

**A5. UN SECRETARY-GENERAL, PALESTINIAN CHILDREN IN ISRAELI DETENTION, NEW YORK, 6 NOVEMBER 2009 (EXCERPTS).**

*The following report, covering the period from September 2008 to August 2009 and submitted to the UN General Assembly, provides an overview of key aspects of the humanitarian and human rights situation in the occupied Palestinian territories and Israel, such as the Israeli blockade on Gaza, the firing of rockets against Israeli civilian areas, restrictions on freedom of movement in the West Bank and East Jerusalem, and house demolitions and forced displacement in area C and East Jerusalem. The excerpts below focus on Palestinian child prisoners in Israel. The full 15-page report, titled "Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, Including East Jerusalem," can be found online at [www.unispal.un.org](http://www.unispal.un.org). Footnotes have been omitted for space considerations.*

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36. According to NGO sources, an estimated 6,500 Palestinian children were

arrested and detained in Israeli prison facilities between September 2000 and August 2008. Information published by Defence for Children International-Palestine, an international NGO, states that, as of September 2009, 326 Palestinian children were in Israeli detention. According to the same NGO, that number has on average remained generally constant since 2007, although there was a significant increase in the numbers of detained children in the first few months of 2009.

37. Palestinians in the West Bank are subject to Israeli military law, which comprises mainly military orders issued by the military command. In addition, the vast majority of Palestinians detained in Israeli prisons and detention centers, including children, are detained in facilities within Israel. . . .

#### ***Age of Criminal Responsibility***

38. . . . Israeli legislation applicable to Israeli citizens, including settlers, defines a child as any person less than 18 years of age. On the other hand, Israeli military law applicable to Palestinian residents of the West Bank defines a Palestinian child as a person under the age of 16. Children over the age of 16 are therefore subjected to the same arrest, interrogation, trial, and imprisonment procedures as adults. The age of criminal responsibility is stipulated at 12 by Israeli military orders, and, in practice, children from that age are subject to the same procedures as adults despite being defined as minors. . . .

39. Furthermore, Israeli military courts often sentence children according to the age at the time of sentencing (or, in some cases, at the time when the indictment is issued) and not the time of the crime. Cases have been documented of children who were under 16 years of age when they were detained but sentenced as adults since they had reached 16 or over by the time of final sentencing.

40. While international law does not prohibit the detention of children, Article 37 (b) of the Convention on the Rights of the Child explicitly provides that the deprivation of liberty, including arrest, detention, and imprisonment, should be used only as a measure of last resort and for the shortest appropriate period of time. . . .

#### ***Ill-Treatment and Abuse***

41. In the majority of cases documented by NGOs, throwing stones at moving

Israel Defense Forces (IDF) vehicles or the wall is the crime with which children are charged. Children are often arrested at home in the middle of the night or early hours of the morning, and a confession obtained during interrogation is almost invariably the sole piece of primary evidence used by the prosecution.

42. Ill-treatment of Palestinian children has been reported both at the moment of the arrest and during interrogation. Methods of ill-treatment and abuse reportedly include beatings, being handcuffed in painful, contorted positions for long periods of time, threats of sexual abuse, hooding the head and face in a sack, and *Shabab*. In one case documented by the Office of the United Nations High Commissioner for Human Rights, a 14-year-old boy resident of the village of Qatanna was arrested on 21 March 2009 by soldiers across the street from his home, after other children nearby had thrown stones at an IDF vehicle. While being transferred to an Israeli military camp, the soldiers slapped him several times, handcuffed, and blindfolded him. The boy stated that the handcuffs were too tight and caused him great pain and that the blindfold may have been coated in tear gas since his eyes were burning the entire time. After repeated appeals at the police station, a soldier noted that the boy's hands were turning blue and took off his handcuffs and blindfold. He was then subjected to interrogation for four hours, during which an interrogator beat his face and ears with the back of his hand, approximately 40 times.

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#### ***Fair Trial and Lack of Education in Detention***

45. It is often the case that Palestinian children arrested by Israeli soldiers are not promptly advised of the charges against them or of their rights, and are not given immediate access to a lawyer or allowed contact with a parent or other guardian. Children are often forced into signing confessions in Hebrew, a language which in most cases they do not understand. That confession is then used as the primary piece of evidence against them in a military trial.

46. In the same case described in paragraph 42 above, the boy was presented with and signed a paper in Hebrew, a language which he did not understand. While

he was told it was only an administrative paper for his file, he found out at trial that it was a confession. At his second court hearing, he was also informed for the first time that his lawyer had agreed to a plea bargain on his behalf. The boy was finally released on bail on 8 April and later sentenced to 40 days imprisonment. After the family paid an NIS 8,000 fine (approximately \$2,000), the sentence was reduced to 19 days (with a three-month suspension), the time he had already spent in prison.

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49. In late July 2009, Israel issued a military order to establish new military juvenile courts in the West Bank to try children under 16 years of age. The order also established a statute of limitations of two years for offenses committed by children, as opposed to the situation before, where there was no such statute (though in the new order that statute may be removed by the chief military prosecutor). At the time of preparation of the present report, it remained to be seen how the order would be implemented.

50. Educational opportunities for children in detention are in most cases inadequate. Palestinian children receive only limited education in two out of the five prisons where they are kept, and there is no education provided for in any of the interrogation or detention centers, where children are sometimes kept for three months or more.

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