



A joint project of
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H.R. 2407: Promoting Human Rights for Palestinian Children Living Under Israeli Military Occupation Act

What does H.R. 2407 do?

On April 30, 2019, Rep. Betty McCollum (D-MN-04) introduced H.R. 2407, the “Promoting Human Rights for Palestinian Children Living Under Israeli Military Occupation Act,” a bill prohibiting U.S. taxpayer funding for the military detention and ill-treatment of children by any country, including Israel.

H.R. 2407 seeks to promote justice, equality and human rights for children globally by prohibiting any U.S. foreign military aid from supporting “the military detention, interrogation, abuse, or ill-treatment of children in violation of international humanitarian law.”

The bill amends Section 620M of the Foreign Assistance Act of 1961 (22 U.S.C. 2378d), commonly known as the “Leahy Law,” by adding a new subsection that includes a generally applicable limitation prohibiting U.S. military aid from being used by foreign armed forces to support the military detention, interrogation, abuse, or ill-treatment of children in violation of international humanitarian law.

It also prohibits funds obligated by the United States for assistance to a foreign country from supporting the use of any of the following practices against children, including:

- (1) Torture or cruel, inhumane, or degrading treatment.
- (2) Physical violence, including restraint in stress positions.
- (3) Hooding, sensory deprivation, death threats, or other forms of psychological abuse.
- (4) Incommunicado detention or solitary confinement.
- (5) Administrative detention.
- (6) Arbitrary detention.
- (7) Denial of access to parents or legal counsel during interrogations.
- (8) Confessions obtained by force or coercion.

Despite the generally applicable nature of the prohibition language in Section 6 of the bill, H.R. 2407 calls attention to the situation of Palestinian children in the Israeli military detention system and seeks to ensure United States financial assistance provided to the Government of Israel is not used to support widespread and institutionalized ill-treatment against Palestinian children detained by Israeli forces and prosecuted in Israeli military courts lacking basic fair trial protections.

The No Way to Treat a Child campaign seeks to challenge and end Israel’s military occupation of Palestinians by exposing widespread and systematic ill-treatment of Palestinian children in the Israeli military detention system. It is a project of [Defense for Children International - Palestine](http://www.dci-palestine.org) and the [American Friends Service Committee](http://www.afsc.org).

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The bill sets a clear statement of policy declaring, “It is the policy of the United States to promote human rights for Palestinian children living under Israeli military occupation and to declare Israel's system of military detention of Palestinian children as a practice that results in widespread and systematic human rights abuses amounting to gross violations of human rights inconsistent with international humanitarian law and the laws of the United States.”

The findings provisions in the bill, based on persistent and credible evidence-based reports from UNICEF, Human Rights Watch, B’Tselem, and others, establish that ill-treatment of Palestinian children by Israeli forces is widespread, systematic and institutionalized from the moment a child is detained in the Israeli military detention system.

“Israel’s system of military juvenile detention is state-sponsored child abuse designed to intimidate and terrorize Palestinian children and their families,” Congresswoman McCollum said after introducing the bill. “It must be condemned, but it is equally outrageous that U.S. tax dollars in the form of military aid to Israel are permitted to sustain what is clearly a gross human rights violation against children.”

By prohibiting U.S. financial support of abuses against Palestinian children in the Israeli military detention system, H.R. 2407 aligns U.S. policy toward Israel with existing U.S. law and international law.

The bill also authorizes the appropriation of funds to monitor human rights abuses and provide treatment to Palestinian child victims of Israeli military detention and torture.

How is it different from H.R. 4391 in the 115th Congress?

H.R. 2407 is the second piece of legislation introduced by Rep. Betty McCollum (D-MN-04) highlighting Israeli military abuses of Palestinian children in the Israeli military detention and court system.

The groundbreaking legislation H.R. 4391, or the “[Promoting Human Rights by Ending Israeli Military Detention of Palestinian Children Act](#),” was introduced in the 115th Congress on November 14, 2017 by Rep. McCollum and nine original co-sponsors. By the end of the congressional session, the bill had gathering support from a total of 31 members of Congress.

H.R. 4391 required the Secretary of State to certify annually that none of the funds obligated or expended in the previous fiscal year by the United States for assistance to the Government of Israel had been used to support the ill-treatment of Palestinian children in violation of international humanitarian law or to support the use against Palestinian children of any of the following practices:

- (1) Torture or cruel, inhumane, or degrading treatment.
- (2) Physical violence, including restraint in stress positions.
- (3) Hooding, sensory deprivation, death threats, or other forms of psychological abuse.
- (4) Incommunicado detention or solitary confinement.
- (5) Administrative detention.
- (6) Denial of access to parents or legal counsel during interrogations.
- (7) Confessions obtained by force or coercion.

While H.R. 4391 included a similar prohibition on U.S. financial support to Israel from being used to support ill-treatment of Palestinian child detainees in the Israeli military detention system, it did not seek to amend the Leahy Law. Instead, the focus of H.R. 4391 was on certification and reporting in order to enhance transparency regarding financial assistance to Israel.

