



# Military Court Watch

Monitoring the treatment of children in Israeli military detention

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**MONITORING THE TREATMENT OF CHILDREN  
HELD IN  
ISRAELI MILITARY DETENTION**

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**ANNUAL REPORT - 2016/17**

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**Date: 25 June 2017**

*Military Court Watch (MCW) is a registered non-profit organisation founded by a group of lawyers and other professionals from Israel, Palestine, Europe, the US and Australia with a belief in the rule of law. MCW is guided by the principle that all children detained by the Israeli military authorities are entitled to all the rights and protections guaranteed under international and other applicable laws.*

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## 1. Executive summary

- 1.1 This report considers developments relating to the arrest and detention of children by the Israeli military in the West Bank in 2016 and 2017. In addition to reviewing relevant legal and procedural changes in the system the report considers the findings from **127 testimonies** obtained from children detained during the course of 2016.
- 1.2 While noting a number of relevant changes to the system in recent years, the evidence suggests that this has not translated into a significant improvement in the treatment of children who come in contact with the system. The evidence also suggests that UNICEF's 2013 conclusion that "the ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized" is still valid in 2016/17.
- 1.3 The report notes that during the course of 2016/17 there appears to have been a level of disengagement by the civilian and military authorities relating to addressing legitimate concerns about the system. Further, the policy of transferring prisoners out of occupied territory in violation of the Fourth Geneva Convention continues and while attempts to reduce the differences between the legal systems applied to Palestinians and Israeli settlers in the West Bank are continuing, the Supreme Court of Israel has accepted that the differential application of the law depending on national identity is "reasonable and proportional" in the circumstances.
- 1.4 Based on evidence collected during the course of 2016, the report notes a clear link between the detention of Palestinian children by the military in the West Bank and the proximity of their homes to settlements constructed in violation of international law. The evidence indicates that on average each child detained in the West Bank lives within **1.02 kilometres** from a settlement or a major road used by settlers. Finally, the report reviews progress made in implementing the recommendations included in the UK lawyers and UNICEF reports. While noting significant developments across a range of recommendations, only **2.6 percent** of recommendations appear to have been substantially implemented during the course of the past 5 years.

## 2. Background

- 2.1 This year marked the 50th anniversary of the imposition of Israeli martial law in the West Bank and the establishment of military courts for the prosecution of Palestinian civilians, including children aged between 12-17 years inclusive. During this time frame it is estimated that between 775,000 and 850,000 Palestinians have been detained by the military, including 45,000 children.<sup>1</sup> Available evidence suggests that at least half of those detained by the military were charged and prosecuted in the military courts, although it is difficult to obtain reliable and consistent data covering the entire period.
- 2.2 Since its inception, the military detention system has been dogged by allegations of systematic abuse and denial of legal rights guaranteed under the applicable law. Concerns have been raised by UN General-Secretaries, UN agencies, the US State Department,

members of the US Congress, the EU, governments of the UK, Norway, the Netherlands and Australia, independent lawyer groups, as well as Palestinian and Israeli organisations.<sup>2</sup>

- 2.3 In 2012, a delegation of independent UK lawyers reviewed the military detention system in the West Bank. The Foreign Office funded report – [Children in Military Custody](#) (UK Report) – found undisputed evidence that the military detention system violated at least six Articles under the UN Convention on the Rights of the Child and two Articles under the Fourth Geneva Convention.<sup>3</sup> The following year, UNICEF published a report - [Children in Israeli Military Detention](#) (UNICEF Report) - which concluded that "the ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalised throughout the process."
- 2.4 Since the publication of these reports the Israeli Ministry of Foreign Affairs announced that it would "study the conclusions and work to implement them through on-going co-operation with UNICEF". The Ministry delegated the task of implementing the recommendations to the former military prosecutor in the West Bank. During the intervening years there have been a number of legal, procedural and administrative developments in the system relevant to the treatment of children including, but not limited to, the following:
- (i) A new military order reducing the period of time within which a child must be brought before a judge following arrest;
  - (ii) The introduction of a form notifying parents of the reason for a child's arrest and place of detention;
  - (iii) Re-issuance of the military's standard operating procedures for the arrest of minors to all military units serving in the West Bank including a reminder of the prohibition against physical and verbal abuse and procedures for restraining children;
  - (iv) The introduction of a form notifying children of their legal rights in custody including the right to silence and the right to consult with a lawyer; and
  - (v) The introduction of a pilot scheme to use summonses in lieu of arresting children at night.

A chronology of all major developments relevant to the prosecution of children in the military courts is included in **Annexure A**.

- 2.5 Based on developments up to June 2017, and the evidence collected during the course of 2016, this report considers whether the introduction of these changes by the military authorities have materially improved the conditions for child detainees.

### **3. Detention figures**

- 3.1 In mid-2016 the Israeli Prison Service (IPS) stopped releasing regular monthly prison statistics in accordance with a Freedom of Information application submitted by the Israeli organisation B'tselem. Despite repeated requests this is the first time in over 15 years that the

IPS has not disclosed the number of adults and children held in its facilities on a regular basis.

3.2 At the time of writing, the most recent data provided by the IPS relates to the prison population as at the end of August 2016. According to this data, 319 children (12-17 years) were held in military detention at the end of August 2016. This represents an 82 percent increase compared with the monthly average for 2015. The latest data includes 11 girls; 2 children under 14 years; and 10 children held without charge or trial in administrative detention. 97 percent of the detainees were male. The age breakdown for children in detention in August 2016 was as follows:

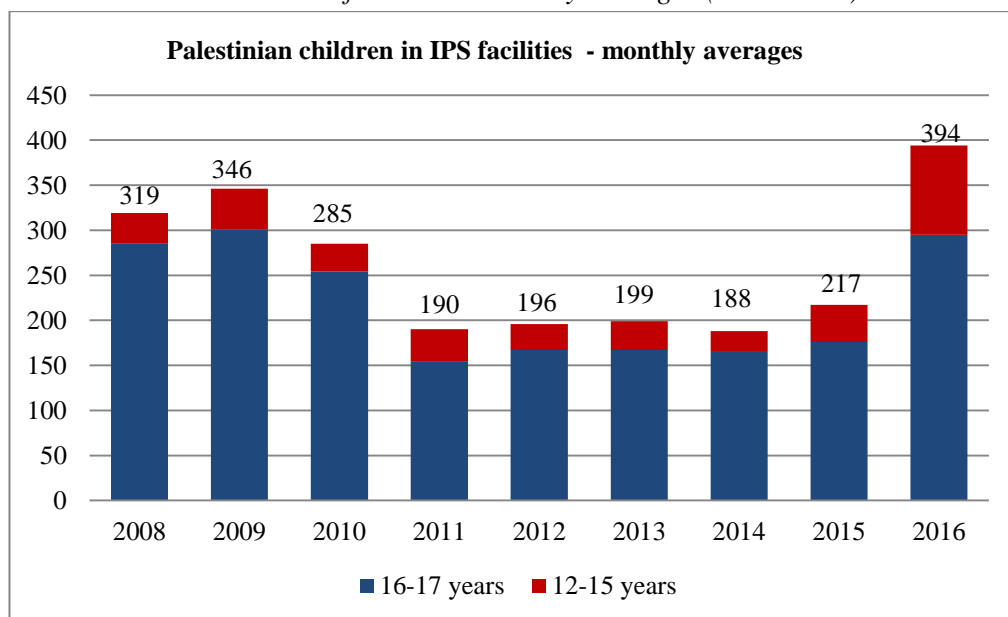
- 12-13 years - 1%
- 14-15 years - 22%
- 16-17 years - 77%

3.3 According to data released by the military and police authorities the total number of Palestinian children arrested in the West Bank between 2013 and 2015 was as follows:

- 2013 - 1,004 children
- 2014 - 861 children
- 2015 - 871 children
- 2016 - not available

3.4 Data relating to the monthly average number of Palestinian children detained by the military authorities and held in IPS prison facilities between 2008 and 2016 is presented in the following table. As previously mentioned the IPS has not updated this data since August 2016.

*Palestinian children in IPS facilities - Monthly averages (2008-2016)*



- 3.5 As previously [reported](#), the official statistics (IPS and military) most likely understate the number of minors detained and generally do not include [minors](#) held by the military and released within a few hours or a day – a number that is likely to be substantial and includes children below the [minimum age](#) of criminal responsibility.

#### **4. Current evidence of issues of concern**

- 4.1 As part of MCW's monitoring programme, a number of issues of concern relating to the treatment of children in detention are tracked by reference to recent evidence. It should be noted that in each case children reported multiple violations across a range of issues. Twelve complete testimonies, one for each month of 2016, are included in **Annexure B**. Based on **127 testimonies** collected from children detained in the West Bank in 2016, the evidence indicates as follows:

- (i) **Night arrests - 53 percent** (67/127) of children reported being arrested by the military at night between the hours of 22:00 and 05:00. This compares with 51 percent at the time UNICEF issued its report in 2013. Night arrest operations have a tendency to intimidate and terrify the targeted communities and children report being "[scared](#)" or "[terrified](#)" when confronted with heavily armed soldiers in their homes and [bedrooms](#). This sense of fear is increased in cases where the front door is [broken in](#) or [blown open](#) with explosives.

*"At 4:00 a.m. I heard very loud banging at our front door followed by the sound of the door being broken. As I got out of bed soldiers entered our home and started to beat me in front of my parents and siblings. There was no explanation for this behaviour."*

D.Y.A.A. (16 yrs) - Beit 'Ur Tahta - 11/2/16

- (ii) **Summons in lieu of night arrests - 2 percent** (3/127) of children reported being served with a summons as an alternative to night arrest. The pilot scheme to issue summonses in lieu of night arrests was introduced in 2014 and appears to have reached its peak in 2015 with summonses used in 10 percent of cases. The scheme's introduction followed widespread criticism of the practice of detaining children at night. In cases where summonses are used most continue to be delivered at [night](#), frequently [lack details](#) about the accusation, are sometimes written in [Hebrew](#) and provide no information about the child's [legal rights](#) in custody. In one case a child's aunt was detained at a military checkpoint and only released after the father surrendered the boy to soldiers in an apparent case of [hostage taking](#).

*"Soldiers came to our house at 2:00 a.m. They banged loudly at the door. They arrested my brother and told my parents to accompany me to the police station the following day. They gave my parents a document in Hebrew with the details."*

I.M.H.T. (14 yrs) - Beit Fajjar - 25/5/16

- (iii) **Written notification of arrest - In 61 percent** (41/67) of cases where children were arrested from home it was reported that no written notification of the reasons for arrest or place of detention was provided. This is despite the military [informing](#) UNICEF in April 2013 that a standard form written in Arabic and Hebrew must be given to parents of children arrested at home in every case ([Arabic/English](#)). In some cases where the standard form was provided, information relevant to that particular individual was handwritten in Hebrew. It should be noted that these forms still do not include any information about the child's legal rights while in custody.
- "I was scared and went to the living room where I saw soldiers give my father a document about my arrest. They asked him to sign it and took the document with them."*

I.I.A.T. (16 yrs) - Beit Fajjar - 12/4/16
- (iv) **Hand ties - 94 percent** (119/127) of children reported being hand tied upon arrest often described as being "[painful](#)" or "[very tight and painful](#)". This compares with 96 percent at the time UNICEF issued its report in 2013. Children frequently remain tied for extended periods including [during interrogation](#). In some cases their hands become [swollen](#) or [bleed](#). Children continue to be shackled by the ankles during military court appearances. In **76 percent** of cases where children are restrained the evidence indicates non-compliance with the military's own standard operating procedures for the use of hand ties introduced in 2010 following a petition to the Supreme Court.<sup>4</sup>
- "Then they threw me out of the watchtower and shackled my legs and tied my hands behind my back with one plastic tie which was painful. I remained outside next to the jeep for about two hours."*

S.M.A.S. (12 yrs) - Al Jalazun - 12/11/16
- (v) **Blindfolds - 81 percent** (103/127) of children reported being blindfolded or hooded upon arrest in disregard of a recommendation made by UNICEF that this practice should be prohibited in all circumstances. This is the same percentage as when UNICEF issued its report in 2013. In a small number of [cases](#) children also report that they remained blindfolded for at least part of their interrogation with no apparent purpose other than to intimidate.
- "They also blindfolded me very tightly causing me pain in my eyes."*

M.N.A.N. (12 yrs) - Deir Nidham - 29/11/16
- (vi) **Floor transfer - 78 percent** (99/127) of children reported being transferred on the metal floor of military vehicles from the place of arrest to an interrogation centre. This compares with 45 percent at the time UNICEF issued its report in 2013. This increase may be attributable to a significant rise in the detention rate in 2016. The evidence indicates that sometimes children are placed on the floor
- "Then they took me and my brother outside and put us in a jeep where they made us sit in the back on top of each other on the metal floor. I was very uncomfortable and in pain."*

M.J.M.A. (17 yrs) - Beit Ummar - 5/3/16

because there are [no available seats](#), while on other occasions seats [are available](#). Once on the floor children frequently report being pushed, [kicked](#), [beaten](#), [verbally abused](#) and/or [humiliated](#). In some cases children report that the vehicle's air-conditioner is turned on high, even in winter, adding to the discomfort.

- (vii) **Physical abuse - 64 percent** (81/127) of children reported being subjected to various forms of physical abuse during arrest, transfer and/or interrogation. This compares with 60 percent at the time UNICEF issued its report in 2013. The types of reported abuse includes: [head-butting](#); [tripping](#); [aggressively dragging](#); [kicking](#); [beating](#); [punching](#); [Tasered](#); [struck with objects](#) including [sticks](#), [weapons](#) and [helmets](#); and the deliberate [over-tightening](#) of restraints. Some children also report being deliberately [sleep deprived](#) prior to interrogation. In [one case](#) a boy reports that he was beaten so hard he offered to become a collaborator if the beating stopped.

*"My mother tried to stop the soldiers from arresting me and they slapped and kicked me as she watched. Then they pushed me to the ground and 3 soldiers beat me very hard."*

M.I.M.B. (13 yrs) - Aida camp - 6/10/16

- (viii) **Verbal abuse - 41 percent** (52/127) of children reported being subjected to verbal abuse during arrest, transfer and/or interrogation. This compares with 49 percent at the time UNICEF issued its report in 2013. In some cases the purpose of the abuse appears to be to intimidate and [humiliate](#) the child. In other cases the abuse is directed at the child's [mother](#) or [sister](#) in an apparent attempt to strip the child of his/her dignity and self-worth.

*"The soldiers pushed and swore at me and called me a 'son of a whore'. I was terrified."*

H.J.J.N. (13 yrs) - Al Jalazun - 13/12/16

- (ix) **Threats - 54 percent** (68/127) of children reported being subjected to threats during arrest, transfer and/or interrogation. This compares with 47 percent at the time UNICEF issued its report in 2013. The types of threats documented during the reporting period include: [electrocution](#); [shot](#); revoking [work permits](#); denial of [permits](#) generally; [house demolition](#); [life](#) or [long-term](#) imprisonment; adding [more serious allegations](#); prevented from seeing [family members](#) ever again; [rape](#); [rape of a family member](#); threatened with a [knife](#); [violence](#); [shouting](#); [yelling hysterically](#); threatened with a [drill](#) and spreading rumours of [collaboration](#).

*"The interrogator showed me a stick he was holding and told me it was a Taser. He threatened to use it if I didn't confess. He did not use the stick on me."*

J.R.S.M. (15) - Aida camp - 8/2/16



- (x) **Excessive exposure to the elements and neglect** - As in previous years, the journey from the place of arrest to the interrogation room (generally police stations inside West Bank settlements) is frequently time consuming and indirect involving stops at military watchtowers, bases and smaller settlements throughout the West Bank. Accordingly, it is not uncommon for the journey to interrogation to take up to 12 hours, sometimes more. During the interim period children report being left tied and blindfolded in shipping containers or left outside exposed to the elements. Some children report commanding officers ensuring that they are treated with respect and dignity, but in many cases children report neglect, abuse, sleep deprivation, prolonged exposure to the elements, lack of food and sometimes no access to toilets. The result being that most children arrive in the interrogation room in a state of physical and mental exhaustion.

*"We arrived at Etzion settlement at 4:00 a.m. I was put in a shipping container where I sat on the floor for 30 minutes. A doctor examined me and then I was taken back to the container. About 30 minutes later I was taken to a courtyard where I sat on a chair out in the cold, tied and blindfolded, until 4:00 p.m. During this time I could use the toilet and drink water but I wasn't offered any food. I was interrogated at around 4:00 p.m."*

R.S.M.T. (15 yrs) - Beit Fajjar - 20/12/16

- (xi) **Strip searched - 63 percent** (80/127) of children reported being strip searched on arrival at a detention centre. Some children report having to "[crouch up and down naked](#)" while being searched. The military and prison authorities continue to disregard [UNICEF's](#) recommendations as to how these searches should be conducted.

- (xii) **Accompanied by a parent - 94 percent** (7/127) of children reported not being accompanied by a parent throughout their interrogation. This compares with 96 percent at the time UNICEF issued its report in 2013. While 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 their children. Be that as it may parents who do show up at an interrogation centre where their child is being questioned are frequently turned away.

*"My father told the soldiers to leave me alone, he would accompany me to the police station in the morning, but the commander refused."*

A.A.A.T. (12 yrs) - Beit Fajjar - 7/3/16

- (xiii) **Access to lawyers - 88 percent** (15/127) of children reported being denied access to a lawyer prior to questioning. This compares with 100 percent at the time UNICEF issued its report in 2013. Under Israeli military law a detainee must be informed of the right to consult with a lawyer on arrival at a police station, and to be meaningful the consultation must take place prior to questioning. Some children [report](#) being informed of their right to consult with a lawyer but are questioned before the consultation takes place. Other children [report](#) only being informed of their right to consult with a lawyer at the end of the interrogation. In some cases children are asked to sign a document [falsely acknowledging](#) that they have been appropriately informed of their rights. Most continue to see their lawyer for the first time in the military courts.

