



Defence for Children International – Palestine Section

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

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Submitted to:

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

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

Index

1.	Executive summary	3
2.	Introduction	4
3.	Number of children in detention	6
4.	Torture and ill-treatment	6
5.	Specific issues of concern	9
	<i>A. Arrested between midnight and 5:00 am</i>	9
	<i>B. Hand ties and blindfolds</i>	10
	<i>C. Transferred on floor of vehicle</i>	12
	<i>D. Physical violence</i>	13
	<i>E. Verbal abuse</i>	14
	<i>F. Threatened</i>	15
	<i>G. Solitary confinement</i>	16
	<i>H. Confession during interrogation</i>	18
	<i>I. Signed or shown documentation written in Hebrew</i>	19
	<i>J. Detention inside Israel in violation of the Fourth Geneva Convention</i>	20
	<i>K. Presence of a family member during interrogation</i>	20
6.	Impunity for violations	21
7.	The role of settlements in the Israeli military detention system	21
8.	Concluding remarks	22
9.	Recommendations	22
	 ANNEX – 1	
	Cumulative table of issues of concern	24
	 ANNEX-2	
	Executive summary (1 July to 31 December 2010)	26

1. Executive summary

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

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

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

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

2. Introduction

- 2.1 This is the second six-monthly report submitted by DCI-Palestine to the UN in which the situation facing Palestinian children from the West Bank held in the Israeli military detention system is considered. The first report in the series is available online, and the executive summary to the first report is annexed (**Annex 2**).¹
- 2.2 Each year approximately 700 Palestinian children from the occupied West Bank are prosecuted in Israeli military courts after being arrested, interrogated and detained by the army, police and security agents.² It is estimated that since 2000 alone, around 7,500 Palestinian children have been detained and prosecuted in the system. This Report focuses on persistent and credible reports of torture and ill-treatment within a system that has been operating now for 44 years.
- 2.3 Within this system, children are frequently arrested from the family home by heavily armed soldiers in the middle of the night. The children are then painfully tied and blindfolded before being placed in the back of a military vehicle and transferred to an interrogation and detention centre. It is rare for a child, or his/her parents to be told the reason for arrest, or where the child is being taken. The arrest and transfer process is frequently accompanied by both physical and verbal abuse.
- 2.4 On arrival at the interrogation and detention centre, the child is questioned in the absence of a lawyer or family member, and there is no provision for the audio-visual recording of the interrogation as a means of independent oversight. Few children are informed of their right to silence. Children are frequently threatened and physically assaulted during interrogation often resulting in the provision of a coerced confession, or the signing of documents which the child is not given a chance to read or understand.
- 2.5 Following interrogation, children are brought before a military court which has jurisdiction over children as young as 12 years old.³ Once a child turns 16, they are considered to be an adult.⁴ In the overwhelming majority of cases bail will be denied and an order for detention until the end of the legal process will be made.⁵ Most children ultimately plead guilty, whether the offence was committed or not, as this is the quickest

¹ DCI-Palestine, In their own Words: A report on the situation facing Palestinian children detained in the Israeli military court system – 1 July to 31 December 2010 – Available at: http://www.dci-palestine.org/sites/default/files/report_military_courts_jan_2011.pdf

² Exact figures on the number of Palestinian children detained each year by Israeli authorities are not published. The estimated number of 700 children prosecuted in the Israeli system is based on the figures provided by the IPS of the number of children in prison facilities, and the best estimate of DCI-Palestine lawyers who appear daily in the military courts and conduct regular prison visits.

³ Military Order 1651 – Sections 1 and 191.

⁴ Military Order 1651 – Sections 1, 136 and 168.

⁵ In 2009, bail was denied in 87.5 percent of the 164 cases closed by DCI-Palestine.

way out of the system. In 2009, custodial sentences were imposed on children by the military courts in 83 percent of cases, in contrast to a custodial sentence rate of 6.5 percent in the Israeli civilian juvenile justice system.⁶

- 2.6 A juvenile military court was established in September 2009, following mounting criticism relating to the prosecution of children as young as 12 years in the same military courts used to prosecute adults.⁷ In practice, the juvenile military court convenes every Monday and Thursday, using the same facilities and court staff used by the adult military court. Children continue to be brought into court in groups of twos and threes, wearing leg chains around their ankles and dressed in the same brown prison uniforms worn by adults.⁸ Handcuffs are usually removed from the child on entering the court room, and replaced on exiting. On occasion, adults and children have been observed being brought into court together.⁹ At the time of writing, there appears to be few substantive differences between the adult and juvenile military courts, beyond a general attempt to separate children from adults.
- 2.7 Once detained a significant proportion of children are transferred to prisons and detention facilities inside Israel, in violation of Article 76 of the Fourth Geneva Convention which prohibits such transfers out of occupied territory. The practical significance of this is that many children receive infrequent or no family visits.
- 2.8 The findings of this Report are based on 45 sworn testimonies taken from children held in the military detention system in a six month period between 1 January and 30 June 2011 (the reporting period). The Report also makes reference to other sources where relevant, such as media and non-governmental reports. During the reporting period, DCI-Palestine also collected 16 sworn affidavits from Palestinian children arrested in occupied East Jerusalem. These cases will be dealt with in a separate report as Israel generally applies its domestic legal system to these children, and not the military orders that it applies to

⁶ Based on 164 cases closed by DCI-Palestine in 2009 and the Israeli National Council for the Child, Annual Report (2009) (This figure relates to 2008)

⁷ See UN Committee against Torture, Concluding Observations, (2009), CAT/C/ISR/CO/4 – paragraph 28. As to criticism for attempting to incorporate principles of juvenile justice into military courts see: UN Committee on the Rights of the Child, Concluding Observations, (2010), CRC/C/OPAC/ISR/CO/1 – paragraph 33.

