

## Minors in Jeopardy

### Violation of the Rights of Palestinian Minors by Israel's Military Courts

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## Introduction

Every year, acting under general orders in which the military vested itself with sweeping arrest powers, Israeli security forces arrest thousands of Palestinians in the West Bank. These military orders stipulate that any soldier or police officer has the power – with no need for an arrest warrant – to arrest any person, if the person in question has committed an offense or if “there is cause to suspect that he committed an offense.”<sup>1</sup>

The military justice system is, at least in theory, charged with overseeing how the Israeli security establishment uses its arresting powers, and with ensuring these powers are not abused and that detainees’ rights are respected. For this reason, the military orders specify that detainees must be brought before a judge within several days of their arrest so that the court review the justification for the arrest and decide whether the detainee be released or remain in custody. In the overwhelming majority of cases, the military prosecution requests the detainee be remanded to custody and the judges accede. As a result, remand in custody is routinely imposed on many Palestinians without the benefit of independent judicial review, while their rights are violated throughout the process of arrest, interrogation and legal prosecution.

Several reports on the abuse of minors’ rights in the military justice system have been published in the past decade. One such report by B’Tselem was published in July 2011, focusing on the violation of the rights of minors<sup>2</sup> arrested for stone-throwing.<sup>3</sup> About a year later, a group of British lawyers published a comprehensive report on the arrest, interrogation and trial of Palestinian minors.<sup>4</sup> In February 2013, UNICEF published a report on this issue,<sup>5</sup> and Defense for Children International – Palestine (DCIP) published one in April 2016.<sup>6</sup> At the same time, several UN committees found fault with Israel’s treatment of Palestinian minors.<sup>7</sup>

In the years since, the state has made several changes to the military orders that deal with the arrest of minors and their treatment in the military courts. In addition, state representatives

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<sup>1</sup> Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651) 5770-2009 (hereinafter: Order regarding Security Provisions), Section 31(A). See Section 4 for information on a police officer’s authorities under the order.

<sup>2</sup> This report uses the masculine form since the overwhelming majority of the minors tried in military courts are male. However, everything reported holds true for female minors undergoing the same process.

<sup>3</sup> B’Tselem, [No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone Throwing](#), July 2011.

<sup>4</sup> *Children in Military Custody*, June 2012.

<sup>5</sup> UNICEF, *Children in Israeli Military Detention – Observations and Recommendations*, February 2013.

<sup>6</sup> DCIP, [No Way to Treat a Child – Palestinian Children in the Israeli Military Detention System](#), April 2016.

<sup>7</sup> Committee on the Rights of the Child, “Concluding Observations on the Second to Fourth Periodic Reports of Israel,” 4 July 2013; Human Rights Committee, “Concluding Observations on the Fourth Periodic Reports of Israel,” 21 November 2014.

discussed various aspects of the arrest and trial of minors in a series of meetings they held with UNICEF, human rights organizations, and lawyers who represent minors in the military court system.

On the face of it, these changes were meant to improve the protections afforded to minors in the military justice system. Special protection for minors in criminal proceedings is, in fact, the norm in Israel and elsewhere in the world. It is based on the understanding that the experience of arrest and legal proceedings – including being separated from their families, being subjected to violence, and a lengthy stay in prison – makes a more profound and long-lasting impression when it comes to minors.

However, the changes Israel has made have had no more than a negligible impact on minors' rights. It would seem that they have far more to do with improved appearances than with what happens in actual practice. The reports – spanning a period of years, published by a variety of groups and agencies, relying on diverse methodologies – all point to the same factual findings which demonstrate that minors' rights are regularly and systematically violated.

The first part of the present report describes what Palestinian minors go through from the time of their arrest until they are released. The report then reviews the main changes instituted by the state and explains why they serve neither to improve the way minors are treated nor the safeguards to minors' rights. Finally, the report looks at the early phases of arrest and interrogation and the harm to minors at that point because, owing to the way the military justice system works, what happens in these early phases determines their fate.

## I. A portrait of standard practice

In 2014 and 2015, the military prosecution filed 1,046 indictments against minors. The breakdown is as follows: 30 (nearly 3%) were filed against children aged 12 to 13; 261 (roughly 25%) were filed against 14 and 15-year-olds and 755 (roughly 72%) were filed 16 and 17-year-olds.<sup>8</sup>

The way minors are treated by the security establishment, including by the military justice system, from the moment of their arrest is well documented. Information based on hundreds of affidavits and testimonies published over the years by human rights organizations, including B'Tselem, together with information provided by lawyers who represent Palestinian minors in the military courts paint a clear and consistent picture of what constitutes standard practice during the arrest, investigation and prosecution of these minors. As detailed below, the reality is one of systematic and systemic ongoing abuse of their rights:<sup>9</sup>

More than 40% of the minors arrested were taken from home in the middle of the night, after being woken up. In some cases, the arrest is carried out quietly: soldiers knock on the door, wait for it to be opened, ask a few questions, tell the parents to wake up their son, and allow him to get dressed. In other cases, the arrest involves force or violence: soldiers break down the door, demand that everyone – including young children – be woken up, search the entire home, and even beat some of those present, before ultimately leaving with the teenaged boy in tow. Either way, when armed and often masked soldiers enter a home in the middle of the night and arrest a member of the family, it is a terrifying and upsetting event for the entire household.

With rare exceptions, the soldiers handcuff the minors as soon as they arrest them, or immediately after leaving the home. The reports indicate that in about 80% of the cases, the soldiers also blindfold the minors. In this state, the minors are then transported. Some are taken directly to interrogation and others are first driven to a different location and only later taken in

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<sup>8</sup> The Association for Civil Rights in Israel (ACRI), "[Arrests, Interrogations and Indictments of Palestinian Minors in the Occupied Territories: Facts and Figures for 2014](#)," February 2016; "[Arrests and Detention of Palestinian Minors in the Occupied Territories: 2015 Facts and Figures](#)," January 2017. On 1 November 2017, ACRI filed Freedom of Information Applications with the police and the military for figures for the year 2016, but the requests had not been answered at the time of publication, despite the deadlines stipulated in the law having elapsed.

<sup>9</sup> The figures hereinafter are based on: DCIP, *No Way to Treat a Child*, supra note 6, which is based on 429 affidavits collected from minors arrested between 2012 and 2015; UNICEF, *Children in Israeli Military Detention*, Bulletin No. 2, February 2015, which is based on 208 affidavits collected from minors arrested from January 2013 to September 2014; Military Court Watch, *Monitoring the Treatment of Children Held in Israeli Military Detention*, which is based on 187 affidavits collected from minors in 2016 and 2017; and on information B'Tselem collected for the purpose of the present report from 60 minors arrested over the last two years.

for interrogation. Many of the minors reported that during transit, soldiers swore at them, threatened them and even beat them.

Once picked up by the soldiers, whether from home or on the street, the minors are cut off from their lives and their parents. No one tells them or their parents where they are being taken, what is going to happen to them, or when they will be able to return home. In about 90% of the cases in which the minors were taken from their homes, the soldiers did not inform the parents of the reasons for their son's arrest, where he was being taken and when they could see him. When the minors were arrested on the street, the soldiers did not let them inform their parents of their arrest.

About 80% of the minors said their interrogators did not inform them – as they are required to do at the start of the interrogation – of their right to see a lawyer or their right to remain silent during questioning. Even when informed of their rights, the minors do not always understand what they mean and the interrogators do not bother to explain. In some cases, interrogators demand the minor provide them with a lawyer's telephone number, and when they do not have one, consider this as if they had waived their right. In other cases, the interrogator tells the minor he is calling a lawyer for him, and then hands the telephone over to the minor, who does not know the person he is asked to speak with. Some 90% of the minors reported that interrogators did not let them see or speak to a lawyer prior to questioning.

