



Briefing Note – March 2016

1. Introduction

- 1.1 In March 2013, UNICEF published a [report](#) which found that: “The ill-treatment of children who come in contact with the [Israeli] military detention system appears to be widespread, systematic and institutionalized throughout the process, from the moment of arrest until the child’s prosecution and eventual conviction and sentencing”.
- 1.2 In response to this finding the Israeli Ministry of Foreign Affairs [stated](#) that it would “study the conclusions and work to implement them through on-going cooperation with UNICEF”. The purpose of this note is to review progress made in reducing the levels of reported abuse within the military detention system by reference to new evidence as well as other recent developments.

2. Current evidence of issues of concern

- 2.1 In February 2015, UNICEF issued an [update](#) to its original report and noted that reports of “alleged ill-treatment of children during arrest, transfer, interrogation and detention have not significantly decreased in 2013 and 2014”. This finding also appears to be confirmed by [evidence](#) collected by Military Court Watch (MCW) in 2015 and 2016.
- 2.2 In 2015, MCW collected **163 testimonies** from children who reported some form of ill-treatment or denial of basic legal rights following their detention by the Israeli military in the West Bank. In each case, children reported multiple violations. The situation in 2016 appears to have deteriorated further but due to the relatively small testimony sample size (**16 testimonies**) it is too soon to draw any meaningful conclusions (see Comparative Graph on page 4). The evidence collected by MCW in 2015 indicates as follows:
 - **Night arrests – 59 per cent** of children report being arrested by the military at night. The military authorities announced the introduction of a [pilot scheme](#) to issue summonses to limit night arrests in February 2014, which is currently occurring in approximately **10 per cent** of cases, however:
 - In the overwhelming majority of cases the summons was delivered by the military [after midnight](#);

