



# **Universal Periodic Review: Israel**

## **Third Cycle**

### **Submission to the Stakeholders' Summary**

**Alkarama Foundation, 29 June 2017**

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1. The present contribution falls within the framework of the third cycle of the Universal Periodic Review (UPR) pertaining to the general human rights situation in Israel and takes into account the recommendations made in December 2013.

## 1. General context and recent developments

1. Over the past four years, the human rights situation concerning the Palestinian populations in Israel has remained critical.

2. In summer 2014, following the abduction and killing of three Israeli teenagers in the West Bank, and the retaliatory kidnapping and murder of a Palestinian teenager from Jerusalem, tensions ran high and eventually led the Israeli Defence Forces (IDF) to launch, on 8 July 2014, military operation "Protective Edge" in Gaza. The 51-day operation entailed intensive bombardments, rocket mortar fire and a ground operation across the strip. Rockets were also fired from Gaza towards Israeli cities and towns. The operation concluded on 26 August 2014, when the parties reached an open-ended cease-fire. Operation "Protective Edge" gave rise to a record number of civilian casualties, the devastation of civilian buildings and infrastructure and large scale displacement. According to the UN, at least 2,250 Palestinians were killed, and more than 1,200 were injured, mostly civilians. In addition, approximately 20,000 homes, 220 schools, 62 hospitals and clinics were destroyed or severely damaged leaving approximately 108,000 people homeless.<sup>1</sup> At the height of the conflict, approximately 485,000 people were internally displaced. Six Israeli citizens and one foreign national were killed during the operation.<sup>2</sup>

3. In early September 2015, tensions escalated again; the Israeli security forces carried out a military raid outside Al Aqsa mosque, following the Israeli Ministry of Defence's decision to outlaw Muslim groups "protecting" the compound against Jewish worshippers. Police used tear gas and threw stun grenades toward Palestinian youths who barricaded themselves inside the mosque and hurled rocks and flares.<sup>3</sup>

4. Despite the surprise visit of UN Secretary General Ban Ki Moon to Jerusalem on 20 September 2015 to try and ease the tensions,<sup>4</sup> the situation remained critical. Only two days later, 18-year-old Hadeel Al Hashlamon was shot dead by IDF officers at a checkpoint in the West Bank for allegedly holding a knife.<sup>5</sup>

5. The incident led to the intensification of violence that continued until the end of 2016, with increased protests and stabbing attacks carried out by Palestinians met with violent repression, including shooting of protesters with live ammunitions, direct targeting of alleged stabbers and waves of arrests. It is estimated that, between 1 January and 31 October 2016 only, at least 11 Israeli were killed and 131 were injured, while at least 94 Palestinians were killed, and 3,203 injured.<sup>6</sup>

6. As the policy of houses demolitions and construction of illegal settlements in the Occupied Palestinian Territories (OPT) continued relentlessly, in December 2016, the UN Security Council (UNSC) passed a resolution condemning settlement building.<sup>7</sup> Despite that, on 30 March 2017, the Israeli government approved the construction of a new settlement in the West Bank.<sup>8</sup>

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<sup>1</sup> UN Human Rights Council, Report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1, 25 June 2015, A/HRC/29/52.

<sup>2</sup> *Ibidem*.

<sup>3</sup> Ma'an News, *Israeli forces storm Al-Aqsa compound, assault worshippers*, 13 September 2015, <https://www.maannews.com/Content.aspx?id=767579> (accessed on 15 June 2017).

<sup>4</sup> Peter Beaumont, "Ban Ki-moon in Jerusalem for talks as violence escalates", *The Guardian*, 20 October 2015, <https://www.theguardian.com/world/2015/oct/20/ban-ki-moon-due-in-jerusalem-for-talks-amid-escalating-violence> (accessed on 15 June).

<sup>5</sup> Amira Hass, "The Execution of Hadeel al-Hashlamoun", *Haaretz*, 3 November 2015, <http://www.haaretz.com/opinion/.premium-1.684048> (accessed on 15 June 2017).

<sup>6</sup> Human Rights Watch, *Israel/Palestine Events of 2016*, <https://www.hrw.org/world-report/2017/country-chapters/israel/palestine> (accessed on 15 June 2017).