⁸ The UN Standard Minimum Rules stipulate that chains and irons shall never be used, and other forms of restraint should only be used in certain limited circumstances including ‘as a precaution against escape during transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative body’ and ‘such instruments must not be applied for any longer time than is strictly necessary.’ Further, the CRC Committee has stated that State parties to the CRC should establish separate facilities for children deprived of their liberty, which include distinct, child-centred staff, personnel, policies and practices.

⁹ DCI-Palestine – Statement, 16 February 2010 – available at: <http://www.dci-pal.org/english/display.cfm?DocId=1371@CategoryId=1>; see also Politics.Co.UK, Sandra Osborne MP, ‘Time to get serious with Israel,’ 10 December 2010 – available at: [http://www.politics.co.uk/comment/foreign-policy/comment-time-to-get-serious-with-israel-\\$21386206.htm](http://www.politics.co.uk/comment/foreign-policy/comment-time-to-get-serious-with-israel-$21386206.htm)

Palestinian children from the occupied West Bank.¹⁰ All of the quotes presented in this Report are taken from the 45 testimonies collected during the reporting period.

3. Number of children in detention

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

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

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ave
2008	327	307	325	327	337	323	324	293	304	297	327	342	319
2009	389	423	420	391	346	355	342	339	326	325	306	305	355
2010	318	343	342	335	305	291	284	286	269	256	228	213	289
2011	222	221	226	220	211	209	-	-	-	-	-	-	218

4. Torture and ill-treatment

4.1 The prohibition against torture is universal and absolute. It can be found in both customary international law, and a number of treaties and conventions.¹¹ There are no exceptional circumstances in which torture is permitted, including security considerations or the threat of war.¹² The Convention against Torture makes a distinction between torture, which involves ‘severe pain or suffering, whether physical or mental,’¹³ on the one hand, and ‘acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture,’ (ill-treatment) on the other.¹⁴ The Convention prohibits both. On a plain reading of the text the distinction is one of severity and degree, and in the case of torture, requires an element of purpose, such as to punish or to extract a confession.¹⁵ It

¹⁰ Israeli purported to annex East Jerusalem following the 1967 war and applies its domestic law to this territory. Under international law, the annexation has no legal validity and runs counter to the prohibition against the acquisition of territory through aggression.

¹¹ CRC – Article 37(a); CAT – Article 2; CCPR – Article 7; and the Fourth Geneva Convention - common Article 3.

¹² CAT – Article 2(2).

¹³ CAT – Article 1(1).

¹⁴ CAT – Article 16(1).

¹⁵ UN Committee against Torture, General Comment No.2 – paragraph 3 - The UN Committee against Torture has stated that ‘the obligation to prevent torture in article 2 of the Convention against Torture is wide-ranging. The obligations to prevent torture and ill-treatment under article 16, paragraph 1 are indivisible, interdependent and

has been authoritatively argued that the distinguishing feature between torture and ill-treatment is not the intensity of the suffering, but rather the purpose of the conduct, the intention of the perpetrator, and the powerlessness of the victim.¹⁶

- 4.2 On a number of occasions, the UN Committee against Torture has made findings of the systematic practice of torture ‘when it is apparent that the torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory in question. Torture may in fact be of a systematic character without resulting from the direct intention of the government.’¹⁷
- 4.3 During the six month reporting period, DCI-Palestine collected 45 testimonies from children arrested and held in the Israeli military detention system. The ages of these children at the date of arrest are presented in Table 3:

Table 3 – Age at arrest – 1 January to 30 June 2011

Age group	Number	Percentage
0-11 years	2	4%
12-13 years	1	2%
14-15 years	22	49%
16-17 years	20	45%
Total	45	100%

- 4.4 In 28 out of the 45 cases (62 percent), the children were accused of throwing stones. Under Israeli Military Order 1651 - Section 212, throwing stones is punishable as follows:
- (i) Throwing an object, including a stone, at a person or property, with the intent to harm the person or property, carries a maximum penalty of 10 years imprisonment. However, the maximum penalty that can be imposed on a child aged between 12 and 13 years is six months;¹⁸ and

interrelated. The obligation to prevent ill-treatment in practice overlaps with, and is largely congruent with, the obligation to prevent torture ... In practice, the definitional threshold between ill-treatment and torture is often not clear. Experience demonstrates that the conditions that give rise to ill-treatment frequently facilitate torture and therefore measures required to prevent torture must be applied to prevent ill-treatment. Accordingly, the Committee has considered the prohibition of ill-treatment to be likewise non-derogable under the Convention and its prevention to be an effective and non-derogable measure.’

¹⁶ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, February 2010 – A/HRC/13/39.