*"The interrogator told me I had the right to remain silent and to consult a lawyer. I told him I wasn't going to say anything before I was allowed to speak to a lawyer. He became angry and slapped me when I said this."*

M.M.A.M. (17 yrs) - Beit Ummar - 18/5/16

- (xiv) **Right to silence - 86 percent** (109/127) of children reported not being informed of their right to silence. This compares with 96 percent at the time UNICEF issued its report in 2013. In the 14 percent 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 some cases the child was informed of his right to silence at the [conclusion](#) of the interrogation or after [multiple interrogations](#). In other [cases](#) children report being told that they had the right to silence but if the right was exercised it would not help them in court.

*"The interrogation lasted for 2 hours. In the end the interrogator removed the blindfold and showed me a document in Arabic saying I had the right to remain silent."*

Y.K.H.Q. (16 yrs) - Tura al Gharbiya - 4/1/16

- (xv) **Solitary confinement** - According to data compiled by UNICEF, **30 children** reported being held in solitary confinement in 2016 for periods ranging from 7 to 21 days. Solitary confinement cases tend to occur during the interrogation phase in facilities jointly operated by the IPS and the Israeli Security Agency (ISA) ("Shabak" or "Shin Bet"), typically at Al Jalame interrogation centre, near Haifa or Al Mascobiyyeh interrogation centre, in Jerusalem. The number of reports involving children held in solitary confinement in 2016 has jumped **131 percent** compared with the previous year.

*"At Al Jalame I was taken to a small cell measuring no more than 2 x 2 metres. It was marked Cell Number 16 and had a bed. The handcuffs and shackles were removed and I spent 14 days alone in this cell. The cell had no windows and a dim red light was left on 24 hours. I had no idea what time it was."*

A.H.A.S. (17 yrs) - Al Yamun - 28/2/16

- (xvi) **Recruitment of child informants** - Children are generally cautious about discussing attempts to recruit them as informants during the interrogation phase of their detention although some are forthcoming. While attempts are generally made in the overwhelming majority of interrogations to persuade children to provide names of others who might be involved in some form of resistance, active attempts to recruit children as collaborators also occurs in some cases. It is impossible to estimate how widespread or effective these attempts are. It should be noted that attempts to recruit children as informants potentially violates Article 31 of the Fourth Geneva Convention and Article 2 of the Optional Protocol to the Convention on the Rights of the Child.

*"The interrogator tried to scare me. He pulled out a gun and put it on the table. He said people dream of collaborating with him. I felt he was suggesting I become a collaborator. He said working with him was the best work. He said I would earn lots of money."*

I.A.A.T. (16 yrs) - Beit Fajjar - 12/4/16

- (xvii) **Documentation in Hebrew - 74 percent** (94/127) of children reported being shown, or made to sign, documentation written in Hebrew at the conclusion of their interrogation. This compares with 62 percent at the time UNICEF issued its report in 2013. While interrogations are conducted in Arabic a written record is made in Hebrew which is then generally shown to the suspect for signature. Some children refuse to sign whilst others sign acknowledging that they have [no idea](#) about the contents of the document.

*"The interrogator then printed out my statement in Hebrew and asked me to sign it and I did without understanding what it said."* -

Q.H.K.M. (16 yrs) - Beit 'Awwa - 31/1/16

- (xviii) **Bail** - According to [data](#) obtained under a freedom of information application, **72 percent** of children indicted in the military courts in 2015 were denied bail and remanded in custody until the end of proceedings. This compares with 71 percent of children denied bail in 2014. However, evidence collected by MCW indicates that in cases where children are released on bail this frequently occurs only after they have already spent a number of [weeks](#) or more in custody. By way of contrast, **17.9 percent** of children indicted in Israel's civilian juvenile justice system were denied bail in 2015. There is no official data currently available for 2016.
- (xix) **Conviction rate** - According to [data](#) obtained under a freedom of information application, **95 percent** of children indicted in the military courts in 2015 were convicted. This compares with a conviction rate in cases involving children of 98 percent in 2014. There is no official data currently available for 2016.

- (xx) **Administrative detention** - In October 2015, the military authorities re-commenced issuing [administrative detention](#) orders for children following a four-year hiatus. The procedure provides for the detention of a person without charge or trial by order of a military commander. The UN Committee Against Torture has criticised the military's use of this procedure which in certain circumstances can amount to cruel, inhuman or degrading treatment or punishment. In August 2016, 10 children were being held pursuant to these orders.

*"Four days later I was taken to the military court again. My lawyer was told there was secret evidence against me and that my administrative detention was extended for 3 months."*

M.H.F.A. (17 yrs) - Ya'abad - 2/3/16

- (xxi) **Education in prison** - Education opportunities for Palestinian children inside IPS facilities remain limited. Where education is available, it is generally restricted to Arabic and mathematics, with a prohibition on teaching history, geography and the sciences based on "security considerations". When education is available, it is insufficient to ensure the child's smooth reintegration back into the Palestinian school system and the subsequent drop-out rate upon release is high.

*"I spent my prison sentence at Ofer. In prison I studied Arabic and mathematics with 10 other students but the teaching was not serious and I didn't benefit much."*

R.W.M.H. (17 yrs) - Beit Fajjar - 14/2/16

- (xxii) **Family visits and telephone communication in prison** - The reduction in prison visits instituted during the year from 2 visits to 1 per month did not apply to children who continued to be entitled to a family visit (2 persons) every 2 weeks lasting for 45 minutes. As in previous years, some children do not receive visits as their parents are denied permits on "security grounds" or because the bureaucracy for obtaining permits continues to take up to 2 months. Unlike Israeli child detainees, Palestinian children continue to be denied official telephone communication with their families while in prison.

*"I spent my sentence at Ofer prison. My parents did not visit as they were denied a permit for security reasons."*

M.I.H.A. (14 yrs) - Husan - 15/6/16

## **5. Corroborative evidence**

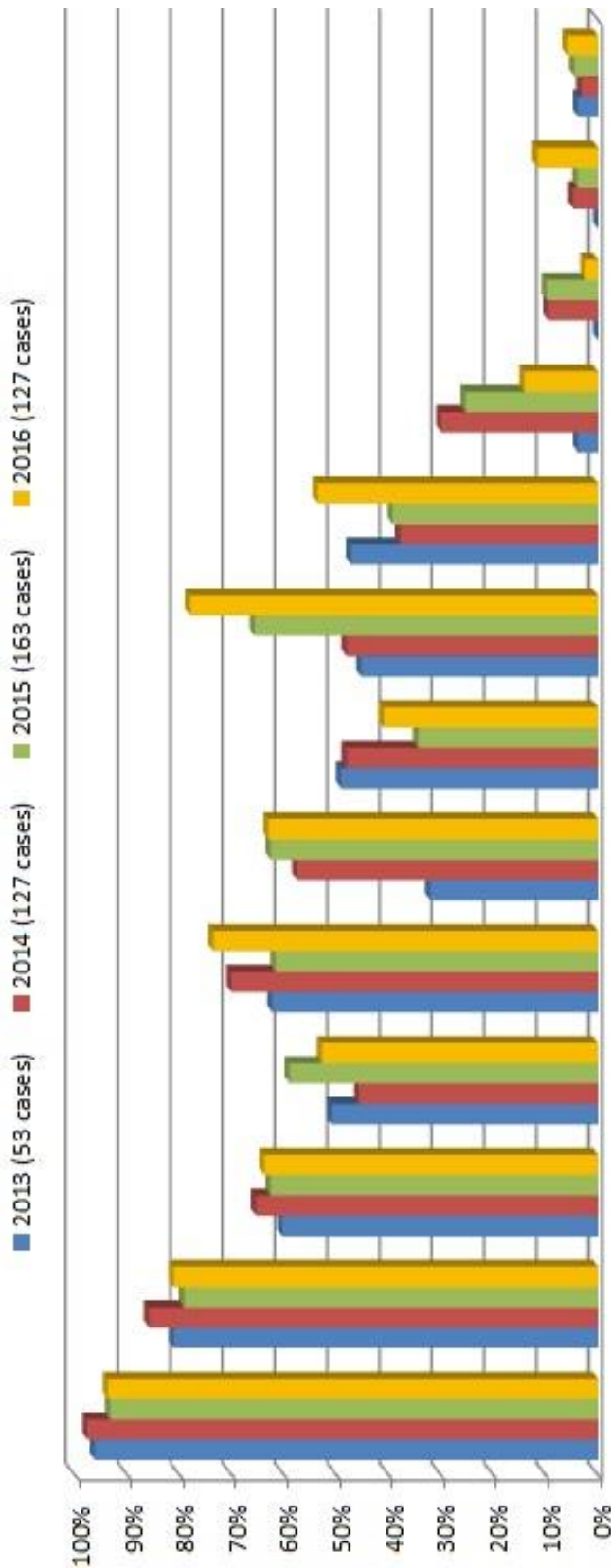
- 5.1 In 2013 UNICEF reviewed over 400 affidavits before concluding that "the ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process." In 2015, after reviewing developments and further evidence, UNICEF concluded that "reports of alleged ill-treatment of children during arrest, transfer, interrogation and detention have not significantly decreased in 2013 and 2014. Since 2013, MCW has collected nearly 500 testimonies which tend to confirm UNICEF's conclusions.

- 5.2 The official Israeli response to the UNICEF report came in 2013 from the Ministry of Foreign Affairs which stated that it would "study the conclusions and work to implement them through on-going co-operation with UNICEF." However, by 2016 this approach appears to have evolved into questioning the veracity of the reports of ill-treatment, but without presenting any credible evidence to support this position.
- 5.3 In any process involving assessing the credibility of claims, it is important to consider whether any corroborative evidence exists of an impartial nature, or better yet, the existence of any evidence against self-interest i.e. admissions. In any judicial process, evidence against self-interest will generally be given significant weight due to its probative value. In this regard the testimonies of former Israeli soldiers provided to the organisation [Breaking the Silence](#) regarding the treatment of children are highly relevant and compelling as they constitute admissions against interest.
- 5.4 In both written and video testimonies, former soldiers have described to Breaking the Silence a pattern of conduct closely mirroring the description provided by nearly 1,000 children in their testimonies to UNICEF and MCW, providing strong corroborative evidence. The soldiers' testimonies describe the following pattern of behaviour:
- Detainees waiting for hours to be interrogated while tied and blindfolded ([video](#));
  - The process of arresting a 15-year-old from his home ([video](#));
  - A boy wetting himself because he is prevented from using the toilet ([video](#));
  - Accusing a random child of stone throwing without evidence ([video](#));
  - Using a child as a human shield during stone-throwing clashes ([video](#));
  - Beating a child suspected of stone throwing ([video](#));
  - Detaining a child as part of a training exercise ([video](#));
  - Threats to close schools in response to stone throwing at settlers ([video](#));
  - Slapping a 16-year-old boy for smiling ([video](#));
  - Escorting prisoners to jail and general abuse ([video](#));
  - Beating bound and blindfolded detainees ([video](#));
  - Entering villages to provoke a reaction ([testimony](#));
  - Suppressing Friday demonstrations ([testimony](#)); and
  - Tightening plastic hand ties causing severe pain ([testimony](#)).

## **6. Comparative graph - issues of concern (2013-2016)**

- 6.1 The following graph monitors progress across 13 issues of concern and is based on **470 testimonies** collected by MCW between 2013 and 2016. This data tends to confirm UNICEF's conclusion that the ill-treatment of children still appears to be "widespread, systematic and institutionalized" and while there have been a number of changes to the system during the intervening four years this has not translated into a substantial improvement in the manner in which children are treated in the system.

### COMPARATIVE GRAPH (2013 - 2016)



Year	Hand tied	Blindfold	Physical abuse	Night arrest	Hebrew	Strip searched	Verbal abuse	Floor transfer	Threats	Right to silence	Summons	Access to lawyer	Access to parent
2013	96%	81%	60%	51%	62%	32%	49%	45%	47%	4%	0%	0%	4%
2014	98%	86%	65%	46%	70%	57%	48%	48%	38%	30%	9%	5%	3%
2015	93%	79%	63%	59%	62%	63%	34%	66%	39%	25%	10%	4%	5%
2016	94%	81%	64%	53%	74%	63%	41%	78%	54%	14%	2%	12%	6%

**Updated: 14 June 2017**

Information is based on testimonies collected by MCW

## **7. Developments - January 2016 to June 2017**

- 7.1 **UK legal delegation visit cancelled** - In February 2016, a follow-up mission by a delegation of prominent UK lawyers funded by the Foreign and Commonwealth Office [announced](#) that their imminent visit to the region to review progress in implementing the 40 recommendations included in the 2012 UK Report had been cancelled due to a lack of co-operation by Israeli civilian and military authorities.
- 7.2 **UN Secretary-General's Annual Report on Children and Armed Conflict** - In April 2016, the UN Secretary-General submitted his [annual report](#) to the Security Council. This report highlights global trends regarding the impact of armed conflict on children in 20 locations, including Israel and Palestine. In 2015 there was an increase in the number of Palestinian children who were arrested and detained by Israeli forces and prosecuted in juvenile military courts in the West Bank. A worrisome development was the recommencement of administrative detention of children.
- 7.3 **B'Tselem ceases engagement with military's complaint mechanisms** - In May 2016, the Israeli organisation B'Tselem [announced](#) that after 25 years it would no longer refer complaints to the military's law enforcement mechanisms due to a lack of confidence in the system's ability to adequately investigate and provide accountability. B'Tselem concluded that the real function of the complaint system was to cover up unlawful acts and to protect perpetrators.
- 7.4 **Israeli Prison Service ceases to provide regular monthly prisons statistics** - In August 2016, the IPS ceased providing regular prison statistics in accordance with an outstanding Freedom of Information (FOI) application. According to the IPS a new FOI officer was appointed in December 2016 and advised that the provision of monthly statistics would resume within weeks. In February 2017 the IPS re-commenced supplying prison data but failed to disaggregate the information based on whether the detainee was Israeli or Palestinian. In May 2017 the IPS provided back-data for May/June 2016. The IPS is currently 9 months behind in the provision of prison statistics for Palestinian detainees.
- 7.5 **UN Security Council resolution 2334** - In December 2016, the UN Security Council passed its [47th resolution](#) relating to the Israeli/Palestinian conflict since 1967. To date, none of the resolutions have been implemented. The Security Council reaffirmed the obligation of Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention and again confirmed that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, have no legal validity and constitutes a flagrant violation under international law and a major obstacle to a just, lasting and comprehensive peace.
- 7.6 **The right to a lawyer and admissibility of evidence in the military courts** - In February 2017, a judge at Ofer military court [rejected](#) the admissibility of a statement taken from a 15-year-old boy during interrogation on the basis that, *inter alia*, the boy was denied access to a lawyer prior to interrogation as required under military law. This decision has potential significance, as there is evidence to indicate that up to 88 percent of children detained by the military in the West Bank continue to be interrogated without prior access to a lawyer.

- 7.7 **Supreme Court petition: Social welfare reports for bail applications in the military courts** - In February 2017, a [petition](#) was filed in the Israeli Supreme Court sitting as the High Court of Justice seeking an order requiring the production of social welfare reports at every remand hearing involving a child (12-17 years inclusive) in the military courts in the West Bank. The petition seeks to address a fundamental shortcoming in the military courts whereby the overwhelming majority of Palestinian children continue to be denied bail and are held in custody on remand pending the conclusion of the legal proceedings. In the absence of a social welfare report the military judges have limited evidence to support a decision to release on bail.
- 7.8 **US State Department's annual report on human rights** - In March 2017, the US State Department released its [annual report](#) on human rights for 2016. As in previous years the report highlights various human rights violations by multiple actors in Israel/Palestine and includes information on the treatment of children in military detention. The State Department referred to reports of abuse and denial of legal rights and little substantive improvement in the military detention system for children since UNICEF published its report in 2013.
- 7.9 **Supreme Court petition: Discriminatory application of laws in the West Bank** - In March 2017, the State and military authorities agreed to reduce some differentials between two sets of laws (military and civilian) applied to Palestinians and Israeli settlers in the West Bank in response to a petition filed May 2010. The changes to the law will come into effect in May 2018 but fail to eliminate the discrimination produced by the application of two legal systems in one territory based on race or national identity. (See section 9 below)

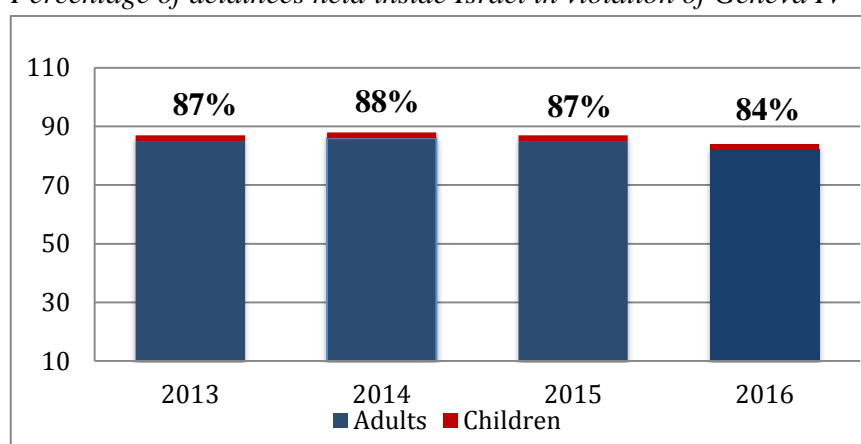
## **8. Unlawful detention inside Israel**

- 8.1 According to data released by the IPS, on average **84 percent** of Palestinian detainees continued to be transferred and detained in Israel during 2016. Transferring "protected persons" including detainees out of occupied territory is prohibited by Article 76 of the Fourth Geneva Convention and is classified as a war crime by Article 8(2)(vii) of the Rome Statute of the International Criminal Court. The policy of transfer, which commenced in 1967, currently affects between 7,000 - 8,000 Palestinian men, women and children annually.
- 8.2 The policy of transfer has been challenged in the Israeli Supreme Court twice during the past 30 years (Sejadia (1988) and [Yesh Din](#) (2010) cases). The petitions filed on behalf of the detainees were rejected on both occasions based on the primacy of Israeli domestic law over provisions of international law where the two are in direct conflict. However, this position is not maintainable under international law by virtue of Article 27 of the Vienna Convention on the Law of Treaties, reflecting customary international law (Lagrand Case).
- 8.3 Both the UK and UNICEF reports recommended that "all Palestinian children detained in the Israeli military detention system be held in facilities in the occupied Palestinian territory" in accordance with international law. The UK Government also recently [confirmed](#) this position in June 2016. However, in response to the UK and UNICEF recommendations the military authorities have [advised](#) that there will be no change to the policy of transferring and detaining Palestinians prisoners outside occupied territory.



