

Release and Reintegration of Children Deprived of Liberty in the State of Palestine in Response to COVID-19

Pivoting existing coordination mechanisms and services



Examples of Good Practice in
the Middle East and North Africa:
Justice System and COVID-19



© Ahed Izhiman

1. Context

In 2016, important changes were initiated in the criminal justice system for children with the adoption of the Juvenile Protection Law in the State of Palestine. Critical changes included introduction of alternatives to detention, including mediation and diversion.

The Juvenile Protection Law also allows for the reassessment of cases where children have served two thirds of their sentences, leading to a possible early release upon approval of the Minister of Social Development and the Juvenile Prosecution Service.

To support implementation of these provisions of the Juvenile Protection Law and to ensure that detention is used as a last resort, UNICEF and child justice partners have focused on strengthening the capacity of the Juvenile Prosecution Service and the judiciary. UNICEF also facilitates access to legal aid, psychosocial support and vocational training for children in conflict with the law and provides ongoing monitoring support to child detention and rehabilitation centres.

2. Government decisions and practices enabling release of children deprived of liberty and increased use of alternatives to detention

Releasing children deprived of liberty

In the State of Palestine, a state of emergency was announced on 5 March 2020 in response to Coronavirus Disease 2019 (COVID-19). This resulted in closure of all schools, imposed movement restrictions between different cities in the West Bank, and exempted from work all female government employees with children under 10 years. A total lockdown was imposed in the governorate of Bethlehem, which was soon extended to other governorates.

These measures resulted in reduced operational capacity in the social welfare sector by more than 50 per cent. The justice sector also operated at a reduced capacity, with some special arrangements made for children. The government ensured that in each governorate a juvenile prosecutor was available on call and a juvenile judge presided weekly, mainly to extend orders of detention for detained children.

Table 1: # of children detained pre-COVID, # released, and # remaining.

	# of children in detention pre-COVID	# of children released	# of children remaining
WB	87	75 86%	12 14%
Gaza	45	37 82%	8 18%
SOP	132	112 85%	20 15%

On the day of the announcement of the state of emergency, 132 boys (87 in the West Bank, and 45 in Gaza) in conflict with the law were held in different detention facilities, including a rehabilitation centre and juvenile police cells. The Minister of Social Development quickly decided that, in light of COVID-19-related risks, it was important to release as many children as possible from the rehabilitation centre, following a two-week quarantine period. To operationalize this decision, the Minister in the West Bank assigned the existing Technical Juvenile Justice Committee, comprising representatives from the Ministry of Social Development (MOSD), Juvenile Prosecution Service, UNICEF non-governmental organization partner Defence for Children International (DCI), the High Judicial Council and the police, to lead the process. This decision was followed by a circular issued by the Chief Justice requesting judges to release children pending a risk assessment. In Gaza, the MOSD similarly released children working in cooperation with the juvenile prosecutor.

On 23 March, in parallel with these efforts, the President issued a pardon for all those convicted of a non-serious crime (i.e., excluding murder and rape) who had served half of their sentence.

Encouraging use of alternatives to detention

To limit the use of detention, the Technical Juvenile Justice Committee decided to strengthen the application of the principle of using detention as a last resort, only permitting the detention of children if the child is suspected or

accused of a serious crime, if their family refuses to receive them, or for their safety. Extra efforts were made by prosecutors to make sure that all less serious cases of children that could be potentially eligible for diversion were carefully reviewed and appropriately classified to meet the release criteria. However, children suspected of serious crimes often did not meet the established criteria; for example, two children suspected of murder were detained as it was assessed that their release would be unsafe while further investigations were ongoing.

As a result of the introduced decisions, no children at risk of delinquency or children in street situations have been detained. However, those who infringed orders and curfew regulations were being held for short-period arrests (a few hours) before being returned to their families.

3. UNICEF engagement in the process leading to the release of children

Following the decision by the Minister of Social Development on the release of children, the Technical Juvenile Justice Committee initiated a review process in the West Bank. This was informed by social inquiry reports provided by the Ministry of Social Development (MOSD) child protection counsellors, at the request of juvenile judges. Due to movement restrictions, the child protection counsellors conducted remote assessments of the following:

1. Previous case history and responsiveness of the child

2. Willingness of the child to remain in touch with the counsellor for follow-up

3. Willingness of the family to receive and support the child

4. Whether it is safe for the child return to their community and whether there are reprisal risks

5. Whether someone from the family had tested positive for COVID-19 or is in home quarantine.

These remote assessments were made possible following UNICEF efforts in training 19 ministry staff and social workers on remote working and tele-counselling for social inquiries, follow-up and reintegration work. Over a period of two weeks, prosecutors, police, lawyers and social workers held emergency meetings to assess, on a case by case basis, whether the children could be safely released and returned to their families. Based on these assessments, the prosecution and judges issued release orders for 75 children.