¹⁷ ‘The United Nations Convention Against Torture – A Commentary,’ Nowak and McArthur, (2008) – pages 65 to 66.

¹⁸ Military Order 1651 – Section 212(2).

- (ii) Throwing an object, including a stone, at a moving vehicle, with the intent to harm it or the person traveling in it, carries a maximum penalty of 20 years imprisonment. Again, the maximum penalty that can be imposed on a child aged between 12 and 13 years is six months;¹⁹

In practice, Palestinian children prosecuted in Israeli military courts are currently receiving prison sentences of between two weeks and 10 months for throwing stones in the occupied West Bank.

- 4.5 The most common complaints and areas of concern raised by the children in their testimonies are presented in Table 4:

Table 4 – Common complaints and areas of concern – 1 January to 30 June 2011

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

- 4.6 In assessing the gravity of the ill-treatment reported by the children in their testimonies, it is important to consider the totality of the evidence from the moment of arrest to their appearance in a military court, as well as taking into account their age, physical and psychological development and relative position of inferiority. It should be noted that in all 45 cases, the children reported experiencing multiple forms of ill-treatment, as opposed to a single incident. This feature of the system is relevant when assessing the gravity of the ill-treatment, as the cumulative effect must be taken into consideration, rather than viewing each individual act in isolation. Accordingly, when the totality of the evidence is considered, a pattern of systematic ill-treatment emerges, much of which

¹⁹ Military Order 1651 – Section 212(2).

amounts to cruel, inhuman or degrading treatment or punishment, for the purposes of the UN Convention against Torture, and in some cases, torture – both of which are absolutely prohibited. Evidence of the cumulative effect of the treatment is presented at the end of this Report (**Annex 1**).

5. Specific issues of concern

5.1 The following sections of the Report are based on an analysis of the 45 testimonies. The testimonies describe the passage of a child through the Israeli military detention system, from the moment of arrest, through the transfer process, to an interrogation centre, concluding with the prosecution of the child in a military court and detention. This section is not intended to include an exhaustive list of all issues of concern, but instead focuses on issues that are repeatedly raised by the children in their testimonies.

A. Arrested between midnight and 5:00 am (62%)

5.2 In 28 out of 45 cases (62%), the children report being arrested from their family homes between midnight and 5:00 am. The practice of arresting children in the middle of the night has the tendency to terrify the individual child and the entire family, leading to a lasting sense of insecurity.

5.3 There are no specific guarantees or safeguards under international or Israeli military law which regulate the times at which a child can be arrested. However, it is difficult to reconcile these night time arrests with one of the guiding principles of the UN Convention on the Rights of the Child, which provides that *'in all actions concerning children ... the best interests of the child shall be a primary consideration.'* To give effect to this guiding legal principle, children should generally only be arrested and questioned during day light hours, in order to minimise the sense of fear which is evident from the testimonies.

[Qalqiliya] - *'At around 2:00 am, I was sleeping in the same room as my brother, 'Ala (15) [...] I woke up to a noise coming from the door of the room. Then, the door opened and many soldiers stormed the room. One of them approached me and punched me hard in the head.'*

Khaled H. (16) – Arrested 18 May 2011

[Bethlehem] - *'At around 2:30 am, I was sleeping [...] when I woke up to soldiers screaming through loudspeakers and saying "open up immediately." I looked out of the window and saw many military jeeps and soldiers with their lights focused on the house [...] When the soldiers saw me, they pointed their weapons at me.'*

Hamza K. (15) – Arrested 5 January 2011

[Hebron] - *'I went to bed early because I was tired after helping my father clean the truck [...] At around 2:00 am, I woke up to loud banging on the front door. I was sleeping in the room alone, and I realised it was soldiers who were banging on the door. They broke down the door and climbed up to the second floor [...] Soldiers stormed my room while I was still in bed.'*

Ihab A. (15) – Arrested 8 March 2011

B. Hand ties (98%) and blindfolds (91%)

5.4 In 44 out of 45 cases (98%), the children had their hands tied, often painfully so, and in 41 cases (91%), the children were also blindfolded. The most usual method of restraining a child is by tying his or her hands with a single plastic tie, sometimes in front of the child, but more commonly behind the child's back. Many of the children report in their testimonies experiencing pain, sometimes referred to as *'extreme pain,'* as a result of these ties. In some cases the children report that the blood circulating to their hands was cut off by the ties, causing their hands to swell and turn blue. Many children also report remaining tied for many hours, including throughout their interrogation. In a small number of cases, the children also report having their feet shackled.

5.5 In early 2010, the Public Committee Against Torture in Israel (PCATI) launched legal action in the Israeli Supreme Court complaining about the use of single plastic hand ties and the harm they cause. Shortly after proceedings commenced, lawyers for the State of Israel informed PCATI that the procedures for using restraints had been modified as follows:

- Hands should be tied from the front, unless security considerations require tying from behind;
- Three plastic ties should be used, one around each wrist, and one connecting the two;
- There should be the space of a finger between the ties and the wrist;

- The restraints should avoid causing suffering as much as possible; and
- The officer in charge is responsible for ensuring compliance with these regulations.

However, as of the end of June 2011, there is little evidence to indicate that these new procedures are being effectively implemented by the Israeli army in its operations in the occupied West Bank. Since April 2010, DCI-Palestine has documented just one case where the new procedures appear to have been implemented.

