

# Children in Military Custody

*“Under international law, no state is entitled to discriminate between those over whom it exercises penal jurisdiction on the basis of their race or nationality. Unequal or differential justice is not justice” the Rt Hon Sir Stephen Sedley*

A report published this week by a delegation of British lawyers raises serious concerns about the treatment of Palestinian children under Israeli military law. It concludes:

On the basis solely of legal differentials, Israel is in breach of articles 2 (discrimination), 3 (child's best interests), 37(b) (premature resort to detention), (c) (non-separation from adults), (d) (prompt access to lawyers), and 40 (use of shackles) of the UNCRC. Transportation of child prisoners into Israel is in breach of article 76 of the Fourth Geneva Convention. Failure to translate Military Order 1676 from Hebrew is a violation of article 65 of the same convention.

If the manner of arrest and detention is to any significant extent that which was described to the delegates by the UN, Israeli and Palestinian NGOs, former Israeli soldiers and Palestinian children, Israel will also be in breach of the prohibition on cruel, inhuman or degrading treatment in article 37(a) of the UNCRC. With regard to what is set out in paragraph 101 of the report, the delegation records its view that to hold children routinely and for substantial periods in solitary confinement would, if it occurred, be capable of amounting to torture in breach not only of article 37(a) but also of other well-known international instruments.

Forty specific recommendations are set out in the report. They cover areas of potential improvement in relation to arrest, interrogation, bail hearings, plea bargains, trial, sentencing, detention, complaints and monitoring.

Of the general recommendations, the report highlights these:

International law, international humanitarian law and the UNCRC apply to the Occupied Palestinian Territories and therefore should be fully and effectively implemented.

The international legal principle of the best interests of the child should be the primary consideration in all actions concerning children, whether undertaken by the military, police, public or private welfare institutions, courts of law, administrative authorities or legislative bodies.

Israel should not discriminate between those children over whom it exercises penal jurisdiction. Military law and public administration should deal with Palestinian children on an equal footing with Israeli children.

# Children in Military Custody

Speaking at the launch of the report in London, the Rt Hon Sir Stephen Sedley said:

“Our analysis is wide-ranging, and many of its conclusions give serious cause for concern. Where Israeli children, who include those living in the settlements, benefit from a juvenile justice regime which by and large meets all the standards we in this country would expect, Palestinian children are arrested at gunpoint and put through a system laid down not by civilian law but by military orders, the most recent of which has been published only in Hebrew.

“...so long as criminal judicial power over juveniles is exercised by Israel in the West Bank, we are strongly of the view that it ought to replicate the standards which apply to Israeli children and should conform fully to the requirements of the ICRC”.

During their visit back in September 2011, the delegation held meetings with the former Chief Justice of the Israeli Supreme Court, senior military judges and prosecutors, Israeli government departments, NGOs, lawyers, former child prisoners and former Israeli soldiers, to assess each stage in the process: arrest, interrogation, bail hearings and plea bargains, trial, sentencing, detention and complaints.

Copies of the Children in Military Custody report can be downloaded at:

[www.childreninmilitarycustody.org](http://www.childreninmilitarycustody.org)

For more information contact [julie@cimc.org.uk](mailto:julie@cimc.org.uk)

Please use the photos attached – more available on request.

For all photos please credit Sarah Booker.

# Children in Military Custody





## Children in Military Custody

