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# THE ORIGINS OF “NO WAY TO TREAT A CHILD”: ANALYZING UNICEF’S REPORT ON PALESTINIAN MINORS



# The Origins of “No Way to Treat a Child”:

Analyzing UNICEF’s Report on Palestinian Minors

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NGO Monitor's mission is to provide information and analysis, promote accountability, and support discussion on the reports and activities of NGOs claiming to advance human rights and humanitarian agendas.

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## INTRODUCTION

Since 2015 in the US and August 2017 in Canada, non-governmental organizations (NGOs) led by [Defense for Children International Palestine’s](#) (DCI-P) have been conducting a campaign under the label of “No Way to Treat a Child” (NWTAC).<sup>1</sup> This initiative calls on government officials [“to use all available means to pressure the Israeli government to end the detention and abuse of Palestinian children”](#) and will [“continue until the occupation is ended.”](#)

The centerpiece of these lobbying efforts is the allegation that there is “widespread and systematic ill-treatment of Palestinian children in the Israeli military detention system.” This language echoes a March 2013 UNICEF report, [“Children in Israeli Military Detention,”](#) which has been extensively quoted in the context of NWTAC, as well as by European parliaments, UN frameworks, and other NGOs.

However, as demonstrated in this study, the 2013 UNICEF report is thoroughly discredited. When examined in detail, and despite numerous references, the 2013 UNICEF report, written by political and ideological actors rather than experts, reflects a complete distortion of international law and of rudimentary criminal law concepts and procedures.

Crucially, the UNICEF report was almost entirely based on unverified claims made by the NGOs behind the NWTAC campaign, which now cite UNICEF as an independent assessment. UNICEF also provides significant funding to many of these same groups (see NGO Monitor’s forthcoming report on UNICEF’s funding to political NGOs).

The factually inaccurate and misleading content, produced in close collaboration with DCI-P and other Palestinian advocacy groups, demonstrates UNICEF’s own political agenda, rather than careful research aimed at enhancing the protection of children, reducing conflict, and promoting positive change in the region.

## UNICEF’S AND NWTAC’S POLITICAL AIMS

UNICEF’s citation of DCI-P, and DCI-P’s subsequent citation of UNICEF, demonstrates a larger trend in reports produced by UN employees in conjunction with politicized NGOs. Documents are not written in order to protect children, but rather to bolster Palestinian “lawfare” – the exploitation of courts and international law to harass Israeli officials and those doing business with Israel. Reflecting UNICEF’s double standards, political aims, and lack of accountability, the unprecedented claim that Israel’s alleged “ill-treatment of children” appears to be “widespread, systematic and institutionalized” mirrors the language of Article 7 of the Rome Statute of the International

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<sup>1</sup> On November 28, 2016, in coordination with the US NWTAC campaign, 49 Australian Members of Parliament signed a petition [accusing Israel of committing “systematic” human rights violations.](#)

Criminal Court’s definition of crimes against humanity. UNICEF does not use such harsh language when analyzing other armed conflicts.<sup>2</sup>

In addition, after Israeli officials rejected almost every claim in the report, UNICEF issued a follow-up in 2015 integrating some of Israel’s comments. Yet, UNICEF has not publically retracted the several erroneous sections of the 2013 report, and as a result, other UN bodies, as well as parliaments and NGOs continue to cite these false allegations. The failure to correct the record also indicates that **the objective of the UNICEF publication was political.**

NGO citation of the 2013 UNICEF report is prominent in the NWTAC campaign, which is jointly led by [DCI-P](#) and [American Friends Service Committee](#) (AFSC). In the United States, they are joined by other BDS organizations including [Jewish Voice for Peace](#) (JVP), [American Muslims for Palestine](#) (AMP), and the [US Campaign for Palestinian Rights](#) (formerly the US Campaign to End the Israeli Occupation). In [Canada](#), the NWTAC campaign is co-sponsored by a number of organizations, including Amnesty International Canada, church groups, and local BDS organizations.

In addition, as highlighted in NGO Monitor’s [November 2016 report](#), several current and former DCI-P officials have close ties to the Popular Front for the Liberation of Palestine (PFLP), recognized as a terrorist organization by the [US](#), [EU](#), [Canada](#), and [Israel](#). DCI-P’s claims erase the context of terrorism and the fact that many of the “children” in Israeli custody are older teens (16-18), incited by terror groups and the Palestinian Authority, and involved in violent acts such as murder, attempted murder, and severe assault.