In many cases, the minors are taken in for interrogation hours after their arrest. In the interim, soldiers will have beaten some, denied others food or drink, and prohibited others from going to the bathroom. Those taken from their beds in the middle of the night reach the interrogation stage in a state of exhaustion. In this condition, interrogators tell them to confess or provide information about others – in most cases while being yelled at, threatened, and even beaten.

At the end of the interrogation, the minors are required to sign a document the interrogators claim contains the statements they had made during the interrogation. The document itself, however, is usually written in Hebrew so the minors do not understand it. While some interrogations are taped, the vast majority of prosecutors and judges do not know Arabic and this document is their sole source of information about what transpired during the interrogation.

Most of the minors who gave testimonies or affidavits to human rights organizations reported that members of the security forces shouted at them, threatened, and verbally or physically abused them during the initial arrest, transit and interrogation. About 70% of the minors

reported they were subjected to physical violence during this time, and some 65% reported verbal abuse.

The minors are taken to military court multiple times from the time they are arrested until their sentence is pronounced, either for remand hearings or their actual trial. The court is where they normally see their lawyer for the first time, and get to speak to him or her for a few minutes prior to the hearing. They also see their family members there. Minors are transported to the court with both their hands and feet in restraints. At the courthouse, they are kept in a small waiting room for many hours until they are taken in for their. Once it is over, they are brought back to the waiting room, and there they wait until all hearings in cases involving minors that day are completed. It is only then that they are taken back to prison, once again in handcuffs and leg restraints.

According to military court regulations, only two family members may attend a hearing, regardless of whether it is the case of a minor or an adult. These family members may not approach the boy, embrace him, or even speak to him, though some judges do allow it. While the court does provide an interpreter, minors often have difficulty understanding what is going on, due to the quality of the interpretation, the noise in the courtroom, or the fact that no one bothers to explain to them what is happening.

As a rule, minors are held in prison from the moment of their arrest until they complete their sentence. They are rarely released on bail, either before or after being indicted, and even if they are, bail is set at thousands of shekels.

Military courts offer no alternative to prison sentences, which are usually supplemented by a suspended sentence and a heavy fine. Given all this, and particularly the fact that minors are kept in prison throughout their trial, cut off from their families and unable to go to school to continue their studies, it is little wonder that most of them would rather avoid a lengthy trial and opt to plead guilty in a plea bargain. This is clearly illustrated by the fact that of the 297 cases DCIP lawyers closed between 2012 and 2015, 295 ended in plea bargains.<sup>10</sup>

These practices result in an extremely high conviction rate in the military courts. According to official figures provided to the Association for Civil Rights in Israel (ACRI), more than 95% of the cases involving minors between 2014 and 2015 resulted in a conviction.<sup>11</sup>

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<sup>10</sup> DCIP, *No Way to Treat a Child*, supra note 6, p. 50.

<sup>11</sup> ACRI figures, supra note 9.

## II. The state's position: Improvements to the military justice system have significantly reduced harm to minors

Israeli officials repeatedly claim that the military courts attach a great deal of importance to safeguarding minors' rights and take action to protect them. The Military Court Unit has stated: "To the best of our knowledge, the careful safeguarding of minors' rights is unparalleled in legal systems engaged in law enforcement in conflict areas or in systems that operate pursuant to the laws of belligerent occupation."<sup>12</sup> A comprehensive document released by the Ministry of Justice in August 2014, issued in English only, said:

The State of Israel attaches great importance to strengthening and promoting the protection granted to minors in the military justice system in the West Bank, while simultaneously taking into consideration the unique circumstances and security situation in the West Bank. This is reflected in both legislation and practice.<sup>13</sup>

In official documents, the state explains that dealing with Palestinian minors presents many challenges as they belong to an indoctrinated and violent population. They operate from within a hostile setting and face charges on serious, egregious offenses. This view was presented, for example, in the Ministry of Justice document, under the heading "Minors' Involvement in Terrorist Activities":<sup>14</sup>

The presence of terrorist organizations is widely felt in the West Bank; one of their key motives is to instill a sense of hatred against the State of Israel and its citizens through indoctrination of the population starting in pre-school and continuing all the way through to adulthood. This education leads to regular violent activities, ranging from throwing stones and Molotov cocktails, to armed attacks and violent terrorist activities, targeted against military personnel and civilians alike [...] [T]he danger and damage caused by their actions, is usually the same as if the acts are performed by adults.

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<sup>12</sup> Response of the Military Courts to B'Tselem's report *No Minor Matter*, supra note 3. (The response is contained in the IDF Spokesperson's response to the report.) Please note: while the IDF Spokesperson's Unit did supply B'Tselem with an English version of this response, it varies from the Hebrew original also supplied by the IDF Spokesperson. Therefore, in this report, we opted to use our own translation of the Hebrew. See also Response of the IDF and the Ministry of Justice to the report of the Association for Civil Rights in Israel, *One Rule. Two Legal Systems: Israel's Regime of Laws in the West Bank*, October 2014.

<sup>13</sup> Ministry of Justice, The Legal Counseling and Legislation Department (International Law), *Palestinian Minors in Military Juvenile Justice System*, 5 August 2014 (hereinafter: Ministry of Justice), Section 1.

<sup>14</sup> *Ibid.*, Sections 13-15.

The Ministry of Justice chose to cite three extreme examples in which minors were involved in the killing of Israelis to illustrate its point, and then sums up as follows:<sup>15</sup>

This situation, in which Palestinian minors are often involved in criminal activity, both of a more negligible nature and unfortunately, an extremely serious and often deadly one, is very delicate: particularly given the security situation. It requires a criminal system which adequately balances the State's need to protect human life and its national security, and to guarantee (insofar as possible) some form of peace and order in the region, whilst simultaneously upholding the legal rights of the minor arrested or indicted.

The state notes that significant reforms had been made in both the military orders and the standard practices of the military courts over the years. These changes were instituted pursuant to the work of an inter-ministerial committee established in 2008. The committee was headed by the deputy Attorney General (Criminal Law) and had representatives from the Military Advocate General Corps (MAG Corps), the courts, the police, the Israel Prison Service (IPS) and the Israel Security Agency (ISA).<sup>16</sup> It was established in view of sweeping amendments to the Israeli Youth Law introduced at the time. While this law does not apply to the West Bank, the committee was tasked with considering what parts of the reform could be applied to the military courts.<sup>17</sup> The state highlights the following three changes:<sup>18</sup>

### **1. The establishment of a military juvenile court:**

The Military Juvenile Court was officially launched on 29 July 2009. Initially operating on a provisional basis pursuant to a "temporary order," it received permanent status four years later, in 2013.<sup>19</sup> When the court was established, the IDF Spokesperson said that "though systems operating pursuant to the laws of war do not make special, separate allowances for trying minors, a juvenile court was established in the past year, improving the protection of minors' rights."<sup>20</sup> In a different document, the MAG Corps wrote:

The importance of this amendment is first and foremost declarative. It is designed to reflect the legal precept that seeks to codify the rights of minors

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<sup>15</sup> Ibid., Sections 16-17.

<sup>16</sup> Ibid., Section 10.

<sup>17</sup> Amendment No. 14 to the Youth Law (Trial, Punishment and Treatment) 5731-1971.

<sup>18</sup> For a full list of the changes cited by the state, see: Ministry of Justice, *supra* note 13.

<sup>19</sup> Order No. 1644, Order regarding Security Provisions (Temporary Order) (Amendment No. 109) 29 July 2009. This order was renewed yearly until it became permanent in the Order regarding Security Provisions (Amendment No. 35) (Judea and Samaria), 5774-2013; now Sections 137-148 of the Order regarding Security Provisions.

