chair and was not tied or blindfolded. Somebody then hit me with a taser, and then tasered me on my hand and back. I fell off the chair and could no longer breathe. I think they were scared to see I was unable to breathe and left the room quickly. A short while

later I was taken to see a doctor. He examined me and said something in Hebrew which I didn't understand. I was then blindfolded and hand cuffed and driven to the settlement of Etzion. They made me sit on the floor of the jeep and beat me on the way.”

“We arrived at Etzion at around 3:00 a.m. and I was interrogated again. Two interrogators questioned me; one introduced himself as 'Ibrahim' and the other as 'Shawqi'. Ibrahim asked me if I wanted a cigarette, tea or coffee. He asked me if I wanted any food. He then said: 'why do you cause problems?' Shawqi was in the room too. They made me sit on a very small metal stool for about two hours. The air-conditioning unit was on and it was very cold. Ibrahim made fun of me and told me if I confessed I would be sent home immediately. I did not confess. I was then taken to a cell.”

“At around 11:30 a.m. I was put in another military vehicle and taken to Ofer prison, near Ramallah. My hands and legs were shackled but I was not blindfolded. It didn't matter much anyway as the part of the vehicle I was in had no windows. On the way I was given some sour cream and some sliced bread which I ate because I was very hungry. They also gave me some hot water which I drank because I was very thirsty. On arrival at Ofer I was made to strip down to my underwear and they made me crouch up and down four or five times. I was then taken to a cell where the prisoners prepared some food for me.”

“On Sunday I was taken to Ofer military court. At court I saw a lawyer for the first time. I showed the judge the marks on my face and back. My parents did not come to court because they were not notified in time. The judge said he would have released me immediately had my father been at court. Just at this moment a soldier entered the court and claimed I had hit him. The session was adjourned till Monday and then again to a later date. On the third court hearing I was sentenced for three-and-a-half months in prison and fined NIS 1,000 (about \$270). I was also given a 10 month suspended sentence for three years for assaulting a soldier.”

“My mother was able to visit me four times while I was in prison. I was released on 2 July 2013, after my sentence was reduced. I have submitted a complaint to the authorities about the way I was treated but have not heard anything.”

Name: Q.Z.
Age: 14 years
Date of incident: 22 April 2013
Location: Halhul, West Bank
Accusation: Throwing stones

On 22 April 2013, a 14-year-old boy from the village of Halhul, near Hebron, is arrested by Israeli soldiers at 2:15 a.m. and accused of throwing stones.

“I was asleep when I woke to the sound of loud banging at the front door. I was startled for a few seconds and couldn’t figure out what was going on. It was around 2:15 a.m. At the time I was sick with the flue and a stomach bug. I heard my mother say 'who is it, who is it?' and a voice outside replied 'open the door, this is the army'. My father told me to stay in bed as he went to open the door. A soldier asked my father for the names of his children and when he said my name the soldier asked where I was. Almost immediately three soldiers stormed into my bedroom and kicked me whilst I was still in bed. My mother was watching. I was forced out of bed but was not allowed to change out of my pajamas. They said they were taking me away, but did not tell me where or why. I asked to use the toilet but they said no.”

“I was taken out of the house where there were more soldiers. Somebody slapped me in the face and kicked me. It hurt a lot. I was pushed up against a wall and scraped my shoulder. I was then blindfolded and my hands were tied behind my back with three plastic ties that were tight and painful. I was then pushed into the back of a military vehicle and made to sit on the metal floor. Somebody said my mother and sisters were whores. I was also slapped and kicked whilst on the floor of the vehicle.”

Q.Z. was taken to the nearby Israeli settlement of Gush Etzion where he was made to stand outside for about one hour, still tied and blindfolded. “I felt very sick and needed the bathroom. I asked to use the bathroom but the soldier said no. I was then taken to a room and made to sit in a chair. Somebody turned the air conditioner on, even though it was cold. I was still blindfolded and tied. I was very tired. When I bent my head down to relax I was slapped. I was kept in this room until around 8:00 a.m. and was then asked a few questions about my health.”