## ANALYSIS

In contrast to the politicized and non-expert conclusions by UNICEF, the following analysis demonstrates that Israel meets (and often exceeds) international standards, including the Convention on the Rights of the Child, international human rights law, and international humanitarian law.

Several of UNICEF’s false legal claims, which appear to originate with DCI-P, are also discussed in NGO Monitor’s 2017 report “No Way to Represent a Child: Defense for Children International Palestine’s Distortions of the Israeli Justice System.”

### Lack of Expertise of UNICEF Authors

NGO Monitor has prepared this analysis based on NGO Monitor’s Senior Military Consultant Lt. Col (Res.) Maurice Hirsch documentation of the factual inaccuracies and misrepresentations in

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<sup>2</sup> For example, a 2014 report on the conflict in Syria concludes by requesting an end to the “vicious cycle of violence” and insists that “parties to the conflict must immediately allow UNICEF and other humanitarian agencies to deliver vitally needed assistance.” At no point in the report does UNICEF make legal accusations, nor does UNICEF name the Assad regime, ISIS, or the other factions and “parties to the conflict” in order to attribute blame for the suffering experienced by Syrian children. See: “Under Siege: The devastating impact on children of three years of conflict in Syria,” UNICEF, 2014, available at [https://www.unicef.org/publications/files/Under\\_Siege\\_March\\_2014.pdf](https://www.unicef.org/publications/files/Under_Siege_March_2014.pdf).

UNICEF’s 2013 report. Hirsch was the Chief IDF Prosecutor for Judea and Samaria from 2013-2017. He was also the lead point of contact regarding the UNICEF report on behalf of the Israeli government. Unlike UNICEF’s authors, none of whom had any expertise in criminal law, international humanitarian law, or the law in Israel and the West Bank, Lt. Col. Hirsch is an actual expert with years of hands-on experience on these issues. As seen in the various methodological flaws, misrepresentation of sources, false claims regarding military courts, laundering of false NGO claims, and misrepresentation of the Convention on the Rights of the Child, UNICEF authors lack the expertise and knowledge that Hirsch possesses.

## Methodological Flaws

In its entirety, the report reflects an obvious prejudice, to the point where it includes recommendations demonstrating UNICEF’s lack of factual understanding of jurisdictional issues and long-standing provisions of the law applied in the West Bank.

Furthermore, as a UN agency, UNICEF is required to act with transparency and objectivity, and rely on credible and verifiable information. Based on Hirsch’s interactions with UNICEF, not enough was done by the agency to publish a report reflective of the true reality on the ground.

This flaw is endemic in UN reporting on Israel due to a failed reporting methodology that does not employ professional guidelines or accepted standards. UN agencies have limited capacity to engage in investigation or verification. Instead, they crib together unverified publications – written by a narrow sector of political advocacy NGOs, Palestinian officials, and representatives of terror groups – aimed at advancing a particular agenda. In some cases, UN agencies actively work with these politicized NGOs to craft one-sided reports in order to promote the Palestinian narrative. Given the extensive UNICEF funding for and collaboration with NGOs responsible for the No Way to Treat a Child Campaign, this report appears to fall into this category. (See NGO Monitor’s forthcoming report analyzing the relationship between UNICEF and Palestinian advocacy NGOs.)

## Misrepresentation of Sources

Throughout the report, UNICEF misstates and misinterprets sources, leading to skewed analysis. Specifically, UNICEF:

- Includes a 2008 quote from the UN Special Rapporteur on Torture that discusses adverse effects of solitary confinement in order to provide evidence for its claims against Israel. However, the Special Rapporteur was addressing solitary confinement **as a widespread practice around the world**, and not singling out Israel specifically. In contrast to UNICEF’s implication, Israel does not hold prisoners in solitary confinement except in extremely limited circumstances.
- Disingenuously cites a figure of 1,600 military orders that have been promulgated by the Military Commander in the West Bank since 1967. In reality, since the implementation of the Oslo Accords, most of these orders are defunct. In addition, very few relate to law enforcement in the West Bank and are therefore irrelevant to the discussion.
- Specifically refers to Military Order 1676 in attempt to falsely demonstrate that

prior to this order, Israel did not notify parents of the arrest of a minor. The order was, however, put in place to strengthen already existing law and to provide specific additional stipulations regarding minors (it did not replace the already existing requirement of paragraph 53 of the Order for Security Provisions). Parents (or a relative of the detainee) were notified of arrest prior to this order as a general requirement applicable to **both the IDF and the Israeli police**. These provisions, jointly and separately, are sufficient to meet any reasonable standard of notification.

