

# Children in Israeli Military Detention

## Observations and Recommendations

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UNICEF

### 1. Introduction

Since March 2013, UNICEF has been engaging in a dialogue with the Israeli authorities on children's rights while in military detention and on specific actions that can be undertaken to improve the protection of these children. In this regard, the Military Advocate General (MAG) appointed the Military Prosecutor for Judea and Samaria (West Bank) as the focal point to lead the substantive dialogue with UNICEF. In the course of the engagement, UNICEF has also met with representatives of the Ministry of Justice, the Israeli police, the Israel Prison Service (IPS) and the Deputy Military Prosecutor for IDF soldiers in breach of the law. A regular dialogue was also maintained with the Ministry of Foreign Affairs.

The dialogue focuses on what a child experiences when arrested and detained for alleged security offences in the West Bank and brought in contact with various Israeli authorities, including the Israeli Defence Forces (IDF), the Israeli Police, the Israel Security Agency (ISA) and the Israel Prison Service (IPS). UNICEF uses the Convention on the Rights of the Child (CRC), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and other international legal instruments reflecting international juvenile justice standards as key reference documents. In line with these, UNICEF advocates for the universal principle that all children in contact with law enforcement and justice institutions (whether juvenile justice systems or military systems) have the right to be treated with dignity and respect at all times and to be afforded special protections.

UNICEF has committed to providing periodic updates on its engagement with the Israeli authorities on children in military detention and to report on actions taken. The first update was released in October 2013. This second update covers the period from March 2013 to November 2014.

### 2. Major developments and progress made

The Government of Israel has since March 2013, taken a series of initiatives - particularly in terms of military legislation and the reinforcement of standard operating procedures that have addressed issues identified. These initiatives are listed below in chronological order:

April 2013: Military Order 1711 was introduced. This Military Order reduces the time a Palestinian child can be detained prior to appearing before a military court judge for the first time from 96 hours to 24 hours for children aged 12-13 and from 96 to 48 hours for children aged 14-15. These deadlines can be extended by the Israeli Police, for urgent investigation purposes, by an additional 24 and 48 hours respectively. For children aged 16-17, who are accused of security offenses, the maximum time of detention prior to appearing before a judge for the first time remains 96 hours, the same as for adults.

April 2013: The IDF in the West Bank introduced a form, printed in both Hebrew and Arabic, which has to be given to the parents when a child is arrested at home, providing parents with information on the reasons for the arrest and on where the child will be taken.

May 2013: The IDF Legal Advisor for the West Bank issued a letter to the heads of all Brigades, Divisions, Police and Military Police operating in the West Bank reminding all units of existing standard operating procedures and policies in relation to the arrest of children. Existing standard operating procedures stipulate that: blindfolding should only be used when there is a security need; hand-tying should be done at the discretion of the head of forces and always with three plastic ties;

the child's family needs to be notified immediately of reasons for arrest; and the child needs to be immediately transferred to the relevant authorities.

October 2013: Military Order 1726 was issued. This Military Order regulates the duration of remand prior to indictment. It provides that a child's initial remand can only be extended for 15 days if necessary for the purpose of the investigation. Thereafter it can only be extended by the Military Court, and only for periods of up to ten days each. After a cumulative period of 40 days, the pre-indictment remand can only be extended by the Military Court of Appeals.

October 2013: Military Order 1727 was issued. This consolidates and restates a range of previous orders and existing practices relating to the military detention and prosecution of children in the West Bank, including: the appointment of legal counsel by the court; the presence of the parents in the trial; the establishment of separate detention facilities for children; the creation of juvenile military courts; and the age of majority for children coming before juvenile military courts (increased to 18).

October 2013: The IDF Central Command for the West Bank decided to implement a pilot test in the West Bank replacing, when possible, the practice of night arrests of children suspected of security offences with a summons procedure. The pilot started in February 2014. (Additional information is provided below.)

November 2013: The Military Prosecutor for the West Bank advised UNICEF that IDF medical staff were reminded of prior standard operating procedures on their medical duties related to children under arrest and detained for interrogation, including the obligation to act upon any alleged abuse.

December 2013: The Israeli Police started using a revised Arabic text to notify children arrested for alleged security offenses of their rights, including the right to remain silent and the right to legal counsel. This revised text requires final endorsement by the Ministry of Justice.

January 2014: The Military Prosecutor initiated a Government data gathering exercise on the number of children arrested and detained in the West Bank in 2013. The data provided by the Military Prosecutor is presented in Section 3 of this Bulletin.

September 2014: Military Order 1745 came into effect. This requires that interrogations be audio-visually recorded and reaffirms that the interrogation always take place in a language that the child understands. The order includes a clause stipulating that the provisions do not apply to a child suspected of committing a security offense, such as throwing stones. The provisions of this Military Order are the same as those applied in Israeli civilian courts.

### **3. Key data on detention of children in 2013 and 2014**

This Bulletin draws on four sources of information. The data demonstrates the need for further actions to improve the protection of children in military detention, as reports of alleged ill-treatment of children during arrest, transfer, interrogation and detention have not significantly decreased in 2013 and 2014. These actions should particularly focus on the situation of children in the first 48 hours (including during arrest and transfer by the IDF and interrogation by the Israeli police or the ISA), when they are most vulnerable.

#### **A. Information provided by the Military Prosecutor as part of the dialogue**

Information provided by the Military Prosecutor indicates that in 2013, 654 children were arrested by the IDF in the West Bank. One hundred and sixty two (162) of those children were arrested using the practice at the time of pre-planned night-time arrest operations. All 654 children were referred to the Military Advocate General (MAG). Of those:

- 98 children were released by the Israeli Police due to insufficient evidence.
- 91 children were released on bail pending conclusion of the investigation.
- 465 children were indicted.