<sup>20</sup> [IDF Spokesperson's Response to B'Tselem, No Minor Matter](#), *supra* note 3.

facing charged, with consideration for the principle of the minor's best interest... In addition to the declarative component, which is important in itself, the amendment includes a good number of important practical directives relating to conducting legal proceedings in the cases of minors up to age 16.<sup>21</sup>

The order establishing the Military Juvenile Court was the first instance in which military legislation explicitly stated that the age of majority was 16, though judges presiding in this court did hear cases with defendants up to age 18.<sup>22</sup> The age of majority was officially raised from 16 to 18 in September 2011.<sup>23</sup>

The military order that established the Military Juvenile Court empowers judges to appoint defense counsel for indicted minors if they believe "this would be in the minor's best interest." Judges are also empowered to ask for a report from the welfare staff officer at the Civil Administration ahead of the sentencing of a convicted minor. The report is to include information about the minor's background, family, financial and medical situation and any other circumstances that could have bearing on sentencing. The report may also refer to rehabilitation options.

Under the order, the Military Juvenile Court is tasked only with the actual trial and does not handle arrest and release procedures either before or after an indictment is served. These proceedings take place in ordinary military courts, though the judges do tend to separate hearings in the matters of minors from those of adults.

## **2. Parental involvement in the process:**

According to the state, the military orders have been amended over the years to recognize the role of parents in military criminal proceedings against their children. The judge may require their presence at the hearing, and they are entitled "to examine witnesses and present arguments in place of the minor or with him." Parents are also entitled to submit any request the minor (or his counsel) may submit.<sup>24</sup>

Col. Netanel Benisho, President of the Military Court of Appeals, issued a protocol stating that "parents have a pivotal role in legal proceedings involving minors," and "parents form an

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<sup>21</sup> MAG Corps, "Establishment of a Military Juvenile Court in the Judea and Samaria Area," 26 August 2009 (see MAG Corps website: <http://www.law.idf.il/164-3161-he/Patzar.aspx?pos=460> (in Hebrew)).

<sup>22</sup> Ministry of Justice, *supra* note 13, Section 18.3.

<sup>23</sup> Order regarding Security Provisions (Amendment No. 10) (Judea and Samaria) (No. 1676), 5781-2011, dated 27 September 2011.

<sup>24</sup> Order regarding Security Provisions, Section 147.

integral part of the legal proceedings of minors, with everything this entails.” Col. Benisho clarified that “with the object of strengthening the role of the parent in the judicial proceeding and the parent’s participation in the minor’s rehabilitation process, judges presiding in hearings on matters involving minors will allow the defendant’s parent to comment on the substance of the hearing, at all times.”<sup>25</sup>

In September 2011, further amendments were made to the military orders. They establish that, subject to several exceptions listed in the order, minors’ parents must be informed that their children have been taken in for interrogation, using the contact information provided by the minors. If the parents cannot be located after expending reasonable efforts, another adult whose contact information was provided by the minor should be informed.<sup>26</sup>

### **3. Reduced detention periods for minors**

Following several High Court petitions, some of the detention periods instituted in the military orders applicable to residents of the Occupied Territories have been reduced.<sup>27</sup> The changes were made gradually, on the basis of several military orders, with the latest due to enter into effect in May 2018.<sup>28</sup> In the initial amendments, the state did not establish different detention times for minors. The one distinction it drew was between suspects being held on “security offenses” and suspects in “non-security offenses.” It was only later, and under pressure from the Supreme Court, that a distinction was drawn between minors and adults as well.

The reduced detention periods pertain to three different situations:

- Initial detention before being brought in front of a judge: Before detention periods were reduced, military orders required that Palestinians be brought before a judge within eight days from the time of their arrest. Currently, detainees aged 12 to 14 must be brought before a judge within 24 hours; detainees aged 14 to 16 within 48 hours; and detainees aged 16 to 17, like adults, are to be brought before a judge within 48 hours in cases of offenses that are not classified as “security offenses,” and within 96 hours for

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<sup>25</sup> Military Court, *Hearing of Cases Involving Minors – Procedure*, 19 November 2014.

<sup>26</sup> Order regarding Security Provisions (Amendment No. 10) (Judea and Samaria) (No. 1676), 5781-2011, dated 27 September 2011. The amendments became sections 136a-136c in the Order regarding Security Provisions. See also Ministry of Justice, *supra* note 13, Section 18.4.

<sup>27</sup> HCJ 3368/10 *Ministry of Palestinian Prisoners et al. v. Minister of Defense et al.* and HCJ 4057/10 *The Association for Civil Rights in Israel v. IDF Commander in the Judea and Samaria Area*. See also Ministry of Justice, *supra* note 13, Sections 18.5 and 18.6. For an overview of the proceedings in these petitions see ACRI website, <https://www.acri.org.il/he/2664> (in Hebrew).

<sup>28</sup> Order regarding Security Provisions (Amendment No. 16) (Judea and Samaria) (No. 1685), 5782-2012; Order regarding Security Provisions (Amendment No. 25) (Judea and Samaria) (No. 1711), 5782-2012; Order regarding Security Provisions (Amendment No. 34) (Judea and Samaria) (No. 1726), 5782-2012; on the amendments due to take effect in May 2018, see Notice on Behalf of the State dated 30 March 2017 in HCJ 3368/10 and HCJ 4057/10, *Ibid.*

“security offenses.” The orders allow doubling these times if “the necessities of the investigation” so require.<sup>29</sup>

- Remand in custody prior to indictment: In the past, the military court could order a Palestinian detainee to remand in custody for 30 days at a time, and up to a total of 90 days. Thereafter, the Military Court of Appeals could remand the detainee for three more months at a time. At present, detainees who are minors may initially be remanded for 15 days, and then for ten days at a time, up to a total of 40 days. The Military Court of Appeals may subsequently remand the detainees for a further 90 days at a time.<sup>30</sup>
- Post-indictment remand (i.e., remand in custody pending completion of legal proceedings): In the past, individuals had to be brought before the Military Court of Appeals if their trials had not been completed after two years in post-indictment remand then. The appellate court was empowered to order further remands for six months at a time. Currently, minors in post-indictment remand whose trials had not ended are brought before the appellate instance after one year in custody, and the court may remand them again for three months at a time.<sup>31</sup>

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<sup>29</sup> Order regarding Security Provisions, Section 31(b). On 1 May 2018, further amendments are due to take effect, according to which, minors aged 12 to 14 who are not held on security offenses must be brought before a judge within 12 hours and minors aged 14 to 18 in up to 24 hours. Minors aged 16 to 18 who are held on “security offenses” will be brought before a judge within 72 hours (that time may be doubled).

<sup>30</sup> Order regarding Security Provisions, Sections 37(b) and 38. As of 1 May 2018, minors aged 12 to 14 who are not held on security offenses can be remanded to custody for ten days at a time and up to a total of forty days. The Military Court of Appeals will be able to remand all minors for 45 days at a time.

<sup>31</sup> Order regarding Security Provisions, Section 44. As of 1 May 2018, this time will be further reduced: to nine months for minors held on security offenses, and to six months for those not held on security offenses. In both cases, the Military Court of Appeals may remand again for three months at a time.