- 8.4 It is relevant to note that while the Israeli authorities reject the *de jure* application of the Fourth Geneva Convention to the West Bank, East Jerusalem and Gaza in relation to settlement construction and the transfer of protected persons, the military authorities continue to [expressly rely](#) on Article 66 of the Convention as the jurisdictional basis and justification for prosecuting thousands of Palestinian men, women and children in military courts for the past half-century.
- 8.5 Since the Office of the Prosecutor of the International Criminal Court [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 have been met in January 2015, it is estimated that up to 20,000 Palestinian men, women and children have been transferred and detained inside Israel in violation of international law.

*Percentage of detainees held inside Israel in violation of Geneva IV*



## **9. Unlawful discrimination**

- 9.1 Since 1967, Israel has exercised penal jurisdiction over both Palestinians and Israeli settlers living in the West Bank. Although Israeli military law technically applies to all individuals in the West Bank, in practice, the authorities apply civilian law to settlers and military law to Palestinians at the discretion of the prosecutor. The military law applied to Palestinians, including children, has fewer rights and protections than the civilian law applied to Israeli settlers living in the same territory.
- 9.2 Under international law, no state is entitled to discriminate between those over whom it exercises penal jurisdiction on the basis of their race or nationality. The reasoning being unequal or differential justice is not justice. It is on this basis that the UK Report recommended that: "Israel should not discriminate between those children over whom it exercises penal jurisdiction. Military law and public administration should deal with Palestinian children on an equal footing with Israeli children."
- 9.3 In most conflict situations the issue of unlawful discrimination does not arise. However, in the context of Israel's occupation of Palestinian territory, the issue of unlawful discrimination has arisen as a direct consequence of settlement activity in occupied territory.

Whilst there is no serious dispute that Israel's settlements are illegal, there is also no lawful justification upon which Israel can discriminate between persons over whom it exercises penal jurisdiction in the West Bank.

- 9.4 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.
- 9.5 Throughout 2016, Israel continued to operate two legal systems in the West Bank based on the race or national identity of the individuals concerned. Some of the key differences between the two legal systems relating to children are included in the following table.

*Comparison between civilian and military law (security offences) for children*

#	Description	Civilian law <sup>5</sup>		Military law	
1	<b>Age of majority</b>	18 yrs		16-18 yrs <sup>6</sup>	
2	<b>Prohibition against night-time interrogation.</b>	Yes <sup>7</sup>		No	
3	<b>Legal right to have a parent present during interrogation.</b>	Yes <sup>8</sup>		No	
4	<b>Maximum period of detention before being brought before a judge.</b>	12-13 yrs	12 hrs <sup>9</sup>	12-13 yrs	24 hrs <sup>10</sup>
		14-17 yrs	24 hrs <sup>11</sup>	14-15 yrs	48 hrs <sup>12</sup>
				16-17 yrs	96 hrs <sup>13</sup>
5	<b>Maximum period of detention without access to a lawyer</b>	48 hrs <sup>14</sup>		96 hrs <sup>15</sup>	
6	<b>Maximum period of detention prior to indictment.</b>	10 days <sup>16</sup>		15 days <sup>17</sup>	
7	<b>Maximum period of detention between indictment and conclusion of trial.</b>	6 months		12 months	

- 9.6 In May 2010, a petition was filed in the Israeli Supreme Court, sitting as the High Court of Justice (*Ministry of Palestinian Prisoners v Minister of Defense*) challenging, *inter alia*, the different time periods before which a suspect must be brought before a judge in Israel and the West Bank and within the West Bank depending on whether the suspect is Palestinian or an Israeli citizen living in a settlement. The Applicants argued that the different time periods amount to unlawful discrimination under Israeli and international law. During the intervening 7 years the Court has handed down a number of decisions in the case:
- (i) In May 2014, the Court handed down a [decision](#) noting that the State and military authorities (Respondents) had taken significant steps to amend the military law applied to Palestinians in the West Bank so as to reduce (but not eliminate) the differences in the law and determined that the differences that remained were "fair and proportional" in the circumstances. The Court did not directly address the

Appellants claim regarding discrimination based on whether a suspect is Palestinian or an Israeli settler.

- (ii) In March 2017, in accordance with a direction from the Court, the State and military authorities (Respondents) submitted additional proposed changes that would further narrow some of the differences between the two sets of laws. However, the proposed changes do not eliminate the differentials between the two legal systems and discrimination based on race or national identity remains an issue.

9.7 The proposed amendments submitted by the State and military authorities (Respondents) are due to be implemented in May 2018 and the key changes are presented in the following table. It is relevant to note that the primary time periods under the proposed amendments remain unchanged while the extension periods to the initial times will be reduced.

*Comparison between current military law for children and proposed amendments*

#	Description	Military law (Current)		Military law (2018 Amendments)
1	<b>Maximum period of detention before being brought before a judge.</b>	12-13 yrs	24 hrs <sup>18</sup>	Remains the same but extension periods will be reduced from 24 to 12 hrs in non-security cases.
		14-15 yrs	48 hrs <sup>19</sup>	Remains the same but extension periods will be reduced from 48 to 24 hrs in non-security cases.
		16-17 yrs	96 hrs <sup>20</sup>	Remains the same but extension periods will be reduced from 96 to 72 hrs in security cases.
2	<b>Maximum period of detention prior to indictment.</b>	15 days		Remains the same but 90-day extensions approved by the Military Appeals Court will be reduced to 45 days at a time in security cases.
3	<b>Maximum period of detention between indictment and conclusion of trial.</b>	12 months		Reduced to 6 months for non-security offences and 9 months for security offences.

## 10. Accountability

10.1 In May 2016, the B'Tselem announced that after 25 years it would no longer submit complaints on behalf of Palestinians using the military's complaint mechanisms due to a lack of confidence in the system's ability to provide accountability. During the course of the past 25 years, B'Tselem has submitted **739 complaints** in which it was alleged that soldiers killed, injured or beat Palestinians, used them as human shields or damaged their property. The results of these complaints are as follows:

*Results of 739 complaints submitted by B'Tselem between 2000-2015*

#	Description	No.	%
1	No investigation opened	182	25%
2	Investigation closed with no action taken	343	46%
3	Investigation remains open without conclusion	132	18%
4	Authorities are unable to locate complaint	44	6%
5	Soldier indicted	25	3%
6	Soldier disciplined	13	2%

- 10.2 In January 2017, the Israeli rights group Yesh Din released [data](#) on law enforcement on Israeli soldiers suspected of harming Palestinians in 2015. Extraordinarily, Yesh Din reports that the Israeli army has no information on the number of complaints submitted and does not collect basic statistics which would enable effective monitoring. During the course of 2015 the military opened 186 criminal investigations resulting in disciplinary action being taken in 7 cases. Indictments were served in **3.1 percent** of cases.
- 10.3 In June 2017, the UN High Commissioner for Human Rights released a [report](#) on accountability for all violations of international law in the Occupied Palestinian Territory since 2009. The report reviews the status of recommendations addressed to all parties during the past 8 years by the various Human Rights Council mechanisms. In relation to the arrest and detention of children by Israel, there were 52 recommendations relating to, *inter alia*, night arrests, lack of access to lawyers, lack of information about legal rights and systematic violence. The report found that **88 percent** (46/52) of the recommendations remain "not implemented".

## **11. Implementation of recommendations included in the UK and UNICEF reports**

- 11.1 In June 2012, a delegation of UK lawyers published the report – [Children in Military Custody](#) (UK Report). Eight months later UNICEF published a report on the same subject - [Children in Israeli Military Detention](#) (UNICEF Report). In response to the overlapping recommendations included in both reports the Israeli Ministry of Foreign Affairs announced in March 2013 that it would "study the conclusions and work to implement them through on-going cooperation with UNICEF".<sup>21</sup>
- 11.2 Between 2013 and 2015 some productive dialogue occurred between UK officials and UNICEF, on the one hand, and Israeli officials as to how the recommendations could best be implemented.<sup>22</sup> During this period a number of legal and procedural changes were undertaken which have been extensively documented in two bulletins released by UNICEF in October 2013 ([UNICEF Bulletin No. 1](#)) and February 2015 ([UNICEF Bulletin No. 2](#)) (See also **Annexure A** for a chronology of developments).
- 11.3 However, in spite of considerable engagement UNICEF noted in its second bulletin in February 2015 that: "reports of alleged ill-treatment of children during arrest, transfer, interrogation and detention have not significantly decreased in 2013 and 2014." Since UNICEF's most recent update there appears to have been a gradual decline in the willingness of Israeli authorities to engage in a meaningful way on the issue culminating in the

[cancellation](#) of a return visit by the UK lawyers' delegation in February 2016 and the absence of any further UNICEF updates since February 2015.

11.4 For the purposes of this report MCW has conducted a review of the implementation of the recommendations included in both the UK and UNICEF reports. The recommendations and reviews are included in the annexures to this report. Summaries of these reviews are as follows:

- A. The UK Report made 40 specific recommendations (**Annexure C**) relating to: arrest; interrogation; bail hearings; plea bargains; trial; sentencing; detention, complaints; and monitoring. While there have been a number of developments across a range of recommendations, only 1 recommendation appears to have been substantially implemented at this stage (Recommendation No. 33 - separation of children from adults in detention). This represents an implementation rate of **2.5 percent**.
- B. The UNICEF Report made 38 recommendations (**Annexure D**) which largely overlap the recommendations made by the UK Report. These recommendations relate to: compliance with international norms and regulations; notification; timing of arrests and arrest warrants; methods and instruments of restraint; strip searches; access to lawyers; judicial review of arrest and detention; medical examinations; questioning and interrogation; solitary confinement; confessional evidence; bail and plea bargains; location of detention; access to relatives; and accountability. While there have been a number of developments across a range of recommendations, only 1 recommendation appears to have been substantially implemented at this stage (Recommendation 21 - access by lawyers to medical records). This represents an implementation rate of **2.6 percent**.

## **12. A link between child detention and the settlements**

- 12.1 According to the latest data, by mid-2017 there will be nearly 410,000 Israeli civilians living in West Bank settlements constructed in violation of international law.<sup>23</sup> These settlements have a profound impact on the neighbouring Palestinian communities which includes: land confiscation; restrictions on access to land and freedom of movement; settler violence; and an increased military presence including frequent military incursions during the day and night.
- 12.2 The task of guaranteeing the protection of the settlers living among 2.9 million Palestinians in occupied territory is one of the primary responsibilities and challenges facing the Israeli military. Not only must the immediate territory around each settlement be secured and suppressed, but so too must the extended road network used to link the settlements to each other and to Israel.

- 12.3 Evidence provided by former Israeli soldiers to *Breaking the Silence* indicates that this task is achieved by the military “making its presence felt” in every Palestinian centre of population located in close proximity to a settlement or a road used by settlers. The objective is to ensure that swift punishment follows any act of resistance, big or small, but more importantly, that these Palestinian communities are subjected to constant intimidation until they appreciate that resistance to the settlement project is not a viable option. The effective combination of reactive and proactive strategies is designed to intimidate the civilian population into submission, thereby enabling the settler population to go about their daily lives with limited interference.

*"A patrol goes in ... and raises hell inside the villages. A whole company may be sent in on foot ... provoking riots, provoking children ... The commander wants more and more friction, just to grind the population, make their lives more and more miserable, and to discourage them from throwing stones, to not even think about throwing stones at the main road. Not to mention Molotov cocktails or other things. Practically speaking it worked. The population was so scared they shut themselves in. They hardly came out."*

*Breaking the Silence, Children and Youth: Soldiers' Testimonies, 2005-2011, Testimony 1*

- 12.4 One measure of the success of this strategy is to consider the fatality rate among settlers living in occupied territory. According to data published by the US State Department, in 2012 no Israeli settlers were killed in the West Bank as a result of the conflict. According to the B'Tselem, between January 2009 and May 2017, 46 Israelis have been killed in the West Bank as a result of the conflict - an average annual fatality rate of 5.4 individuals. While not trivialising these fatalities the figures do represent a remarkable achievement by any military standard.
- 12.5 In order to protect settlers living in occupied territory the military is compelled to adopt a strategy of intimidation and collective punishment focused on Palestinian communities located in proximity to the settlements and the roads used by settlers, such as Route 60 and 443. Not only is this theory supported by evidence from former Israeli soldiers, it is also supported by the evidence collected by MCW during 2016.
- 12.6 Out of 127 cases documented by MCW in 2016, 125 children resided and were arrested within an average of **1.02 kilometres** from a settlement, checkpoint, or major road used by settlers (Routes 60 and 443). In the remaining 2 cases there was no proximate link between the place of arrest and the place of residence. (See **Annexure E**)

### **13. Recommendations**

- 13.1 MCW continues to advocate for the effective implementation of six non-severable recommendations. The recommendations, and progress in their implementation, are presented in the following table.

*MCW - 6 non-severable recommendations*

#	Recommendation	Comments
1	<b>Children should only be arrested during daylight hours except in rare and exceptional circumstances. In all</b>	In or about February 2014, a pilot scheme to issue summonses to limit the need for night arrests was introduced. However, in

	<b>other cases summonses should be used.</b>	2016, <b>53 percent</b> of children reported being arrested at night (51 percent in 2013) and the use of summonses has dropped to just <b>2 percent</b> from 10 percent in 2015.
2	<b>All children, and their legal guardians, should be provided on arrest with a written statement in Arabic informing them of their full legal rights in custody.</b>	In 2013, the military introduced forms to be given to parents of children arrested at home providing reasons for arrest and location of detention. In 2016, this form was distributed in <b>39 percent</b> of cases where children were arrested from home but <b>no children</b> were informed of their legal rights, verbally or in writing, at the time of arrest.
3	<b>All children must consult with a lawyer of their choice prior to questioning.</b>	In 2016, <b>12 percent</b> of children reported being permitted to consult with a lawyer prior to their interrogation in accordance with their right under military law. <b>No children</b> were being afforded this right prior to 2014.
4	<b>All children must be accompanied by a family member throughout their questioning.</b>	In 2016, <b>6 percent</b> of children reported being accompanied by a parent during interrogation in accordance with a discretion permitted under military law. In 2013, just <b>3 percent</b> of children were afforded this protection.
5	<b>Every interrogation must be audio-visually recorded and a copy of the tape must be provided to the defence prior to the first hearing.</b>	In September 2014, <a href="#">Military Order 1745</a> came into effect providing for the audio-visual recording of police interrogations of minors in “non-security” related offences in the West Bank. However, around 90 per cent of cases involving minors in the military courts are “security” related. <sup>24</sup> In <b>no cases</b> are audio-visual tapes of interrogations being provided to defence counsel prior to the first hearing.
6	<b>Breach of any of these recommendations should result in the discontinuation of the prosecution and the child's immediate release.</b>	While some military judges are becoming more <a href="#">critical</a> of the manner in which children are being arrested and interrogated this does not automatically result in the dismissal of proceedings - a step that is probably essential in order to ensure compliance with existing military regulations by providing consequences for non-compliance.

**ANNEXURE A**  
**CHRONOLOGY OF MAJOR DEVELOPMENTS IN THE MILITARY COURTS**  
**RELEVANT TO CHILDREN**

Date	Event	Comment
7 Jun 1967	Military Order No. 3 - Establishes military courts.	The order expressly references the Fourth Geneva Convention as the legal basis for this measure which allows for the prosecution of Palestinian civilians in military courts.
1997	Education in prison	Israeli District Court rules Palestinian child detainees are entitled to the same level of education as Israeli children, "subject to security". The Israeli Prison Service has interpreted "subject to security" to exclude teaching Palestinian child detainees history, geography, religion and the sciences.
Sep 2009	Military Order No. 1644 - Establishes juvenile military court	Judges for the juvenile court are appointed from the ranks of existing military court judges and must have received "appropriate training".
Mar 2010	Regulations for hand ties	Following numerous complaints and a petition to the Supreme Court a new military regulation is issued requiring, <i>inter alia</i> , the use of 3 ties. (See Endnote 4)
Sep 2011	Military Order 1676 - Partially increases age of majority	M.O. 1676 requires that children aged 16-17 must now be tried before a juvenile military judge. The amendment does not apply to provisions relating to arrest, detention, interrogation and sentencing where the age of majority is still 16.
Jan 2012	Military authorities cease issuing administrative detention orders for children.	This was a voluntary step by the military authorities without amendments to military law.
Jun 2012	UK lawyers' report	Uncontested evidence found 6 violations under the UN Convention on the Rights of the Child and 2 violations under the Fourth Geneva Convention. The report made 40 recommendations.
Aug 2012	Military Order 1694 - Time periods	M.O. 1694 reduces the period of time in which adults and children must be brought before a military judge following arrest.
2012	Translation	In 2012, some military orders were translated into Arabic and made <a href="#">available on the website</a> of the Military Advocate



		General.
<b>Feb 2013</b>	UNICEF report	UNICEF concluded that: "[T]he ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process." The report made 38 recommendations.
<b>Feb 2013</b>	Translation of indictments	Supreme Court rules that indictments in the military courts must be translated into Arabic.
<b>Apr 2013</b>	Military Order 1711 - Time periods	M.O. 1711 further reduces the period of time in which adults and children must be brought before a military judge following arrest.
<b>Apr 2013</b>	Notification upon arrest	Military authorities introduce a form to be given to parents when a child is arrested from home providing reasons and place of detention.
<b>May 2013</b>	Regulations for arresting minors re-issued	Military advisor sends letter reminding all military units in the West Bank of existing regulations.
<b>Jun 2013</b>	ISA complaint procedures	Ministry of Justice announces that ISA employees will no longer investigate complaints against ISA interrogators.
<b>Jun 2013</b>	Remand hearings	Military prosecutor announces that remand hearings for children will be held separately from adults.
<b>Oct 2013</b>	Military Order 1726 - Time periods	Reduces the extension periods between remand and indictment but does not reduce the overall time period.
<b>Nov 2013</b>	Regulations for medical checks	Medical officers reminded of regulations for conducting medical checks on children.
<b>Dec 2013</b>	Notification of legal rights	New form introduced to be used by interrogators to inform children of their right to a lawyer and right to silence.
<b>Feb 2014</b>	Pilot scheme to issue summonses in lieu of night arrests.	Introduced following criticism of the extent to which children arrested at night in military raids.
<b>Apr 2014</b>	High Court rules on dual legal systems in the West Bank	The High Court notes that the military authorities have taken steps to reduce some of the differentials between the two legal systems and that the remaining differences were "reasonable and proportional" in the circumstances.
<b>Sep 2014</b>	Military Order 1745 - Audio-visual recording	M.O. 1745 mandates audio-visual recording of all interrogations of children in the West Bank suspected of "non-security" related offences.