Of the 465 children indicted, 80 were released on bail pending trial, the others were detained.

In 2013, the MAG received 15 official complaints which related to reports of alleged abuse of Palestinian children arrested by the IDF.

#### **B. Information provided by the Palestinian District Coordination Office**

Data provided to UNICEF by the Palestinian District Coordination Office (DCO), show that in 2013, 350 children aged between five and 17 years old were taken into military custody by the IDF and released within a few hours or a day to their families through the Palestinian DCO and the Palestinian Police Family and Juvenile Protection Units.

#### **C. Information provided by the Israel Prison Service**

According to the data provided by the IPS (which is a head count of children in IPS detention at the end of each month), in the period covered by this Bulletin, on average 198 children were held in military detention per month, compared to 196 children in 2012. At the end of September 2014, 181 boys and one girl aged 14 to 17 years (including 19 under the age of 16 years) were held in detention for alleged security offences. Out of those 182 children, 125 children including the one girl were in pre-trial detention or on trial and 57 boys were serving a sentence. One girl was in military detention in 2013; and in 2014 one girl was arrested and detained by the military authorities.

#### **D. Information from the Working Group on Grave Violations against Children**

In 2013 and up until September 2014, the Working Group on Grave Violations against Children gathered 208 affidavits (sworn testimonies) reporting ill-treatment of children by the IDF, the Israeli Police, the ISA and the IPS, while under military detention in the West Bank. The military prosecutor requested that these testimonies be provided to his office for cross-checking purposes, however, UNICEF is not in a position to share this data. Due to the confidential nature of that data, UNICEF does not provide direct access to case files to protect the safety and security of victims and witnesses. This is in line with the Minimum Standards on Child Protection in Humanitarian Action (Global Child Protection Working Group). 139 children aged 16 and 17 years and 69 children below the age of 16 provided affidavits to the Working Group.

In these affidavits, children report being subjected to multiple violations throughout the arrest, transfer, interrogation and detention phases.

- One hundred and sixty two (162) children reported being blindfolded during transfer from the place of arrest to the police station.
- One hundred and eighty nine (189) children reported being painfully hand-tied upon arrest.
- One hundred and seventy one (171) children reported being subjected to physical violence during arrest, interrogation and/or detention.
- One hundred and forty-four (144) children reported being subjected to verbal abuse and intimidation during arrest, interrogation and/or detention.
- Eighty nine (89) children reported being transferred from the place of arrest to the police station on the floor of the vehicle.
- Seventy nine (79) children reported being arrested at night and 45 children reported being arrested during clashes or demonstrations.
- One hundred and sixty three (163) children reported not being adequately notified of their legal rights, in particular the right to counsel and the right to remain silent.
- One hundred and forty eight (148) children reported being strip-searched at the police station and 76 children reported being strip-searched upon arrival and transfer to IPS detention facilities.

- Twenty eight (28) children reported being held in solitary confinement at the Al Jalame and Petah Tikva detention sites inside Israel, while under interrogation by the ISA.
- Sixty three (63) children reported having had to sign a confession in Hebrew during the interrogation process.

#### 4. Overview of dialogue and related processes

This section provides an overview of the dialogue between the Military Prosecutor, as Government focal point, and UNICEF, and includes updates on the findings of other mechanisms that have reviewed the situation.

##### (1) June 2013 - Concluding Observations of the Committee on the Rights of the Child

In June 2013, the Committee on the Rights of the Child expressed “its deepest concern about the reported practice of torture and ill-treatment of Palestinian children arrested, prosecuted and detained by the military and the police, and about the State party’s failure to end these practices in spite of repeated concerns expressed by treaty bodies, special procedures mandate holders and United Nations agencies.” The Committee recommended that Israel “launch without delay an independent inquiry into all alleged cases of torture and ill-treatment of Palestinian children”, and that “those who have been ordering, condoning or facilitating these practices be brought to justice and be punished with penalties commensurate with the gravity of their crimes”. The Committee on the Rights of the Child further strongly urged the Government of Israel to “guarantee that juvenile justice standards apply to all children without discrimination and that trials be conducted in a prompt and impartial manner, in accordance with minimum fair trial standards.” The Committee on the Rights of the Child also urged the Government of Israel to “dismantle the institutionalized system of detention and use of torture and ill-treatment of Palestinian children at all stages of the judicial procedure.”

##### (2) July 2013 - Experts Consultation: joint review of UNICEF recommendations

In July 2013, UNICEF convened an Experts Consultation which included the Military Prosecutor, the Ministry of Foreign Affairs of Israel, the International Committee of the Red Cross (ICRC), independent lawyers and Israeli civil society organizations. The purpose of the consultation was to review, from an operational perspective, the 38 recommendations of the UNICEF Paper on *Children in Israeli Military Detention – Observations and Recommendations* of March 2013.

Key themes emerging from that consultation included:

- Standard operating procedures that should ensure protection of children’s rights, including on the use of instruments of restraint, are in place but are allegedly not followed in many cases.
- The training of Israeli security forces (IDF, Israeli police, ISA and IPS) does not adequately address the need to apply separate and distinct processes for the arrest, interrogation and detention of children and the principle of the ‘age of criminal responsibility’.
- Children, their families and civil society organizations lack trust in the formal complaints mechanisms established to report ill-treatment of children. The volume of reports of ill-treatment of children presented to international, Israeli and Palestinian organizations indicates the limited use of formal complaints mechanisms.

