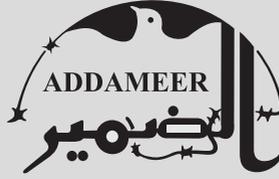


The Right of Child Prisoners to Education

*i have the
right to learn*





The Right of Child Prisoners to Education

Addameer Prisoners Support and Human Rights Association.

Ramallah - Palestine



October 2010

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Executive Summary

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This research paper addresses the right to education for Palestinian child prisoners inside Israeli prisons. In the first chapter, a comprehensive and systematic review of international laws and conventions pertaining to the right of education is conducted. This analysis confirms that the right of children to education, including child prisoners, is an integral part of the instruments of International Human Rights Law (IHRL), specifically Article 26 of the Universal Declaration of Human Rights, and of International Humanitarian Law (IHL), in particular Article 94 of the 1949 Fourth Geneva Convention, in addition to other international conventions and covenants. This body of law affirms the right to compulsory and free education for children deprived of their liberty.

An understanding of Israel's legal position towards the right of Israeli child prisoners to education is necessary to facilitate an appropriate and unbiased examination of the right to education for Palestinian child prisoners. The second chapter thus examines Israeli civilian laws that determine this right and compares them to the military orders applicable to the occupied Palestinian territory (oPt).

Furthermore, in order to give a structurally clear account of the educational realities facing Palestinian child prisoners, this chapter looks at the Israeli Prison Service's (IPS) regulations regarding

the right to education.

The second chapter also takes into account the use of the court system by the occupying power to enforce discriminatory practices that have had the collective effect of depriving Palestinian children of their right to education. Although Palestinian children resorted to the Tel Aviv Central Court in 1997 to enforce their right to continue their education in prison in accordance with the Palestinian curriculum, that court ruling has had the ultimate effect of strengthening the occupier's policy of denying the right of Palestinian child prisoners to education. Indeed, the court granted the IPS total control over the administration, implementation and interpretation of the decision, thereby fundamentally undermining the ruling's aim and allowing for the continued deprivation of educational rights.

Chapter two concludes with a detailed explanation of the realities of the enforced curriculum, extracurricular activities, and compulsory and secondary education and their impact on Palestinian child prisoners. A comparison between the educational status of Israeli and Palestinian child prisoners in Israeli jails is also presented.

The third chapter provides a comparative lens through which the relative deprivation of Palestinian child prisoners' educational rights in Israeli jails can be understood. To do so, it examines the right to education of child prisoners in the Swedish and Canadian contexts. The research shows that these countries promote human rights, provide children with care and attention and look at deprivation of liberty only as a last resort. These countries ensure that children deprived of liberty have

the right to continue their education in detention centers with specifications no different than those in other educational institutions.

Finally, chapter four focuses on two main issues. First, it examines the impact of the occupation on the mental health of child prisoners, paying special attention to the impact of the occupation on their educational skills. Second, it monitors the role of those Palestinian institutions working with child prisoners and assesses their role in reversing the effects of the occupying power's detention of children in degrading conditions and their torture and abuse.

Conclusions and Recommendations

Key findings of the research paper can be summarized as follows:

- Palestinian children are still being systematically targeted by the Israeli occupation forces, which arrest 700 children annually.¹ The goal behind the occupying power's detention of Palestinian children, especially those aged 16-18 who constitute the pillar of community development, is to, inter alia, un-educate the Palestinian people.
- The IPS's policy of disingenuously delivering the right of Palestinian child prisoners to education is consistent with

1. See the following publication of Defense for Children International (DCI), *The systematic and institutionalized ill-treatment and torture of Palestinian children by Israeli authorities* (June 2009), pp 8. [available at: <http://www.dci-pal.org/english/pub/research/CPReport.pdf>].

Israel's policy of imposing military orders that aim at detrimentally affecting the educational process in the oPt. In so doing, the occupier violates both IHRL and IHL, as well as its obligations under the Convention against Discrimination in Education (1961) and the Convention on the Rights of the Child (1990).

- Israel claims that its jurisdiction is derived from the 1997 Tel Aviv Central Court's decision in the case of Farahat and ors vs IPS. Although this decision recognized Palestinian children's right to education, it did not provide legal guarantees to enable them to exercise their right to education and instead made this right conditional on "security considerations". Children above the age of 16 are denied any form of systematic education or vocational training.
- The IPS practices racial discrimination against Palestinian children by ignoring their right to education and limiting its curricular and extracurricular educational programs to Israeli criminal offenders.
- The aim of the Israeli Ministerial Committee formed in March 2009 under the chairmanship of the Israeli Minister of Justice to study and evaluate the conditions of prisoners is to double the suffering of prisoners by: 1) collectively and arbitrarily punishing them; and 2) preventing them for the second time² from sitting for the final matriculation

2. The first time the Tawjihi exam was banned since the establishing of the Palestinian Authority was in 2007.

- exam known as “Tawjihi”.
- The IPS allows for the organization of classes, but not of educational programs, in Megiddo and Rimoni Prisons, while it totally deprives all other child prisoners in Ofer Prison and other interrogation and detention centers of any educational rights. Additionally, these classes do not amount to a fulfillment of the legal obligations of the occupying power, and the IPS in particular, towards Palestinian child prisoners and cannot be compared to the right to education enjoyed by Israeli children who are “in conflict with the law”.
 - The research agrees with the findings of psychosocial studies that have determined that exposure of child prisoners to a traumatic experience as a result of imprisonment and degrading treatment causes symptoms of post-traumatic stress disorder (PTSD) or recurrent trauma, such as low self-esteem, disorientation, and loss of control over self-determination. These afflictions adversely affect any future pursuit of education and are considered a major cause of former Palestinian child prisoners’ reluctance to return to school.
 - In addition to the ill-treatment and torture suffered by Palestinian children during the process of arrest, interrogation and detention, their social capital is also squandered,³ negatively impacting their ability to grow into a valuable and autonomous individual. This kind of social regression is the opposite of empowerment, competence and

3. For more information about the Arabic concept of Hadr, meaning social degradation and loss of dignity, see: Hijazi, Mustafa, *Squandered Human: A psycho-social analytical study* (2005), 1st print, Beirut: Arab Cultural Center, pp 201-240.

4. *Ibid*, pp 30.

self-determination.⁴

Recommendations

To the Ministry of Detainees and Ex-Detainees Affairs, the Ministry of Education and Higher Education, and relevant non-governmental organizations and research institutes:

- To undertake work, independently and in cooperation with each other, to launch rehabilitation and social reintegration programs for former child prisoners, making their education a priority;
- Drawing from its own experience and the difficulties faced in conducting research for the purpose of this paper, Addameer recommends to those research institutions concerned with Palestinian children's affairs, to conduct a comprehensive qualitative research study that would reveal the real impact of the Israeli detention policies on Palestinian children with a special focus on: (1) a comparison of ex-detainees' academic achievements prior to detention and following their release; (2) the proportion of children that choose to continue with their education after their release from detention; and (3) the proportion of ex-child detainees who enroll for further education after their release but drop out shortly thereafter;

To Palestinian and Arab Media:

- Design special educational radio and television programs for Palestinian child prisoners given the IPS' refusal to grant prisoners access to education and to books,

scientific journals and other educational materials.

To the International Committee of the Red Cross:

- Addameer urges the International Committee of the Red Cross (ICRC) to reject Israel’s “security argument” as a justification for injustice; and exert all the necessary pressure on the IPS to address its legal obligations to guarantee the right to education for Palestinian child detainees and prisoners. In doing so, the ICRC should have particular regard for those complaints brought under Article 94 of the Fourth Geneva Convention. It is the responsibility of the ICRC to encourage the State Parties to the Treaty to improve the detention conditions of prisoners, and to contribute to the international community’s efforts to promote respect for IHL, and the general principles of human rights, which stress the centrality of the right to education in the realization of other rights.

To the International Community:

- Addameer urges foreign government officials, including members of foreign representative offices to the Palestinian Authority (PA) in Ramallah and foreign Consulates in East Jerusalem, as well as representatives of the European Commission and the European Parliament, human rights organizations and United Nations bodies to intervene with the Israeli authorities and raise the issue of the denial of the right to education to Palestinian child detainees. The international community should pressure the Israeli authorities to ensure that compulsory education is provided at a satisfactory level, and that additional educational programs and vocational training are provided to those



children that are above the compulsory education age.

Foreword

Although Israel disavows its obligations as an occupying power and fails to recognize the applicability of the Geneva Conventions to the oPt, it does not hesitate to hold the international community and the Palestinians themselves responsible for the consequences of its occupation of the Palestinian territory. Israel individually and collectively deprives Palestinians of the rights enshrined in IHL, which protect civilians in times of war, as well as the rights derived from the Universal Declaration of Human Rights. It systematically violates these and other international covenants and conventions despite the fact that its admission to the United Nations was conditional on its respect for international law.

Since the beginning of Israel's occupation of the West Bank and Gaza Strip in 1967, prisoners and detainees have been deprived of their right to education. The IPS has provided Palestinian prisoners neither with regular nor irregular study programs although its regulations not only recognize the right of criminal prisoners to pursue their education but also require the IPS to provide prisoners with the materials necessary to fulfill this responsibility.

During 2009, the average number of children detained in Israeli prisons ranged between 389 in January and 296 in December. Child prisoners were held in five prisons and detention centers, namely Rimonim, Ofer, Megiddo, Damon, and Jalameh (Kishon).

In 1997, the cumulative effects of discrimination against Palestinian child prisoners forced their representatives to submit a petition to the Tel Aviv Central Court demanding that their right to education be upheld in the same way as for Israeli juvenile offenders. Rather than addressing the discrimination, the court decision, however, had the effect of perpetuating their deprivation of education. Indeed, although the Central Court ruled that Palestinian child prisoners should be entitled to the same education rights as Israeli child prisoners, with an education program based on the Palestinian curriculum, it also stated that this right would be allowed only in “accordance with security requirements”. As such, the IPS maintained the upper hand in determining the provision of this right and quickly emptied the court’s decision of its content. In so doing, the ruling proved consistent with Israel’s strategic objective of reversing the development of Palestinian society and un-educating individuals – the nucleus of basic development - mirroring the actions of previous colonial powers in their treatment of colonized people.

It is in this context that Addameer Prisoner Support and Human Rights Association prepared this research paper on the right of Palestinian child prisoners to education in Israeli jails. The paper’s purpose is therefore to uphold the legitimate rights of Palestinian prisoners, guaranteed by the international laws,

5. The 2002 UNDP “Arab Human Development Report” considers that the real wealth of the Arab nation lies in its social and human capital, including men, women and children. As stated in the report, “a study of 192 countries concludes that human and social capital explain no less than 64 per cent of growth performance.” Over the past 43 years, Israel has arrested over 700,000 Palestinians, which constitutes 20% of the total population of the OPT and as such has arguably purposefully targeted Palestinian human capital and hampered Palestinian growth performance.

conventions and agreements that constitute IHRL and IHL. Addameer believes that the right to education, as stated in these laws and conventions, is a fundamental human right on which the realization of civil, political, economic, social and cultural rights depends.

Despite the occupying power's violation of all international conventions pertaining to the rights of prisoners, Addameer deems it necessary that prisoners, in association with legal, human rights and community organizations, continue to challenge the occupier until they are granted their right to education. Moreover, Addameer contends that by enabling prisoners and detainees to exercise their right to education, the Palestinian Prisoner Movement will be strengthened in its opposition against the occupier's policies specifically aimed at breaking the prisoners' will and distorting the Palestinian consciousness to the point of accepting defeat.⁶

6. Awareness is a product of culture, while colonial experiences developed sciences, and employed them to write off the cultural identity of the indigenous peoples of the colony. The colonial powers became aware of the role of education and the formation of cultural elites in the completion of what specialists call "cultural genocide". It was Frantz Fanon, who first spoke in his book entitled "The Wretched of the Earth", about the role of intellectuals who identify with the authoritarian and his values. This view was also reiterated by Dr. Munir Akash, a Syrian by nationality and a Palestinian by choice in his book "America and Cultural Genocides" (Riad Rayes publications, Beirut, July 2009).

Methodology

This paper adopts the concept of the right to education laid down in IHRL and IHL and in those specific international conventions devoted to the right to education or to child rights in places of detention.

The present research examines the connection between Israeli policies adopted towards the educational process in the oPt and the policies of the IPS towards Palestinian child prisoners – the child representing a crucial component of the Palestinian Prisoner Movement and a pillar for the liberation of the Palestinian land for Palestinians.

In its examination of the Israeli policies towards the right of Palestinian child detainees to education, this paper analyzes the 1997 Tel Aviv Central Court decision in the case of Mohammed Farahat and ors vs the Israeli Prison Service.

With the aim of examining the current reality of education in Ofer, Megiddo and Rimonim prisons, where the majority of Palestinian child prisoners are held, a total of 30 interviews were conducted between September and December 2009.

A questionnaire including 25 questions was filled out by each prisoner interviewed. The questionnaire took into account the different educational levels of the prisoners and was divided into three sections. First, the questionnaire included questions

about the educational programs available in prison. Both content and quantity of the formal education within the Palestinian curriculum, as well as “extracurricular” or “informal” education, were examined. Second, it included questions about the conditions of the classes. Third, the questionnaire inquired about the parties that organize the classes and provide teachers, as well as the necessary study materials such as stationery and books.

With the aim of comparing the right to education among Palestinian child prisoners and Israeli criminal offenders, it was necessary to review the relevant IPS regulations to determine the extent to which the occupying power respects its obligations under international conventions that prohibit discrimination in treatment. Specifically, the Convention against Discrimination in Education and the International Convention on the Elimination of All Forms of Racial Discrimination were looked at in this regard.

Additionally, interviews were conducted with Palestinian institutions providing services to prisoners and ex-prisoners, including in the field of education. During the month of November 2009, the research team met representatives of the Ministry of Detainees and Ex-detainees, the Ministry of Education, and the YMCA, which had launched the “Ex-detainees Rehabilitation and Integration Program” in partnership with Save the Children Sweden. The interviews aimed at identifying the roles, duties, services and programs provided by the institutions for prisoners and ex-detainees.

In addition, a literature and research review was undertaken, focused on materials that dealt with the realities of Palestinian

children under Israeli occupation and those that studied the nature of the occupation policy towards the educational process in the oPt.

Finally, the research team met with ten ex-child detainees in November 2009. Special questionnaires, focusing on the progress of the educational process in prison, were filled out by the children. Their opinions were taken into account to assess the effectiveness of the ex-detainees rehabilitation programs carried out by these institutions.

Difficulties

Research that deals with the realities of the Palestinian Prisoner Movement still suffers from the absence of a specialized research institution capable of documenting the history and achievements of the Prisoner Movement within the prison walls, despite the calls made by some ex-detainees, writers and intellectuals.⁷ This casts a long shadow on any research that deals with cases of Palestinian prisoners, their rights and struggle. Instead, most studies focus on violations against prisoners' rights, conceptualizing political prisoners as victims only, failing to recognize their agency in achieving change through a history of hunger strikes, protests, civil disobedience and successful negotiations with prison officials.

In the preparation of this research paper, Addameer was not able to obtain statistics detailing the number of child prisoners who dropped out of school following detention. The absence of psychosocial studies on the impact of detention on the ex-detainees' learning skills and abilities is also apparent.

