

MEDIA BRIEF

PALESTINIAN CHILDREN IN ISRAELI MILITARY DETENTION

[On the Occasion of the Palestinian Prisoner Day, on April 17th 2016]

Background

Since Israel's occupation of the West Bank and the Gaza Strip in 1967, the occupation authorities have continuously carried out oppressive and discriminatory policies to strengthen its military occupation of Palestine and to maintain its oppressive control over the lives of the Palestinian people.

One key policy is Israel's mass arrest and arbitrary detention that target all Palestinians regardless of their gender, age, profession or political affiliation. This policy is a primary part of Israel's force to crush any form of Palestinian resistance against the occupation, and to impose collective punishments on the Palestinian people; in contravention of basic human rights and norms.

This Media Brief underlines Israel's arrest and confinement policy targeting Palestinian children, who are regularly subjected to ill-treatment, torture, physical and psychological violence during arrest, interrogation, detention and/or under home arrest. It includes two case studies; one on Dima al- Wawi, 12 years-old, who is the youngest female Palestinian prisoner in Israeli prisons, and the second is on Fadi Al-Shaloudi, 13 years-old, who is currently being held in his own home in Silwan.

Key Facts & Figures

- The UN Convention on the Rights of the Child defines a child as "every human below the age of eighteen years".
- Israel remains the only country in the world where Palestinian children, only, are systematically tried in military courts and subjected to torture and inhuman treatment and punishment.⁽¹⁾
- The use of the illegal measure of administrative detention against Palestinian children was renewed for the first time in October 2015. Israel ceased this practice in December 2011.⁽²⁾
- Around 500-700 Palestinian children are detained and prosecuted every year in Israeli military courts.⁽³⁾ Today there are over 400 Palestinian Children held in dire conditions in Israeli jails scattered in two main prisons: 'Ofer', 'Mejido'.⁽⁴⁾

(1) UNICEF Report, "Children in Israeli Military Detention: Observations and Recommendations", 2013

(2) B'Tselem, "Trends in 2015 inmate figures: Record number of Palestinians held in Israel", March 2016,

(3) Defense for Children International -Palestine (DCIP), "Military Detention", <http://bit.ly/1QbzTxj>

(4) Palestinian Prisoners Club

- Over the past 5 years, Israel has sharply intensified the arbitrary detention of Palestinian children. The year 2015 has witnessed the highest trend of arrests, particularly during the last three months where a total of 1500 children were detained; the majorities are from Jerusalem and Hebron. In 2015 alone, the Israeli occupation forces arrested 2179 minors between 11 and 18 years of age. This constitutes 72% rise compared to 2014 and accounts for a 134% rise compared to 2013. ⁽⁵⁾
- In March 2016 alone, Israel arrested 647 Palestinians from occupied West Bank and Gaza including 126 children.⁽⁶⁾

Israel's Arbitrary Arrest & Systematic ill treatment and Torture of Palestinian Children in Israeli Prisons

A. OVERVIEW:

Palestinian children are usually detained at military checkpoints or in the middle of the night, with their hands bound and their eyes blindfolded, they are usually taken to one of the main interrogation centers in Israel.

According to Defense for Children International- Palestine (DCIP), in most cases, the children are transferred to military bases located in or near illegal settlements in the occupied Palestine before they are transferred to interrogation centers inside Israel. This constitutes a clear breach of article 76 of the forth Geneva Convention, relevant to the protection of civilians during war times which forbids an occupying power from transferring any prisoners to its own territory.

In its recently published report titled “No Way to Treat a Child”, the DCIP “collected affidavits from 429 West Bank children detained between 2012 and 2015 that show three-quarters of them endured some form of physical violence following their arrest. In 97 percent of the cases, children had no parent present during the interrogation and access to legal counsel was extremely prohibitive. Israeli police also did not properly inform them of their rights in 84 percent of the cases.”

Israel continues to practice all forms of oppressive policies against Palestinian Children in detention. The children are exposed to long interrogation sessions that can last for a period of 90 days ⁽⁷⁾ in which Israeli interrogators use physical violence, threats of death, solitary confinement and sexual assault in order to extract confessions.

In most cases, children are obliged to sign a ‘confession’ papers in Hebrew, a language very few of the Palestinian children can understand. Moreover, the use of inhuman solitary confinements where children are held for a period of two days to maximum of 90 days ⁽⁸⁾ before court hearing, as well as after sentencing, violates article 7 of the International Covenant on Civil and Political Rights.