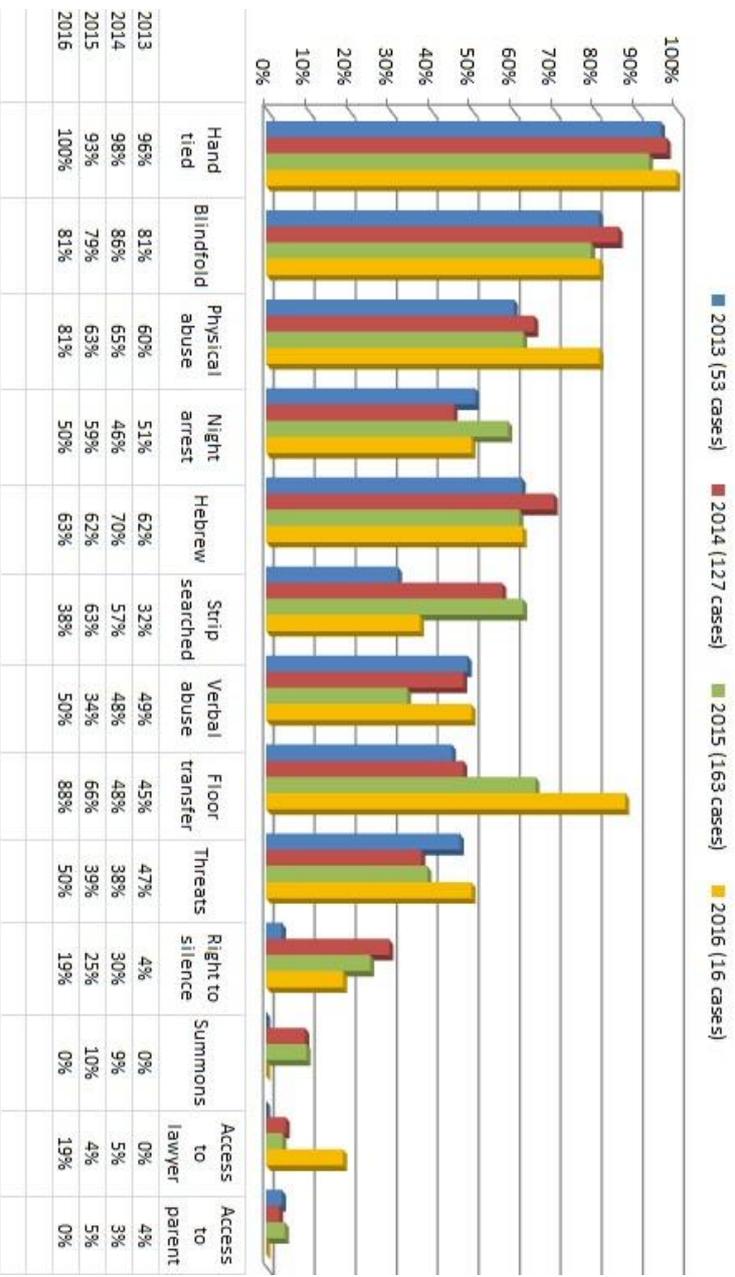
- Relevant parts of the summonses were handwritten in [Hebrew](#) without Arabic translation;
 - Relevant information, such as the nature of the accusation, was missing; and
 - No reference to the child's legal rights was included in any of the summonses.
- **Hand ties - 93 per cent** of children report being hand tied upon arrest which is frequently described as "[painful](#)" or "[very tight and painful](#)". Some children reported that the plastic ties used to restrain them [cut](#) into their wrists. Many of these children also reported being restrained for extended periods of time including [during interrogation](#). The standard operating procedures for the use of hand ties introduced by the Israeli military in 2010 continue to be ignored in most cases. ([Additional information](#))
 - **Blindfolds - 79 per cent** of children report being blindfolded or hooded upon arrest in disregard of a recommendation made by leading British lawyers and UNICEF that this practice should be prohibited in all circumstances. ([Additional information](#))
 - **Physical abuse - 63 per cent** of children report being subjected to various forms of physical abuse during arrest, transfer and/or interrogation. The level of documented abuse has increased since 2013. The types of reported abuse includes: [punching](#), [slapping](#), [kicking](#), [beating](#) with, or [pushing](#) into objects, prolonged [exposure](#) to the elements, [spat on](#), [position abuse](#) and [electric shocks](#). ([Additional information](#))
 - **Floor transfer - 66 per cent** of children report being transferred on the metal floor of military vehicles from the place of arrest to an interrogation centre. This is a significant increase compared with 2013. Transferring children on the floor of a military vehicle whilst tied and blindfolded adds significantly to their mental and physical stress whilst often leading to other forms of abuse, such as being shoved and kicked by the soldiers seated around them in the armoured vehicle. ([Additional information](#))
 - **Verbal abuse - 34 per cent** of children report being subjected to verbal abuse during arrest, transfer and/or interrogation. The abuse mostly consists of [derogatory statements](#) about the child's mother or sister. ([Additional information](#))
 - **Threats - 39 per cent** of children report being subjected to threats during arrest, transfer and/or interrogation. The types of threats reported include: [beating](#); [indefinite detention](#); [electrocution](#); [shooting](#); [shouting and intimidation](#); placed in a room with [snakes and scorpions](#); bringing [dogs](#) into the interrogation room; [thrown off the roof](#) of the interrogation centre and [rape](#). ([Additional information](#))
 - **Right to silence - 75 per cent** of children report not being informed of their right to silence. In the 25 per cent of cases where children were informed of this right, the manner and circumstances in which the information was conveyed raises serious questions as to whether the notification was sufficient. In [one case](#) an interrogator informed the child that he had the right to silence whilst a second interrogator told the

child he would be raped if he did not confess. In other cases children are asked to [sign](#) documents acknowledging that they have been informed of their rights even when this is not so and in one case a child was [beaten](#) when he attempted to exercise his right to silence. MCW continues to document multiple cases where children are subjected to [double interrogations](#) in which they are only informed of their rights during the second interrogation following a coercive first interrogation. ([Additional information](#))

- **Access to lawyers - 96 per cent** of children report being denied access to a lawyer prior to questioning. Under Israeli military law a detainee must be informed of his/her right to consult with a lawyer on arrival at a police station. However, the order does not stipulate when the consultation should take place, rendering the right to consult with a lawyer largely illusory and ineffectual in most cases. Further, the obligation is on the police, not the military, to inform a suspect of this right. Most children continue to see their lawyer for the first time in a military court after the interrogation phase has been completed. ([Additional information](#))
- **Documentation in Hebrew - 62 per cent** of children report being shown, or made to sign, [documentation](#) written in Hebrew at the conclusion of their interrogation. Some children refuse to sign whilst others sign acknowledging that they had no idea about the contents of the document. ([Additional information](#))
- **Accompanied by a parent – 5 per cent** of children report being accompanied by a parent throughout their interrogation in 2015. Whilst there is no legal right under Israeli military law for a parent to accompany a child during interrogation, the military authorities have acknowledged that there is a [discretion](#) to permit parents to accompany children. ([Additional information](#))
- **Strip searched - 63 per cent** of children report being strip searched on arrival at a detention centre in circumstances frequently described as “[embarrassing](#)” and/or “[humiliating](#)”. The military and prison authorities continue to disregard [UNICEF](#)’s recommendations as to how these searches should be conducted. ([Additional information](#))
- **Solitary confinement** - According to data compiled by UNICEF, **13 children** were held in solitary confinement in 2015. The length of time the children remained in solitary confinement ranged from 4 to 45 days. The children were held in solitary confinement in Al Jalame (62%), Petah Tikva (15%), Asqalan (15%) and Megiddo prison (8%).

