

**From Murad Awaisa to Ahed Tamimi: The Experiences of
Palestinian Children Under the Israeli Military Justice System in the
Occupied Palestinian Territories.**



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¹ "7 Palestinian children imprisoned for throwing stones." n.d. <https://www.worldbulletin.net/>. Accessed September 5, 2019. <https://www.worldbulletin.net/palestine/7-palestinian-children-imprisoned-for-throwing-stones-h170580.html>.

Introduction:

There have existed since 1967, four domains within which Palestinians have or are living within depending on which aspect of the population they fit into. Depending on the domain in which a Palestinian fits into, they will be treated differently due to alternative legal systems that apply to them but do experience similar forms of racial oppression within all of them. This has formed a sort of human hierarchy, the different domains of this hierarchy include²;

1. Civil law, with special restrictions, governing Palestinians who live as citizens of Israel;
2. Permanent residency law governing Palestinians living in the city of Jerusalem;
3. Military law governing Palestinians, including those in refugee camps, living since 1967 under conditions of belligerent occupation in the West Bank and Gaza Strip;
4. Policy to preclude the return of Palestinians, whether refugees or exiles, living outside territory under Israel's control.

This dissertation will focus on the features of living under an occupation, particularly the occupation under the Israeli military justice system in the Occupied Palestinian territories as referred to in the third domain. With the understanding that there are around 500 to 700 Palestinian children that are arrested, detained and prosecuted in the Israeli military court system each year, this dissertation will explain the process from why and how resistance takes place to interrogation, detention and incarceration³. It will largely consider how it is that these features affect the lived experiences of Palestinian children who often resist against military rule in those areas. It will also consider how this resistance is carried out and it is dealt with by the system in question. I will refer to key examples of cases where children have resisted against Israeli authority, including the cases of Murad Awaisa and Ahed Tamimi who faced the effects of the system in different but equally damaging ways. These cases will exemplify the kind of resistance that takes place in the occupied territories in response to Israeli occupation and will be sources of understanding the consequences of what happens once children do resist. This dissertation will navigate through the cycle of resistance from why children feel the need to resist in the first place to the response of the justice system and to the aftermath of resistance on children and their families. The Israeli military justice system in the Occupied Palestinian Territories will be a key reference point as to how the legal system is a significant part of why Palestinian children may feel the need to resist due to unfair or harsh treatment.

² UN ESCWA Apartheid Report 2017.

³ "Military Detention." n.d. Defense for Children Palestine. Accessed September 2, 2019. https://www.dci-palestine.org/issues_military_detention.

Historical and Political Background:

When addressing the experiences of Palestinian children under the Israeli military justice system within the Occupied Territories such as the West Bank and Gaza, it is important to first consider the historical context of the situation. The relationship between the state of Israel and Palestine has existed since the United Nations partition plan was outlined in Resolution 181 in 1947. The resolution ended the British mandate in Palestine and called for the partition of the land into 'independent Arab and Jewish States and the Special International Regime for the City of Jerusalem'⁴. Motivations for the idea of a Jewish state came from the emergence of the Zionist movement, an idea that many understand as being a political ideology⁵.

The Zionist movement surfaced in its second wave as a national revivalist movement in Eastern Europe for the Jews who were escaping the horrors of persecution during the Second World War. Growing anti-Semitism had enabled the persecution of European Jews for whom the idea of an independent state for Jewish people became more and more appealing. There had been several options as to where this would be geographically located, including Argentina and Kenya, which were considered potential homelands during the same period of time⁶. However, the idea of an independent nation state for the Jews then became associated with the colonization of Palestine by Zionist leaders in the early twentieth century⁷. For this paper, the accepted understanding of Israel as a settler colonialist state is extremely necessary to understanding the wider context of the kinds of experiences had by Palestinian children and why it is that they resist. This comes from the legal understanding in international law from which the law of occupation applies. These specifically derive from The Hague Regulations of 1907, Geneva Convention IV articles 27-34 and 47-78 and customary international humanitarian law. As I will discuss, when we consider these, we find that Israel is a state that exists as an occupying power in the Palestinian territories. An important point to take from this is that an occupied state is supposed to be a temporary one, a state where permanent changes are not meant to be made. However, as we will go on to discuss, this has not been the case in occupied Palestine. As it is an occupied state, it is also a state where international humanitarian law should be applied. A part of this means that the occupier (Israel) must abide by the principles of the law and are thereby responsible for looking after the basic rights of the occupied people as

⁴ UN General Assembly, Future government of Palestine, 29 November 1947, A/RES/181, available at: <https://www.refworld.org/docid/3b00f1950.html> [accessed 22 July 2019]

⁵ Middle East Eye. 2019. *Anti-Zionism Is Not the Same as Anti-Semitism*. <https://www.youtube.com/watch?v=oZkr6JjFpX4>.

⁶ Haaretz. 2015. "1903: Herzl Proposes Kenya (Not Uganda) as a Safe Haven for the Jews," August 26, 2015. <https://www.haaretz.com/jewish/1903-herzl-proposes-kenya-as-jewish-home-1.5391077>.

⁷ Pappe, Ilan. 2007. *The Ethnic Cleansing of Palestine*. Oneworld Publications. Page 10.

stated in the Geneva Conventions⁸. Its failure to do so will be something discussed in this dissertation as I will explain how the violation of international humanitarian law has been practiced by the Israeli military justice system and how this has consequently played a role in the negative experiences had by Palestinian children.

Relation to the Wider Political Context of Occupation: Israel as a Settler Colonialist State:

The term 'occupation' is often related to the term 'settler colonialism'. This section will discuss this concept away from the legal approach. It will consider the sociological understanding that has been formed about what it means to be categorized as a settler colonialist state is partly contributed to by the work of Alicia Cox who states;

'Settler colonialism is an ongoing system of power that perpetuates the genocide and repression of indigenous peoples and cultures. Essentially hegemonic in scope, settler colonialism normalizes the continuous settler occupation, exploiting lands and resources to which indigenous peoples have genealogical relationships.'⁹

This draws upon several points, the initial one we can focus on is the understanding that the indigenous people in Palestine have 'genealogical relationships' with the land and resources. In this context, we can legally understand the indigenous people as being those that are native to the Palestinian land¹⁰. We can gather support for Cox's point by acknowledging the fact that once Britain had received the Mandate for Palestine, there was evidence that much of the land had already been cultivated by the indigenous Arab population who had farmed the land. For instance, even early Zionists such as Ahad Ha'am explained that the Jewish people living abroad believed otherwise but soon discovered that Palestinian land had been used by the native people. He states;

'[European Jews] are accustomed to believe that almost all Eretz Yisrael is now an uninhabited desert and whoever wishes can buy land there as he pleases. But this is not true. It is very difficult to find in the land cultivated fields that are not used for planting [...] and not only peasants, but also rich landowners, are not selling good land so easily. [...] If the time comes that our people's life in Eretz Yisrael will develop to a point where we are taking their place [...] the natives are not going to just step aside so easily'.¹¹

This is an important point to acknowledge for this discussion because it confirms the fact that the land on which European Jews arrived was not a barren and empty land ready to be taken. In fact, a

⁸ "Treaties, States Parties, and Commentaries - Geneva Convention (IV) on Civilians, 1949 - 49 - - Commentary of 1958." Accessed August 22, 2019. <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/COM/380-600056?OpenDocument>.

⁹ "Settler Colonialism - Literary and Critical Theory - Oxford Bibliographies." Accessed August 4, 2019. <http://www.oxfordbibliographies.com/view/document/obo-9780190221911/obo-9780190221911-0029.xml>.

¹⁰ Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Palestine*, August 2009, available at: <https://www.refworld.org/docid/4954ce4d23.html> [accessed 27 August 2019]

¹¹ Ha'am, Ahad. *Wrestling with Zion*. Page 14-15.

people existed and their existence was proven by Ha'am's statement who confirms that a form of civilisation with both rich and poor native citizens was in practice at the time of colonial expansion. This understanding is further supported by the likes of Theodor Herzl, the founder of political Zionism¹², who, for example, stated in his diary that the Zionist settlers would;

'Try to spirit the penniless [Arab] population across the border by procuring employment for it in the transit countries, while denying it any employment in our country ... The removal of the poor must be carried out discretely and circumspectly'¹³.

Both Ha'am's and Herzl's statements highlight several points regarding Israel's colonization of Palestine, but one particular point that they confirm is the colonial desire to remove the native people from the land in one way or another. The two statements both express the desire to replace the native people while being aware of the resistance that would come with it. This reflects a level of disregard for the Palestinian people as a part of the basis of Israeli occupation. This is particularly relevant because of how these two figures are actually celebrated by the Israeli people, including by the current Prime Minister¹⁴.

These factors are essential to consider when attempting to discuss and understand the experiences had by Palestinian children under the Israeli justice system because it reveals the foundations on which the system has been built. The way in which this kind of mindset has continued to manifest itself within the occupation by Israel carrying out its settler colonialist project on Palestinian land is also something discussed by the likes of Ilan Pappé. Pappé argues that the Zionist project could only be truly realised 'through the creation in Palestine of a purely Jewish state, both as a safe haven for Jews from persecution and a cradle for Jewish nationalism.'¹⁵ This has been exemplified in the creation of Israel but also seeps into life in the West Bank due to the way in which Israel has implemented its military justice system within its occupation. Relations between Israel and Palestine have proven to be relations between the occupier and the occupied, the colonizer and the colonized. Pappé argues that the way in which the Zionist movement was implemented in its second wave is considered to be a part of a settler colonialist movement. He states that; 'the territorialisation, mainly the choice of Palestine, transformed Zionism from a national project into a colonialist one'¹⁶.

¹² Tikvah Fund. 2018. Trailer - Theodor Herzl: The Birth of Political Zionism. <https://www.youtube.com/watch?v=ax7uvlxw7MI>.

¹³ Herzl, Theodor, Raphael Patai, and Harry Zohn. 1960. The complete diaries of Theodor Herzl. New York: Herzl Press.

¹⁴ i24NEWS English. 2018. 120th Anniversary of "Father of Zionism" Theodor Herzl Visit to Israel. https://www.youtube.com/watch?v=preHcAX8I_E.

¹⁵ Pappé, Ilan. 2007. Page 15.

¹⁶ Pappé, Ilan. 2008. "Zionism as Colonialism: A Comparative View of Diluted Colonialism in Asia and Africa." South Atlantic Quarterly 107 (4): Page 614. <https://doi.org/10.1215/00382876-2008-009>.

This draws attention to the main underlying issue in the region concerning land and territory, an issue that has influenced the experiences of Palestinian children in several ways.