- UNICEF’s further claim that Order 1676 had not been published in Arabic is simply inaccurate, erroneous, and misleading.
- In a footnote, defines the “occupied Palestinian territory” as including “east Jerusalem and the Gaza strip.” One must question the need or relevance for this clarification since the Military justice system in the West Bank does not apply to minors residing in Jerusalem and Gaza. Minors who are residents of Jerusalem – East and West, and regardless of their color, race, or religion – are subject to Israeli civilian criminal law and procedures. Likewise, since ending the Israeli presence in Gaza in September 2005, Palestinians from Gaza who are apprehended for planning, executing, and committing terror and criminal offenses in Israel are subject to Israeli civilian criminal law and procedures. Including these areas, albeit by footnote inference, obfuscates the facts and the legal ramifications.
- Does not acknowledge that older minors are often involved in the most serious and heinous offenses. For example, Hakim Awad (17) participated in the brutal 2011 murder of five members of the Fogel family, including killing a baby in her crib. Additional acts of murder have also been committed by minors. Based on UNICEF’s bizarre claim that the military courts are “by definition” incapable of dispensing justice, it is unclear what UNICEF would suggest be done in these cases.
- Fails to include any information regarding Palestinian minors that commit violent crimes due to incitement by the Palestinian Authority, **Palestinian terrorist organizations, and other Palestinian institutions that actively promote the involvement of minors in commission of criminal offenses, including terrorism.**
- Does not include the relevant fact that the Palestinian Authority provides the family of minors detained by Israeli authorities with a regular monthly salary for every month spent by the minor in detention, incentivizing them to commit crimes. The more serious the crime committed, the more money received by the family. UNICEF wholly ignored these fundamental obstacles to diversion and rehabilitation. The erasing of this context from the report further supports the conclusion that the publication was meant to demonize Israel rather than objectively analyze the issue.

## False Claims Regarding Military Courts

The UNICEF report falsely claims that military courts, by definition, fall short of providing the necessary guarantees of due process. This comment stands in direct contradiction of the requirements of the legal paradigm applied by UNICEF, which according to Articles 64 and 66 of the Fourth Geneva Convention, requires the exclusive use **military courts** in territories controlled by a state. UNICEF’s flawed analysis demonstrates that the authors lacked basic factual

knowledge about criminal justice and international humanitarian law, as no experienced legal or military professional with actual knowledge of criminal justice would make such a claim. In fact, when the Palestinian Authority tried raising a similar claim in US federal court during a trial against it for promoting terrorism (*Sokolow v. PLO*), the judge rejected this allegation and excluded it from the trial.

The report also fails to note that the rules of evidence applied in the military courts **are the same rules of evidence applied in the Israeli civilian courts including the basis for admissibility of evidence**. It is not known if the choice to downplay these central facts was deliberate on the part of UNICEF officials or because they were simply parroting the claims of NGOs.

In the publication, UNICEF attacks the allowance for plea bargains in the military courts. However, the percentage of plea bargains reached in the military courts does not substantively differ from the percentage of plea bargains in the civilian justice system. It should also be noted that plea bargains do not only relate to sentencing, but rather, in many circumstances, include a waiver by the prosecution to try more serious offenses contained in the original indictment. Therefore, plea bargains, by their nature, are very beneficial for the defendant.

UNICEF further denigrates the professionalism of the military juvenile justice system, including the quality of the juvenile judges. In stark contrast to UNICEF’s claims, the military justice system places a high value on the skills and expertise that a properly trained juvenile judge can bring to proceedings regarding minors. The IDF has invested both time and resources to ensure that all the full time judges and relevant reserve judges in the Military Courts Unit are properly trained and certified as juvenile judges. Military judges are certified as juvenile military judges only after attending a specifically designed and designated course. After their initial certification, the juvenile military judges undergo periodic additional training and review. Some judges also take part in an additional, minor focused, training course organized by the Israeli Institute for the Continued Training of Judges.

Finally, UNICEF attempts to take credit for what it views as a positive addition to the military justice system – namely, the establishment of military juvenile courts. The juvenile courts, however, were established by the IDF authorities after Israeli ministerial debates.