Q.Z. was then taken to see an interrogator. He was not given an opportunity to speak with a lawyer first or to see his parents. “I stood in a room and the interrogator started asking me questions whilst I was still tied and blindfolded. He was rude about my mother and sisters. Some other people came into the room and kicked me. I think one of them had a small length of hose pipe which he whipped me with. He was also abusive towards my mother and sisters. At this stage I still did not know why I had been arrested. The interrogator then asked me whether I had thrown stones, and when I said no, he accused me of lying. He then pushed me to the ground. I asked him to remove the blindfold and he did and said: 'do you see me now?' before replacing it. The interrogator then said that he was older than my father and it was inappropriate for me to lie to him. He then said he would arrest my father and beat him in front of me. I was very scared. He then threatened to electrocute me if I did not confess. I asked him what he wanted me to confess to and he said throwing stones. I asked him how I could confess to something I did not do and he grabbed me by the arm as if he was taking me somewhere. He then lifted my blindfold

and showed me a machine with electric cables and said 'do you want me to electrocute you?' I was terrified and confessed to throwing one stone."

"The interrogator then took me to another room and somebody else wrote down my confession. My hand ties and blindfold were removed. He then asked me to sign something written in Hebrew which I did. Later on when I appeared in the military court the charge sheet was different from my confession. I was later charged with throwing stones at a settler car and causing injury to a settler and her children."

"At around 10:30 a.m. I was placed in a vehicle and taken to Ofer prison, near Ramallah. We arrived at around 8:00 p.m. I was not given anything to eat or drink and my hands and feet were shackled for the entire time. The following morning I was taken to Ofer military court where I saw my lawyer for the first time. I went back to court about five times before being released on NIS 3,500 bail on 8 May. On 26 May the court ordered that the amount my father paid in bail be converted into a fine. Whilst I was in Ofer prison I missed some school exams and my school averages have fallen."

Name: M.H.
Age: 14 years
Date of incident: 15 May 2013
Location: Ash Shuyukh, West Bank
Accusation: Throwing stones

On 15 May 2013, a 14-year-old boy from Ash Shuyukh village, near Hebron, was arrested by Israeli soldiers and beaten before being transferred to a prison inside Israel where he was held in solitary confinement in a windowless cell for two days.

“I left the house at around 8:30 a.m. to go to an optician in Hebron to have my glasses repaired. As I walked to catch a bus I saw lots of Israeli soldiers and stones on the ground. At the time I didn’t think much of it as soldiers are always in our village, which is situated near the settlement of Kiryat Arba. Three girls walked by the soldiers and were not bothered. When I was about three metres from the soldiers one of them shouted at me. I was so scared I started to run. I couldn’t help it.”

“The soldiers chased me and fired tear gas in my direction. A military Jeep then blocked my way. I fell on the ground and they caught me. About eight soldiers started to kick me with their boots and beat me with the butts of their rifles. They beat me all over my body, on my head and my back. A soldier dragged me by my arms while another kicked me in the tummy. They dragged me all the way to where an army vehicle was parked. They placed a hood over my head, shackled my feet with metal shackles and tied my hands to the back with metal handcuffs.”

“I was then pushed into the vehicle and made to sit on the metal floor. The vehicle drove away and one of the soldiers kept pushing my head down. On the way soldiers slapped me and verbally abused me saying bad things about my mother and my sister. They called them whores. A soldier also hit me on the upper part of my back with a hard object. It caused me so much pain. I later showed the bruise to the judge in court”

The vehicle drove for about 30 minutes before arriving at the settlement of Kiryat Arba. “I was pushed out of the vehicle and taken to see an interrogator. The interrogator asked me for my personal information whilst I was still hooded and shackled. I was then taken outside where I waited for about five minutes. I asked for water and to use the bathroom. A soldier brought some water but he drank it. He lifted the hood so I could see. He asked me if I wanted some water but again he drank it. I wasn’t allowed to use the bathroom.”