Further to this, when we reflect on Cox's definition of settler colonialism alongside the statements of Ha'am and Herzl, one can come to the understanding that Israel truly exists as a settler colonial state in Palestine. This is because of how the state has; '[subjected] Palestine and Palestinians to structural and violent forms of dispossession, land appropriation, and erasure in the pursuit of a new Jewish state and society'¹⁷, relative to the definition given by Cox. There are several examples of these violations that support this observation, ones that this paper will discuss as a part of understanding the experiences of Palestinian children and their reason for resistance. Some of these violations may not have been directly had by individual Palestinian children, but the effects that they have had, contribute to the entire experience had by the Palestinian child.

Israel as an Apartheid State

The influence that Zionism has had on the experiences of Palestinian children in the Occupied Palestinian Territories is also explained by the likes of Mona N. Younis who points to how the system has similarities to apartheid. She states;

'Supporters of Israel present Zionism as an ideology of liberation for the Jewish people, but for Palestinians, Zionism as it has been practiced as they have experienced it, has been precisely apartheid'.¹⁸

This draws emphasis on the idea that the way in which Zionism has been implemented on the Palestinian people has been harmful because of how it has drawn likeness to apartheid. The claim that Israel should also be considered an apartheid state is of great importance to this discussion as it allows us to understand the system to which Palestinian children are exposed to. It also provides us with a framework as to which the state fits into, allowing us to have a better understanding of the political situation. It is arguable that the situation in the West Bank is one of the most evident manifestations of apartheid. This is because of how there are two sets of laws applicable to two sets of people, Israeli military law for the Palestinians and Israeli civil law for the Israeli settlers in the West Bank. The apartheid claim has also been confirmed by the UN Economic and Social Commission for Western Asia who published the UN ESCWA Apartheid Report in 2017. The report was set out to

¹⁷ Salamanca, Omar Jabary, Mezna Qato, Kareem Rabie, and Sobhi Samour. "Past is present: Settler colonialism in Palestine." *Settler Colonial Studies* 2, no. 1 (2012): Page 1.

¹⁸ Mona N. Younis. *Liberation and Democratization: The South African and Palestinian National Movements*. Minneapolis: University of Minnesota Press, 2000. <https://muse.jhu.edu/> (accessed August 20, 2019).

‘[examine] whether Israel has established an apartheid regime that oppresses and dominates the Palestinian people as a whole’.¹⁹

These points concerning settler colonialism and apartheid allow us to derive a particularly relevant conclusion about the situation in the Occupied Territories that may contribute to the motivations for resistance. The damage that settler colonialism has created in Palestine has formed long term effects that tie into what drives the Palestinian people (in this case, the Palestinian children) to resist against the system of authority. The damaging effects and the experiences that the children have had as a part of this will be reflected on in this paper.

Methodology:

The approaches I will use to address the title of this dissertation will include several disciplinary methods from the legal and human rights perspectives to the political, sociological and even the psychological approaches. These approaches will offer varied understandings of the situation which is reflective of the multifaceted and complex situation in Israel and Palestine.

To begin with, for the legal approach to this dissertation, legal tools like the Committee on the Rights of the Child (CRC) and the Human Rights Committee (HRC) will be of much importance as they provide a practical and legitimate approach to the situation. I will refer to the United Nations Convention on the Rights of the Child (UNCRC) as a key document in understanding the kinds of violations experienced by Palestinian children. The use of this is necessary because of the fact that Israel has ratified the convention in 1991, meaning that the implementation of the convention is one of the obvious requirements. Reference to this is also important because of the International Court of Justice’s 2004 Advisory Opinion which explains that the UNCRC is applicable in the Occupied Palestinian Territories²⁰. Within the legal perspective, we can acknowledge the wider contextual understanding that Palestine exists as an occupied territory, one within which Israel exercises its occupation in a way that violates international law. Regarding this, I will refer to the laws of war by reflecting on The Hague Regulations and the Fourth Geneva Convention. These are of particular importance because of how legal theorists use the two to criticise Israel for the ways in which the state violates their principles.

Furthermore, this dissertation touches on the political and sociological perspectives regarding this question which will take into account the contextual importance of the role that the general political situation plays in the experiences of Palestinian children under the Israeli military justice system.

¹⁹ UN ESCWA Apartheid Report 2017.

²⁰ Advisory Opinion on the Legal Consequences of Construction of a Wall in the Occupied Palestinian Territories, dated 9 July 2004 at paragraphs 102-113.

This is particularly referred to as a part of the land annexation and property destruction chapter. The sociological perspective will address the experiences of Palestinian as ones influenced by a wider context of discrimination within the occupation. This aspect of the dissertation will try and tackle the question as to why it is that Palestinian children retaliate against their occupiers and how the social reality in which they live is part of causing such a response.

Literature Review:

One of the books that this dissertation will refer to is 'Stolen Youth: The Politics of Israel's Detention of Palestinian Children' by Catherine Cook, Adam Hanieh and Adah Kay. This book approaches the issue of child prisoners from a political perspective. It examines the central role of arrests and detention of Palestinian children as a part of the Israeli military justice system. It does this in several ways. For instance, it examines early examples of detention which took place during the first intifada in 1987. It also maps the processing of child prisoners through the system from arrest, interrogation, military courts to incarceration and post incarceration and the impact of detention post imprisonment. The book also importantly refers to the overall strategy of the Israeli occupation as a key aspect of the military justice system and refers to the distinction between the treatment of Israeli and Palestinian children. In this way, the book provides necessary criticism of the law as being part of a complex structure 'designed to enforce discrimination'²¹, one which we risk consenting to if we do not challenge the legalised injustice. The book is based on information provided by the non-governmental organization and international human rights group 'Defence for Children International', specifically its Palestine section. This NGO has consequently made a large contribution to my research, both within 'Stolen Youth' and outside of it. The NGO's website, for example, has provided useful information regarding the detention of Palestinian children, their experiences with tear gas canisters and rubber bullets which they come across when resisting against the Israeli regime.

Another significant contributor to my research on the experiences of Palestinian children under the Israeli military justice system is the data and information gathered by non-profit organisation B'Tselem. B'Tselem, the Israeli Information Centre for Human Rights in the Occupied Territories, work on documenting human rights violations and to end Israel's occupation.²² The B'Tselem website provides several reports and statistics relevant to this dissertation which I will utilise for the explanation. For example, one of the statistical tables it provides is referred to in the chapter on 'The Israeli Military Justice System' where the organisation covers the differing ways in how the Israeli

²¹ Stolen Youth: The Politics of Israel's Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 10.

²² "About B'Tselem | B'Tselem." n.d. Accessed July 5, 2019. https://www.btselem.org/about_btselem.

regime treats Palestinian children who are subject to Israeli military detention system and Israeli children who are subject to the Israeli civilian legal system. B'Tselem have also been the source referred to throughout this dissertation because of the reports it has published, including 'Thirsty for a Solution'²³ which covers the water crisis experienced by Palestinians in the Occupied Territories and 'Minors in Jeopardy'²⁴ which covers the treatment of Palestinian children in detention centres.

Further to this, this dissertation will also refer to examples of cases where Palestinian children have experienced the violation of their human rights under the Israeli Military Justice System including the interrogation, detention and court processes. These examples have been vital to understanding each of these processes from the perspectives of the children themselves. Many of these examples are found within reports such as the Save the Children Sweden's report, 'The Impact of Child Detention'. This has been a key report within this dissertation, especially in its contribution to the explanation of the detention process and the violations that take place within it. This report provides key information about the experiences of Palestinian children in detention based on their own accounts. The information gathered for the report was derived from the implementation of the 'Post-trauma Rehabilitation of Palestinian Ex-Detainee Children in the West Bank Programme' which was funded by the European Commission Humanitarian Aid and Civil Protection Department (ECHO)²⁵. Most importantly, the report also investigated the impact of child detention on children who were a part of the programme. It did this with a sample of eight children from all over the West Bank alongside five families of children who had or were still in detention. This was combined with focus group interviews with forty children that had been detained between June 2009 and June 2011²⁶. The interviews provide important details regarding the treatment of Palestinian children and the kinds of issues they commonly face as detainees.

Additionally, an important article referred to in this dissertation is Kathleen Cavanaugh's article; 'The Israeli Military Court System in the West Bank and Gaza'. In this article, Cavanaugh critically analyses the structure and operation of the Israeli Military Court System in the West Bank and Gaza. The article examines the legal basis and the impact of the military administration on the criminal justice process. As a part of this, it explains the impact of the legal and political context behind the

²³ "Thirsty for a Solution." n.d. B'Tselem. Accessed August 29, 2019. https://www.btselem.org/publications/summaries/200007_thirsty_for_a_solution.

²⁴ "Minors in Jeopardy." n.d. B'Tselem. Accessed September 6, 2019. https://www.btselem.org/publications/summaries/201803_minors_in_jeopardy.

²⁵ "Case Study. The Post-Trauma Rehabilitation of the Palestinian Ex-Detainee Children in the West Bank Programme." 2011. Resource Centre. July 8, 2011. <https://resourcecentre.savethechildren.net/library/case-study-post-trauma-rehabilitation-palestinian-ex-detainee-children-west-bank-programme>.

²⁶ "Case Study. The Post-Trauma Rehabilitation of the Palestinian Ex-Detainee Children in the West Bank Programme." 2011. Resource Centre. July 8, 2011. <https://resourcecentre.savethechildren.net/library/case-study-post-trauma-rehabilitation-palestinian-ex-detainee-children-west-bank-programme>. Page 47.

development of the system and its structure and personnel. This article contributed greatly to the part of the dissertation covering the Israeli Military Court System.

Land Annexation and Property Destruction:

To begin with, one of the key violations experienced by Palestinians that also affects Palestinian children is the dispossession of land which is a violation that has continuously taken place since the early days of settlement in Palestine. This violation is exemplified firstly by the initiation of land ownership in November 1947 when the UN General Assembly passed Resolution 181 on the Future government of Palestine²⁷. The resolution altered the way in which Palestinian land was distributed as it outlined the following changes;

‘[Resolution 181] called for the partition of Palestine, allocating 56.47% of the territory to a Jewish state (although Jews accounted for no more than one third of the population - mostly recent immigrants from Europe - and possessed only 7% of the privately owned land) and only 42.88% to the Arab state, while placing Jerusalem (and Bethlehem) under a corpus separatum (in 0.65% of Palestine), to be administered by the UN Trusteeship Council.’²⁸

As Resolution 181 seriously affected the Palestinian Arabs by giving 55% of the land to the 30% of the population who were Jewish, it sparked obvious rejection from the Arab states that resisted alongside the Palestinians. Here, the division between the Jews and the Arabs, within the Palestinian context, was born. Growing land ownership on the side of the Israeli settlers then resulted in discontentment amongst Palestinians which has been a part of the motivation for resistance amongst Palestinians. Resolution 181 in 1947 was not the last of land expansion and increasing land ownership on the side of the Israeli state has continued till today. This has severely altered the geographical nature of Palestine as shown in the image below;

²⁷ “A/RES/181(II) of 29 November 1947.” n.d. Accessed August 7, 2019. <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253>.