[Qalqiliya] - Soldiers entered the child's home at 1:30 am. *'After that, soldiers took me downstairs to the first floor [...] One of them tied my hands behind my back with one set of plastic cords, and tightened them. He also blindfolded me. They took me out and forced me to stop near a military truck near the house. While I was standing there, one of them hit me so hard in my testicles and I felt much pain.'*

Othman H. (17) - Arrested 1 June 2011

[Qalqiliya] - Soldiers entered the child's home at 2:00 am. *"We want Mohammad. Which one is he?" One of the soldiers said to my mother [...] When they saw me, two of them approached me and tied my hands behind my back with one set of plastic cords. They tightened them up so tight I screamed in pain and asked them to loosen them, but they started shouting and ordering me to "shut up and don't talk."*

Mohammad H. (17) – Arrested 31 May 2011

[Gush Etzion settlement] - Following a lengthy interrogation: *'When David forced me to sign, he wanted to remove the ties but they were embedded in the skin. When he removed them, pieces of flesh came off and my wrists started bleeding.'*

Malek S. (16) – Arrested 9 January 2011

C. Transferred on floor of vehicle (33%)

- 5.6 In 15 out of 45 cases (33%), the children report being placed on the metal floor of a military vehicle for the duration of the journey from their home to an interrogation centre, which in some cases can take many hours. As already noted, the overwhelming majority of the children are also tied, often painfully so, and blindfolded, adding to their discomfort and distress. Children who were transferred on the floor of a military vehicle, often report suffering additional pain and suffering as a consequence, particularly when the vehicle passed over speed bumps or was traveling along an uneven road.

[Qalqiliya] – *‘I walked with the soldiers for about 20 metres until we reached many military jeeps. One of them tied my hands behind my back with one set of plastic cords and blindfolded me. The ties were very tight and hurt my hands. Then one of them grabbed me hard and pushed me inside a military truck. I fell on the metal floor and hurt my body. They kept me sitting on the floor and didn’t allow me to sit on the seats. I heard so many soldiers talking around me. One of them insulted me and said: “Your mother’s a cunt, you motherfucker.”’*

Thaer R. (15) – 18 May 2011

[Qalqiliya] – *‘Soldiers immediately put the blindfold back on my eyes and put me inside the jeep, but this time they made me sit on the metal floor. Then, the jeep travelled to the settlement of Zufin, near Qalqiliya. They didn’t talk to me, but it was painful sitting on the metal floor the entire time, especially when I went up and down whenever the jeep travelled over bumps.’*

Khaled H. (16) – Arrested 18 May 2011

[Bethlehem] – *‘When we got to the jeeps, one of them pushed me hard inside and knocked me down on the floor. They made me sit on the floor near their feet. When the jeep started travelling, one of the soldiers forced me to lie down and my head would hit a metal object whenever the jeep sped up. I felt pain all over my body because they kept me lying down on the metal floor.’*

Hamza K. (15) – 5 January 2011

D. Physical violence (87%)

- 5.6 In 39 out of 45 cases (87%), the children report experiencing some form of physical violence inflicted by soldiers or policemen during their arrest, transfer or interrogation. The types of violence typically reported include punching, slapping, pushing and kicking. Further, many children report multiple incidents of physical violence throughout their progress through the system.

[Bethlehem] - *'After that, the soldiers put me in another jeep [...] The jeep travelled for a while and stopped. I raised my head to see where we were and saw that we were in an area near the village. A soldier saw me raising my head and hit me very hard and my head slammed against the metal surface of the jeep.'*

Mohammad F. (14) – Arrested 1 January 2011

[Kirya Arba' settlement] - *'The interrogation lasted for about an hour, during which time a policeman came to the room. He grabbed my neck and pushed so hard that it nearly choked me. He kept pushing down on my neck for about two minutes for no reason. He wasn't interrogating me at all. The other interrogator didn't interfere at all. He just kept laughing and making fun of me.'*

Yaser S. (15) – Arrested 7 January 2011

[Gush Etzion settlement] - During a lengthy interrogation: *'After that, David blindfolded me and ordered me to kneel down. He immediately slapped me hard across the face. The huge man came from behind, grabbed my ties and lifted me up and I felt sharp and terrible pain. He also put his foot on the ties and pressed down so hard that made me scream more. To shut me up, he gagged me while David was standing there watching. "Confess so we can spare you the pressure," David said. "I'll give you 15 minutes to think," he added. "I have nothing to confess to," I said immediately and he went crazy and started screaming. He started slapping me and kicking me. He even grabbed my head and slammed it against the metal wall of the room where we were. My forehead swelled and I felt my hands bleeding because of the pressure.'*

Malek S. (16) – Arrested 9 January 2011

E. Verbal abuse (60%)

- 5.7 In 27 out of 45 cases (60%), the children report some form of verbal abuse or treatment which they found to be humiliating during their arrest, transfer or subsequent interrogation. The verbal abuse frequently consists of derogatory statements made against the child's mother or sister.