“I was then taken back to the same interrogator. He accused me of throwing stones. He claimed I threw stones sometime ago, but did not say when. I denied the accusation and told the interrogator exactly what I had done that morning. He then told me that if I confessed he would call my father to come and pick me up. He asked me about other children and kept yelling and shouting at me. He interrogated me for about four hours. He kept repeating the same questions and asked me how many stones I had thrown and told me he would release me immediately if I confessed. I wasn’t given any food or water and I didn’t see a lawyer before I was interrogated. Nobody told me anything about any rights.”

“Towards the end of the four hours the interrogator and two guards were shouting louder and louder. They were banging on the table and the walls. I was so tired and scared I confessed to throwing three stones. The interrogator made me sign a document written in Hebrew. When I asked him what it said he told me it was my confession. I was then taken to another interrogator. He removed the hood but kept the shackles and cuffs on. I heard somebody next door call the interrogator Sami. He asked me the same questions. I told him I confessed to throwing three stones. I was then taken to a person in the room next door who took my figure prints and my photo.”

“I was then taken to a room where I waited for about six hours. I was still without food or water and was in desperate need of a bathroom. I had the hood still on, and was shackled and hand cuffed. I called for them to remove the hood but no one responded. At around 11:00 p.m. I was taken in a vehicle to Megiddo prison, inside Israel. The journey took about four hours during which the hood was removed. I was physically searched when I arrived and was taken to a cell without windows. There was a metal bed with a very thin mattress and a toilet. I was kept there by myself. My shackles and handcuffs were removed. I spent the whole night there but I couldn't sleep. I was still without food or drink and was very tired.”

“At 6:00 a.m. I was taken to court in Salem up in the north near Jenin. I waited there until 3:00 p.m. when I was told I needed to leave. They brought some food just as I was leaving so I didn't eat. I was taken in a military vehicle but I wasn't told where I was being taken. At around 5:00 p.m. we arrived at Ofer military court. I waited for about five minutes before they called my name. In court I saw my parents but I wasn't allowed to speak to them. I also saw a lawyer for the first time. After some arguments in court I was told the judge had adjourned the session.”

“I was then taken to Ramle prison inside Israel. I was kept in a small cell without windows for three days. They brought in one person to stay with me on the first day and I think he was an informer. I tried not to engage with him. After the first day I was alone and didn't see or speak to anyone and I had no idea how long I was going to be kept there for. The guards turned the lights off at night and the cell was pitch dark, I couldn't see anything, which was scary. Three days later I was moved to another room with nine other people, some of whom were older than my father.”

“All in all I think I had four court hearings. On the last one the judge decided to release me on bail and ordered that I be placed under house arrest for one year. The judge spoke to my father four times during the session making him pledge he would make sure I don't leave the house except to come to court. I was very happy to hear I was going to be released and didn't realise at the time how hard being under house arrest was going to be.”

“When the session ended I was taken back to Ramle prison. At 2:00 a.m. that night I was dropped off at BeitSira checkpoint west of Ramallah. A soldier untied my feet and hands and walked behind me until I got to the other side of the checkpoint. I walked by myself in the dark and stopped a car that happened to pass by. I asked the driver to take me to my uncle's house in Ramallah. I got to my uncle's house around 3:30 a.m. I had to wake them up but they were very

happy to see me. My uncle called my parents to let them know I was safe.”

“I was released on 28 May, two weeks after I was first arrested and have stayed home since then. I find it very hard to stay home while all my friends go to places and have fun without me. I cannot stand it. The other day I lost my temper and slammed the door so hard that the wall cracked. My parents were very upset.”

Name: Z.Q.
Age: 15 years
Date of incident: 2 July 2013
Location: Al 'Arrub refugee camp, West Bank
Accusation: Throwing stones/Molotov cocktails

On 2 July 2013, a 15-year-old boy from the Al Arrub refugee camp, near Bethlehem, is arrested by Israeli soldiers at 2:30 a.m. and accused of throwing stones and Molotov cocktails.

