



June Kunugi,
Special Representative State of Palestine,
UNICEF,
Jerusalem.

27 May 2014

Re: Effective implementation of UNICEF's recommendations

Dear Ms. Kunugi,

We wish to bring to your attention circumstances that in our opinion prevent the full and effective implementation of the recommendations contained in UNICEF's report: Children in Israeli Military Detention (February 2013) (the Report) and which potentially could undermine the institutional reputation of the Children's Fund.

Following the publication of the Report, UNICEF announced that "the Ministry of Foreign Affairs of Israel stated it would study the conclusions and work to implement them through on-going cooperation with UNICEF. The Military Advocate General (MAG) has designated the 'Military Prosecutor of Judea and Samaria' (West Bank) as the focal point for dialogue on this issue with UNICEF." In an article published in the Israeli newspaper Haaretz on 23 May 2014 ("In Israel, a different fate for detained Palestinian youths"), it was reported that the Chief Military Prosecutor, Lt. Col. Maurice Hirsch, the designated Israeli focal point to assist UNICEF in the implementation of the Report's recommendations, resides in the settlement of Efrat. This fact, and other circumstances, raises a number of issues of concern:

1. The settlement of Efrat has been constructed in occupied territory in violation of Article 49 of the Fourth Geneva Convention. Under Article 8 of the Rome Statute of the International Criminal Court (Rome Statute), the unlawful transfer of civilians into occupied territory amounts to a war crime.
2. If you conduct a cursory review of over 500 testimonies contained in UNICEF's database collected under the United Nations' Monitoring and Reporting Mechanism on Grave Child Rights Violations you will observe that the overwhelming majority of Palestinian children detained by the Israeli military each year in the West Bank are arrested within a few kilometres of a settlement, or a road used to service a settlement. In essence, the settlements and their associated infrastructure, invariably act as friction points leading to unrest and detention under military law of children as young as 12 years.

3. Finally, as you are aware each month approximately 50 per cent of Palestinian children detained by the Israeli military in the West Bank are transferred and detained in prison facilities located inside Israel. The transfer and detention of protected persons out of occupied territory violates Article 76 of the Fourth Geneva Convention. Persons knowingly involved in this process, such as a chief military prosecutor, or persons who aid and abet this process, are potentially committing a criminal offence by virtue of Article 146 of the Convention. Unlawful transfer and detention is also classified as a war crime under the Rome Statute. In some jurisdictions this offence carries a maximum penalty of 30 years imprisonment.

We submit, that in these circumstances there is a strong perception that the official designated by MAG as the focal point for dialogue with UNICEF lacks the objectivity, integrity and good faith necessary to effectively implement the Report's recommendations. This perception was recently reinforced by a review conducted by Military Court Watch, which indicates that 12 months after the publication of the Report, 87 per cent of the recommendations remain unimplemented and ill treatment still appears to be widespread, systematic and institutionalised.

Accordingly, we would like to take this opportunity to urge you to request that the relevant authorities appoint a more appropriate official to assist UNICEF in the effective implementation of the Report's recommendations.

Please consider this matter as urgent and do not hesitate to contact us if you have any questions.

Yours sincerely



Raja Shehadeh
Lawyer



Gerard Horton
Lawyer