[Bil'in] - *'The soldiers kept us outside in the rain for about half-an-hour until a military jeep arrived. An officer spoke to them in Hebrew and they immediately took us inside. It seems he asked them to do it. Five of them took us to a small room but didn't allow us to sit. They made us stand the entire time and kept beating us, especially me. Other soldiers came in to the room and beat us several times. They insulted us as well and said: "You're sons of whores." They kept kicking us and slapping us very hard, especially on the head.'*

Mohammad S. (15) – Arrested 2 February 2011

[Zufin settlement] - *'When we arrived at Zufin settlement, soldiers took me to a clinic where a doctor asked me general questions about my health, but without examining me physically. He removed the blindfold and kept me tied. After that, they put the blindfolds back on and took us back to the jeep. They insulted As'ad and said: "Your mother's a cunt." [...] They insulted As'ad because he was complaining about the ties.'*

Adam S. (17) – Arrested 11 March 2011

[Ramallah] - *'There were two soldiers in the car including the driver. The other soldier kept filming me with his mobile phone, while saying obscene words in Hebrew that he asked me to repeat. At first I refused, but he hit me on the shoulder and ordered me to repeat after him. I remember repeating: "I'm a son of a whore," twice. He would film me and show it to the driver.'*

Mohammad T. (15) – Arrested 26 January 2011

F. Threats (38%)

- 5.8 In 17 out of 45 cases (38%), the children report being threatened by their interrogator. The testimonies reveal that most interrogations involve a combination of physical violence, threats and verbal abuse. In three of the cases, the threats were of a sexual nature. Other threats reported by the children in their testimonies include the use of violence and, in one case, the threat to bring a dog into the interrogation room.
- 5.9 The prohibition against torture and ill-treatment relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim, such as intimidation and other forms of threats. ‘Serious and credible threats, including death threats, to the physical integrity of the victim or a third party can amount to cruel, inhuman or degrading treatment or even to torture, especially when the victim remains in the hands of law enforcement officials.’²⁰

[Zufin settlement] - *‘The man or the interrogator started threatening me: “If you don’t tell the truth, I’ll open your ass in half,” he shouted. He said the same thing to Mohammad. He asked me general questions about the reason I went to the Wall and throwing stones, but I didn’t answer him.’*

Ahmad K. (16) – Arrested 24 April 2011

[Gush Etzion settlement] - *During a lengthy interrogation during which the child was tied and blindfolded - ‘I think both David and the huge man kept torturing me for at least one hour, but that didn’t make me confess to anything because I didn’t do anything at all. When they stopped torturing me, a third interrogator came in. “I’m a good interrogator and I’m not violent,” he said. “My name’s Abu Ahmad and I’ll give you five minutes to think and then confess to throwing stones and Molotov cocktails,” he added. I immediately recognised him. He was the same interrogator, David. He tried to change his voice but I recognised him anyway. “I’ve got nothing else to add,” I said to him and he said he would bring me to a man named Abu Ali “to fuck you in the ass, because he loves to fuck children like you.’*

Malek S. (16) – Arrested 9 January 2011

²⁰ Report of the Special Rapporteur: Question of torture, and other cruel, inhuman or degrading treatment or punishment (2001) – A/56/156

[Salem Interrogation and Detention Centre] - *'He accused me of cutting the fence, and I denied it. But then he started shouting and threatened to beat me: "I'll smash your head if you don't confess," the interrogator said and raised his hand to hit me, but he didn't. "If you don't confess, I'll lock you up with adults who will fuck you," he said. He interrogated me for about an hour [...] I was scared of him, so I confessed to cutting the fence.'*

Mohammad K. (15) – Arrested 24 April 2011

G. Solitary confinement (9%)

- 5.9 In four out of 45 cases (9%), the children report spending between 24 hours to 20 days in solitary confinement. The practice of placing children in solitary confinement and depriving them of external stimuli appears to be most common at the Al Jalame Interrogation and Detention Centre, outside Haifa; Petah Tikva Interrogation and Detention Centre, near Tel Aviv; and Al Mascobiyya ('The Russian Compound'), in Jerusalem.
- 5.10 The effects of solitary confinement on a detainee were considered by a UN Special Rapporteur on Torture in a 2008 report to the General Assembly: *'The weight of accumulated evidence to date points to the serious and adverse health effects of the use of solitary confinement: from insomnia and confusion to hallucinations and mental illness. The key adverse factor of solitary confinement is that socially and psychologically meaningful contact is reduced to the absolute minimum, to a point that is insufficient for most detainees to remain mentally well functioning. Moreover, the effects of solitary confinement on pre-trial detainees may be worse than for other detainees in isolation, given the perceived uncertainty of the length of detention and the potential for its use to extract information or confessions. Pre-trial detainees in solitary confinement have an increased rate of suicide and self-mutilation within the first two weeks of solitary confinement.'*²¹ The detrimental impact of being held in solitary confinement on the psychological well-being of a child has prompted the UN Committee on the Rights of the Child to advise that such treatment should be strictly forbidden.²²

²¹ Report of the Special Rapporteur: Question of torture, and other cruel, inhuman or degrading treatment or punishment (2008) – A/63/175.

²² Committee on the Rights of the Child, General Comment No. 10 – paragraph 89.