“It was around 2:30 a.m. when I heard the sound of somebody trying to break into our house. My father went downstairs to see who it was. Soon Israeli soldiers were inside our house; they did not say what they wanted. I saw them when they came upstairs; they wore masks and were heavily armed. They asked my father for our names and when my father mentioned my name three soldiers grabbed me by my pyjama top and asked me to turn around and raise my hands. Then they painfully tied my hands behind my back with one plastic tie and blindfolded me. The tie was so tight that I still have marks on my wrists nearly four months on.”

“My mother started to shout and cry. The soldiers didn’t have anything in writing and didn’t tell us why they were taking me. I was dragged downstairs and I banged my head against the front door because I was blindfolded and the soldiers were careless. I was in shock and pain. The impact of the bang was so hard I bled. Soldiers walked me to the entrance of the refugee camp and pushed me into a military jeep.”

“About five or 10 minutes later we arrived in Etzion settlement. It must have been around 3:00 or 3:30 a.m. I waited outside for about an hour before an interrogator came and started questioning me while outside. He removed the blindfold, asked me for my name and asked me if I threw stones or Molotov cocktails. I told him I didn’t throw stones or Molotov cocktails. Then he put the blindfold back on and dragged me to the interrogation room. On the way he pushed me against a parked car and a wall which caused me pain. Inside the interrogation room he removed the blindfold but kept me tied.”

“The interrogator did not introduce himself. He did not inform me that I had any rights and I did not see a lawyer. I was not accompanied by a parent when I was questioned and as far as I could tell, the interrogation was not recorded. The interrogator again asked me if I threw stones or Molotov cocktails and again I denied it. Throughout the interrogation he kept putting on and taking off the blindfold and repeating the same questions. Each time I denied the accusation the interrogator tightened the blindfold until it was very painful. I had an eye injury from school and the tight blindfold caused me pain. The interrogator wanted me to confess to throwing Molotov cocktails and kept saying there were witnesses who saw me. He told me soldiers saw me and also named some adults whom he claimed also saw me. Again I denied the accusation and told him I didn’t know the people he named.”

“The interrogation lasted from around 6:00 a.m. until around 5:00 p.m – approximately 11 hours. The interrogator mentioned dates when he claimed I was throwing stones. He offered me

food but I said no. He allowed me to use the bathroom and grabbed my shoulder, took me to the bathroom and told me I had five minutes to think. About five minutes later he came back and asked me if I had anything to say. I said no. Then he took me back to the interrogation room and asked me whether I wanted to be treated like an animal or a human being. At one point another interrogator entered the room. He was wearing civilian clothes. He punched me in my stomach, slapped me on the face and told me I had to confess. He swore at me and called my mother a whore. He kept removing the blindfold and putting it back on. I did not confess. I was punched and slapped many times and felt very tired. After the interrogation was over, a policeman took me to another room and asked me to sign a document written in Hebrew. The document had some blank spaces on it. I was worried that the blank spaces would be filled in later. I told the interrogator I wasn't going to sign anything without a lawyer present."

"After the interrogation I was kept in a room until around 1:30 a.m. I was then handcuffed and shackled and taken to a vehicle and taken to Ofer prison, near Ramallah. On arrival at Ofer I was strip searched. They made me take off all my clothes, even my underwear. They made me crouch and stand up naked three or four times. Then I was taken to the section where other children my age were held. The children made me some food. It was about 4:00 or 4:30 a.m. I tried to sleep but I couldn't. My eye was sore and red."

"The following day I was taken to Ofer military court. It was in court that I saw a lawyer for the first time. My father was in court too. The lawyer asked me what I was accused of, how many interrogators had interrogated me and who had confessed against me. The hearing was adjourned until the 8 July. On 8 July my lawyer reassured me and told me I was going to be ok because I didn't confess to anything and because I was a minor. I think I attended about seven court hearings during which time I remained in detention. On 2 October, I was sentenced based on confessions by adults who were interrogated in Askalan prison which is known for its harsh conditions. I didn't pay attention to what the judge said because I was talking to my father who was in court. I spent nearly four months in jail and my parents had to pay a fine of 2,500 shekels. I was released on 27 October 2013 with a suspended sentence of nine months for four years. My parents were not given a permit to visit me in jail. I only saw my parents in court."