##### (3) October 2013 - Report by the Universal Periodic Review

Israel underwent the second cycle of the Universal Periodic Review by the Human Rights Council on 29 October 2013 during its 14<sup>th</sup> meeting. In the report adopted, the Council noted the progress made by Israel in relation to Palestinian children in military custody and enquired about measures envisaged to implement the recommendations of the Committee on the Rights of the Child. The Council particularly requested Israel to take all necessary steps to end the practice of night-arrests and solitary confinement, as well as for audio-visual recordings to be made of all interviews with child detainees by the Israeli Police as well as other relevant Israeli security forces.

##### (4) November 2013 - Experts Consultation: critical success factors for pilot of summonses

In November 2013, UNICEF convened a second Experts Consultation with the participation of the Military Prosecutor, the Ministry of Foreign Affairs of Israel, the International Committee of the Red Cross (ICRC), independent lawyers and Israeli civil society organizations. This second consultation followed the decision by the IDF Central Command for the West Bank in October 2013 to conduct a pilot test of summonses in lieu of night arrests, and focused on critical success factors for consideration by the IDF while designing the pilot test. This second consultation recommended that the following actions be taken:

- Ensure buy-in and prevent misinformation by all stakeholders; establish an inter-agency Government team to design and assess the pilot; map workflow processes; train all actors involved; and document the process and lessons learned transparently.
- Select test sites for the pilot in areas with favourable conditions; notify key actors and promote awareness of the communities, defence lawyers and civil society organizations; introduce additional protection measures such as presence of a parent when summons are delivered and identify alternatives to detention.
- Apply the pilot test to all children in the selected area regardless of age and alleged offense; introduce measures to prevent exposure of children and their families to any additional harm; and assess the outcome based on a realistic appraisal of the situation.

*(5) December 2013 - Visit by UNICEF Deputy Executive Director*

During her visit in December 2013, the UNICEF Deputy Executive Director met with the Ministry of Foreign Affairs of Israel, the MAG, the Deputy Attorney General, the Deputy Military Advocate General and the Military Prosecutor to follow up on the ongoing dialogue and progress made on the issue of children in military detention. The meeting reflected the commitment of both sides to maintain this dialogue and promote change for the protection of children. While acknowledging measures taken by the Government of Israel to improve law enforcement regarding children in the West Bank, the UNICEF Deputy Executive Director stressed the need to bridge the gap between policy and practice.

*(6) December 2013 - Hearing at the Knesset Public Petitions Committee*

Following requests by B'Tselem and the Association for Civil Rights in Israel (ACRI), the Knesset Public Petitions Committee conducted a hearing on 31 December 2013 on the “conditions of arrest and imprisonment of Palestinian youth in East Jerusalem and Judea and Samaria (West Bank)”. The Ministry of Justice, the IPS, the Public Defender’s Office and Israeli civil society organizations participated in the hearing. The Committee raised the issue of lack of Government data to answer the panel’s questions about the frequency and scope of arrests, detention and practices such as night-arrests. The panel members also raised questions about the extent to which the Israeli military detention and court system is in line with international juvenile justice standards. The next Knesset hearing on this issue was planned for mid-2014 but postponed. At the time of writing no new date for the hearing had been set.

*(7) February to July 2014 – Monitoring of the pilot on the use of summons in lieu of night arrests*

As noted above, the IDF Central Command for the West Bank decided to implement a pilot test in the West Bank replacing the practice of night arrests of children suspected of security offences with a summons procedure. The pilot started in February 2014. Twenty-four (24) instances of summoning of children were documented since the beginning of the pilot in Jenin and Hebron, Nablus, and Ramallah governorates. The summons pilot is an important operational measure to halt the practice of night arrests and tackle some of the protection concerns which occur during the first 48 hours of arrest, transfer and detention of children.

For the summons procedure to be effective and eventually develop into a longer-term system across the West Bank, operational practices need to be strengthened in terms of the protection of children. Challenges in the implementation have been observed as some children have received summonses

at night, and violations continued to be reported during the subsequent interrogation process at the military detention centre or police station.

In the more immediate term, the following measures are recommended:

1. Always provide the parents with written summons in a language they understand, specifying the time, location and reasons for the summons, as well as the legal rights of the child allowing enough time to contact a lawyer.
2. Allow for a parent to be present during the interrogation upon appearance before the Israeli authorities and consider releasing children that have responded to the summons and pose no risk of flight, using pre-trial detention as a measure of last resort.
3. Refrain from delivering summonses at night as part of a military operation, instead requesting the parents by phone to come and pick up a written summons at the Israeli DCO, at the same time alerting the Palestinian DCO of any summonses.

*(8) May 2014 – Visit by UNICEF MENA Regional Director*

During her visit in May 2014, the UNICEF Regional Director for the Middle East and North Africa met with the Ministry of Foreign Affairs of Israel to discuss and review the ongoing dialogue with the Israeli authorities, as well as actions taken and under way to strengthen protections for children in military detention. The meeting reflected the importance of dialogue as a tool for introducing further reforms in the best interests of children, and resulted in an agreement to continue engaging with all relevant Israeli authorities which have a role in the protection of children.