2.3 The following graph monitors progress across 13 issues of concern and is based on **359 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 there appears to have been little substantial improvement since UNICEF published its report in March 2013.

COMPARATIVE GRAPH (2013 - 2016)



Updated: 23 March 2016

Information is based on testimonies collected by MCW

3. Detention figures

- 3.1 According to the latest data provided by the Israeli Prison Service (IPS) at the end of January 2016, **406 children** (12-17 years) were held in military detention. This represents an **87 per cent** increase compared with the monthly average for 2015. This figure includes eight girls; two children under 14 years; and two children held in [administrative detention](#). The age breakdown for children held in detention in January 2016 was as follows:
- 12-13 years – 1%
 - 14-15 years – 27%
 - 16-17 years – 72%
- 3.2 According to data provided by the military authorities to [UNICEF](#) and [ACRI](#) pursuant to a freedom of information application, **1,004** Palestinian children were arrested by the military in the West Bank in 2013 and **861** children in 2014. The percentage of children released on bail following a court appearance is **16 per cent**. 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 to include [young children](#). ([More statistics](#))

4. Unlawful detention inside Israel

- 4.1 In 2013 UNICEF recommended that "all Palestinian children detained in the Israeli military detention system should be held in facilities in the occupied Palestinian territory" in accordance with [Article 76](#) of the Fourth Geneva Convention (the Convention), a position specifically [acknowledged](#) by the UK Government and implicit in numerous [UN Security Council](#) resolutions.
- 4.2 Although there is no serious dispute as to the law, according to the IPS, in 2015 on average **48 per cent** of minors and **89 per cent** of adult Palestinian detainees were transferred and detained inside Israel affecting between 7,000 to 8,000 protected persons annually. It should be noted that this policy is also classified as a war crime under [Article 8\(2\)\(vii\)](#) of the Rome Statute of the International Criminal Court.
- 4.2 In December 2015, MCW [wrote](#) to diplomatic missions in the region raising concerns about the unlawful transfer and detention of Palestinians from the West Bank in prisons located in Israel in violation of the Convention. In January 2016, the percentage of minors unlawfully transferred and detained inside Israel fell to **34 per cent** while the percentage of adults remained relatively unchanged at **87 per cent**.
- 4.3 In March 2016, the UK Under Secretary of State for Foreign & Commonwealth Affairs, Mr. Tobias Ellwood MP responded to a parliamentary question on the issue as follows: "*We are clear that Israel has legal obligations as an Occupying Power with respect to the Occupied Palestinian Territories under the Fourth of the Geneva Conventions of 1949. This includes*

Article 49, which prohibits deportation of protected persons from the occupied territory and Article 76, providing that protected persons convicted of offenses shall be detained and serve their sentences within the occupied territory. We regularly talk to the Government of Israel with regard to the implementation of those obligations and raise our serious concerns, including about the treatment of Palestinian children that are arrested and detained in Israeli prisons. We have been clear with Israel that forcible transfer would be a breach of international humanitarian law and would have serious ramifications on Israel's international standing."

- 4.4 It is relevant to note that while the Israeli authorities reject the *de jure* application of the Convention to the West Bank, East Jerusalem and Gaza in relation to settlement construction and the transfer of protected persons, the military authorities [expressly rely](#) on [Article 66](#) of the same Convention to justify the prosecution of thousands of Palestinian men, women and children in military courts.

5. Unlawful discrimination

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

6. Other developments

- 6.1 In September 2015, a link between the detention of Palestinian children in the West Bank and Israeli settlements was raised in the Australian parliament during a [debate](#) on the Middle East.
- 6.2 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 January 2016, two Palestinian minors were being held in administrative detention.