<sup>7</sup> UN Meeting Coverage and Press Releases, *Israel's Settlements Have No Legal Validity, Constitute Flagrant Violation of International Law, Security Council Reaffirms*, 23 December 2016, <https://www.un.org/press/en/2016/sc12657.doc.htm> (accessed on 15 June 2017).

<sup>8</sup> Al Jazeera, *Israel blasted for approving Emek Shilo settlement*, 31 March 2017, <http://www.aljazeera.com/news/2017/03/israel-blasted-approving-bank-settlement-170330205451007.html> (accessed on 16 June 2017).

## 2. Scope of international obligations

### 2.1 Constitutional and legislative framework

7. A concerning change in Israeli legislation was the adoption, on 2 August 2016, of the “Youth Bill” that allows the authorities to imprison minors as young as 12 convicted of serious crimes such as murder, attempted murder or manslaughter.<sup>9</sup> This punishment, already provided for by military courts, hampers the rights of children in detention and should be considered as a last resort, and for the shortest period as possible.<sup>10</sup>

8. Furthermore, new regulations passed on 24 September 2015 by the Security Cabinet on violent riots allow opening fire with live ammunitions as an initial option, foregoing any earlier attempt to employ non-lethal weapons, on those throwing stones or firebombs, and on those shooting fireworks.<sup>11</sup> These regulations clearly violate the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, according to which non-violent means must be used before resorting to the use of force and firearms,<sup>12</sup> and only against those that pose an imminent or a grave threat to life.<sup>13</sup>

### 9. Recommendation:

- a) Amend the abovementioned laws and regulations to bring them in compliance with human rights standards.

### 2.2 International obligations

10. Israel is party to the main international instruments for human rights and international humanitarian law. However, it has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture (UNCAT) and the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR).<sup>14</sup> It has also never accepted the individual complaints procedures under the Optional Protocol of the ICCPR and article 22 UNCAT.<sup>15</sup>

11. Furthermore, Israel has not ratified Additional Protocols I and II to the Geneva Conventions and the Rome Statute.<sup>16</sup>

### 12. Recommendations:

- a) Ratify the said Conventions;
- b) Accept individual complaints procedures.

## 3. Cooperation with the human rights mechanisms

13. The authorities have not issued a standing invitation to Special Procedures,<sup>17</sup> and have not accepted any of the pending requests for country visits,<sup>18</sup> including one from the Special Rapporteur on the situation of the OPT.<sup>19</sup>

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<sup>9</sup> AFP and Times of Israel, *Israel approves jailing terrorists from age 12*, 3 August 2013, <http://www.timesofisrael.com/israel-approves-jailing-terrorists-from-age-12/> (accessed on 16 June 2017).

<sup>10</sup> Article 37.b Convention on the Rights of the Child.

<sup>11</sup> According to the new police regulations, “an officer is permitted to open fire [with live ammunition] directly on an individual who clearly appears to be throwing or is about to throw a firebomb, or who is shooting or is about to shoot fireworks, in order to prevent endangerment.” It is further specified that “stone throwing using a slingshot” is also an example of the sort of situation, which would justify the fatal use of live ammunition; Adalah, *Israeli police reveal new open-fire regulations in response to Adalah’s court petition*, 5 July 2016, <https://www.adalah.org/en/content/view/8845> (accessed on 16 June 2017).

<sup>12</sup> Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

<sup>13</sup> Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

<sup>14</sup> Recommendations not enjoying Israel’s support n. 136.1 (Portugal, Spain), 136.4 (Portugal), 136.5 (France), 136.6 (Ecuador), 136.7 (Argentina), 136.8 (Denmark, Poland, Portugal, Czech Republic, Costa Rica, Hungary), 136.9 (Estonia), 136.10 (Austria).

<sup>15</sup> Recommendations not enjoying Israel’s support n.136.8 (Austria, Denmark, Poland, Portugal, Czech Republic, Costa Rica, Hungary).

<sup>16</sup> Recommendations not enjoying Israel’s support n. 136.11 (Estonia), 136.12 (Slovenia, Tunisia, Uruguay), 136.14 (Estonia), 136.15 (Uruguay).