Al Jaleme – ‘On 14 June, I asked to speak with the interrogator, but the jailer refused and said they can’t let me talk to him. “If you don’t let me talk to him, I’ll hang myself,” I said to him. He immediately called the female officer in charge. The female officer came and ordered the jailer to put me in solitary confinement under supervision and to stress abuse me. The jailer immediately dragged me out of the cell, slapped me twice and insulted me saying: “You brother of a whore.” He took me to a room, and I saw a metal door on the floor. He forced me to lie down on the door and tied my hands and feet to the door. That was around 12:00 pm. He kept me tied to the door for 24 hours, and untied me only to eat or use the bathroom. I couldn’t sleep at all and felt so much pain.’

Othman H. (17) – 1 June 2011

[Petah Tikva] – ‘After that they took me to a clinic and the doctor started shouting at me for no reason. He ordered me to take off my clothes including my underwear, but I refused and he kept shouting at me. The soldiers shouted at me too and forced me to take off my clothes. They kept staring and laughing at me and making fun of me. The doctor kept me naked for four to five minutes. I don’t know why he did it. He kept looking at me, claiming that he wanted to examine me but he did not. He didn’t do anything. I was very ashamed. I’ll never forget it in my whole life. They detained me in a windowless cell that smelled horribly. I didn’t know day from night. The lights were turned on the entire time [...] I was kept in the cell alone for four days.’

Said H. (15) – Arrested 18 May 2011

[Petah Tikva] - ‘The truck travelled to Petah Tikva Interrogation and Detention Centre [...] They strip searched me and gave me prison clothes. They detained me in Cell 11. It was a relatively small cell with one air conditioner which gave cold and hot air alternatively. It had no windows. It had a dim yellow light that was on the entire time. The smell of the toilet was very horrible. There was also a mattress on the floor [...] I was detained in the cells for 40 days, of which 20 days was in solitary confinement.’

Abdullah S. (15) – Arrested 16 April 2011

[Petah Tikva] – *‘When we arrived, a jailer strip searched me and a doctor examined me. Immediately after that, they detained me in Cell 4, which was very small, measuring 2.5 x 2 metres, with a toilet. The lights were on all the time, and that made it difficult for me to sleep. I was detained in the cell for three days.’*

Khaled H. (16) – 18 May 2011

H. Confession during interrogation (69%)

5.11 In 31 out of 45 cases (69%), the children report confessing at the end of what is typically a coercive interrogation. In other cases, children report being forced to sign documents written in Arabic but without being given the opportunity to read the documents. Accordingly, a number of children do not know whether they confessed or not. In theory children are supposed to have the right to silence whilst being interrogated or giving evidence in the military courts, although there is little evidence that children are being informed of this right.²³

[Ari’el settlement] - *‘In the evening, an interrogator came along and took me to a room near one of the containers [...] He accused me of throwing stones: “There are children who saw you throwing stones and I’ll beat the hell out of you if you don’t confess.” [...] I denied throwing stones and he started screaming and threatening to hit me. I became very scared of the interrogator and confessed to throwing one stone at a military jeep and setting a tyre on fire. I was still tied and blindfolded but he removed the blindfold when I confessed.’*

Hamza K. (15) – Arrested 5 January 2011

[Ari’el settlement] - *‘The interrogator kept hitting me for at least five minutes and shouting: “You better confess to throwing stones.” Then the other interrogator walked into the room, but he never hit me. The first interrogator stayed in the room. The other interrogator started taking my statement. I decided to confess to throwing stones because I was very scared of the first interrogator who hit me hard. He was still in the room.’*

Omar H. (13) – Arrested 18 May 2011

²³ This right appears to be based on the Criminal Procedure (Enforcement Powers – Arrests) Law (1996) – Section 28; and Police Order No. 14.01.34 – Section 6.

[Etzion settlement] - *'About five minutes later, David came back to the room but didn't ask me anything. He tightened the blindfold and the ties and forced me to sit on the floor. He stood behind me and stepped on the ties. Then, he grabbed my head and slammed it against the metal wall. He stood me up and kept pushing me against the metal wall and torturing me until around 3:00 pm. I started to think they would never stop torturing me. I couldn't take it anymore, so I had to confess, even though I didn't do anything. "Enough, stop beating me because I want to confess," I said to David.'*

Malek S. (16) – Arrested 9 January 2011

I. Signed or shown documentation written in Hebrew (29%)

5.12 In 13 out of 45 cases (29%), the children report being shown, or forced to sign, documentation written in Hebrew - a language the overwhelming majority of Palestinian children do not understand. These written confessions are then included in the court files which are in the possession of both the military prosecutors and judges, neither of who express criticism or surprise regarding this practice.²⁴

[Etzion settlement] – *'When the interrogation ended, the interrogator forced me to sign the papers he had written in Hebrew.'*

Mohammad F. (14) – Arrested 1 January 2011

[Etzion settlement] – *'When it was over, he untied me only to sign the papers which were typed in Hebrew. I signed them without knowing their content and he didn't explain them to me.'*

Hamza K. (15) – Arrested 5 January 2011

[Etzion settlement] – *'He typed my statement in Arabic and Hebrew and printed it out. He forced me to sign it without allowing me to read it. I asked him to explain the Hebrew sentences but he refused.'*

Moataz K. (14) – Arrested 6 January 2011

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

[Kirya Arba settlement] – *‘He sat on the table and started shouting and threatening to hit me. He even raised his hand to hit me but he didn’t. That scared me so much I confessed [...] The interrogator wrote my statement in Hebrew and I didn’t understand anything. When he finished writing it, he forced me to sign it without explaining its content.’*

Marwan S. (15) – Arrested 9 March 2011

J. Detention inside Israel in violation of the Fourth Geneva Convention (76%)

5.13 In 34 out of 45 cases (76%), the children report being detained inside Israel in violation of Article 76 of the Fourth Geneva Convention. Article 76 provides that *‘Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein.’*²⁵ The practical consequence of this violation is that many children receive either limited, or no family visits, due to freedom of movement restrictions imposed on their family members.

