H. R. 2407

To promote human rights for Palestinian children living under Israeli military occupation and require 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

APRIL 30, 2019

Ms. McCollum introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To promote human rights for Palestinian children living under Israeli military occupation and require 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 for Palestinian Children Living Under Israeli Mili-
6 tary Occupation Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Children are entitled to special protections and due process rights under international human rights law and international humanitarian law, regardless of guilt or innocence or the gravity of an alleged offense.

(2) The Government of Israel and its military detains around 500 to 700 Palestinian children between the ages of 12 and 17 each year and prosecute them before a military court system that lacks basic and fundamental guarantees of due process in violation of international standards.

(3) Israel has ratified the Convention on the Rights of the Child, which states—

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

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

(C) in article 37(c), 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’; and

(D) in article 37(d), that ‘‘[e]very child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action’’.

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

(5) Approximately 2,900,000 Palestinians live in the West Bank, of which around 45 percent are children under the age of 18, who have lived their entire lives under Israeli military occupation.

(6) Since 2000, more than 10,000 Palestinian children have been subject to the Israeli military court system.

(7) Israeli security forces detain children under the age of 12 for interrogation for extended periods of time even though prosecution of children under 12 is prohibited by Israeli military law.
(8) Human Rights Watch, in its World Report 2018, reported that Israeli Security Forces detained Palestinian children “often using unnecessary force, questioned them without a family member present, and made them sign confessions in Hebrew, which most did not understand”.

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

(10) The Israeli human rights organization B’Tselem issued a report in 2018 describing the treatment of Palestinian children under Israeli military occupation: “Every year, hundreds of Palestinian minors undergo the same scenario. Israeli security forces pick them up on the street or at home in the middle of the night, then handcuff and blindfold them and transport them to interrogation, often subjecting them to violence en route. Exhausted and scared—some having spent a long time in transit, some having been roused from sleep, some having had nothing to eat or drink for hours—the minors are then interrogated. They are completely alone in
there, cut off from the world, without any adult they
know and trust by their side, and without having
been given a chance to consult with a lawyer before
the interrogation. The interrogation itself often in-
volves threats, yelling, verbal abuse and sometimes
physical violence. Its sole purpose is to get the mi-
nors to confess or provide information about oth-
ers.”.

(11) The United Nations Children’s Fund
(UNICEF) concluded, in a February 2013 report ti-
tled “Children in Israeli Military Detention”, that
the “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”.

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

UNICEF also released reports in October 2013 and February 2015 noting that Israeli authorities have, since March 2013, issued new military orders and taken steps to reinforce existing military and police standard operating procedures relating to the detention of Palestinian children. However, the reports still found continued and persistent evidence of ill-treatment of Palestinian children detained by Israeli forces.

In 2013, the annual Country Report on Human Rights Practices for Israel and the Occupied Territories ("Annual Report") published by the Department of State noted that Israeli security services continued to abuse, and in some cases torture minors, frequently arrested on suspicion of stone-throwing, in order to coerce confessions. The torture tactics used included threats, intimidation, long-term handcuffing, beatings, and solitary confinement.

The State Department’s 2013 Annual Report also stated that “signed confessions by Palestinian minors, written in Hebrew, a language most could not read, continued to be used as evidence against them in Israeli military courts”.

The State Department’s 2016 Annual Report noted a “significant increase in detentions of
minors” in 2016, and that “Israeli authorities continued to use confessions signed by Palestinian minors, written in Hebrew”. It also highlighted the renewed use of “administrative detention” against Palestinians, including children, a practice in which a detainee may be held indefinitely, without charge or trial, by the order of a military commander or other government official.

(17) The nongovernmental organization Defense for Children International Palestine collected affidavits from 739 West Bank children who were detained between 2013 and 2018, and concluded that—

(A) 73 percent of the children endured physical violence following arrest;

(B) under Israeli military law, children do not have the right to a lawyer during interrogation;

(C) 96 percent of the children did not have a parent present during their interrogation;

(D) 74 percent of the children were not properly informed of their rights by Israeli police;
(E) interrogators used stress positions, threats of violence, and isolation to coerce confessions from detained children;

(F) 29 children were detained and placed in administrative detention, or detention without charge or trial, since Israel renewed the practice against minors in October 2015, and

(G) 122 children were held in pre-trial, pre-charge isolation for interrogation purposes for an average period of 13 days.

(18) Amendments to Israeli military law concerning the detention of Palestinian children have had little to no impact on the treatment of children during the first 24 to 48 hours after an arrest, when the majority of their ill-treatment occurs.

(19) In 2013, the United Nations Committee on the Rights of the Child reviewed Israel’s compliance with the Convention on the Rights of the Child and declared that Palestinian children arrested by Israeli forces “continue to be systematically subject to degrading treatment, and often to acts of torture” and that Israel had “fully disregarded” the previous recommendations of the Committee to comply with international law.
(20) The United Nations Committee Against Torture, in 2016, reviewed Israel’s compliance with the Convention Against Torture and reported: “ allegations of many instances in which Palestinian minors were exposed to torture or ill-treatment, including to obtain confessions; were given confessions to sign in Hebrew, a language they do not understand; and were interrogated in the absence of a lawyer or a family member. The Committee is also concerned that many of these children, like many other Palestinians, are deprived of liberty in facilities located in Israel, thus hindering access to visits of relatives who live in the Occupied Palestinian Territory.”.