### III. Impact the so-called improvements have had on minors' rights in the military justice system

The International Convention on the Rights of the Child establishes that “the best interests of the child shall be a primary consideration” which must be taken into account in every decision pertaining to minors. The Convention prohibits handing down a sentence of capital punishment or life in prison for offenses committed when the perpetrator was a minor. It stresses that the arrest, detention or imprisonment of children must be used as a measure of last resort, when there is no alternative route. If minors are, nevertheless deprived of their liberty, their rights must be respected: specifically, their right to education, to maintain contact with their families, to be treated with respect, and to maintain a sense of self-worth, and they must be given prompt access to legal aid.<sup>32</sup>

Juvenile justice systems, in Israel and in many countries around the world, are based on these principles. Their aim is to reduce the harm to minors during the criminal justice process, on the basis of the awareness that there are essential differences between minors and adults, both with respect to their ability to comprehend their own actions, and with respect to their ability to handle the implications of the proceedings against them.

Similar principles underpin the Israeli Youth Law, which underwent sweeping amendments in 2009. The explanatory notes to the bill stated that the new law was designed to reflect the approach of the International Convention on the Rights of the Child and Israeli legislation in Basic Law: Human Dignity and Liberty. The notes also stated that:

This approach seeks to protect the rights of the minor as a suspect or defendant in the commission of offenses in consideration of his developing abilities and the over-riding principle of the child's best interest, and in consideration for the aspiration underlying the law to reform the young offender through the treatment and penalties provided for therein... The principle underlying the bill is improving the protection for the rights of a suspected or accused minor and placing an emphasis on further rights afforded to the minor which, as stated, have not been expressed in statute thus far.<sup>33</sup>

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<sup>32</sup> Convention on the Rights of the Child, Articles 3, 37 and 40. Israel has signed and ratified the Convention. For more, see B'Tselem, *No Minor Matter*, supra note 3, pp. 7-9.

<sup>33</sup> Youth Law Bill (Trial, Punishment and Treatment) (Amendment No. 14) 5766-2006.

Comparing these principles with the principles underlying the military justice system exposes the great disparity between the two systems and challenges the legitimacy of the military justice system. One example is the focus on the individual offender which is a stark contrast to the official statements referred to above which, without a shred of evidence or any factual basis, describe Palestinian minors collectively as brainwashed and hostile.

Given that this is how state officials perceive Palestinian minors, it is hardly surprising that the amendments the state made to the military orders and the practices of the military courts have failed to improve the protection of minors' rights in the courts, as detailed below:

### **1. Military juvenile court does no more than approve plea bargains**

The state considers the military juvenile court a landmark advance in the protection of minors' rights in the military justice system. The establishment of a military juvenile court may be significant for its "declarative component," as noted by the MAG Corps. In practice, however, it has failed to improve the safeguarding of the rights of minors facing charges.

The jurisdiction of the military juvenile courts does not extend to minors' remand hearings, both pre- or post-indictment, despite there being no substantive reason for this limitation and even though the hearings constitute a major part of the legal proceedings against the minors. Remand hearings are held at the ordinary military court. However, when one of the detainees whose case is being heard on a particular day is a minor, the judge instructs the adult detainees and any spectators to leave the courtroom, hears the minor's case separately, and changes the heading on the decision from "Military Court of Judea" to "Military Juvenile Court of Judea" – same judge, same courtroom, same process, same bottom line – just a different heading.

All the juvenile court is left to handle is the trial itself. But trial hearings are very rare, as a result of the standard practices of the military prosecution, as detailed below:

The conviction rate in Israel's military courts verges on 100%.<sup>34</sup> This is not an indication of how effective the prosecution is in proving guilt, but rather a result of the fact that the overwhelming majority of the cases are closed in a plea bargain between the defense and the prosecution: the prosecution usually drops some of the charges, the defendant pleads guilty to others, and the parties agree on the sentence, including the length of the prison term and the fine to be paid. The reason that so many defendants are willing to enter into such agreements is the military courts' policy on detention.

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<sup>34</sup> ACRI figures, *supra* note 8. For older figures, see B'Tselem, *No Minor Matter*, *supra* note 3, p. 52.

Published figures indicate that around 70% of indicted Palestinian minors are held in remand pending the completion of legal proceedings.<sup>35</sup> In other words, after the interrogation is over and an indictment has been filed they are kept in custody until all legal proceedings against them are completed. Individuals on remand are not serving a prison sentence. They have not been sentenced and, therefore, are supposed to be presumed innocent. This is why post-indictment remand should be a rare measure, taken only when there is no other choice.

The military prosecution, however, routinely asks for post-indictment remand and has admitted that this is, in fact, a matter of policy in cases involving stone-throwing, which is the most common brought charge against minors. The military prosecution has also stated that this policy is “in line with the case law of the Supreme Court,” as well as “the State Attorney’s directive to Israeli law enforcement agencies.”<sup>36</sup> Such motions are made regardless of the specific circumstances of the defendant in a particular case.

Military courts review remand pending the end of legal proceedings subject to the three conditions stipulated in Israeli law: the presence of prima facie evidence, the presence of grounds for detention, and the absence of a suitable alternative to detention. However, the military justices have replaced these conditions with a string of presumptions that render them hollow and defeat their purpose as safeguards in remand proceedings. The bar the judges effectively set for prima facie evidence is so low that any confession or incriminating statement presented by the prosecution, even if dubious and rife with contradictions, is enough to meet the threshold.

The presumptions that have replaced the requirement for “grounds for arrest” relieve the prosecution of its obligation to present evidence justifying the detention of the particular defendant whose matter is before the court. In countless decisions, military judges have ruled that the grounds of “posing danger” are automatically present in most offenses with which Palestinian minors are charged, including cases involving a single incident of stone-throwing and defendants who are just 14 years old. When the alleged offense is a “mass public disturbance” or throwing stones at a road or a vehicle, the danger is compounded. The military courts have also ruled that in the vast majority of cases the grounds of “flight risk” are also present given that the defendants live in Areas A or B of the West Bank.<sup>37</sup>

With respect to alternatives to detention, military courts have introduced a presumption that, with rare exceptions, the danger cannot be eliminated by a detention alternative in many

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<sup>35</sup> Ministry of Justice, *supra* note 13, Section 29; DCIP, *No Way to Treat a Child*, *supra* note 6, p. 49.

<sup>36</sup> Military Prosecution Response to B’Tselem, *No Minor Matter*, *supra* note 3.

<sup>37</sup> For more details on the various presumptions, see: B’Tselem, *Presumed Guilty: Remand in Custody by Military Courts in the West Bank*.

offenses, including stone-throwing. Officials cite lack of alternatives to detention as justification for this, both due to lack of cooperation on the part of the defendants, their families and the Palestinian Authority, and because the defendants' society supports them.<sup>38</sup>

The looming threat of detention for the duration of the legal proceedings is one of the major reasons that nearly 100% of the cases end in plea bargains.<sup>39</sup> Going through trial while in prison is fraught with difficulty, including multiple, exhausting trips back and forth between the detention facility and the court. In addition, defendants know that if convicted, they will surely be given a prison sentence, and that even in the extremely unlikely event that they are ultimately acquitted, they will have probably been behind bars – in custodial remand – the same or more time as the prison term they would get in a plea bargain.

Consequently, the military prosecution rarely has to go to trial, in which it would have to present evidence of the minor's guilt and give him the chance to refute it by examining witnesses and presenting alternative evidence. It is thus that the role of the military juvenile court is reduced to signing off on plea bargains already reached between the prosecution and the defense. While judges do note they are not obligated to uphold plea bargains, in practice, they have rarely intervened in them. It is thus that the Military Juvenile Court has become an insignificant player in proceedings involving minors.

## **2. Parents still excluded from the process**

The state argues that the amendments made to the military orders provide for a great deal of parental involvement and give them a "central role" in proceedings against their child. However, here too, the changes have been symbolic and trivial.