Release orders did not apply to 12 children due to the seriousness of their offences (murder or rape), or because their families were unwilling to accept them back. Counselling of families by MOSD and DCI counsellors resulted in a 40 per cent success rate in releasing children to these families. As part of precautionary measures, the children's families were monitored for COVID-19 symptoms for 14 days before they could receive their children. For children who remain in detention, measures are in place to ensure contact between the children and their families through video calls. Children also receive remote psychosocial counselling.

In Gaza 37 out of 45 children in detention (82%) were released and eight remained due to the severity of the offences, and where no suitable alternatives to detention could be found.

4. Post-release reintegration and follow-up processes

The COVID-19 emergency exempted female government personnel with young children from work. As a result, 17 out of the 30 child protection counsellors were unavailable. This reduced workforce, combined with movement restrictions, limited capacity for follow-up. Despite the situation, follow-up assessments were prioritized for released children, who were all enrolled in psychosocial support and life skills programmes. Owing to COVID-19 restrictions, the sessions took place mainly on the phone, but when possible in person while respecting safety instructions. Since the beginning of September, when vocational schools reopened, the MOSD counsellors have been working towards enrolling some of these children in vocational training.

UNICEF supported the MOSD to procure 30 tablets for the child protection counsellors (CPCs) to facilitate the remote assessments and follow-up. However, there is still a gap in adapting the MOSD electronic case management system to a mobile application to synchronize data and updates on cases. UNICEF and MOSD are working on strengthening the linkages with community child protection mechanisms and Child Protection Area of Responsibility actors to fill in service provision gaps and follow up with the children.

5. Impact on children

Government decisions and the coordinated effort directly resulted in the release and reunification of 75 children in the West Bank (representing 87 per cent of detained children) and has prevented others from being detained. Furthermore, there are no reported cases of children infected by COVID-19 in the detention or rehabilitation centres nor among those released. Gaza released

37 children where circumstances permitted, i.e. where case management systems were in place.

It is also believed that the current response may serve as an impetus for further developing child-friendly solutions for children in conflict with the law. COVID-19 has compelled the judiciary to find innovative alternatives to detention and use alternatives introduced by the 2016 Juvenile Protection Law.

Reflection on and learning from these positive practices has the potential to further support the removal of children from institutions, use of alternatives to detention, and development of child

and family support options within communities. In addition, current restrictions in service delivery have triggered civil society organizations to find new ways to engage with children through remote services, which may be an important innovation for the future. A focus on remote and distance services will have benefits beyond the COVID-19 pandemic and potential to address the overall lack of availability or accessibility of programmes for children in the justice system.

For example, UNICEF's partners are exploring the development of online courses for children, which can be included as an intervention to support children with alternatives to detention.