<b>Nov 2014</b>	Parents accompanying children during interrogation	While there is no right under military law the authorities acknowledge that there is a discretion to permit this to occur.
<b>Oct 2015</b>	Military authorities resume issuing administrative detention orders for children.	After a 4 year hiatus the military commander resumed issuing administrative detention orders for children.
<b>Feb 2016</b>	Return visit by UK lawyers' delegation cancelled.	According to a statement published by the delegation the return visit was cancelled due to a lack of co-operation by Israeli authorities.
<b>May 2016</b>	Regular publication of prison statistics ceases.	Despite repeated requests this is the first time in over 15 years that the IPS has not disclosed the number of adults and children held in its facilities on a regular basis.
<b>May 2016</b>	B'tselem ceases filing complaints.	After 25 years of filing complaints arising out of allegations raised against soldiers, B'tselem announces that it does not have faith in the system.
<b>7 Jun 2017</b>	50 years since establishment of the military courts.	Estimates suggest that between 775,000 - 850,000 Palestinians have been detained including 45,000 children. The military authorities continue to rely on Article 66 of the Fourth Geneva Convention as the jurisdictional basis and justification for the courts.

**ANNEXURE B**  
**TESTIMONIAL EVIDENCE -**  
**12 TESTIMONIES (JAN-DEC 2016)**

**Testimony 1**

**Name:** H.A.K.H.  
**Age:** 14  
**Date:** 21 January 2016  
**Location:** Yatta, West Bank  
**Accusation:** Grazing sheep near a settlement

**On 21 January 2016, a 14-year-old boy from Yatta was grazing sheep with his cousin when they were detained by Israeli soldiers and accused of being too close to a settlement. They were released without charge 9 hours later.**

I was with my cousin herding sheep near our village when all of a sudden a Toyota car appeared with Israeli soldiers inside. It was around 12:00 noon. I was scared and ran away and left the sheep with my cousin. About 15 minutes later I decided to re-join my cousin because I wanted to be there in case anything happened. I went back to where I left my cousin and the sheep and found the soldiers still there.

As soon as I came close the soldiers arrested me and started to slap me. Then they made me sit on the ground with my head between my legs and my hands behind my back. Then they started to question me wanting to know why I was herding sheep in that area. They claimed we were not allowed to be there. I told them I was herding sheep and that we were not close to the settlement. I remained in that position with my cousin for about two hours.

A military jeep then arrived and the commander approached me and started to kick and slap me. He swore at me and called me a "son of a whore". He shouted accusing me of being too close to the settlement of Ma'on. I told him I was herding the sheep quite far from the settlement.

Another soldier approached and started to search me. He made me lift up my shirt to make sure I wasn't carrying a knife. Then they tied my hands to the front with one plastic tie which was very painful. I was then put in the back of the jeep where they made me sit on the floor together with my cousin. The jeep drove for about an hour to the police station in the settlement of Kiryat Arba.

At Kiryat Arba I was put in a shipping container where I sat on the floor with my cousin for another two hours. I was still tied and in pain. I asked a soldier to loosen the tie but he refused. I asked to use the toilet but they did not allow me. I wasn't given any food either.

An interrogator walked into the shipping container and started to question me. He wanted to know what I was doing in the area near the settlement. He also wanted to know why I ran away. I told him I was herding sheep and didn't do anything wrong. I also told him I ran away because I was scared of the soldiers. He then told me they were going to release me this time but if they were ever to see me in the area again they were going to lock me up in prison for a long time.

The interrogator did not call my parents and did not inform me of any rights. About an hour later I was put in a jeep with my cousin. The jeep drove for about an hour and then the soldiers released us near the settlement of Karmel without cutting off the ties. It was around 9:00 p.m. My cousin and I walked home.

This was a terrifying experience. I still find it hard to sleep at night and I occasionally have bad dreams.

## **Testimony 2**

**Name:** O.M.K.H.  
**Age:** 15  
**Date:** 15 February 2016  
**Location:** Al 'Araqa, West Bank  
**Accusation:** Weapon possession

**On 15 February 2016, a 15-year-old youth from Al 'Araqa is arrested by Israeli soldiers at 3:30 a.m. and accused of weapon possession. He spent 11 days at Al Jalame interrogation centre in solitary confinement.**

I was asleep when I woke up and found Israeli soldiers in my bedroom. It was around 3:30 a.m. First I thought I was dreaming but then a soldier held my leg and I realized it was for real. Then they started to shout at me. I quickly got up and one of the soldiers struck me on the shoulder with the back of his gun. He told me I was a "fucker" and to get up.

An intelligence officer then introduced himself as captain Habib. He took me aside and asked me about weapons. I told him I didn't know what he was talking about and that I didn't have any weapons. He then claimed I was friends with some of the young men who were killed by Israeli soldiers and that I knew a lot about them and the weapons they used. When I told him this was not true he told me that what I didn't provide voluntarily would be taken from me by force.

The soldiers did not give us any documents and did not tell us where they were going to take me. I was then taken outside where my hands were tied behind my back with a single plastic tie which was very tight. I was also blindfolded. I was then put in the back of a military vehicle and made to sit on the floor. There were soldiers and muzzled dogs inside the vehicle.

The vehicle drove for about 30 minutes and stopped at a military base which I couldn't recognize. I was taken to an open area where I sat on the ground. The soldiers who went by kicked and slapped me. At one point I screamed in pain. I was then taken to see a doctor who removed the blindfold. He also asked the soldiers to re-tie me to the front. I was tied and blindfolded again after the examination.

I was then taken to a room with lots of soldiers who were sleeping on the floor. They made me sit on a chair and each time I fell asleep someone would slap me to wake me up. I remained in the room until around 7:00 p.m. when I was given some food and water.

Later I was put in the back of a jeep where I sat on the floor again. The jeep drove for about an hour and then I was taken to a place where I was photographed and fingerprinted. They also took some personal information and opened a file on me. About two hours later I was put back in the jeep which drove for about 90 minutes to Al Jalame interrogation centre in Israel. I had never heard of this prison before.

At Al Jalame I was strip searched and asked to crouch up and down while naked. I was then given a prison uniform and taken to a small cell the size of a small bathroom. I thought they wanted me to use the bathroom there and when I was done I knocked on the door for someone to let me out. But the soldier told me to shut up and to stay where I was. The cell was freezing cold and the sound of an air conditioner was so loud that I couldn't sleep. There was no mattress or blanket.

I remained in this small cell from around 10:00 a.m. until around 3:00 p.m. when soldiers moved me to a slightly bigger cell. There was a toilet and a mattress and a blanket in the second cell which measured about 2x2 meters. It was painted black and the walls were rough. The second cell was also very cold and had a loud air-conditioning system. The soldiers removed the tie and the blindfold and left me in the cell for about three days.

For three days I was by myself in the cell the whole time and did not know whether it was day or night. Soldiers brought me food regularly but I refused to eat and told them I wanted to know why I was there under such harsh conditions but no one told me why. On the third day I was taken to see a doctor who told me I had to eat and if I didn't they were going to force feed me. I then decided to eat.

At around 4:00 p.m. on the third day I was taken for interrogation. I was handcuffed to the front and shackled during the interrogation. I was also tied to the chair. The interrogator told me he was going to ask me some questions and if I answered all of them he was going to release me. He then started to question me. He did not inform me of any rights.

He asked where I kept the weapons. I told him I did not possess any weapons. He accused me of lying and told me he had information that I was lying. He then wanted to know where I was on the day when an incident happened in my village. I told him I was at home. I told him my mother and sister could testify. When I asked to speak to my father on the phone he refused.

The interrogation lasted for about 90 minutes. The whole time the interrogator wanted to know where I kept the weapons. I swore to him I didn't have weapons and he got angry and slapped me and told me never to swear by god. He yelled and shouted a lot in my face and banged the table angrily. Then the intelligence officer Habib entered the room and joined the interrogation. He asked me the same questions and I gave the same answers. I was then taken back to the cell where the handcuffs were removed. The following morning I was taken for another round of interrogation.

I was handcuffed but I wasn't tied to the chair this time. Two interrogators took part. One played the role of the good guy who wanted "what's good" for me and the other played the role of the bad guy who was angry and banged the table the whole time. The angry guy accused me of the same accusation and wanted to know if I had any connection to those who took part in the incident. I told

him I didn't know them. The interrogation lasted for about 90 minutes. I was then put in a troop carrier and taken to Megiddo prison, also inside Israel.

At Megiddo I was locked up in a room by myself but the room had a TV set and a bed and was quite comfortable. A person then came to the door and welcomed me. He told me his name was Abu Ennour and he claimed he was the person in charge of prisoners from the Fateh party. He also told me he was from a nearby village and that he knew my family. I told him I wanted to be with the other prisoners and he told me soon I would join them.

He told me I had to tell him everything about the incident because the party wanted to acknowledge my role and to reward me. I told him I had no role in any incident. At that point I realised this person was an informant as I had heard of this technique from other prisoners.

I remained in that room for three days. I wasn't allowed to leave the cell and Abu Ennour and other informants kept visiting me. One of them told me I had to tell him everything because it was feared that other factions might take credit for the incident and that if I told him everything he would transfer me to be with the other prisoners. I told him I had only heard about the incident on the news. I told him it was reported that a shepherd witnessed the whole thing. He then wanted me to give him the name of the shepherd and I told him I didn't know him.

I was then taken back to Al Jalame for another round of interrogation. The first thing the interrogator asked me was the name of the shepherd and I told him I didn't know him. Half-an-hour later he sent me back to the cell where I remained until I was released.

While at Al Jalame I had a number of military court hearings and a lawyer visited me. My parents did not attend any of the hearings because they took place during the interrogation phase. I also had two hearings at Salem military court which my parents attended and I was allowed to speak to them.

On the last three days of my detention I was transferred to Megiddo prison. I had one more court hearing at Salem military court. At Salem an Israeli policeman took a statement from me and then he printed it in Hebrew and asked me to sign it but I refused. He then translated it and printed it in Arabic and I agreed to sign it.

I was released on 3 March 2016 after a military court hearing at around 7:00 p.m. My parents were not there so I went home by myself. When I got home I found out that the Israeli police had come and taken a statement from my sister and mother who said I was at home on the day on the incident.

### Testimony 3

**Name:** M.H.F.A.  
**Age:** 17  
**Date:** 2 March 2016  
**Location:** Ya 'abad, West Bank  
**Accusation:** Incitement (Facebook)

**On 2 March 2016, a 17-year-old youth from Ya'abad was arrested by Israeli soldiers at 5:00 a.m. and accused of incitement on Facebook. He was given a 3 month Administrative Detention order followed by a 7 month prison sentence.**

I was asleep when I suddenly woke up and found Israeli soldiers inside my bedroom standing over me. It was around 5:00 a.m. The soldiers had opened our front door and entered the house while we were asleep without making noise.

The soldiers turned the light on and asked me for my name. Then they told me to bring my identity card and follow them to the living room. When they checked my identity card they told me I was under arrest and told me to leave the house without getting dressed. They took me away in my pajamas. The soldiers did not give my family any written documents and did not tell us where they were taking me or why.

Once outside my hands were tied behind my back with two plastic ties; one over the other. The ties were tight. I was then led on foot for about 15 minutes towards the nearby settlement of Dotan. At the entrance to the settlement I was put in the back of a jeep and made to sit on the metal floor.

The jeep then drove to the military base inside the settlement where I was taken to a courtyard where I sat on the ground. Soldiers then blindfolded me and the commander took me to an interrogation room where he started to question me.

The commander started by asking me for my name and then asked me why I throw stones. He then beat me very hard and told me I was going to see "lots of surprises" over the coming days. He did not inform me of any rights. He beat me again before he sent me back to the courtyard where I remained until around 6:00 p.m. During this time I wasn't given any food or water but I was allowed to use the toilet.

At around 6:00 p.m. a doctor examined me. He removed the blindfold and put it back on when he was done. Then I was taken to the back of the jeep where I sat on the floor again. The jeep drove for about an hour to Huwwara military base. At Huwwara I was strip searched and taken to a room where the ties and the blindfold were removed. I remained at Huwwara for two days.

On the second day soldiers handcuffed me to the front and shackled my ankles and took me to a troop carrier where I sat on a seat. The carrier drove for about two hours to Salem where I was immediately taken to the military court. By this time it was around 9:00 a.m. My parents were not in court because they were not informed but a lawyer was there. The hearing was adjourned. After court I was taken for interrogation at Salem police station.

During the interrogation I was still handcuffed and shackled. Before the interrogator started to question me, he told me I had the right to remain silent and the right to consult with a lawyer. He also called my parents and allowed me to speak to them. I told them I was at Salem and asked them to appoint me a lawyer.

The interrogator then accused me of incitement on Facebook. He showed me some postings and told me they were considered incitement. He then told me I was also accused of throwing stones at soldiers. I was interrogated for about four hours. Two interrogators alternated in interrogating me. Most of the interrogation was about Facebook postings.

The interrogator named some people from the village and asked me whether I knew them and whether I knew whether they throw stones at soldiers. I denied all the allegations. I told the interrogator I wanted to write my statement myself in Arabic and he allowed me to do so and I signed my own statement. Then they took my photograph and my fingerprints and put me in the back of a police car where I sat on a seat. The car drove for about an hour to Megiddo prison inside Israel. At Megiddo I was put in the juvenile section.

I had two more military court hearings at Salem which my parents attended and I was able to speak to them. During the second hearing the judge wanted to release me but the prosecutor informed the court I was going to be put under administrative detention for four days. After court I was taken back to Megiddo prison and the following day I was transferred to Ofer prison.

Four days later I was taken to the military court again. My lawyer was told there was secret evidence against me and that my administrative detention was extended for three months. The following day I was transferred back to Megiddo prison.

On 31 May 2016, one day before the end of my administrative detention, I was again taken for interrogation at Salem. Again I was accused of incitement on Facebook. This time the interrogator wanted to check my Facebook profile in order to determine whether I was the owner of a particular Facebook account. I was questioned for three hours and I denied the allegation. Then I was taken to the military court where my detention was extended for 72 hours. I was then taken back to Megiddo prison.

Before the 72 hours were over I was taken back to the military court where I was given the choice of either accepting a six month administrative detention which would include the time I already spent in prison or, plead guilty and accept a seven-month prison sentence. I accepted the plea bargain because I was afraid that the six-month administrative detention order would be extended further. I was then taken back to Megiddo prison.

Later my prison sentence was reduced by 21 days. In prison I studied Arabic and mathematics. I was released from Megiddo on 11 September 2016, at Salem checkpoint.



#### Testimony 4

**Name:** I.I.A.T.  
**Age:** 16  
**Date:** 12 April 2016  
**Location:** Beit Fajjar, West Bank  
**Accusation:** Throwing stones

**On 12 April 2016, a 16-year-old youth from Beit Fajjar was arrested by Israeli soldiers at 2:30 a.m. and accused of throwing stones. During questioning the interrogator attempted to recruit the minor as an informant.**

I was asleep when I heard loud banging at the door at around 2:30 a.m. My father came to tell me that Israeli soldiers had come to arrest me. I was scared and went to the living room where I saw the soldiers give my father a document about my arrest. They asked him to sign it and they took the document with them.

The soldiers did not tell me or my father the reason for my arrest or where they wanted to take me. The soldiers asked for my birth certificate but my father couldn't find it so the soldiers took the annex in my father's identity card and never gave it back to him. My father insisted that I put on proper clothes before he allowed the soldiers to take me away.

As soon as I was taken out of the house the soldiers tied my hands to the front with one plastic tie which was very tight and painful. They also blindfolded me and put me in the back of a troop carrier and made me sit on the metal floor.

The troop carrier drove for about 30 minutes before stopping at the police station in Etzion settlement. At Etzion I was put in a shipping container where I sat on the floor until around 9:00 a.m. I was very uncomfortable and felt back pain. At around 9:00 a.m. I was taken for interrogation.

The interrogator removed the blindfold and told me he was an intelligence officer. He handed me a document that said I had the right to remain silent and the right to consult with a lawyer. He then accused me of throwing stones at soldiers and showed me a picture of a youth throwing stones at soldiers. In the beginning I denied the accusation but eventually confessed to throwing stones at soldiers.

During the interrogation the interrogator tried to scare me. He pulled out his gun and put it on the table in front of him. He then told me that people in general dream of collaborating with him. I felt he was suggesting that I become a collaborator. He told me working with him was the best kind of work, better than anything else. He told me I would be earning a lot of money. I told him I preferred to work with my father. I also told him I was brought for interrogation and not for any other purpose.

The interrogation lasted for about 30 minutes. I was then taken to see another interrogator who wore an Israeli police uniform. The second interrogator told me his name was Yosi. He told me I had the right to remain silent and the right to consult with a lawyer and then typed up my statement. He asked me for my father's phone number and called him and told him I was at Etzion and that I needed a lawyer.

The interrogator typed up a document in Hebrew and told me it was my statement and asked me to sign it. I signed it without understanding what it said. He then took my photograph and my fingerprints and took me to another room where I was strip searched. I was then taken to a cell where the tie was removed and I was given some food and water.

I remained in the cell by myself until around 10:00 a.m. when I was shackled and handcuffed before being taken to a troop carrier where I sat on a seat. The troop carrier drove for about 90 minutes to Ofer prison. At Ofer I was strip searched again and taken to Section 13.

Two days later I was taken to Ofer military court. My parents attended with my lawyer. The hearing was adjourned. I had four military court hearings. On the last hearing I was released on bail. My parents had to pay NIS 1,200 bail and I was assigned another military court hearing on 22 May 2016.

I was released from Ofer at around 7:00 p.m. on 24 April 2016. I went home with my parents who were waiting outside Ofer. We arrived home at around 9:30 p.m.

