



Briefing Note – September 2015

1. Introduction

- 1.1 In March 2013, UNICEF published a [report](#) which found that: “The ill-treatment of children who come in contact with the [Israeli] 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”.
- 1.2 In response to this finding the Israeli Ministry of Foreign Affairs [stated](#) that it would “study the conclusions and work to implement them through on-going cooperation with UNICEF”.
- 1.3 The purpose of this note is to review progress made in reducing the levels of reported abuse within the military detention system by reference to recent evidence as well as considering other developments. This note covers the period from January to August 2015 (reporting period).

2. Current evidence of issues of concern

- 2.1 In February 2015, UNICEF issued an [update](#) to its original report and noted that allegations of “alleged ill-treatment of children during arrest, transfer, interrogation and detention have not significantly decreased in 2013 and 2014”. This finding is also confirmed by evidence collected by Military Court Watch (MCW) indicating that ill-treatment within the system still appears to be “widespread, systematic and institutionalized” as of September 2015.
- 2.2 Since January 2015, MCW has collected **77 testimonies** from children who reported some form of ill-treatment following their arrest as well as a denial of their basic legal rights in many cases. In each case, children reported multiple violations during the arrest, transfer, and interrogation phases.
 - **65 per cent** of children continue to report being **arrested at night** in what are frequently described as [terrifying](#) raids by the military. Although the military authorities announced the introduction of a [pilot scheme](#) to issue summonses to limit night arrests in February 2014, the use of summonses appears to have fallen dramatically in 2015. With a fall in summonses there has been a corresponding jump in

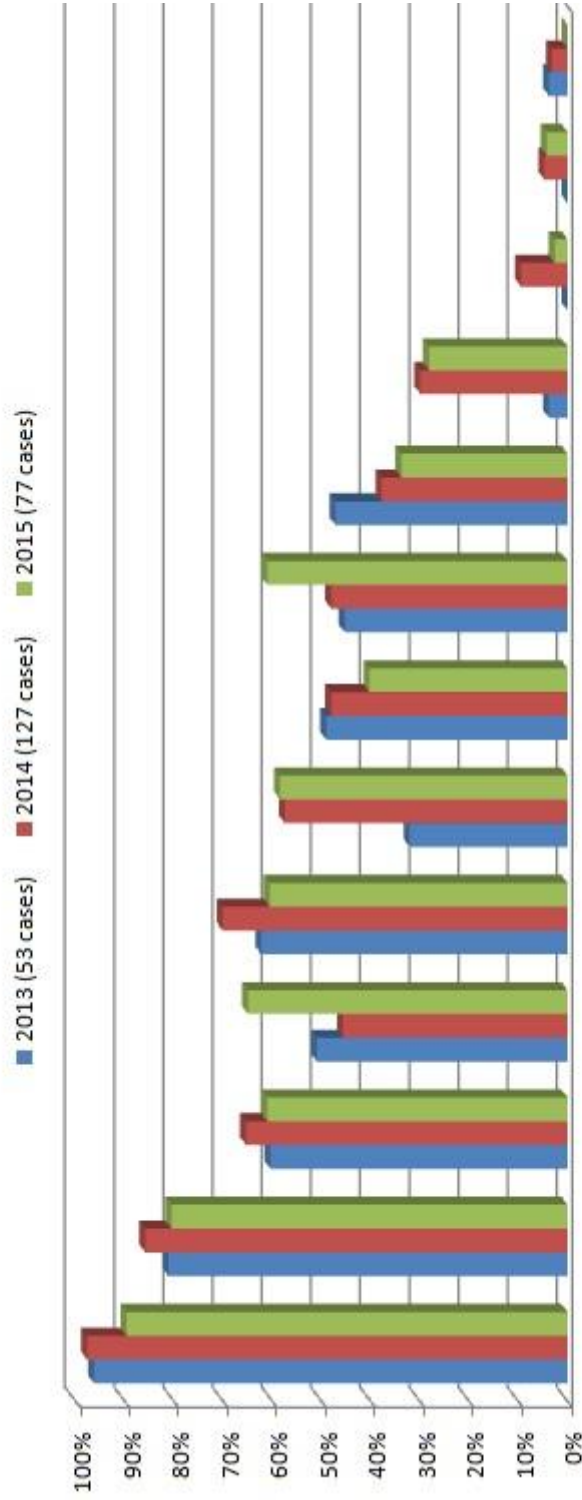
night arrests and related abuse, such as children being transferred from the place of arrest to interrogation centres on the metal floor of military vehicles.