H.R. 4391 required the Secretary of State to certify to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate that no funds had been used by the Government of Israel to support personnel, training, lethal materials, equipment, facilities, logistics, transportation or any other activity that supports the prohibited practices listed in the bill.

If such a certification could not be made, the Secretary of State would have been required to transmit a report to each committee describing in detail the amount of funds used by the Government of Israel in violation of the specific prohibitions noted in the legislation and each activity supported by such funds.

The prohibition in H.R. 4391 was specific to Israeli forces, while the prohibition included in H.R. 2407 is generally applicable and does not solely focus on Palestinian children detained by Israeli forces or prosecuted in Israeli military courts.

The list of specific conduct identified as prohibited practices is identical in both bills, but H.R. 2407 includes the addition of “arbitrary detention” to the list.

What is the “Leahy Law”?

The Leahy Law prohibits the United States Government from using funds for assistance to units of foreign security forces where there is credible information implicating that unit in the commission of a gross violation of human rights.

A “gross violation of human rights” for Leahy Law purposes encompasses conduct that violates fundamental universal norms and absolute prohibitions codified in international humanitarian law and international human rights law, including:

- Torture or cruel, inhuman, or degrading treatment or punishment;
- Prolonged detention without charges and trial;
- Extrajudicial killings;
- Enforced disappearances; and
- Other flagrant denial of the right to life, right to liberty, or the right to security of person.

Why is this legislation needed?

H.R. 2407 includes a statement of policy that specifically identifies the widespread and institutionalized ill-treatment of Palestinian child detainees in the Israeli military detention system as a gross violation of human rights.

In the findings, specifically Section 2, paragraph 22, it is noted the United States provides in excess of \$3.8 billion in annual foreign military assistance to the Government of Israel which enables the military detention and abuse of Palestinian children in violation of international law.

H.R. 2407 aims to align U.S. policy toward Israel and the Palestinian people with international law norms and promote human rights for Palestinian children living under Israeli military occupation by ensuring U.S. taxpayer funds are not being used to support gross violations of human rights against Palestinian children detained by Israeli forces.

While Leahy Law prohibitions are generally applicable, meaning they should be applied consistently no matter what country receives U.S. foreign military financing or support, successive U.S. administrations have failed to comprehensively implement the Leahy Law for Israeli forces despite overwhelming credible information implicating Israeli forces in the commission of torture and cruel, inhuman or degrading treatment against Palestinian children.

Additionally, State Department officials asked U.S. embassies in the Middle East during 2017 to more carefully examine American military assistance to governments in the region, including Israel. Responding to this directive for enhanced scrutiny, the current U.S. ambassador to Israel, David Friedman, [rejected](#) the idea that the U.S. Embassy in Israel needed to enhance its scrutiny of military aid provided to the Israeli government.

Background on Palestinian children in Israeli military detention

Children under 18 years old represent around 45 percent of the 2.9 million Palestinians living in the occupied West Bank.

Instead of growing up with a law-based, negotiated settlement founded on universal human rights principles, justice and respect for human dignity; Palestinian youth have had their futures stifled and suppressed by systemic discrimination, settlement expansion, and a military occupation with no end in sight where impunity is the norm.

Israel has the dubious distinction of being the only country in the world that systematically prosecutes between 500 and 700 children each year in military courts that lack fundamental fair trial rights and protections.

Children within the Israeli military detention system commonly report physical and verbal abuse from the moment of their arrest, and coercion and threats during interrogations. Under Israeli military law, Palestinian children have no right to a lawyer during interrogation.

Ill-treatment of Palestinian children arrested by Israeli forces in the occupied West Bank has been widely documented. In 2013, UNICEF released a report titled [*Children in Israeli military detention: Observations and recommendations*](#). The report concluded that “ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process, from the moment of arrest until the child’s prosecution and eventual conviction and sentencing.”

Subsequent UNICEF reports show that widespread ill-treatment of Palestinian children detained by Israeli forces is the norm rather than the exception.

Regardless of guilt or innocence, children in conflict with the law are entitled to special protections and all due process rights under international human rights law and international humanitarian law.

International juvenile justice standards, which Israel has obliged itself to implement by ratifying the UN Convention on the Rights of the Child (CRC) in 1991, demand that children should only be deprived of their liberty as a measure of last resort, must not be unlawfully or arbitrarily detained, and must not be subjected to torture and other cruel, inhuman or degrading treatment or punishment.

Despite sustained engagement by UNICEF and repeated calls to end night arrests and ill-treatment and torture of Palestinian children in Israeli military detention, Israeli authorities have persistently failed to implement practical changes to end violence against child detainees.

Reforms undertaken by Israeli military authorities so far have tended to be cosmetic in nature rather than substantively addressing physical violence and torture by Israeli military and police forces.

In a military detention system where fair trial guarantees are denied and nearly three out of four Palestinian children experience some form of physical violence after arrest, failing to demand Israeli authorities comply with international law simply works to enable abuse and perpetuate injustice against Palestinian children.

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