## Laundering False NGO Claims

Throughout the report, UNICEF uses the word “credible” to describe a number of anonymous reports it gathered regarding the “ill-treatment” of minors. The use of the word “credible” is extremely suspect on a number of levels. To the best of Lt. Col. Hirsch’s knowledge, no concrete report of ill-treatment of Palestinian minors that originated from UNICEF has ever been submitted to the relevant Israeli authorities for investigation. This raises questions as to the true intentions of the document – to demonize Israel or to right potential wrongs and improve policy?

The organization further says that it has compiled a database of over 400 of such cases of ill-treatment, however again, these names and cases remain “anonymous.” These claims raise the questions as to why (a) If UNICEF had indeed reached such a far-reaching conclusion, why did it not provide the relevant cases and materials to the competent Israeli authorities? (b) If UNICEF had indeed reached such a conclusion, why did it not provide reference to the cases monitored in



order to carry out an investigation of the offensive practices (not even in a footnote)? and (c) If UNICEF had indeed reached such a conclusion, why did it sit passively on the sidelines simply monitoring cases, instead of attempting to engage the relevant Israeli authorities in order to rectify the serious allegations?

UNICEF’s attempts to justify its failure to notify by alleging that minors are afraid to report instances of ill-treatment to Israeli authorities. This too lacks any factual or logical basis. On many occasions, defendants have claimed that their statements were taken under duress. In cases where such claims are verified by the courts, the resultant decision is the quashing of the confession. Thus, if the main body of evidence against the defendant is his/her confession, and that confession is quashed, the obvious result would be the acquittal of the defendant and not a harsher sentence, as claimed by UNICEF. Furthermore, since all defendants are represented by counsel during their hearings, it is hard to believe that claims of ill-treatment, were they indeed real, valid, and justified, would not be raised before the courts. If anything, UNICEF’s claims demonstrates poor lawyering, if not overt malpractice, by some of the very NGOs that UNICEF relies on as its primary source material and calls into question why UNICEF is partnering with such organizations.

## Misrepresentation of the Convention on the Rights of the Child

In addition to the lack of expertise, confusion over the applicable law, and false claims, UNICEF also misrepresents criminal justice standards, specifically those in the Convention on the Rights of the Child.

Israeli law enforcement procedures, and the law in force in the West Bank, meet all the requirements of Article 37 of the Convention on the Rights of the Child and UNICEF cannot point to a single requirement that is not met or even exceeded. (See Appendix 1 for more detail.)

For example, in contrast to UNICEF’s claims, preferential treatment is given to the trials of minors, and in practice, such trials are completed within the shortest time possible. In many instances, the entire trial process takes no more than a few weeks.

UNICEF claims that the IDF does not meet international standards of notification of arrest. This is simply wrong. IDF forces that arrest minor suspects in their homes are required, by standard operating procedures, to leave a form which provides the family of the detainee with basic information regarding the minors’ arrest. These suspects are then routinely transferred to the Israeli police for investigation.

Similarly, IDF forces that arrest minors outside of their residence, in the course of committing an offense, are required to transfer the minor to the Israeli police. The police, in turn, notify the parents shortly after the arrest.

UNICEF also purports that few minors are informed of their right to legal counsel. This is factually inaccurate, as this right is stipulated in law. Standard practice of the Israel police is also to inform the suspect of his/her right to counsel. The thousands of cases dealt with by the military prosecution can testify that both the requirement of the law and the standard practices of the Israeli police are met. Furthermore, binding Israeli case law states that a confession given in



breach of a suspect’s right to counsel can be quashed by the courts. As such, even if this comment actually had factual basis, its practical ramifications would be negligible to non-existent, as any such confession would be rejected by the Court as evidence against the defendant. Therefore, it is strange, to say the least, that **such complaints were made to UNICEF but were not claimed by the defendants before the court, which had the legal capacity to nullify the confessions.**

UNICEF claims that the Convention of the Rights of the Child requires minors be handled in separate judicial facilities. There is no such requirement in the Convention. Nevertheless, in practice, remand hearings of minors are carried out in a courtroom separately from adults, and the IDF constantly looks at new ways to improve the treatment of minors in general and in those hearings.

UNICEF claims that there is an international requirement that minors be automatically released on bail and exempt from custodial sentences regardless of the alleged crime. It further claims that failure to do so in these instances is “ill treatment.” There is no such standard. Moreover, it is preposterous for UNICEF to claim that bail or sentencing hearings done in accordance with due process standards are “ill treatment.”

## CONCLUSION

UNICEF’s report demonstrates the UN agency’s flawed reporting methodology that lacks professional expertise and relies, almost exclusively, on unverified and/or false claims from a narrow set of politicized NGOs.