- **90 per cent** of children continue to report being **hand tied** upon arrest which is frequently described as “[painful](#)” or “[very painful](#)”. Some children reported that the plastic ties used to restrain them [cut](#) into their wrists. Many of these children also reported being restrained for extended periods of time including during interrogation.
- **81 per cent** of children continue to report being **blindfolded** or hooded upon arrest in disregard of a recommendation made by UNICEF that this practice should be prohibited in all circumstances.
- **61 per cent** of children continue to report being subjected to various forms of **physical abuse** during arrest, transfer and/or interrogation. The types of reported mistreatment included: [punching](#), [slapping](#), [kicking](#), [beating](#) with, or [pushing](#) into objects, prolonged [exposure](#) to the elements, [spat on](#) and [position abuse](#).
- **62 per cent** of children continue to report being **transferred on the metal floor** of military vehicles from the place of arrest to an interrogation centre. Transferring children on the floor of a military vehicle whilst tied and blindfolded adds significantly to their mental and physical stress whilst often leading to other forms of abuse, such as being shoved and kicked by the soldiers seated around them in the armoured vehicle.
- **40 per cent** of children continue to report being subjected to **verbal abuse** during arrest, transfer and/or interrogation. The abuse mostly consists of [derogatory statements](#) about the child’s mother or sister.
- **34 per cent** of children continue to report being subjected to **threats** during arrest, transfer and/or interrogation. The types of threats reported include: [beating](#); [indefinite detention](#); [electrocution](#); [shooting](#); [shouting and intimidation](#); placed in a room with [snakes and scorpions](#); and [rape](#).
- **72 per cent** of children continue to report being denied their **right to silence**. In the 28 per cent of cases where children were informed of this right, the manner and circumstances in which the information was conveyed raises serious questions as to whether the notification was sufficient. In [one case](#) an interrogator informed the child that he had the right to silence whilst a second interrogator told the child he would be raped if he did not confess. In other cases children are asked to [sign documents](#) acknowledging that they have been informed of their rights even when this is not so and in one case a child was beaten when he [attempted to exercise](#) his right to silence. MCW continues to document multiple cases where children are subjected to [double interrogations](#) in which they are only informed of their rights during the second interrogation following a coercive first interrogation.

- **96 per cent** of children continue to report being denied **access to a lawyer** prior to questioning. Under Israeli military law a detainee must be informed of his/her right to consult with a lawyer on arrival at a police station. However, the order does not stipulate when the consultation should take place, rendering the right to consult with a lawyer largely illusory and ineffectual in most cases. Further, there is no obligation whatsoever on the military to inform a detainee of this right. Most children continue to see their lawyer for the first time in a military court after the interrogation phase has been completed.
- **61 per cent** of children continue to report being shown, or made to sign, [documentation](#) written in **Hebrew** at the conclusion of their interrogation. Some children refuse to sign whilst others sign acknowledging that they had no idea about the contents of the document.
- **No child** has so far reported being accompanied by a parent throughout their interrogation in 2015. Whilst there is no legal right under Israeli military law for a parent to accompany a child during interrogation, the military authorities have acknowledged that there is a [discretion](#) to permit parents to accompany children. In 2014 this discretion was exercised in favour of accompaniment in 3 per cent of cases.
- **58 per cent** of children continue to report being **strip searched** on arrival at a detention centre in circumstances frequently described as “[embarrassing](#)” and/or “[humiliating](#)”. The military and prison authorities continue to disregard [UNICEF](#)’s recommendations as to how these searches should be conducted.

