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Committee on Social Affairs, Health and Sustainable Development

Revised minutes

of the hearing on the “Detention of Palestinian minors in Israeli prisons” held in Strasbourg on Tuesday, 25 April 2017, from 9 to 10 am

As regards the report currently in preparation on the *Detention of Palestinian minors in Israeli prisons* (Rapporteur: Ms Liliane Maury Pasquier, Switzerland, SOC), the Committee heard a video statement by Ms June Kunugi, Special Representative, UNICEF, and held an exchange of views with:

- Mr Khaled Quzmar, General Director, “Defense for Children International - Palestine (DCIP)”, and
- Ms Sarit Michaeli, International Advocacy Officer, “B'Tselem - The Israeli Information Center for Human Rights in the Occupied Territories”.

The Chairperson opened the hearing and welcomed the experts. She reminded members of the Committee’s decision, taken on 24 March 2017 in Paris, to hold a hearing on the present subject matter, in lieu of the suggested fact-finding visit by the rapporteur to Israel which the Israeli observer delegation had not been willing to support.

Ms Maury Pasquier, rapporteur, briefly recalled the main objectives of her report which meant to exclusively focus on children’s rights that needed to be respected in any circumstances. She regretted the lack of co-operation by the Israeli observer delegation, and was grateful to the experts present for helping her to shed light on this specific issue.

Ms Kunugi, in her video statement made on behalf of UNICEF, elaborated on UNICEF’s written statement (see Appendix).

NB: A link to the video has been posted on the Committee’s webpage.

Mr Quzmar, Defense for Children International Palestine (DCIP), based on more than 20 years of field experience, affirmed that people under occupation suffered from various threats. Many Palestinian children had been killed by Israeli forces in recent years, and the international community, by not effectively acting, gave a message considered by Israel as a green light to continue along the same lines. No progress had been made since 1991 in terms of justice and accountability, as could be seen through various, shocking reports and data:

- between 500 and 700 children (12-17), including girls, were detained in Israeli prisons and prosecuted by military courts each year; about 60% of them were transferred from the occupied territory to prisons inside Israel which violated the fourth Geneva convention;
- 590 affidavits collected between 2012 and 2016 had shown that:
 - 72% of children had endured some form of physical violence following arrest;
 - 66% had faced verbal abuse, humiliation and/or intimidation;
 - in 45% of cases, children had been arrested from their homes in the middle of the night;
 - in 87% of cases, children had been arrested without notifying the parents of the reasons;

- in 38% of cases, military court judges based their convictions on confessions drafted in Hebrew, a language that most Palestinian children did not understand, and only rarely excluded confessions obtained by coercion or torture.
- DCIP evidence suggested that:
 - solitary confinement/isolation was regularly used to obtain confessions or information about other individuals;
 - 91 children had been held in isolation between 2012 and 2016 for an average period of 14 days;
 - in 2016 alone, 25 children were held in solitary confinement, one of which for a time period of 29 days;
 - 235 out of 297 cases closed by DCIP attorneys (2012 and 2015) involved at least one count of stone throwing;
 - only 13.5% of children were released on bail.

Mr Quzmar also reported that the minimum age of criminal responsibility under Israeli military law was 12 years; however, children aged 16-17 already saw the same provisions applied to them as adults. Administrative detention permitted military officials to incarcerate individuals without charge or trial based on secret evidence; this had been used against 22 children since October 2015 (3 still remaining in detention, 17 released after up to 10 months in prison and 2 imprisoned after conviction). Very often, the Israel Prison Service seemed to adopt a rehabilitative framework towards Israeli juvenile offenders while Palestinians were imprisoned in a more austere, punitive model, with limited access to educative, therapeutic or rehabilitative activities and, subsequently, experienced great difficulties to reintegrate into their communities once released. Mr Quzmar concluded that violations of rights of and crimes against Palestinian children would continue because of lack of accountability, leading Palestinian children to seek justice under international law.

NB: The full Power Point presentation of this expert, as well as a background paper about DCIP can be found on the Extranet related to this hearing.

Ms Michaeli from the Israeli NGO B'Tselem reported on her organisation's extensive work on the treatment of minors in the Israeli military court system in the West Bank in particular. She introduced her presentation with a short video about the experiences of Palestinian youth suspected of stone throwing, the most common offence Palestinian minors are charged with in military courts. Her organisation's research indicated that the Israeli military justice system routinely denies adequate protection from minors and violates their rights. Comprehensive data on the numbers of Palestinian detainees who are minors was not easily accessible but human rights agencies like hers had to rely on monthly figures provided by the Israeli Prison Service (IPS) which represented mere "snapshots" of the actual situation. According to these, at the end of August 2016, 319 Palestinian minors had been held in Israeli prisons as "security detainees" and prisoners, including 10 administrative detainees and Palestinian minors held in Israeli prisons for being in Israel illegally; all these categories of detainees were considered as criminal offenders by the IPS.

