

115TH CONGRESS
1ST SESSION

H. R. 4391

To require the Secretary of State to certify that United States funds do not support military detention, interrogation, abuse, or ill-treatment of Palestinian children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2017

Ms. MCCOLLUM (for herself, Mr. POCAN, Mr. GRIJALVA, Mr. CONYERS, Mr. BLUMENAUER, Ms. PINGREE, Mr. DEFAZIO, Mr. CARSON of Indiana, Mr. GUTIÉRREZ, and Mr. DANNY K. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To require the Secretary of State to certify that United States funds do not support military detention, interrogation, abuse, or ill-treatment of Palestinian children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Human
5 Rights by Ending Israeli Military Detention of Palestinian
6 Children Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Israel ratified the Convention on the Rights
4 of the Child on October 3, 1991, which states—

5 (A) in article 37(a), that “no child shall be
6 subject to torture or other cruel, inhuman or
7 degrading treatment or punishment”;

8 (B) in article 37(b), that the arrest, deten-
9 tion or imprisonment of a child “shall be used
10 only as a measure of last resort and for the
11 shortest appropriate period of time”;

12 (C) in article 37(c), that “every child de-
13 prived of liberty shall be treated with humanity
14 and respect for the inherent dignity of the
15 human person, and in a manner which takes
16 into account the needs of persons of his or her
17 age”; and

18 (D) in article 37(d), that “[e]very child de-
19 prived of his or her liberty shall have the right
20 to prompt access to legal and other appropriate
21 assistance, as well as the right to challenge the
22 legality of the deprivation of his or her liberty
23 before a court or other competent, independent
24 and impartial authority, and to a prompt deci-
25 sion on any such action”.

1 (2) In the Israeli-occupied West Bank, there
2 are two separate legal systems, with Israeli military
3 law imposed on Palestinians and Israeli civilian law
4 applied to Israeli settlers.

5 (3) The Israeli military detains around 500 to
6 700 Palestinian children between the ages of 12 and
7 17 each year and prosecutes them before a military
8 court system that lacks basic and fundamental guar-
9 antees of due process in violation of international
10 standards.

11 (4) Approximately 2,700,000 Palestinians live
12 in the West Bank, of which around 47 percent are
13 children under the age of 18, who live under military
14 occupation, the constant fear of arrest, detention,
15 and violence by the Israeli military, and the threat
16 of recruitment by armed groups.

17 (5) Since 2000, an estimated 10,000 Pales-
18 tinian children have been detained by Israeli security
19 forces in the West Bank and prosecuted in the
20 Israeli military court system.

21 (6) Children under the age of 12 cannot be
22 prosecuted in Israeli military courts. However,
23 Israeli military forces detain children under the age
24 of 12 and question them, for several hours, before

1 releasing them to their families or to Palestinian au-
2 thorities.

3 (7) Human Rights Watch documented, in a
4 July 2015 report titled “Israel: Security Forces
5 Abuse Palestinian Children”, that such detentions
6 also included the use of chokeholds, beatings, and
7 coercive interrogation on children between the ages
8 of 11 and 15 years.

9 (8) The United Nations Children’s Fund
10 (UNICEF) concluded, in a February 2013 report ti-
11 tled “Children in Israeli Military Detention”, that
12 the “ill-treatment of children who come in contact
13 with the military detention system appears to be
14 widespread, systematic and institutionalized
15 throughout the process, from the moment of arrest
16 until the child’s prosecution and eventual conviction
17 and sentencing”.

18 (9) The 2013 UNICEF report further deter-
19 mines that the Israeli system of military detention of
20 Palestinian children profoundly deviates from inter-
21 national norms, stating that “in no other country
22 are children systematically tried by juvenile military
23 courts that, by definition, fall short of providing the
24 necessary guarantees to ensure respect for their
25 rights”.

1 (10) UNICEF also released reports in October
2 2013 and February 2015 noting that Israeli authori-
3 ties have, since March 2013, issued new military or-
4 ders and taken steps to reinforce existing military
5 and police standard operating procedures relating to
6 the detention of Palestinian children. However, the
7 reports still found continued and persistent evidence
8 of ill-treatment of Palestinian children detained by
9 Israeli forces.

10 (11) In 2013, the annual Country Report on
11 Human Rights Practices for Israel and the Occupied
12 Territories (“Annual Report”) published by the De-
13 partment of State noted that Israeli security services
14 continued to abuse, and in some cases torture mi-
15 nors, frequently arrested on suspicion of stone-
16 throwing, in order to coerce confessions. The torture
17 tactics used included threats, intimidation, long-term
18 handcuffing, beatings, and solitary confinement.

19 (12) The 2013 Annual Report also stated that
20 “signed confessions by Palestinian minors, written in
21 Hebrew, a language most could not read, continued
22 to be used as evidence against them in Israeli mili-
23 tary courts”.

24 (13) The 2016 Annual Report noted a “signifi-
25 cant increase in detentions of minors” in 2016, and

1 that “Israeli authorities continued to use confessions
2 signed by Palestinian minors, written in Hebrew.” It
3 also highlighted the renewed use of “administrative
4 detention” against Palestinians, including children, a
5 practice in which a detainee may be held indefinitely,
6 without charge or trial, by the order of a military
7 commander or other government official.