The report is also yet another example of UN agencies collaborating with Palestinian advocacy NGOs to promote the demonization of Israel and Palestinian propaganda, rather than policy improvements. This practice stands in opposition of UNICEF’s mandate “to advocate for the protection of children’s rights, to help meet their basic needs and to expand their opportunities to reach their full potential.” Instead, UNICEF’s active support for the No Way to Treat a Child propaganda campaign demonstrates that UNICEF is acting as a party to the conflict.

## APPENDIX I

Without substantive evidence, UNICEF accuses Israel of regularly employing measures on and against Palestinian children and makes recommendations based on these allegations. The following table presents UNICEF’s claims, contrasted with the factual reality negating these charges.

UNICEF Claim	Reality
Restraining in very painful conditions	Israeli regulations stipulate that hand restraints only be used when the arresting soldier/policeman feels that security needs require.
Hooding under special conditions	Whilst the term “hooding” is unclear, Israeli Authorities do not use “hoods” in law enforcement. At most, suspects who pose a perceived danger to the forces are blindfolded.
Threats, including death threats	Any and all threats of this nature are prohibited. Complaints of detainees who were subject to such actions should be submitted promptly to the relevant Israeli authorities.
Kicking, punching and beating with implements	Any actions of this nature are prohibited. Complaints of detainees who were subject to such actions should be submitted promptly to the relevant Israeli authorities.
Excessive use of force	Any actions of this nature are prohibited. Complaints of detainees who were subject to such actions should be submitted promptly to the relevant Israeli authorities.
Incommunicado detention without access to a lawyer or doctor or the ability to communicate with family members	<p>No such practices exist in Israeli law enforcement.</p> <p>By law, every detainee has the right to consult with and be represented by a lawyer of their choice.<sup>3</sup> Detainees who do not have a lawyer, are represented by lawyers provided by the Palestinian Authority. Defendants who do not have a lawyer and are not represented by the lawyers provided by the Palestinian Authority, are appointed a lawyer by appointment of the courts. Court appointed lawyers are paid from the budget of the Israeli Authorities in Judea and Samaria.</p> <p>Standard practice of both the IDF and the Israel Prisons Service, in whose facilities the detainees are mostly held, is to perform an initial medical fitness for detention of every detainee.</p> <p>All detainees are guaranteed access to a medic and doctor, as their condition requires.</p> <p>By nature, detention limits the ability of the detainee to communicate with their family. Having said that, every detainee is entitled to family visits that are organized by the ICRC. Furthermore, most trials are held in open session and family members are almost always present.</p>

<sup>3</sup> Paragraph 56 OSP

	<p>It should be stressed, IPS Permanent Orders that regulate family visits to prisoners, do not distinguish between Israeli and Palestinian prisoners. All prisoners held on remand pending trial and all prisoners serving custodial sentences are entitled to exactly the same amount of family visits, and for exactly the same duration.</p>
Solitary confinement	<p><u>IDF Facilities</u></p> <p>No such practices exist in IDF law enforcement in the West Bank.</p> <p>One should understand that, in certain circumstances, when no other minor is being held in the detention facility, minors are held in cells by themselves.</p> <p>The separation of minors in such circumstances is not “solitary confinement” but rather a requirement of the law, that minors be held separately from other detainees.</p> <p>Indeed, sometimes for investigative purposes minors are held, for a short period, alone. This practice, common in law enforcement, is necessary in order to prevent the suspect from communicating with his/her accomplices.</p> <p>It should be noted that the IDF runs only two, relatively small, detention facilities. Minors are held in these facilities, only for a few hours, before being transferred to regular detention facilities run by the Israeli Prisons Service (IPS).</p> <p><u>IPS Facilities</u></p> <p>Minors detained in the facilities of the IPS can be placed in solitary confinement for breach of prison rules and regulations only in exceptional situations, or when they pose a danger to the other inmates or to themselves.</p> <p>IPS statistics show that less than five Palestinian minors were held in solitary confinement in 2012.</p>
Sensory deprivation and almost total prohibition of communication	<p>The nature of this measure is unclear.</p>
Poor conditions of detention	<p>The standards and conditions of all Israeli detention centers are continuously reviewed by numerous different functionaries whose task is to ensure that all facilities meet the requirements of the law.</p>
Compliance with international norms and regulations	<p>Law enforcement undertaken by the IDF in the West Bank complies with all the relevant international norms and regulations.</p> <p>In a decision handed down soon after the establishment of the Military Juvenile Courts in 2009, the Military Court of Appeals, stated clearly<sup>4</sup>, noting changes in Israeli domestic law, that</p>