<sup>17</sup> Recommendation not enjoying Israel’s support n. 136.51 (Nicaragua, Slovenia, Uruguay, Saudi Arabia, Guatemala).

<sup>18</sup> In particular the request of the Special Rapporteur against torture, pending since 2007, the request of the Special Rapporteur

14. Alkarama also noted that Opinion No. 13/2016 of the Working Group on Arbitrary Detention (WGAD)<sup>20</sup> issued in April 2016, calling for the release of Mr Mohammed Suleiman has remained unimplemented, as the victim remains to this day detained.

#### **15. Recommendations:**

- a) Implement without delay all the Special Procedures' recommendations, including the WGAD's Opinions;
- b) Cooperate with all Special Procedures' mandate holders.

### **4. Compliance with obligations under international humanitarian law and human rights law**

#### **4.1 Attacks against civilians**

16. During Operation "Protective Edge", the high number of civilian casualties was the result of Israeli forces' serious violations of international humanitarian law. As Alkarama documented,<sup>21</sup> civilians, including a high number of women and children died following the indiscriminate use of artillery or other explosive weapons in densely populated areas, in aerial attacks on residential buildings without any apparent military target, and with little recourse to precautionary measures.

17. Despite recommendations of the UN Independent Commission of Inquiry (CoI) on the 2014 Gaza Conflict,<sup>22</sup> the Israeli authorities have failed to investigate violations, as the military advocate general launched criminal investigations into ten incidents only, most of which he closed without indictments even where the commission found credible evidence of violations.<sup>23</sup> On rare occasions in which courts had opened a case, witnesses were not allowed to travel to Israel to testify.<sup>24</sup>

#### **18. Recommendations:**

- a) Investigate, punish and prosecute all those responsible for violations of the laws of war resulting in civilian deaths;
- b) Allow relatives of victims to take part in legal proceedings.

#### **4.2 Attacks against civilian objects**

23. Israel's attacks also led to the destruction 220 schools, 62 hospitals and clinics, and other civilian objects.<sup>25</sup> Alkarama collected information that hospitals were directly targeted during attacks and that warnings were generally not given, or were ineffective. Similarly, schools were attacked, even in cases where their precise location had been communicated to the Israeli authorities, such as in the case of UNRWA Elementary Girls School (A+B) in Jabalia, which was also hosting internally displaced persons.<sup>26</sup> Acts of this kind qualify as serious breaches to the Geneva Conventions and therefore amount to war crimes.

24. As pointed out by the CoI, the fact that destruction was particularly concentrated in localities close to the Green Line, and amounting in some areas to 100% destruction,<sup>27</sup> raises concerns that

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on extrajudicial, summary or arbitrary executions pending since 2009, the request of the Special Rapporteur on Racism pending since 2008, the Special Rapporteur on Education, pending since 2009.

<sup>19</sup> Pending since 12 August 2014 and 13 February 2015; recommendations non-enjoying Israel's support n. 136.195 (Saudi Arabia) and 136.196 (Turkey).

<sup>20</sup> Opinion of the Working Group on Arbitrary Detention No. 13/2016, 21 April 2016; see also: Alkarama, *Israel: UN Group Says Detention of "Hares Boys" for Stone Throwing is Arbitrary and Discriminatory*, <https://www.alkarama.org/en/articles/israel-un-group-says-detention-hares-boys-stone-throwing-arbitrary-and-discriminatory>, 21 June 2016 (accessed 16 January 2017).

<sup>21</sup> Alkarama, *The 2014 Operation "Protective Edge" – Violating the Laws of War* <https://www.alkarama.org/en/documents/2014-operation-protective-edge-violating-laws-war> (accessed on 16 June 2017).

<sup>22</sup> UN Human Rights Council, *ibid.*

<sup>23</sup> Human Rights Watch, *Israel/Palestine, Events of 2015*, <https://www.hrw.org/world-report/2016/country-chapters/israel/palestine> (accessed on 16 June 2017).

<sup>24</sup> *Ibidem.*

<sup>25</sup> UN Human Rights Council, *ibid.*

<sup>26</sup> UNRWA, *UNRWA Strongly Condemns Israeli Shelling of its School in Gaza as a Serious Violation of International Law*, 30 July 2014, <https://www.unrwa.org/newsroom/official-statements/unrwa-strongly-condemns-israeli-shelling-its-school-gaza-serious#.U9jgCdJLOmo.twitter> (accessed on 16 June 2017).