After being interrogated, the children appear before military courts within 24 to 96 hours of arrest depending on their age. Under Israeli military law, Palestinian children, as young as 12 and older, are prosecuted in military courts.⁽⁹⁾ In 2009, Israel established separate military courts for Juveniles, per Military Order 1644, despite this, Israel continues to fail to provide minimal protection for

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(5) Report by Commission of Detainees and Ex-Detainees Affairs, “War Crimes and Crimes Against Humanity towards Palestinian Detainees in Israeli Jails”, April 2016.

(6) Joint report prepared by Prisoners Institutions (Prisoners Club, Addameer, Detainees and Ex-Detainees Commission and Almezan Center for Human rights), March 2016.

(7) Addameer Factsheet: “Palestinian Political Prisoners in Israeli Prisons”, January 2014

(8) UNICEF Report, 2013. “Children in Israeli Military Detention: Observations and Recommendations”

(9) DCIP, “No Way to Treat a Child: Palestinian Children in the Israeli Military Detention System”, April 2016

Palestinian children's rights under International Human Rights Law stipulating that trials take place before independent and impartial tribunals. ⁽¹⁰⁾

B. CASE STUDY

"I want to go home", Dima al- Wawi, The youngest female Palestinian prisoner in Israeli prisons.

Dima Al-Wawi, 12 years- old from Halhul, a town to the north of Hebron in the southern Occupied State of Palestine, was detained on February 9th, 2016 near the illegal settlement of "Karmey Tzur", built on occupied lands of Halhul. Israel accused her of carrying a knife. Under such charges, she was transferred to HaSharon prison located outside occupied Palestine.

Five days later, on February 14th, the Ofer military occupation court issued a decision to imprison Dima for four and a half months, in addition to paying a fine of eight thousand-shekels. Her lawyer Tariq Barghouth denounced the Israeli decision of banning her parents from being present during interrogation session, as well as preventing her from meeting a lawyer. Under such circumstances, the lawyer has raised serious concerns that this may lead to a forced confession or asking her to sign a false confession document, given that Dima cannot read Hebrew.

Dima's mother said her daughter was beaten during arrest and interrogation; she was severely kicked on her back and several soldiers pointed their guns at her. Additionally, her lawyer explained that she's not yet aware of this situation and is suffering a critical psychological turmoil.

It has become evident that Dima is severely frightened from her detention and interrogation and has been mainly repeating, "I want to go home."

On April 11th, 2016, the Commission of Detainees and Ex- Detainees Affairs issued a statement confirming that relevant Israeli authorities have approved a request for the early release of Dima by April 24th. The family was officially notified of this decision.

Israel's House Arrest of Palestinian Children in Jerusalem

A. OVERVIEW:

During the last three months of 2015, Israel has escalated its repressive measures against Jerusalem's Children; imposing forms of collective punishment against them and their families. Including house arrest and exile from the occupied Palestinian capital.

During the last quarter of 2015, Israel has issued 60 house arrest orders against Jerusalemite Children, bringing the total of the last three years to 300 orders. ⁽¹¹⁾ As a result, children are locked up in their homes and their parents have been turned into their jailers. These children are denied fundamental rights to access schooling and medical services. Another form of house detention involves having the children imprisoned at a relative's home outside Jerusalem. In some cases, Palestinian Children are prosecuted and held in Israeli jails after spending couple of months under house arrest. Last March, one Israeli court in Jerusalem sentenced seven Palestinian Children

(10) Addameer Factsheet: "Palestinian Political Prisoners in Israeli Prisons", January 2014

(11) Report by Commission of Detainees and Ex-Detainees Affairs, "War Crimes and Crimes Against Humanity towards Palestinian Detainees in Israeli Jails", April 2016

aged between 14-17 years for a period ranging between 12 to 39 months for allegedly throwing stones, after spending 8 months under house arrest. ⁽¹²⁾

B. CASE STUDY

“My child cannot enjoy his right to a normal life while being imprisoned at home”, Fadi Al-Shaloudi’s Mother, Shifaa.

Fadi Al-Shaloudi, 13 years-old, and his mother Shifaa were arrested from their home in Silwan on October 21st, 2015 around 4:00 pm. They were detained without being informed of the reasons for their arrest. They were both forced into a military vehicle and transferred to an interrogation center in Jabal Al- Mukabber (in Occupied East Jerusalem) where they were separated. From that moment, and throughout their detention period, both were not allowed to meet.