Despite many efforts to arrange interviews with teachers assigned by the Israeli Ministry of Education to provide some form of taught classes to children below the age of 16, not a single interview was held due to the teachers' refusal to cooperate. As such, Addameer was not able to take into consideration their opinion in assessing the quality of schooling for Palestinian children and was forced to rely on children's interviews and questionnaires only.

7. Ex-prisoner and writer Rasem Obeidat called for such a specialized institution more than one occasion. Addameer believes that it is essential to take such calls into consideration. Such an institution would require a political climate celebrating not only the liberation of prisoners, but also their struggle.

General Background on Palestinian Child Detainees

Since the beginning of the Second Intifada in September 2000 until September 2009, Israeli occupation forces arrested more than 6,500 Palestinian children.⁸ Despite the fact that Israel is a State Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it ratified in 1991,⁹ Palestinian children are exposed to various forms of beatings, humiliations and torture prior to and during arrest, throughout the interrogation process, and while in detention. The result of this abuse and ill-treatment is physical but also psychological harm, which has long-term consequences that go beyond physical healing.¹⁰

During 2009, Palestinian boys under 18 were held in four prisons: Ofer, Megiddo, Rimonim and Damon. In addition, five Palestinian girls spent different detention periods in Israeli prisons, including three in Damon Prison, and two in HaSharon Prison. The following table shows their numbers throughout the year.

Month	Jan	Feb	Mar	Apr	May	June
Number	389	423	420	391	346	353
July	Aug	Sep	Oct	Nov	Dec	
342	339	326	302	310	296	

8. See DCI-Palestine, *Palestinian Child Prisoners: The Systematic and Institutionalised Ill-Treatment and Torture of Palestinian Children by Israeli Authorities*, June 2009

9. See the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention was adopted by the General Assembly of the United Nations on 10 December 1984, and entered into force on 26 June 1987.

10. Dr. Musleh Kana'neh & Marit Netland, *The Depth of the Uprising Self: Biography and social development of Palestinian youth who grew up in an atmosphere of pain and frustration between the two uprisings*, Norwegian Palestinian Association - Nordyasu "Albalad" Cultural Association, Haifa, 2003

The Oslo Accords signed between the Palestine Liberation Organization (PLO) and the government of Israel in September 1993 did not end the military rule imposed on the oPt. Since 1967, Palestinian children have been subjected to military restrictions imposed by the occupying power and controlled by the more than 1,650 military orders that cover all aspects of Palestinian life, including the educational process and academic freedom.¹¹ Between 1967 and 1986, researcher Abdel-Jawad Saleh¹² monitored 24 Israeli military orders that reflect the occupying power's desire to control all aspects of the Palestinian educational process. This process was initiated by transferring all the powers of the Jordanian Ministry of Education to the Israeli military governor. Under military order no. 91 of 22 August 1967, titled "Ordinance on the terms of reference of the appropriate provisions of education", the following provisions regarding education were moved to the military governor: laws, regulations, orders, decrees and instructions related to schools, the role of courses, kindergartens, and other educational institutions of any kind. Overall, since 1967, under military orders, the Israeli military commander prevented 4,000 books from being issued to prisoners.¹³ What's more, the Israeli authorities have adopted a policy of disrupting the Palestinian education process and denying Palestinians the right to education by, amongst other,

11. Until the withdrawal of the Israeli military from Gaza, the Strip was governed by more than 1,500 military orders.

12. Saleh, Abdel-Jawad (1986), *Israeli Military Orders*. Part one, first edition, pp (401 - 422).

13. Al-Assali, Alia, "Reading on the impact of occupation on the reality of education in Palestinian society," available at the following link: www.tarbya.net/SpSections/ArticleDetailes. pp (12)

closing schools for prolonged periods of time and turning them into temporary detention camps, a policy that continues to this day.¹⁴ Other practices included the arbitrary separation of students and teachers, their transfer to different schools, the imposition of fines and the barring of extracurricular activities, seminars, and educational and intellectual symposia.

Military Order No. 854,¹⁵ issued on 6 July 1980, imposed even more stringent restrictions.¹⁶ Later, the occupying power proceeded to launch large-scale repression campaigns against students, teachers and staff in academic institutions. Over the years, Israeli military land incursions and airstrikes in the oPt have led to the killing of hundreds of school children, students and teachers. The overall effect of these policies has been to destroy the educational process; by the mid-eighties school dropout rates had reached 50%.¹⁷

14. In one example, a mass arrest of youths and other villagers occurred on the night of the 18 February 2009 in Jayyous. Around 65 people were brought to the local school to be interrogated for several hours. 26 of them were subsequently arrested. Many of those detained and then arrested were members of the Youth Committee of the Stop the Wall Campaign, which mobilizes youths for the weekly demonstrations against the Wall in Jayyus. During the 2002 Ramallah invasion, hundreds of men between the age of 16 and 45 were rounded up in schools and subsequently arrested.

15. Military Order No. (854) includes an amendment to the Jordanian Education Act No. 16 for the year 1964, which relates to primary and secondary schools and vocational training centers, but not universities. The amendment was applied to universities within the scope of the law, and thus restrictions were imposed on universities requesting them to apply for annual permits in order to operate. As Palestinian professors strongly rejected the order, it was never implemented. However, it remained as a potential threat to the higher education system. See Jonathan Kuttab and Raja Shehadeh (1982) *Civilian Administration in the Occupied West Bank: Analysis of Israeli Military Government Order No. 947*, Al Haq

16. Shehadeh, Raja (1990). *Occupier's Law: Israel and the West Bank*, Institute for Palestine Studies, Beirut, pp: 166.

17. *Ibid*, p. 1

The occupying authorities sought to use military orders to disrupt the educational process in line with its objective of preventing the education system from educating children. This was exemplified by attempts to stifle the creation of a sense of belonging, creativity, and common struggle in the Palestinian community that would encompass a distinct identity, both continuous with its Arab surrounding and interacting with the international community. Alia Al-Asali outlines the educational goals of the occupation authorities in the period that followed 1967 as follows:

1. Un-educate the Palestinian student and isolate his past from his present to obliterate his future;
2. Un-educate the Palestinian student on the Palestinian issue and its developments;
3. Distort Arab and Muslim history so that the student loses confidence in his nation, its history, and its civilization;
4. Affirm the legitimacy of its [Israel's] existence and its usurpation of the rights of the Palestinian people, and prevent them from exercising their right to self-determination;
5. Strengthen the policy of territorial expansion and impose the policy of *fait accompli* on the population of the occupied territory.¹⁸

If Israeli law regards the arrest of children as a last resort, then the detention, interrogation and prosecution of Palestinian children conducted under military orders is in violation of IHL. Under international and Israeli law, a child is a person who has not yet turned 18 years of age, while according to Military Order No.

18. Al-Assali, *Ibid*, p. 5

132, the age of adulthood for Palestinians is set at 16. This order also establishes that a child as young as 12 can be arrested and determines the sentences to be used against the Palestinian child, ranging from a few months to life imprisonment.

Military Order No. 1644, issued on 29 July 2009, established a first-instance military court for Palestinian children, “presided over by a single juvenile-court judge or by a panel led by a juvenile-court judge”. While the order is noteworthy in that it marks the first movement in 42 years towards a veneer of protection for children before the military courts, in practice, it provides only another law in a net of hundreds designed to justify the illegal and immoral treatment of Palestinians under Israeli occupation. The new order did not correct the age discrimination against Palestinian children as explained above and did nothing to correct the illegal sentencing procedures. International law clearly provides that an individual accused of a criminal offense must be charged according to his or her age at the time of the alleged offense. However, a Palestinian child’s sentence is decided on the basis of the child’s age at the time of sentencing. This practice enables them to be sentenced as an adult for an offense they may have committed as a child, if they are charged years after an alleged offense, for there is no statute of limitations for Palestinians subject to military law, or simply if they turn 16 while awaiting sentencing. Military Order No. 1644 did nothing to change to this illegal and discriminatory practice. Additionally, the order did little to ensure that qualified juvenile judges are selected to adjudicate cases involving children as young as 12. Similarly it did nothing to guarantee the protection of children during interrogation by allowing the presence of a

parent and lawyer during sessions, or requiring the selection of specially trained police officers and interrogators.

Moreover, Palestinian children held at Ofer continue to be detained with adult detainees in contravention to international law. They are also still being transferred with adult prisoners from the detention facilities to the military court and although they are held separately in the court waiting areas, they are held in the same conditions.

Most importantly, the military justice system continues to portray the actions of Palestinian children as subversive criminal acts, and thus simultaneously incriminates children and deprives them of their humanity.

As of January 2010, there were 308 Palestinian children held in Israeli prisons.¹⁹ According to 2008 data from the Palestinian Central Bureau of Statistics,²⁰ 74.4% of child prisoners were aged 16-18, while only 26.6% were aged 12-16. In addition, 83% of all child detainees were students at the time of their arrest, 14% were professionally active and 3% were neither working nor studying.

Throughout 2009, Addameer represented 61 cases of child detainees. An analysis of the sentences shows that the detention periods of children range according to the charge levied against them. On average, children are sentenced to 2-6

19. Israeli Prison Service statistics available to Addameer.

20. See Palestinian Central Bureau of Statistics in its statistical survey entitled: "Children of Palestine: issues and statistics (11) for the year 2008", pp (72).

months in prison for the charge of throwing stones, and to 12 months in prison for the charge of throwing Molotov cocktails, although in some cases sentences might be even harsher.

As discussed above, most detained children are students, aged between 16 and 18, and constitute a critically important age group for the development of any society. The IPS's policy of depriving these youths from the right to education, as mandated by international law, confirms that the occupation state is determined to continue ignoring its international obligations as an occupying power under IHL.

Dupliciously, the occupying power deals with non-Palestinian children who are "in conflict with the law", including settler children, under the Israeli juvenile justice system, and ensures them fair trial guarantees. Further, the IPS provides non-Palestinian child detainees with formal schooling and other educational and vocational training and entertainment programs. The denial of these rights to Palestinian children cannot be justified and reflects the magnitude of the abhorrent racist practices committed by the colonial occupier.



Chapter One

International Standards Regarding the Right of Children

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International standards view education as a fundamental right; it is an economic, social, cultural, civil and political right, which is essential to the realization of other enshrined rights.

As such, it involves three levels in terms of duties, namely: respect, protection, and management. The duty of respect requires states to refrain from the adoption of actions that may hinder or prevent the enjoyment of the right to education. The duty of protection requires that states prevent other actors from interfering in the enjoyment of the right to education. The duty of management requires the state to take effective measures to enable individuals and groups to enjoy the right to education.

International treaties and conventions emphasize that the right to education is part of the child's basic rights, in times of peace and armed conflict. IHL specifically imposes on the occupying power the duty to ensure the right to education for the population

under its control, and stipulates that these responsibilities are not to be repudiated. In the event that they are, the state is to be held legally accountable internationally.²¹

21. The Commission on Human Rights established the mandate of the Special Rapporteur on the Right to Education in resolution 1998/23, dated 17 April 1998. The Special Rapporteur monitors the status of the progressive realization of the right to education worldwide, including access to primary education, while taking into consideration difficulties facing the realization of this right, and information submitted by governments, United Nations agencies and bodies, and civil society organizations. The Special Rapporteur also undertakes country visits, responds to alleged violations of the right to education, and submits annual reports to the General Assembly and the Human Rights Council (formerly the Commission on Human Rights) on the activities that were carried out under its mandate (see annual reports). In June 2009, the Special Rapporteur on the Right to Education, Mr. Vernor Munoz, submitted his annual thematic report to the eleventh session of the Human Rights Council, which focused on the “right to education of persons in detention”. According to the report, detainees are a “highly marginalized group that faces endemic violations of its right to education”. The report stressed the need to redouble efforts to respect that right, protect and fulfill it. The State of Israel, however, failed to communicate with the Special Rapporteur and send an official response at the time of writing of the report.

The following section will provide a brief overview of those major international texts which give rise to the right of children to education in order to determine the extent to which Israeli laws and practices live up to the state's commitments to Palestinian children as guaranteed to them by international laws.

1.1 The Most Important International Conventions on the Right of Child prisoners to Education

1.1.1 The Universal Declaration of Human Rights

Article 26 of the Universal Declaration of Human Rights, issued in December 1948, states the following:

- (1) Everyone has the right to education. Education in its primary and basic stages shall be free. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, ethnic or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

The text of Article 26 is applicable to children deprived of

their liberty as a fundamental human right and therefore may not be derogated from.

1.1.2 The International Covenant on Economic, Social and Cultural Rights²²

Ratified by the State of Israel on 3 October 1991

Israel is under an obligation to respect and uphold the rights of the Palestinian population in the oPt, including the West Bank, Gaza Strip and East Jerusalem in accordance with its obligations as an occupying power under international humanitarian law. The applicability of the International Covenant on Economic, Social and Cultural Rights (ICESCR) was recognized in the 2004 ICJ Advisory Opinion on the Legal Consequences Arising from the Construction of the Wall in the OPT, which stated that “the protection offered by human rights conventions does not cease in case of armed conflict”. A year earlier, in 2003, in its concluding observations during the consideration of Israel’s second periodic report on the implementation of the ICESCR, the Committee on Economic, Social and Cultural Rights stated that “the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2

(1) for the actions of its authorities”.²³

22. The International Covenant on Economic, Social and Cultural Rights, adopted by General Assembly resolution on 16 December 1966. The Convention entered into force on 3 January 1976 in accordance with Article (27).

23. For more information, see Concluding Observations of the Committee on Economic, Social and Cultural Right: Israel, 23/05/2003, E/C.12/1/Add.90. (Concluding Observations/Comments), available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.90.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.90.En?Opendocument)

The State Parties to the ICESCR recognized the right of everyone to education and the need to direct efforts towards full development of human beings and the strengthening of respect for human rights and fundamental freedoms, with the aim of enabling every person to contribute to a useful role in society.

In Article 13 of this Covenant States Parties recognize that guaranteeing the full exercise of the right to education requires:

- (a) Primary education shall be made compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means;
- (c) Higher education shall be made equally accessible to all;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education.

Further, Article 14 of this Covenant states:

“Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.”

1.1.3 The Fourth Geneva Convention of 12 August 1949

Under IHL, and in the context of Israel's ongoing belligerent occupation, the four Geneva Conventions are applicable to the OPT as of June 1967. The Fourth Geneva Convention aims at protecting civilians during times of armed conflict who are "in the hands" of "a Party to the conflict or Occupying Power of which they are not nationals", notably those residing in occupied territories. Under the Fourth Geneva Convention, all civilians who do not take part in hostilities shall be protected and may not in any way be the object of military attacks.

In addition to the rights set forth in the Universal Declaration of Human Rights, in particular those that constitute the core of the non-derogable human rights, children also enjoy the protection of IHL. In fact, more than 25 articles in the four Geneva Conventions and their Additional Protocols of 1977 specifically deal with children.

These provisions include protection against the effects of hostilities, provision of assistance and care (medical treatment, food, and clothing), protection of the person, preservation of collective family ties (identity, registration, reunion, news), preservation of the cultural environment, and, of particular relevance, ensuring education. Parties to the conflict must ensure that all children, including those detained, are provided with care and education.

The Convention provides child prisoners in Israeli jails with international legal protection and identifies those rights that

must be respected by the occupying power. Article 94 of Section three of the Fourth Geneva Convention, which provides regulations for the treatment of detainees, stipulates that, “The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees [...] It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises”. Specifically, the article adds, “All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.”