Name: S. W.
Age: 15 years
Date of incident: 6 August 2013
Location: Al 'Arrub refugee camp, West Bank
Accusation: Throwing stones

On 6 August 2013, a 15-year-old boy from the Al 'Arrub refugee camp, near Bethlehem, is arrested by Israeli soldiers at 1:00 a.m. and accused of throwing stones.

“On 6 August 2013, I was walking home with my brother from the Al 'Arrub youth club. It was 1:00 a.m. Many people were still up and about because it was Ramadan and people stay up late. The minute we arrived home around 15 Israeli soldiers surrounded the house. The soldiers told us to go inside and shut the door. I went upstairs and was changing my clothes when my father came in to tell me the soldiers had entered the house and were downstairs.”

“My father, my brother and myself went to the living room where the soldiers were. The commander asked to see my father’s identity card and then he pointed at me and asked who I was. At that moment I realised they had come for me. The commander told me to accompany him. He didn’t have anything in writing to show me and didn’t tell us why he wanted me to go with him. My mother came and told the soldiers she wanted me to put some warm clothes on. I managed to put my jacket and my shoes on just before the soldiers took me outside where they tied my hands behind my back with one plastic tie and blindfolded me. Then soldiers made me run quickly to the entrance of the camp because young men were throwing stones at them. When we arrived at the entrance they removed the plastic tie and replaced it with three plastic ties, one on each wrist and one connecting the two. This time my hands were tied to the front. They made me kneel on the rough ground and my knees hurt. They made me wait until a military vehicle arrived. They didn’t beat me or verbally abuse me. They made me sit on the floor of the vehicle and drove me to Etzion settlement. We arrived there 10 minutes later.”

“On arrival at Etzion I was taken to see a doctor who removed the blindfold and untied my hands. He took my temperature, my blood pressure and asked me if I suffered from any illnesses. He recorded my answers on a sheet of paper. Then I was taken to a room where I waited for about one hour before I was taken to see an interrogator. While waiting, I wasn’t tied or blindfolded. I was blindfolded and tied when I was taken for interrogation. We had to walk for about half-an-hour to the interrogation room. Somebody led me there because I could not see.”

“The interrogator untied my hands, removed the blindfold and introduced himself as Yona. He asked me if I wanted a drink of water. It was around 5:00 a.m. He did not tell me I had the right to silence and did not ask me if I wanted to speak to a lawyer. I was in the room by myself; my parents were not there. The interrogator had a tape recorder and he was typing on his computer. He told me there were confessions against me that I had thrown stones and gave me specific dates. I denied the accusation and asked him to name the people who confessed against me. He told me it wasn’t my business to know the names. He kept repeating the accusation and each time I denied it he got angry and accused me of lying. He told me I was a dog and banged the

table angrily. He told me he was in possession of confessions that I threw stones on 11 November 2012 and on 4 and 5 April and 15 May 2013. He told me I had to confess but I didn't."

"The interrogation lasted for about six hours and I got very tired. In the end I confessed to throwing three stones at a military vehicle but the stones didn't hit the target. I confessed because I felt the interrogator wasn't going to leave me alone until I confessed. The interrogator then printed out a document written in Hebrew and asked me to sign it. I first refused to sign and told him I didn't understand Hebrew but he insisted that I sign it and I did. After I signed the paper the interrogator called my father and asked him to appoint a lawyer for me and asked him to come to Etzion."