- 6.3 In October 2015, the Foreign Minister of the Netherlands, Mr. Bert Koenders was [questioned](#) in parliament about the issuing of export licenses for service dogs supplied by the Netherlands to the Israeli military which are subsequently involved in human rights abuses in the West Bank.
- 6.4 In January 2016, an adjournment debate was held in the UK parliament on "Child Prisoners and Detainees: Occupied Palestinian Territories." After reviewing a number of developments that have occurred in recent years, the debate's sponsor, Ms. Sarah Champion MP noted that recent evidence indicates that ill-treatment within the system still appears to be widespread, systematic and institutionalised. In response to the motion, the Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Mr. Tobias Ellwood, noted that the Foreign and Commonwealth Office has approved funding for a follow-up delegation to the region by British lawyers in February 2016. ([Video](#) / [Transcript](#))
- 6.5 In February 2016, the follow-up delegation of UK lawyers funded by the Foreign and Commonwealth Office [announced](#) that their imminent visit to the region has been cancelled due to a lack of co-operation by the Israeli authorities. The delegation announced that it would conduct a brief update as to progress made in implementing the 40 recommendations made by the delegation in its 2012 report - [Children in Military Custody](#).
- 6.6 In March 2016, MCW [submitted](#) 163 cases of children held in Israeli military detention in 2015 to the UN Special Procedures mechanism for further investigation. Based on the evidence the submission concluded that UNICEF's finding of "widespread, systematic and institutionalised" ill-treatment within the military detention system is still valid in 2015.
- 6.7 A comprehensive list of legislative and procedural developments in the military detention system is available on MCW's [website](#).

7. Recent case examples

- 7.1 On 29 February 2016, a [13-year-old boy](#) (S.O.S.K.) from Silwad (West Bank) was detained by Israeli soldiers on a street in town at 4 p.m. He reports that he was on his way to his grandfather's grave at the time. He reports being beaten and verbally abused. He was blindfolded and his hands were tied behind his back with a single plastic tie contrary to the military's standard operating procedures. He also reports being placed on the floor of a jeep where he was kicked and slapped. After being questioned about stone throwing and boys who protest, he was released in a deserted location at 7:30 p.m., arriving home at 9 p.m.
- 7.2 On 15 February 2016, a [15-year-old boy](#) (O.M.K.H.) from Al 'Araqa (West Bank) was arrested by Israeli soldiers at 3:30 a.m. He reports being physically assaulted and verbally abused during the arrest process. He was blindfolded and his hands were tied painfully behind his back with a single plastic tie contrary to the military's standard operating procedures before being placed on the metal floor of a jeep. He was then unlawfully

transferred out of the West Bank to Al Jalame interrogation centre in Israel where he reports being held in solitary confinement for 11 days. He was released on 3 March 2016.

- 7.3 On 1 February 2016, a [17-year-old girl](#) (D.J.H.S.) from Halhul (West Bank) was detained by Israeli soldiers at a military checkpoint in Bethlehem. Two months earlier her brother was shot dead by soldiers during clashes in her village. She reports that she was not armed at the time but was questioned by soldiers whether she had come to the checkpoint to take revenge for the killing of her brother. Following interrogation she was unlawfully transferred to Hasharon prison inside Israel. She was released by a military court on 8 February 2016 after her parents agreed to pay NIS 2,000.
- 7.4 All 359 testimonies are available on MCW's [website](#).

8. Conclusion

- 8.1 During the three years since the publication of an independent report on [Children in Military Custody](#) by leading British lawyers and the UNICEF report, [Children in Israeli Military Detention](#), there has been a significant level of dialogue between the Israeli authorities and the UK Government, UNICEF and other governments about the issue. During the same period a number of legislative and procedural changes have been introduced.
- 8.2 However, based on evidence collected by UNICEF and MCW, these developments have not substantially reduced the levels of abuse and issues of concern, and in some areas the situation appears to have deteriorated. Further, there is some indication that the Israeli authorities may now have taken a decision to disengage from any further meaningful discussion on the issue with a view to effectively implementing the recommendations contained in the UK and UNICEF reports.
- 8.3 Based on 179 testimonies collected from children detained in 2015 and 2016, as well as a review of recent changes to the system, MCW is of the view 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 throughout the process" still appears valid in March 2016.
- 8.4 Finally, although there is no dispute of fact concerning the number of Palestinians being transferred and detained inside Israel and the applicable legal principles are beyond any serious dispute, the military authorities have informed UNICEF that the policy will not be changed, thereby presenting a clear and unambiguous challenge to the rule of law.