### **Testimony 5**

**Name:** N.T.A.T.  
**Age:** 15  
**Date:** 4 May 2016  
**Location:** Al 'Arrub refugee camp, West Bank  
**Accusation:** Throwing stones

**On 4 May 2016, a 15-year-old youth from the Al 'Arrub refugee camp was arrested by Israeli soldiers at 3:00 a.m. and accused of throwing stones. He was released without charge on 15 May 2016.**

My mother woke me up at around 3:00 a.m. and told me Israeli soldiers were inside our home. I got up and went to the living room where the soldiers asked for our names. When I said my name they told me I was under arrest. They did not tell me the reason for my arrest or where they were going to take me. I also did not see them give my parents any documents.

The soldiers told me to get dressed and then took me outside where they tied my hands to the back with one plastic tie which was very tight. They also blindfolded me. I was then led towards the centre of the refugee camp where a soldier head-butted me.

About 15 minutes later I was taken to the nearby military watchtower on the main road where I was put in the back of a military jeep. The jeep drove for about 30 minutes to the police station inside the settlement of Kiryat Arba. On arrival at Kiryat Arba I was made to sit on the ground outside until around 8:00 a.m. I was allowed to use the toilet during this time.

At around 8:00 a.m. I was taken back to the jeep and made to sit on the metal floor. The jeep drove for about an hour to the settlement of Etzion where I was immediately taken for interrogation at around 9:00 a.m.

The interrogator started to interrogate me without informing me of any rights. He kept the tie and the blindfold on and accused me of throwing stones at soldiers. I told him this was not true. When I complained about the tie and the blindfold he removed them and went on with the interrogation. Each time I said something he didn't like he tied and blindfolded me again.

The interrogator told me there were soldiers who saw me throwing stones and I challenged him to confront me with them but he did not. Then he mentioned the name of a boy from the camp and told me he had confessed against me. I told him this could not be true.

Later another interrogator joined in. This one was aggressive and punched me in the stomach when I refused to confess. He verbally abused me and told me I was a "son of a whore". He then printed out my statement in both Arabic and Hebrew and asked me to sign it which I did.

After the interrogation the interrogator called my parents and told them I was at Etzion and that I was going to have a military court hearing the following day. Then they took my photograph and my fingerprints and took me to a doctor who examined me. I was then strip searched and taken to a cell where they brought me some food.

I remained in the cell until around 10:00 p.m. when I was shackled and handcuffed and taken to the back of a troop carrier where I sat on a seat. The troop carrier drove for about 90 minutes to Ofer prison where I was strip searched again and taken to the juvenile section.

The following day I was taken to Ofer military court. A lawyer was there but my parents did not attend. The hearing was adjourned. I had two more hearings which my parents and my lawyer attended. I was released on 15 May 2016, one day before my third hearing was scheduled. I was released without charge and I went home by myself. I arrived home at around 11:00 p.m.

## **Testimony 6**

**Name:** M.I.H.A.  
**Age:** 14  
**Date:** 15 June 2016  
**Location:** Husan, West Bank  
**Accusation:** Throwing stones

**On 15 June 2016, a 14-year-old boy from Husan was arrested by Israeli soldiers at 2:00 a.m. and accused of throwing stones. He was sentenced to 3 months in prison following a plea bargain deal.**

I was still awake at around 2:00 a.m. when I heard a commotion outside the house. I looked out the window and saw a group of Israeli soldiers. I woke up my father just when the soldiers started to aggressively bang at the front door.

My father opened the door and the soldiers told him to bring all the boys to the living room. Then they asked to see my birth certificate and then told my father they wanted to arrest me. My father

refused to receive or sign a document they wanted him to sign. The soldiers told my father they wanted to take me for a short time and would return me home soon. They also told my father to look for me at the police station in Etzion settlement if I didn't return home.

The soldiers allowed me to get dressed and then took me outside. I had a fractured arm which was wrapped in plaster so the soldiers tied my hands separately to my trousers on each side. They also blindfolded me and then took me to the back of a jeep where they made me sit on the floor.

The jeep drove for about 10 minutes to the nearby military base at the settlement of Bitar Ilit where I was put in a shipping container and I sat on a chair. I slept on the chair until around 8:00 a.m. when soldiers took me back to the jeep where I sat on the floor again. The jeep drove for about 30 minutes to the police station in Etzion settlement.

On arrival at Etzion I was searched and made to stand in a courtyard for about 30 minutes and then I was taken for interrogation.

The interrogator removed the blindfold and untied me. He did not inform me of my rights but I told him I wanted to speak to my father. He did not allow me to speak to my father until after the interrogation was over.

The interrogator accused me of throwing stones at soldiers but did not provide any evidence. He told me there was secret evidence in his possession that I was involved in throwing stones at soldiers. I denied the accusation and told him this was not true. He interrogated me for about two hours and I continued to deny the accusation. In the end he printed out my statement in Hebrew and asked me to sign it and I did without understanding it. I didn't know I had the right to have my statement translated into Arabic.

The interrogator then took my photograph and my fingerprints and I spent a night at Etzion. At around 9:00 a.m. the following day soldiers handcuffed me to the front and shackled me and took me to the back of a police car where I sat on a seat. The car drove for about an hour and then stopped at Hadassah hospital in Jerusalem where they removed the plaster on my arm. The car then took me to Ofer where I was immediately taken to the military court.

My father was in the military court and I was allowed to speak to him. My lawyer was there too. The hearing was adjourned. I had about 10 military court hearings. On one occasion in court my father wanted to see any tapes of my interrogation. The judge agreed but the prosecutor refused. On the last hearing I confessed to throwing stones at soldiers in a plea bargain with the prosecutor and I was sentenced to three months in prison; fined 2,000 shekels; and given a suspended sentence of one year in prison valid for three years. My lawyer advised me to accept the plea bargain because initially the prosecutor was asking for a sentence of one year and a fine of 5,000 shekels.

I spent my sentence at Ofer prison. My parents did not visit me because they were denied a permit for security reasons. In prison I studied Arabic and mathematics. I was released from prison on 1 September 2016, about two weeks early.

## Testimony 7

**Name:** A.S.A.J.  
**Age:** 9  
**Date:** 26 July 2016  
**Location:** Zububa, West Bank  
**Accusation:** Throwing stones

**On 26 July 2016, a 9-year-old boy was detained by Israeli soldiers near the Wall and accused of throwing stones. He was released without charge 12 hours later. Under Israeli military law the minimum age of criminal responsibility is 12 years and children below this age should not be detained.**

I was picking figs with some friend in a field near the Wall at around 4:00 p.m. There were older boys throwing stones at the Wall at the same time and then they ran away as some Israeli soldiers arrived.

When the soldiers arrived some of the younger boys started to run away and I joined them because I was scared. The soldiers quickly caught up with me and captured me. A soldier asked me why I was throwing stones at soldiers and I told him I wasn't throwing stones at anyone.

The soldier then pointed to a group of boys they had already detained and asked me whether I saw any of them throwing stones at soldiers. He wanted me to give a confession against them but I told him I didn't know them and didn't see any of them throwing stones.

I was then taken to the back of a military jeep and the soldiers made me sit on the floor. Then I was blindfolded and the jeep drove away.

The jeep stopped at Salem checkpoint and I was taken to a courtyard and a soldier started to speak to me in Hebrew but I didn't understand what he was saying. Another soldier translated for me and told me they wanted to know which boys were throwing stones with me. I told them I didn't throw stones and didn't see anyone throwing stones. The soldier wrote down what I told him on a piece of paper. He asked me for my name and took other personal details about me.

I was then put back in the jeep where I sat on a seat. The jeep drove for about 15 minutes to Al-Jalame checkpoint. When we arrived I was taken to a very dark room and they made me sit on the floor for about 30 minutes. Then I was taken to another room with computers and a TV screen. The soldiers brought me a mattress and allowed me to sleep.

At around 4:00 a.m., I was handed over to the Palestinian police. My father picked me up from the Palestinian police station and took me home. I arrived home at around 5:00 a.m.

## Testimony 8

**Name:** A.H.A.T.  
**Age:** 14  
**Date:** 9 August 2016  
**Location:** Beit Fajjar, West Bank  
**Accusation:** Throwing stones

**On 9 August 2016, a 14-year-old boy from Beit Fajjar was arrested by Israeli soldiers at midnight and accused of throwing stones. He was released on bail on 7 September 2016.**

I had just fallen asleep at around midnight when I woke up to the sound of a commotion around the house. I then heard my mother say that Israeli soldiers had come to the house. I was scared and hid my head under the duvet. My father went quickly to answer the door and about 10 soldiers entered our home. The commander immediately asked for the “mujahideen” meaning the fighters.

The commander then ordered all of us to leave the house and to wait in the courtyard. My younger sister, who is 10 months old, was terrified and she clung to my mother who covered her with a blanket. The commander thought my mother was hiding something under the blanket and pointed his gun at her.

The soldiers rushed us all outside while I was still in my shorts and T-shirt. They made me sit on a plastic chair and asked to see my identity card. Then a soldier asked me for my name and immediately jumped at me as if I was the most dangerous person in the world.

The soldiers pushed me to the ground and immediately tied my hands to the front with one plastic tie. The tie was tight and painful and left marks on my wrists for a long time. A soldier searched me and wanted to take me away but I told him I wanted to put my clothes on. The commander interfered and allowed me to get dressed. I gave my mother a hug and left the house with the soldiers.

My 19-year-old sister started to cry and pleaded with the soldiers not to take me away but they ignored her. They pushed my family back into the house and shut the door behind them. The soldiers did not tell us why they were arresting me or where they were taking and did not give my parents any written documents.

The soldiers led me towards a military jeep just outside the house where they blindfolded me and put me in the back where I sat on a seat. The jeep drove for about 15 minutes to the police station inside Etzion settlement.

At Etzion I was taken to a small room with another detainee and I slept on a mattress on the floor. I was allowed to use the toilet but I wasn't given any food or drink. I slept for about four hours and I remained tied and blindfolded the whole time. At around 8:00 a.m. the following morning I was taken for interrogation.

The interrogator wore civilian clothes. I did not see a tape or video recorder in the room. He removed the blindfold but kept me tied. He did not inform me of my rights and immediately accused me of throwing stones at soldiers and burning tires. In the beginning I denied the accusation but then

I was scared when he started to yell at me and I confessed. The interrogation lasted for about 10 minutes and the interrogator did not show me any documents and did not ask me to sign anything. He then took me to see another interrogator.

The second interrogator told me I had the right to consult with a lawyer and called one for me. He also said something about remaining silent but I did not understand what he meant. A lawyer spoke to me and told me not to confess to anything. When I told him I already had he told me to say I confessed because I was yelled at. The lawyer also told me there were confessions against me from other boys and he named two boys.

The second interrogator told me I had confessed to throwing stones and to shooting and burning tires. In the beginning I denied I had confessed but then the first interrogator came in and confirmed that I had confessed to him. The second interrogator had a tape recorder on and lost his temper from time to time and banged the table. The second interrogation lasted for about 45 minutes. The interrogator showed me a document in Hebrew and asked me to sign it. He told me it said that I had consulted with a lawyer. I signed the document.

I was then taken to a courtyard and given some food and water. I was also allowed to use the toilet. Then I was taken to a prison cell at Etzion where I was strip searched. The tie was removed and I spent a few hours there until the evening.

Then I was handcuffed and shackled and put in a GMC vehicle where I sat on a seat. The vehicle drove for about 30 minutes to Ofer prison where I was strip searched again and taken to Section 13. I arrived at Ofer at around 9:00 p.m.

The following day I was taken to Ofer military court. My lawyer was there and the hearing was adjourned. My parents did not attend because they were not informed.

The following day I was shackled and taken in a troop carrier to the police station in the settlement of Kiryat Arba for another interrogation. This interrogator questioned me about throwing stones and told me there were confessions against me. He did not inform me of my rights. He named some boys who are my relatives and told me they were with me throwing stones and wanted me to confirm this and implicate them but I was careful and denied that I was throwing stone with the boys he named. He made me sign a document in Hebrew which I didn't understand.

The interrogation lasted for about 30 minutes and I was taken back to Ofer prison.

I had three additional military court hearings which my parents attended. All I could understand was that the hearings were adjourned. On the fifth hearing the military court decided to release me on bail and my parents had to pay NIS 1,500. The judge gave the prosecutor 48 hours to appeal. I was released on 7 September 2016, at around 7:00 p.m. My father was waiting for me outside and I went home with him.

In prison I studied mathematics and Arabic. I did not get any family visits because the permit was not issued in time. It usually takes about two months for the permit to be issued. I missed my family a lot, especially my younger sister. I had another military court hearing on 28 September 2016, but hardly anything happened and the hearing was adjourned until 12 December 2016.

## Testimony 9

**Name:** M.D.N.Q.  
**Age:** 15  
**Date:** 17 September 2016  
**Location:** 'Iraq Burin, West Bank  
**Accusation:** Throwing stones

**On 17 September 2016, a 15-year-old youth from the village of 'Iraq Burin was detained by Israeli soldiers at 6:00 p.m. during clashes in his village. He was released at 9:00 p.m. two days later without charge.**

I was with my uncle fixing a tap at my grandparents' house at around 6:00 p.m. when I heard shooting coming from the village. I left my uncle and headed towards the centre of the village to see what was going on. My uncle called me back but I kept going.

When I arrived at the centre of the village I saw some boys and young men confronting a group of Israeli soldiers who had entered our village. Soldiers often enter our village without provocation. They come from the direction of the nearby settlement of Bracha as the soldiers are based there to protect the settlers.

Almost as soon as I arrived on the scene the soldiers started to chase us and they surrounded me so I couldn't run away. Some soldiers grabbed me and immediately slapped and beat me with the back of their guns all over my body. They also swore at me and called me a "son of a whore".

The soldiers then led me towards some military jeeps waiting at the entrance to the village where they tied my hands to the front with one plastic tie which was not tight. They also blindfolded me and pushed me into the back of a jeep together with other boys and made me sit on a seat.

The jeep drove for about 40 minutes to Huwwara military base where I was examined by a doctor. The soldiers removed the blindfold and the doctor asked me whether I was in pain and whether I smoked or had problems breathing. He then made me fill out a form. While I was there the doctor replayed a voice recording from the commander who said he wanted to teach me and the other boys a lesson to make sure we stop throwing stones at soldiers. The doctor signed the form and I was blindfolded again and taken to the side of the road where I waited while the other boys were examined. By this time it was around 1:30 a.m.

I was then put in a troop carrier which drove to the nearby settlement of Bracha where the soldiers picked up two more soldiers as witnesses to testify against me and the other boys. The troop carrier then drove to Ariel settlement where I was left in an outdoor area together with the other detainees. It was around 2:00 a.m. It was freezing cold and I asked for some warm clothes but I was told there were no clothes. At around 2:20 a.m. I was searched and taken for interrogation.

The interrogator wanted to know why I was arrested and where. He accused me of throwing stones and said he was going to send me to prison for causing damage to military vehicles. He did not inform me of any rights. He said the soldiers had entered the village to check on us and to make sure everything was OK and in return we pelted them with stones.



When I denied the accusation the interrogator lost his temper and told me he had footage proving I was throwing stones and that soldiers had testified against me. He recorded everything on a computer but did not have a tape recorder or a camera that I could see. I was in the room with him by myself and he questioned me for about 15 minutes. At one point the interrogator asked me for a telephone number of a relative but I refused because I didn't want to bother my family. Then the interrogator insisted and I gave him my brother's number.

At the end of the questioning the interrogator cut off the plastic tie and took my fingerprints. Then he asked me to sign a document in Hebrew but I refused because I didn't understand it. Then he gave me a document in Arabic and asked me to sign it and I did after reading it and realizing it was identical to what I had said.

Then I was handcuffed and shackled and taken to be photographed. They made me wait until they finished interrogating the other boys and a soldier brought me a sandwich and allowed me to use the toilet. Then they removed the shackles and the handcuffs and replaced them with a plastic tie on my hands only. The tie was very tight and painful and when they removed it my wrists were sore.

Then I was taken back to Huwwara where I waited outside a room. Soldiers who went by spat at me and threw an apple skin at me and kicked me. They also called me a "terrorist". By this time it was around 7:00 a.m. Later I was taken to a room with three other boys. They turned a noisy recording on, shouting and other sounds, to scare us. Then they threatened to teach us a "harsh lesson". They pushed me against a wall and swore at me calling me a "son of a whore".

Then they took me to the back of a jeep and threw me on top of another boy who was on the floor before lifting me up to sit on a seat. The jeep drove to Ariel settlement and then back to Huwwara where I sat on the side of a road until around 10:00 p.m.

Then they searched me in my underwear and took me to a cell. The soldier who took me to the cell shouted at me in Hebrew which I didn't understand. He then threatened to make me sleep outside. By this time it was around 11:00 p.m. I was able to sleep until around 7:00 a.m. In the morning the soldiers brought me an apple, a piece of bread and some yogurt.

At around 8:00 a.m. I was handcuffed and shackled and taken to a troop carrier which drove from around 8:00 a.m. until around 6:00 p.m. when we arrived at Megiddo prison, inside Israel. It was an exhausting trip. I found it difficult to tolerate the discomfort. At Megiddo I was searched and then I was told I was going to be taken back to Huwwara to be released. At Huwwara I was given back my personal belongings and told I was free to go. It was around 9:00 p.m. A soldier threatened to lock me up for three years if I got arrested again.

I started to walk away from the military base until I saw a Palestinian police car and they gave me a lift to town. I arrived home at around 10:00 p.m. My friends and relatives came to greet me and to celebrate my release. I was released on 19 September 2016, without charge.

## Testimony 10

**Name:** M.M.M.Y.  
**Age:** 16  
**Date:** 28 October 2016  
**Location:** Qalandiya checkpoint, West Bank  
**Accusation:** Throwing stones

**On 28 October 2016, a 16-year-old youth from Qalandiya refugee camp was detained by Israeli soldiers at Qalandiya checkpoint after his aunt was held hostage. He was accused of throwing stones at soldiers.**

One day before I was arrested my aunt was stopped at Qalandiya checkpoint on her way back home from work. An Israeli soldier checked her identity card and then took her aside and started to question her about me. She was held for about two hours before being released.