The Convention does not stop there, but deals comprehensively with the issue of prisoners and their right to education. It adds, "Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people."²⁴

1.2 International Conventions

1.2.1 Convention against Discrimination in Education

The Convention against Discrimination in Education was adopted during the General Conference of the United Nations Educational, Scientific and Cultural Organization

24. Article 94, Chapter V, Section IV of the Fourth Geneva Convention, 1949

(UNESCO) on 14 December 1960, and entered into force on 22 May 1962. It was ratified by Israel on 22 September 1961. This Convention starts by emphasizing that the Universal Declaration of Human Rights affirms the principle of non-discrimination and proclaims that every individual has the right to education.

Article 1 of the Convention defines the term “discrimination” as “any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education”. Of particular relevance to this research are:

- (a) Depriving any person or group of persons of access to education of any type or at any level;
- (b) Limiting any person or group of persons to education of an inferior standard.

Article 1(b) provides clarification, stating that “for the purposes of this Convention, the term “education” refers to all types and stages of education, and includes access to education, its standard and its quality, and the conditions under which it is given.”

Article 3(a) of the Convention calls on State Parties “To abrogate any statutory provisions or any administrative

instructions and to discontinue any administrative practices, which involve discrimination in education.”

Article 5 urges that education be given importance and be provided in agreement with the values of humanity. Further, Article 5 stipulates that “education shall be directed to the full development of human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, ethnic or religious groups, and shall further the activities of the United Nation for the maintenance of peace.”²⁵

1.2.2 The Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) was signed on 20 November 1989 and entered into force on 2 September 1990. Israel has been a Party to the CRC since 1991.

Article 28:

1. The Contracting Parties to the Convention recognize the right of the child to education. In order to achieve the full realization of this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every

25. Article 5, Convention against Discrimination in Education

child, and take appropriate measures such as the introduction of free education and providing financial assistance in case of need;

(c) Make higher education by every appropriate means accessible to all on the basis of capacity;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and to reduce school drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29:

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents, mental and physical abilities to their fullest potential;

- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for a responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

1.2.3 The Standard Minimum Rules for the Treatment of Prisoners

Ratified by the Economic and Social Council on 31 July 1957,²⁶ the Standard Minimum Rules for the Treatment of Prisoners are generally considered the most important set of principles and practical rules pertaining to the treatment of prisoners and prison management. They include a number of provisions protecting the prisoners' right to education.

Article 77(1) stipulates: "Provision shall be made for the further education of all prisoners capable of profiting thereby, including

26. The Standard Minimum Rules for the Treatment of Prisoners were recommended for adoption at the first United Nations Conference for the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955, and approved by the Economic and Social Council in its resolutions 663 C (D-24) of 31 July 1957, and 2076 (D -62) of 13 May 1977.

religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration”.

Article 77(2) states: “So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty”.

Article (78) stipulates: “Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.”

In addition, the Standard Minimum Rules oblige States to ensure that detention conditions are healthy and sanitary, with windows wide enough for ventilation and the entry of adequate lighting for reading and work.

Punishment and its relationship to education: In accordance with the Standard Minimum Rules, if imposed on prisoners, restrictions must be commensurate with what is necessary for safe custody and well-ordered community life. They cannot constitute an arbitrary denial of the right to education.

1.2.4 UN Rules for the Protection of Juveniles Deprived of their Liberty

This Convention was adopted and published in accordance with the United Nations General Assembly Resolution 45/113, passed 14 December 1990.

Article 38 of this Convention states that, “Every juvenile of

compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programs integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention shall be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.”²⁷

Thus, the right to education in international law is defined and undeniable. The exercise of this right, in accordance with what was mentioned by the covenants and conventions discussed above, particularly those relating to the quality of education, is consistent with the values of human rights and enhances human dignity. Education should be free and compulsory, and enjoyed in full equality. The degree to which a State adheres to these international norms is a good indication of the nature of the state and the extent to which it respects the values of democracy and human rights.

27. Article 38 of the United Nations Rules for Juveniles Deprived of their Liberty, as adopted and published in accordance with the United Nations General Assembly resolution 45/113, passed on 14 December 1990.

Chapter Tow

The Right of Child Prisoners to Education in Israeli Laws



Chapter Two

The Right of Child prisoners to Education in Israeli Laws

This chapter will examine the right to education of Palestinian children under Israeli law. It will assess the extent to which Israeli law governing this right, specifically the IPS regulations on education, are in accordance with international educational rights norms.

1.1 Laws that Support the Education of Israeli Juvenile Children

2.1.1 Legislation

The Israeli parliament, the Knesset, has enacted six laws to date that directly deal with the organization of the education system in Israel and give authority to the regulations governing education approved by the IPS.

The educational requirements pertaining to Israeli juvenile delinquents held in juvenile detention centers or prisons derive from both local and international laws, including those that relate to the interests of children in general and others

that specialize in juvenile delinquents affairs only. They include the Compulsory Education Law of 1949 and the Youth (Trial, Punishment and Modes of Treatment) Law of 1971.

The first makes education in Israel mandatory until the completion of ten years of schooling and stipulates that children and youth between the ages of three and seventeen have the right to free education. In 2007, however, the Knesset extended the Compulsory Education Law to students through the twelfth grade. The Youth Law provides for special treatment of minors in criminal proceedings, through the establishment of juvenile courts and the appointment of officials to protect children and ensure that they are tried separately from adults. This maintains the court's broad authority in the selection of treatment approaches, as stated in Article 25 of the Law. This article grants the court the authority to keep a child convicted of violating the law in a closed shelter during the hearing for a period not exceeding the period of imprisonment prescribed for the offense in question. Meanwhile, Article 26 of the Youth Law identifies the non-custodial sanctions that may be substituted for jail sentences for children, including placing them under the supervision of the juvenile officer²⁸ or in open shelters;²⁹ or imposing on the child or the child's family a fine or another form of compensation that is then transferred to the aggrieved party.³⁰ The detention of children is thus only used

28. Israeli Youth (Trial, Punishment and Modes of Treatment) Law 1971, Article 26 (2)

29. Israeli Youth (Trial, Punishment and Modes of Treatment) Law 1971, Article 26 (4)

30. Israeli Youth (Trial, Punishment and Modes of Treatment) Law 1971, Article 26 (7) & (8)

as a measure of last resort and for the shortest amount of time possible.³¹

The education of Israeli juvenile offenders involves a large number of ministries and governmental institutions, including the Ministry of Education, the Ministry of Labor and Social Welfare, which sponsor educational institutions and accommodate juvenile offenders who are at risk of further delinquency.

In August 1991, the State of Israel ratified the Convention on the Rights of the Child, and formed a public committee headed by the Minister of Justice to study the legislation in force in Israel with the purpose of making it conform with the terms of this Treaty. The result has been the guarantee of these prescribed rights for Israeli and foreign delinquents. Palestinian children, however, are categorically denied the right to benefit from the same treatment.

2.1.2 Education in the Israeli Prison Service (IPS) Regulations on Israeli Juvenile Delinquents³²

According to the IPS regulations, the education system aims to create steps that change the mindset and conduct of the criminal offender and that harmonize the prisoner with a law-abiding society. Treatment and rehabilitation are the

31. Haider, Aziz (2004). Education and Scientific Research: Israel Guide 2004, edited by: Kamil Mansour, Beirut: Institute for Palestine Studies, pp: 301.

32. Israeli Prison Service regulations, available at:
http://www.ips.gov.il/Shabas/TIPUL_PRISONER/Special+Care+Of+the+Prisoner/Education+and+education-prisoners.htm.

cornerstones of this penal philosophy as it deals with both juvenile and adult criminal offenders. In this context, the perpetrator of a “criminal offense” is seen as a person subject to change. This educational philosophy aims to rehabilitate the prisoner in order to facilitate his or her re-integration into society.

The tools which make up the IPS education policy are numerous, but all are essentially designed to: 1) increase the educational capacity of juvenile delinquents; 2) enable them to discover their innate and acquired abilities and talents; and 3) bring out their creativity by developing positive habits, and analytical, creative and behavioral skills. Overall, Israeli criminal offenders are given options and can decide how they want to spend their sentence in prison, given that education in prison is perceived as one of the essential elements in reforming and rehabilitating prisoners.

2.1.3 IPS Policy and Treatment of Palestinian Children and their Right to Education

Repression, coercion, deterrence and intimidation are the tactics and policies of the Israeli occupation apparatus in the oPt. In this context, the IPS regulations determining the right of Palestinian child prisoners are an extension of military orders applied to the oPt; these orders are aimed at:

- 1) Tightening the grip of occupation on the Palestinian people; and
- 2) Perpetuating the Palestinian people’s dependence and their economic and social retardation.

Thus, these sets of regulations and orders seek to subjugate the Palestinian child in the same way that the British used the colonial education system, laid down by Thomas Macaulay, to cripple the intellectual pursuits of the colonized peoples.³³ Macaulay said about India, "We must at present do our best to form a class who may be interpreters between us and millions whom we govern - a class of persons Indian in blood and colour, but English in tastes, in opinions, in morals and in intellect." In another speech, Macaulay is also believed to have said that, "No Hindu who has received an English education ever remains sincerely attached to his religion. It is my firm belief that if our plans of education are followed up, there will not be a single idolater among the respected classes 30 years hence."³⁴

Unlike Israeli prisoners convicted of criminal charges who are given the opportunity to serve their sentence in conditions that respect their humanity, Palestinian detainees who resist Israel's colonial occupation are to be psychologically destroyed and/or turned into collaborators and tools in the service of the occupier. To achieve this dehumanization, the IPS adopts an approach that is complementary to the

33. Thomas Macaulay is the author of the Anglo-Saxon cultural genocide. Macaulay, who was instrumental in introducing English as a means of higher education in India, is believed to have formulated a policy intended to culturally uproot indigenous cultures. Derived from Macaulay's policies is the term "Macaulay children" used to define a generation of colonized intellectuals that reject their heritage and instead adopt the customs and culture of the colonizer, and act as the extension of the colonizing power, by effectively controlling their own people.

34. Benedict Anderson (1993), *Imagined Communities: Reflections on the Origins and Spread of Nationalism*, Verso

oppression and torture practiced in interrogation facilities. It aims to control, humiliate, freeze and degrade detainees, and place them under its full control. As such, the IPS destroys their identity, vitality and resistance.

In short, by depriving prisoners of their right to education, Israel aims at destroying any shred of resistance or confrontation in the detained child.³⁵ The following sections will show how the policies of the different Israeli institutions are consistent with one another in their war against the Palestinian child, his human consciousness, and his aspirations for freedom and justice.

2.1.4 Israeli Central Court's Decision: The case of Mohammad Farahat and Others

Although Israel is a State Party to the CRC and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and a member of the United Nations that has acceded to those consequent obligations towards human rights inscribed in IHRL and IHL, it continues to deny Palestinian prisoners their rights, above all their right to education.

In 1997 child prisoner Mohammad Farahat, and a group of other Palestinian child prisoners, lodged Petition No. 97/400 at the Central Court in Tel Aviv. The purpose of the petition was to achieve a court ruling against the IPS that would have

35. Hijazi, Mustafa (2005). *The Squandered Human Being: A Psychosocial Analytical Study*, Beirut, The Arab Cultural Center, p. 88 (Al Insan Al-Mahdur)

the effect of allowing detained Palestinian children to enjoy their right to education on an equal footing with Israeli children. In a semblance of justice, the Court decision held that Palestinian child detainees have the same right to education as Israeli child offenders, and are entitled to an education based on the recognized Palestinian curriculum. However, the same decision also stipulated that this “right is restricted to security conditions”.³⁶

Its positive implications aside, it is useful to mention the political context surrounding the decision. In 1997, the peace process was well underway, and the world was waiting for the end of the interim period of the Oslo Agreement, hoping to turn the page on the Arab-Israeli conflict with the signing of a final status agreement. The decision was also issued at a time when the general number of prisoners and the number of child prisoners in particular, had considerably decreased. More importantly, the court decision in this light is best seen as an Israeli attempt to pacify the international community and improve the image of the occupying power in the world. The intended meaning of the court decision was, however, essentially nullified by its inclusion of the phrase “in accordance with security requirements”. As a result, the proper application of the decision by relevant institutions, which would have enabled children to exercise their right to education, was denied.

Israel has consistently behaved as if it were a state above

36. DCI Palestine Section (2007), “Palestinian Child prisoners”, Ramallah, pp (31)

international law by manipulating the definition and concept of “security considerations”. As such, it has emptied its international obligations of their content.

The IPS administration did not depart from this approach. On the contrary, it seized the opportunity granted by the Israeli judiciary and interpreted the phrase “in accordance with security conditions” in a manner that disables and destroys the child prisoners’ ability to exercise their right to education.

Following this decision, the IPS allowed the minimum of education for children in the subjects of Arabic, Hebrew, English, mathematics, and in some instances, science. The teaching of other subjects such as religion, geography and civics was banned for “security reasons”.³⁷ In so doing, the IPS violated international standards regarding the right of prisoners, including child prisoners, to education. It failed to apply the right to education equally to Palestinian children and Israeli children, as approved by the 1971 Youth Law, or to criminal offenders held in prisons administered by the IPS. Indeed, the 1997 Central Court decision is not only subject to vaguely defined “security considerations”, but it also does not apply to Palestinian children above the age of 16. Military orders applicable to the oPt and its inhabitants, specifically Military Order No. 132, considers Palestinians aged 16 and above as adults and therefore denies children aged 16-18 their entitlement to any preferential treatment, depriving them of

37. Study according to the Palestinian curriculum includes these materials which, under the Court's decision, must be included in the education of children.

the rules and regulations stipulated by international conventions on the rights of children.

All that is allowed by the IPS to allow Palestinian child detainees to exercise their right to education has been, in some facilities, the provision of books and the organization of a limited number of taught classes in study areas that lack regularity, order, and a healthy environment adequate for education.

Since the 1997 Central Court decision, the IPS has regarded the education of prisoners as a privilege, not a right. The IPS treats this right as one which can be granted to some prisoners, in certain circumstances, without acknowledging its legal responsibilities in facilitating and organizing the education process. It is clear that the IPS did not enact special targeted legislation and regulations that would recognize the right of Palestinian children to education or insert provisions to this effect in its existing regulations, in a manner that would ensure children's right to education and guarantee accountability.

4.3 Curriculum and Compulsory Education: General Comparison

2.2.1 Education Curriculum for Israeli Criminal Prisoners

The education curriculum implemented by the IPS offers educational programs in all criminal sections of its prisons. Courses are organized on four educational levels: beginner,

intermediate, advanced, and a special preparatory course for the final matriculation exam in Israel, known as Bagrut, equivalent to the “Tawjihi” exam administered by the PA.

The courses run for at least 12 weeks and at an average of 20 hours per week. Three seminar courses are organized annually for each of the following levels:

- Primary education for illiterate prisoners: writing and reading skills in Hebrew are offered. The course practices three areas: general knowledge, teaching skills, theories and principles.
- The intermediate level offers courses to develop a prisoner’s reading and writing skills, while teaching different subjects.
- Advanced Education aims to complement elementary education (6-8 years of education), and at this stage gives the prisoner the opportunity to choose subjects, which it is based on what the prisoner might need upon release from prison.
- Supplementary high school course in preparation for the “Bagrut” matriculation education: encourages criminal prisoners to write the final matriculation exam that is equivalent to the general secondary exam offered outside of prison.