"After the interrogation my photo was taken and I was fingerprinted. Then I was taken to a prison cell where I waited by myself. A soldier told me to strip down to my underwear and I was searched. By now it was around noon. Then another boy aged 16 was brought in and a short while later we were both taken to Ofer prison, near Ramallah. We were hand cuffed with metal chains. On arrival at Ofer I waited for about two hours before I was taken for a security check. I was searched with a metal detector and was given a prison uniform. I was then taken to Section 13 where I stayed with other prisoners my age. It was around 5:00 p.m. The other prisoners gave me some food and I went to bed."

"I spent two nights in Ofer prison before I was taken to a military court. My mother and brother were at court but I wasn't allowed to speak to them. I was very happy to see them. The judge later allowed my mother to come closer and allowed her to speak to me. She wanted to know if I was eating well. In court I saw a lawyer for the first time following my arrest. The hearing was adjourned for a week because my papers hadn't arrived. I think I attended around seven hearings. My family attended all the hearings. My mother, my sister and my brother alternated. I am the youngest in the family and they were all worried about me. On the last hearing I was sentenced to three months in jail and fined 2,000 shekels. I was also given a suspended sentence of six months for three years. At the beginning of the last hearing the prosecutor requested six months in jail because he claimed there was secret evidence against me that I had thrown an empty bottle and a stone at Qalandia checkpoint on 15 May 2013. My lawyer lost his temper and objected. I was shocked because I have never been to Qalandia. This accusation was a fabrication. That is when my lawyer struck the plea bargain. By this time I had already spent two months in jail."

"I was released on 29 October 2013. My family was not notified about the exact date of my release. I took a taxi home and I borrowed the driver's mobile phone to inform my parents and to tell them to prepare some money to pay the driver. I arrived home at around 8:30 p.m. and my parents were very happy to see me. My parents were not given permits to visit me in jail during the last month. It was very hard for me not to see them. I am in 10th grade and I missed two months of school. I also missed my brother's wedding. In jail they allowed us to study only Hebrew. It was a difficult experience. Now when I know soldiers are in the camp I stay home and don't leave the house."

¹The delegation comprised of the following lawyers: The Rt Hon Sir Stephen Sedley, The Rt Hon the Baroness Patricia Scotland of Asthal QC, Frances Oldham QC, Marianna Hildyard QC, Judy Khan QC, Jayne Harrill, Jude Lanchin, Greg Davies and Marc Mason.

²Children in Military Custody (June 2012). Available at: <http://is.gd/bL3w2D>

³The Independent: “UK ready to take on Israel over children clapped in irons”, (27 June 2012). Available at: <http://is.gd/wtEua8>

⁴MCW News-Political. Available at: <http://is.gd/cBzgyy>

⁵UNICEF – Children in Israeli Military Detention, Bulletin No. 1: October 2013, page 1. Available at: <http://is.gd/1m8mqR>

⁶In March 2010, the Office of the Israeli Military Advocate General stated in a letter to the Public Committee Against Torture in Israel that new procedures had been established and disseminated on the use of hand ties, to prevent pain and injury. These new procedures instruct the following: 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 regulations.

⁷UNICEF – Children in Israeli Military Detention, Bulletin No. 1: October 2013, page 2. Available at: <http://is.gd/1m8mqR>

⁸MCW statistics available at: <http://is.gd/M3B8Q2>

⁹The issue of transfer and detention of Palestinian detainees in Israel has been considered by the Israeli Supreme Court on two occasions. In both cases the petitions on behalf of the prisoners were rejected by the court on the grounds that Israel has not incorporated the Fourth Geneva Convention into domestic legislation.

¹⁰The Case of G4S: Private Security Companies and the Israeli Occupation, Who Profits, March 2011, page 7; The Case of G4S (Hashmira): April 2012 Update, Who Profits, page 4.

¹¹On 14 July 2013, the former Minister of State, Foreign and Commonwealth Office, Alistair Burt, made the following statement in response to a parliamentary question: “Whilst international law does not impose direct obligations on corporations, the British Government has made clear our concerns about Israel’s treatment of Palestinian detainees to G4S and our clear position on the illegality of the settlements, including at a meeting with representatives from G4S in October 2012.” On 2 September 2013, the same Minister made another statement: “The Foreign and Commonwealth Office does not receive reports on G4S’s role in the Israeli prison system. However, the Government has made clear our concerns about Israel’s treatment of Palestinian detainees and our position on the illegality of Israeli settlements to G4S, including at meetings with G4S in July 2013 and in October 2012.”