<sup>4</sup> See DA 2912/09 Military Prosecutor v Abu Rahma

	<p>when adjudicating the cases of minors, the Military Courts are also guided by the leading principle of “the best interests of the child.” Since being handed down, that decision has been quoted and re-affirmed on many different occasions and internalized by all the different relevant authorities.<sup>5</sup></p> <p>Minors suspected of committing offenses are arrested and held on remand, only in cases where they pose a danger to the public and in the absence of other viable alternatives. Alternatives to detention are considered at each stage of the process by independent juvenile judges.</p> <p>Considering the division of powers and responsibilities in the West Bank since the creation of the Palestinian Authority, the principle of “diversion” is not the responsibility of the Israeli Authorities.</p>
Notification	<p>Minors are informed of the reasons for their arrest. Standard operating procedures regarding the arrest of minors from their place of residence include a form in Hebrew and in Arabic that is given to the parents of the minors. The form includes all relevant details regarding the arrest of the minor, including the reason for his/her arrest and contact telephone numbers.</p> <p>Furthermore, the law in the West Bank requires that the Israeli Authorities inform the parents of a minor that he/she has been arrested<sup>6</sup>.</p> <p>Some parents are present during the interrogation of minors, even though international law does not require a parent always be present during their arrest and interrogation.</p> <p>At the start of every interrogation, minors are informed in a language they understand of their rights including the right to avoid self-incrimination and the right to consult with counsel.</p>
Timing of arrests	<p>Arrests are carried out in the West Bank in accordance with operational requirements. Some arrests are conducted in close proximity to the alleged commission of the offense. Other arrests are conducted at night, taking into consideration the fact that the entrance of IDF forces into Palestinian towns and villages is limited and can potentially result in mass disruptions of the peace and further violence.</p>
Methods and instruments of restraint	<p>Minors are only handcuffed and/or blindfolded by arresting authorities when the circumstances require such means, in order to avert the danger posed by the suspect.</p>
Strip searches	<p>Strip searches are performed by IDF forces only when a concrete suspicion exists that the arrested suspect is concealing on his/her person an object which could pose a danger to the safety of the forces.</p>

<sup>5</sup> See, amongst others, DA 1046+1047+1048/13 Military Prosecutor v Hamed et al

<sup>6</sup> Paragraphs 53(b) and 136A(a)(1) OSP

	Strip searches are also conducted upon entering a prison to prevent the smuggling of prohibited items, including narcotics and cellular phones, into the prisons.
Access to a lawyer	<p>By law, minors are entitled to consult with a lawyer of their choice.<sup>7</sup></p> <p>Lt. Col. Hirsch personally initiated the compilation of a list of defense attorneys that could be circulated to the relevant police stations. The aim of the list was to provide a suspect with a choice of different lawyers from which to choose. Sadly, the defense attorneys, including those who ostensibly work for DCI-P, were less than co-operative and no such list was created.</p> <p>In practice, all minors brought before the courts are represented by counsel.</p>
Judicial review of arrest and detention	<p>There is constant judicial review of the arrest and detention of all detainees, with special consideration given to the detention of minors.</p> <p>As part of ongoing re-evaluation process, new provisions further shortening certain periods of the remand of minors were recently introduced. These new provisions limit the period of each judicial decision to extend the remand a minor for interrogation to a maximum of up to ten days. After an accumulative period of forty days, the jurisdiction to further extend the remand would be transferred to the Military Court of Appeal.</p>
Medical examinations	<p>Medical examinations are performed by trained medical staff before entering places of detention and imprisonment.</p> <p>Medical records are available only to the detainee and those to whom he/she has waived his/her medical privilege.</p> <p>During detention all detainees have access to prompt and professional medical care.</p> <p>It should be noted, that despite the misleading footnote reference, which appears to suggest a broader scope of medical examinations be performed, the practice of all Israeli authorities on this subject is in conformity with principle 24 of the Body of Principles on Detention.</p>
Questioning and interrogation	<p>At the commencement of every interrogation, minors are informed of their right to avoid self-incrimination in a language they understand.</p> <p>All interrogations are conducted in Arabic.</p> <p>The statements given by the detainees indicate which persons were present during the interrogation.</p> <p>International law does not require the presence of a parent or lawyer during interrogation.</p>