First, the level of involvement provided for in the new orders and procedures is negligible to begin with. For example, it does not even grant parents the right to be present during their child's interrogation. In addition, even this already limited involvement is qualified by a long list of exceptions that allow the authorities not to inform parents of their child's arrest and interrogation. For instance, if a minor does not provide his parents' contact details. The order also exempts the authorities from informing parents if there are "reasonable grounds to suspect" the investigation would be obstructed or if doing so would "threaten the security of the

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<sup>38</sup> IDF Spokesperson's Response to B'Tselem, *No Minor Matter*, supra note 3, Sections 36-37. See also Anshel Pfeffer, "[Following Criticism, IDF Raises Age for Palestinians to Be Tried as Minors to 18](#)," *Haaretz*, 5 October 2011. See also Ministry of Justice, supra note 13, Section 29.

<sup>39</sup> DCIP, *No Way to Treat a Child*; supra note 6, p. 50. See also B'Tselem, *No Minor Matter*, supra note 3, pp. 51-54; B'Tselem, *Presumed Guilty*, supra note 37, pp. 57-59.

Area.” The amendment provides no definition for these terms, leaving the interrogators with broad discretion.<sup>40</sup>

Second, since the vast majority of cases never even go to trial, ending instead in a plea bargain between the minor and the prosecution, parents’ involvement in the trial – for example by presenting the court with documents or examining witnesses – is a non-existent option. Lawyers may consult with family members during pre-trial hearings, and in some cases the judges address the parents themselves, but at that point, their influence is minimal.

### **3. Reduced detention times do not affect detention of minors**

The periods stipulated in the law for judicial review of detention have been reduced in recent years. However, this has failed to reduce the number of minors in detention or to have a positive impact on the rights of minors who are prosecuted in the military justice system.<sup>41</sup>

For one thing, the detention times currently prescribed in the military orders can be extended with relative ease and are still longer than the times practiced inside Israel proper. The reduced times have no effect on minors aged 16 to 18, as most of the offenses they are charged with are considered “security offenses.” In addition, the order places no restrictions on keeping minors in remand pending the end of legal proceedings, unlike Israeli law which prohibits it in the case of children under the age of 14.<sup>42</sup>

However, the main reason that shortened detention times have failed to alter reality lies in the fact that these can only be meaningful under a system that practices substantive judicial review of each and every detention decision. Israel’s military justice system, including the military juvenile court, is not such a system. The state may have reduced detention times, but it has stopped short of establishing binding principles for decisions on detention, such as those stipulated in international law and adopted into Israeli domestic law, whereby the detention of a minor should be an exception to be resorted to only when there is no other choice. Instead, for the military courts, the detention of Palestinian minors is standard procedure, and the presumptions introduced by the military judges result in lengthy detention of minors.

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<sup>40</sup> Order regarding Security Provisions, Sections 136a and 136b.

<sup>41</sup> For comparative figures through the years, see B’Tselem website: [https://www.btselem.org/index.php/statistics/minors\\_in\\_custody](https://www.btselem.org/index.php/statistics/minors_in_custody).

<sup>42</sup> Youth Law (Trial, Punishment and Treatment), 5731-1971, Section 10j(1)(1a).

## IV. The decisive phase: Initial arrest and interrogation

Due to the way the military justice system works, as described in the previous sections, primarily its consistent avoidance of trials and reliance on plea bargains, obtaining a confession from a minor or incriminating information about him from others decides the fate of a case. In fact, the military system investigating the minors devotes the early hours and days following arrest to that end. This is how a former military judge, Col. Ilan Katz, described the process:

There's an approach to interrogation that says: First let's get a confession. That's the best situation. There's no evidence to assess. Once you have a confession, the case is closed. You need one supporting detail and that's that. You have a conviction. When you start with evidence, eyewitnesses, you don't know how the case will develop. Once you have a confession... First of all, the investigator will always prefer a confession. That makes your job much simpler, you finish the investigation sooner.<sup>43</sup>

The amendments discussed above focus on what transpires in the military courts themselves. Yet these changes do not deal with the crucial stages of the initial arrest and interrogation, so that the state's focus on these amendments is no more than a smokescreen designed to divert attention from the crux of the matter. The next section focuses on those early stages in the process. During these early phases, minors suffer much harm. They undergo the process in utter isolation, without their parents or a lawyer by their side, or any other adult who has their best interests at heart, to explain what is to come and inform them of their rights. Instead, they are surrounded by adults who are representatives of the regime of occupation under which they live. Some do not even speak their language, and all are entirely focused on extracting a confession or information from the minors.

The state denies any harm to the minors at this point in the process, arguing that military procedures prohibit it. The state also alleges that where such harm does occur, the military court takes a stern approach and, often enough, orders the release of the minor in question. As detailed below, these claims are completely unfounded.

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<sup>43</sup> From the film "The Law in These Parts." For more on the importance of confessions and incriminating statements in military courts, see B'Tselem, *Presumed Guilty*, supra note 37, pp. 24-32.

## **1. The state's position: Measures have been implemented to prevent harm to minors during initial arrest and interrogation**

While the changes in the military orders described above do not pertain to the initial stages of the arrest, the state claims other significant steps have also been taken to ensure the protection of minors' rights during this phase:

- In April 2013, the OC Central Command introduced a requirement to provide the parents of every minor arrested with a form written in both Arabic and Hebrew that lists the reasons for the arrest and indicates where the minor is being taken. The form must also provide a contact number for inquiries and a copy of it must be kept in the minor's interrogation file.<sup>44</sup>
- In May 2013, the Legal Adviser in Judea and Samaria issued a letter to the Israel Police, the Military Police, and all brigade and division commanders operating in the West Bank that explains the procedures pertaining to the arrest of minors. The letter states that minors should be blindfolded only if it is needed for security reasons; that the use of handcuffs is subject to the discretion of the arresting unit's commander; that minors must be sent for a medical exam upon arrival at the holding facility and provided with further medical care if needed; that the minors' families must be informed of the reasons for the arrest immediately, in keeping with the form issued by the OC Central Command; and that minors be interrogated as early as possible in order to facilitate a speedy examination of the allegations against them.<sup>45</sup>
- The Israeli military says it is making great efforts to ensure that the message regarding the protection of minors' rights reaches the entire chain of command, both through routine briefings and specific training. The military has prepared a detailed work plan and budgeted resources to address the issue.<sup>46</sup>

In its document, the Ministry of Justice explains the reasons for some features of the arrest proceedings:

- Restraints: The state argues restraints are used to keep detainees from escaping or to prevent danger to others: "Due to the nature of the physical facilities where the courts are located and the severity of the alleged crimes, minors' hands and feet are restrained

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<sup>44</sup> Ministry of Justice, *supra* note 13, Section 22.1 (the document refers to OC Central Command as "IDF Commander in the West Bank.")

<sup>45</sup> *Ibid.*, Section 22.2.

<sup>46</sup> *Ibid.*, Section 23.

on their way to the court and upon their arrival there, the restraints on their hands are removed.”<sup>47</sup>

- Nighttime arrests: The state argues that in many cases in which there is intelligence about a minor’s involvement in offenses, the arrest is planned in advance to take place in the minor’s home. Such arrests are often conducted at night on account of security reasons and operational considerations. The state adds that while the military is aware of the issues involved in nighttime arrests of minors, daytime entry of soldiers into Palestinian towns and villages has been found to result in “wide-scale disturbances of the peace” that imperil both the soldiers and the local residents.<sup>48</sup>

Officials note that, in addition, military courts are proactive in protecting minors’ rights and preventing violations, and that when the rights are violated after all, the military judges often order the minors’ release. The Military Courts Unit underscored the role played by the military judges in promoting the rights of the minors brought before them, stating:

The military courts have been the flag bearers for assiduous respect for due process and fair trial. These principles, which guide the military justice in their daily work, are also well reflected in the legal handling of cases involving minors.... It can be said, without reservation, that the military court system has initiated and led reforms in both the legal situation and the standard practices of law enforcement agencies with respect to strict observance of minors’ rights, and will continue to do so in future. The decisions of the military courts have an immediate, operative, impact on the ground, both with respect to the conduct of interrogation and incarceration officials and the promotion of legislation anchoring the rights of minors in the Territories. Presiding military judges will continue to follow their conscience and use their discretion to fulfill the difficult task of striking a balance between protecting human rights in general and minors’ rights in particular on the one hand and public safety and national security on the other.<sup>49</sup>

The Ministry of Justice document also asserts that the military courts take a proactive approach to protecting minors’ rights:

Judges in the Military Courts in the West Bank take allegations of inadmissibility of evidence very seriously. The rules of evidence applicable in

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<sup>47</sup> Ibid., Section 25.