K. Presence of a family member during interrogation

5.14 Although Israeli children, including those residing in illegal settlements in the occupied West Bank and East Jerusalem, generally have the right to have a parent present during interrogation,²⁶ no such right is afforded to Palestinian children detained under military law in the occupied West Bank. In none of the 45 cases referred to in this Report, were the children permitted to have a parent present during their interrogation, and they were only permitted to see a lawyer after their interrogation was over. Further, none of the interrogations were audio-visually recorded as a means of providing independent oversight.²⁷

²⁵ Pursuant to Article 147 of the Fourth Geneva Convention, unlawfully transferring a protected person is a grave breach of the Convention and attracts personal criminal responsibility. Further, under Article 146 all parties to the Convention have a positive legal obligation to search out and prosecute those responsible for grave breaches.

²⁶ Youth (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. An exception to this rule is permitted upon written authorisation of an authorised officer, and in cases in which the well-being of the child requires the parent not to be present.

²⁷ Israeli children, including those residing in illegal settlements in the occupied West Bank and East Jerusalem, have the right to have their interrogations audio-visually recorded in all cases where the maximum penalty is 10 years or more - Criminal Procedure (Suspects Interrogation) Law (2002) – Sections 4 and 17. Note that the penalty for throwing stones under the Israeli military orders ranges from 10 to 20 years.

6. Impunity for violations

- 6.1 According to a recent report, between January 2001 and late 2010, 645 complaints were filed against Israeli Security Agency (ISA) interrogators for alleged ill-treatment and torture of Palestinian detainees. The Police Investigation Department of the Ministry of Justice, the relevant authority charged with investigating these complaints, did not conduct a single criminal investigation.²⁸
- 6.2 Further evidence in support of the conclusion that there is currently a general culture of impunity in Israel when it comes to investigating allegations of wrongdoing against Palestinians, includes:
- (i) In the two years since the war in Gaza which killed around 1,400 Palestinians including 352 children, there has been one conviction for credit card fraud and two convictions for using a nine-year-old boy as a human shield. The soldier convicted of credit card fraud is the only person to have actually served time in prison;²⁹ and
 - (ii) On 27 January 2011, an Israeli military court refused to imprison Lt. Col. Omri Burberg who was convicted of shooting a bound and blindfolded Palestinian detainee at close range in the foot with a rubber coated steel bullet. The court declined to impose a custodial sentence even though this was recommended by the prosecution.³⁰

7. The role of settlements in the Israeli military detention system

- 7.1 Israeli settlements in the occupied West Bank and East Jerusalem are illegal under international law and an obstacle to peace.³¹ All 45 children who provided testimonies for this Report live within close proximity to one or more of the settlements, and near to roads used by settlers and the Israeli army. Further, there is clear evidence that the

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

²⁹ DCI-Palestine, 'Suspended sentences for soldiers convicted of using 9-year-old as a human shield,' (21 November 2010), available at: <http://www.dci-pal.org/english/display.cfm?DocId=1705&CategoryId=1>

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

³¹ See the International Court of Justice's (ICJ) advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004) (the ICJ Wall Opinion (2004)).

settlements play an integral part in the ill-treatment of children within the military detention system. In 30 out of 45 cases (67%), the children report some form of abuse occurring inside a settlement at the hands of soldiers or policemen, and in some cases, children report being mistreated in more than one settlement before being handed over to the Israeli Prison Service.

Table 5– Reports of ill-treatment in settlements – 1 January to 30 June 2011

Settlement	Number of reports	Percentage
Etzion settlement	12	27%
Zufin settlement	9	20%
Ari’el settlement	3	7%
Kiryat Arba settlement	3	7%
Hallamish settlement	2	4%
Geva Binyamin settlement	1	2%
Total	30	67%

8. Concluding remarks

8.1 Reports of torture and ill-treatment in the Israeli military detention system are not new and have been well publicised for many years.³² The testimonies collected by DCI-Palestine during the reporting period indicate that Palestinian children held in Israeli military detention continue to be systematically ill-treated. Further, the cumulative effect of the ill-treatment experienced by all of the children must also be considered when assessing its gravity. In some cases this cumulative effect, coupled with the child’s age, may result in the treatment being properly categorised as torture. However, it is important to note that both forms of treatment are absolutely prohibited and criminalised under international law.