*(9) November 2014 - Concluding Observations of the Human Rights Committee*

In November 2014, the Human Rights Committee noted the “positive developments in the administration of juvenile military justice, including the increase in the age of majority in the military courts from 16 to 18 years and the adoption of a number of military orders providing for guarantees and safeguards for children” and expressed “concerns that such reforms appear not to be effectively implemented in practice and that Palestinian children are still exposed to arbitrary arrest and detention and often do not enjoy full procedural rights (arts. 2, 7, 9, 10, 14 and 24)”. The Human Rights Committee recommended that “the State party should ensure that any arrest and detention of a child is in conformity with article 9 of the Covenant. It should further ensure that children are: (a) Only detained as a measure of last resort and for the shortest possible period of time; (b) Treated at all times with respect and dignity and in accordance with their age, specific needs and vulnerability; (c) Provided with safe and child-friendly complaint mechanisms, including during trials, regarding treatment at the time of arrest, interrogation and detention, and that proceedings are audio-visually recorded; (d) Afforded, in practice, all fair trial guarantees in line with article 14 of the Covenant”.

## 5. Status of recommendations

During the dialogue with the Israeli authorities, the 38 recommendations were reviewed. In this outline, they are assigned primary responsibility for implementation and are measured individually in terms of actions taken by the relevant Israeli authorities. In the matrix below, for the purpose of measuring implementation:

- “**in progress**” means steps are being undertaken, but the outcome is yet to be determined;
- “**partial**” signifies that a standing operating procedure, policy or legislation is in place, but in totality the recommendation has not been realised and/or rights violations continue to be reported;
- “**under discussion**” means the dialogue is ongoing;
- “**closed**” refers to the recommendation no longer being relevant or there are no reports of ill-treatment relating to this recommendation to warrant further action. If reports occur following “closure” of the recommendation, the status will revert to one requiring action.
- “**No agreement on recommendation**” refers to those recommendations where the Government of Israel has stated that it will not take any action.

Of the 38 recommendations under review, four are in progress, 15 are partially addressed, 14 are under discussion, four are closed, and one has been rejected.

#	Recommendation (primary responsibility)	Actions taken by Israeli authorities	Degree of implementation	Source of information
1	<b>Compliance with international norms and regulations</b>	<p>A juvenile military court decision of 31 August 2009 stated that: “a minor is a minor is a minor, whether he lives in an area where Israeli law applies to its fullest or in an area where Israeli law might not fully apply, but [the minor] is still subordinated to the direct effects of the Israeli legal system.” Since then, this jurisprudential statement has been quoted in several subsequent decisions by the juvenile military courts.</p> <p>In May 2013, the IDF Legal Advisor for the West Bank issued a letter to the heads of all Brigades, Divisions, Police and Military Police operating in the West Bank to remind all units of existing standard operating procedures and policies in relation to the arrest of children. The letter included reference to the following issues: blindfolding should only be used when there is a security need; handcuffing should be done at the discretion of the head of forces and always with three plastic ties; the family needs to be notified immediately of reasons for arrest; and the child needs to be immediately transferred to the relevant authorities.</p>		<p>Juvenile Court decision of 31 August 2009: A.A. 2912/09 The Military Advocate General v. Nashmi Abu Rahme</p> <p>The IDF circular is an internal classified military document, therefore it has not been seen by UNICEF</p>
(i)	Best interests of the child as a primary consideration (MAG, Ministry of Justice, Israeli police and IDF Legal Advisor)	The 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.	<b>In progress</b>	Meetings with the Military Prosecutor
(ii)	Non-discrimination (MAG, Ministry of Justice, Israeli police and IDF)	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	<b>In progress</b>	<p>Military Order 1711</p> <p>Military Orders 1726 and 1727.</p>

	<i>Legal Advisor)</i>	children for alleged security offenses, while simultaneously taking into consideration the unique circumstances and security situation in the West Bank.		These orders have been issued in Hebrew and an Arabic translation is in preparation
(iii)	Use of detention only as a measure of last resort <i>(MAG and Ministry of Justice)</i>	The Military Prosecutor stated that the decision of remand depends on the gravity of the alleged crime and the individual merits of the case. In line with the data provided by the Military Prosecutor, of the 654 children arrested, 91 children were released on bail pending conclusion of the investigation and 80 were released on bail pending trial.	<b>Partial</b>	Meetings with the Military Prosecutor
(iv)	Alternatives to detention <i>(MAG and Ministry of Justice)</i>	Despite the absence of a formal system of diversion, in a few instances the military courts have chosen an alternative to detention in the best interest of the child, including house arrest and hand-over into the care of the parents.	<b>Under discussion</b>	Meetings with the Military Prosecutor
(v)	Diversion <i>(MAG and Ministry of Justice)</i>	The Government of Israel has noted a willingness to consider diversion.	<b>Under discussion</b>	Meetings with the Military Prosecutor
<b>2.</b>	<b>Notification</b>			
(i)	Children informed of the reasons for arrest <i>(MAG, IDF and Israeli police)</i>	The Military Prosecutor explained that, before starting an interview, an investigating officer is required to inform the child that he is about to be interviewed on suspicion of committing a specific offence.	<b>Partial</b>	Meetings with Military Prosecutor and Israeli police
(ii)	Parents/legal guardian notified of arrest <i>(MAG, IDF and Israeli police)</i>	In April 2013, the IDF in the West Bank introduced a form, printed in both Hebrew and Arabic, which must be given to the parents of a child arrested at home which provides parents with the reasons for the arrest and where the child will be taken.  The Military Prosecutor clarified that notification of arrest to the parents/legal guardian is given in the case of pre-planned arrests. Many children, however, are arrested during demonstrations, clashes etc. and soldiers are not always aware of the age of the arrested child at the time of arrest.  Articles 53(a) and 136A of the Order for Security Provisions (No. 1651), provide that after arrest, the family members of the detainee be informed of the arrest and that before commencing an interview, a police officer inform the parents of a child detainee of the impending interview.	<b>Partial</b>	Meetings with Military Prosecutor and Israeli police
(iii)	Children informed of their legal rights <i>(Israeli police and Ministry of Justice)</i>	In December 2013, the Israeli police started using a revised Arabic text to notify children arrested for alleged security offenses of their rights, including the right to silence and the right to legal counsel. This revised text was endorsed by the Ministry of Justice.	<b>Partial</b>	Meetings with Military Prosecutor and Israeli police
<b>3.</b>	<b>Timing of arrest and arrest warrants</b>			
(i)	Arrests during daylight/ summonses <i>(IDF operational units)</i>	In October 2013, the IDF Central Command for the West Bank decided to implement a pilot test to summon children suspected of alleged security offences in lieu of the current procedure of night-time arrest operations.	<b>In progress</b>	Meetings with Military Prosecutor  UNICEF is working with partners

