

report

PALESTINIAN CHILDREN AND MILITARY DETENTION



**A REPORT OF THE DUTCH MULTIDISCIPLINARY GROUP OF EXPERTS ON THE PRACTICE
AND IMPACT OF ARREST, INTERROGATION, DETENTION AND ADJUDICATION OF
PALESTINIAN CHILDREN BY ISRAELI MILITARY AUTHORITIES.**

April 2014



The aim of this report is to ask the Dutch government, particularly the Minister of Foreign Affairs, to pay special attention to the practice of arrest, interrogation, detention and adjudication of Palestinian children by Israeli military authorities in the West Bank. This report encourages the Minister, in his relations with Israeli and Palestinian authorities, and, where possible, in the context of the European Union, to promote that arrest, interrogation, detention and adjudication of Palestinian children by Israeli military authorities only takes place in accordance with the internationally recognized rights of the child and the standards associated with those rights.

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SUMMARY

At the request of *gate48* - Platform for Critical Israelis in the Netherlands and *Palestine Link*, a Dutch multidisciplinary expert-group visited Israel and the Occupied Palestinian Territories in the West Bank from 23 November till 1 December 2013. The visit was in response to alarming reports from Israeli, Palestinian and international organizations, including UNICEF. The purpose of the visit was to get an accurate picture of the practice of arrest, interrogation, detention and adjudication of Palestinian children, who are being accused, by Israeli military authorities, of committing crimes. The expert-group was particularly interested in the ways in which these practices affect the accused children as well as their families and their communities. Ultimately, the expert-group aimed to develop a concrete set of recommendations for the Dutch government, to be used in consultation with the Israeli government and the Palestinian Authority, to improve the treatment of Palestinian children and ensure that their internationally recognized rights are respected.

The expert-group conducted interviews with many individuals and organisations: children and their parents, school teachers, lawyers who try to provide Palestinian children with adequate legal assistance, professionals who provide mental health services to Palestinian children, as well as representatives from UNICEF, the Palestinian Authority and Israeli, Palestinian and international non-governmental children's and human rights organizations and representatives of the Dutch government (in Ramallah and Tel Aviv). The group was also present for a number of military court sessions in the West Bank, where members spoke with a spokesperson from the Israeli military authorities (IDF). Despite numerous attempts and requests, the Israeli authorities did not provide the group any opportunity to speak with representatives from the Israeli government or members of the Israeli parliament.

Based on its own observations and interviews, as well as the Concluding Observations of the UN Committee on the Rights of the Child in relation to Israel of 2013, the 2013 UNICEF report, and other publications and sources of information (see full report for references), the expert-group has reached the conclusion that the treatment of Palestinian children accused of committing crimes by the Israeli military authorities represents a serious, systemic and systematic violation and disregard of the rights of these children. This method of treatment has a significant negative impact on the lives of the affected children, their families and their communities. This also raises many questions about the rights of these children and their families.

The practice of arrest, interrogation, detention and adjudication of Palestinian children by Israeli military authorities cannot be separated from its general context and, in particular, the nearly fifty-year military occupation of the Palestinian Territories by Israel. Various authoritative international bodies have found the military occupation as well as specific Israeli activities in the Occupied Palestinian Territories (such as the building of the Wall) to be in violation of international law. The UN Security Council, the International Court of Justice, the International Red Cross, the Human Rights Council and different UN human rights committees have expressly denounced these activities (see full report for references). A structural solution in order to end the widespread violations of the rights of (accused) Palestinian children by Israeli military forces in the West Bank would be an end of the military occupation, which the UN has expressly urged Israel to do so (UN Security Council, Resolution 242 (S/RES/242), 22 November 1967). This will need to be part of a (peace) agreement between the Israeli government and the Palestinian Authority. The expert-group takes the view that, in the context of the current peace talks, the Dutch government,

where possible in conjunction with the European Union, should ask that special attention be paid to the treatment of Palestinian children by Israeli soldiers.

Changes in the short term will have to be pursued within the existing framework of arrest, interrogation and detention of Palestinian children by Israeli military authorities, their adjudication by Israeli military courts, and the international law applicable to them, such as the Convention on the Rights of the Child and the Fourth Geneva Convention.

The primary responsibility for ending the children's rights violations lies with the Israeli government.

In the opinion of the expert group, the Dutch government, in its relations with the Israeli government, the Palestinian Authority and where possible in context of the European Union, should exert maximum effort in contributing to the ending of those violations.

The expert-group urges the Dutch government to explicitly voice its concerns about the serious violations of children's rights associated with the practice of arrest, interrogation, detention and adjudication of Palestinian children by Israeli military authorities. Where possible, this should be done within the context of the European Union.



Photo: Karin Arts

The Dutch government should also urge the Israeli authorities to fulfill their obligations under the Convention on the Rights of the Child, which is also ratified by Israel.

The expert-group proposes a number of practical measures that the Dutch government should recommend and support. These include, among others, the following measures, which are necessary to ensure that the arrest, interrogation, detention

and adjudication of Palestinian children by the Israeli military authorities is only carried out in accordance with the internationally recognized rights of the child and the standards associated with those rights (see chapter 7 of the report for a complete overview of the recommendations):

The expert-group calls upon the Dutch government to request the Israeli authorities to introduce and implement these concrete measures in a manner that is verifiable.

1. Ensure that arrest, detention and imprisonment of Palestinian children is only used as a measure of last resort and for the shortest period of time possible;
2. Replace the practice of nightly arrests with a summons system. Make sure the parents of arrested children are notified within 24 hours, informed of their child's location as well as the applicable possibilities for visitation, and given a permit to visit their child frequently during the detention period;
3. Make audiovisual recording of interrogations of Palestinian children mandatory. Safeguard that a lawyer representing the child and one of the child's parents are present during interrogations. Confessions or statements made by the child without the presence of a lawyer should be not admissible as evidence.
4. Take effective measures for avoiding pre-trial detention as much as possible via alternative measures and the use of bail proportionate to the seriousness of the offence allegedly committed by the child.
5. Take measures to ensure the existing practice of trial by military juvenile courts is brought in line with prevailing international standards;
6. Make sure the living conditions of Palestinian children in detention conform to international standards, with particular attention paid to appropriate education, medical and psychological care, sports and recreation, and independent monitoring of the treatment of these children;
7. Support and strengthen existing programs designed to help the physical and psychological recovery and the social reintegration of Palestinian children, who are released after having been arrested, interrogated, detained and tried by the Israeli military authorities. Programs that assist the families of these children should also be supported and strengthened.

EXPERT-GROUP MEMBERS

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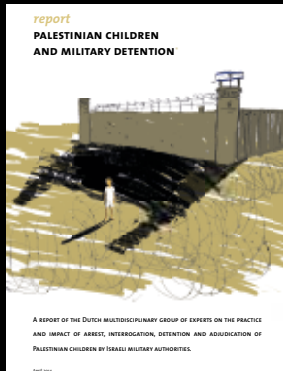
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