<sup>27</sup> Human Rights Council, *ibid.*

such extensive destruction was carried out unlawfully and was not required by imperative military necessity, and can therefore qualify as a war crime.

**25. Recommendation:**

- a) Investigate, punish and prosecute all those responsible for the war crime of extensive destruction of property.

**4.3 House demolitions and illegal settlements**

28. Denounced at the last UPR,<sup>28</sup> the practice of house demolitions continued unfettered. Palestinians' houses are routinely demolished because they were constructed without the required permits, which are denied in more than 94% of Palestinian applications.<sup>29</sup>

29. Alkarama documented cases of house demolitions as a form of punishment. Shafeeq Halabi's house in Surda, a village north of Ramallah, was demolished on 8 January 2016 by the IDF in reprisal against a stabbing attack committed three months earlier by Halabi's son.<sup>30</sup> This repressive practice was reintroduced in the summer of 2014 after a 10 year-long moratorium.<sup>31</sup>

30. Similarly, the construction of Israeli settlements in the OPT has not seen any limitations.<sup>32</sup> On the contrary, despite UNSC Resolution of 23 December 2016 demanding that Israel immediately and completely cease all settlement activities in the OPT; on 30 March 2017, the government approved the construction of a new settlement in the West Bank.<sup>33</sup>

**31. Recommendations:**

- a) Cease the practice of house demolitions of Palestinians in the OPT;
- b) Ensure victims of house demolition their right to compensation;
- c) Put an end to the practice illegal settlements.

**4.4 The practice of torture**

32. Torture remains practiced by the Israeli authorities and recommendations calling for the end of this practice were rejected during the last UPR.<sup>34</sup>

33. Alkarama documented several cases in which force was used in an excessive manner by the Israeli security forces during arrests of Palestinians, including minors. For example, Shadi Farrah was arrested on 30 December 2015 at age 13 by Israel Police Special Forces who immobilised him with a taser, beat him up, and stripped him naked while verbally threatening him.<sup>35</sup>

34. It is common that following their arrest, suspects are held *incommunicado* and subjected to further acts of torture such as sleep deprivation, beatings, and verbal threats while being interrogated, in order to confess. Confessions – that are redacted in Hebrew and signed under coercion by Palestinian suspects – are relied upon as the main piece of evidence in Israeli military courts.

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<sup>28</sup> Recommendation not enjoying Israel's support n. 136.207 (United Arab Emirates) and 136.229 (Cuba).

<sup>29</sup> UNRWA, *Demolition watch*, <https://www.unrwa.org/demolition-watch> (accessed on 19 June 2017).

<sup>30</sup> Alkarama, *Palestine: New Case of Punitive Demolition and Land Grabbing – Israeli Authorities Must Stop This Practice and Provide Remedy to Victims*, 12 February 2016, <https://www.alkarama.org/en/articles/palestine-new-case-punitive-demolition-and-land-grabbing-israeli-authorities-must-stop> (accessed on 19 June 2017).

<sup>31</sup> B'tselem, *House demolitions as punishment*, [http://www.btselem.org/punitive\\_demolitions](http://www.btselem.org/punitive_demolitions) (accessed on 19 June 2017).

<sup>32</sup> Israel did not accept any recommendation made on this subject during the last UPR, in particular recommendations n. 136.64 (Oman), 136.70 (Qatar), 136.73 (Switzerland), 163.74 (United Arab Emirates), 136.79 (Brazil), 136.82 (Egypt), 136.184 (Libya), 136.85 (Turkey), 136.187 (Russian Federation), 136.190 (Jordan).

<sup>33</sup> Al Jazeera, *Israel blasted for approving Emek Shilo settlement*, 31 March 2017, <http://www.aljazeera.com/news/2017/03/israel-blasted-approving-bank-settlement-170330205451007.html> (accessed on 16 June 2017).

<sup>34</sup> Recommendations not enjoying Israel's support n. 136.111 (Cuba) and 136.132 (Russia).