The following day when my aunt was crossing Qalandiya checkpoint on her way to work she was stopped again. The soldiers handcuffed her and then told her to contact my father and tell him to bring me to the checkpoint. They told her she would not be released until they got hold of me. She contacted my father and my father and I went to the checkpoint as ordered. We got there at around 5:00 p.m. As soon as we arrived they released my aunt.

The soldiers checked my identity card; handcuffed me with my hands to the front, and shackled my legs. The handcuffs were painful. They left me with my father outside in the cold weather until around 8:00 p.m.

At around 8:00 p.m. my father and I were taken to the back of a jeep and we sat on seats. The jeep drove for less than five minutes to Atarot police station. We waited until around 10:30 p.m. before taking us both into the interrogation room.

The interrogator removed the handcuffs but kept my leg shackles on. He agreed to let my father attend the interrogation but told him not to say a word. The interrogator did not inform me of my right to silence or my right to consult with a lawyer and immediately started to question me about throwing stones at soldiers at the checkpoint. He showed me pictures of boys throwing stones and asked me to identify them.

When I denied the accusation the interrogator lost his temper and started to speak in a loud voice in an attempt to scare me but I was not afraid. I then told him I was at the checkpoint but I did not take part in throwing stones. He interrogated me for about 90 minutes and I continued to deny the accusation.

After about 90 minutes the interrogator printed out a document in Hebrew and asked me to sign it but I refused because I did not understand what it said. Then he took my photo and fingerprints and then handcuffed me again. My father was driven back to the checkpoint.

At around 1:00 a.m. soldiers took me to the back of a jeep and made me sit on the floor. The jeep drove to Ofer prison where I was strip searched and taken to Section 13.

I remained in prison for three days. On the third day I was told I had a military court hearing. My parents were in court and a lawyer too and I was allowed to speak to them. The judge told me I was accused of throwing stones but I denied the accusation. My lawyer asked the court to release me on bail and the judge agreed on condition that my parents pay 4,000 shekels.

After court I was taken back to Ofer prison where I collected my belongings and changed my clothes before being released. I was released on 1 November 2016, at around 5:00 p.m. My father was waiting for me at the gate and I went home with him. My next hearing is on 1 March 2017.

### Testimony 11

**Name:** L.D.H.T.  
**Age:** 14  
**Date:** 29 November 2016  
**Location:** Deir Nidham, West Bank  
**Accusation:** Starting a fire

**On 29 November 2016, a 14-year-old boy from Deir Nidham was detained by Israeli soldiers at around 1:30 p.m. and accused of starting a fire in the nearby settlement of Halamish. He was released the next day without charge.**

I went home after school at around 1:30 p.m. I dropped my bag home and went to my aunt's house nearby. My aunt told me to go and look for her son Rami. I found Rami and as we walked home we saw about six Israeli soldiers not too far away.

The soldiers fired rubber bullets although there were no clashes going on. I was scared and ran towards my aunt's house but I was surprised by two other soldiers who came from the opposite direction. I had no other way to go except to run towards the valley. I ran with some other boys through olive groves towards the valley where I saw four military jeeps on the main road.

I wanted to run all the way to the neighbouring village but with the jeeps on the main road I decided to hide behind a rock and some trees. By this time I was with two other younger boys. I crouched under an oak tree for about 45 minutes.

After 45 minutes I saw about six soldiers approaching us and a few military vehicles came from the direction of the nearby settlement of Halamish. The mothers of the two boys who were with me came to try to intervene with the soldiers. At this point I felt I could leave the younger boys with their mothers and I started to run but one of the soldiers pushed me to the ground. He kicked me in the knee and two other soldiers twisted my arm behind my back and beat me with the back of a gun. I was in pain.

Then the soldiers dragged me towards the main road where the military jeeps were waiting. They pushed me into the back of a jeep and made me sit on the floor. They also blindfolded me and tied my hands to the front with one plastic tie. The tie was very painful. When I complained the commander pushed me but then cut off the tie and aggressively twisted my arms to the back and

handcuffed me with metal handcuffs. He also shackled my ankles. I remained in the jeep for about an hour.

The jeep then drove to the entrance of Halamish settlement. I was taken out of the jeep and the guard at the gate told me to walk. When I bumped my head against an electricity pole because I was blindfolded, the guard started to laugh. Then they removed the blindfold and made me kneel down together with the other boys who were arrested with me and they displayed us to about 10 settlers who laughed and seemed pleased that we were detained. I felt humiliated to be displayed to the settlers. This lasted for about 15 minutes.

Then I was taken to the military watchtower at the entrance to the nearby village of An Nabi Saleh. My ankle shackles were removed but I remained handcuffed and blindfolded. The soldiers made me lie down on my back while handcuffed and blindfolded until around 11:30 a.m. I was in pain and I was very cold. I tried to fall asleep but a soldier kicked me to wake me up.

At around 11:30 a.m. I was taken to the back of a jeep where I sat on a seat and the jeep drove for about two hours to the police station in Binyamin settlement. At Binyamin I was taken to a room and a soldier with an Ethiopian background lifted the blindfold and looked at my face and made a gesture as if he had positively identified me. I was never told what I was accused of but they made me feel like I was a criminal. Then I saw my father and uncles from a distance but the blindfold was pulled to cover my eyes and I was immediately taken for interrogation and I did not speak to them. By this time I was exhausted.

The interrogator wore civilian clothes and was physically big. He aggressively slammed the door behind him. I asked him whether he spoke Arabic and he said he did. He removed the handcuffs and the blindfold.

I asked him why I was arrested and he told me I was accused of setting a fire in the settlement and of assaulting a soldier during my arrest. I asked him for evidence but he said the evidence was on its way. When I asked him to explain what sort of evidence he had against me he got upset and banged the table. Then he gave me a document written in Hebrew and asked me to sign it. I refused to sign and asked for somebody to translate the document for me. The interrogator got angry and made a gesture as if he was going to bang the table.

Then the interrogator handed me a telephone and told me to speak to a lawyer. The lawyer told me to remain silent but also told me to say yes if the interrogator accused me of throwing stones at soldiers because this would be a lesser offence than starting a fire in a settlement. I told the interrogator I didn't want this lawyer to talk to me.

The interrogator then left the room and a soldier walked in and started to verbally abuse me. He said bad things about my mother and sister and called me a "son of a whore". I felt I wanted to punch him in the face but held myself back.

A soldier then took my fingerprints and asked me for my age. Then I was searched manually and taken to a small room without external windows; just a small window in the door. I felt claustrophobic in the room and asked them to open the door. They opened the window in the door and I gasped for fresh air through the window.

A couple of people walked into the cell and said things that scared me. One of them told me I was going to be questioned by an intelligence officer. Another told me I was going to be kept in prison for five years. I was very worried. He told me to go to sleep but each time I tried to fall asleep a soldier would walk in and kick me to wake me up. I think they saw me through a camera in the room. At one point I was kicked in the shoulder and I nearly passed out. I was still without any food or water and I wasn't allowed to use the toilet.

I was very sad and started to talk to myself. At around 8:00 a.m. I was put in a police car which took me to the settlement of Beit El where I was handed over to the Palestinian police. I was released without charge and I arrived home at around 11:00 a.m.

## Testimony 12

**Name:** S.M.K.S.  
**Age:** 15  
**Date:** 1 December 2016  
**Location:** Al 'Arrub, West Bank  
**Accusation:** Throwing stones

**On 1 December 2016, a 15-year-old youth from Al 'Arrub refugee camp was arrested by Israeli soldiers at 1:00 a.m. and accused of throwing stones. He was released without charge on 10 December 2016.**

I was woken up by loud banging at our front door at around 1:00 a.m. My father answered and a group of Israeli soldiers entered our home. One of them asked my father for me and then told me to get dressed because they wanted to arrest me. They did not give my parents any written documents or reasons.

I was taken outside and one of the soldiers took a picture of me on his mobile phone. Then they tied my hands to the front with two plastic ties, one inside the other. The ties were tight. They also blindfolded me. I was then taken to a jeep where I sat on the floor.

The jeep drove for about 10 minutes to the police station in Etzion settlement where I was examined by a doctor. The doctor removed the blindfold and put it back on after the examination. Then I was put in a shipping container where I sat on a chair. There were lots of soldiers inside the container who were making a lot of noise and I could not sleep. I stayed in the container until around 7:00 a.m. when I was taken for interrogation.

On the way to the interrogation room the interrogator slapped me hard on the neck and I fell to the ground. Then he took me to a room which I felt was a dark, I was still blindfolded. As soon as I entered the room the interrogator pushed me against a shelf and asked me whether I wanted to confess or not. I told him I did not have anything to confess to. Then he told me if I did not confess he was going to lock me up in prison for a long time. He did not inform me of any rights. Then he punched me in the stomach and pressed hard. I was in severe pain. He told me I had to confess;

otherwise he was going to "fuck my mother" in front of me. All this happened while I was still standing tied and blindfolded.

Then he asked me to sit down and asked me whether I wanted to be treated like a "human being or like an animal". I did not answer. He then removed the blindfold and asked me about the names of boys he claimed I threw stones with on Route 60. He also wanted to know how many times I threw pipe bombs. I told him I did not throw any pipe bombs. He interrogated me for about 30 minutes and in the end I confessed to throwing stones at soldiers but I missed my target. The reason I confessed was because I did not want to be beaten or threatened anymore.

Then he took me to see a policeman who made the same accusations. The policeman printed out my statement in Hebrew and asked me to sign it and I did without knowing whether it said that I confessed out of fear or not.

After the interrogation he called a lawyer who told me not to be afraid and that he was going to be at my military court hearing. Then they took my photograph and fingerprints and took me to a courtyard where I sat on the ground until around 5:00 p.m. I was then strip searched and taken to a cell where they brought me some food which I did not eat because it was unappetizing.

The following day I was shackled and handcuffed and taken to Ofer prison. At Ofer I was strip searched and taken into Section 13.

The following day I was taken to Ofer military court. My parents and my lawyer were in court and I was allowed to speak to them but the hearing was adjourned. On 10 December 2016, one day before my second hearing, I was released from prison without charge. I went home with another boy and I arrived home at around 10:00 p.m.

## ANNEXURE C

**RECOMMENDATIONS INCLUDED IN THE REPORT - CHILDREN IN MILITARY  
CUSTODY (JUNE 2012) (UK REPORT)**

## UK report - core recommendations

#	Recommendations	Comments
1	<b>International law, international humanitarian law and the UN Convention on the Rights of the Child apply to the Occupied Palestinian Territories and therefore should be fully and effectively implemented.</b>	Although Israel continues to reject the <i>de jure</i> application of the Fourth Geneva Convention to the West Bank in the context of settlement construction and the transfer and detention of Palestinian prisoners inside Israel, the military authorities cite the Convention as the jurisdictional basis and justification for prosecuting Palestinian civilians in military courts. As in the past, Israel rejects the application of the UN Convention on the Rights of the Child and other human rights treaties to Palestinians living under its jurisdiction in the West Bank, although applying the provisions of these treaties to Israeli settlers living in the same areas.
2	<b>The international legal principle of the best interests of the child should be the primary consideration in all actions concerning children, whether undertaken by the military, police, public or private welfare institutions, courts of law, administrative authorities or legislative bodies.</b>	In 2015 UNICEF reported that the Israeli Military Prosecutor in the West Bank committed to follow up with relevant Israeli authorities to elaborate a set of rules that embody the best interests of the child and ensure the cross-the-board application of child rights principles and standards. However, evidence collected during 2016 indicates negligible improvement.
3	<b>Israel should not discriminate between those children over whom it exercises penal jurisdiction. Military law and public administration should deal with Palestinian children on an equal footing with Israeli children.</b>	Israel continues to apply two legal systems in the West Bank (civilian and military) containing different rights and protections depending on whether an individual is Palestinian or an Israeli settler. Israel correctly argues that it cannot apply its civilian law to Palestinians without annexing the territory but does not explain why military law is not applied to its settlers in occupied territory or why the rights and protections afforded to children under the two systems vary significantly.

## UK report - 40 recommendations

#	Recommendations	Comments
	<b>Arrest</b>	

1	<p>Arrests of children should not be carried out at night save for in extreme and unusual circumstances. A pilot study of issuing summonses as an alternative means or arrest should be carried out.</p>	<p>In 2016, <b>53 percent</b> of children reported being arrested at night (51 percent in 2013). A pilot study to use summonses in lieu of night arrests introduced in 2014 is currently being utilized in about <b>2 percent</b> of cases. Where summonses are used there are reports of night-time delivery, incomplete information and personal details written in Hebrew.</p>
2	<p>At the time of their arrest, all children should be informed, in their own language, of the reasons for their arrest and their right to silence, and relevant documents should be provided to them in that language.</p>	<p>In 2016, in <b>61 percent</b> of cases where children were arrested from home it was reported that no written notification of the reasons for arrest or place of detention was provided. Where documents are provided at the time of arrest they do not include any information about the child's legal rights while in custody, including the right to silence.</p>
3	<p>The parent or guardian of the child should be promptly notified, in their own language, of the arrest, the reasons for it and place of detention.</p>	<p>In the majority of cases where parents are not provided with any information about the arrest NGO's and defence lawyers unofficially provide notification generally after the first court appearance. This explains why most parents do not attend their child's first appearance before a military court because they were not notified of the hearing.</p>
4	<p>Children should never be blindfolded or hooded.</p>	<p>In 2016, <b>81 percent</b> of children reported being blindfolded or hooded following arrest (81 percent in 2013). In a small sample of cases children also reported being blindfolded during at least part of their interrogation.</p>
5	<p>Methods of restraint should not be used unless strictly necessary. If used, they should respect the child's dignity and not cause pain or suffering.</p>	<p>In 2016, <b>94 percent</b> of children reported being restrained by the hands (96 percent in 2013). In most cases plastic zip ties were used. Children frequently report that they remained hand-tied during their interrogation.</p>
6	<p>Single plastic hand ties should never be used. The existing prohibition should be monitored and enforced, and arresting personnel should be trained accordingly.</p>	<p>In 2016, <b>76 percent</b> of children who reported being hand-tied were restrained in a manner contrary to the military's standard operating procedures introduced in 2010. The majority of children continue to be restrained with a single plastic tie frequently described as "painful" or "very tight and painful".</p>
7	<p>Children should not be transported on the floor of vehicles. They should be properly seated and treated with dignity at all times.</p>	<p>In 2016, <b>78 percent</b> of children reported being transferred on the floor of military vehicles (45 percent in 2013). An explanation for the dramatic increase in reports of floor transport is that there was a 99 percent increase in the detention rate between 2013 and 2016.</p>
8	<p>Children should be conveyed to the place of interrogation or detention without delay and provided with food and water.</p>	<p>In 2016, children continued to report delays of up to 12 hours between the time of arrest and arrival at an interrogation centre located in larger West Bank settlements. The intervening period is spent in the</p>



		back of military vehicles, at military watchtowers, military bases or smaller settlements in the West Bank. Children generally remain tied and blindfolded and frequently report exposure to the elements and a lack of adequate food and water.
9	<b>The prohibition on violent, threatening or coercive conduct towards children should be strictly observed throughout all stages of arrest.</b>	In 2016, <b>64 percent</b> of children reported experiencing some form of physical abuse during the arrest, transfer or interrogation phase (60 percent in 2013). A further <b>54 percent</b> reported threatening or coercive behavior (47 percent in 2013).
<b>Interrogation</b>		
10	<b>On arrival at a place of detention, children should be immediately reminded of their right to silence. Their right to consult a lawyer prior to interrogation (in accordance with Military Order 1676) should be respected.</b>	In 2016, <b>86 percent</b> of children reported not being informed of their right to silence prior to interrogation (96 percent in 2013). A further <b>88 percent</b> of children reported not being granted access to a lawyer prior to interrogation (100 percent in 2013). The overwhelming majority of children continue to be interrogated unable to exercise their rights under Israeli military law.
11	<b>Children should have a parent or guardian present prior to and during their interrogation.</b>	In 2016, <b>94 percent</b> of children reported being interrogated in the absence of a parent or guardian (96 percent in 2013). While there is no legal right under Israeli military law to have a parent present the authorities have acknowledged that there is a discretion to permit this to occur.
12	<b>Children should have access to a full medical examination both prior to and after interrogation. The assessment should document any complaints and findings and consider both the psychological and physical state of the child. The child's lawyer should have access to the assessment.</b>	Children generally receive a cursory medical examination prior to their interrogation but not afterwards. There is no evidence that the medical examinations take into consideration the child's psychological state. Medical records are made available to the child's lawyer provided the lawyer knows how to make the application. However, due to the limited nature of the medical examination the probative value of these records is limited.
13	<b>Interrogations should be conducted during daytime (in accordance with Israeli youth law), after an appropriate period of rest and refreshment, and only by specially trained youth interviewers.</b>	In 2016, some children continued to report being interrogated at <a href="#">night</a> and/or without an appropriate period of <a href="#">rest and refreshment</a> . MCW cannot verify whether or not a trained youth interrogator conducted the interrogation in any particular case but notes that in April 2017, the Military Appeals Court handed down a <a href="#">judgment</a> in a case involving 2 minors who were interrogated 9 times, of which only one interrogation was conducted by a trained youth interrogator - a compliance rate of <b>11 percent</b> .
14	<b>Interrogations should be audio-visually recorded and the tapes should be made available to the</b>	Although some cases are audio-visually recorded, MCW is unaware of any case where an audio-visual tape of an interrogation was provided to defence