		<p>The Military Prosecutor informed that the IDF conducted 162 night-time arrests of children in 2013, equal to approximately 25 per cent of the total number of cases (654) referred to the Military Advocate General.</p> <p>On 21 November 2013, an expert consultation was convened by UNICEF to discuss critical factors that should be considered by the IDF and other relevant authorities while designing the pilot test.</p> <p>The pilot of summonses started in February 2014 in several locations in the West Bank, including Hebron, Nablus and Ramallah governorates.</p>		to interview children and families involved in the pilot
(ii)	Relevant documentation provided to the parents/lawyer (MAG)	The Military Prosecutor clarified that, prior to an indictment, the investigators and the prosecution are not required to provide the suspect or any other person with any investigative materials. The Military Prosecutor explained that the process applied in the Military Court is the same as the legal requirements applied in Israeli civilian courts. Following indictment, the legal documentation (notification of rights, reasons for arrest and indictment) is part of the child's individual file which can be requested by the parents/lawyer at any time.	<b>Closed</b>	Meetings with Military Prosecutor Lawyers representing children
<b>4.</b>	<b>Methods and instruments of restraint</b>			
(i)	Children only restrained for the time that is strictly necessary (IDF operational units, Israeli police, ISA and IPS)	The Military Prosecutor clarified that IDF standard operating procedures address the subject of restraint and blindfolding, and stipulate that these practices can only be adopted if specific security requirements require. The Military Prosecutor further explained that, upon arrest, children may be restrained with three plastic hand-ties only, according to operational guidelines. The Israeli police stated that it does not use instruments of restraint during interrogation, unless where there is a risk of violence emanating from the specific suspect.	<b>Partial</b>	Meetings with Military Prosecutor and Israeli police
(ii)	Single plastic hand-ties prohibited (IDF operational units)	In March 2010, following a petition to the Supreme Court, the MAG announced in a letter to human rights organisations that new standard operating procedures relating to the use of hand-ties had been introduced and disseminated in order to prevent pain and injury caused by hand-ties during arrest. The use of a single plastic restraint is prohibited. If only one plastic restraint is used, the military prosecutor must be informed. IDF units are also instructed to conduct arrests without restraint and blindfold, unless if there is a security or operational requirement.	<b>Partial</b>	In 2009, the Public Committee Against Torture filed a petition in the Supreme Court (Public Committee Against Torture in Israel vs. Prime Minister of Israel (HCJ 5553/09)). Prior to judgment, lawyers for the State informed the Supreme Court that new procedures relating to the use of hand ties had been introduced to prevent pain and injury unnecessary  MAG letter to human rights organizations

(iii)	Proper seating of children during transfer <i>(IDF operational units)</i>	The Military Prosecutor said that operational procedures are in place to ensure proper seating of children during transfer upon arrest to the police station, unless there are urgent operational requirements.	<b>Partial</b>	Meetings with Military Prosecutor
(iv)	Children not restrained in interrogation, detention or court <i>(Israeli police, ISA and IPS)</i>	The Israeli police noted that there is policy instructing that instruments of restraint cannot be used during the interrogation, unless and only when there is risk of physical violence by the specific suspect. Adults and children under IPS custody enter the military courts in leg restraints both in the West Bank and Israel.	<b>Partial</b>	Meetings with Military Prosecutor, Israeli police and IPS
(v)	Blindfolding prohibited <i>(IDF)</i>	The Military Prosecutor said that operational procedures are in place which restrict the use of blindfolding during transfer, unless there are specific security requirements.	<b>Partial</b>	Meetings with Military Prosecutor
<b>5.</b>	<b>Strip-searches</b>			
(i)	Only under exceptional circumstances <i>(Israeli police and IPS)</i>	<p>The Israeli police clarified that cases of strip-searching are rare, only take place when there is a specific suspicion, and the reasons of any such searches are documented in the file.</p> <p>The IPS clarified that all detainees, including children, are strip-searched by a person of the same gender each time they arrive to a detention facility and each time they are transferred (upon departure and return). The rules for strip-searches in IPS detention facilities equally apply to adults and children, both in the West Bank and Israel.</p>	<b>Partial</b>	Meetings with Military Prosecutor, Israeli police and IPS
<b>6.</b>	<b>Access to a lawyer</b>			
(i)	Prompt and regular access to lawyer <i>(MAG and Israeli police)</i>	<p>The Military Prosecutor referred to article 56 of the Order for Security Provisions (No. 1651), which stipulates that a detainee has the right to meet and consult with legal counsel. The Military Prosecutor also explained that the right to consult with legal counsel has been recognized by the Israeli Supreme Court as a fundamental right of a suspect, and that breach of that right could lead to the inadmissibility of any statement given. The Military Prosecutor and the Israeli police clarified that the same regulations apply for Palestinian children in military detention as for Israeli children under Israeli law: children have the right to consult with a lawyer, but the lawyer does not have the right to be present during the interrogation.</p> <p>The Military Prosecutor attempted to compile a list of lawyers representing children before the military juvenile courts, to be at children's disposal upon arrival at the police stations.</p> <p>The Military Prosecutor has also facilitated an initial meeting with the Israeli police to discuss how children are notified of their rights, including the right to counsel, and explore options, including child-friendly materials, to ensure that children are clear that they can avail themselves of these rights.</p>	<b>Under discussion</b>	Meetings with Military Prosecutor and Israeli police
<b>7.</b>	<b>Judicial review of the arrest and detention</b>			
(i)	Judicial review within	Military Order 1711 came into effect in April 2013. It reduces the time a Palestinian	<b>Partial</b>	Military Order 1711