At the end of each 12-week-long course, marks are submit-

ted to the Israeli Ministry of Education for approval and certification by the Director of Prisoners Education Department. Juvenile offenders are not only allowed to complete formal education from grade 8 to 12, but are also encouraged to take part in a number of self-development workshops in the fields of physical education, culture, arts, and psychological health.³⁸ At Ofer Prison for example, an entire school with 19 classrooms is available to juvenile offenders, where according to press reports, never more than ten students study at the same time. In addition, the children have access to 33 teachers employed by the Israel Association of Community Centers, and who follow the official curriculum of the Israeli Ministry of Education.

The situation is completely different for Palestinian Arab prisoners holding Israeli citizenship and who have been convicted of criminal offenses. As the teaching language for criminal prisoners is Hebrew, their right to education is heavily restricted, if not completely denied. In this regard, Palestinians are all treated equally (regardless of the nature of detention, the color of the identification card, and place of residence) in their deprivation of basic rights inside the prisons.³⁹ Such

38. Adalah's Newsletter, Volume 65, October 2009, "Israel Prison Service Commits to Teaching Arabic to Adult Arab Prisoners Following Adalah's Petition"

39. In the petition Adalah and the Legal Clinic for Prisoners' Rights and Rehabilitation v. the Israel Prison Service and the Ministry of Education, submitted on 17 April 2008, Attorney Abeer Baker argued that the IPS organizes the educational programs at different levels within the prisons. These programs aim to enable adult prisoners to complete their basic education up to 12 educational years, giving them a certificate upon successful completion. Arab Israeli prisoners that are illiterate are not even provided with the opportunity to learn their mother tongue. A year following the issuing of the decision, the IPS had not implemented it.

discrimination of minority groups only points to the baselessness of the security argument. Following a petition submitted by Attorney Abeer Baker, on 1 October 2009, the State Attorney General issued a decision whereby both Arabic language education and informal educational programs would be provided in Arabic to Arab prisoners holding Israeli citizenship.⁴⁰

2.2.2 Compulsory Education in International and Domestic Laws

IHL and IHRL urge compulsory, free education. IHL imposes legal obligations on the occupying power to ensure the proper functioning of the educational system in all territories under its control. At the forefront is the duty to provide compulsory, free education.

The PA was keen in its legislation⁴¹ to work in compliance with international laws in its management of the education

40. The discrimination against Palestinian Arab citizens of Israel in the provision of quality education extends beyond the prison walls. In a report published in 2001, Human Rights Watch argues that Arab schools often lack basic learning facilities; are poorly equipped; are allocated smaller budgets, and are overcrowded. Additionally, the curriculum offers limited courses on Palestinian and Arab history, literature and culture, alienating teachers and students alike. The prerequisite for university application, the final matriculation exam known as the 'Bagrut', is designed to meet the needs of the Hebrew speaking majority and negatively affects the performance of Palestinian Arab Israeli children, limiting their opportunities for higher education and a professional career. For more information, see: HRW (2001), *Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools*, New York

41. Article 24 of the Basic Law stipulates that education is the right of every citizen, and compulsory until the end of the basic level at least. It is also to be free of charge in schools, colleges and public institutions.

sector, given the emphasis placed on education for achieving the desired human, social and economic development of the oPt.⁴²

In turn, the occupying power enacted the Compulsory Education Law of 1949, which defined the State's duty towards Israeli children and its obligations to ensure their right to education until the age of sixteen. It is not surprising that this law was one of the first laws passed by the Israeli Knesset for the education system is considered to be the second most important pillar in the structure of the Jewish state, after the security apparatus.⁴³

All subsequent laws regulating the rights and status of juvenile offenders reemphasized this stipulation, including the Youth (Care and Supervision) Law of 1960, and the Youth (Trial, Punishment and Modes of Treatment Law) of 1971, which provides for the establishment of a separate judicial system and the provision of surveillance specialists and rehabilitation institutions dealing with juvenile delinquency. The Compulsory Education Law is applicable to prisoners under the age of 16, or until grade ten.

42. The Ministry of Education and supporting community-based organizations gave special attention to this sector. The Ministry of Education, within the restructuring programs, expanded compulsory education from nine to ten years between 2000 and 2006. These efforts resulted in an increase of the number of students at the basic stage from 529,572 female and male students in the 1994/1995 academic year to 961,320 female and male students in the 2007/2008 academic year. Palestinian Central Bureau of Statistics. *Series of statistics on the Child* (11), Ibid, pp (47)

43. Dr. Abu Asbah, Khaled (2006), *The Israeli Education System – Content and Structure*, Madar, Ramallah

2.2.3 Compulsory Education for Palestinian Child prisoners in Israeli Prisons

IPS regulations do not address the right of Palestinian child prisoners to compulsory education, and thus have deprived thousands of children over the past two decades of education, which in turn has had tragic results for the educational process in the oPt.

According to IPS statistics issued on 30 November 2009, Palestinian child prisoners under the age of 16 were distributed as follows: 6 in Ofer, 19 in Rimonim, 3 in Damon. These statistics do not include prisoners sentenced to jail after that date, nor those held in detention and/or interrogation centers.

Only in Rimonim Prison does the IPS allow regular classrooms for students, as it is bound to under the Compulsory Education Law. As mentioned earlier, there are no educational programs or classes in Ofer and Damon Prisons or HaSharon Prison for female prisoners.

2.2.4 Progress of classrooms, and recreational and cultural activities in Rimonim Prison

Classes taught in Rimonim Prison do not grant child prisoners any certificate or degree that would enable them to continue their education, effectively forcing them to repeat all the school years lost as a result of their detention.

Subjects taught to children are limited to the Arabic language and mathematics, while other subjects are prevented on “security grounds”. Arab teachers employed by the Israeli Ministry of Education teach the limited number of classes available to child prisoners. As such, they follow the Israeli, instead of the Palestinian curriculum. In addition, literacy classes are organized for those children that do not know how to read and write.

According to interviews with child detainees, these classes run from 08:30 a.m. until 12:00 p.m., five days a week. However, they are not conducted in appropriate conditions, as defined by Articles 77 and 78 of the Standard Minimum Rules for the Treatment of Prisoners given that classrooms are used simultaneously as kitchens or laundry rooms, which detrimentally affects the children’s ability to study.

In interviews with Addameer lawyers, children often pointed to the lack of textbooks available to them. Stationery items are also denied entry to the prison, thus forcing students to buy all necessary items at high prices and at their own expense from the prison canteen.

The Palestinian child detainee section lacks classrooms and libraries, which are available in the Israeli juvenile offenders sections. The prison administration allows children to watch 12 different Arabic and non-Arabic channels but does not provide them access to any special educational channel that would be appropriate for their age. It prevents them

from watching Al-Jazeera channels, including the Al-Jazeera Documentary Channel, which is widely considered as a good source of cultural programs.

In terms of recreational activities, children held in Rimonim Prison complain about the lack of sport facilities. According to one child detainee held in Rimonim Prison at the time of the research: “When the administration provides a ping pong table, it does not provide the rackets. When it provides the rackets, then it does not provide the balls, and so on”.

Suhaib Issa Khalid Habal, born in 1994 and held in Rimonim Prison since 10 August 2009, gives his impression of education in prison, “On the surface, the administration urges us to study. It gives five shekels to each child prisoner who attended class. But often the classes are canceled, and they send us back to the rooms and make us work on our assignments instead. Apart from that, the classroom is very small. These problems discourage a lot of the detainees from learning.”

2.3 Secondary Education for Palestinian Students

There were 142,481 secondary students in the oPt in the 2007-2008 academic year. Palestinian schools have the highest attendance rate in the Arab world, estimated at 90%. According to the Palestinian Central Bureau of Statistics, the dropout rate among male students from Palestinian secondary school stood only at 2.3% in 2005-2006. The age group of 16-18 in the Palestinian community constitutes approximately 12% of the total Palestinian population.

According to the Palestinian curriculum, secondary education consists of 10 to 12 different subjects depending on the class and the specialization, ending with the obtainment of a final matriculation certificate, known as “Tawjihi”, which constitutes the basis for university applications.

Education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities (CESCR, Gen Comment 13 (1)). Education is especially critical in Palestine, with its youthful population and an economy that has a low resource base and heavy dependence on service industries. Education has served as a means of empowerment within the Palestinian community and as such has played a significant role within the community since 1948. As a result, high school students are regarded as a strategic part of each State.

2.3.1 The Reality of Secondary Education for Child prisoners in Prisons

Since 1971, Palestinian prisoners were allowed to sit the Tawjihi almost every year, without major disruptions.⁴⁴ The exam was offered to prisoners in coordination with the Palestinian Ministry of Education and Higher Education, which would provide certain books and study materials, and ensure the presence of an examiner. For the first time in 2009

44. The Tawjihi exam was cancelled in June 2007 due to coordination problems between the IPS and the Palestinian Ministry of Education and Higher Education.

the IPS forbade all prisoners from sitting the “Tawjihi” exam as a form of collective punishment. Although the decision affected all those who wished to take the exam, including mature students, it had the gravest repercussions on children whose academic and professional future depends on their ability to successfully pass the Tawjihi exam. The decision followed after a ministerial committee formed on 18 March 2009 under the chairmanship of the Israeli Minister of Justice presented its recommendations to the Israeli government.⁴⁵ The committee was formed on 18 March 2009 following the collapse of prisoner exchange negotiations between the government of Israel and Hamas. Its main purpose was to draft a proposal for downgrading detention conditions of Hamas-affiliated prisoners. The proposal concentrated on the revocation of two main rights, namely the right to family visits and the right to education. In terms of education, the committee recommended that Hamas-affiliated prisoners be prevented from the right to completing secondary and tertiary education, banned from watching selected TV channels and listening to the radio, and denied access to newspapers. Consequently, some of the recommendations of the committee were implemented and the Al-Jazeera channel was banned in all prisons administered by the IPS. It is in this context that the IPS forbade Palestinian prisoners from taking the Tawjihi exam in 2009, in clear violation of international standards.

45. This committee was formed to study and evaluate the conditions of prisoners and present tougher procedural suggestions to increase the suffering of prisoners and their families, as a form of collective punishment, considered a serious violation of international law.

Palestinian child prisoners registered at the secondary level are held in three prisons: Rimonim, Megiddo and Ofer. In Ofer prison, the administration does not organize any type of education, but in Rimonim and Megiddo Prisons, study classes are organized for secondary students. The latter are however not given the opportunity to sit for the “Tawjihi Exam”.

2.3.2 Secondary Education in Rimonim Prison

Secondary education in Rimonim prison consists of formal classes limited to Arabic and mathematics, and cannot be described as a proper education curriculum, as the Palestinian curriculum contains ten to twelve subjects, as explained above.⁴⁶

Secondary students study five days a week, four hours a day, usually from 1 p.m. to 5 p.m. They study in the same conditions as children under the age of 16. The subjects are taught by four teachers from the 1948 Territories.

Students are allowed to take materials to the classrooms. Although the prison administration provides stationery items required for the students during classes, it does not provide a library or a study hall. Books of any kind cannot be brought by the detainees’ family members from outside the prison.

46. However, the IPS prevents education under the pretext of security, as it did shortly after the District Court decision in the case of Mohamed Farahat in 1997 when it prevented the subjects of geography and civic education, under the interpretation of the paragraph, “security requirements” as set out in the court decision.

The prison administration allows the entry of one newspaper only, namely Al-Quds Newspaper, which arrives one week to ten days late. As for the recreational activities, they are often unfit for use. There is always a shortage of board games, such as chess. As explained above, prisoners can watch 12 TV channels, but are forbidden access to the Al-Jazeera Channel which is the main source of news for most Palestinians and high quality educational programs that could potentially be useful for their education.

2.3.3 Secondary Education in Megiddo Prison

The situation in Megiddo Prison is even more difficult. Taught classes are limited to the Arabic language and mathematics only. The prison administration did not respond to the prisoners' request to teach them English. Prisoners are required to wear prison uniforms during the classroom hours. Moreover, education takes place in the prison yard, sometimes under the sun and rain. Additionally, the rooms prepared for teaching do not exceed four to five square meters, and some were at one time laundry rooms that were turned into classrooms.⁴⁷

Some affidavits show that the prison administration resorts to the imposition of sanctions on prisoners, including the

47. In the Rimonim Prison, the administration provides stationery items. This is an indication of a certain pressure by the prisoners, and perhaps by a third party, possibly it could be an ICRC delegate, who reminds the IPS about its duties towards prisoners, including education. However, the prisoners, due to their small number, continue to spend their money in purchasing stationery items from the canteen.

denial of the right to education, disrupting the already poor quality of taught classes. One child prisoner reports to an Addameer attorney, “One time, one of the prisoners in Megiddo Prison lit the light after 12 o’clock at night, which is forbidden by the prison administration. When they could not identify who the person was, they punished everyone in our room. We are ten prisoners living in the same room. For three days in a row, we were not allowed to go out of the room for the recreational break. We did not receive education, we did not shower, and our TV was taken away.”⁴⁸

Case Study

Name: Qusay Hussam Abd Al-Rahim Radwan

Date of birth: 2 /10 / 1992

Place of residence: Azzoun village, Qalqilya district

Place of detention: Megiddo Prison

On 24 August 2009, Israeli occupation forces arrested Qusay Hussam Abdul Rahim Radwan, only one week before the start of the academic year when he was due to start his final year of high school ending with the final matriculation exam, known as Tawjihi. After the end of the interrogation period, he was transferred to Megiddo Prison. On 11 October 2009, he met with Addameer’s lawyer.

Qusay’s experience with the occupation forces did not start

48. Addameer affidavit available at the Documentation Unit.

the day he was arrested, but began when he was 14 years old. On 11 February 2006, he participated in a gathering with dozens of Palestinian civilians in the town of 'Azzoun, east of Qalqilya who demonstrated in protest against the Jewish settlers' writing of offensive slogans about Prophet Mohammad on the walls of the nearby Nabi Elias village mosque. When the march approached the northern entrance of the town, Israeli soldiers began throwing tear gas at the citizens upon which, a group of children retaliated by throwing stones at the soldiers. Immediately the soldiers responded by opening fire on them, resulting in the injury of four demonstrators, including three children. Qusay was among the four injured. He was shot in the foot, and was taken to Rafidiya Surgical Hospital in Nablus for medical treatment, where he underwent surgery,⁴⁹ which kept him out of school for a month. However, Qusay is a student who is keen to complete his studies. He was able to complete his study through his own effort and with the support of his community. He re-enrolled at the preparatory stage of his classes. In spite of the pain in his ankle, Qusay would walk to school every morning, was disciplined with his deadlines and with his home assignments. Upon completion of grade eleven, he enrolled for the matriculation exams like the rest of his classmates, as a first step before starting a university education. Soon after, he was arrested by the Israeli forces in a campaign carried out in the village of 'Azzoun.

In an interview concerning the level of preparation of prisoners

49. Weekly Report of human rights violations. Palestinian Centre for Human Rights' documentation No. 6.2006.

for the general matriculation exam to which Qusay and other child detainees in Megiddo prison attach great importance, as it determines their chances to enroll at university, Qusay stated that, since his arrival to Megiddo prison, he began to enquire as to the actions necessary to register on the list of prisoners wishing to take the Tawjhi exam. He submitted a request to the teachers in charge of education in the prison. However, he received conflicting answers concerning the appropriate regulations and was subjected to many delays.

Before his arrest, Qusay was a student in the humanities stream. In light of the absence of options, but desiring to learn, he joined the classes available to Tawjihi students in prison, i.e. Arabic language and mathematics only.