	<p><b>child's lawyer.</b></p>	<p>counsel prior to the first hearing in accordance with recommendation 21. The military authorities have not provided disaggregated data on the number of cases that were audio recorded, as opposed to the number that were both audio and visually recorded. Many cases are audio recorded and documented in Hebrew because few interrogators write in Arabic. In the few cases where audio tapes (Arabic) are compared with written statements (Hebrew) defence lawyers and the <a href="#">Military Appeals Court</a> have noted significant discrepancies. MCW has also documented cases involving double interrogations where only one was recorded.</p> <p>In September 2014, <a href="#">Military Order 1745</a> came into effect providing for the audio-visual recording of police interrogations of minors in “non-security” related offences in the West Bank. However, around 90 per cent of cases involving minors in the military courts are “security” related.<sup>25</sup></p> <p>In relation to interrogations conducted by the Israeli Security Agency (ISA) (Shin Bet), a government panel agreed in September 2015 that the Agency <a href="#">should not be obliged</a> to record interrogations contrary to recommendations made by the Turkel Committee. In November 2016, the Knesset took steps to make this waiver permanent. (<a href="#">Haaretz</a>)</p>
15	<p><b>Children should not be required to sign confessions and statements written in a language other than their own.</b></p>	<p>In 2016, <b>74 percent</b> of children reported being shown, or made to sign, documentation in Hebrew during their interrogations (62 percent in 2013). Some children refuse to sign whilst others sign acknowledging that they had <a href="#">no idea</a> about the contents of the document.</p>
16	<p><b>The prohibition on violent, threatening or coercive conduct towards children should be strictly observed throughout all stages of interrogation and detention.</b></p>	<p>In 2016, <b>64 percent</b> of children reported experiencing some form of physical abuse during the arrest, transfer or interrogation phase (60 percent in 2013). A further <b>54 percent</b> reported threatening or coercive behavior (47 percent in 2013).</p>
<p><b>Bail hearings, plea bargains and trial</b></p>		
17	<p><b>The maximum period of detention before production at court should be reduced to 24 hours and the periods of detention without charge should be reduced in line with Israeli youth law.</b></p>	<p>In April 2013, <a href="#">Military Order 1711</a> came into effect reducing the time period in which children aged 12-13 must be brought before a judge to 24 hours. Children aged 14 and above need not be brought before a judge for 48-96 hours. The time periods for all children can be extended significantly. The proposed changes to the law, which may come into</p>

		<p>effect in May 2018, only reduce the extended time periods (not the primary periods listed above) and continue to far exceed the periods permitted under the Israeli Youth Law.</p> <p>Currently children can be held without charge for 15 days (extensions apply) compared with 10 days (extensions apply) under the Israeli Youth Law. The proposed changes to the law which may come into effect in May 2018 only reduce the extended time periods (not the primary periods listed above).</p> <p>In April 2014, the Israeli High Court upheld the application of different time periods being applied to Palestinian and Israeli settler children in the West Bank in <a href="#"><i>Ministry of Palestinian Prisoners v Minister of Defence</i></a>.</p>
18	<b>The Israeli Government should develop and implement procedures and programmes for children that constitute viable alternatives to custody.</b>	In the context of a prolonged military occupation it is difficult to envisage “procedures and programmes” that could be implemented to satisfy this recommendation that would not involve a level of co-operation with the Palestinian Authority that would be politically difficult to implement.
19	<b>All hearings, including applications for bail, should be heard in the youth court. Children should not be shackled at any time.</b>	All military court judges have now been classified as “youth judges” and so technically all court appearances could be described as being before a youth court. All children appearing before the military courts continue to wear ankle shackles.
20	<b>There should be a presumption in favour of bail. At the first hearing, the court should only order custody as a last resort and should provide its reasons for any denial of bail.</b>	According to <a href="#">data</a> obtained under a freedom of information application, <b>72 percent</b> of children indicted in the military courts in 2015 were denied bail and remanded in custody until the end of proceedings. This compares with 71 percent of children denied bail in 2014. However, evidence collected by MCW indicates that in cases where children are released on bail this frequently occurs only after they have already spent a number of <a href="#">weeks</a> or more in custody. There is no official data currently available for 2016. By way of contrast, 17.9 percent of children indicted in Israel's civilian juvenile justice system were denied bail in 2015.
21	<b>The audio-visual tapes of the interrogations and viewing equipment should be provided to the defence prior to the first hearing.</b>	MCW is unaware of a single case in which the tapes of an interrogation were made available to defence counsel prior to the first hearing in 2016.

22	<b>Military prosecutors should not base prosecutions of children solely on confession evidence without first adopting a system of the kind set out in these recommendations, and should fully assess the conditions under which any confession was obtained.</b>	Although under Israeli military law a confession alone is supposed to be of limited value to the prosecution case without corroborating evidence, confessional evidence continues to feature prominently in the system and is rarely challenged due to the nature of the plea bargain system.
23	<b>Allegations or evidence from other children should not be relied upon if obtained in breach of these recommendations.</b>	MCW has not detected any substantive change in the manner in which interrogations are conducted in 2016. The following factors <a href="#">noted</a> by a military court judge in 2013 are still applicable today: <ul style="list-style-type: none"> <li>- Interrogators threatening co-accused;</li> <li>- Children coerced to incriminate their peers;</li> <li>- Absence of youth interrogators;</li> <li>- Absence of available audio-visual recordings;</li> <li>- Children interrogated while fatigued; and</li> <li>- Children interrogated in the absence of parents.</li> </ul>
24	<b>Any confession written in any language other than the child's own should not be accepted as evidence.</b>	In 2016, <b>74 percent</b> of children reported either being shown or made to sign documents 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. It is unclear how many of these documents contain confessional evidence.
25	<b>Trials should be dealt with expeditiously and in full compliance with international standards of justice.</b>	A recent decision by the <a href="#">Military Appeals Court</a> indicates that serious shortcomings continue to persist. These observations are shared by defence counsel who appear in the military courts.
<b>Sentencing and detention</b>		
26	<b>The Israeli prohibition against imprisoning children under the age of 14 should be extended to include Palestinian children.</b>	No amendments have been made to the military law which still allows for the imprisoning of children aged 12 and 13 inclusive. The failure to amend the law results in continued discrimination between children in the West Bank depending on whether the child is Palestinian (subject to military law) or an Israeli settler child (subject to civilian law). As of August 2016 there were 2 children under 14 held in IPS detention facilities (0.6%). <sup>26</sup> <p>In July 2016 an amendment to the Youth Law was passed providing for the imprisonment of minors who are sentenced before they reach the age of 14 in cases of murder or manslaughter. The law applies to Israel and East Jerusalem and is in response to unrest in East Jerusalem. It should be noted that custodial sentences for minors aged 12-13 inclusive in the</p>

		West Bank under military law apply to all offences and accordingly the issue of discrimination still applies ( <a href="#">Haaretz</a> ).
27	<b>Children should only be deprived of their liberty pending trial as a measure of last resort and for the shortest possible period of time.</b>	In 2015, <b>72 percent</b> of children indicted in the military courts were denied bail and remanded in custody until the end of proceedings (latest available <a href="#">data</a> ). By way of contrast, <b>17.9 percent</b> of children indicted in Israel's civilian juvenile justice system were denied bail in 2015. While there is currently no provision under military law for the production of social welfare reports relating to Palestinian children at remand hearings in the military courts, the law in Israel (Youth Law, section 10(g)) mandates the production of these reports in every case involving a child, including in cases involving Israeli children living in settlements in the West Bank.
28	<b>Solitary confinement should never be used as a standard mode of detention or imprisonment.</b>	According to data compiled by UNICEF, <b>30 children</b> reported being held in solitary confinement in 2016 for periods ranging from 7 to 21 days. Solitary confinement cases tend to occur during the interrogation phase in facilities jointly operated by the IPS and the Israeli Security Agency (ISA). The number of cases involving children held in solitary confinement in 2016 has jumped <b>131 percent</b> compared with the previous year.
29	<b>The Israeli Government should develop and implement procedures and programmes for children that constitute viable alternatives to custody focusing on rehabilitation and development.</b>	In the context of a prolonged military occupation it is difficult to envisage “procedures and programmes” that could be implemented to satisfy this recommendation that do not involve a substantial level of co-operation from the Palestinian Authority that would be viewed by many as unwarranted collaboration with the occupying power.
30	<b>Probation reports should be mandatory in all cases, unless the defence waives the right to have a report.</b>	The prosecution in the military courts currently objects to requests to obtain a social welfare report for remand hearings on the basis that there is no legal requirement for their production. The fact that there is no legal requirement in the military courts for a social welfare report at remand hearings is currently the subject of petition to the Supreme Court. In Israeli civilian courts these reports are mandatory in cases involving minors.  In the case of social welfare reports for sentencing purposes, the military courts generally require these. However, there is currently only one social worker in the military courts preparing probation reports.

		The social worker does not speak Arabic and is dependent on the assistance of a translator. The social worker has no available rehabilitation services to offer. One defence lawyer notes that in just one case the social worker offered a client of his rehabilitation in the form of a referral to the Christian Bible Society. His client was Muslim. <sup>27</sup>
31	<b>At sentencing hearings all alternatives to custody should be fully considered. If a custodial sentence is passed, it should be for the minimum possible term.</b>	See above
32	<b>All Palestinian children detained under Israeli military law should be held in facilities in the Occupied Palestinian Territories and not in Israel, which constitutes a breach of article 76 of the Fourth Geneva Convention.</b>	According to figures published by the IPS in August 2016, <b>50 percent</b> of Palestinian children (85 percent of adults) continue to be unlawfully transferred and detained inside Israel in violation of Article 76 of the Fourth Geneva Convention and Article 8 of the Rome Statute of the International Criminal Court. The Supreme Court of Israel has twice <a href="#">rejected</a> petitions lodged on behalf of transferred detainees and the former military prosecutor <a href="#">informed</a> UNICEF that Israel does not intend to change this policy. <sup>28</sup>
33	<b>There should be separate detention for children and adults subject to an independent assessment to the contrary based on the best interests of the child.</b>	Over the years substantial improvement has occurred in ensuring separation between adults and children. Some mixing still occurs during the early stages of detention but it is not widespread.
34	<b>Children should be able to access a full education whilst in detention.</b>	Children’s education in prison continues to be restricted based on “security” considerations and is generally limited to two subjects (Arabic and mathematics). When education is available, it is generally insufficient to ensure the child’s smooth reintegration into the Palestinian school system.
35	<b>Parents or guardians should be granted regular access and visiting rights to children in detention.</b>	A number of children continue to report receiving no or limited prison visits due to denial of permits on “ <a href="#">security</a> ” grounds or because the procedures for obtaining a permit continues to take up to <a href="#">several months</a> . Palestinian child detainees continue to be denied telephone communication with their families whilst held in IPS facilities.
36	<b>Parents or guardians should be informed of release dates and places in good time and given proper facilities for meeting the children.</b>	In most cases parents are informed of the release date. Children are generally released at military checkpoints in the West Bank and occasionally the release checkpoint can be a considerable distance from the place of residence. In circumstances where children are detained by the military for a few days

		or less, the release can be more <a href="#">haphazard</a> involving being dropped off on the side of a road many kilometres from their village without notifying the parents.
37	<b>No child should be the subject of administrative detention.</b>	In October 2015, the military authorities recommended issuing <a href="#">administrative detention</a> orders for children following a four-year hiatus. In August 2016, 10 children were being held pursuant to these orders.
38	<b>Breach of these principles should result in the discontinuation of the prosecution and the child's release.</b>	Military court judges are more frequently prepared to <a href="#">criticise</a> the manner in which children are being arrested and interrogated but continue to allow evidence obtained in breach of these recommendations to be used to convict.
<b>Complaints and monitoring</b>		
39	<b>There should be prompt independent investigation of any complaint made by, or in respect of, a child about unlawful or ill-treatment.</b>	See section on accountability
40	<b>There needs to be a comprehensive and independent monitoring system.</b>	In June 2013, the Israeli Ministry of Justice announced that complaints against ISA interrogators will no longer be investigated by ISA employees. However, MCW is unaware of any successful complaints being lodged against ISA interrogators since this change was introduced. <sup>29</sup>

## ANNEXURE D

**RECOMMENDATIONS INCLUDED IN THE UNICEF REPORT - CHILDREN IN ISRAELI  
MILITARY DETENTION: OBSERVATIONS AND RECOMMENDATIONS  
(FEBRUARY 2013) (UNICEF REPORT)**

## UNICEF report - 38 recommendations

#	Recommendations	Comments
<b>Compliance with international norms and regulations</b>		
1	<b>The best interests of the child shall be the primary consideration</b>	In or about 2014 the former military prosecutor committed to follow up with relevant Israeli authorities to elaborate a set of rules that embody the best interests of the child and ensure the cross-the-board application of child rights principles and standards. The military prosecutor stated that continuing efforts are being made by the Military Command in the West Bank to strengthen the protection granted to minors in the military system in the West Bank, in relation to the arrest, detention and sentencing of children for alleged security offences, while simultaneously taking into consideration the unique circumstances and security situation in the West Bank. <sup>30</sup> However, evidence collected by UNICEF and MCW suggests little progress has been made.
2	<b>Non-discrimination</b>	Throughout 2016, Israel continued to operate two legal systems in the West Bank based on the race or national identity of the individuals concerned which contain differential rights and protections. Proposed amendments to the law to be introduced in May 2018 do not eliminate these differentials.
3	<b>Use of detention only as a measure of last resort</b>	According to the most recent official data, children indicted in the military courts are denied bail in <b>72 percent</b> of cases while children indicted in civilian courts, including children living in West Bank settlements, are denied bail in just <b>17.9 percent</b> of cases. Except in cases of murder or manslaughter, children below the age of 14 cannot receive a custodial sentence in the civilian legal system, whereas children aged 12 years and above can be incarcerated for any offence in the military system.
4	<b>Alternatives to detention</b>	In the context of a prolonged military occupation it is difficult to envisage “alternatives to detention” that could be implemented to satisfy this recommendation that would not involve a level of co-operation with the Palestinian Authority that would be politically difficult to implement. This



		recommendation highlights the inherent problems associated with prolonged occupation.
5	<b>Diversion</b>	See above
<b>Notification</b>		
6	<b>All children shall be informed of the reasons for their arrest at the time of arrest and in a language they understand</b>	In 2016, in <b>61 percent</b> of cases where children were arrested from home it was reported that no written notification of the reasons for arrest was provided. In the majority of cases no verbal information is provided regarding the arrest.
7	<b>The competent military authority shall, on its own initiative, notify the legal guardian or close family member of the child about the arrest, reasons for arrest and place of detention, as soon as possible after the arrest, and in Arabic. A legal guardian must be authorized to accompany the child during transfer and stay with the child at all times during interrogation</b>	In 2016, in <b>61 percent</b> of cases where children were arrested from home it was reported that no written notification of the reasons for arrest was provided. In cases where children are arrested outside the home there is not systematic official method of notifying parents of the arrest. In some cases interrogators call the parents at the conclusion of the interrogation and advise them to engage a lawyer. In 2016, <b>6 percent</b> of children report being accompanied by a parent during interrogation (4 percent in 2013). Although there is no legal right requiring attendance there is a discretion to permit this to occur.
8	<b>All children and their legal guardian or close family member should be provided with a written statement in Arabic informing them of their full legal rights while in custody</b>	In 2016, <b>14 percent</b> of children reported being informed of their right to silence (4 percent in 2013) and <b>12 percent</b> reported being granted access to a lawyer prior to interrogation (0 percent in 2013). In many of these cases the information was conveyed verbally and not in writing. MCW has not documented a single case where a child was notified verbally, or in writing, of his/her legal rights at the time of arrest.
<b>Timing of arrests and arrest warrants</b>		
9	<b>All arrests of children should be conducted during daylight, notwithstanding exceptional and grave situations</b>	In 2016, <b>53 percent</b> of children reported being arrested from their homes between 22:00 and 05:00 (51 percent in 2013).
10	<b>Copies of all relevant documentation, including arrest warrants and summons for questioning, should be provided to the child's legal guardian or close family member at the time of arrest or as soon as possible thereafter, and all documentation should be provided in Arabic.</b>	In 2016, <b>2 percent</b> of children reported receiving a summons (0 percent in 2013). In the overwhelming majority of cases no documentation is provided to family members regarding the arrest. In cases where documents are provided the information frequently <a href="#">lack details</a> and personal information is sometimes written in <a href="#">Hebrew</a> . No documentation provided at the time of arrest includes information about the child's legal rights.
<b>Methods and instruments of restraint</b>		
11	<b>Children should only be restrained for the time that is strictly</b>	In 2016, <b>94 percent</b> of children reported being restrained by the hands (96 percent in 2013).

	necessary. Use of restraining methods and instruments should respect the child's dignity and not cause unnecessary pain or suffering.	Children frequently describe the restraints as being “ <a href="#">painful</a> ” or “ <a href="#">very tight and painful</a> ”. Children frequently remain tied for extended periods including <a href="#">during interrogation</a> . In some cases their hands become <a href="#">swollen</a> or <a href="#">bleed</a> . Children continue to be shackled by the ankles during military court appearances.
12	The use of single plastic hand ties should be prohibited in all circumstances, and the prohibition must be effectively monitored and enforced.	In 2016, in <b>76 percent</b> of cases where children were restrained the evidence indicated non-compliance with the military's own standard operating procedures introduced in 2010 following a petition to the High Court of Justice. Non-compliance frequently involves the use of a single plastic hand tie.
13	At all times during transfer, children should be properly seated, not blindfolded and treated with dignity.	In 2016, <b>78 percent</b> of children reported being transferred on the floor of military vehicles (45 percent in 2013). An explanation for the dramatic increase in reports of floor transport is that there was a 99 percent increase in the detention rate between 2013 and 2016.
14	Except in extreme and unusual circumstances, children should never be restrained during interrogation, while detained in a cell or while attending court.	In 2016, many children continued to report being restrained throughout their interrogation and in a small sample of cases children also remained blindfolded. All children continue to be shackled by the ankles during appearances in the military courts.
15	The practice of blindfolding or hooding children should be prohibited in all circumstances.	In 2016, <b>81 percent</b> of children reported being blindfolded or hooded following arrest (81 percent in 2013). In a small sample of cases children also reported being blindfolded during at least part of their interrogation.
<b>Strip searches</b>		
16	Strip searches should be carried out only under exceptional circumstances and used only as a last resort. When conducted, strip searches should be done with full respect for the dignity of the child and be conducted by more than one person of the same gender as the child, in the presence of a parent, guardian or other responsible adult, wherever possible. The strip search should be done in a private location and should not involve the removal of all garments at the same time.	In 2016, <b>63 percent</b> of children reported being strip-searched. Children who are released without being admitted to an IPS prison are less likely to be strip-searched. MCW has not documented a case where a strip search was conducted in the manner recommended by UNICEF.
<b>Access to a lawyer</b>		

17	<b>All children in detention shall have prompt and regular access to an independent lawyer of their choice.</b>	In 2016, <b>88 percent</b> of children reported not being granted access to a lawyer prior to interrogation in accordance with their legal right under Israeli military law (100 percent in 2013).
<b>Judicial review of the arrest and detention</b>		
18	<b>All children in detention shall, within 24 hours of their arrest, have prompt and effective access to an independent judicial review of the legality of their arrest and detention.</b>	In April 2013, <a href="#">Military Order 1711</a> came into effect reducing the time period in which children aged 12-13 must be brought before a judge to 24 hours. However, children aged 14 and above need not be brought before a judge for 48-96 hours. The time periods for all children can be extended significantly. The proposed changes to the law, scheduled to come into effect in May 2018, only reduce the extended time periods (not the primary periods listed above) and continue to far exceed the periods permitted under the Israeli Youth Law. In April 2014, the High Court of Justice upheld the application of different time periods being applied to Palestinian and Israeli settler children in the West Bank in <a href="#">Ministry of Palestinian Prisoners v Minister of Defence</a> .
19	<b>The military courts should review every child's detention at least every two weeks, to ensure that detention is used only as a measure of last resort and for the shortest time possible; that the child is not being subjected to any form of ill-treatment; and that the child is being granted access to relatives, a lawyer and a medical doctor.</b>	There is currently no requirement under military law for a child's detention to be reviewed by a military court every 2 weeks.
<b>Medical examinations</b>		
20	<b>Both prior to and after questioning, as well as upon transfer to another place of detention, the detained child should undergo a medical inspection by an independently qualified medical doctor. The medical inspection should abide by the highest standards of medical ethics, document objectively any complaints and findings, and assess the child's physical and psychological state. Any immediate medical needs should be attended to.</b>	While a cursory medical examination generally takes place prior to interrogation there is no assessment of the child's psychological state or regular medical assessments as recommended by UNICEF.