²⁸ “PASSIA - PUBLICATIONS - Bulletins - The Nakba: 70 Years On.” Accessed August 7, 2019. <http://passia.org/publications/304>.



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The image of the maps above clearly reflects the ever growing nature of colonial expansion in Palestine, effects of which include resentment and friction between the Israelis and the Palestinians. When observing this, it is also important to note that the expansion into Palestinian land has not always been carried out using the most peaceful means. In fact, land expansion has been and is often still typically achieved through theft and/or manipulation, often causing much damage to the Palestinians with entire villages burned and people forced to leave their homes³⁰. The 1948 Nakba (translated as ‘catastrophe’ or ‘disaster’) where a mass expulsion of 700,000 to 750,000 Palestinians occurred is a prime example of this³¹. This Nakba was what is known as the first phase of Palestinian nationalism and was where around 530 villages were destroyed, but it is sometimes regarded by the Israeli side as a ‘victory of civilization and the fulfilment of divine will’. This contrast in how both sides of the conflict have remembered the events of the past is something that plays a role in the friction between the Israelis and the Palestinians. This is because of how this portrayal of history dismisses the damage caused by colonial expansion in Palestine. In fact, the events of 1948 enabled 78% of Palestine to become the state of Israel and now, the remaining 22% ‘continues to be confiscated for the expansion of Israeli settlements and construction of the separation wall’³².

The UN Security Council’s passing of Resolution 242 in 1967 contributed greatly to the loss of Palestinian land because of the way in which it has been taken advantage of by the Israeli

²⁹ “PASSIA - PUBLICATIONS - Bulletins - The Nakba: 70 Years On.” Accessed August 7, 2019. <http://passia.org/publications/304>.

³⁰ Pappé, Ilan. 2007. Page 62.

³¹ IMEU. n.d. “FAQ on the Nakba: The Nakba and Palestinian Refugees Today | IMEU.” Accessed August 13, 2019. <https://imeu.org/article/faq-on-the-nakba-the-nakba-and-palestinian-refugees-today>.

³² IMEU. n.d. “FAQ on the Nakba: The Nakba and Palestinian Refugees Today | IMEU.” Accessed August 13, 2019. <https://imeu.org/article/faq-on-the-nakba-the-nakba-and-palestinian-refugees-today>.

government. The purpose of the resolution was for it to be used as a framework for implementing the two-state solution to the conflict, but has instead been violated ever since with the entrenchment of illegal settlements.³³ In fact, from 1967 to the end of 2017, more than 200 Israeli settlements were established in the West Bank³⁴. Now, over the past 50 years following 1967, around 600,000 to 750,000 Jewish Israelis have been transferred to the West Bank and East Jerusalem by the Israeli government and those transferred live in at least 160 settlements and outposts.³⁵ These statistics are staggering and reveal the length to which colonial expansion has gone to in the region in the form of these illegal settlements. The illegal settlements have also enabled the dispossession of Palestinian homes and thereby have had a destructive impact on the Palestinian people.

It is important to acknowledge the basis of the illegality of the settlements. The Fourth Geneva Convention provides us with this in Article 49 which states;

“The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies” and it prohibits the “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory”³⁶.

The fact that the state of Israel has carried out these violations of international law has proven to be extremely problematic and responsible for influencing the damaging experiences lived by Palestinian children. An early example of this took place in 1988 when several Palestinian homes were razed for several given reasons, partly for lacking Israeli building permits which resulted in 1497 homes razed and left around 10,000 children homeless overall³⁷. This has contributed significantly to the overall experience of Palestinian children who have had to face the trauma of losing their homes alongside other violations in the occupied territories.

Today, the theft of land is still taking place and in many ways. This is through the acquisition of land ownership through house demolitions and settlements on the side of the Israeli settlers as well as in the form of the Israeli West Bank Barrier, also known as the separation wall. The wall, which has

³³ Tahhan, Zena. n.d. “Israel’s Settlements: 50 Years of Land Theft Explained.” Accessed August 25, 2019. <https://interactive.aljazeera.com/aje/2017/50-years-illegal-settlements/index.html>.

³⁴ “Settlements.” n.d. B’Tselem. Accessed August 25, 2019. <https://www.btselem.org/settlements>.

³⁵ Tahhan, Zena. n.d. “Israel’s Settlements: 50 Years of Land Theft Explained.” Accessed August 25, 2019. <https://interactive.aljazeera.com/aje/2017/50-years-illegal-settlements/index.html>.

³⁶ International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949, 75 UNTS 287, available at: <https://www.refworld.org/docid/3ae6b36d2.html> [accessed 25 August 2019]

³⁷ Kapitan, Tomis. 1997. *Philosophical Perspectives on the Israeli-Palestinian Conflict*. M.E. Sharpe. Pages 173-174.

been promoted as serving the purpose of security on behalf of the Israeli government, has received backlash by Palestinians and non-Palestinians alike³⁸.

In fact, the separation wall has been criticised by the likes of the International Court of Justice who found that the wall is illegal when they said it 'violated principles outlined in the UN Charter and long-standing global conventions that prohibit the threat or use of force and the acquisition of territory that way, as well as principles upholding the right of peoples to self-determination.'³⁹

All these forms of land annexation have resulted in discontentment amongst Palestinians. This has been exemplified by the resistance of Palestinians whose homes have been targeted for demolition in recent times. In East Jerusalem for instance, an area that borders the West Bank, Israeli forces demolished several homes owned by Palestinians which resulted in the displacement of around 17 people⁴⁰. UN officials called for the demolition to be halted and expressed concern when they stated;

"We are deeply concerned that, following the dismissal by the Israeli High Court on Sunday of a petition by the residents of the designated housing units against the impending demolition order, the buildings have now been demolished. The demolition of these apartment buildings aggravates the coercive environment that many Palestinians in the West Bank, including East Jerusalem, face. The international community has critically commented on a number of occasions about the extremely low rates of housing construction permits allowed by the Israeli authorities for Palestinians seeking to build, or add to, homes in the West Bank, including East Jerusalem."⁴¹

This incident reveals the kinds of lived experiences had by Palestinians in the West Bank, incidents that often affect children too. As the UN's involvement and the involvement of the Special Rapporteur for the right to housing confirms, this incident and others like it have violated the Palestinian people's protected freedom against forced evictions and the arbitrary destruction and demolition of one's home⁴².

Another negative effect that is caused by the theft of land is also the restricted access to natural resources which are distributed unfairly as a cost of expansion. This is because in the West Bank,

³⁸ Ahituv, Netta. 2018. "15 Years of Separation: The Palestinians Cut Off From Jerusalem by the Wall." Haaretz, March 10, 2018. <https://www.haaretz.com/israel-news/.premium.MAGAZINE-15-years-of-separation-palestinians-cut-off-from-jerusalem-by-a-wall-1.5888001>.

³⁹ "International Court of Justice Finds Israeli Barrier in Palestinian Territory Is Illegal." 2004. UN News. July 9, 2004. <https://news.un.org/en/story/2004/07/108912-international-court-justice-finds-israeli-barrier-palestinian-territory-illegal>.

⁴⁰ "Israel, Occupied Territories." n.d. Accessed August 22, 2019. <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1301>.

⁴¹ Dana 5. n.d. "UN Human Rights Experts Call on Israel to Halt Demolition of Palestinian Homes in East Jerusalem - Press Release." Question of Palestine. Accessed August 23, 2019. <https://www.un.org/unispal/document/un-human-rights-experts-call-on-israel-to-halt-demolition-of-palestinian-homes-in-east-jerusalem-press-release/>.

⁴² OHCHR, The Right to Adequate Housing. Fact Sheet No. 21/Rev.1. https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf

Israel retains near exclusive control, including over law enforcement, planning and construction.⁴³ This was a consequence of the Interim Agreement (Oslo II) which was signed in 1995⁴⁴. The agreement allowed Israel to retain control of all water resources which has enabled the state of Israel to violate the right to water for those in the occupied territories. Following this, the UN reported that Israel is guilty of exploiting natural resources in Palestine which has hindered social and economic gains in the land⁴⁵. The exploitation has taken place in the form of military decisions and through discriminatory laws. This is explained by the likes of B'Tselem who state that a conspicuous feature of Israeli police is the neglect of water infrastructure in two areas. The first is in the construction of infrastructure to connect the rural population to a running-water network and the other is in the proper maintenance of existing networks to prevent loss of water.⁴⁶ A key part of this is the fact that Israel and the Palestinian Authority in the West Bank share two water systems called the Mountain Aquifer and the Jordan Basin. Of the Mountain Aquifer water source, Israel receives 79% whilst Palestinians receive 21%, more importantly, of the Jordan Basin, Israel receives 100% which leaves the Palestinians with 0% of that water source.⁴⁷ Granted, this may be explained or justified by the argument that this is because the Palestinian population is smaller than the Israeli population. However, as discovered by B'Tselem, when we compare water consumption in both areas whilst considering the fact that the World Health Organisation recommends a 100 litres of water per person per day, we find clear inequalities. This is because of how water consumption in the West Bank is approximately 70 litres per person per day whereas the average Israeli consumes an average of 282 litres per person per day⁴⁸. This highlights a clear inequality when we link the amount of water available in both areas to the amount of water consumed in the two, the effects of which are explained by the understanding that the Palestinians consume less than the World Health Organisations recommended amount, something with potentially damaging consequences.

⁴³ "Area C." n.d. United Nations Office for the Coordination of Humanitarian Affairs - Occupied Palestinian Territory. Accessed August 29, 2019. <https://www.ochaopt.org/location/area-c>.

⁴⁴ "THE ISRAELI-PALESTINIAN INTERIM AGREEMENT." n.d. Accessed August 29, 2019. <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20israeli-palestinian%20interim%20agreement.aspx>.

⁴⁵ "Occupation, Natural Resource Exploitation by Israel Hindering Social, Economic Gains in Palestinian Lands, Syrian Golan, Delegates Tell Second Committee | Meetings Coverage and Press Releases." n.d. Accessed August 29, 2019. <https://www.un.org/press/en/2017/gaef3485.doc.htm>.

⁴⁶ "Thirsty for a Solution." n.d. B'Tselem. Accessed August 29, 2019. https://www.btselem.org/publications/summaries/200007_thirsty_for_a_solution.

⁴⁷ "Thirsty for a Solution." n.d. B'Tselem. Accessed August 29, 2019. https://www.btselem.org/publications/summaries/200007_thirsty_for_a_solution.

⁴⁸ "Thirsty for a Solution." n.d. B'Tselem. Accessed August 29, 2019. https://www.btselem.org/publications/summaries/200007_thirsty_for_a_solution.