Fadi was indicted of allegedly throwing stones at the occupation forces in Silwan, while his mother was charged with allegedly participating in the ‘offense’ by encouraging her child to throw stones. According to their lawyer, Mohammad Mahmoud (from Addameer Human Rights Organization): “Fadi was interrogated for three consecutive hours and his parents were banned from attending the interrogation. He was also forced to sign a confession against his mother; claiming that she supported him in committing the offense”.

On the second day of arrest, Fadi appeared for the first time before the Israeli Magistrate court in Jerusalem. The jury decided to release him under distant home detention for a period of five days at his uncle’s house in Shu’fat, which was later extended to an open-ended house arrest in his hometown of Silwan pending his sentencing. The court’s hearing for his case will take place on May 11th, 2016.

Shifaa also recalls experiencing long sessions of interrogation, when she was subjected to ill-treatment and verbal threats as well as to insults against her and her family. Following the interrogation, she was transferred to ‘Ha’sharon’ prison and was later released on November 29th, 2015. Since then, she has been under an open-ended house arrest at her house in Silwan. Shifaa is awaiting the court’s hearing for her case on June 16th, 2016.

Children under house arrest are prohibited from schooling for the first three months. After this period, the child’s attorney must obtain a permission from the prosecution to allow the child to pursue his education. Accessing medical services also requires the prosecution’s permission.

According to his mother Shifaa: “My child cannot enjoy his right to a normal life while being imprisoned at home. His lawyer defied the Israeli court and has recently obtained him a permission to return to school, but due to my son’s forced absence for almost five months he was not able to succeed the exams”.

International Law

Under International Human Rights Law, states are obligated to create a Juvenile justice system that guarantees the basic rights of children, and protects them from torture. International Human Rights Law applied in occupied Palestine include the Convention of the rights of Children (CRC), Convention against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR). The Human Rights treaties provide that the children’s best interests shall be a primary

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(12) Interview with Attorney Mohammad Mahmoud, Addameer

consideration, and they should be only detained as a measure of last resort and for the shortest appropriate period of time. While Israel has ratified these treaties, it continues to violate its provisions by practicing all methods of arbitrary and oppressive detention measures against Palestinian children. Moreover, these treaties stipulate that all children shall be entitled to a fair and public hearing by an independent and impartial tribunal, which is completely not the case within Israel's military justice system.

Under the UN Convention on the Rights of the Child, Israel is obligated to refrain from imprisoning children except as a measure of last resort and only for the shortest appropriate period of time. Yet, over 8,000 Palestinian children were arrested and detained between September 2000 and December, 2014. Children are routinely held in detention centers under appalling conditions: In some centers, up to eleven children have been packed into cells as small as five square meters. Children are also kept in centers with adults, all in contravention of the United Nations Convention on Rights of the Child.

A United Nations committee reported:

“A few witnesses also drew the attention of the Special Committee to the appalling conditions of imprisoned minors, mixed up with adults, sometimes with women adults. They were allegedly arrested in the same way as adults, at night, taken to military camps and beaten up. They were interrogated without the presence of relatives and could not meet their lawyers for 60 days. They were subjected to various threats such as destruction of their homes, life imprisonment, beheading or rape. One youth had reportedly been confined in an isolated cell for 60 days. They were often kept three to a cell, sleeping on the floor, struggling with cockroaches and suffering poor hygienic conditions owing to lack of water. They were often exposed to ill treatment when transferred to the court or to another prison. Unlike Israeli detainees, they had no rehabilitation or recreational programmes.”

Conclusion

The Palestinian position regarding Prisoners is simple. Israel must release all Palestinian prisoners held in its jails, not only as part of a final-status agreement, but also part of the process of negotiations and confidence building measures intended to build momentum for a peace deal. Israel must also live up to its commitments both in its bi-lateral agreements and under international law, including:

- The release of all Palestinian Prisoners arrested before the commencement of the Oslo peace process as stipulated in the Sharm Al-Sheikh memorandum.
- Cease its policy of administrative detention and its application of military laws and regulations, which deny Palestinians a fair due process.
- Ease and facilitate family visitation on a regular and uninterrupted basis.
- Stop the isolation of prisoners in individual cells and improve the health (including dental health), sanitary, and educational services provided to Palestinian prisoners.
- Cease the use of torture both physical and psychological in interrogations.
- Cease the transfer of Palestinian Prisoners to prisons within Israel's proper in contravention of the Geneva Conventions.
- Provide Palestinian children with the protections underlined under International Law and International humanitarian law and refrain from any arrests targeting minors.