<sup>35</sup> Alkarama, *Israel: Cruel and Discriminatory Treatment of 12 and 15-year old Palestinians*, 1 July 2016 <https://www.alkarama.org/en/articles/israel-cruel-and-discriminatory-treatment-12-and-15-year-old-palestinians> (accessed on 20 June 2017).

35. Prolonged solitary confinement, a practice amounting to torture, is furthermore a common practice. For example, Fares Dar-Sheikh-Saadah was detained in solitary confinement for nine months, which seriously affected his mental health.<sup>36</sup>

36. Finally, force-feeding of detainees on hunger strike remains practiced, despite the fact that the UN Special Rapporteur on torture repeatedly asked Israel to put an end to it.<sup>37</sup>

### 37. Recommendations:

- a) Bring a definitive end to the practice of torture and exclude from evidence any statements obtained as a result;
- b) Ensure detainees are afforded their right to access to a lawyer from the onset of their detention and are allowed family visits;
- c) Ensure that solitary confinement is used only in exceptional cases as a measure of last resort, for as short a time as possible and subject to independent review, in line with international standards;
- d) Put an end to the practice of force-feeding;
- e) Investigate, prosecute, and punish the perpetrators of torture with penalties reflecting the gravity of their actions.

## 4.5 Arbitrary detention

### 4.5.1 Illegal administrative detention

38. Although at the last UPR, Israel agreed to ensure that administrative detention is carried out in compliance with human rights standards,<sup>38</sup> its practice has not changed during the past four years. Administrative detention can still last for an indefinite period of time and is usually based on classified information, thus denying detainees the possibility to prepare their defence. Administrative detainees are furthermore not granted the rights to access their lawyer, family members as well as independent doctors. For example, blind Imam Mustafa Hanoon was administratively detained for 20 months during which time he was held *incommunicado* and denied any assistance required for his disability.<sup>39</sup>

39. Administrative detention is often used as a form of punishment against human rights defenders, activists or journalists for exercising their right to free speech. For instance, Mohammad Al Qeeq, Palestinian journalist at Al Majd TV, was administratively detained for allegedly "inciting

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<sup>36</sup> Alkarama, *Palestine: 20-year-old Held in Solitary Confinement in Israeli Prison for 9 Months*, 28 December 2015, <https://www.alkarama.org/en/articles/palestine-20-year-old-held-solitary-confinement-israeli-prison-9-months> (accessed on 20 June 2017).

<sup>37</sup> UN, *UN experts urge Israel to halt legalization of force-feeding of hunger-strikers in detention*, 28 July 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16269&> (accessed on 20 June 2017).

<sup>38</sup> Recommendation enjoying the support of Israel n. 136.124 "Ensure that administrative detention is carried out in accordance with international human rights standards" (Denmark) and 136.133 "Ensure that the use of administrative detention is minimised and that human rights are fully respected in the fight against terrorism" (Sweden) and recommendation partially enjoying Israel's support n. 136.125 "Ensure that administrative detention complies with Israel's international commitments, and that it remains an exceptional measure and of a limited period, and that it is conducted in the respect of fundamental guarantees, in particular the rights of the defence of detainees and the right to a fair trial within a reasonable time" (France) and 136.130 "introduce limitations to the practice of administrative detention in conformity with international law and to desist from its multiple extensions, and eventually ending them" (Slovenia); several recommendations on administrative detention issued at the last UPR did not enjoy the support of Israel, and in particular recommendations n. 136.116 "Release all the Palestinian and Arab prisoners and detainees in the Israeli prisons, including women and children, and put an end to all forms of torture exercised against them" (Oman), 136.117 "Release immediately all political prisoners and administrative detainees" (Pakistan), 136.20 "Undertake an independent evaluation of its policy of administrative detention with a view to ending this practice, guaranteeing that all those detained without exception are brought before a judge and have immediate access to a lawyer" (Chile), 136.123 "Immediately halt all administrative detention and release all Palestinian detainees and captives in Israeli prisons especially women and children" (Qatar), 136.131. Bring before a court all persons who are detained under an administrative detention order and have them properly charged with a crime in accordance with international standards (Spain); 136.132. Renounce the practices of arbitrary detention and end the use of torture in places of detention (Russian Federation).