The Resistance of Palestinian Children

The influence that the issue of land expansion as a part of the colonization of Palestinian land has had on causing Palestinian children to resist the authority of their occupier is the first step in a cycle of abuse within the justice system. As discussed, the political situation in the Occupied Palestinian Territories has contributed greatly to motivating resistance from Palestinians. This section will explain how resistance is often carried out by Palestinian children in the forms of stone throwing, participating in the Boycott, Divestment and Sanctions movement or other forms of opposition to the Israeli military. It will also reflect on further factors that have been found to directly influence Palestinian children such as the detention of fathers and political violence in the area.

Jonathan Kuttab explains the ways in which children have influenced resistance to Israeli occupation here when discussing post intifada (uprising) behaviour in the Occupied Territories;

‘The children possessed a new spirit that challenged the occupation, and they have been able not only to sustain this movement, but also to infuse the rest of Palestinian society-their elders, institutions, leaders, and even the Palestinian communities outside-with the same spirit’.⁴⁹

Kuttab’s words encompass the significance of children within the occupation and how their acts of resistance have contributed to the movement for decolonization. He does not however, point to why it is that children have felt the need to partake in the resistance, something that has several potential reasons. One of these is the influence that the parents of these children have and more specifically, how the treatment of their parents by the Israeli Justice System has motivated them to resist it. This is something that a psychological study has explored when looking at how the relationship between the detention of Palestinian fathers has affected the behaviour and resistance of children. This was explored in a study conducted by the research groups Interpersonal, Discursive and Narrative Studies (IDNS) and the Centre for Children in Vulnerable Situation (CCVS)⁵⁰. The purpose of the study was to find out how far the incarceration of Palestinian fathers may impact the children’s psychological wellbeing. This is relevant to this dissertation because a part of the impact explored in the study is how the experience can often push the children to resist against the Israeli authorities. The study’s results showed that there were higher levels of Post-Traumatic Stress Disorder (PTSD) and general mental health problems amongst children when they had experienced the detention of their fathers. This was particularly when the children had physically seen the arrest take place. The study found that in most cases, when children had gone through this experience,

⁴⁹ Kuttab, Jonathan. 1988. “The Children’s Revolt.” *Journal of Palestine Studies* 17 (4): 26–35. <https://doi.org/10.2307/2537288>.

⁵⁰ Shehadeh A, Loots G, Vanderfaeillie J, Derluyn I (2015) The Impact of Parental Detention on the Psychological Wellbeing of Palestinian Children. *PLoS ONE* 10(7): e0133347. <https://doi.org/10.1371/journal.pone.0133347>

they were more likely to participate in antisocial behaviour and violence alongside feelings of hopelessness, rejection and guilt. The sons of the fathers were more likely to elaborate externalizing problems, which could be carried out through resistance against authority alongside other forms of rebellious behaviour. The extremity to which the detention of Palestinian fathers has an impact on the lives of the children in the occupied territories is reflected in the number of arrests that take place. For instance, the study found that the imprisonment of Palestinians by Israeli soldiers in these areas has become a daily phenomenon within the conflict. The study provides a statistic which supports this claim as it explains that since 1967 more than 20% of the Palestinian population (around 700,000 to 800,000 people) have experienced detention, around 89% of those imprisoned are from the West Bank. This provides us with an insight into the kinds of events witnessed by Palestinian children on an almost daily basis. As understood by the study, the effects of this are very problematic on the mental health of the children which could correlate with resistance.

Examples of Palestinian children that have resisted include the likes of the then sixteen year old Ahed Tamimi who rebelled against the Israeli military by slapping an Israeli soldier. Following the incident, the teenager was arrested and charged with assaulting security forces, incitement and throwing stones⁵¹. The incident sparked a lot of controversy as Tamimi was then received as a hero by Palestinians who argue that the teenage girl was simply standing up to Israeli occupation, justifying her actions against the Israeli soldier⁵². When asked why it was she reacted to the Israeli soldier in this way, Tamimi stated that she did so 'because there is an occupation.'⁵³ This highlights the basic principle behind which resistance occurs within the occupation, which is that for as long as the military occupation exists in the Palestinian territories, resistance is inevitable. The setting of oppression from which Tamimi came from is part of the reason as to why her actions were celebrated, arguably, behaviour that would otherwise be condemned in different circumstances. This kind of justification may have also been contributed to by the fact that shortly before the incident, Tamimi was informed that her cousin had been brutally affected by the regime when he was put in a coma after being shot in the face by a rubber coated steel bullet⁵⁴. Although not directly, this kind of information relates to the conclusion made by the study conducted by IDNS and

⁵¹ Beaumont, Peter. 2018. "Palestinian Girl Filmed Slapping Israeli Soldier Is Charged with Assault." The Guardian, January 1, 2018, sec. World news. <https://www.theguardian.com/world/2018/jan/01/ahed-tamimi-palestinian-girl-filmed-slapping-israeli-soldier-is-charged-with-assault>.

⁵² Beaumont, Peter. 2018.

⁵³ Srivastava, Mehul. 2018. "Ahed Tamimi, the New Face of Palestinian Protest." Financial Times. September 14, 2018. <https://www.ft.com/content/e10befa4-b75f-11e8-b3ef-799c8613f4a1>.

⁵⁴ "Video Shows Ahed Tamimi Interrogation in Israeli Detention Centre." n.d. Accessed August 31, 2019. <https://www.aljazeera.com/news/2018/04/video-shows-ahed-tamimi-interrogation-israeli-detention-centre-180409094459300.html>.

CCVS, that the trauma of seeing or even hearing of a family member being violated by the military regime can influence the resistance of the child.

The influence of the parents as a part of influencing the resistance of the Palestinian child is also further reflected in Tamimi's case. This is because of their involvement in mobilising their children to resist the occupation as explained here;

'Ahed's parents, long time activists, raised their four children to resist. From 2009, they began to gather relatives and others from the village on Fridays to march to a tiny stream that the settlers had taken over'⁵⁵.

This exemplifies the kind of organised resistance that takes place in the Occupied Territories and how involved the children can be within this. The reaction received by Tamimi's resistance may allow us to gain an insight as to why it is that parents make the decision to do this. For instance, Ahed Tamimi's case had its own kind of influence on other Palestinians. This was to such an extent that she has since been described as '[exciting] her oppressed people, whose spirits rose from the depths of despair to renewed hope. She was captured by her occupiers, who imprisoned and prosecuted her.'⁵⁶ Tamimi's influence has since been demonstrated by the reception she has received from Palestinians and non-Palestinians alike. For instance, she has been described as being the new 'face of the Palestinian protest'⁵⁷ whilst attracting the attention of political figures including Palestinian President Mahmoud Abbas and Turkish President Erdogan⁵⁸. The fact that her case managed to receive such attention reflects the kind of effect that having a child or young person participate within the resistance can have on allowing people, even those in positions of power, to open their eyes to the oppression taking place.

Israeli Responses to Resistance:

The Use of Tear Gas Canisters and Rubber Bullets:

As part of the immediate reaction, resistance from Palestinian children is most commonly responded to with the use of tear gas canisters and/or rubber bullets. To begin with, IDF soldiers are known to use tear gas canisters that are concentrated five times greater than those used by the likes of the

⁵⁵ Srivastava, Mehul. 2018. "Ahed Tamimi, the New Face of Palestinian Protest." Financial Times. September 14, 2018. <https://www.ft.com/content/e10bafa4-b75f-11e8-b3ef-799c8613f4a1>.

⁵⁶ "Joan of Arc in a West Bank Village." Haaretz.Com. Accessed August 31, 2019. <https://www.haaretz.com/opinion/.premium-joan-of-arc-in-a-west-bank-village-1.5630101>.

⁵⁷ Srivastava, Mehul. 2018. "Ahed Tamimi, the New Face of Palestinian Protest." Financial Times. September 14, 2018. <https://www.ft.com/content/e10bafa4-b75f-11e8-b3ef-799c8613f4a1>.

⁵⁸ Berger, Yotam, and Jack Khoury. 2018. "Palestinian Teen Ahed Tamimi After Her Release: 'Resistance Will Continue Until Occupation Ends.'" *Haaretz*, July 29, 2018. <https://www.haaretz.com/israel-news/palestinian-teen-ahed-tamimi-released-from-israeli-prison-1.6315634>.

British in Northern Ireland or by the apartheid regime in South Africa⁵⁹. It is important to note that IDF soldiers also fire the tear gas canisters into schools and homes meaning children have unsurprisingly been the ones that have had to face the physical damage that the canisters can cause (blisters, nausea, and headaches). The effects of the use of tear gas are not to be downplayed however, as the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) reported that 3,444 children in the West Bank and Gaza had been treated for tear gas related injuries and 37 children died in the first five months of the Intifada. Injuries inflicted by tear gas canisters have more often taken place on the Gaza Strip where the Great March of Return takes place and where in 2018, the NGO Defence for Children International-Palestine documented that there were three cases where 'children died after tear gas canisters fired by Israeli forces struck them'⁶⁰. The Human Rights Council also published a report regarding this which explained that between March 30th and December 31st 2018, the Israeli military had killed 34 Palestinian children who were within the context of the Great March of Return protests⁶¹. To highlight the effects that the tear gas canister usage had within this, is the fact that out of the 34 children killed, 4 of them had been directly hit by the tear gas canisters and out of the 1,642 children injured, 233 children had been directly hit by the canisters⁶².

This information reveals how the Israeli military does not discriminate as to whether the individual they target with the tear gas canisters is a child or not. More importantly, it is clear that they also do not fully acknowledge the level of threat the child actually poses for them to justify the use of the canisters, suggesting a disregard for the principles of international law. It also demonstrates the extent to which the use of tear gas canisters can cause a risk to life which allows us to pose a question as to whether this is a technique that can or cannot be justified. When we acknowledge the fact that under international law as found in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, intentional lethal force is permissible to use only when an individual presents a direct threat to life or risks causing serious injury, we can debate the legality of Israel's use of the tear gas canisters⁶³. This is particularly because of cases where the tear gas canisters have

⁵⁹ Kapitan, Tomis. 1997. *Philosophical Perspectives on the Israeli-Palestinian Conflict*. M.E. Sharpe. Page 175.

⁶⁰ "First Palestinian Child Killed by Israeli Forces in 2019 Was Struck in Head with Tear-Gas Canister – Middle East Monitor." n.d. Accessed September 1, 2019. <https://www.middleeastmonitor.com/20190117-first-palestinian-child-killed-by-israeli-forces-in-2019-was-struck-in-head-with-tear-gas-canister/>.

⁶¹ "Report of the Detailed Findings of the Independent International Commission of Inquiry on the Protests in the Occupied Palestinian Territory (A/HRC/40/CRP.2) - Occupied Palestinian Territory." n.d. ReliefWeb. Accessed September 1, 2019. <https://reliefweb.int/report/occupied-palestinian-territory/report-detailed-findings-independent-international-commission>.