³² See B’Tselem, ‘No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone-Throwing (July 2011); B’Tselem and Hamoked, ‘Absolute Prohibition: The Torture and Ill-treatment of Palestinian Detainees,’ (2007) – available at: http://www.btselem.org/Download/200705_Utterly_Forbidden_eng.pdf; PCATI, ‘Family Matters: Using Family Members to Pressure Detainees Under GSS Interrogation,’ (2008) – available at: <http://www.stoptorture.org.il/files/Family%20Matters%20full%20report%20eng.pdf>; PCATI, ‘No Defense: Soldier Violence Against Palestinian Detainees,’ (2008) – available at: <http://www.stoptorture.org.il/en/node/1136>; DCI-Palestine, ‘Palestinian Child Prisoners: The systematic and institutionalized ill-treatment and torture of Palestinian children by Israeli authorities,’ (2009) – available at: <http://www.dci-pal.org/english/publ/display.cfm?DocId=1166&CategoryId=8>; PCATI, ‘Shackling as a Form Of Torture and Abuse,’ (2009) – available at: http://www.stoptorture.org.il/files/eng_report.pdf; and PCATI, ‘Accountability Denied: The Absence of Investigation and Punishment of Torture in Israel,’ (2009) – available at: http://www.stoptorture.org.il/files/Accountability_Denied_Eng.pdf.

9. Recommendations

- 9.1 No child should be prosecuted in military courts which lack comprehensive fair trial and juvenile justice standards. DCI-Palestine recommends that as a minimum safeguard in the light of consistent reports of torture and ill-treatment, the following:
- (i) All arrests of children should occur during daylight hours;
 - (ii) The use of single plastic hand ties must be prohibited in all circumstances and the prohibition must be effectively enforced;
 - (iii) The effective implementation of independent oversight within the system, such as the audio-visual recording of all interrogations and the presence of family members and lawyers of choice;³³
 - (iv) Effective accountability measures, to ensure all credible reports of torture and ill-treatment are appropriately investigated in accordance with international standards, and perpetrators are brought promptly to justice; and
 - (v) In accordance with recommendations made in 2002 by the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard, an independent inquiry meeting with international standards should be established to investigate reports of torture and ill-treatment of children in the Israeli military detention system.

DCI-Palestine
19 July 2011

³³ These recommendations have been endorsed by the UN Committee Against Torture, Concluding Observations, Israel, May 2009, CAT/C/ISR/CO/4 – paragraphs 16 and 27; and the UN Human Rights Committee, Concluding Observations, July 2010, CCPR/C/ISR/CO/3 – paragraph 22. On 15 June 2011, ACRI, Yesh Din and DCI-Palestine wrote to the Israeli Chief Military Advocate General with similar demands. At the time of publication no response has been received. The letter is available on-line at: <http://www.dci-palestine.org/documents/acri-dci-palestine-and-yesh-din-demand-equality-palestinian-children>

#	Name	Age	Date of arrest	1	2	3	4	5	6	7	8	9	10	11	12
31	As'ad M.	16	11 Mar												
32	Adam S.	17	11 Mar												
33	Abed S.	16	13 Apr												
34	Abdullah S.	15	16 Apr												
35	Ahmad K.	16	24 Apr												
36	Mohammad K.	15	24 Apr												
37	Said H.	15	18 May												
38	Ihab M.	14	18 May												
39	Omar H.	13	18 May												
40	Thaer R.	15	18 May												
41	Khaled H.	16	18 May												
42	Ahmad R.	17	20 May												
43	Mohammad H.	17	31 May												
44	Othman H.	17	1 Jun												
45	Saji O.	16	7 Jun												
Totals				28	44	41	15	39	17	27	4	25	13	31	34
				62%	98%	91%	33%	87%	38%	60%	9%	56%	29%	69%	76%

ANNEX – 2
Executive summary (1 July – 31 December 2010)

- 1.1 Each year, approximately **700** Palestinian children as young as **12** years are arrested, interrogated and prosecuted in the Israeli military court system. Credible reports of ill-treatment and torture within the system are common and persistent. This Report covers a six month period between 1 July and 31 December 2010, and is based on the sworn affidavits of **40** children detained in the military court system during this period. In **62.5** percent of these cases, the children were accused of throwing stones. The common complaints and areas of concern raised by these children are presented in Table 1 below:

Table 1 – Common complaints and areas of concern – 1 July to 31 December 2010

#	Common complaints and areas of concern	Number of cases	Percentage of children
1	Hand ties	40	100%
2	Blindfolds	36	90%
3	Beaten or kicked	28	70%
4	Position abuse	24	60%
5	Threats or inducements	22	55%
6	Confession during interrogation	20	50%
7	Arrested between midnight and 4:00 am	18	45%
8	Verbal abuse and humiliation	18	45%
9	Detention inside Israel in violation of Article 76	17	42.5%
10	Signed/shown documents written in Hebrew	11	27.5%
11	Detained with adults	9	22.5%
12	Solitary confinement	7	17.5%
13	Strip searched	7	17.5%
14	Electric shocks	3	7.5%
15	Threat of sexual assault	3	7.5%

- 1.2 The Report also highlights the involvement of illegal Israeli settlements in the military court system, evidenced by the fact that in **47.5** percent of cases, the children report being ill-treated or tortured inside a settlement.
- 1.3 The Report recommends as a minimum safeguard, that all interrogations of children be audio-visually recorded and that parents be permitted to accompany their children during questioning, as is the right afforded to Israeli children. The Report further recommends that an independent inquiry be established to investigate the treatment of children in the Israeli military court system.