<sup>39</sup> Alkarama, *Palestine: Blind Imam Detained Without Charges for Over a Year Sees his Administrative Detention Renewed for Four Months*, 21 September 2015, <https://www.alkarama.org/en/articles/palestine-blind-imam-detained-without-charges-over-year-sees-his-administrative-detention> (accessed on 19 June 2017) and Alkarama, *Blind Imam Released After 20 Months in Administrative Detention*, 14 January 2016, <https://www.alkarama.org/en/articles/palestine-blind-imam-released-after-20-months-administrative-detention> (accessed on 19 July 2017).

violence through the media” for six months between November 2015 and May 2016.<sup>40</sup>

#### **40. Recommendations:**

- a) Put an end to the practice of administrative detention;
- b) Ensure all detainees are afforded the rights to meet with their lawyer since the onset of their detention, family visits as well as access to independent doctors.

#### 4.5.2 Severely flawed trials before military courts

41. Israeli military courts, composed solely of members of the IDF,<sup>41</sup> continue to try Palestinians for crimes related to security while failing to ensure the respect of fair trial rights.

42. Military orders regulating the military courts allow suspects to be detained for four days following their arrest before being brought before the military judge.<sup>42</sup> Suspects can also be detained without charge for the purposes of interrogation for a maximum length of three months,<sup>43</sup> and for two months, they can be denied access to a lawyer, if “necessary for reasons of security of the region or the good of the interrogation”.<sup>44</sup> Additionally, suspects are forced to sign their confessions, often obtained under torture, in Hebrew, a language they cannot understand.<sup>45</sup> It is primarily upon these documents that defendants in military courts are sentenced after trials carried out in Hebrew and only partially translated in Arabic.

#### **43. Recommendations:**

- a) Bring military orders in line with international standards protecting fair trial rights and ensure fair trial guarantees are fully applied to defendants before the military courts.

#### 4.5.3 Arbitrary detention of minors

45. During the last UPR, concerns regarding the trial of Palestinian children before the military court system were disregarded by the authorities.<sup>46</sup> They nevertheless remain relevant.

46. Children as young as 12<sup>47</sup> can in fact be arrested and brought before the military courts for security offences, mostly stone throwing, which carries detention penalties up to 20 years imprisonment.<sup>48</sup>

47. Minors are routinely arrested by the IDF without warrants<sup>49</sup> at checkpoints or while in their houses, during night raids. They are commonly beaten up, strip searched, shackled and blindfolded when brought away. Children are generally not informed of the reasons of their arrest, and there is no formal process for parental notification.<sup>50</sup>

48. They are subsequently interrogated for several hours without the presence of their lawyer or their parents,<sup>51</sup> shackled and subjected to verbal abuse and insults. They are systematically shown documents written in Hebrew during interrogation, which they are forced to sign.<sup>52</sup>

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<sup>40</sup> Alkarama, *Palestine: Reported Mohammad Al Qeeq Released After Six Months in Administrative Detention*, 25 May 2016, <https://www.alkarama.org/en/articles/palestine-reporter-mohammad-al-qeeq-released-after-six-months-administrative-detention> (accessed on 19 June 2017).

<sup>41</sup> article 11 Military Court order 1651, [http://nolegalfrontiers.org/en/military-orders/mil01/74-security-provisions-chapter3-21-69.html#Duration\\_of\\_detainment](http://nolegalfrontiers.org/en/military-orders/mil01/74-security-provisions-chapter3-21-69.html#Duration_of_detainment)

<sup>42</sup> Military Order 1685 of August 2012.

<sup>43</sup> Article 38 Military Order 1651.

<sup>44</sup> Article 58 and 59 Military Court Order 1651.

<sup>45</sup> Defence for Children International, Palestine, *No way to treat a child, Palestinian Children in the Israeli Military Detention System*, April 2016, p.46.

<sup>46</sup> Recommendations not enjoying Israel’s support n. 136.136 (Bahrain) and 136.137 (Iraq).

<sup>47</sup> Article 181.a of Military Order 1651 of 2009, see also Alkarama, *Palestine: A 12-year Old Girl Sentenced to 4.5 Months in Prison by an Israeli Court*, 2 March 2016, <https://www.alkarama.org/en/articles/palestine-12-year-old-girl-sentenced-45-months-prison-israeli-court> (accessed on 20 June 2017).