<sup>48</sup> Ibid., Section 24.

<sup>49</sup> Response of the Military Courts to B’Tselem, *No Minor Matter*, supra note 3.

Military Courts are identical to those within the State of Israel. When a defendant claims that his/her confession was elicited as a result of misconduct by the investigative authorities, the Court is required to hold a special session, in order to determine whether or not the confession is admissible. Flaws in the interrogation of minors have resulted, on various occasions, in their release from custody; to the inadmissibility of unlawful evidence; and the minor's acquittal of certain offences.<sup>50</sup>

As proof of these claims, the officials cite several judgments, in which judges ordered minors released on bail. Several of these rulings are reviewed below, in another section of this report.

## **2. The reality: Minors' rights routinely violated**

Contrary to the state's claims, and as described above, minors' rights are routinely violated during their arrest and interrogation. The procedures that have been put in place fall far short of providing adequate protection in the first place and, in any event, are not implemented. In addition, the military courts do not release minors whose rights were violated during their arrest and interrogation.

### **A. Inadequate procedures**

The procedures the state cites are not implemented, but even if they were, they provide only partial protection. They do not restrict nighttime arrest or nighttime interrogation of minors; they do not require arrest to be a measure of last resort; and they do not provide for parental presence during the interrogation. Provisions along these lines are meant to protect minors and counter the inherent power imbalance between them and the interrogators. The fact that the minors go through the interrogation completely alone, with no possibility of consulting anyone who will look out for their interests and well-being, severely undercuts the fairness of the investigation and the minors' chances of arguing their case convincingly.

Furthermore, the procedures cited by the state are simply not implemented, and no effort is made to enforce them. Reports by minors and their parents to human rights organizations indicate that soldiers never give parents the form described in the Ministry of Justice document. These reports also indicate that minors are handcuffed and blindfolded in the vast majority of cases and without justification. The argument that minors must be kept in restraints to prevent

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<sup>50</sup> Ministry of Justice, *supra* note 13, Section 26. See also Response of the IDF Spokesperson to B'Tselem [No Minor Matter](#), *supra* note 3. See also Response of the IDF and the Ministry of Justice to the report of the Association for Civil Rights in Israel, *One Rule, Two Legal Systems*, *supra* note 12.

them from fleeing or posing danger to others due to the “severity of the offenses” attributed to them is baseless, given the fact they are surrounded by armed soldiers.

On the subject of nighttime arrests, the state’s contention that these are necessary for the safety of Palestinian residents and security forces is unconvincing, as it is based on accepting the arrest of minors as a routine rather than an exceptional measure taken only when there is no other choice. Any such claim is certainly unfounded in cases in which the minors are interrogated hours after being taken from their homes and with respect to acts carried out long before the arrest, as there could be no urgency to pull them out of bed in such circumstances. In February 2014, the OC Central Command announced a plan to run a pilot program, wherein minors would be summoned for interrogation rather than picked up in their homes in the middle of the night. However, not only was this pilot extremely short lived, it was never a genuine attempt to contemplate a substitute for nighttime arrests, given that some of the summons were given to the minors in their homes in the middle of the night. In any event, the pilot was short-lived, and was terminated after several months.<sup>51</sup>

The only change to the military orders that affects these early phases of the process relates to seeing a lawyer prior to the interrogation. According to the amendment to the Order regarding Security Provisions, minors are to be informed prior to their interrogation “in a language they can understand and with consideration for the minor’s age and level of maturity” of their right to confer with a lawyer in private. According to the order, the interrogator must inform a lawyer “whose contact details have been provided by the minor” of the coming interrogation, but goes on to explain that “such notice to defense counsel whose contact information has been supplied by the minor as aforesaid shall not delay the interrogation.”<sup>52</sup>

This amendment, however, is similarly pointless. First, it stipulates that the minor has to provide the interrogator with his lawyer’s contact information, though it is highly unlikely that an arrested minor would have a lawyer’s contact information. Second, the military order provides for withholding a meeting with a lawyer from Palestinian detainees for up to ninety days if deemed necessary for “the security of the Area” or “the good of the interrogation.”<sup>53</sup> There are no caveats to this provision in the cases of minors. Third, while the order mandates informing a minor of this right prior to the interrogation, it also asserts that such notice to the lawyer “shall not delay the interrogation.” Either way, interrogators usually ignore this

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<sup>51</sup> DCIP, *No Way to Treat a Child*, supra note 6, p. 27.

<sup>52</sup> Order regarding Security Provisions (Amendment No. 10) (Judea and Samaria) (No. 1676), 5781-2011, dated 27 September 2011. Now section 136c in the Order regarding Security Provisions. See Ministry of Justice, supra note 13, Section 19.

<sup>53</sup> Order regarding Security Provisions, Sections 56-59.

provision and do not allow minors to meet with their lawyers before the interrogation begins, or even speak to them on the phone.

## **B. Courts ignore violations of minors' rights**

Contrary to the claims made by state officials, the military courts do not, in fact, order the release of minors due to flaws in the interrogation. As a rule, even in cases in which they complain that their rights have been abused, minors are kept in custody from the moment they are arrested until the end of their prison sentence.

The cases the state boasts of – of justices ordering that minors be released due to defects in the interrogation – are isolated exceptions and in no way reflect the longstanding policy of the courts. In hundreds of judgments that the state does not cite, military justices refer back time and again to the same case law they view as compelling and explain why the above-mentioned atypical rulings do not apply to the case at hand.<sup>54</sup> Although some judges do, sometimes, note that in the case of minors “extra care should be taken, beyond the care required when denying the liberty of any person not yet proven guilty,”<sup>55</sup> these statements are no more than lip service. The arrest of minors is perceived as standard court practice, and judges repeatedly state that the age of the defendant is just one of the considerations a judge may take into account, if at all.

Furthermore, the military courts have ruled that allegations by minors that their confessions were obtained through an interrogation that violated their rights are to be heard and addressed during the proceedings of the main trial. Until that time, the courts remand them to custody.<sup>56</sup> Given that, as noted above, the vast majority of cases end in plea bargains, the said “main trial” never takes place. Consequently, the prosecution never has to prove that the minors’ rights were upheld during their interrogation or that their confessions were lawfully obtained.

The following is a random example, one of hundreds, of routine practices at the military court: A 14-year-old defendant was accused of throwing stones at soldiers and at the Separation Barrier. His lawyer claimed he had been denied a meeting with counsel prior to interrogation and did not have the support of the presence of an adult while it was underway. Netanel Benisho, then a lieutenant colonel, was the judge in the case. He notes in his decision that although “no conclusive findings” could be made on the issue at that stage, the interrogators had apparently breached protocol. Still, he emphasizes that this did not render the minor’s confession inadmissible, but merely reduced its weight, a question to be reviewed “as customary, during

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<sup>54</sup> For clarifications on this policy, see B’Tselem, *Presumed Guilty*, supra note 37.