(21) Existing Federal statutory provisions known as the “Leahy law” codified at section 620M of the Foreign Assistance Act of 1961, 22 U.S.C. 2378d and section 362 of Title 10 of the United States Code, prohibit 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 gross violations of human rights, including torture.

(22) 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 by
Israel’s military system of juvenile detention.

SEC. 3. PURPOSE.
The purpose of this Act is to promote and protect
the human rights of Palestinian children living under
Israeli military occupation.

SEC. 4. SENSE OF CONGRESS.
It is the sense of Congress that—
(1) the detention, prosecution, and ill-treatment
of Palestinian children living under military occupa-
tion in a military court system that lacks basic and
fundamental guarantees of due process by the Gov-
ernment of Israel—
(A) violates international law and intern-
ationa]y recognized standards of human
rights;
(B) is contrary to the values of the Amer-
ican people and the efforts of the United States
to support equality, human rights, and dignity
for both Palestinians and Israelis; and
(C) undermines efforts by the United
States and the international community to
achieve a just and lasting peace between Israel
and the Palestinian people; and
(2) Israeli and Palestinian civil society organizations working to advance human rights, justice, and equal treatment for Palestinians living under Israeli military occupation, as well as Jewish and non-Jewish citizens of Israel, are essential to promoting human dignity, democratic values, and international humanitarian law, and therefore deserve recognition and support from the United States and the American people.

SEC. 5. STATEMENT OF POLICY.

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 and values of the United States.

SEC. 6. LIMITATION ON ASSISTANCE TO SECURITY FORCES.

(a) In General.—Section 620M of the Foreign Assistance Act of 1961 (22 U.S.C. 2378d; commonly known as the “Leahy Law”) is amended by adding at the end the following new subsection:

“(e) SPECIFIC LIMITATIONS CONCERNING MILITARY COURTS.—Notwithstanding any other provision of law, no
funds authorized to be appropriated for assistance to a foreign country may be used to support the military detention, interrogation, abuse, or ill-treatment of children in violation of international humanitarian law or to support the use against 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, including when a detainee is held indefinitely, without charge or trial, by the order of a military commander or other government official.

“(6) Arbitrary detention.

“(7) Denial of access to parents or legal counsel during interrogations.

“(8) Confessions obtained by force or coercion.”.
SEC. 7. AUTHORIZATION OF FUNDS TO MONITOR HUMAN RIGHTS ABUSES AND PROVIDE TREATMENT TO PALESTINIAN CHILD VICTIMS OF MILITARY DETENTION AND TORTURE.

(a) FUNDING.—There is authorized to be appropriated not less than $19,000,000 each fiscal year to the Secretary of State to be made available to nongovernmental organizations from the United States, Israel, or the Occupied Palestinian Territory for the following purposes:

1. (1) Monitoring human rights abuses associated with Israel’s military detention of Palestinian children.—

(A) In general.—Nongovernment organizations with human rights experience are eligible to receive funding under this subsection. Such funding shall be used to monitor, assess, and document incidents of Palestinian children subjected to Israeli military detention, including interviews with victims, family members of victims, relevant community members, health care providers, legal advocates, civil society monitors, and Israeli military officials.

(B) Public availability.—All information and documentation gathered pursuant to subparagraph (A), including affidavits, inter-
views, photographs, video, and other relevant material, shall be made publicly available via the internet and in annual reports subject to the determination that published information shall not put victims or sources at risk or in danger resulting from persecution, retaliation, or retribution.

(C) LIMITATION.—Funding under this paragraph may not exceed 50 percent of total funds authorized to be appropriated under this subsection.

(2) PROVIDING PHYSICAL, PSYCHOLOGICAL, AND EMOTIONAL HEALTH TREATMENT, SUPPORT, AND REHABILITATION FOR PALESTINIAN CHILDREN VICTIMS OF MILITARY DETENTION, ABUSE, AND TORTURE.—

(A) IN GENERAL.—Nongovernmental organizations with experience in providing physical, psychological, and emotional treatment for victims of abuse, trauma, or torture described in subparagraph (B) are eligible to receive funding under this subsection. Such funding shall be provided to a collaboration of United States, Israeli, and Palestinian treatment providers determined by the Secretary of State to be best
suited to meet the rehabilitation needs of vic-
tims. No member of any nongovernmental orga-
nization providing treatment under this para-
graph may be employed or act as an agent or
behalf of an intelligence agency of the United
States, Israel, or the Palestinian Authority.

(B) ELIGIBILITY.—Victims described in
this subparagraph are any Palestinian age 21
or younger providing documentation of military
detention as a child having occurred since Jan-
uary 1, 2009.

(C) REPORTING.—As a condition on the
receipt of funding under this subsection, non-
governmental organizations shall issue an an-
nual public report of activities, including find-
ings and a clinical assessment of the physical
and psychological effects of military detention
on children, adolescents, and adults who experi-
ence trauma as children, and recommendations
to the international community regarding best
practices for treating child victims of military
detention.

(b) PROGRAM NAME.—Amounts made available pur-
suant to subsection (a) shall be referred to as the "Human
1 Rights Monitoring and Treatment for Palestinian Child Victims of Israeli Military Detention Fund”.