



Defence for Children International/Palestine Section
الحركة العالمية للدفاع عن الأطفال / فرع فلسطين

Submission to the Committee on the Rights of the Child
Day of General Discussion

“The right of the child to education in emergency situations”

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Defence for Children International/Palestine Section (DCI/PS) is a national section of the international non-governmental child rights organisation and movement, Defence for Children International (DCI), established in 1979, with consultative status with ECOSOC. DCI/PS was established in 1992, and is dedicated to promoting and protecting the rights of Palestinian children in accordance with the United Nations Convention on the Rights of the Child (UNCRC), as well as other international, regional and local standards.

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Denial of the right to education for security reasons under military occupation Palestinian children in Israeli detention

1. Background to the emergency situation

- 1.1 Israel imposed military law on the West Bank and Gaza Strip following the beginning of its occupation of the territories in 1967. From 1967 to the present, Israeli military commanders have been issuing military orders which govern many aspects of Palestinian life in the West Bank. There are now 1,500 military orders in operation which are enforced by two Israeli military courts currently in operation in the West Bank.
- 1.2 Each year, approximately 700 Palestinian children (under 18) from the West Bank are arrested by the Israeli army for alleged security offences. These children are taken to one of seven interrogation and detention centres located within the West Bank and Israel¹, and eventually appear before a military court where the vast majority of children receive prison sentences. Since 2000, some 6,000 Palestinian children have been detained.
- 1.3 After sentencing, children are transferred to one of the five prisons operated by the Israeli Prison Service (IPS) where Palestinian children are detained.² All but one of these prisons, Ofer, is located inside Israel, in breach of article 76 of the *Fourth Geneva Convention* (1949) which provides that an occupying power must detain residents of occupied territory in prisons inside the territory i.e. within the West Bank.
- 1.4 Table 1 – Number of Palestinian children currently detained by Israel

2008	IPS PRISON FACILITY		ARMY/POLICE INTERROGATION AND DETENTION FACILITY	TOTAL
	12-15 yrs	16-17 yrs		
JAN	38	284	5	327
FEB	40	258	9	307
MAR	45	265	15	325
APR	39	271	17	327
MAY	37	282	18	337
JUN	34	277	12	323

¹ Huwarra, Etzion, Salem, Ashkelon, Jalama, Mascobiyya and Petah Tikva.

² An Naqab, Ofer, Telmond, Megiddo and Addamoun.

1.5 Table 2 – Number of Palestinian children currently in Israeli detention by gender.

2008	MALE	FEMALE	TOTAL
JAN	325	2	327
FEB	305	2	307
MAR	322	3	325
APR	323	4	327
MAY	334	3	337
JUN	317	6	323

2. The legal framework

- 2.1 State Parties to the Convention on the Rights of the Child recognise children’s right to education.³ This right extends to children detained under occupation⁴ and should be suited to the child’s needs and abilities and designed to prepare the child for his or her return to society.⁵ Such education should be provided by qualified teachers through programmes integrated with the education system of the country so that, after release, the child may continue his or her education without difficulty.⁶
- 2.2 In every circumstance, Israeli authorities should provide the same quality of education to all children detained in Israeli prisons and detention centres, whether they be Israeli or Palestinian.⁷

3. Education in detention

- 3.1 In contravention of international law, limited education is provided in only two out of the five prisons where Palestinian children are detained.⁸ In the two prisons where education is provided, it is limited to two hours and nine hours per week, respectively.⁹ Normally no education whatsoever is provided in the seven interrogation and detention centres where children can be detained for up to as much as seven months.¹⁰

³ Article 28 of the *Convention on the Rights of the Child*.

⁴ Article 94 of the *Fourth Geneva Convention* provides that “*The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.*”

⁵ *UN Rules for the Protection of Juveniles Deprived of their Liberty* – Rule 38.

⁶ *Ibid.*

⁷ Article 2 of the *Convention on the Rights of the Child* – non-discrimination.

⁸ See footnote 4.

⁹ Telmond and Addamoun prisons.

¹⁰ Huwarra, Etzion, Salem, Ashkelon, Jalama, Mascobiyya and Petah Tikva.

- 3.2 In 1997 lawyers acting for a number of Palestinian child detainees petitioned the Israeli District Court in Tel Aviv seeking an order that Palestinian child prisoners held in Israeli detention be given the same rights to education as Israeli child prisoners.¹¹ The court ruled that Palestinian child prisoners were entitled to the same education rights as Israeli child prisoners, which included an education programme based on the Palestinian curriculum, but that this right was “*subject to the security situation*”.
- 3.3 Since the court decision in 1997, Israeli prison authorities have interpreted “*subject to the security situation*” to permit the limited teaching of Arabic, Hebrew, English and mathematics and sometimes science, but only in two prisons and for a minimal period of time each week (see paragraph 3.1 above).
- 3.4 On 6 April 2008, the legal co-coordinator for DCI/PS, Khaled Quzmar, met with David Kootz, Deputy Coordinator for Protection Activities with the International Committee of the Red Cross (ICRC) in Ramallah to discuss issues relating to child detainees, including education. The ICRC offered to deliver textbooks on the new Palestinian curriculum to Palestinian children in Israeli prisons. Several days later the ICRC informed DCI/PS that all material relating to the teaching of chemistry, physics and technology was prohibited inside Israeli prisons.
- 3.5 There is no systematic provision of education to female child detainees by the IPS.