⁶² "A Life Redefined by a Tear Gas Canister." n.d. Defense for Children Palestine. Accessed September 1, 2019. https://www.dci-palestine.org/a_life_redefined_by_a_tear_gas_canister.

⁶³ "OHCHR | Basic Principles on the Use of Force and Firearms." n.d. Accessed September 1, 2019. <https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>.

been used and have caused the deaths of children that were reported to have not been presenting any imminent mortal threat or threat of serious injury when killed by Israeli forces as documented by Defence for Children International-Palestine (DCIP)⁶⁴. DCIP's report was in reference to the deaths of 56 Palestinian children who were killed 'at the hands of Israeli forces across the Occupied Palestinian Territory'⁶⁵. The number of children killed by the canisters even though they were not presenting any 'imminent mortal death or threat of serious injury' reflects the lengths to which even the Israeli response to resistance can go to when being carried out in this way.

In addition to the tear gas canisters, the Israeli military have also been known to use rubber bullets in response to the resistance of children. Thirteen year old Mohammad H. for example was shot at in June 2018, leaving him without a leg⁶⁶. This case is important because of the fact that the child had been unarmed and was simply making the victory sign when he was shot at by Israeli military forces who shot at him multiple times. This case is not unique however, as another boy experienced a similar situation when he was also shot at several times, leaving him with an amputated leg⁶⁷. The experience was made worse by the fact that medical staff could also not provide assistance to him due to the bullets still being fired. He stated;

"I do not know why the Israeli soldiers targeted me," said Mohammad. "We were not carrying any weapons or throwing stones. We were not posing any danger to the soldiers. I walked to the fence. I was not crawling or hiding,"⁶⁸

These cases reflect the severely damaging effects of the rubber bullets; however the use of them has been made worse in cases where the bullets used were metal. For instance, in July 2019, a ten year old Palestinian child was shot in the head by an Israeli soldier and was left with a hundred bullet fragmentations in his brain⁶⁹. The legality of the metal bullets also comes into question here because international law states that the use of 'expanding bullets' in international warfare is prohibited according to the Hague Convention's Declaration III of 1899⁷⁰. The detrimental consequences that

⁶⁴ "Teen Struck by Israeli-Fired Tear Gas Canister Dies." n.d. Defense for Children Palestine. Accessed September 1, 2019. https://www.dci-palestine.org/teen_struck_by_israeli_fired_tear_gas_canister_dies.

⁶⁵ "Teen Struck by Israeli-Fired Tear Gas Canister Dies." n.d. Defense for Children Palestine. Accessed September 1, 2019. .

⁶⁶ "Israeli Bullets Cost These Three Children Their Legs." n.d. Defense for Children Palestine. Accessed September 1, 2019.

⁶⁷ "Israeli Bullets Cost These Three Children Their Legs." n.d. Defense for Children Palestine. Accessed September 1, 2019.

⁶⁸ "Israeli Bullets Cost These Three Children Their Legs." n.d. Defense for Children Palestine. Accessed September 1, 2019. https://www.dci-palestine.org/israeli_bullets_cost_these_three_children_their_legs.

⁶⁹ "Over 100 Bullet Fragments in Brain of Palestinian Child Shot by Israel Soldier." 2019. Middle East Monitor. July 15, 2019. <https://www.middleeastmonitor.com/20190715-over-100-bullet-fragments-in-brain-of-palestinian-child-shot-by-israel-soldier/>.

⁷⁰ Hague Convention Declaration III – On the Use of Bullets Which Expand or Flatten Easily in the Human Body July 29, 1899.

the bullets have had on the children in the Occupied Palestinian Territories have become a noticeable factor in the experiences of Palestinian children.

The justification for the use of the bullets is also questionable. Most often, the Israeli Military argue that stone throwing is what enables Israeli soldiers to take action against children. As explained below;

‘Representatives of the Israeli Government and the military judges and prosecutors placed strong emphasis on the dangerousness of stone-throwing. The delegation requested statistical or other evidence of the injuries or damage caused by these offences. We [received] a response to a comprehensive list of enquiries from the Israeli Government; however, the evidence was limited to one stone-throwing incident in September 2011 which caused the death of an adult and a child, and sight of a photograph of a man with fairly severe facial injuries. The trial was pending and it was not clear if the accused was a child.’⁷¹

Although the effects of stone throwing have, in some cases, caused extreme damage, the proportionality of stone throwing with the response by the Israeli soldiers to the children is shown to be unequal. This further emphasises the lack of reasoning behind the extreme use of rubber bullets, a method that has proven it to be severely dangerous to the children hit by them.

The Israeli Military Justice System

Maltreatment during Arrest, Interrogation and Incarceration

The treatment of children during the arrest and interrogation process is a feature of the Israeli Military Justice System that has been criticised for its maltreatment of minors. This takes place from the time of arrest which is characterised by abuse and manipulation, the following account describes the process that takes place;

‘Those who have been identified as offenders or suspects are arrested by soldiers, usually in night-time raids on their homes are blindfolded, and, with their wrists painfully bound behind them, are then transported to interrogation centres, sometimes face-down on the floor of military vehicles. The majority are verbally and / or physically abused and, without being informed of their right to silence or the right to see a lawyer, are sometimes held in solitary confinement, pressured to inculcate themselves and others, and are often made to sign statements which they cannot read because they are written in Hebrew. Interrogations are not, save on rare occasions, audio-visually recorded, and those tapes that do exist are almost impossible to obtain by defence lawyers representing the children.’⁷²

⁷¹ “Report.” Children in Military Custody. Accessed September 2, 2019. <http://www.childreninmilitarycustody.org.uk/report/>.

⁷² “Report.” Children in Military Custody. Accessed September 2, 2019. <http://www.childreninmilitarycustody.org.uk/report/>.

In 2019, Human Rights Watch published its world report on Israel and Palestine. It specifically covered the arbitrary arrest and detention of children. The report highlighted the double standard imposed by the Israeli Military Justice system in regards to how it treats Palestinian children and how it treats Israeli children. The report states;

‘Israel denied Palestinian children arrested and detained in the West Bank legal protections granted to Israeli children, including settlers, such as protections against night time arrests and interrogations without a guardian present.’⁷³

The statement reflects the length to which Israel imposes two sets of rules on children depending on whether they are Palestinian or Israeli, with the Israeli children receiving more protections than the former. This is because ‘Despite living on occupied Palestinian territory, settlers are subject to Israeli civil law, while Palestinians to Israeli military law.’⁷⁴ The reference to the child ‘settlers’ is important to note here as it clarifies that even the Israeli children living in the Occupied Territories receive an alternative kind of treatment to the Palestinian children. This has meant that the Palestinian children have had to face the ‘unnecessary force’ and physical abuse as a part of their interrogations that is not similarly distributed to Israeli children who are able to receive the protection of having a guardian present when being questioned⁷⁵. The lack of adult supervision means that the children are instead ‘surrounded by adults who are representatives of the regime of occupation under which they live’⁷⁶. This is because of how many of the people interrogating the children ‘do not even speak their language, and all are entirely focused on extracting a confession or information from the minors’, thereby making the interrogation process much more difficult⁷⁷.

⁷³ Human Rights Watch. 2018. “World Report 2019: Rights Trends in Israel and Palestine.” Human Rights Watch. December 17, 2018. <https://www.hrw.org/world-report/2019/country-chapters/israel/palestine>.

⁷⁴ Ashly, Jaclynn. n.d. “Israel’s Military Courts ‘humiliating Charade’ for Palestinians.” Accessed June 27, 2019. <https://www.aljazeera.com/indepth/features/israel-military-courts-humiliating-charade-palestinians-180225121604862.html>.

⁷⁵ Human Rights Watch. 2018. “World Report 2019: Rights Trends in Israel and Palestine.” Human Rights Watch. December 17, 2018. <https://www.hrw.org/world-report/2019/country-chapters/israel/palestine>.

⁷⁶ “Minors in Jeopardy.” n.d. B’Tselem. Accessed September 6, 2019. https://www.btselem.org/publications/summaries/201803_minors_in_jeopardy.

⁷⁷ “Minors in Jeopardy.” n.d. B’Tselem. Accessed September 6, 2019. https://www.btselem.org/publications/summaries/201803_minors_in_jeopardy.

#	Event	Israeli Child subject to Israeli civilian legal system	Palestinian child subject to Israeli military detention system
1	Minimum age of criminal responsibility	12	12
2	Minimum age for custodial sentences	14	12
3	Age of majority	18	18 (prev. 16) ¹¹
4	Legal right to have parents present during questioning	Generally yes ¹²	No
5	Legal right to have lawyer present during questioning	No	No
6	Audio-visual recording of interrogations	Partial ¹³	No
7	Maximum period of detention before being brought before a judge	12-24 hrs	8 days
8	Maximum period of detention without access to a lawyer	48 hrs ¹⁴	90 days
9	Maximum period of detention without charge	40 days ¹⁵	188 days
10	Maximum period of detention between being charged and conclusion of trial	6 months	2 years

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The table above, created by Defence for Children International-Palestine, reflects the differences that Palestinian and Israeli children experience in regard to the legal system, of which the civilian legal system applies to Israeli children and of which military detention applies to the Palestinian children. The most obvious contrasts are in regards to the interrogation procedure where Palestinian children do not have the same legal rights to lawyers or to the presence of a parent or guardian. This is potentially explained by the understanding that within the interrogation of Palestinian children, the techniques used by the Israeli officers are considered problematic, causing pain, fear and anxiety⁷⁹.

The interrogation leading up to the detention of Palestinian children under the Israeli Military Justice System is a key part of the Israeli response to the resistance of Palestinian children. The case of Ahed Tamimi is a significant example which we can use to understand the way in which the system is used to further oppress and intimidate Palestinian children. This is because of how the teenage girl was treated during her interrogation, information which we have come to know of following the exposure of video footage released by her family⁸⁰. The interrogation video shows Tamimi, who was without a guardian present, sitting beside an Israeli officer who is shown within inches of the teenager and speaking to her in an intimidating manner by making references to her light skin. For Tamimi, this interrogation was a procedure that took place almost every single day and lasted

⁷⁸ "Bound, Blindfolded and Convicted: Children Held in Military Detention." n.d. Defense for Children Palestine. Accessed September 3, 2019. <https://www.dci-palestine.org/bound-blindfolded-and-convicted>.

⁷⁹ "Israel: Security Forces Abuse Palestinian Children." Human Rights Watch. July 19, 2015. <https://www.hrw.org/news/2015/07/19/israel-security-forces-abuse-palestinian-children>.