<sup>7</sup> Paragraph 56 OSP

Confessional evidence	Confessions given by minors are admissible as evidence in accordance with the rules and laws of evidence applied in the Israeli civilian courts.
Bail and plea bargains	<p>As stated above, detention of a child is always a measure of last resort.</p> <p>Bail is always considered, taking into account the age of the offender, the nature of the evidence against him/her, and the severity of the offense.</p> <p>The recommendation that “the conditions... under which plea bargains are granted” is far too general and needs further clarification before it can be addressed.</p>
Location of detention and access to relatives	<p>The legality of holding Palestinians arrested in the West Bank in detention facilities located in Israel has been adjudicated twice in the Israeli Supreme Court.<sup>8</sup> On both occasions the court rejected the claim that this practice infringes, in any manner, international law.</p> <p>Family visits of Palestinians detained in Israeli prisons are organized by the ICRC.</p> <p>Detainees held on suspicion of committing security offenses are not entitled to telephone communication of any sort.</p>
Accountability	<p>Complaints submitted by detainees are dealt with by the competent Israeli authorities.</p> <p>In 2007, the IDF MAG corps established a specific unit that deals with complaints made by Palestinians against IDF personnel. Complaints submitted are thoroughly examined and investigated.</p> <p>Where relevant, and given sufficient evidential basis, disciplinary or criminal actions are taken against the offenders.</p> <p>The other recommendations of this section are of a too general nature to allow comment.</p>

<sup>8</sup> See HCJ 253/88 Sadjariah et. Al. v The Minister of Defense and HCJ 2690/09 Yesh Din et al v Head of IDF forces in Judea and Samaria.

## APPENDIX II

The following table addresses the recommendations made by UNICEF in its report:

Recommendation	Response
Compliance with international norms and regulations	<p>Law enforcement undertaken by the IDF in the West Bank complies with all the relevant international norms and regulations.</p> <p>In a decision handed down soon after the establishment of the Military Juvenile Courts in 2009, the Military Court of Appeals, stated clearly<sup>9</sup>, noting changes in Israeli domestic law, that when adjudicating the cases of minors, the Military Courts are also guided by the leading principle of “the best interests of the child.” Since being handed down, that decision has been quoted and re-affirmed on many different occasions and internalized by all the different relevant authorities.<sup>10</sup></p> <p>Minors suspected of committing offenses are arrested and held on remand, only in cases where they pose a danger to the public and in the absence of other viable alternatives. Alternatives to detention are considered at each stage of the process by independent juvenile judges.</p> <p>Considering the division of powers and responsibilities in the West Bank since the creation of the Palestinian Authority, the principle of “diversion” is not the responsibility of the Israeli Authorities.</p>
Notification	<p>Minors are informed of the reasons for their arrest. Standard operating procedures regarding the arrest of minors from their place of residence include a form in Hebrew and in Arabic that is given to the parents of the minors. The form includes all relevant details regarding the arrest of the minor, including the reason for his/her arrest and contact telephone numbers.</p> <p>Furthermore, the law in the West Bank requires that the Israeli Authorities inform the parents of a minor that he/she has been arrested.<sup>11</sup></p> <p>Some parents are present during the interrogation of minors, even though international law does not require a parent always be present during their arrest and interrogation.</p> <p>At the start of every interrogation, minors are informed in a language they understand of their rights including the right to avoid self-incrimination and the right to consult with counsel.</p>
Timing of arrests	<p>Arrests are carried out in the West Bank in accordance with operational requirements. Some arrests are conducted in close proximity to the alleged commission of the offense. Other arrests are conducted at night, taking into consideration the fact that the entrance of IDF forces</p>

<sup>9</sup> See DA 2912/09 Military Prosecutor v Abu Rahma

<sup>10</sup> See, amongst others, DA 1046+1047+1048/13 Military Prosecutor v Hamed et al