<sup>55</sup> AA 3137-9/09 *Military Prosecution v. T.S., T.B. and A.A.*

<sup>56</sup> See, e.g., AA 2676-8/10 *M.A., Y.A. and M.A. v. Military Prosecution*; AA 1628+1629/13 *A.H. AND A.A. V. Military Prosecution*.

the main trial.” Lieut. Col. Benisho goes on to state that “the acts attributed to the appellant do raise a presumption of dangerousness” and “point to a real threat should the appellant be released.” Lieut. Col. Benisho then paradoxically uses the boy’s age to justify keeping him in custody, stating that “the appellant’s young age raises concern that he would come under the influence of others who would lead him astray once more.” Finally, in the absence of an alternative to detention, Lieut. Col. Benisho orders the boy remanded to custody until the end of proceedings.<sup>57</sup>

The few decisions repeatedly, and sometimes incompletely, cited by state officials do not, in fact, depict a different reality. Given the hundreds of other cases, in which the judges ordered the minors remanded, these particular decisions appear to be arbitrary and it is entirely unclear why the judges ordered the minors’ release in those specific cases. In each of these decisions, the judges take pains to emphasize the rules underlying the usual policy: the arrest of minors is routine; it can be extended based on their confession alone; there is a “presumption of danger” that precludes their release even on minor stone-throwing offenses and there is no alternative to detention that could obviate the danger they allegedly pose.

For instance, in one case presented by the state as an example of release due to flaws in the investigation, Lieut. Col. Benisho did order the release of a 15-year-old boy who had been charged with stone-throwing on ten different occasions.<sup>58</sup> Defense counsel argued the boy had been taken from his home in the middle of the night, beaten and then immediately interrogated by a person who was not a youth interrogator. Lieut. Col. Benisho found that the minor’s confession could be a significant piece of evidence and that “throwing stones on ten different occasions does, as a rule, provide grounds for detention even in the matter of minors of the appellant’s age.” As such, a decision to remand him in custody would “be in conformity with the law in the Area.” Having reaffirmed the routine of mass arrests of minors, the military judge ordered the boy in that particular case released since “although no legal flaw can be detected in the interrogation in this case, the cumulative circumstances described do produce a troubling sense that the interrogation lacks the sufficient level of fairness required for it to serve as the basis for denying the appellant’s freedom.”<sup>59</sup>

A similar decision, also often quoted by the state as proof of the importance that military courts ascribe to minors’ rights was rendered by Col. Mishnayot in a case involving a boy who was four months shy of his 15th birthday and stood accused of three counts of stone-throwing and one

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<sup>57</sup> AA 1027/10 *S.H. v. Military Prosecution*.

<sup>58</sup> See Ministry of Justice, *supra* note 13, Section 26. See also Response of the IDF and the Ministry of Justice to the report of the Association for Civil Rights in Israel, *One Rule, Two Legal Systems*, *supra* note 12.

<sup>59</sup> AA 2763/09 *A.A. v. Military Prosecution*.

count of interfering with the duties of a soldier. Col. Mishnayot ordered the boy's release on bail, ruling that although the provisions of Israeli law do not apply in the military courts "their spirit cannot be ignored." He added that, ultimately "a minor is a minor is a minor." Col. Mishnayot also expressed his opinion that the interrogation of minors should be subjected to restrictions even without "explicit statutory provisions," including a prohibition on nighttime interrogations and the option to have the minor's parent or another relative present during questioning.<sup>60</sup>

While Col. Mishnayot found that the defendant's confession had been taken at night, after he had been denied the opportunity to confer with counsel and without the presence of his parents, he did not suppress the confession, nor did he order the minor's release due to the violation of his rights. Col. Mishnayot ruled only that the confession did not carry much weight and therefore, there was insufficient evidence to support three of the counts, which were based entirely on the confession. One count of throwing stones at the Separation Barrier was corroborated in the statements of two soldiers. Col. Mishnayot ruled that this was not enough to hold the boy in custody, as the offense was unlike that of "a mass public disturbance" or an act "that could pose real danger to IDF soldiers or other individuals," and therefore, he posed "minimal danger" and should be released.

The rule established by Col. Mishnayot is that "When the case involves a minor who has no criminal record, is not a recidivist and whose alleged act does not entail real danger inherent to its nature, a suitable alternative to detention with appropriate guarantees and supervision should be strongly considered in order to give the minor a chance to mend his ways." Given the court's policy of recognizing a "presumption of danger" with respect to most acts attributed to minors, and another presumption that detention alternatives cannot obviate this danger, this rule would result in the release of precious few minors.

The narrow applicability of this rule was apparent in a later judgment, in which Col. Mishnayot ordered the remand of a 15-year-old accused of stone-throwing. The military judge clarified that the rule he had established did not apply in that case, given the absence of evidentiary difficulties and the fact that according to the investigation file, "at that time and on that road, two vehicles had been hit by stones."<sup>61</sup>

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<sup>60</sup> AA 2912/09 *Military Prosecution v. N.A.*

<sup>61</sup> AA 2309/11 *Military Prosecution v. M.A.*

In another judgment often quoted as an example for the release of a minor due to the violation of his rights during the interrogation, Lieut. Col. Benisho made entirely different findings.<sup>62</sup> The case involved a 14-year-old boy accused of stone-throwing in “twenty to thirty cases” and participation in demonstrations. Lieut. Col. Benisho addressed the “considerable danger in the acts carried out by the respondent who had allegedly involved himself time and time again in violent offenses,” and expressly held that the violation of the boy’s rights during the interrogation did not, in and of itself, justify his release. The military judge explained that the Military Court of Appeals does not take a uniform position on the release of minors due to flaws in the investigation. A violation of the suspect’s rights could lead to his release, while a similar request “citing similar grounds” might not. As for this specific case, Lieut. Col. Benisho held: “It is entirely unclear how much the alleged flaws had a real impact on the respondent’s freedom to deliver his confessions.” Hence, the alleged violation of his rights did not, in and of itself, warrant his release. Nevertheless, Lieut. Col. Benisho did eventually order the boy’s release because “these grounds are augmented by further grounds of considerable weight relating to the duration of proceedings in this file.” It was the cumulative impact of these two factors, “even if neither could, on its own, lead to release,” that ultimately led to the decision to release the boy.

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<sup>62</sup> AA 1411/11 *Military Prosecution v. N.A.* Cited in Ministry of Justice, *supra* note 13, Section 26 and in Response of the IDF and the Ministry of Justice to the report of the Association for Civil Rights in Israel, *One Rule, Two Legal Systems*, *supra* note 12.

## Conclusions

Israel chose to institute a military court system in the West Bank and to use it also when trying Palestinian minors. Official documents indicate that the state understands, at least in theory, that minors are entitled to special protections and that a juvenile justice system must be guided by principles different from those that apply to adult proceedings. However, the situation on the ground indicates that these statements are no more than lip service. They are entirely in the realm of public relations, and bear no relation to what actually goes on.

Every year, hundreds of Palestinian minors are put through 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 involves threats, yelling, verbal abuse and sometimes physical violence. Its sole purpose is to get the minors to confess or provide information about others. They are taken to the military court for a remand hearing, where most see their lawyer for the first time. In the vast majority of cases, the military judges approve remand, even when the only evidence against the minors is their own confession, or else allegedly incriminating statements made against them by others. This is the case even when the statements were obtained through severe infringement of the minors' rights. Given these circumstances and that a prison sentence is the likely outcome in any event, the minors agree to plead guilty as part of a plea bargain. They sign it so that they can resume their normal lives as soon as possible, after serving the prison sentence set out in the plea bargain, which was then approved by the justice of the juvenile military court.