The IPS prohibits the teaching of other essential subjects, such as science, biology, history, geography, and Islamic religion, justifying this denial with reference to security concerns. Qusay says that the Arabic language is taught three days a week (Sunday, Tuesday, and Wednesday) for an average of three and a half hours every day. Math is taught every Monday and Thursday. However, since the beginning of the school year in late August, up to the date of the interview (11 October 2009), students had not studied math because there was no teacher.⁵⁰

50. The only specialization offered in prison at the Tawjihi exam is humanities. Students taking other specializations such as sciences or commerce are forced to change their specialties, or take the exam upon release from prison.

In his interview with Addameer's lawyer, Qusay expressed his ambition to take the exam in 2010, but was concerned about the administration's procrastination in responding to his request. He said that the education he received does not meet his needs as a high school student, in terms of both the subjects and study hours available. He wished he could prepare for the exam on his own initiative, but was not allowed to obtain the books approved by the Palestinian Ministry of Education. In addition, the administration does not allow prisoners to keep their books and stationary outside of the classroom, restricting their ability to study on their own, after class.

Moreover, the studying conditions in Megiddo Prison are far from adequate. Part of the teaching takes place in the prison courtyard regardless of weather conditions. Alternatively, classes take place in the laundry room or the dining room. There is no library; the administration denies the provision of books, and the prison "canteen" does not sell books or dictionaries.

Qusay adds that the prison administration does not hesitate to prevent the prisoners from participating in the available educational programs in addition to the limitations and disadvantages inherent in the system as it is. Occasionally, it will enforce punitive measures which deprive the detainees permission to enter the courtyard for a week, thus barring them from attending and participating in the educational programs.

Today, Qusay is waiting for his trial on 31 December 2010, and the military prosecution is seeking a 13 month

sentence. After Addameer's interview with Qusay, the IPS administration decided, to prevent Qusay, along with 1,820 Palestinian prisoners, from sitting for the 2010 general matriculation exam. The decision was ostensibly based on the recommendations of the 2009 Ministerial Committee. Qusay has to date lost two academic years.

2.3.4 Education of Female Child Prisoners in HaSharon Prison

There were three minor female Palestinian prisoners throughout 2009, including Jihad Abu Turki, Maymoona Musa and Bara' al-Maliki.⁵¹ All three girls were held in HaSharon prison, north of Netanya, in the same sections as adult Palestinian female prisoners. Neither girl received any form of formal education administered by the IPS despite the fact that all three were below the age of 16 at the time of their arrest and should have been granted to the right to compulsory education according to the provision included in the 1997 Central Court decision.

Case Study

Bara' al-Maliki was arrested on 2 December 2008, just before she turned 16, and after having completed eight grades of schooling. In HaSharon prison, she was held with adult female prisoners in contravention of all international legal standards. The prison administration did not uphold her right to compulsory education under IPS regulations and international standards.

51. Bara' al-Maliki's full testimony is available at the Documentation Unit.

Despite her requests submitted to the HaSharon prison administration and the existence of a classroom in the section, Bara' did not receive any formal schooling. The prison administration dismissed her request to continue her education in accordance with the official Palestinian ninth grade curriculum. Instead, it stated that it is ready to give Bara' the opportunity to take the Tawjihi exam provided that she shows a certificate of having completed the ninth grade prior to her imprisonment.⁵² By imposing conditions that it knew were impossible to meet, and placing the responsibility on the prisoner, the prison administration evaded its responsibilities under IHRL and Israeli law.

Bara' was undeterred and until her release on 20 October 2009, she continued buying her stationery needs from the prison canteen at her own expense, and studied by herself by using the books available in the section library. However, as the library lacked official textbooks, she had to apply in advance to the prison administration in order to obtain them.

2.4 Non-formal Education for Palestinian Prisoners in Israeli Prison

From the beginning of the Israeli occupation and the subsequent formation of the Palestinian Prisoners' Movement in Israeli jails, Palestinians have insisted on exercising their right to education, as enshrined in the international covenants.

Israel's policy of arresting students and teachers is interpreted

52. Bara' al-Maliki's testimony given to an Addameer Association lawyer.

as an attempt to paralyze the educational process and to undermine Palestinians as capable human beings, in order to subjugate and humiliate them. This understanding has been central to the Prisoners Movement and its vision. Since its formation, the movement has struggled to give priority to the right to education in prisons, even at a time when the quality of food was extremely poor, and was arguably a higher priority in terms of improving detention conditions.⁵³ Such emphasis on the value of education is unprecedented in the history of liberation movements worldwide.

At the beginning of the Israeli occupation in 1967, the prison authorities denied the entry of liquid pens and banned the use of papers and other stationery items, forcing detainees to write on dried cartons of milk and margarine wrappings. It also had the effect of stimulating the use of oral strategies to disseminate information through the medium of lectures and debates.⁵⁴

After the hunger strike of 5 July 1970, Palestinian prisoners managed to achieve their right to own paper and pens. It was also only then that the International Committee of the Red Cross (ICRC) was allowed to bring selected books which had passed the Israeli censorship board's requirements.⁵⁵

As of 1971, a prisoner detained for a year or longer, was also

53. Al-Zarou, Salah (1988). Education under the Occupation 1967 – 1987, series of educational studies no. (2), Hebron: Palestinian University Association, pp (351).

54. Ibid, pp (351).

55. Ibid, pp (351).

allowed to sit the general secondary exam. However, this historic achievement for the Palestinian Prisoner Movement was retracted in 2007 as confirmed by a decision of the Israeli Ministerial Committee in 2009.

2.4.1 Non-formal Education in Ofer Prison

Ofer Prison is located near Ramallah in the West Bank. Although it is a prison for adult Palestinian political prisoners, Palestinian children are also held there, in violation of article 37 (c) of the Convention on the Rights of the Child and despite the fact that Israel is a Party to that Convention.⁵⁶

At the time of research, the total number of prisoners in Ofer Prison stood at 652 Palestinian prisoners, including 122 children, six of whom had not reached the age of 16.

The IPS does not provide nor facilitate any educational programs for children at Ofer. As a result of the impediments discussed above, and in conformity with the ideology of the Palestinian Prisoner Movement, the Movement itself organizes educational programs for all prisoners. This tradition is particularly strong among adult prisoners.

56. Article 37(c) stipulates 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 age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances".

The increasing number of obstacles imposed by the prison administration makes it inordinately difficult to deliver even the informal educational programs to child detainees at Ofer. Neither organizations working with prisoners nor the relatives of prisoners are allowed to bring books, which are also not available in the prison library. There is a total of 100 books placed in a tent out of reach of the prisoners; only the section sergeant has access to these books. Taking into consideration the large number of prisoners held at Ofer, there is only one book available for every 6.5 prisoners. Moreover, these are not school books, but rather a collection of stories and novels that do not meet the aspirations of prisoners seeking scientific and academic study; neither dictionaries nor atlases are available.

The administration's denial of its duties operates in tandem with its use of the canteen to reduce the efficacy of the prisoners' self-education programs. The administration deliberately ignores their demands to make stationery items available at the canteen.

In spite of these difficulties, programs continue to be organized by the prisoners themselves in Ofer Prison providing Arabic, English and Hebrew classes. Various groups also organize educational sessions in Palestinian history, geography, and teach the history of Palestinian political thought and political organizations. Prisoners in these educational programs are usually divided into groups of 15 to 20 and are assigned sections of books, newspapers or bulletins to read and critically discuss.

2.5 The “Non-Formal”, Extracurricular Education of Israeli Criminal Juvenile Prisoners⁵⁷

As the occupying power, Israel attaches great importance to curriculum-based and extracurricular education. It envisages education as the fundamental basis of societal and economic development, which contributes to raising the morale of the Israeli people. Public education, including the education of prisoners, as stated in the law of the Israeli State in the year 1953, aims to “establish a base in the State on the values of Jewish civilization and scientific achievements, patriotism and loyalty to the State and the Jewish people, and the agricultural expertise and crafts, training pioneer, and the struggle for a society based on freedom and equality while helping others with love of humanity”.⁵⁸

2.5.1 Extracurricular Education

Extracurricular education is available in all criminal sections in Israeli prisons delivered by the state’s educational system. It operates on the same basis as that of community centers in residential neighborhoods, in terms of both “space” and “service provision”. Education in these centers is overseen by the Education Officer in the prison, external volunteers, and tutors.

57. http://www.ips.gov.il/Shabas/TIPUL_PRISONER/Special+Care+Of+the+Prisoner/Education+and+education-prisoners.htm

58. Dr. Abu Asbah, Khaled (2006), *The Israeli Education System – Content and Structure*, Madar, Ramallah, p.149

This type of education aims to:

- Expose prisoners to culture at different levels;
- Stimulate rational thought processes; and
- Develop creative thinking.

All this is done through workshops and educational lectures on topics covering various aspects of life, provided by professional, competent lecturers. These topics are related to values, traditions and customs, and social relations, including dealing with parents, the revival of national and religious occasions, and the conducting of public debate on political issues at local and international level.

Furthermore, the educational programs within the IPS extracurricular education programs provided to criminal prisoners, including “juvenile delinquents”, include the arts, drawing, sculpture, plastic art, cinema, music, art therapy, and psychodrama.

Also incorporated in the extracurricular education is the promotion of humanities, such as human rights, social psychology, criminology, law, philosophy, and languages.

Workshops are keen to encourage the self-expression of criminal prisoners through drawing, theater, graphic design and creative writing. Furthermore, physical and mental exercises are provided including sports events, tours, discussions on geographical, historical, biological and geological topics.

In each criminal section, there is a library and reading center

which contains valuable books on various topics. Through such private centers, criminal prisoners are permitted to use computers for research and reading.

Chapter Three

Best Practice: Comparison of Justice Systems Pertaining to Juvenile Delinquents around the World



Chapter Three

Best Practice: Comparison of Justice Systems Pertaining to Juvenile Delinquents around the World

3.1 The Right to Education in the Swedish Context

3.1.1 The Right of Juvenile Delinquents to Education in the Swedish Context

Criminal responsibility in Sweden begins at the age of 15. However, if someone under the age of 21 commits a crime, the judiciary takes their young age into account with regard to sentencing, which effectively establishes a lesser sentence than what would normally be prescribed for the offense if committed by a person over this age. In the same vein, Swedish law also prohibits the imposition of life imprisonment for a crime committed by a person under the age of 21 years.⁵⁹

A series of laws recommend that the authorities and social institutions, the Swedish social services in particular, specialize in the provision of care for those under the age of 15. Principal

59. Swedish Penal Code, Chapter 29, Section 7

among these is the Care of Young People Act, ratified in 1990, while the Social Services Act (1980) provides the regulations for dealing with children who are “in conflict with the law”.

Under Swedish law, children are referred to centers run and supervised by the social services department. Convicted minors are placed in prison only under exceptional circumstances, however, if that does happen, prisoners are placed in a special detention facility designed for juvenile offenders, or in a special wing designed to meet their needs. The maximum prison sentence that can be imposed on a minor is four years. Children under 18 years of age are never held in prisons that would allow them to interact with adults.

In May 2006, the Swedish Parliament approved a bill proposing a number of amendments in the provisions regulating the treatment of young offenders within the age group of 18-21. These regulations are also aimed at improving the prospects for early intervention and the prevention of criminal behavior for children below 15.⁶⁰ The amendments came into effect as of 1 January 2007 and included, amongst others, community service of 150 hours maximum, which was introduced as a new penalty.

3.1.2 Education of Children who are “in conflict with the Law”

The education of children who are at “in conflict with the law” in Sweden was placed under the responsibility and guidance

60. Intervention with Young Offenders, Fact Sheet, Ministry of Justice Sweden, October 2006

of the Swedish National Agency for Education, confirming the value attached to education in places of detention.⁶¹ The Swedish State provides 100 competent teachers to teach in child detention facilities. The programs offered in both compulsory and secondary schools by the National Agency for Education include art, business studies, physical education, health, music, industry textiles, wood and metal fabrication, the Swedish language, English, mathematics, geography, history, religion, biology, physics, chemistry, and technology.

Non-formal or extracurricular education involves entertainment, educational and social activities. Other activities included are: construction, painting, electrical engineering, computer, technology, marine technology, art, design, dance, music, theater, automotive engineering, aviation, mechanics, engineering, business administration, travel and tourism, gastronomy, catering services, mass media, use of natural resources, social sciences and economics.⁶²

As a result of the important reforms, which entered into force on 1 July 2007, it became the prerogative of the Swedish Control Service to grant prisoners academic qualifications at the secondary education level. Education provision in these facilities now equals the level of education in all other educational institutions enjoyed by the average citizen outside prison.⁶³ The state is obliged to give prisoners the

61. Lindstrom, P & Leijonram, E "The Swedish Prison System", Ministry of Justice Report 2008, p506

62. Swedish National Agency for Education, available at: <http://www3.skolverket.se/ki03/front.aspx?sprak=EN&ar=0910&skolform=21&infotyp=2&id=21>

63. Government Offices of Sweden, Prison and Probation Service, available at: <http://www.sweden.gov.se/sb/d/2708/a/15167>

opportunity to access quality education as part of the process that will improve their reintegration into society after release. Similarly, in the event that the transfer of a prisoner to another facility is requested, regardless of the reasons, prisoners must be able to continue their education, and study in the new prison. Similarly, their academic credentials must be recognized and they must be allowed to continue their education upon release.⁶⁴

The Swedish judicial system thus makes the realization of one's potential, inside and outside prison, as its priority. The state's legal and social institutions take into account the age, needs and the social circumstances of young offenders when imposing the penalty. The state also provides them with the right environment to be able to reintegrate with and adapt to the community.

3.2 Detained Children and their Right to Education in the Canadian Context

3.2.1 Detention of Children in the Canadian Context

Criminal responsibility in Canada begins at the age of 12,⁶⁵ however, children under the age of 17 are protected from certain aspects of the criminal justice system. Those breaching the law between the ages of 12 and 17 are not considered adults and are therefore subject to special legal treatment.

64. S10 of the Prison Treatment Act (entered into force ,1 January2007) Sweden, October 2006

65. Youth Justice in Canada, Justice Canada Monitor Canada, Fact Sheet

Under the Youth Criminal Justice Act, which came into effect on 1 April 2003, and amended the much criticized Youth Offenders Act of 1984 for its overreliance on incarceration and disciplinary sanctions, minors convicted of criminal offences are held in facilities adapted to meet the special requirements of young people. The maximum sentence imposed on a child is two years.⁶⁶ Only in the event that a child is found guilty of an offence punishable by life imprisonment in the case of adult offenders, can he/she be subject to a maximum three year imprisonment sentence. Non-custodial sentences are always the preferred punishment for youth found guilty of having committed non-violent offences.

In general, most children spend one-third of their sentences under community supervision or in schools, rather than in detention centers for juveniles. The Youth Criminal Justice Act places emphasis on both reintegration of young people into the community following custody and community service as an alternative to incarceration. In lieu of sentences, the Act allows a number of extrajudicial measures to be taken as a response to less serious crimes. Such measures include: police warnings, a referral to community-service programs, or alternatively the opportunity for young offenders to apologize to the victims, by recognizing and repairing the devastation caused by their acts.⁶⁷

66. Under the Youth Criminal Justice Act, only murder is punishable by a long sentence. Young offenders found guilty of first degree murder are subject to a maximum sentence of 10 years, whereas those found guilty of a second degree murder are subject to a seven year maximum sentence, including a maximum custody period of 4 years and a period of conditional supervision in the community.