⁸⁰ Press, The Associated, and Haaretz. 2018. "Video of Palestinian Teen Ahed Tamimi's Interrogation Released by Her Family." Haaretz, April 9, 2018. <https://www.haaretz.com/israel-news/family-of-palestinian-teen-tamimi-release-video-of-her-interrogation-1.5980486>.

around twelve consecutive hours in the first ten days of her detention⁸¹. The interrogation sessions were characterised by verbal threats and intimidation techniques used by the authorities to try and coerce her into cooperating⁸².

Ahed Tamimi has not been the only one to have faced difficult interrogation experiences by the Israeli Military officers. In fact, the interrogation techniques used by the Israeli Military have been exposed for using methods of torture as a way of retrieving information from 'minors twelve years or older [who] were subjected to the same methods of torture during their interrogation as their elders'⁸³. For this dissertation, the understanding of what the term 'torture' is defined as the definition provided by the United Nations Convention against Torture (CAT). CAT defines torture as;

'Any act by which pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him'⁸⁴.

The CAT definition thereby confirms the four conditions that constitute torture. The first is severe pain or suffering (physical and mental); intentionality of infliction; the intent to achieve one of the either obtaining information and/or obtaining a confession and finally, the acquisition of information is to be done by a public official⁸⁵.

According to international human rights law, children should be protected from the kind of treatment given by Israeli officers. For instance, The United Nations Convention on the Rights of Children (UNCRC) addresses this problem when it speaks about issues regarding interrogation and detention in Article 37. Article 37 (a) states that no child should be exposed to cruel or degrading treatment and (b) goes on to state that arrest, detainment, and imprisonment of children should be used as a measure of last resort⁸⁶. The disregard for this aspect of the law is exemplified in several cases where children have been taken in or have been summoned for interrogation. In July 2019 for example, the Israeli authorities summoned a four year old Palestinian boy after claiming that he had

⁸¹ Ahed Tamimi's Interrogation Video Released. 2018. <https://www.youtube.com/watch?v=okBRaBsFFCo>.

⁸² "Video Shows Ahed Tamimi Interrogation in Israeli Detention Centre." n.d. Accessed August 31, 2019. <https://www.aljazeera.com/news/2018/04/video-shows-ahed-tamimi-interrogation-israeli-detention-centre-180409094459300.html>.

⁸³ Kapitan, Tomis. 1997. *Philosophical Perspectives on the Israeli-Palestinian Conflict*. M.E. Sharpe. Page 174.

⁸⁴ UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, available at: <https://www.refworld.org/docid/3ae6b3a94.html> [accessed 3 September 2019]

⁸⁵ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. <https://resourcecentre.savethechildren.net/library/impact-child-detention-occupied-palestinian-territory>

⁸⁶ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 1 September 2019]

been ‘throwing stones at police vehicles’⁸⁷. As Israel has ratified the UNCRC, it is subject to the standards set by the declaration. This case however, is a rare one as it is understood that Israeli military law considers the age of 12 a minimum standard age for culpability of a child’s actions⁸⁸. This makes the actions illegal under both international and Israeli Military Law, but the fact that it took place regardless triggers the need to question how different the de jure and de facto practices of Israeli Military Law are in terms of children.

The Detention of Children and Violations of the Rights of the Child:

Following the interrogation process is the detention of Palestinian children that have been detained for whatever form of criminal activity or resistance that they have partaken in. The legal basis for detention comes from the application of Israeli Military Order 1651 in the West Bank, which permits administrative detention for a period of up to six months, subject to indefinite renewals⁸⁹. This allows Israeli Detention Centres to accept the intake of minors from the minimum age of twelve which can often enable children to be kept in detention centres for long periods of time⁹⁰. Although this is considered legal according to Israeli law, the violations that take place within detention can allow one to criticise the Israeli practice of detention. The detention experiences had by Palestinian children can be perceived as violating The Convention on the Rights of the Child if carried out with the conditions that the Israeli Military has created. This is because the UNRC protects the rights of the child within detention in Article 37(C). Article 37(C) states that every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age⁹¹. This means that children should be protected against any kind of attack on their humanity or dignity of life, including abuse or trauma. However, when we reflect on the treatment of children within detention, we see that it is an experience that features physical and psychological abuse, often causing trauma to children involved.

⁸⁷ “Jerusalem: Israel Summons 4-Year-Old Palestinian for Interrogation.” 2019. Middle East Monitor. July 30, 2019. <https://www.middleeastmonitor.com/20190730-jerusalem-israel-summons-4-year-old-palestinian-for-interrogation/>.

⁸⁸ “Jerusalem: Israel Summons 4-Year-Old Palestinian for Interrogation.” 2019. Middle East Monitor. July 30, 2019.

⁸⁹ “On Universal Children’s Day: Violations Against Palestinian Children Continue.” 2016. Addameer. November 20, 2016. <http://www.addameer.org/news/universal-childrens-day-violations-against-palestinian-children-continue>.

⁹⁰ “Bound, Blindfolded and Convicted: Children Held in Military Detention.” n.d. Defense for Children Palestine. Accessed September 3, 2019. https://www.dci-palestine.org/bound_blindfolded_and_convicted.

⁹¹ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 2 September 2019]

The experiences that Palestinian children have within the Israeli Detention Centres are vital to reflect on as a part of understanding how the Israeli Justice System plays a role in violating their human rights. To begin with, an initial example of the systematic violations inflicted on Palestinian children is in regards to the location of their detention. This is because typically, even though the children are resident of the Occupied Territories, they are detained in centres located in Israel. In fact, 'After sentencing, nearly 60% of Palestinian child detainees are transferred from occupied territory to prisons inside Israel.'⁹² According to international humanitarian law, this is illegal and a violation of the Fourth Geneva Convention. This is because Article 49 of the Fourth Geneva Convention ensures that those living under an occupation are protected from the forcible transfer and deportation of protected persons outside the occupied territories⁹³. Thus, the removal of Palestinian children from the West Bank or Eastern Jerusalem is an illegal act in itself. The location of detention is important to consider as a violation as it has had the effect of causing difficulty for families of detainees in their ability to visit the children due to restrictions on travel to Israel which is usually denied in most cases and due to financial difficulties, may make it difficult to travel⁹⁴. This is part of the reason as to why children may suffer further psychological damage, because the distance from their families may enable feelings of neglect. For instance, the 'Impact of Child Detention: Occupied Palestinian Territory' report by Save the Children found that family separation has caused detainees to feel isolated and unprotected, having a negative impact socially, behaviourally and emotionally in their lives following detention⁹⁵. Further to this, information about the location of detention is also often kept away from families who are rarely told where their children are being detained, a process that takes one to five days and sometimes longer⁹⁶. Further to this, another effect in regards to the location of the detention centres is the difficulty it creates in receiving access to legal assistance for Palestinians. This deprives Palestinian children from the provision of support and becomes a feature of life in the Israeli Detention Centres that children are affected by. Lawyers of Palestinian children have found that the process of being able to visit the children and provide them with legal assistance

⁹² "Military Detention." n.d. Defense for Children Palestine. Accessed September 4, 2019. https://www.dci-palestine.org/issues_military_detention.

⁹³ "Treaties, States Parties, and Commentaries - Geneva Convention (IV) on Civilians, 1949 - 49 - - Commentary of 1958." Accessed August 22, 2019. <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/COM/380-600056?OpenDocument>.

⁹⁴ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. <https://resourcecentre.savethechildren.net/library/impact-child-detention-occupied-palestinian-territory>.

⁹⁵ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. <https://resourcecentre.savethechildren.net/library/impact-child-detention-occupied-palestinian-territory>.

⁹⁶ Stolen Youth: The Politics of Israel's Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 62.

or support has been made highly restricted⁹⁷. This is because of how the procedure that lawyers have to go through are changed constantly, making it difficult for lawyers to rely on a consistently similar set of rules, obstructing their productivity and their ability to provide children with effective legal support⁹⁸. In fact, lawyers have to seek permission from the Israeli military or prison authorities and are often refused access or their permission is revoked without prior notice. Lawyers like Khaled Quzmar have estimated that he was allowed to visit only one of the children he represented prior to their first court appearance⁹⁹. This reflects how violations within detention can also be systematically executed to violate the rights of Palestinians. The fact that most lawyers are responsible for several Palestinian children at a time is also another hurdle that systematically hinders the legal process. For instance, Defence for Children International-Palestine reported a case where a lawyer from the organisation was responsible for visiting sixteen child prisoners for whom he was unable to make visits to because the Israeli officers had made his job difficult by giving him half an hours' notice to arrive or be forced to wait several weeks to see the detainees¹⁰⁰. The inability for legal counsel to be at the provision of these children further increases the psychological isolation that detainees already face, which when combined with the distant location of the centres, could severely affect their mental health.

Further to the systematic violations of children's rights in detention, the experiences within the detention centres are also filled with violations of international humanitarian law. This is particularly when we refer to the Geneva Convention. Article 27 of the Fourth Geneva Convention for example, applies here as it is relative to the protection of civilians in the time of war, which applies during occupation. The article covers the protections that the detainees are entitled to when it states that; 'Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.'¹⁰¹

The conduct of Israeli soldiers within the detention centres violates the protections offered by Article 27 in several ways. For example, there are certain protections that are mentioned in the

⁹⁷ Stolen Youth: The Politics of Israel's Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 76.

⁹⁸ Stolen Youth: The Politics of Israel's Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 76.

⁹⁹ Hanieh, Adam, Adah Kay, and Catherine Cook. 2003. "Paying the Price of Injustice: Palestinian Child Prisoners and the UN Human Rights System." *Middle East Report*, no. 229: 26–31. <https://doi.org/10.2307/1559390>.

¹⁰⁰ Stolen Youth: The Politics of Israel's Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 76.

¹⁰¹ "Treaties, States Parties, and Commentaries - Geneva Convention (IV) on Civilians, 1949 - 27 - Treatment I. General Observations." n.d. Accessed September 5, 2019. <https://ihl-databases.icrc.org/ihl/b0d5f4c1f4b8102041256739003e6366/ffcb180d4e99cb26c12563cd0051bbd9>.

article that are not maintained for the Palestinian children. For example, children are exposed to danger at the hands of older Israeli prisoners from whom they are not separated from and authorities typically refuse to intervene in these matters¹⁰². These kinds of violations were investigated by Save the Children Sweden and YMCA in their report on *The Impact of Child Detention: Occupied Palestinian Territory* published in 2012. The report monitored several violations but also specifically collected data on forced displacement, arrest and detention, which it refers to as a loss of freedom for the Palestinian children¹⁰³. The contents of the report and the issues it covers further explore the extent to which this loss of freedom is taken to within the detention centres. The report also relates the violations to the abuse of human rights law, particularly in reference to the Universal Declaration of Human Rights (UDHR) and the Convention against Torture (CAT). In terms of addressing violations of the UDHR within detention, the Save the Children report refers to cases of ill-treatment, torture and physical and verbal harassment during detention which many of the children mention in their testimonies. This has been supported by research that has found that approximately 75 percent of Palestinian children imprisoned by Israel report physical violence, and 62 percent report verbal violence¹⁰⁴. This reflects the high level of likeliness that torture is to be a part of the experience that Palestinian children have in the Israeli detention centres. During interrogation and during detention, a huge number of children reported that they had experienced physical assaults such as 'being hit with rifles, kicked, pushed against walls or handcuffed so tightly that it would lead to bleeding wrists'¹⁰⁵. Further to this, children also reported witnessing what is referred to as 'Qama' (meaning 'cutting the stem'. This was an occurrence in the detention centres where soldiers 'stormed the cells, hit the prisoners with whatever the soldiers could find [and] pumped something like teargas into the cells'¹⁰⁶. This kind of treatment of children, and adults alike, is by the standards set by international human rights law, considered torture. This is because it

¹⁰²Stolen Youth: The Politics of Israel's Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 6.