2.3 The following graph monitors progress across 13 issues of concern and is based on 257 testimonies collected by MCW since 2013. This data tends to confirm UNICEF’s conclusion that the ill-treatment of children still appears to be “widespread, systematic and institutionalized” and there appears to have been little substantial improvement since UNICEF published its report in March 2013. Further, in five categories (physical abuse, night arrests, floor transfer, strip searches and access to parents) the situation appears to have deteriorated.

COMPARATIVE GRAPH (2013 - 2015)



3. Recent case examples

- 3.1 On 17 June 2015, a [15-year-old boy](#) (A.H) from Silwad was arrested by Israeli soldiers at 3:30 a.m. When his father asked for documentation about the arrest he was told to shut-up. He reports that he was painfully hand tied with a single plastic tie contrary to army regulations and blindfolded. He also reports being slapped and kicked as well as verbally abused. He was then transferred to **Ofra** settlement on the floor of a jeep and left outside in the sun for eight hours. He reports that he was threatened with long-term detention if he did not confess to throwing stones and with violence if he did not sign a statement written in Hebrew.
- 3.2 On 31 May 2015, a [15-year-old boy](#) (S.Z.) and his uncle were grazing their sheep near the settlement of **Ma'aleh Mikhmas**. At around 9:00 a.m. a group of Israeli soldiers exited the settlement and forced S.Z. and his uncle into the settlement at gunpoint. The pair were not formally arrested and were not informed why they were being detained. The pair were painfully tied and left outside in the sun for three hours. They were finally released 12 hours later. This detention is unlikely to be recorded in any published official statistics.
- 3.3 On 18 May 2015, a [16-year-old boy](#) (H.R.) from Al 'Arrub refugee camp was arrested by Israeli soldiers at 2:00 a.m. He reports being painfully hand tied with a single plastic tie contrary to army regulations and blindfolded before being taken to **Etzion** settlement for questioning. He reports that soldiers slapped, kicked and poured water over him whilst laughing. He was informed of his right to silence but did not consult with a lawyer before questioning. When he denied the allegations the interrogator slapped him. He was released 18 hours later without charge.
- 3.4 On 4 February 2015, a [16-year-old boy](#) (M.H.) from Beit Ummar was arrested by Israeli soldiers at 2:00 a.m. He reports that his hands were tied and he was blindfolded before being transferred on the metal floor of a military vehicle. He was transferred to the settlement of **Kiryat Arba** and questioned by two interrogators at around 6:30 a.m. He reports that one interrogator informed him that he had the right to silence whilst the other interrogator threatened to rape him if he did not confess.
- 3.5 All 257 testimonies are available on MCW's [website](#).

4. Recent developments

- 4.1 In July 2015, the military authorities released [data on the number of Palestinian minors arrested](#) in the West Bank in 2014. According to this information the Israeli military arrested 3,182 Palestinian adults and children in the West Bank in 2014. According to the data this total includes "approximately" **861 minors** aged between 12-17 inclusive, representing 27 per cent of the total. The data also indicates that 71 per cent of minors indicted in the military courts were denied bail. The supplied data does not disclose how many additional individuals were detained without being formally arrested.