	24 hours (MAG, IDF Legal Advisor and Ministry of Justice)	child can be detained prior to appearing before a military court judge for the first time. The order reduces the time from four days to 24 hours for children aged 12-13 and to 48 hours for children aged 14-15. This time period can be extended by the Police for an additional 24 and 48 hours respectively, for urgent investigative purposes.		
(ii)	Detention reviewed every two weeks (MAG, IDF Legal Advisor, Ministry of Justice)	<p>Military Order 1711 reduced the period of detention of children until conclusion of proceedings. A child who has been in detention following indictment for a period of one year, and the proceedings have not been concluded, must be brought before the Military Court of Appeals. Any extension of detention in such cases is subject to judicial review by the Military Court of Appeals every three months (compared to judicial review of the Military Court of Appeals every six months for adults).</p> <p>In October 2013, new Military Order 1726 came into effect, providing that the initial remand of a child can only be extended for 15 days if necessary for the purpose of the investigation and can be extended again only by the Military Court for periods of up to 10 days each. After a cumulative period of 40 days the jurisdiction to order continued remand is given solely to the Military Court of Appeals.</p>	<b>Under discussion</b>	<p>Military Order 1711</p> <p>Military Order 1726. This order has been issued in Hebrew and an Arabic translation is in preparation</p>
<b>8.</b>	<b>Medical examinations</b>			
(i)	Medical exam prior to and after arrest and interrogation (MAG, Israeli police and IPS)	The Military Prosecutor clarified that a military standing order has been in place since 1997 regarding medical treatment of detainees, including the obligation to act upon any alleged abuse. The Military Prosecutor added that a reminder of this standing order was issued to IDF medical staff in November 2013. In a situation where a child has any physical marks, additional checks are required. A medical examination is required prior to every intake of a detainee and an inmate to Police detention and an IPS custody.	<b>Partial</b>	<p>Meetings with Military Prosecutor, Israeli police and IPS</p> <p>While this standing operational order remains an internal restricted document, the Military Prosecutor requested its declassification</p>
(ii)	Medical records made available to the child's lawyer (MAG, Israeli police and IPS)	The medical form is part of the child's individual file which can be requested by the child/family/lawyer at any time, provided a confidentiality waiver by the child. The medical form is enclosed in an envelope signed by the medic/doctor not accessible to IPS staff.	<b>Closed</b>	Meetings with Military Prosecutor and IPS
(iii)	Prompt and adequate access to medical care at all times (IDF, Israeli police and IPS)	The Military Prosecutor specified that, upon arrival to the police station and prior to interrogation, a child normally goes through a medical check with the medic/doctor on duty, as well as upon entering the IPS detention facility and upon request during the pre-trial and trial detention.	<b>Closed</b>	Meetings with Military Prosecutor, Israeli police and IPS
<b>9.</b>	<b>Questioning and interrogation</b>	The Military Prosecutor clarified that the identification of the interrogators and the notification of the rights of the accused are requirements that are recorded in the file. This is in the interest of the prosecution, as otherwise, the confession or interrogation can be dismissed in court. The Military Prosecutor also explained that, regarding the 465 cases which resulted in an indictment, in 343 instances the interrogations were audio- or audio-visually recorded.		
(i)	Interrogation in the	The Military Prosecutor clarified that this is not a requirement neither in Israeli nor in	<b>Under discussion</b>	Meetings with Military Prosecutor