¹⁰³ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. <https://resourcecentre.savethechildren.net/library/impact-child-detention-occupied-palestinian-territory>.

¹⁰⁴ Nassar, Tamara. 2019. "Watch: Israeli Prisons Rob Palestinians of Their Childhood." The Electronic Intifada. April 26, 2019. <https://electronicintifada.net/blogs/tamara-nassar/watch-israeli-prisons-rob-palestinians-their-childhood>.

¹⁰⁵ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. Page 49.

¹⁰⁶ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. Page 51.

meets the Commission against Torture's criteria which states that torture is when 'pain or suffering, whether physical or mental, is intentionally inflicted on a person'¹⁰⁷.

A significant feature of the experiences that Palestinian children have in the Israeli detention centres is psychological abuse in the form of threats and/or humiliation. For instance, the Save the Children report states that of the ex-detainee children that had enrolled in the 2011 programme, 94% had reported that they had been insulted by military or police personnel during arrest or detention¹⁰⁸. As a way of understanding why it is that verbal abuse takes place, individuals have explained that within detention, the use of torture is 'seen as a tool used by the state to undermine the identity and self-confidence of the individual and the community.'¹⁰⁹ This is made clear by the kinds of verbal abuse reported by the children that have experienced it. Children in the Save the Children Report for example, explained that the Israeli soldiers had 'cursed and yelled at [them]', calling them 'dogs and troublemakers' and insulting their families by 'saying shameful things'¹¹⁰. The effects of this included an emotional impact on the children who reported that they had become more sensitive, tense and nervous alongside lacking in self-esteem and finding it difficult to communicate. This impacted their relationships with their families with whom they became disobedient and less respectful towards, an effect that leaves an impression on the experiences of Palestinian children in its entirety¹¹¹. This kind of treatment that takes place in the detention centres also violates international humanitarian law as it is a form of abuse covered by the previously mentioned Article 27 of the Fourth Geneva Convention which protects detainees from 'violence or threats thereof and against insults'¹¹². The extent to which both physical and verbal violence can go to within the detention centres is exemplified in cases where deaths are caused by the hands of Israeli soldiers that participate in the violations. An example of this kind of outcome for instance, is the case of Murad Awaiza, a seventeen year old boy that was killed in detention in March 2002. The case was reported by B'Tselem who published a report on this case in May 2002. The human rights organisation gathered several testimonies from individuals who witnessed the brutal build up to Murad's death from when

¹⁰⁷ UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, available at: <https://www.refworld.org/docid/3ae6b3a94.html> [accessed 3 September 2019]

¹⁰⁸ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. Page 49.

¹⁰⁹ *Stolen Youth: The Politics of Israel's Detention of Palestinian Children*. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 9.

¹¹⁰ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. Page 49.

¹¹¹ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. Page 49.

¹¹² "Treaties, States Parties, and Commentaries - Geneva Convention (IV) on Civilians, 1949 - 27 - Treatment I. General Observations." n.d. Accessed September 5, 2019. <https://ihl-databases.icrc.org/ihl/b0d5f4c1f4b8102041256739003e6366/ffcb180d4e99cb26c12563cd0051bbd9>.

he was detained to when his naked body was found ‘dumped outside the apartment building [in which he was detained] the morning following his death.’¹¹³ The report explains that a relevant fundamental principle that is enshrined in international humanitarian law, in Article 23 of the Geneva Convention, is the prohibition on detaining persons in areas that are exposed to combat actions and are therefore dangerous¹¹⁴. This is important to note because the case of Murad Awaisa shows that Israeli soldiers were willing to detain a child in a setting that violated the Geneva Convention and further increased the vulnerability of the Palestinian child. The writers of ‘Stolen Youth’ explain that this kind of torture, alongside other forms of torture in Israeli Detention Centres, should be conceived in the framework of state torture. They explain that this is because the abuse is ‘a conscious decision of the Israeli state to employ these techniques, as part of an overall strategy aimed at weakening any actual or potential resistance to occupation. It is not aimed solely at the individual, but at the entirety of Palestinian society’¹¹⁵. This relates to the earlier mentioned understanding that the violations carried out by the Israeli Military are systematic, further emphasising the extent to which the Israeli Military Regime works to undermine international law in its treatment of Palestinian children.

Lastly, poor sanitary conditions have also been found as being a feature of the detention centres and contribute to the experience had by children detained within them. In Huwwara Detention Centre, located in a military camp near Nablus, for example, detainees stay in overcrowded cells where they cannot use the toilet when they want and are given empty bottles to urinate in¹¹⁶. The sanitary conditions are at such an undesirable level that many prisoners contract skin infections from sleeping on the floor on dirty mattresses¹¹⁷. The sanitary conditions of the detention centres are supposed to be protected by the Standard Minimum Rules for the Treatment of Prisoners adopted by the UN Congress on the Prevention of Crime and the Treatment of Offenders which covers the issue in Part I 12 and 13. The standards referred to state two main criterions;

‘12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner. 13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or

¹¹³ Stolen Youth: The Politics of Israel’s Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 5.

¹¹⁴ Fourth Geneva Convention, Article 83; Third Geneva Convention, article 23.

¹¹⁵ Stolen Youth: The Politics of Israel’s Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 82.

¹¹⁶ Palestinian Prisoner Society, Palestinian Prisoners During the Al Aqsa Intifada (Bethlehem, January 2002), www.ppsmo.org

¹¹⁷ Stolen Youth: The Politics of Israel’s Detention of Palestinian Children. n.d. Accessed June 27, 2019. <https://www.press.uchicago.edu/ucp/books/book/distributed/S/bo21630153.html>. Page 71.

shower, at a temperature suitable to the climate, as frequently as 3 necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.’¹¹⁸

These conditions however, have not been met within the centres where children have been subjected to the overcrowded nature of detention centres where they face ‘deprivation of adequate water, toilet facilities, exercise, and protection against the elements as older detainees [from whom] they have not been segregated’¹¹⁹. The lack of adequate sanitary conditions in combination with the physical and psychological abuse and trauma that takes place makes the detention process an incredibly difficult one and one that impacts detainees after leaving detention too¹²⁰.

The Israeli Military Court System:

According to the Geneva Convention, under an occupation, the occupying power may establish military courts that exist for trying residents of the occupied territory that may be suspected of breaking the law¹²¹. The Israeli Military Justice System has been subject to the Occupied Palestinian Territories since 1967 following the Six-Day War and Israel’s victory. The Israeli victory prompted Israel to use administrative detention and Military Courts as methods of combating the ‘threat of terrorism’¹²². The ever-increasing extension of jurisdiction of the Israeli courts over the occupied territories brought with it the application of Israeli Laws there too¹²³. The extent of this jurisdiction is pointed to by human rights organisations like Amnesty International have reported that every year, ‘500-700 Palestinian children from the occupied West Bank are prosecuted in Israeli juvenile military courts under Israeli military orders.’¹²⁴ This is because of the military orders which specify that child detainees must be brought before a judge within several days of their arrest for the court to review the justification for the arrest and for them to decide whether or not to release the detainee, making it a key part of the judicial process¹²⁵.

¹¹⁸ “OHCHR | Standard Minimum Rules for the Treatment of Prisoners.” n.d. Accessed September 5, 2019. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx>.

¹¹⁹ Kapitan, Tomis. 1997. *Philosophical Perspectives on the Israeli-Palestinian Conflict*. M.E. Sharpe. Page 174.

¹²⁰ “The Impact of Child Detention: Occupied Palestinian Territory.” 2012. Resource Centre. March 12, 2012. <https://resourcecentre.savethechildren.net/library/impact-child-detention-occupied-palestinian-territory>.

¹²¹ Convention (IV) relative to the Protection of Civilian Persons in Time of War (hereinafter: Fourth Geneva Convention), Art. 64.

¹²² Kathleen Cavanaugh, “The Israeli Military Court System in the West Bank and Gaza,” *Journal of Conflict & Security Law* 12, no. 2 (2007): Page 198.

¹²³ Kathleen Cavanaugh, “The Israeli Military Court System in the West Bank and Gaza,” *Journal of Conflict & Security Law* 12, no. 2 (2007): Page 206.

¹²⁴ “Chapter 3: Israeli Settlements and International Law.” n.d. Accessed August 29, 2019. <https://www.amnesty.org/en/latest/campaigns/2019/01/chapter-3-israeli-settlements-and-international-law/>.

¹²⁵ “Minors in Jeopardy.” n.d. B’Tselem. Accessed September 6, 2019. https://www.btselem.org/publications/summaries/201803_minors_in_jeopardy.

The relationship between the judicial system and Palestinian children has proven itself to be a problematic one. This is particularly in terms of the kind of treatment that the courts have of Palestinian children as a continuation of the kind of treatment referred to previously in regards to their interrogation and detention. The military court system formed its own separate court that specifically caters for children when it issued Israeli Defence Forces Order No. 1644 in 2009. The order did the following;

‘[It] established a separate military court for Palestinian children and ended 42 years of trying children as young as 12 years of age in the same courts as adults. However, the order fails to correct many of the fair trial deficiencies in the military courts relating to children (including insufficient provisions regarding qualifications for the judges, no added protections during interrogations, and discretionary language granting the prosecutor broad authority to suspend protections for children), which indicate that Military Order 1644 will do little to improve the protection of Palestinian children before the Israeli military legal system.’¹²⁶

The description above highlights that even though a separate military court was created for Palestinian children, the court is filled with deficiencies that negate the process. This aspect of this dissertation will discuss how the structure of the court system has directly impacted Palestinian children in a negative way, making room for their human rights to be violated. For instance, within the court system, the systematic distinction between the treatment of Palestinian children and Israeli children is further exemplified. This is because there exists within the court system certain features that make it difficult for Palestinian children to receive the same kind of justice available for Israeli children. For instance, in the case of seeking justice, neither Palestinian victims nor their families can seek the prosecution of Israelis in the Military Court System and are only able to appeal a decision not to indict through the Military Advocate General or to the Israeli HCJ¹²⁷. This means that when Palestinian children face any kind of violation from an Israeli, they are unable to take sufficient legal action that would allow them to acquire some form of justice. This in itself could be a part of why Palestinian children resist in other ways, because the system deprives them of the ability to handle any kind of violation in an alternative, legal way.