67. Department of Justice Canada, *The Evolution of Juvenile Justice in Canada*, available at: <http://www.justice.gc.ca/eng/pi/icg-gci/jj2-jm2/jj2-jm2.pdf>

3.2.2 The Right of Detained Children to Education in the Canadian Experience

While criminal justice is regarded as a federal responsibility in Canada, implementation of the criminal justice system falls on the regional judiciary authority, which means that each province must ensure that children in custody are provided with the educational curriculum approved by the Ministry of Education of each province. Item 38 (1) (b) of the Youth Criminal Justice Act stipulates that children in custody should ensure their right to receive appropriate participation in education, training and practical programs whenever possible.⁶⁸

Educational programs vary between attendance in the local community schools, the classrooms in the open detention centers, and within custody and other joint programs.⁶⁹

The internal curricula contain materials related to the management of anger, the risk of drug abuse, sexual and health education, life skills, such as nutrition and budgeting, recreation, sports, religion, spirituality, and employment.

Curricula should also include reference to international programs by creating dialogues with experts in the field. All child detention centers should seek assistance from external experts in designing the educational programs, and addressing

68. Open Detention and Open Custody in Ontario, Office of the Child and Family Service Advocacy, January 2007.

69. Ibid.

issues of relevance to young offenders, such as the risks of law violation, gang violence, and sexual education amongst others.⁷⁰

The goal of internal and external education is to ensure that the time spent by children in custody has not undermined their educational advancement. These programs are organized on the basis that rehabilitation helps people to engage with their communities again. As part of this rehabilitation process, children in custody receive educational programs designed specifically for each province in Canada, to ensure that the education received is in line with the provincial requirements.

Canada attaches great importance to the need for young offenders to obtain education; the underpinning philosophy is that education will facilitate their reengagement with the community, thus helping to maintain the safety of citizens and public security in general.

The Canadian government confirmed that many children who have spent their sentences with adult offenders have not been provided with support in custody pertaining to rehabilitation and involvement in society. Accordingly, the reforms carried out in laws relating to children who are “in conflict with the law”, were premised on the notion that harsh sentences against children do not deter them from breaking the law.⁷¹ Instead, in an attempt to effectively

70. Ibid.

71. The Canadian Department of Justice (Previous Liberal Government Justice Canada Monitor), available at: <http://www.justicemonitor.ca/youthoffenders.htm>

prevent crime amongst Canadian youth, non-custodial measures such as extensive educational programs, and voluntary community service, were adopted. The use of penalties that bear retribution and disciplinary sanctions was dramatically reduced.

Chapter Four

Mental Health and Education

Chapter Four

Mental Health and Education

The educational process is related to psychological, social, economic and political development. It is a process of mental and physical growth connected to nutrition, environmental and health conditions.

The aim of this chapter is not to examine the relationship between these factors and the academic achievement of child prisoners during the educational process in prison, although they deserve the attention of researchers and institutions specializing in child health and education. The quality and quantity of food, adequate detention conditions, appropriate lighting and ventilation and their relation to the mental and physical growth of children in detention, is a reflection of the nature of the policy pursued by the IPS against child prisoners. However, this chapter will deal with two sections. The first section will consider the impact of the Israeli occupation policies on the mental health of Palestinian child prisoners, in particular on their educational skills. The second section assesses the role of institutions working with child prisoners and their right to education.

4.1 The Israeli Occupation and its Impact on the Mental Health of Palestinian Child Prisoners

The destruction of Palestinian society, the steady disintegration of its social fabric, the establishment of Israel in 1948, and the ongoing colonial occupation has inevitably impacted the mental health of the community. The Palestinian child has been continuously exposed to harassment, destruction, shooting, displacement and detention, and is considered the first victim of the reality imposed by the Israeli occupation.⁷²

Psychological and social studies, which focus on Palestinian children under Israeli occupation, emphasize the extent of their suffering and trauma.⁷³ Children often experience feelings of anxiety, combined with other symptoms of emotional imbalance.

Many of these studies considered the detention of Palestinian children as one of the major components of Israel's political and military strategy aimed at humiliating the Palestinian people and destroying their national aspirations for freedom and independence. This view is shared by Yasser Abu Samra, a psychologist at the YMCA - Ramallah branch, who argues that, "Israel is dealing with Palestinian child prisoners as a threat in the long-term. This is what explains its policy aimed at breaking these children's morale and spirit of struggle".⁷⁴

72. Abu Sham'a, Firas: "Violence in the Palestinian society and its impact on the formation of the child", Sanabel Newspaper, No. (33), Treatment and Rehabilitation Center for Victims of Torture, December 2009, Ramallah

73. One of such studies includes: Palestinian children in the West Bank and Gaza Strip, Welfare Association - Geneva, and the Kuwaiti Society for the Arab Children. Edited by Dr. Ahmed Baker, Jerusalem, 1991

74. Psychologist Samer Abu Samra from the YMCA at the following link: http://www.insanonline.net/news_details.php?id=7630

Abu Samra adds that the psychosocial impact on prisoners in general, and on children in particular, is deeply complex. The social and psychological impact begins from the moment of imprisonment and does not end with release.⁷⁵ As diagnosed by Abu Samra, post-traumatic stress disorder (PTSD)⁷⁶ symptoms include: poor concentration, difficulty in remembering, disorientation, loss of control over self-determination, shaken self-confidence, and over-sensitivity when dealing with others. Abu Samra also notes the cruelty among children who have experienced prison and were exposed to violence.

3.1.1. Post-Traumatic Stress Disorder (PTSD) among Prisoners and Ex-detainees⁷⁷

The PTSD scale is a globally-used, standardized tool for assessing mental health in cases of exposure to violence and trauma, both in socio-psychological studies, and in dealing with individual cases in psychiatric clinics. The PTSD is commonly used by social workers and psychological counselors who work together with humanitarian teams assisting those affected by war, violence or natural disasters.⁷⁸

Interviews with the Palestinian Ministry of Education and

75. Ibid.

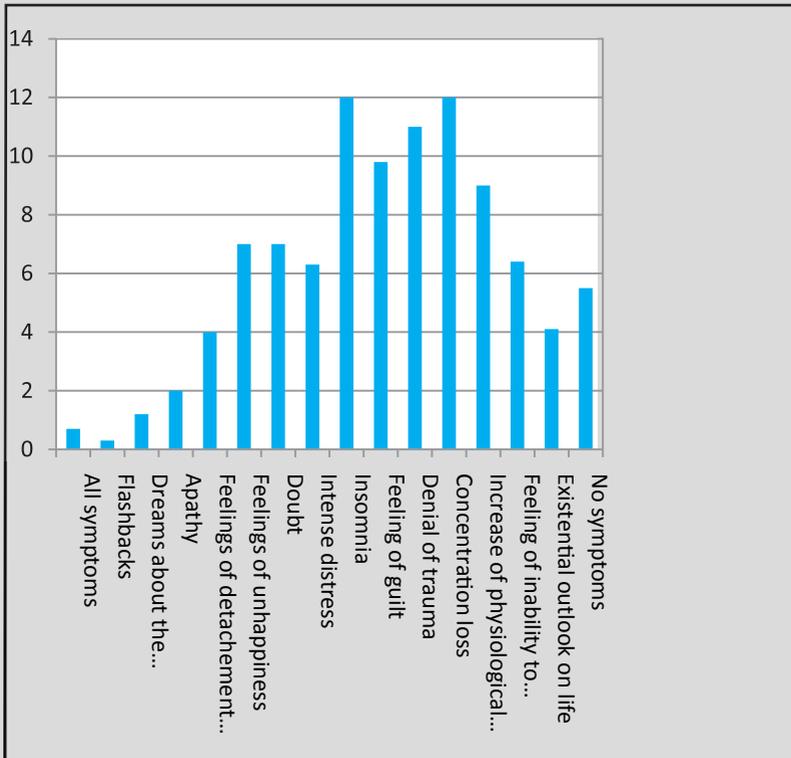
76. For further information on the use of the PTSD scale in research relating to the impact of Israeli violence on the mental health of Palestinian youth, see Dr. Musleh Kana'neh and Dr. Marit Netland (2003), *The Depth of the Uprising Self: Biography and social development of Palestinian youth who grew up in an atmosphere of pain and frustration between the two uprisings*, Norwegian Palestinian Association - Nordyasu "Albalad" Cultural" Association, Haifa, 2003.

77. Dr. Sami Awad Ali Abu Isqah, "Psychosocial care for individuals who have been affected by violence." Available at the International Islamic Organization for Education, Culture and Science: <http://www.isesco.org.ma/arabe/publications/nafssiya/p15.php>

78. Dr. Musleh Kana'neh and Marit Netland (2003), source previously mentioned pp (16).

Higher Education and Luma Odeh, Counseling Specialist at the YMCA--Ramallah confirmed that the counseling teams working with students in schools, including ex-child detainees, use the PTSD scale. The following graph shows the different symptoms experienced by prisoners and ex-prisoners:

PTSD among Palestinian prisoners and ex-prisoners



3.1.2. Impact of Prison on the Educational Skills of Children Prisoners

The degradation of a detainee’s dignity and humanity through torture and ill treatment is not only limited to the interrogation period, but rather extends throughout the detention period. This is particularly evident in light of the physical and psychological devastation caused by the forms of oppression and the levels of control exerted over prisoners. In his book entitled, “Human Squandered” (2005), psychoanalyst Mustafa Hijazi explains the impact of torture and oppression practiced in prisons on mental and physical health: “It is well known that a severe threat exerted at the physical and psychological levels causes, if continued for a long time, chronic high level of Cortisol, which in normal cases mobilizes the body to survive in the face of hardships and dangers. This chronic rise leads to the destruction of the brain cells in the hippocampus responsible for learning and memory processes”.⁷⁹

According to Yasser Abu Samra, the Israeli prison system causes low self-esteem among child prisoners. The experience of detention is marked by a quasi-total lack of support, which affects children’s cognitive abilities, resulting in a lack of concentration, awareness, and frustration. Similarly, UNICEF argues that a third of the households surveyed in the oPt suffer from anxiety, Obsessive Compulsive Disorder (OCD) or depression.⁸⁰

79. Hijazi, Mustafa (2005), source previously mentioned pp (148)

80. http://www.unicef.org/arabic/infobycountry/oPt_25384.html

States that provide a specialized legal and social care system adapted to the needs of children and youth ensure that attention is paid to the physical and mental integrity of children no matter the circumstances. The Swedish example is instructive as the education of children is a priority for institutions that serve the community. This is confirmed by the work of research and study centers, which have conducted a comprehensive and inclusive study on key issues relating to the lives of children with the active participation of other social, economic and political actors involved in policy-making for children.

Even in cases where children “in conflict with the law” are held in custody, the legal and social philosophy underlying their treatment remains educational protectionism; the state clearly refrains from depriving them of the rights they are entitled to under the law.

Palestinian children under Israeli occupation are targeted directly by the policies sustaining the occupation. In the period following the establishment of the PA in the oPt, and the consequent establishment of various Palestinian ministries, hopes and expectations were raised for the advancement of Palestinian socio-political reality through development projects and plans addressing the impact of the prolonged occupation, which affected all aspects of life, particularly the provision of education.

In parallel with the establishment of the PA, the oPt has seen an unprecedented increase in the number of local

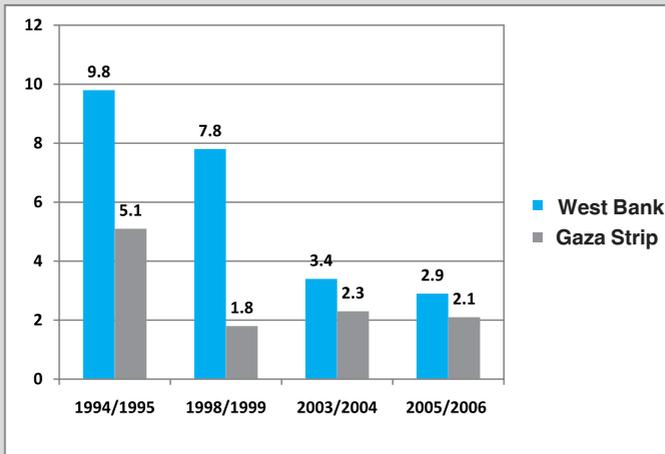
and international non-governmental organizations and aid agencies, which have taken the initiative of designing development projects and providing emergency relief. In this framework, the education of Palestinian children has often been seen as a priority.

However, without reducing the role of such institutions, Addameer has not come across a single study addressing the impact of detention on the relationship between education and the mental health of child prisoners and ex-prisoners. Similarly, not a single research paper has addressed the dropout rate of students as a result of Israel's detention policies targeting Palestinian children although the impact of incarceration on a child's academic performance has been recognized internationally.

According to research conducted by the Justice Policy Institute, detention interrupts the education of young people, many of whom find it difficult to resume study after prison. In a study conducted by the U.S. Department of Education, findings revealed that 43% of young detainees, who follow courses in the prison, do not return to school upon their release, and 16% of those who return to school after their release, drop out after five months. Research shows that this is also true for very young offenders: "Most incarcerated 9th graders return to school after incarceration but within a year of re-enrolling two-thirds to three-fourths withdraw or drop out of school: After four years, less than 15 percent of these incarcerated 9th graders had completed their secondary education". Given the centrality of the prisoner issue to

Palestinian society and the high rates of incarceration, data on dropouts and reluctance to return to school would be very revealing and instructive in designing appropriate response programs.

The graph below shows the dropout rate of high school students in the oPt by region for selected study years:



Source: Palestinian Central Bureau of Statistics.
Education Survey Database for Selected Years

Education is a socio-economic as well as a political process, which should evolve in a stable society. In periods of armed conflict, interest in education tends to decline as is confirmed

by UNICEF reports, which indicate that despite increasing school enrollment rates since the establishment of the PA, they began to decline with the outbreak of the Second Intifada. The quality of education suffers due to lack of textbooks and other educational materials. According to the Palestinian Ministry of Education, approximately 50% of the total number of Palestinian students has directly witnessed the effects of the closures imposed by the Israeli occupation forces on their schools, while 10% of school children witnessed the killing of at least one of their teachers in school.⁸¹

From the beginning of the Second Intifada in September 2000 until today, Israeli occupation forces have arrested approximately 6,500 children at an average of over 700 children annually. Although there are many institutions that work with child prisoners and provide them with care and assistance, the issue of the forced dissolution of families continues to profoundly impact Palestinian culture. Many organizations have focused on material and counseling assistance to children upon their return to school, but such projects tend to focus on short-term goals leaving the larger questions of a child's ability to cope with "normal" school life in the long-term unanswered.

81. <http://www.unicef.org/arabic/infobycountry/24198.html>

4.2 The Role of Institutions Working with Child Prisoners and their Right to Education

3.1.3. Palestinian Ministry of Education and Higher Education

The Palestinian Ministry of Education and Higher Education has not designed a special program to encourage child prisoners to reenter the educational system. Instead, in 2003, the ministry designed and started implementing the “Parallel Education Program”, a non-formal literacy and education program that falls within the fourth program (program in support of public education, pre-school education and non-formal education) of the Ministry’s five-year educational plan that officially began in 2003.⁸²

The Parallel Education Program primarily targets out-of-school children and youth, who were forced to drop out of school because of a difficult economic and political situation. Planning and preparation for this program began in 2002. According to UNESCO data, approximately 287 students have benefited from the program between 2003 and 2009 and a total of 120 students were enrolled in the 2008/2009 academic year.⁸³ The program now focuses on children aged between 15 and 18 who have completed at least the first five grades of

82. Interview with Mr. Ali Abu Zeid from the Palestinian Ministry of Education and Higher Education

83. UNESCO Al Taleem Al-Mowazy (Parallel Learning) Non-Formal Literacy and Education Programme, available at: <http://www.unesco.org/uiil/litbase/?menu=9&programme=21>

compulsory education successfully and whose difficult circumstances forced them to drop out of school before completing their studies.