¹²Letter from Mr. Barry Griffiths (Foreign and Commonwealth Office) dated 28 August 2013. Available at: <http://is.gd/cBzgyy>

¹³UN Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Concluding Observations – Israel (March 2010), paragraphs 33-35. Available at: <http://is.gd/NU5I6G>

¹⁴B’Tselem, No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone Throwing, (July 2011), page 65. Available at: <http://is.gd/2vz0or>

¹⁵MCW statements, Military justice: paying lip service to the rule of law (18 July 2013). Available at: <http://is.gd/uTOFEx>

¹⁶Military Order 1651 as amended by Military Order 1711 (effective April 2013). A minor now can be detained for up to one year between being charged and the conclusion of his/her trial. After one year, a judge of the Military Appeals Court can extend the period of detention every three months, with no limit on the number of extensions.

¹⁷Military Order 1711 (effective 1 April 2013).

¹⁸Children in Military Custody (June 2012), paragraph 110.

¹⁹The other two “core recommendations” were: first, international law, international humanitarian law and the UN Convention on the Rights of the Child apply to the Occupied Palestinian Territories and therefore should be fully and effectively implemented; and secondly, the international legal principle of the best interests of the child should be the primary consideration in all actions concerning children, whether undertaken by the military, police, public or private welfare institutions, courts of law, administrative authorities or legislative bodies.

²⁰Penal Law (1977) – Section 34F.

²¹ Military Order 1651 – Articles 1 and 191.

²²Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 1.

²³Military Order 1651 – Articles 1, 136 and 168.

²⁴Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 1.

²⁵ In September 2011, Military Order 1676 came into effect requiring that all children below the age of 18 be tried before a military juvenile judge. However, the sentencing provisions applicable to adults still apply to children aged 16 and 17. Accordingly, there is still a substantive differential between the civilian and military legal systems.

²⁶Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 9J.

²⁷Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 9H. A parent is allowed to be present at all times in circumstances where the child has not been formally arrested, but may not intervene in the interrogation process. Exceptions include: Parents do not present themselves within a reasonable time; waiting for a parent would harm the investigation, the child, or a third party; parents cannot be located after a reasonable attempt; and a parent can be removed from the interrogation if he/she threatens the child or disrupts the interrogation. Reasons why a parent is not present must be documented in writing by an authorized officer.

²⁸ Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section I(a)(1).

²⁹ Military Order 1676 – Article 136 b(c) – A child must be notified that he has the right to consult with a lawyer, but this right can be suspended for up to 90 days in “security” related offences. (See Military Order 1651 – Article 58(c)). On arrival at a police station a child must be informed that he has the right to consult with a lawyer but there is no stipulation as to when this consultation should take place. The military courts have said on a number of occasions that a child should consult with a lawyer prior to interrogation but this rarely happens in practice. This is due, in part, to the fact that most children are arrested at night and generally will not have the contact details of a lawyer. Further, it is extremely rare for the military courts to reject evidence obtained from a child during interrogation in circumstances where the child did not first consult with a lawyer.

³⁰ In all cases other than security offences where the maximum penalty is 10 years or more (Criminal Procedure (Suspects Interrogation) Law (2002) – Sections 4 and 17). There is no requirement for the audio-visual recording of interrogations in security cases.

³¹Youth (Trial, Punishment and Modes of Treatment) Law (2008) – Amendment 14. Children aged between 12 and 13 must be brought before a judge within 12 hours, and children 14 years and above must be brought before a judge within 24 hours.

³² Military Order 1685 as amended by Military Order 1711 (effective April 2013).

³³ Military Order 1685 as amended by Military Order 1711 (effective April 2013).