21	<b>Subject to the consent of the child's legal guardian, all medical records should be made available to the child's lawyer.</b>	Medical records are made available to the child's lawyer provided the lawyer knows how to make the application. However, due to the limited nature of the medical examination the probative value of these records is limited.
22	<b>Children deprived of their liberty shall have access to prompt and adequate medical care at all times.</b>	See above
<b>Questioning and interrogation</b>		
23	<b>The questioning or interrogation of a child should always take place in the presence of a lawyer and a family member, and should always be audio-visually recorded for the purpose of independent oversight.</b>	<p>While there is no legal right under the military law to have a lawyer present during interrogation, there is a right to consult with a lawyer prior to questioning. In 2016, <b>88 percent</b> of children reported not having access to a lawyer prior to interrogation (100 percent in 2013).</p> <p>While there is no legal right under the military law to be accompanied by a family member during interrogation, the military has acknowledged that there is <a href="#">discretion</a> to permit this to occur. In 2016, <b>94 percent</b> of children reported being interrogated in the absence of a family member (96 percent in 2013).</p> <p>Although some cases are audio-visually recorded, MCW is unaware of any case where an audio-visual tape of an interrogation was provided to defence counsel prior to the first hearing. The military authorities have not provided disaggregated data on the number of cases that were audio recorded, as opposed to the number that were both audio and visually recorded. Many cases are audio recorded and documented in Hebrew because few interrogators write in Arabic. In the few cases where audio tapes (Arabic) are compared with written statements (Hebrew) defence lawyers and the <a href="#">Military Appeals Court</a> have noted significant discrepancies.</p> <p>In September 2014, <a href="#">Military Order 1745</a> came into effect providing for the audio-visual recording of police interrogations of minors in “non-security” related offences in the West Bank. However, around 90 per cent of cases involving minors in the military courts are “security” related.<sup>31</sup></p> <p>In relation to interrogations conducted by the Israeli</p>

		Security Agency (ISA) (Shin Bet), a government panel agreed in September 2015 that the Agency <a href="#">should not be obliged</a> to record interrogations contrary to recommendations made by the Turkel Committee. In November 2016, the Knesset took steps to make this waiver permanent. ( <a href="#">Haaretz</a> )
24	<b>At the commencement of each interrogation session, the child should be formally notified of his or her rights in Arabic, and in particular, informed of the privilege against self-incrimination.</b>	See above
25	<b>Each interrogation session should begin with the identification of all persons present. The identity of all persons present should be included in the record and available to the child's lawyer.</b>	Interrogators do not formally identify themselves and where first names are provided, pseudonyms are generally used such as "Yossi" or "Daoud". MCW is aware that multiple interrogators working at the Gush Etzion interrogation centre over the years have gone by the name of "Daoud".
<b>Solitary confinement</b>		
26	<b>In no circumstances whatsoever should a child be held in solitary confinement.</b>	According to data compiled by UNICEF, <b>30 children</b> reported being held in solitary confinement in 2016 for periods ranging from 7 to 21 days. Solitary confinement cases tend to occur during the interrogation phase in facilities jointly operated by the IPS and the Israeli Security Agency (ISA). The number of cases involving children held in solitary confinement in 2016 has jumped <b>131 percent</b> compared with the previous year.
<b>Confessional evidence</b>		
27	<b>No statement or confession made by a child deprived of his or her liberty, other than one made in the presence of a judge or the child's lawyer, should have probative value at any stage of the criminal proceedings, except as evidence against those who are accused of having obtained the confession by unlawful means. Cases involving children in military courts should not be determined solely on the basis of confessions from children.</b>	Although under Israeli military law a confession alone is supposed to be of limited value to the prosecution case without corroborating evidence, confessional evidence continues to feature prominently in the system and is rarely challenged due to the nature of the plea bargain system.
28	<b>All confessions written in Hebrew and signed or adopted by a Palestinian child should be rejected as evidence by the military</b>	In 2016, <b>74 percent</b> of children reported either being shown or made to sign documents written in Hebrew at the conclusion of their interrogation. Some children refuse to sign whilst others sign

	<b>courts.</b>	acknowledging that they had no idea about the contents of the document. It is unclear how many of these documents contain confessional evidence.
<b>Bail and plea bargains</b>		
29	<b>Incarceration of children should always be a measure of last resort and for the shortest possible time. Except in extreme circumstances, release on bail should be the standard procedure.</b>	In 2015, <b>72 percent</b> of children indicted in the military courts were denied bail and remanded in custody until the end of proceedings (latest available <a href="#">data</a> ). By way of contrast, <b>17.9 percent</b> of children indicted in Israel's civilian juvenile justice system were denied bail in 2015. (No official data is currently available for 2016).
30	<b>The conditions under which bail and plea bargains are granted should be revised to make them consistent with the Convention on the Rights of the Child.</b>	No change
<b>Location of detention and access to relatives</b>		
31	<b>In accordance with international law, all Palestinian children detained in the Israeli military detention system shall be held in facilities located in the occupied Palestinian territory.</b>	According to figures published by the IPS in August 2016, <b>50 percent</b> of Palestinian children (85 percent of adults) continue to be unlawfully transferred and detained inside Israel in violation of Article 76 of the Fourth Geneva Convention and Article 8 of the Rome Statute of the International Criminal Court. The Supreme Court of Israel has twice <a href="#">rejected</a> petitions lodged on behalf of transferred detainees and the former military prosecutor <a href="#">informed</a> UNICEF that Israel does not intend to change this policy. <sup>32</sup>
32	<b>Wherever a child is detained, the right of family members to visit should be fully respected. All necessary measures should be taken to ensure that the administrative procedures in support of family visits, including all necessary permits, are promptly facilitated no later than 14 days after arrest.</b>	A significant number of children continue to report receiving no or limited prison visits due to denial of permits on " <a href="#">security</a> " grounds or because the procedures for obtaining a permit continues to take up to <a href="#">several months</a> .
33	<b>All children should be entitled to regular telephone communication with their families in order to maintain close social relations.</b>	Palestinian child detainees continue to be denied telephone communication with their families whilst held in IPS facilities.
<b>Accountability</b>		
34	<b>Any complaint by a child, at any stage of his or her detention, regarding any form of violence and unlawful treatment, shall be</b>	See section on accountability.

	<b>promptly, diligently and independently investigated in accordance with international standards. All perpetrators shall be brought promptly to justice.</b>	
35	<b>Unless the allegations are manifestly unfounded, the personnel allegedly involved in the unlawful treatment of children should be suspended from duties involving contact with children, pending the outcome of an independent investigation and any subsequent legal or disciplinary proceedings.</b>	No change
36	<b>In addition to efficient and effective complaint mechanisms, Israeli military authorities should take all necessary measures to establish effective and independent internal oversight mechanisms to monitor the behaviour of all personnel in contact with children in Israeli military detention.</b>	No change
37	<b>Child victims of ill-treatment should obtain redress and adequate reparation, including rehabilitation, compensation, satisfaction and guarantees of non-repetition.</b>	No change
38	<b>The Israeli authorities should give immediate consideration to establishing an independent investigation into the reports of ill-treatment of children in the military detention system, in accordance with the 2002 recommendations made by the UN Special Rapporteur on the situation of human rights on Palestinian territories occupied since 1967.</b>	No change

**ANNEXURE E**  
**EVIDENCE RELATING TO THE LINK BETWEEN THE PLACE OF**  
**RESIDENCE/ARREST AND SETTLEMENTS (ASSOCIATED INFRASTRUCTURE)**

#	Palestinian town/village	No. of boys detained	Nearest settlement/friction point	Comments	Distance
1	Al 'Araqa	1	Shaqed	Night arrest	1.1 km
2	Al 'Arrub camp	8	Route 60	Night arrest	0.1 km
3	Al Bireh	1	Pesagot	Picnic	1.3 km
4	Al Jalazun camp	8	Bet El	3 night arrests 5 clashes	0.8 km
5	Al Yamun	1	Shaqed	Night arrest	2.1 km
6	Anza	1	Route 60	Clashes	1.3 km
7	Aqbat Jaber camp	1	Wered Jericho	Playing near main road	1 km
8	Aida camp	8	Gilo	6 night arrests 2 clashes	1 km
9	Azzun	1	Ma'ale Shomeron	Picking vegetables	0.8 km
10	Beit 'Ur At Tahta	1	Route 443	Night arrest	0.6 km
11	Beit 'Awwa	1	Nahal Negohot	Night arrest	1.4 km
12	Beit Fajjar	20	Migdal Oz	13 night arrests 4 clashes 2 theft from firing range 1 summons	1.1 km
13	Beit Ummar	6	Route 60	Night arrests	0.6 km
14	Beituniya	8	Ofer	Clashes	1.1 km
15	Deir Abu Mash'al	7	Ofarim	5 night arrests 2 outside their homes	1.4 km
16	Deir Nidham	3	Halamish	3 suspected arson	0.5 km
17	Dheisheh camp	2	Efrat	Night arrests	1.1 km
18	Ein Qiniya	1	Dolev	Night arrest	0.8 km
19	Halhul	1	Karmi Zur	1 Agricultural land	3 km
20	Hebron	1	Tel Rumeida	Clashes	0 km
21	Hizma	1	Newe Ya 'akov	Night arrest	0.8 km
22	Husan	6	Betar Illit	5 night arrests 1 proximity to road	0.8 km
23	Iraq Burin	1	Bracha	Clashes	0.8 km
24	Jaba'	3	Jaba' checkpoint	1 home arrest 2 Jaba' checkpoint	0.5 km
25	Jayyus	2	Zufin	2 proximity to the Wall	0.6 km
26	Jenin	2	Route 60	1 proximity to road	0 km
27	Nahhlin	3	Betar Illit	Nigh arrests	0.6 km



28	Qabatiya	3	Route 60	2 night arrests 1 demonstration	2.7 km
29	Qalandiya camp	3	Qalandiya checkpoint	2 summons	0.1 km
			Kochav Ya'akov	1 herding goats	0.8 km
30	Qatanna	1	Har Adar	Herding goats	0.6 km
31	Sa'ir	3	Route 60	Night arrests	2.1 km
32	Silwad	3	Route 60	1 night arrest 2 proximity to road	1 km
33	Tuqu'	3	Teqoa	Night arrests	1.4 km
34	Tura al Gharbiya	1	Rehan	Agricultural gate	0.6 km
35	Ya'abad	2	Mevo Dotan	1 night arrest 1 clashes	1.6 km
36	Yatta	2	Ma'on	Herding sheep	1 km
37	Zububa	5	Salem checkpoint	Proximity to Wall/checkpoint	0.8 Km
38	Other	2	No immediate link between place of residence and place of arrest	1 Bethlehem checkpoint 1 Al Aqsa	n/a
<b>Total</b>		<b>127</b>		<b>Average</b>	<b>1.02 km</b>

<sup>1</sup> The UN estimates that between June 1967 and January 2008, 700,000 Palestinians were "imprisoned". This estimate suggests an annual average of 17,000 giving a total of 850,000 after 50 years (See: UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Professor John Dugard, Human Rights Situation in Palestine and Other Occupied Arab Territories, 21 January 2008, A/HRC/7/17, paragraph 45). According to references cited in the IDF Law Review, Vol. 18 (2005), page 299 at page 300, in the 8 years between 1993 and 2000, 124,000 "prosecutions" were conducted in the military courts, with an annual average of 15,500. This would translate into 775,000 prosecutions since June 1967 if one assumes a constant rate for the past 50 years. According to the Annual Activity Report of the Military Courts, between 2008 and 2013, an average of 8,343 "indictments" were filed, or 417,150 indictments since 1967, assuming a constant rate. This figure does not include those detained but released without indictment - a number that is likely to be substantial. In the case of children according to information provided by the Israeli military authorities pursuant to a Freedom of Information application, between 2013 and 2015 an annual average of 912 children were arrested by the military in the West Bank over the course of 3 years. Assuming a constant rate for 50 years, this would total 45,600 children.

<sup>2</sup> See for example: UN Secretary General's Annual Report on Children and Armed Conflict (April 2016); UNICEF, Children in Israeli Military Detention: Observations and Recommendations (February 2013); US State Department, Country Reports on Human Rights Practices for 2016 - Israel and The Occupied Territories; and Children in Military Custody: A report written by a delegation of British lawyers on the treatment of Palestinian children under Israeli military law (June 2012).

<sup>3</sup> The UK Report found violations relating to: discrimination; best interests; premature resort to detention; non-separation from adults; prompt access to lawyers; use of shackles; unlawful transfer and detention outside occupied territory; and failure to translate applicable laws. The Report also found that if the allegations of ill-treatment during arrest, transfer, interrogation and detention are true, then Israel will also be in breach of the prohibition on cruel,

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inhuman or degrading treatment found in the UN Convention on the Rights of the Child and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>4</sup> The military 's standard operating procedures for the use of hand ties introduced in 2010 provide as follows: 1) Hands should be tied in front unless security considerations require tying from behind; 2) Three plastic ties should be used, one around each wrist with one connecting the two; 3) There should be a finger space between the ties and each wrist; 4) The restraints should avoid causing suffering as much as possible; and 5) The officer in charge is responsible for ensuring compliance with these procedures.

<sup>5</sup> Youth (Trial, Punishment and Modes of Treatment) Law (1971)

<sup>6</sup> In September 2011, Military Order 1676 came into effect requiring that all children below the age of 18 be tried before a military juvenile judge. However, provisions relating to arrest, detention, interrogation and sentencing for adults still apply to youths aged 16 and 17.

<sup>7</sup> Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 9J.

<sup>8</sup> 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. Exceptions include: Parents do not present themselves within a reasonable time; waiting for a parent would harm the investigation, the child, or a third party; parents cannot be located after a reasonable attempt; and a parent can be removed from the interrogation if he/she threatens the child or disrupts the interrogation. Reasons why a parent is not present must be documented in writing by an authorized officer.

<sup>9</sup> This time period can be extended by 12 hours for urgent investigation needs.

<sup>10</sup> This time period can be extended by 24 hours for urgent investigation needs.

<sup>11</sup> This time period can be extended by 12 hours for urgent investigation needs.

<sup>12</sup> This time period can be extended by 48 hours for urgent investigation needs.

<sup>13</sup> This time period can be extended by 96 hours for urgent investigation needs.

<sup>14</sup> Criminal Procedures (Powers of Enforcement-Arrests) Law (1996) – Section 34 (criminal offences). In the case of security offences, the time period is 21 days - Section 35.

<sup>15</sup> Military Order 1651 – Article 56(e) (criminal offences). In the case of security offences, the time period is 60 days - Articles 58 and 59.

<sup>16</sup> This period can be extended by 10 days up to a maximum of 20 days by a judge. This period can be further extended up to a maximum of 40 days by the Attorney General. This period can be further extended by 45 days at a time by the Supreme Court.

<sup>17</sup> This period can be extended by 10 days up to a maximum of 40 days by a military judge. The Military Appeals Court can further extend this period by 90 days at a time.

<sup>18</sup> This time period can be extended by 24 hours for urgent investigation needs.

<sup>19</sup> This time period can be extended by 48 hours for urgent investigation needs.

<sup>20</sup> This time period can be extended by 96 hours for urgent investigation needs.

<sup>21</sup> UNICEF's Bulletin No. 1 (October 2013), page 1. Available at: <http://is.gd/1m8mqR>

<sup>22</sup> As to UK Government action see <http://is.gd/cBzgyy>

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<sup>23</sup> According to the Israeli Central Bureau of Statistics there were 385,900 settlers in the West Bank at the end of 2015 with an annual growth rate of 4.1 percent. The Jerusalem Post, Settler Population was 385,900 by end of 2015, 6 October 2016. Available at: <https://is.gd/3dhy9n>

<sup>24</sup> MCW statement dated 30 October 2014. Available at: <http://is.gd/uloVhE>

<sup>25</sup> MCW statement dated 30 October 2014. Available at: <http://is.gd/uloVhE>

<sup>26</sup> MCW statistics obtained from the Israeli Prison Service (IPS). Available at: <http://is.gd/M3B8Q2>

<sup>27</sup> Source: Nery Ramati, Gaby Lasky & Partners. Information provided on 25 January 2016.

<sup>28</sup> *Yesh Din v Commander of IDF Forces (2010)* is available at: <http://is.gd/QqyQFW>

<sup>29</sup> MCW statement dated 11 June 2013. Available at: <http://is.gd/ZCWeme>

<sup>30</sup> UNICEF's Bulletin No. 2 (February 2015), page 7. Available at: <http://is.gd/ECGFkV>

<sup>31</sup> MCW statement dated 30 October 2014. Available at: <http://is.gd/uloVhE>

<sup>32</sup> *Yesh Din v Commander of IDF Forces (2010)* is available at: <http://is.gd/QqyQFW>