The program, which as noted above is included in the five-year plan 2008-2012,⁸⁴ aims to provide learners, including child prisoners, with general and professional knowledge skills, in order to guarantee the principle of education for all, to raise their academic capacity and to allow them to attend various educational institutions. This program necessitated the preparation of a curriculum including various life and professional skills. In order to address these requirements, an expanded committee was formed composed of ministerial departments, in cooperation with the Ministry of Social Affairs, Ministry of Labor, Tamer Institute for Community Education, Birzeit University, and a number of community-based organizations.⁸⁵ Although the primary focus is mostly literacy, the program now also offers eight different subjects, including Arabic, mathematics, science, general culture and computer skills. It runs a total of five semesters.

However, interviews conducted by Addameer's research team with ten ex-detainees who resumed their high school studies upon release, revealed deep dissatisfaction with the role of the Ministry of Education and Higher Education in the area of ex-detainees' reintegration into the educational

84. Interview with Mr. Ali Abu Zeid from the Palestinian Ministry of Education and Higher Education

85. <http://www.mohe.gov.ps/FAQ.html>.

process. Moreover, none of the ten interviewed children was aware of the Parallel Education Program. Ex-detainees' unfamiliarity with the program, as well as the lack of a database illustrating the proportion of school drop-outs resulting directly from arrest, appear to be related to problems of poor cooperation between the Ministry of Education and Higher Education and institutions working with prisoners. This was confirmed by an analysis of the data available on the Ministry's website on the Parallel Education Program, where institutions working with prisoners were notably absent from the list of the Ministry's partners in the program. This conclusion was further confirmed through interviews with officials at the Ministry of Education and Higher Education and Defense for Children International (DCI) - Palestine Section.

In terms of specialized services targeting former child detainees specifically, the Ministry of Education and Higher Education provides psychological counseling to child prisoners, through counselors working in its schools. The counseling programs are designed to reintegrate children in the educational process. To that end, counselors work in conjunction with local and international organizations dealing with children in Palestine that are active in the field of child rights. UNRWA schools, however, are not included in this scheme given that they are not administered by the Palestinian Ministry of Education. As such, child detainees who are residents of the 28 refugee camps (19 in the West Bank and 9 in the Gaza Strip) managed by UNRWA in the oPt are automatically excluded from the scheme.

3.1.4. The Role of the YMCA and Save the Children

On 28 May 2009, Save the Children Sweden, a child rights non-governmental organization and the YMCA - Jerusalem, launched a program aimed at the rehabilitation and reintegration of ex-child detainees. The program is implemented in an indirect partnership with DCI - Palestine Section.⁸⁶

The work in the “Rehabilitation and Integration of Ex-detainees Children Program” consists of three main components as explained by those responsible:

- 1) peer program that supports child participation;
- 2) Tests, professional and practical evaluation sessions;
- 3) Provision of advice and career guidance.

This program works towards empowering ex-child detainees to achieve a promising future by providing them with employment opportunities or encouraging children to return to school.⁸⁷

The reluctance of child prisoners to return to school is attributed to the results of the prison regime whereby children are particularly susceptible to psychological trauma, manifested in feelings of worthlessness and inferiority that in turn leads to feelings of detachment from society and a deficiency in social skills.⁸⁸ Moreover, the Ministry of Education and Higher

86. DCI - Palestine Section is particularly interested in Palestinian prisoners and provides other institutions working with children with lists of ex-child detainees.

87. [http://www.delwbg.ec.europa.eu/ar/whatsnew/Prisoners_editors\(a\).htm](http://www.delwbg.ec.europa.eu/ar/whatsnew/Prisoners_editors(a).htm)

88. Hijazi, Mustafa (2001), Social backwardness: Introduction to the psychology of the oppressed human, Beirut: Arab Cultural Center, pp (41-58).

Education's regulations require students to repeat an entire school year if he/she loses more than 70 school days in a given year.⁸⁹

3.1.5. The Role of the Ministry of Prisoners and Ex-detainees

The Ministry of Detainees and Ex-detainees plays an important role in addressing the issues of prisoners while in detention and following their release. Through the Prisoner Rehabilitation Program, the Ministry is preparing for the reintegration of prisoners, including children, in the community. The program consists of three axes: firstly, vocational training; secondly, university education; and finally financial support through the provision of loans.

With regard to ex-child detainees, the Ministry is also providing psychological counseling services in cooperation with the Treatment and Rehabilitation Center for Victims of Torture (TRC). The Ministry's program pays the fees required for the educational path chosen by the ex-detainee child. The amount allocated provided by the program varies according to the chosen specialty.

However, the Ministry failed to design a special reintegration program for ex-child detainees. Therefore, they benefit from the general program services, like all adult prisoners. From

89. Samer Abu Samra, YMCA, article available at the following link:
http://www.insanonline.net/news_details.php

Addameer’s interview with the representative of the Ministry, it was noticeable that the ministry places more efforts in the vocational rehabilitation of child detainees, as opposed to their education or psycho-social well-being. Accurate statistics on the percentage of children that benefit from the various programs are not available at the Ministry.

Conclusions and Recommendations

Key findings of the research paper can be summarized as follows:

- Palestinian children are still being systematically targeted by the Israeli occupation forces, which arrest 700 children annually.⁹⁰ The goal behind the occupying power's detention of Palestinian children, especially those aged 16-18 who constitute the pillar of community development, is to, inter alia, un-educate the Palestinian people.
- The IPS's policy of disingenuously delivering the right of Palestinian child prisoners to education is consistent with Israel's policy of imposing military orders that aim at detrimentally affecting the educational process in the oPt. In so doing, the occupier violates both IHRL and IHL, as well as its obligations under the Convention against Discrimination in Education (1961) and the Convention on the Rights of the Child (1990).

90. See the following publication of DCI: The systematic and institutionalized ill-treatment and torture of Palestinian children by Israeli authorities (June 2009), pp 8. [available at: <http://www.dci-pal.org/english/pub/research/CPReport.pdf>].

- Israel claims that its jurisdiction is derived from the 1997 Tel Aviv Central Court decision in the case of Farahat and ors vs IPS. Although this decision recognized Palestinian children’s right to education, it did not provide legal guarantees to enable them to exercise their right to education and instead made this right conditional on “security considerations”. Children above the age of 16 are denied any form of systematic education or vocational training.
- The IPS practices racial discrimination against Palestinian children by ignoring their right to education and limiting its curricular and extracurricular educational programs to Israeli criminal offenders only.
- The aim of the Israeli Ministerial Committee formed in March 2009 under the chairmanship of the Israeli Minister of Justice to study and evaluate the conditions of prisoners is to double the suffering of prisoners by: 1) collectively and arbitrarily punishing them; and 2) preventing them for the second time⁹¹ from sitting for the final matriculation exam known as “Tawjihi”.
- The IPS allows for the organization of classes, but not of educational programs, in Megiddo and Rimonim Prisons, while it totally deprives all other child prisoners in Ofer Prison and other interrogation and detention centers of

91. The first time the Tawjihi exam was banned since the establishment of the PA was in 2007.

any educational rights. Additionally, these classes do not amount to a fulfillment of the legal obligations of the occupying power, and the IPS in particular, towards Palestinian child prisoners and cannot be compared to the right to education enjoyed by Israeli children who are “in conflict with the law”.

- The research agrees with the findings of those psychosocial studies that have determined that exposure of child prisoners to a traumatic experience as a result of imprisonment and degrading treatment causes symptoms of post-traumatic stress disorder (PTSD) or recurrent trauma, such as low self-esteem, disorientation, and loss of control over self-determination. These afflictions adversely affect any future pursuit of education and are considered a major cause of former Palestinian child prisoners’ reluctance to return to school.
- In addition to the ill-treatment and torture suffered by Palestinian children during the process of arrest, interrogation and detention, their social capital is also squandered as result of detention,⁹² negatively impacting their ability to grow into a valuable and autonomous individual. This kind of social regression is the opposite of empowerment, competence and self-determination.⁹³

92. For more information about the Arabic concept of *Hadr*, Meaning social degradation and loss of dignity, see: Hijazi, Mustafa, *Squandered Human: A psycho-social analytical study* (2005), 1st print, Beirut: Arab Cultural Center, pp 201-240.

93. *Ibid*, pp 30.

Recommendations

To the Ministry of Detainees and Ex-Detainees Affairs, the Ministry of Education and Higher Education, and relevant non-governmental organizations and research institutes:

- To undertake work, independently and in cooperation with each other, to launch rehabilitation and social reintegration programs for former child prisoners, making their education a priority;
- Drawing from its own experience and the difficulties faced in conducting research for the purpose of this paper, Addameer recommends to those research institutions concerned with Palestinian children's affairs, to conduct a comprehensive qualitative research study that would reveal the real impact of Israeli detention policies on Palestinian children with a special focus on: (1) a comparison of ex-detainees' academic achievement prior to detention and following their release; (2) the proportion of children that choose to continue with their education after their release from detention; and (3) the proportion of ex-child detainees who enroll for further education after their release but drop out shortly thereafter;

To Palestinian and Arab Media:

- Design special educational radio and television programs for Palestinian child prisoners given the IPS' refusal to grant prisoners access to education and to books, scientific journals and other educational materials.

To the International Committee of the Red Cross:

- Addameer urges the ICRC to reject Israel's "security argument" as a justification for injustice and exert all the necessary pressure on the IPS to address its legal obligations to guarantee the right to education for Palestinian child detainees and prisoners. In so doing, the ICRC should have particular regard for those complaints brought under Article 94 of the Fourth Geneva Convention. It is the responsibility of the ICRC to encourage the State Parties to the Treaty to improve the detention conditions of prisoners, and to contribute to the international community's efforts to promote respect for IHL and the general principles of human rights, which stress the centrality of the right to education in the realization of other rights.

To the International Community:

- Addameer urges foreign government officials, including members of foreign representative offices to the PA in Ramallah and foreign Consulates in East Jerusalem, as well as representatives of the European Commission and

the European Parliament, human rights organizations and United Nations bodies to intervene with the Israeli authorities and raise the issue of the denial of the right to education to Palestinian child detainees. The international community should pressure the Israeli authorities to ensure that compulsory education is provided at a satisfactory level, and that additional educational programs and vocational training are provided to those children that are above the compulsory education age.

Appendices

Appendices⁹⁴

Appendix No (1):

IPS Regulations Regarding General Secondary Exams

Prison Service Regulation	Responsible Party Head of the Prisoner's Section
Chapter 4 – Prisoners	Valid as of 11 May 2009
Order No. 04.49.02	Last updated on: 11/05/2009
Matriculation Exams for Prisoners Residing in the Areas - Tawjihi	
<p>General:</p> <p>1. Prisoners who are residents of the Areas and are studying independently for the matriculation exams in the Palestinian Authority can participate in the exams provided the approval of the director of the public prisons is granted in accordance with the regulations of this order.</p>	
<p>Objective:</p> <p>2. A) Determine standards regulating the implementation of the exams for prisoners in prisons.</p> <p>B) Identify areas of responsibility between the units in the</p>	

94. All of the documents included in the appendixes are unofficial Addameer translations of the IPS regulations from Hebrew to English.

Public Prison Service and the person in charge of the Prison Service at the Civil Administration.

C) Detail the implementation of the exams through the identification of uniform standards for all prisons.

3. A) When receiving the announcement date for the matriculation exams from the Chancellor for Education Affairs at the Civil Administration, the Director of the Prison Service examines the possibility of conducting the exams in the prisons, by examining all security considerations and consultation with the relevant authorities.

B) If the IPS Director approves the conduction of exams, the process of transferring models to the heads of departments is done for the purpose of registering the prisoners scheduled to take the exam.

C) (1) Every prisoner from the Areas has the right to take the exam provided that he is:

- Sentenced / detained on criminal or security grounds.
- An administrative detainee.

(2) There is no security or disciplinary procedure that prevents a prisoner from participating in the exams. This stipulation is conditioned on the previous requirement.

(3) If there is no information to confirm that a prisoner was jailed for the purpose of taking the exam in prison, and was not involved in the leakage of exams in the past.

D) Chemistry, biology, physics or any subject deemed to be a security risk are not approved for teaching, as determined by the security unit at the Prison Service or the Public Security Service.

E) Four digital personal photos are attached to each registration form. Details about the prisoner, including the ID number are written on the back of the photos.

F) Registration forms are filled out according to residential areas (Gaza Strip, West Bank) where each residential area has a special form, and each registration form has a serial number which is also recorded in a different form.

G) Registration forms are taken to the prison command for the purpose of approval and stamp.

H) Forms are taken by the Prisoners' Officer in the unit to the Chancellor for Education Affairs at the Civil Administration within three weeks of receipt. A copy of the list is kept by the Prisoners' Officer.

J) Upon receipt of the list of examinees and the date of the exam, the Security Officer in the prison distributes instructions to the administration of exams.

K) The Prisoners' Officer in the unit works on issuing exit permits for the exam by the Security Officer in the security unit.

K. (1) The Intelligence Agency Officer must ensure that no

details about those dismissed in previous years are included in the lists transferred for approval.

(2) Prisoners whose first degree relatives are on the list of examiners are not permitted to take the exam.

(3) Examiners are given updated lists of names of examinees.

(4) It is not permitted to add to any prisoner to the prisoners' list that has been approved and which was sent to the prison command, except those prisoners who have been transferred to the prison from other prisons during exams, and have been approved by the prison command.

(5) The Security Officer monitors the exams and conducts a careful examination of the examiners' equipment, including an examination of their belongings by an electronic testing device.

(6) Make sure that the names of examiners are recorded in the Daily Entry Record.

(7) Details of the equipment approved to enter the prison must be recorded in the Daily Entry Record. Ensure that the equipment is taken out at the end of exams. A list of things allowed to enter by the Security Unit must be distributed before the start of exams.

(8) Examiners are accompanied with a jailer from the prison entrance through the exam hall.

L) Before prisoners enter for the exam, a search is performed in the exam room and in the adjacent squares.

M) When prisoners are taken out for the exam, they and their luggage must be searched with a magnetic inspection device.

Appendix No (2)

Education of Security Prisoners in the Open University

Public Prisons Administration Order	
Directorate of Public Prisons	
Head of Education and Services Unit	
Chapter 4 – Prisoners	Valid as of 8 January 2004
Order No. 04/48/00	Last updated: 16/01/2006

1	A	The Public Prison Service enables security prisoners to receive academic education within the general framework of the Open University for the purpose of expanding their culture in the context of learning by correspondence.	General
	B	Education towards academic titles is available only through the Open University.	
	C	The publication of the Open University forms the basis of educational frameworks in the Open University.	
	D	Study is conducted between the walls of the prison only, according to security procedures of the prison.	

