

Israeli Forces' Systemic Denial of Fair Trial Rights to Palestinian Child Prisoners Amounts to Arbitrary Detention

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Israeli authorities' systematic denial of fair trial rights to Palestinian children detained by Israeli forces from the occupied West Bank and prosecuted in Israeli military courts constitutes arbitrary detention, Defense for Children International - Palestine said in a report released today.

The report, "[Arbitrary by Default: Palestinian children in the Israeli military court system](#)," details and examines the systemic denial of fair trial rights inherent in Israeli forces' practice of arrest, detention, interrogation, and prosecution of Palestinian children in the Israeli military courts.

"Even a superficial review of the detention and prosecution of Palestinian children in the Israeli military court system suggests severe risks of arbitrary deprivation of liberty," said Khaled Quzmar, General Director at DCIP. "A full view, through the experience of Palestinian child detainees, exposes an inherently unjust system of control where arbitrary detention is the default practice."

DCIP collected affidavits from 766 West Bank Palestinian children detained by Israeli forces between 2016 and 2022 that show three-quarters of them endured some form of physical violence following arrest and 97 percent had no parent present during interrogation, and two thirds were not properly informed of their rights. All were subject to Israeli military law that denies basic and fundamental fair trial protections and guarantees and prosecuted in Israel's military court system which is not independent or impartial.

Most Palestinian children are arrested on suspicion, without arrest warrants. There is little to no independent oversight over arrests. None of the 766 Palestinian children reported that Israeli authorities provided them with an arrest warrant at the time they were arrested. Only

111 out of 766 (14.5 percent) Palestinian children reported being informed generally of the reason for arrest, meaning 85.5 percent of children had no information on why they were being detained at the moment of arrest.

Only 32 out of 766 (4.2 percent) Palestinian children reported that they received a summons by Israeli authorities for investigation and questioning. These summonses fall short of the threshold for constituting an arrest warrant because they do not include a reason for the suspicion or information on any charges.

The report concludes that in the overwhelming majority of cases Israeli authorities systematically fail to invoke any legal basis justifying the deprivation of liberty of Palestinian children arrested from the occupied West Bank which constitutes arbitrary detention in violation of international law. Israeli authorities systematically disregard and deny fundamental protections and guarantees concerning the right to a fair trial to Palestinian children to the extent that nearly any deprivation of liberty as part of the military court system is of an arbitrary character.

“Israeli military courts are not independent or impartial because they are composed of military personnel who are subject to military discipline and dependent on superiors for promotion,” said Brad Parker, Senior Adviser for Policy and Advocacy at DCIP. “From the widespread ill-treatment and torture of Palestinian children to the systematic denial of their due process rights emerges a system of control that masquerades as justice where arbitrary detention is the default policy.”

Key findings:

- Israeli military courts do not meet the standards of an independent and impartial tribunal for the purposes of considering matters involving civilians, including children.
- Palestinian children detained and prosecuted by Israeli forces in the Israeli military detention and court system are denied the right to a fair hearing by a competent, independent, and impartial tribunal.
- Israeli authorities systematically arrest Palestinian children from the occupied West Bank without any attempt to issue arrest warrants that would establish a legal basis for the detentions.
- Israeli authorities overwhelmingly fail to explain or inform the Palestinian child or their family of the reasons for an arrest.
- Israeli forces and authorities’ systematically deny Palestinian children their right to prompt access to legal assistance and the presence of a family member during interrogation.
- Israeli forces and authorities’ systemic non-observance of the obligatory and absolute prohibition against torture or cruel, inhuman or degrading treatment constitutes arbitrary detention.

“Despite Israel’s ratification of many of the core international human rights treaties and its obligations to act in accordance with those treaties, Israeli authorities persistently disregard and fail to comply with international law,” said Ayed Abu Eqtaish, Accountability Program director at DCIP. “The result is the systematic denial of the right to a fair trial for Palestinian children detained and prosecuted in the Israeli military court system.”

Each year the Israeli military detains and prosecutes between 500 to 700 Palestinian children in Israeli military courts that lack basic safeguards for a fair trial. From the moment of arrest, Palestinian children encounter ill-treatment and torture at the hands of Israeli forces. Despite the fact that international norms reaffirm that civilians, including children, must never be brought before military courts, Israel persists in being the only country in the world to automatically and systematically prosecute children in military courts.

Regardless of the reason for the deprivation of liberty, any detained person is protected by several fundamental guarantees in international human rights law and international humanitarian law, including the right to life, the prohibition against the arbitrary deprivation of liberty, and the prohibition against torture and cruel, inhuman or degrading treatment.

A deprivation of liberty is arbitrary when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty or when the total or partial non-observance of the international norms relating to the right to a fair trial is of such gravity as to give the deprivation of liberty an arbitrary character.

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Featured image: A Palestinian child, Omar Alhadeede, the sole survivor of his family, looks at a photo of his brothers, killed by the recent Israeli bombing on Gaza. (Image tweeted by Aya Isleem)

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