	presence of a lawyer (Israeli police)	the West Bank.		and Israeli police
(ii)	Children notified of their rights in Arabic (Ministry of Justice and Israeli police)	In January 2014, the Ministry of Justice approved a revised Arabic text to notify arrested children of their rights upon arrival at the police station. This statement is being used by the Israeli police since December 2013. The Military Prosecutor advised that the revised Arabic text for the notification of rights is designed to more clearly inform children, but that the Israeli police complied with this principle before.	<b>Partial</b>	Meetings with Military Prosecutor and Israeli police
(iii)	Identification of all persons present during interrogation (Israeli police and ISA)	The Israeli police stated that the identification of the interrogators is a standard part of the beginning of any interrogation. In the case of ISA interrogations, there may be more than one interrogator, which are identified.	<b>Under discussion</b>	Meetings with Military Prosecutor and Israeli police
<b>10.</b>	<b>Solitary confinement</b>			
(i)	No solitary confinement (Israeli police, ISA and IPS)	<p>The Military Prosecutor made a distinction between solitary confinement as a form for punishment and isolation of a child during the interrogation process. The Military Prosecutor explained that, during the interrogation by the Israeli police or ISA, a child may be held in isolation for a few days, in order to prevent compromising the investigation. In addition, there are strict regulations that prohibit the detention of a child together with adults. A child awaiting transfer to an IPS detention facility may be detained alone when no other child is being held in detention at the same time.</p> <p>The rules on the use of in IPS detention facilities are the same as under Israeli law. The maximum period for a child to remain in is seven days. This may be prolonged, after a short interruption, for another maximum of seven days. According to the IPS, children are held in for no more than one or two days, and only in extreme circumstances up to four or five days. In IPS detention facilities, is only be used in exceptional circumstances, as part of a disciplinary procedure and subject to regular supervision. The IPS stated that, in 2013, there have been five cases of children held in in the IPS detention facility in Ofer as part of a disciplinary measure. While in , the child retains the right to legal counsel and is entitled to meet with ICRC representatives or medical staff. The Military Prosecutor noted that IPS rules speak about isolation instead of solitary confinement.</p>	<b>Partial</b>	Meetings with Military Prosecutor, Israeli police and IPS
<b>11.</b>	<b>Confessional evidence</b>			
(i)	Cases not be determined solely on the basis of confessions (MAG and Ministry of Justice)	The Military Prosecutor clarified that according to the law a confession alone is of limited value to the prosecution case without corroborating evidence.	<b>Under discussion</b>	Meetings with Military Prosecutor
(ii)	Confessions written in Hebrew rejected as evidence (MAG and Ministry of	The Military Prosecutor explained that, if a defendant would claim a confession was elicited as a result of misconduct by the investigative authorities, the Military Court is required to hold a special session in order to determine the admissibility of the confession given during the interrogation. The Military Prosecutor informed that of the	<b>Under discussion</b>	Meetings with Military Prosecutor

	<i>Justice)</i>	465 children who were indicted in 2013, 176 interviews were held in Arabic and documented in Arabic. The 289 interviews held in Arabic and documented in Hebrew were audio- or audio-visually recorded, as the police investigator spoke Arabic but could not write up the statement in Arabic. An indictment cannot be based on a statement taken in Hebrew, if there is no audio-visual recording of the interrogation.		
<b>12.</b>	<b>Bail and plea bargains</b>			
(i)	Bail as standard procedure instead of detention <i>(MAG and Ministry of Justice)</i>	The Military Prosecutor noted that when a person is arrested, the Military Court decides on remand based on whether there is a sufficient suspicion, a specific reason for detention (security risk, flight risk, interference with ongoing investigation) and severity of the offense, as is also provided in Israeli law. In such decisions, the Judge takes into consideration the age and circumstance of the child. In 2013, of the 654 cases referred to the Military Advocate General, 91 children were released on bail pending decision by the Military Prosecutor regarding an indictment (13%). Of the 465 indicted children, 80 were released on bail pending trial (17%).	<b>Partial</b>	Meetings with Military Prosecutor
(ii)	Conditions of plea bargains in line with CRC principles <i>(MAG and Ministry of Justice)</i>	The Military Prosecutor noted that plea bargains are used to improve the situation of the accused.	<b>Under discussion</b>	Meetings with Military Prosecutor
<b>13.</b>	<b>Location of detention and access to relatives</b>			
(i)	Held in facilities located in the occupied Palestinian territory <i>(MAG, IDF Legal Advisor and IPS)</i>	Two out of the three military detention facilities run by the IPS where Palestinian children are held in detention are located inside Israel (Hasharon and Megiddo). The transfer of Palestinian detainees outside the occupied Palestinian territory constitutes a breach of Article 49 of the Fourth Geneva Convention, prohibiting the transfer of protected persons from occupied territory, and Article 76 of the same Convention, providing that protected persons convicted of offenses shall be detained and serve their sentences within the occupied territory. This matter has been subject to judicial review by Israel's High Court of Justice on two occasions when petitioned by Israeli and Palestinian civil society organizations. In these two cases, the High Court of Justice of Israel (in 1998 and 2010 respectively) ruled that this practice is in line with Israeli law. The military prosecutor stated that no further action will be taken.	<b>No agreement on recommendation</b>	HCJ 253/88 Sejdia v. The Minister of Defense (1998) and HCJ 2690/09 Yesh Din v. Commander of the IDF forces in the West Bank (2010)
(ii)	Family visits <i>(IPS)</i>	The frequency, length and regulations for family visits are the same for children and adults. In agreement with the IPS, the ICRC organizes such visits every two weeks: 45 minutes and three first degree relatives. Physical contact is allowed at the end of the visit. The first family visit is maximum two weeks after arrival at the IPS detention facility, according to the ICRC visit schedule to that particular facility. These rules apply to the IPS detention facilities for children in Ofer, Megiddo and Hasharon, and relate to both children whose trial is ongoing and who have been sentenced. Family visits during police investigation is at the discretion of the lead investigator.	<b>Closed</b>	Meetings with Military Prosecutor and IPS