8 (14) The nongovernmental organization De-
9 fense for Children International Palestine collected
10 affidavits from 429 West Bank children who were
11 detained between 2012 and 2015, and concluded
12 that—

13 (A) three-quarters of the children endured
14 physical violence following arrest;

15 (B) under Israeli military law, children do
16 not have the right to a lawyer during interroga-
17 tion;

18 (C) 97 percent of the children did not have
19 a parent present during their interrogation;

20 (D) 84 percent of the children were not
21 properly informed of their rights by Israeli po-
22 lice;

23 (E) interrogators used stress positions,
24 threats of violence, and isolation to coerce con-
25 fessions from detained children; and

1 (F) 66 children were held in pre-trial, pre-
2 charge isolation for interrogation purposes for
3 an average period of 13 days.

4 (15) Amendments to Israeli military law con-
5 cerning the detention of Palestinian children have
6 had little to no impact on the treatment of children
7 during the first 24 to 48 hours after an arrest, when
8 the majority of their ill-treatment occurs.

9 (16) In 2002, the United Nations Committee
10 on the Rights of the Child, which monitors imple-
11 mentation of the Convention on the Rights of the
12 Child, reviewed Israel's compliance with the Conven-
13 tion and expressed serious concern regarding "alle-
14 gations and complaints of inhuman or degrading
15 practices and of torture and ill-treatment of Pales-
16 tinian children" during arrest, interrogation, and de-
17 tention.

18 (17) In 2013, the Committee declared that Pal-
19 estinian children arrested by Israeli forces "continue
20 to be systematically subject to degrading treatment,
21 and often to acts of torture" and that Israel had
22 "fully disregarded" the previous recommendations of
23 the Committee to comply with international law.

1 **SEC. 3. PURPOSE.**

2 The purpose of this Act is to promote and protect
3 the human rights of Palestinian children and to ensure
4 that United States taxpayer funds shall not be used to
5 support the military detention of Palestinian children.

6 **SEC. 4. SENSE OF CONGRESS.**

7 It is the sense of Congress that the detention and
8 prosecution of Palestinian children in a military court sys-
9 tem by the Government of Israel—

10 (1) violates international law and internation-
11 ally recognized standards of human rights;

12 (2) is contrary to the values of the American
13 people and the efforts of the United States to sup-
14 port equality, human rights, and dignity for both
15 Palestinians and Israelis;

16 (3) undermines efforts by the United States to
17 achieve a just and lasting peace between Israel and
18 the Palestinians; and

19 (4) should be terminated and replaced with a
20 juvenile justice system in which Israeli authorities do
21 not discriminate between the treatment of Israeli
22 and Palestinian children and that adheres to inter-
23 nationally recognized standards of human rights and
24 obligations.

1 **SEC. 5. STATEMENT OF POLICY.**

2 It is the policy of the United States not to support
3 the military detention of Palestinian children, a practice
4 that results in widespread and systematic human rights
5 violations against Palestinian child detainees and is incon-
6 sistent with the values of the United States.

7 **SEC. 6. PROHIBITION ON UNITED STATES FUNDS TO SUP-**
8 **PORT MILITARY DETENTION OF PALES-**
9 **TINIAN CHILDREN.**

10 (a) PROHIBITION.—Notwithstanding any other provi-
11 sion of law, none of the funds authorized to be appro-
12 priated for assistance to Israel may be used to support
13 the military detention, interrogation, abuse, or ill-treat-
14 ment of Palestinian children in violation of international
15 humanitarian law or to support the use against Pales-
16 tinian children of any of the following practices:

17 (1) Torture or cruel, inhumane, or degrading
18 treatment.

19 (2) Physical violence, including restraint in
20 stress positions.

21 (3) Hooding, sensory deprivation, death threats,
22 or other forms of psychological abuse.

23 (4) Incommunicado detention or solitary con-
24 finement.

25 (5) Administrative detention, as described in
26 section 2(13).

1 (6) Denial of access to parents or legal counsel
2 during interrogations.

3 (7) Confessions obtained by force or coercion.

4 (b) CERTIFICATION.—Not later than October 15,
5 2018, and annually thereafter, the Secretary of State shall
6 submit to the Committee on Appropriations of the House
7 of Representatives and the Committee on Appropriations
8 of the Senate—

9 (1) a certification that none of the funds obli-
10 gated or expended in the previous fiscal year for as-
11 sistance to the Government of Israel have been used
12 by such Government to support personnel, training,
13 lethal materials, equipment, facilities, logistics,
14 transportation or any other activity that supports or
15 is associated with any of the activities prohibited
16 under subsection (a); or

17 (2) if the Secretary cannot make such a certifi-
18 cation, a report describing in detail the amount of
19 such funds used by the Government of Israel in vio-
20 lation of subsection (a) and each activity supported
21 by such funds.

22 (c) ADDITIONAL MATTER IN EXISTING REPORTS.—
23 The Secretary of State shall include, in each report re-
24 quired under section 116 of the Foreign Assistance Act
25 of 1961 (22 U.S.C. 2151n), a description of the nature

- 1 and extent of detention, interrogation, abuse, or ill-treat-
- 2 ment of Palestinian children by Israeli military forces or
- 3 police in violation of international humanitarian law.