<sup>48</sup> Article 212.3, Military Order 1651 of 2009.

<sup>49</sup> Articles 31.a and 32.a Military Order 1651 of 2009 allows arrests on without warrants if there is a suspicion that the individual has committed an act violating one of the “security offenses” in Israeli military law.

<sup>50</sup> Defence for Children International, Palestine, *ibid.* p. 30.

<sup>51</sup> Children are allowed to consult a lawyer prior to interrogation but they are not permitted to have an attorney or their parents present during interrogation, article 136.c of Military Order 1676 of 2011 and Defence for Children International, *ibid.*, p.40.

49. Since 2009, minors can be tried before juvenile military courts, but these use the same facilities and court staff as the adult military courts.<sup>53</sup>

50. Routinely sentenced to prison terms, children are subsequently held in detention centers in Israel in violation of article 76 of the Fourth Geneva Convention. This also entails that family visits are extremely limited, due to the difficulties for Palestinian families to obtain the permits to travel to Israel from the OPT.

51. As he suffered from all these violations, the WGAD described the detention of Mohammed Su-leiman, a teenager sentenced to 15 years in prison by the Israeli military court for throwing stones, as “arbitrary”.<sup>54</sup>

## **52. Recommendations:**

- a) Ensure that Palestinian minors are not subjected to torture and ill-treatment;
- b) Ensure Palestinian children are afforded fair trial guarantees;
- c) Review and amend all the laws that allow for sentencing Palestinian minors for lengthy periods of detention and ensure alternative to detentions are taken into consideration;
- d) Ensure children are held in appropriate conditions and in facilities located in the OPT.

## **4.6 Restrictions to the right to freedom of association**

53. On 11 July 2016, the Knesset passed the “NGO Transparency Law” according to which any non-profit organisation that receives more than half of its funding from a foreign political entity must indicate as much in any publication or correspondence with elected officials or civil servants.

54. As denounced by the Special Rapporteur on peaceful assembly and association, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur freedom of and expression,<sup>55</sup> the law targets non-governmental organisations that are critical of governmental policy, and it is therefore discriminatory. In fact, it singles them out while leading the public to perceive them as agents of foreign entities, regardless of how autonomously they operate. Coming after unprecedented smear campaigns by right-wing groups branding Israeli human rights defenders as “foreign agents” and “traitors”,<sup>56</sup> the law contributes to delegitimise human rights organisations in a context in which civil society space is ever-shrinking.

## **55. Recommendation:**

- a) Repeal the “NGO Transparency Law”.

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<sup>52</sup> Military Order 1745 of September 2014 also stipulates that interrogations should be conducted in the language of the accused only for “non-security” offences, Military Court Watch, *Developments*, <http://www.militarycourtwatch.org/print.php?id=w8qxM9rINua108414AzlUTPyTHMr> (accessed on 20 June 2017) and Defence for Children International, *ibid.*, p. 46.

<sup>53</sup> Ofer and Salem military bases; Military order 1644 of 2009, Military Courts Watch, *Military legal system*, <http://www.militarycourtwatch.org/page.php?id=6a06ck7Rnga26628AAapuBpjuFE> (accessed on 20 June 2017).

<sup>54</sup> Opinion of the Working Group on Arbitrary Detention No. 13/2016, 21 April 2016; see also: Alkarama, *Israel: UN Group Says Detention of “Hares Boys” for Stone Throwing is Arbitrary and Discriminatory*, <https://www.alkarama.org/en/articles/israel-un-group-says-detention-hares-boys-stone-throwing-arbitrary-and-discriminatory>, 21 June 2016 (accessed 16 January 2017).

<sup>55</sup> UN, *Israel: UN experts urge Knesset not to adopt pending legislation that could target critical NGOs*, 24 June 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20177&LangID=E> (accessed on 20 June 2017).

<sup>56</sup> FIDH, *Israeli Knesset approves controversial law targeting foreign-government funding for NGOs*, 18 July 2016, <https://www.fidh.org/en/issues/human-rights-defenders/israeli-knesset-approves-controversial-law-targeting-foreign> (accessed on 20 June 2017).