(iii)	Regular telephone communication with relatives (IPS)	The Military Prosecutor stated that in criminal cases equivalent access is given to Palestinian children in detention for family phone calls, compared to Israeli children. Persons detained for alleged security offenses (including children accused or convicted of stone-throwing) are not allowed such use. In some cases, the military courts have ordered phone contact for children. Restrictions apply to all children detained in IPS facilities for security infractions, as opposed to regular crimes, resulting in de facto prohibition of phone calls for children accused/convicted for security offences, like stone-throwing.	<b>Under discussion</b>	Meetings with Military Prosecutor and IPS
<b>14.</b>	<b>Accountability</b>	The Military Prosecutor stated that the system of accountability is based on complaints and that, to date, existing complaints mechanisms have been insufficiently used.		
(i)	Investigation of complaints related to alleged ill-treatment of children (MAG and Ministry of Justice)	<p>The Military Prosecutor, together with the Deputy Military Prosecutor for IDF soldiers in breach of the law, committed to investigate and, where appropriate, to prosecute complaints of abuse. To action a complaint, a substantial description of the events is needed, as the Military Prosecutor does not act in response to general reports of ill-treatment. In order to facilitate a full investigation of a complaint, the following minimum information is needed:</p> <ul style="list-style-type: none"> <li>- Name of the victim;</li> <li>- Place, day and time;</li> <li>- Possibility of identifying soldier;</li> <li>- Supporting medical documents;</li> <li>- Detailed account of the incident.</li> </ul> <p>According to the Deputy Military Prosecutor, in 2013, the MAG received 15 official complaints which related to alleged reports of abuse of Palestinian children arrested by the IDF. The investigations are challenged by the fact that few complainants are willing to press charges. In many cases, the complaints are too general or go back in time too long for a thorough investigation. The immediacy of the complaint is key.</p> <p>The Deputy Military Prosecutor agreed to consider developing family/child-friendly materials explaining the MAG complaints procedures, including contact details, and to appoint a unit focal point for complaints related to alleged ill-treatment of children.</p>	<b>In progress</b>	Meetings with Military Prosecutor and the Deputy Military Prosecutor for IDF soldiers in breach of the law
(ii)	Suspension of personnel allegedly involved in ill-treatment of children pending outcome investigation (MAG and Ministry of Justice)	The Military Prosecutor explained that no actions are taken against an IDF soldier upon receipt of a complaint only. Once reasonable grounds for a complaint are established and depending on the severity of the claim, the Military Prosecutor will take necessary action, which could include disciplinary measures, suspension of duties and/or prosecution.	<b>Under discussion</b>	Meetings with Military Prosecutor and the Deputy Military Prosecutor for IDF soldiers in breach of the law
(iii)	Establishment of effective and independent internal oversight mechanisms (MAG and Ministry of Justice)	The Military Prosecutor provided an overview of the various avenues for filing complaints and stands ready to receive and pass on any complaints: Israeli police (Ministry of Justice), IDF (MAG), IPS (The Police) and ISA (Ministry of Justice). The Military Prosecutor stated that there is an efficient internal system in place, but that so far very few complaints have been formally lodged.	<b>Under discussion</b>	Meetings with Military Prosecutor and the Deputy Military Prosecutor for IDF soldiers in breach of the law

	<i>Justice)</i>	The Deputy Military Prosecutor for IDF soldiers in breach of the law is tasked with investigating individuals having committed violations against Palestinians. The Deputy Military Prosecutor explained that complaints mainly come from human rights organizations or civilians directly (through military or regular police) or are initiated proprio motu (based on reports). While no specific policy for instances involving children exists, the Deputy Military Prosecutor said that de facto such cases are given special attention.		
(iv)	Redress for ill-treatment of children <i>(MAG and Ministry of Justice)</i>	According to Israeli law, defendants cannot be compensated by military or penal courts. However, if ill-treatment is established as a fact, this will be taken into account at the sentencing stage.	<b>Under discussion</b>	Meeting with Military Prosecutor and the Deputy Military Prosecutor for IDF soldiers in breach of the law
(v)	Establishment of an independent investigation into the reports of ill-treatment of children in military detention <i>(Ministry of Justice)</i>	The Military Prosecutor noted that an independent system of accountability and oversight exists (Military Advocate General, Ministry of Justice, and High Court of Justice), and there is no further requirement for an external oversight body.  On 14 June 2010 the Government of Israel established a Public Commission of Inquiry mandated, among other responsibilities, to assess whether the mechanisms for examining and investigating complaints and claims raised in relation to violations of the laws of armed conflict conforms with the obligations of Israel under the rules of international law (the Turkel Commission). The Commission concludes that Israel's mechanisms for examining and investigating complaints and claims of violations of the rules of the Law of Armed Conflict generally comply with its obligations under International Law and made a number of recommendations for strengthening the Israeli system. Following the report, the Government of Israel appointed a professional inter-agency committee of experts, which is expected to publish its recommendations in the upcoming months.	<b>Under discussion</b>	

## 6. Way forward

UNICEF views the engagement with the Ministry of Foreign Affairs, the Military Advocate General, the Military Prosecutor and other relevant authorities as productive. UNICEF looks forward to continuing this dialogue with a view to increasing the protection of children in military detention. In this regard, UNICEF urges the Government of Israel to advance the work of team headed by the Deputy Attorney General and to further the reform process and the introduction of additional protection measures through the engagement of all relevant Government entities with different roles and mandates, including among others, the Military Prosecutor; the Ministry of Foreign Affairs; the Ministry of Justice; the IDF Legal Advisor, the IDF operational command, and the Israeli police and the Israeli Prison Service.

UNICEF and partners will strengthen their efforts to gather evidence to measure the impact on children of actions taken by the Government of Israel to enhance the protection of children in military detention. In this regard, UNICEF will take a number of steps, including:

- Request the appointment of focal points within all relevant Government entities relating to the arrest, detention and trial of children for alleged security offenses;
- Seek to document, together with partners, existing good practices and interventions which strengthen the protection and safeguards of children in military detention;
- Bring to the attention of the IDF, with the consent of children and their parents, specific cases of reports of ill-treatment of arrested children for remedial action by the Government of Israel;
- Advocate with the Military Prosecutor for the regular sharing of Government statistics related to children arrested and detained for security offenses in the West Bank.

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