<sup>11</sup> Paragraphs 53(b) and 136A(a)(1) OSP



	into Palestinian towns and villages is limited and can potentially result in mass disruptions of the peace and further violence.
Methods and instruments of restraint	Minors are only handcuffed and/or blindfolded by arresting authorities when the circumstances require such means, in order to avert the danger posed by the suspect.
Strip searches	Strip searches are performed by IDF forces only when a concrete suspicion exists that the arrested suspect is concealing on his/her person an object which could pose a danger to the safety of the forces. Strip searches are also conducted upon entering a prison to prevent the smuggling of prohibited items, including narcotics and cellular phones, into the prisons.
Access to a lawyer	By law, minors are entitled to consult with a lawyer of their choice. <sup>12</sup> Lt. Col. Hirsch personally initiated the compilation of a list of defense attorneys that could be circulated to the relevant police stations. The aim of the list was to provide a suspect with a choice of different lawyers from which to choose. Sadly, the defense attorneys, including those who ostensibly work for DCI-P, were less than co-operative and no such list was created. In practice, all minors brought before the courts are represented by counsel.
Judicial review of arrest and detention	There is constant judicial review of the arrest and detention of all detainees, with special consideration given to the detention of minors. As part of ongoing re-evaluation process, new provisions further shortening certain periods of the remand of minors were recently introduced. These new provisions limit the period of each judicial decision to extend the remand a minor for interrogation to a maximum of up to ten days. After an accumulative period of forty days, the jurisdiction to further extend the remand would be transferred to the Military Court of Appeal.
Medical examinations	Medical examinations are performed by trained medical staff before entering places of detention and imprisonment. Medical records are available only to the detainee and those to whom he/she has waived his/her medical privilege. During detention all detainees have access to prompt and professional medical care. It should be noted, that despite the misleading footnote reference, which appears to suggest a broader scope of medical examinations be performed, the practice of all Israeli authorities on this subject is in conformity with principle 24 of the Body of Principles on Detention.
Questioning and interrogation	As stated above, at the commencement of every interrogation, minors are informed of their right to avoid self-incrimination in a language they understand. All interrogations are conducted in Arabic. The statements given by the detainees indicate which persons were

<sup>12</sup> Paragraph 56 OSP

	<p>present during the interrogation.</p> <p>International law does not require the presence of a parent or lawyer during interrogation.</p>
Solitary confinement	<p><b>IDF Facilities</b></p> <p>No such practices exist in IDF law enforcement in the West Bank. One should understand that, in certain circumstances, when no other minor is being held in the detention facility, minors are held in cells by themselves.</p> <p>The separation of minors in such circumstances is not “solitary confinement” but rather a requirement of the law, that minors be held separately from other detainees.</p> <p>Indeed, sometimes for investigative purposes minors are held, for a short period, alone. This practice, common in law enforcement, is necessary in order to prevent the suspect from communicating with his/her accomplices.</p> <p>It should be noted that the IDF runs only two, relatively small, detention facilities. Minors are held in these facilities, only for a few hours, before being transferred to regular detention facilities run by the Israeli Prisons Service (IPS).</p> <p><b>IPS Facilities</b></p> <p>Minors detained in the facilities of the Israel Prisons Service can be placed in solitary confinement for breach of prison rules and regulations only in exceptional situations, or when they pose a danger to the other inmates or to themselves.</p> <p>IPS statistics show that less than five Palestinian minors were held in solitary confinement in 2012.</p>
Confessional evidence	<p>Confessions given by minors are admissible as evidence in accordance with the rules and laws of evidence applied in the Israeli civilian courts.</p>
Bail and plea bargains	<p>As stated above, detention of a child is always a measure of last resort.</p> <p>Bail is always considered, taking into account the age of the offender, the nature of the evidence against him/her, and the severity of the offense.</p> <p>The recommendation that “the conditions... under which plea bargains are granted” is far too general and needs further clarification before it can be addressed.</p>
Location of detention and access to relatives	<p>The legality of holding Palestinians arrested in the West Bank in detention facilities located in Israel has been adjudicated twice in the Israeli Supreme Court<sup>13</sup>. On both occasions the court rejected the claim that this practice infringes, in any manner, international law.</p> <p>Family visits of Palestinians detained in Israeli prisons are organized</p>

<sup>13</sup> See HCJ 253/88 Sadjadiah et. Al. v The Minister of Defense and HCJ 2690/09 Yesh Din et al v Head of IDF forces in Judea and Samaria.

	<p>by the ICRC.</p> <p>Detainees held on suspicion of committing security offenses are not entitled to telephone communication of any sort.</p>
Accountability	<p>Complaints submitted by detainees are dealt with by the competent Israeli authorities.</p> <p>In 2007, the IDF MAG core established a specific unit that deals with complaints made by Palestinians against IDF personnel. Complaints submitted are thoroughly examined and investigated.</p> <p>Where relevant, and given sufficient evidential basis, disciplinary or criminal actions are taken against the offenders.</p> <p>The other recommendations of this section are of a too general nature to allow comment.</p>