The military courts work as a continuation of the kind of treatment had by Palestinian children in the phases that come before the trial, in their interrogation and their detention. The features of the court have been criticised for the way in which they do this and the way in which they further expand their control on the Occupied Territories. As explained in the following statement for example;

¹²⁶ “Children.” 2014. Addameer. May 21, 2014. http://www.addameer.org/the_prisoners/children.

¹²⁷ Kathleen Cavanaugh, "The Israeli Military Court System in the West Bank and Gaza," *Journal of Conflict & Security Law* 12, no. 2 (2007): Page 206.

‘The military courts are not, nor can they ever be, neutral arbiters. They constitute one of the main apparatuses of the occupation Israel uses to oppress the Palestinian population and quell any sign of resistance to its continued control over the Occupied Territories.’¹²⁸

This explanation refers to the kind of criticism mentioned in B’Tselem’s report, where they expand on the issues prevalent within the military courts. B’Tselem published a report on the Violation of the Rights of Palestinian Minors by Israel’s Military Courts in March 2018¹²⁹. The report covered issues that include biased courts, difficulties faced by Palestinian lawyers and the discriminatory differences within the law regarding the treatment of Palestinian children. One of the criticisms made regarding the system, as mentioned in the explanation above, is based on the notion that the courts hold a level of bias. This is because of the fact that the judges and prosecutors are appointed by the Israeli military. This is pointed out in an interview of an Israeli lawyer which captured the biased nature of the courts when referring to the kind of atmosphere into which children go when entering the military courts. The Israeli lawyer Andre Rosenthal explains; ‘Palestinian minors are treated as suspects from the moment they enter the military court system ... Our role is purely damage limitation. Basically, it’s very frustrating and a waste of time.’¹³⁰ This reflects the kind of attitude that is had towards Palestinian children, even by the judges who are supposed to be impartial in their initial meetings with the children on trial. For this problematic aspect of the court system however, there has been a potential form of resolving this issue as the judges and prosecutors had previously been appointed by the Israeli military until 1990, whereas now, the IDF have stopped appointing the judges and have restricted the pool to judges¹³¹.

However, the court system is still flawed in its treatment of Palestinian children by features that underestimate this change. To begin with, Palestinian child detainees have no guaranteed right to legal representation¹³². This in itself makes the process all the more intimidating for children who may already be traumatised from their experiences in the detention centres.

The uncertainty in receiving legal representation becomes more of an issue because of the difficulty that is created for Palestinian lawyers who actually do end up representing the children in court. For

¹²⁸ “Minors in Jeopardy.” n.d. B’Tselem. Accessed September 6, 2019. https://www.btselem.org/publications/summaries/201803_minors_in_jeopardy.

¹²⁹ “Minors in Jeopardy.” n.d. B’Tselem. Accessed September 6, 2019. https://www.btselem.org/publications/summaries/201803_minors_in_jeopardy.

¹³⁰ Hanieh, Adam, Adah Kay, and Catherine Cook. 2003. “Paying the Price of Injustice: Palestinian Child Prisoners and the UN Human Rights System.” *Middle East Report*, no. 229: 26–31. <https://doi.org/10.2307/1559390>.

¹³¹ Hajjar, Lisa. 2005. *Courting Conflict: The Israeli Military Court System in the West Bank and Gaza*. 1st ed. University of California Press. <https://www.jstor.org/stable/10.1525/j.ctt1pp0fd>. Page 175.

¹³² Hanieh, Adam, Adah Kay, and Catherine Cook. 2003. “Paying the Price of Injustice: Palestinian Child Prisoners and the UN Human Rights System.” *Middle East Report*, no. 229: 26–31. <https://doi.org/10.2307/1559390>.

example, the language used in the court is Hebrew, whereas for most Palestinian lawyers, Hebrew is not the first language¹³³. This kind of condition in the courts is problematic because it is clear that the court, whether deliberately or not, does not consider the necessary requirements needed for the legal representatives of the Palestinian children that are essential to acquiring legal change. This disrupts the process of allowing the children to receive adequate, impartial judgement because it deprives them of the ability to present their case in the best way possible.

Responses to Palestinian Children Living in the Occupied Territories

The aftermath of the treatment that Palestinian children have under the Israeli Military Justice System from the interrogation process to the experiences had within the detention centres and to the way in which children are treated within the court, is integral to understanding the totality of effects that the occupation has on Palestinian children. The trauma referred to earlier on in this dissertation is a major aspect of the effects that the Israeli Military Justice System has on Palestinian children and on their families too. This has been researched as a part of the Save the Children Report which also covers the psychosocial response to trauma and the post trauma rehabilitation of ex-detainee Palestinian children in the West Bank. The report particularly refers to the serious implications that the trauma of the detention process, regardless of its duration, has on children and how the reintegration process works to resolve this issue. It provides statements from children who have been impacted by the Israeli Justice System, one explaining that the detention experience meant that her 'personality changed completely' and following it she 'felt ashamed for happened [and] it stigmatized [her]'¹³⁴.

The report covers the varying approaches that have been utilised to deal with the rehabilitation of children that have left the detention centres. The first is the counselling approach which is based on psychosocial counselling. The report explains that the main methodologies that are adopted by the organisations that provide counselling such as the Eye Movement and Desensitization and Reprocessing methodology (EMDR) method and the child focused, psychosocial, education and career focused method¹³⁵. These methods deal with several effects that Palestinian children display

¹³³ Hanieh, Adam, Adah Kay, and Catherine Cook. 2003. "Paying the Price of Injustice: Palestinian Child Prisoners and the UN Human Rights System." *Middle East Report*, no. 229: 26–31. <https://doi.org/10.2307/1559390>.

¹³⁴ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. <https://resourcecentre.savethechildren.net/library/impact-child-detention-occupied-palestinian-territory>. Page 78.

¹³⁵ "The Impact of Child Detention: Occupied Palestinian Territory." 2012. Resource Centre. March 12, 2012. Page 62.

after detention, including emotional distress, anger issues, increased anxiety, PTSD and bedwetting¹³⁶. In support of this impact, Yoke Rabaia explains that as a part of the effect that Israeli treatment has had on Palestinian children created the impression that the exposure to violence and trauma had meant that they had become ‘mentally ill’¹³⁷. She explains that this thereby concluded that Palestinian children had the right to treatment in accordance to Article 23 of the Convention on the Rights of the Child¹³⁸.

The statements in the Save the Children report provide examples of children who have been through the processes and have received counselling from the project reveal the kinds of effects that the whole experience can have and reflect just how effective it can be to provide the children with psychological treatment following incarceration and detention. One child for example, stated that ‘[the counselling] really helped me a lot by decreasing my anger step by step.’¹³⁹ This exemplifies the kind of impact that the Israeli military justice system has on Palestinian children, potentially increasing their resentment for the regime and thereby increasing resistance. For this reason, rehabilitation and adequate psychological treatment is something that should be considered a vital response to the experiences lived by Palestinian children.

Conclusion

The Palestinian children have been born and raised within the context of occupation, settler colonialism and apartheid. Existing within the Occupied Territories has meant that Palestinian children have been subject to the overpowering, often discriminatory nature of the Israeli regime. The occupation has manifested itself in the form of land annexation and property destruction, factors that have resulted in the loss of water and land, causing discontentment amongst Palestinians and causing the international community to voice their concern too. This has prompted the likes of the United Nations to express their apprehension with the decisions made by the Israeli regime in cases where they have called for the demolition of Palestinian homes. Further to this, the treatment of Palestinian adults by the Israeli regime has proven itself to be of influence on the children, many of whom witness the arrest and detention of their fathers. The contextual

¹³⁶ “The Impact of Child Detention: Occupied Palestinian Territory.” 2012. Resource Centre. March 12, 2012. Page 47.

¹³⁷ “Sick or Sad? Supporting Palestinian Children Living in Conditions of Chronic Political Violence - Rabaia - 2014 - Children & Society - Wiley Online Library.” n.d. Accessed September 11, 2019. <https://onlinelibrary.wiley.com/doi/abs/10.1111/chso.12061>.

¹³⁸ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 11 September 2019]

¹³⁹ “The Impact of Child Detention: Occupied Palestinian Territory.” 2012. Resource Centre. March 12, 2012.

background is to be understood as a part of the reason for why it is that Palestinian children resist to their occupier. The way in which this resistance is carried out is most commonly in the form of stone throwing as a way of opposing the Israeli military but also in general anti-authoritarian behaviour with children like Ahed Tamimi slapping an Israeli soldier. The children, who have become impactful in their resistance, have become a significant aspect of the struggle against the occupation.

The way in which their resistance is met is a key way of understanding the way in which the Israeli Military Justice System works in the Occupied Palestinian Territories. For one, Israeli soldiers have been known to use tear gas canisters and rubber bullets in response to children's resistance. This has had damaging effects with children dying and with children suffering several injuries. Further to this, the maltreatment faced by children during their arrest, interrogation and incarceration is also an important part of the experiences had by Palestinian children. The arrests often take place violently and the interrogations can often lack adult supervision. The case of Ahed Tamimi is a key example of this as her interrogation period was found to be difficult due to the way in which the Israeli officers extended the length of her interviews and tried intimidation techniques to try and coerce her into cooperation. Further examples also revealed that during interrogation, the Israeli officers violate international human rights law by inflicting pain or suffering whether mental or physical which we find to be illegal when we refer to the Convention against Torture.

Furthermore, the detention of Palestinian children has also been a significant aspect of their experiences under the occupation. Children as young as twelve have faced experiences of physical and psychological abuse within the detention centres, causing trauma and violating international human rights law and international humanitarian law. This has had extreme consequences with children like Murad Awaisa being killed within the detention centre. The trauma is also further affected by the systematic difficulties made for those who want to provide legal assistance for the children, often being faced with restrictions on visits and being unable to legally support the children. As a continuation of this, the Israeli Military Court System has also been a difficult process for Palestinian children to go through. This is because of the continued difficulty faced by the lawyers of Palestinian children, including language barriers and the expectation of biased judges.

Finally, the aftermath of the experiences children face under the Israeli Military Justice System reflect the extent to which the system affects Palestinian children. This is because of the effects the experience has on the mental health of children who are often traumatised following the detention experiences. The attempts at resolving this however, have enabled the progression of change and rehabilitation following the difficulties of existing under the occupation, participating in resistance and dealing with the Israeli Military Justice System.

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