4. Conclusion

- 4.1. States Parties should not be permitted to use the imposition of a state of emergency¹² to derogate from their duty to provide an adequate¹³ education to children, including children in detention.
- 4.2. The very nature of emergency situations necessitates clear and specific guidelines on non-derogable principles regarding the provision of education. Anything less than clear guidelines may well result in the provision of education to a standard that falls far short of that required by the UN Convention on the Rights of the Child to particularly vulnerable children.

¹¹ *Freihat Mohammad Mahmoud and others v IPS* (1997) 400/97

¹² In the case of Israel and the oPt, a state of emergency has existed for the last 60 years.

¹³ As indicated in Article 29 (1) of the UN Convention on the Rights of the Child, the aims of education should take into account the cultural identity, language and values of the child.

5. Case studies

5.1 Ekrima Daraghmuh

Date of arrest: November 2005

Age: 14

Total length of detention: 30 months

Class: 7th grade

Ekrima was arrested in November 2005, and spent seven months in pre-trial detention in Huwarra interrogation and detention centre during which she was not given access to any type of education, despite the fact that she was only 14. It is only after she was sentenced to two and a half years of imprisonment that she was given the right to continue her education. Unfortunately, the education she received was limited to mathematics, Arabic and Hebrew, and consisted of about one hour of education per day, five days a week. Released in the spring 2008, she is now two years behind her age group but is still determined to go back to school in the autumn: *“I will try and do my Tawjihi final certificate this year or next – but I am now two years behind due to my imprisonment”*.

5.2 Mahadi Heresh

Date of arrest: June 2006

Age: 17

Total length of detention: 11 months, 4 months in administrative detention

Class: University student in Engineering

Mahadi Heresh, a university student, was arrested in June 2006, two days after his 17th birthday. When he learnt that a five month administrative detention order had been placed on him, he was shocked and upset *“I knew now that I was going to fall far behind in my studies”*. During the seven months, he was detained in Ofer prison, he was never offered any kind of education from the prison authorities. Fortunately, Mahadi is a very determined young man, and he managed to catch up and registered in Al-Najah University in Nablus. However, he had to pay a double tuition fee because his grades were below the required 87 for engineering. *“When I left the prison the school year had three months to go – I had a choice, I could either study hard and try to catch up, or wait for the next school year to commence.”*

5.3 Suhaib Saber Hammad

Date of arrest: 17 July 2007

Age: 17

Total length of detention: 6 months of administrative detention

Class: Unknown

Suhaib was 17 when an administrative detention order was placed upon him. He was detained for 6 months in Ofer detention centre, in a tent he shared with 21 adults. He was never offered any kind of education by the prison authorities, but another prisoner took upon himself to teach Suhaib on a daily basis.

5.4 **Ibrahim Ahmad Rashid Sabarneh**

Date of arrest: 8 November 2007

Age: 15

Total length of detention: 5 months

Class: 10th Grade

Ibrahim, 15, was arrested on 8 November 2007, accused of throwing stones and Molotov cocktails, and of being a member of a banned organisation, he was sentenced to 5 months of imprisonment. He was first detained in Ofer detention centre where no education is available, and then transferred to Addamoun prison. There, he was offered nine hours of education per week, by an Arab teacher from Haifa. All the child detainees received the same education, regardless of their age or abilities. *“During the classes we were not given any books, but the teacher would give us pencils and paper for us to write down what he said”*. Ibrahim lost one academic year and decided to leave the academic stream and attend a vocational school. *“I think academic education is better but I won't repeat a year of school. If I didn't have to repeat the year I would have stayed on at school”*.

5.5 **Muhammad Abu E'id**

Date of arrest: 4 February 2008

Age: 14

Total length of detention: 4.5 months

Class: Not specified

Muhammad spent his first 25 days confined in Ofer prison before being transferred to Telmond and then Addamoun prison. In Telmond, Muhammad was provided with one hour of education every two days, which included classes in Hebrew, English, Arabic and Mathematics. In Addamoun, Muhammad received one hour a day of school in Hebrew, English and Arabic. Also as a direct consequence of his imprisonment Muhammad missed a semester of school. Although his father was able to persuade the principal to let him continue to the next grade without having to repeat the year, he has fallen behind in class.

Recommendations

DCI/PS urges the Committee on the Rights of the Child to address the issue of the limited education afforded to Palestinian children held in Israeli detention, for ‘security’ reasons. This violation, exposed in the latest report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism after his visit to Israel and Palestine¹⁴, is currently not given due attention.

We recommend that the Day of General Discussion on Education in Emergencies is followed up by the definition of specific principles on the responsibility of the occupying power to provide full and adequate education services to children it finds necessary to deprive of their liberty. We recommend that such principles take the form of a General Comment that specifically:

1. Defines the right of every person under the age of 18 held in detention to be given access to education services suited to his or her needs and abilities, takes into account the child’s cultural identity, language and values, and designed to prepare him or her for return to society;
2. Provides guidelines on minimum non-derogable standards on the provision of education in emergency situations regarding *inter alia* the number of hours of education per week, curriculum content¹⁵, class sizes, language, and resources.
3. States the necessity for qualified teachers and education programmes that are integrated to the education system of the child’s society so that, after release, the child may continue his or her education without difficulty;
4. Stresses that education should be provided in all circumstances in a non-discriminatory manner and regardless of political considerations or the security situation.

¹⁴ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to the Human Rights Council on his visit to Israel and the oPt (A/HRC/6/17/Add.4), 16 November 2007: <http://www2.ohchr.org/english/issues/terrorism/rapporteur/reports.htm>

¹⁵ See reference to content in Paragraph 3 of CRC General Comment 1, 2001: “The Aims of Education”