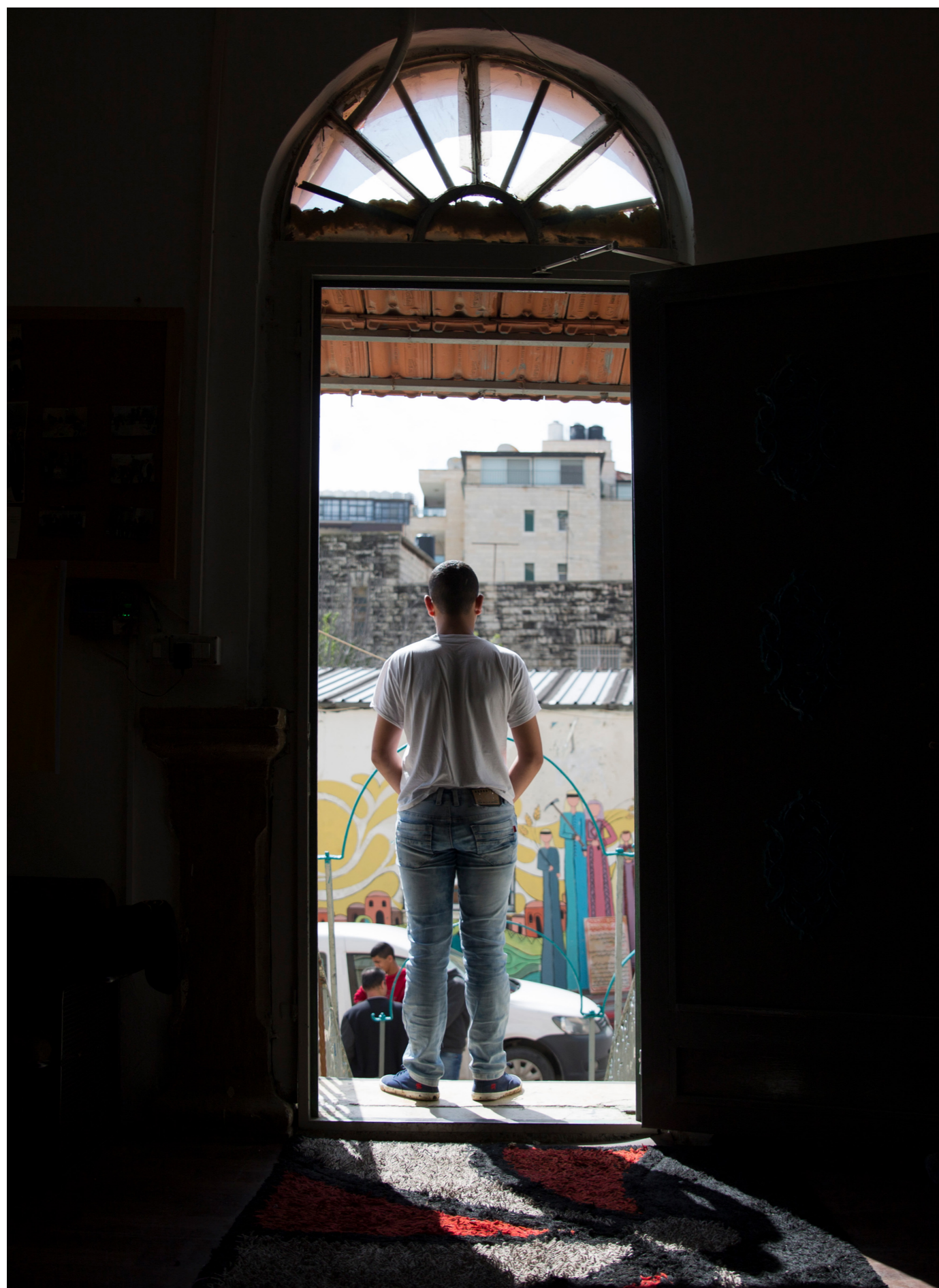
6. Lessons Learned

The quick release and reunification of 85 per cent of the children in detention was facilitated by various factors, all demonstrating the importance of government leadership combined with pre-existing resources within the child protection system. Several key lessons can be drawn from this experience:

1. Strong government leadership was critical for announcing the release of children deprived of liberty as part of the COVID-19 emergency, in order to reduce contagion risk.
2. Provisions in the Juvenile Protection Law, which introduced diversion and alternatives to detention, and allowed for early release of children who demonstrate good progress, was an important enabler for the release of children in compliance with the national legal framework.
3. Pre-existing interagency coordination ensured speed and efficiency in the process. The Technical Juvenile Justice Committee was an important coordination structure and

facilitated rapid individual assessment and action for each child.

4. To work towards implementation of the Juvenile Protection Law, UNICEF supported the development of mediation guidelines for children in conflict with the law, which aims to divert children away from the formal justice system. COVID-19 movement restrictions have highlighted the critical need to operationalize these mediation guidelines and concurrently strengthen access to alternatives to detention.
5. Availability of a pre-existing, operational and computerized justice case management system facilitated the option of remote working for juvenile judges and prosecutors.



© Ahed Izhiman

© United Nations Children's Fund (UNICEF), 2020. All rights reserved.
Child Protection Programme, Programme Division

Website: www.unicef.org

The designations employed in this publication and the presentation of the material do not imply on the part of the United Nations Children's Fund (UNICEF) the expression of any opinion whatsoever concerning the legal status of any country or territory, or of its authorities or the delimitations of its frontiers.

Cover photo: © Ahed Izhiman

Contact:

Matthew Dalling, UNICEF State of Palestine Country Office:
mdalling@unicef.org

Teona Aslanishvili, UNICEF Middle East and North Africa Regional Office:
taslanishvili@unicef.org



Published by UNICEF
3 United Nations Plaza
New York, NY 10017, USA

© United Nations Children's Fund (UNICEF)
December 2020

www.unicef.org