	E	In this order, "education" includes education in prisons where there is no education unit.	
2	A	Providing details on the registration studying procedures of security prisoners who want to study at the Open University, through the identification of unified standards for all prisons which hold security prisoners.	Goal
	B	Establishment of working methods of the Prison Service with the Open University on the subject of security prisoners who are studying at the Open University.	
3	A	The studying of security prisoners at the Open University by correspondence is a privilege to be granted in accordance with the following criteria:	
	1	Good behavior during detention, according to the officials' report in the unit (see Appendix A).	
	2	The subject of education is within the permissible areas of education (Appendix H).	
	3	The prisoner has sufficient funds in his account as examined by the section's director.	

	B	The prison director has the authority to disqualify a prisoner for studies at any time for security, disciplinary, or any other considerations.	
	C	The head of the education section is responsible for examining each chapter, each new publication and all courses proposed in the framework of the Open University, as well as for checking updates or changes in the courses proposed for education. In case of any ambiguity, the prisoner must receive approval from the Director of Security at the prison.	
	D	Submission of application form: 1) The prisoner interested in education by correspondence at the Open University submits an official letter through the Director of the section to the prison director, with reference to the name and number of the course he is interested in, and attaches his signature on the bill of the prisoner's rights and duties (see Appendix C).	

	<p>2) The prison director acting on his behalf is empowered to approve the application if the prisoner's request meets the three criteria mentioned in item 3 - a. above.</p> <p>3) The prisoner fills out the registration form of the Open University + appendix for payment that forms a mandate to withdraw from his personal account. The payment is made by mail via payment forms from the prison.</p> <p>4) One of the responsibilities of the director of the department is to ensure that the name of the course registered in the registration form is identical to the prisoner's request approved by the prison director.</p> <p>5) After receiving the registration approval from the Open University, the director of the department checks the name of the course and compares it with the original registration form.</p> <p>6) The registration approval form is transferred to the prisoner by the</p>	
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	<p>director of the department and is documented in the prisoner's personal file, which includes all correspondence relating to the prisoner's own subject of education.</p> <p>7) Enrollment at the Open University or change in the registration is made only through the Public Prison Service (prisoner's safety).</p> <p>8) The prisoner is not allowed to study at the Open University if registration for the course is done through the Palestinian Authority (PA), or family or any other form which does not fit with the instructions of this order.</p> <p>9) When the registration of any educational course is cancelled, fees returned from the Open University are returned only to the prisoner through a bank transfer, and the details of the deposit are transferred to the Open University with the prisoner's registration forms.</p>	
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		<p>10) The Head of Education at the prison receives from the Open University a focused and digital list that contains details about the prisoners - the students, the courses and the numbers for follow-up purposes. This list is distributed to all relevant parties by the education department, namely the Director, the Security Officer, the Intelligence Officer, and the Section Director.</p> <p>11) The Prison Service has the right to cancel any course or suspend it for “security reasons”.</p>	
	<p>E</p>	<p>The education process:</p> <p>1) Entry of educational materials</p> <p>A. At the beginning of the educational program, the head of education in prison receives textbooks from the Open University.</p> <p>B. In all cases, books with hard cover are denied access.</p> <p>C. The Security Officer examines the content of the books in terms of security concerns, and the Head</p>	

	<p>of Education examines the appropriateness of the content with reference to the computerized list sent by the Open University, which shows the prisoner's name and the name of the course.</p> <p>D. After the examination, and according to the results, the books and educational materials are transferred by the Section Director to the prisoner concerned.</p> <p>2) Correspondence with the Open University</p> <p>A. Correspondence with the Open University - into and out of - is done by the Prisoners Officer with a copy to the Director of the Section through follow-up and control by a postal follow-up model (Appendix B).</p> <p>B. Communication between the Open University and the Prisoners' Officer on topics such as coordination, clarification, and the scheduling of examinations, are made in writing only.</p>	
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3) Tutors and Examiners of the Open University

- A. Upon completion of the elaboration of a list of courses and the registration of prisoners for the courses, the Open University assigns 2-3 permanent counselors for each course.
- B. The Head of Education is responsible for the Open University to receive a list of examiners and tutors, and the transfer of permits to enter the prison on their own. Forms are filled out attached with two passport photos, and are transferred to those responsible for approval. The Head of Education ensures the receipt of entry permits and informs the Open University of the names of examiners and tutors whose names were approved in the entry process into the prison.
- C. The coordination of the counselors' arrival date is done through the Head of Education who takes care of reporting their arrival to the Prisoners Officer, the Security Officer, the Intelligence Officer,

		<p>and the Section Director.</p> <p>D. Each change in the appointment or in the person selected in advance is done by the Open University in writing a week before the specified date of arrival (no advisor is allowed to enter without prior coordination).</p> <p>E. Entry approvals are sent to the Open University attached with security instructions of the conduct rules for the examiner or the mentor (Appendix D).</p> <p>F. The head of Education at the prison coordinates with the Unit Security Officer's instructions to be given to the instructors and examiners.</p> <p>G. The delivery of textbooks or instructional materials by mentors is bound to receive prior approval for entry by the Department of Education in prison.</p> <p>H. The examiner or tutor receives all written materials from the prisoner during the meeting, except for the exam book, which it receives on the day of the exam. The process</p>	
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		<p>of transferring research or literature is made through the education department at the prison and by mail only.</p> <p>I. Upon the examiner's entry to the prison, the director of education notifies by telephone the Exam Department at the Open University of the arrival of the examiner. The examiner is allowed to receive instructions from the Open University instructions on opening the envelopes of the exams.</p> <p>J. The identification of the prisoner before the exam is made by the director of the department through the prisoner card.</p> <p>K. The Head of Education ensures that all prisoners remain in the exam room until the end of the exam</p> <p>L. Examiners and testers are given a sheet of instructions (see Appendix D). A signed copy is kept in the education center.</p> <p>M. It is possible to stop a tutor or examiner's visit for security reasons.</p>	
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		<p>4) Exams</p> <p>A. The Head of Education is interested in receiving an accurate list from the Open University of the names of prisoners prepared for the exam one month before the exam. He is responsible for informing the Section Director of the names of prisoners prepared for the exam, for the purpose of preparing and diagnosing a list of learners. Only prisoners who have already received approval are allowed to leave for the exam.</p> <p>B. Examiners at the time b - the prisoner submits a request for an additional exam in the course which he has studied Following the Head of Education's examination and the comparison of data (name of course), the request is approved in accordance with the status of the prisoner's safety.</p>	
	4	<p>Brigade: Head of Identification Section In prison: the Prison Director</p>	<p>Executive Bodies</p>
	5	<p>25/05/2005</p>	<p>Previous Updating</p>



Appendix 3 (A)

Approval Form For Open University education Of Security prisoner

Public Prisons Administration	
Directorate of Public Prisons	
Head of Education and Services Unit	
Chapter 4 - Prisoners	Valid as of 8 January 2004
Order No. 04/48/00	Last updated: 16/01/2006

Name of prisoner

Prisoner No.

Opinion of the Section Director

.....

.....

.....

(Addressing the prisoner's participation in adverse events of a disciplinary nature).

The Intelligence Officer's Opinion

.....
.....
.....

The Security Officer's Opinion:

.....
.....

Prison Director's decision - (approves / does not
approve the prisoner's education)

.....
.....

Name of the Prison Director

Rank Date

Signature



Appendix 3 (B)

Public Prisons Administration	
Directorate of Public Prisons	
Head of Education and Services Unit	
Chapter 4 - Prisoners	Valid as of 8 January 2004
Order No. 04/48/00	Last updated: 16/01/2006

Mail follow-up form

No.	Subject	Name of Prisoner	Leaving Date to the Open University	Entry Date from the Open University	Remarks
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

11					
12					
13					
14					
15					
16					
17					



Appendix 3 (C)

Public Prisons Administration	
Directorate of Public Prisons	
Head of Education and Services Unit	
Chapter 4 - Prisoners	Valid as of 8 January 2004
Order No. 04/48/00	Last updated: 16/01/2006

Education of Security Prisoners at the Open University

The rights and duties of the security prisoner who studies at the Open University Prisoner's pledge

In the framework of my education at the Open University, and as a prisoner in jail, I pledge to commit myself to the rules and procedures detailed below.

- A. It is my responsibility to take care of the registration procedures at the Open University according to the timetable and rules set out by the Open University.
 1. I am aware that the registration for my education at the Open University is carried out by the Prison Service only, and that every other registration other than the registration by the Prison Service is revoked (registration for courses approved by the Prison Service - Appendix D).

2. I have to fill out a registration form and transfer it through the Director of the Section to the Prison Director.
 3. After my registration request is approved, registration fees and tuition fees are transferred from my personal account to the Open University, or from any account in which funds are deposited to me through payment forms from the prison administration. I approve this transfer process.
 4. I declare that I will use my personal funds to cover all payments required by the Open University for educational purposes (registration, teaching materials, books, exams, returned exams, late registration, etc.). I am aware that every delay in the enrollment process and registration for exams, results in certain payments - all of these payments are to be resolved and I acknowledge the transfer of payments as required.
 5. I am aware that every change in the registration for any course requires a renewed approval by the Prison Director. A timetable is to be submitted to the Open University no later than one month from the deadline set by the Open University for the receipt of the request for change, or a month before the beginning of education.
- B. It is known to me that every request for an interview with a counselor or examiner, and every other request from the Open University, is made by submitting a written request to the Education Officer in the prison. I am also aware that the response is in accordance with the possibilities of the Prison Service and the latter is

- authorized to stop any interview with any tutor or examiner for security-related reasons.
- C. It is known to me that studying is on my own and independent, according to my abilities. Therefore, the Public Prison Service does not assume any responsibility with regard to my academic achievement.
 - D. It is known to me that it is prohibited to possess hard cover books in prison.
 - E. It is known to me that it is prohibited to transfer written materials or tools, except the exam book, which is transferred to the examiner on the day of the exam.
 - F. It is known to me that in the case of finding prohibited written materials or other materials or in the case of transferring them from me and to me, the Prison Service has the authority to completely stop my education.
 - G. The Open University does not pay or return any payments in the event of cancelling my education.
 - H. It is known to me that the contents of meetings with tutors or examiners are based on the transfer of information relating to education only.
 - I. It is known to me that I commit to all requirements and procedures. However, the Prison Service is empowered to stop my education at any moment, and I exempt the Prison Service from any responsibility regarding my education or suspending it according to the evaluation of the Prison Service.

On that I sign

Date Form no.

Name Family name

Signature

Signature was done with the presence of the Director of the Section



Appendix 3 (D)

Public Prisons Administration

Directorate of Public Prisons

Head of Education and Services Unit

Chapter 4 - Prisoners

Valid as of 8 January 2004

Order No. 04/48/00

Recent updated: 16/01/2006

Subject: Instruction sheet for tutors / examiners and by the Open University

Prisoners who are studying through the Open University are bound by the laws of the Open University and the relevant Prison Service procedures.

In continuation to the education of security prisoners by the Open University, there are a number of instructions / clarifications of tutors / examiners by the Open University:

1. The liaison with the tutor / examiner in the prison is the Education Officer. In prisons where there is no Education Officer, it is the Prisoners' Officer.
2. The list of tutors allowed to enter prison will be prepared in prison.
3. The coordination of the arrival date of the tutor / examiner to prison is done through the Head of Education. Each change in the date of the visit / or the name of the tutor, is done through the Open University in writing, a

week before the change, and does not endorse the entry of the tutor / examiner without prior approval.

4. New tutors receive guidance from the Security Officer at the prison in the first meeting.
5. The entry of educational books and / or other educational materials by the tutor must be with prior approval by the security officer at the prison by the Department of Education.
6. The tutor or examiner does not receive any written material from the prisoner during the meeting between them. The transfer of research and written assignments is done only by the Education Officer at the prison and by mail only, except for exam book, which the prisoner hands to the examiner at the end of the exam.
7. The tutor / examiner is required to maintain the procedures listed above during the duration of meetings.
8. The Prison Service has the authority to stop any meeting with any tutor / examiner for security reasons.
9. In the event a tutor / examiner does not abide by the rules of conduct listed above, he will not be allowed to enter the prison again.

Appendix 3 (E)

Public Prisons Administration	
Directorate of Public Prisons	
Head of Education and Services Unit	
Chapter 4 - Prisoners	Valid as of 8 January 2004
Order No. 04/48/00	Last updated: 16/01/2006

- A. A list of areas of education allowed to be taught:
1. Religious studies
 2. Sociology
 3. Management and economy
 4. Psychology
 5. Political science
- B. List of areas of education not permitted to be taught:
1. Biology
 2. Natural sciences
 3. Computer Science
 4. Physics
 5. Chemistry
 6. Any other course which necessitates auxiliary materials other than paper.
 7. Another area of education which is considered to constitute a threat to the security of the prison or the security of the State.

Addameer Prisoner Support and Human Rights Association

Addameer is a Palestinian non-governmental, civil institution that focuses on human rights issues. Established in 1992 by a group of activists interested in human rights, the center offers support to Palestinian prisoners and detainees, advocates for the rights of political prisoners, and works to end torture through monitoring, legal procedures and solidarity campaigns.

Addameer is surrounded by a group of grassroots supporters and volunteers, Addama'er, who share Addameer's beliefs and goals, actively participate in its activities, and endeavor to support Addameer both financially and morally.

Addameer is a member of the Palestinian NGO Network, the Palestinian Coalition for the Defense of Civil Rights and Liberties.

Addameer is a member of the Regional and International Coalition to "Abolish the Death Penalty. Addameer is also a member of the International Network against Torture".

Addameer (Arabic for conscience) believes in the importance of building a free and democratic Palestinian society based on justice, equality, rule of law and respect for human rights within the larger framework of the right to self-determination.

Addameer strives to:

- End torture and other forms of cruel, inhuman or degrading treatment or punishment
- Abolish the death penalty
- End arbitrary detention and arrests
- Guarantee fair, impartial, and public trials
- Support political prisoners by providing them with legal aid and social and moral assistance and undertaking advocacy on their behalf
- Push for legislation that guarantees human rights and basic freedoms and ensure its implementation on the ground
- Raise awareness of human rights and rule of law issues in the local community
- Ensure respect for democratic values in the local community, based on political diversity and freedom of opinion and expression
- Lobby for international support and solidarity for Palestinians' legitimate rights

Addameer's programs:

- Legal Aid: Addameer provides free legal counseling and representation to Palestinian detainees and their families. Services include legal defense; regular visits to prisons, detention and interrogation centers; submission of petitions and complaints against cases of torture, ill-treatment and other violations.
- Research and Documentation: Addameer documents violations committed against Palestinian detainees, monitors their detention conditions through regular lawyers' visits, and collects statistics and lists of detainees, providing the basis for the publication of research papers and reports.
- Advocacy and Lobbying: Addameer publishes statements and urgent appeals on behalf of detainees, submits alternative reports and complaints to the United Nations and other international forums, and briefs international delegations as well as the media on the situation of Palestinian prisoners. The advocacy and lobbying unit also works towards building local, Arab and international solidarity campaigns to oppose torture and arbitrary detention while supporting the rights of Palestinian prisoners.
- Training and Awareness: Addameer raises local awareness regarding prisoners' rights on three levels: by training Palestinian lawyers on the laws and procedures used in Israeli military courts to improve their efficiency; by increasing the prisoners' own knowledge; and by reviving grassroots human rights activism and volunteerism and working closely with community activists to increase their knowledge of civil and political rights from an international humanitarian law and international human rights perspective.

Addameer Prisoner Support and Human Rights Association

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