³⁴ Military Order 1685 as amended by Military Order 1694 (effective August 2012). Note that these time periods in which a Palestinian child must be brought before a military court judge for the first time can be doubled in “special circumstances”.

³⁵ Criminal Procedures (Powers of Enforcement-Arrests) Law (1996) – Section 34.

³⁶ Military Order 1651 – Articles 58(C) and (D), 59(B) and (C).

³⁷ Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 10K; Criminal Procedure (Enforcement Powers-Arrests) Law (1996) – Section 59.

³⁸ Military Order 1685 (effective 1 March 2012) reduces the time period a detainee can be held without charge from 180 days to 150 days. Under the new order, a military court judge can extend the detention period in which a person can be held without charge up to a maximum of 60 days. After 60 days, the period can be further extended up to a maximum of 90 days by a judge of the Military Appeals Court. The cumulative effect of these provisions is that a person can be detained for up to 150 days before he/she must be charged. This time does not include the initial period of detention between arrest and the first appearance before a judge, which can range from 24 hours up to 4 days, depending on the age of the detainee, although these time periods can be doubled in “special circumstances”. This time period was further reduced in October 2013 to 130 days by virtue of Military Order 1726.

³⁹ Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 10L; Criminal Procedure (Enforcement Powers-Arrests) Law (1996) – Section 61 – 9 months for adults, with possible extensions.

⁴⁰ Military Order 1651 as amended by Military Order 1711 (effective April 2013). A minor now can be detained for up to one year between being charged and the conclusion of his/her trial. After one year, a judge of the Military Appeals Court can extend the period of detention every three months, with no limit on the number of extensions.

⁴¹ MCW statements, UN makes recommendations on child detainees (26 November 2013). Available at: <http://is.gd/MqTvpG>

⁴² Committee on the Rights of the Child – Concluding Observations (Israel) (June 2013). Available at: <http://is.gd/smYxlt>

⁴³ UNICEF – Children in Israeli Military Detention, Bulletin No. 1: October 2013. Available at: <http://is.gd/1m8mqR>

⁴⁴ *Ibid* at page 2. Available at: <http://is.gd/1m8mqR>

⁴⁵ *Ibid* at page 5. Available at: <http://is.gd/1m8mqR>; MCW child testimonies, available at: <http://is.gd/yJmFA3>.

⁴⁶ UNICEF – Children in Israeli Military Detention, Bulletin No. 1: October 2013, page 5. Available at: <http://is.gd/1m8mqR>

⁴⁷ UNICEF – Children in Israeli Military Detention, Bulletin No. 1: October 2013, page 5. Available at: <http://is.gd/1m8mqR>

⁴⁸ *Ibid*.

⁴⁹ *Ibid*.

⁵⁰*Ibid.*

⁵¹*Ibid.*

⁵²MCW statistics available at: <http://is.gd/M3B8Q2>

⁵³MCW testimonies – children. Available at: <http://is.gd/yJmFA3>. See for example:

- S.W. (6 August 2013) imprisoned for three months but parents were not issued a permit to visit during the final month.
- Z.Q (2 July 2013) imprisoned for four months but parents were not issued with a permit to visit.
- B.S. (9 April 2013) imprisoned for five months but father was denied a permit to visit. His mother was issued with four permits but the first permit was not issued until 20 June, more than two months after B.S. was detained.
- A.M (5 April 2013) imprisoned for four months and received four visits, but no visits during the first two months of detention.
- B.H. (21 February 2013) imprisoned for five months. Parents denied permits for unspecified security reasons. B.H. was visited in prison by his siblings.
- A.I. (3 January 2013) imprisoned for three months and received one visit.
- N.M. (28 December 2012) imprisoned for four months but received no visits due to delay in issuing permit.

⁵⁴MCW testimonies – children. Available at: <http://is.gd/yJmFA3>. See for example: M.T. (25 August), S.W. (6 August), H.A. (16 May), M.H. (15 May), M.B. (10 April) and S.S. (14 March).