- 4.2 In June 2015, [Military Order 1754](#) came into effect incorporating general parts of the Israeli civilian Penal Law into military law. It includes definitions of parties to an offence such as accomplices as well as adopting general principles such as: the best interpretation for the defendant; and a burden of proof beyond a reasonable doubt. Although the order is unlikely to have a significant impact in practice it does provide clarity regarding certain definitions and principles. The order does not appear to have been translated into Arabic as is required under international law.
- 4.3 In June 2015, MCW submitted 200 cases to the [UN Special Rapporteur on Torture](#) relating to the treatment of children held in Israeli military detention. Based on data provided by the Israeli military and the UN, the submission estimates that since martial law was imposed in 1967, some 95,000 children have been detained of which 59,000 are likely to have been subjected to some form of physical violence. The submission also draws a link between detention and the maintenance of Israeli settlements in the West Bank.
- 4.4 In June 2015, the UK National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises (OECD Guidelines) published findings that the [British security firm G4S](#) is currently violating three human rights obligations under the OECD Guidelines arising from its contracts to provide security services to Israeli military checkpoints and prisons located inside the West Bank and Israel. In 2014, G4S announced that it would not be renewing its contract to provide equipment and maintenance services to the IPS when it expires in 2017.
- 4.5 In April 2015, the [Rome Statute of the International Criminal Court](#) entered into force in Palestine with retro-active effect from 13 June 2014. The Office of the Prosecutor has [announced](#) the opening of a preliminary examination into the situation in Palestine in order to establish whether the Rome Statute criteria for opening an investigation are met. Specifically, the Prosecutor will consider issues of jurisdiction, admissibility and the interests of justice in making this determination. Issues that may eventually come under investigation include the transfer of population groups in and out of occupied territory.
- 4.6 A comprehensive list of legislative and procedural developments in the military detention system is available on MCW's [website](#).

5. Detention figures

- 5.1 According to the latest data provided by the [Israeli Prison Service](#) (IPS) an average of **169 children** (12-17 years) were held in military detention per month this year, compared to 188 children in 2014. At the end of June 2015, there were 160 children held in detention for alleged security offences including one girl. The age breakdown for children held in detention in June was as follows:
- 12-13 years - 0%
 - 14-15 years - 14%
 - 16-17 years - 86%

- 5.2 Although military law still provides for the incarceration of children in administrative detention (without charge or trial), no child has been held under these provisions since December 2011.

6. Unlawful detention inside Israel

- 6.1 According to data provided by the [IPS](#) on average **48 per cent** of children were unlawfully transferred and detained in prisons inside Israel each month during 2015. In the case of adults, the percentage rises to around **90 per cent**. Under the Fourth Geneva Convention ([Article 76](#)) and the Rome Statute of the International Criminal Court (Rome Statute) ([Article 8 2\(vii\)](#)) the forcible transfer and detention of prisoners outside occupied territory is classified as a war crime.

7. Unlawful discrimination

- 7.1 During the reporting period Israeli authorities continued to apply [two legal systems](#) in the occupied territories based on race or national identity. Israeli military law is applied to Palestinians in the West Bank, while Israeli settlers fall under the jurisdiction of Israeli civilian law.
- 7.2 Although Israel is not permitted to apply its civilian law to Palestinians in the West Bank on the grounds that this would be tantamount to unlawful annexation, the laws that are applied must contain rights and protections no less favourable than those applied to Israelis living in the settlements. Failure to do so violates the principle of non-discrimination.
- 7.3 Further details concerning the application of dual legal systems in the West Bank can be found in a recent report by the Association of Civil Rights in Israel (ACRI) - [One Rule, Two Legal Systems: Israel's Regime of Laws in the West Bank](#).

8. Conclusions

- 8.1 According to [UNICEF](#), in the two-and-a-half years since the publication of the report - Children in Israeli Military Detention – the UN agency has been “engaging in a dialogue with the Israeli authorities on children’s rights while in military detention and on specific actions that can be undertaken to improve the protection of these children”. The evidence indicates that these steps have not substantially reduced the levels of abuse or other areas of concern.
- 8.2 This lack of significant progress in reducing the level of reported abuse and terminating the practice of forcibly transferring protected persons from the West Bank increases the likelihood that these issues will become the subject of a formal investigation by the Prosecutor of the International Criminal Court, thereby exposing Israeli officials, past and present, to possible criminal liability.