According to data provided by the Association for Civil Rights in Israel, in 2015, 871 Palestinian minors had been arrested in the West Bank, 62% of whom had had indictments filed against them, out of which 95% led to convictions by military courts. In this context, there was great pressure on minors to accept plea bargains, which usually included prison sentences. The plea bargains were often based on confessions extracted through interrogations violating the rights of suspects and a high willingness of military courts to rely on such dubious evidence. Moreover, in this way, many minors hoped to spend shorter time periods in prisons than if they opted for an evidentiary trial and were thus remanded in custody pending trial. In response to criticism in the past, Israel had announced several changes to military legislation, qualifying them as improvements, such as the establishment of youth courts or the length of remand periods after indictment. However, many Palestinian minors would not be able to benefit from these changes given that security offences were not concerned by them and detention periods could still be extended based on the discretion of police officers. **Ms Michaeli** finally blamed the existence of two legal systems predicated on different values, one inside the Green Line and the other in the West Bank, and the partiality of the Israeli military court system which she expected to last until the current occupation came to an end.

NB: The full written version of Ms Michaeli's presentation, including links to relevant publications and data, can be found on the Extranet related to this hearing.

Starting off the discussion, **Mr Masiulis** found the evidence presented somewhat one-sided as Israeli children could also be found in prisons, and as, in some cases, Palestinian children had been instrumentalised as fighters for the Palestinian cause.

Baroness Massey stated that children's rights were regularly violated in conflict situations which suspended the application of law. She wondered, in particular, why the number of girls involved in this conflict had gone up over the past years, and whether data was also available about any sexual abuse affecting them.

Mr Gyöngyösi agreed that the situation of children could generally not be dissociated from international conflicts and that this conflict in particular did not involve two equal sides, because it was the conflict of a State versus an occupied territory, regularly finding expression in the issue of "illegal settlements" and involving very unbalanced weapons: high-tech military equipment on one side and stone-throwing on the other. He wondered how children's rights standards as promoted by UNICEF and others could be implemented more effectively.

The Chairperson called the parliamentarians to order, and asked them to focus on the rights of the children affected, not on the underlying political conflict.

Ms Puppato felt very concerned by the reports about administrative detention and about the isolation of children in Israeli prisons. She also wondered whether boys were affected by sexual abuse while being imprisoned.

Ms Michaeli affirmed that Palestinian minors were protected under international law just like those from Israel - in theory but not in practice. She was not aware of any data available on sexual abuse. As far as the reasons for the detention of girls were concerned, she knew of the case of a 14-year-old girl who had been sent to prison for 4 months after having been found with a knife.

Mr Quzmar knew that some children were threatened with sexual abuse to put psychological pressure on them, but had no evidence that any actual sexual violence took place. In his view, the UN Convention on the Rights of the Child (UNCRC) remained the main reference in this context. The EU in particular had a major role to play as a player within the international community to ensure that human rights were better respected in Israel (including through financial support to human rights protection mechanisms).

Ms Maury Pasquier, the rapporteur, thanked the experts for their informative presentations and re-affirmed that the protection of children and their rights needed to remain the main line followed in her report: human rights had to be guaranteed to any person, whatever his or her origin or crimes. The aim of the Assembly related to this report would therefore be to defend the rights of all children, not to judge the overall political context.

In reaction to this last remark, **Lord Prescott** still believed that something had to be done about the political conflict as such; at Council of Europe level, the Committee of Ministers should address this issue with Israel. **The Chairperson** remarked that it would be up to the Rapporteur to decide whether she wished to reflect this idea in her report.

List of Decisions

The Committee on Social Affairs, Health and Sustainable Development, meeting in Strasbourg:

[...]

- **Tuesday, 25 April 2017, at 8.30 am** with first Ms Sílvia Eloïsa Bonet (Andorra, SOC), first Vice-Chairperson, and then Ms Stella Kyriakides (Cyprus, EPP/CD), Chairperson, in the Chair, as regards:

[...]

- ***Detention of Palestinian minors in Israeli prisons*** (*Rapporteur: Ms Liliane Maury Pasquier, Switzerland, SOC*): heard a video statement by Ms June Kunugi, Special Representative, UNICEF, and held an exchange of views with:
 - Mr Khaled Quzmar, General Director, “Defense for Children International - Palestine (DCIP)”;
 - Ms Sarit Michaeli, International Advocacy Officer, “B'Tselem - The Israeli Information Center for Human Rights in the Occupied Territories”;

[...]

Tanja Kleinsorge, Aiste Ramanauskaite, Maren Lambrecht-Feigl, Alina Beliaeva, Prisca Barthel

cc: Secretary General of the Assembly
Director General, Director and all staff of the Secretariat of the Assembly
Secretaries of National Delegations and of Political Groups of the Assembly
Secretaries of observer and partner for democracy delegations
Secretary General of the Congress
Secretary to the Committee of Ministers
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Director of the Private Office of the Secretary General of the Council of Europe
Director of the Office of the Commissioner for Human Rights
Director of Communication
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AS_SOC/ 2017/bil/Lists
25 April 2017

Committee on Social Affairs, Health and Sustainable Development
Commission des questions sociales, de la santé et du développement durable

List of signatures

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ECHANGE DE VUES ET AUDITION – 25 avril 2017

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