These practices of the military justice system deny minors any real opportunity to defend themselves against allegations. Moreover, they transfer the power to decide the fate of the defendants to the military prosecution. In the vast majority of cases, the prosecution's decision to file an indictment seals the fate of the case and of the defendant, while the court merely rubber stamps plea bargains made outside the courtroom.

These practices also shift the entire weight of the legal proceedings to the early days of the detention, which the system dedicates to eliciting confessions or extracting incriminating

information about others from the minor. These, in turn, provide the basis for indictments. The few safeguards afforded to minors during these stages – in the military orders, the protocol of procedures soldiers are instructed to follow, and the policy of the courts – fail to truly protect them and give the interrogating authorities a free hand to get what they want while trampling the minors' rights underfoot.

The military justice system ought to be overseeing the conduct of the authorities during these initial stages in order to prevent violation of minors' rights. However, the military judges avoid discharging their duty. Even when minors allege their rights have been violated, judges defer examining these claims to the "main trial," which they are fully aware rarely takes place. In the meantime, on the strength of confessions the minors say had been obtained through violation of their rights and based on unfounded presumptions introduced by the military judges with respect to all Palestinian minors, they remand the minors in custody.

Given all this, the changes introduced to the military justice system – the establishment of a Military Juvenile Court, the institution of special detention periods for minors, issuing soldiers with procedures on the arrest of minors and even the military judges' adoption of Israeli case law, are superficial, and affect nothing more than form. The system continues to ignore the basic tenets that are the cornerstone of juvenile justice systems under both international law as well as in many countries around the world, including Israel. Among these tenets are the principle of the best interests of the child, that arrest and detention must be measures of last resort in the absence of any other choice, and a preference for rehabilitation over legal proceedings.

In the military juvenile justice system, protocols and orders are written by Israelis, always over the heads of Palestinians, who have no way of influencing the content of the orders that govern their lives. The rules are implemented by soldiers, judges and prosecutors, all of whom are uniformed Israelis representing the interests of the occupying country. It is a system in which Palestinians are always suspect. The military courts are not, nor can they ever be, neutral arbiters. They constitute an apparatus of the occupation, one of the main tools which Israel uses to oppress the Palestinian population and quell any sign of resistance to its continued control over the Occupied Territories.

This is also why attempts by Israeli officials to draw parallels between the military justice system and the Israeli justice system are futile. The two systems are predicated on different values and are designed to protect different interests. Whereas the courts in Israel proper, inside the Green Line, reflect the interests of the defendants' own society and seek to protect them, the military courts in the West Bank reflect the interests of a regime of occupation, and primarily its determination to endure. These courts do not reflect the interests of the

defendants or their society. This substantive difference leads to the disparity between the two systems in terms of how arrests are made, the types of offenses adjudicated, the evidentiary requirements for indictments, the grounds for detention, and the sentences handed down. Therefore, any comparison of figures across these two systems is irrelevant and designed only to legitimize the military justice system.

The military justice system is not the only area in which Israel takes pains to create a façade of legality in an attempt to hide the human rights abuses associated with enforcing the regime of occupation. Israel does this with the military law enforcement (or rather, non-enforcement) system. The complex apparatus it established, ostensibly designed to address Palestinians' complaints against soldiers, actually serves as a whitewashing mechanism. Israel does this when it demolishes Palestinian homes, alleging that they were built without construction permits. Yet in reality, Palestinians have no way of actually securing such permits so they can build their homes legally. It is a situation the Israeli authorities are not only fully aware of but are actually responsible for creating. This is also what Israel does when it insists that it has not annexed the West Bank. Yet, in practice, Israel treats the territory as its own, applying its laws at will and ignoring the needs of the Palestinian population.

This façade does nothing to safeguard human rights. Its sole purpose is to legitimize the regime of occupation. To that end, this regime occasionally introduces processes, meetings, committees, pilot projects and reports. The façade also makes the regime of occupation more palatable to the public, both in Israel and internationally. It is easier to stomach the imprisonment of a boy when a judge appears to have "considered the full weight of the evidence." It is easier to stomach the demolition of the home of an entire family because of an attack one of its members carried out in Israel, when it seems like a Supreme Court justice has "reviewed the case." It is easier to stomach the expansion of a settlement when it seems that the land on which it was built had been declared "state land" as per proper procedure instituted by the authorities.

But behind this façade lurks a regime that has been responsible for the violent abuse of millions of people, day in and day out, without anyone or anything getting in its way, for fifty years now. No law, no military order, no procedure or ruling can obscure this fact. Lift the veil, and the regime of occupation is exposed in all its ugliness for all to see.

## Testimonies

### **Testimony by Muna Haj 'Ali, 42, a married mother of five from the village of 'Einabus, Nablus District; her son Ahmad was arrested when he was 17 years old<sup>63</sup>**

On Sunday, 22 January 2017, I was at home, waiting for my son Ahmad (17) to come back. He was out buying clothes with a friend of his, Amir, and was late. Then the phone rang. Amir's father was on the line, and he told me that soldiers had arrested our sons at a flying checkpoint and taken them to the police station at Ariel. I couldn't believe it! My son is young, and I found it hard to believe he'd done anything. We tried to find out what was going on with them, but couldn't get any answers.

I thought they'd probably been arrested for a traffic violation or something of the sort, and that they'd soon be released. That didn't happen. I was very worried about Ahmad. I didn't know where he was, what state he was in, whether he was hungry, cold, perhaps in pain? I had lots of questions swirling around in my mind.

On Tuesday, Amir's family told me that the two boys were being held in Megiddo Prison and a hearing scheduled at the Salem court on Thursday.

We didn't know at what time the hearing was supposed to take place and were worried they would go first, so my husband and I set out very early in the morning to get to the court on time. When we got there, we were patted down and then we went in to the waiting room. The room can hold about 30 people, but there were 70 or maybe even 80 people there. I stayed there with the other women and the men waited outside, in the cold.

We visited the court several more times. Waiting there was tough and very tiring. Every time I got back from there, I'd fall onto the bed exhausted – mentally and physically. We'd set out very early, at 6:00 A.M., because we never knew what time the hearing would be. Sometimes, the hearings were held very late and we only got home around 6:00 P.M. On those days, I couldn't do anything around the house and just wanted to sleep. We felt degraded by the frisking every time we went in and out of the court, and spent most of our time there just sitting around, waiting. There were more than 20 hearings altogether, almost once a week. When I was there I couldn't pray, because of the conditions there. Also, there was a leak in the yard coming from the toilets, so we had to lift our clothes to keep them from getting wet.

Inside the courtroom, I could see Ahmad only from far away. He look tired and lost a lot of weight. You could see he was suffering. His hands were even a bit blue and when I asked him

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<sup>63</sup> Given to Salma a-Deb'i on 7 January 2018.

why, he said: "Because I've been handcuffed a long time". I was so sad to see what my son was going through. He's my spoiled little boy, how could all this be happening to him?

During the hearings, the interpreter translated only some of what was being said. Most of the time he played with his phone and ignored what was going on in the courtroom. He couldn't care less what was going to happen to the boy or his worried parents. I didn't understand a thing. My husband understood some of what was said and translated for me. I gathered that Ahmad and Amir were being charged with throwing stones at the main road, disturbing security forces and endangering their lives. I also understood that the soldiers were supposed to come and testify against them. Every hearing, the judge waited for the soldiers to arrive, but they never showed up and the judge would postpone the hearing.

In the courtroom, the lawyer explained to us that what the soldiers had said was enough to convict Ahmad and Amir, even if they didn't testify in court. He recommended that we take a plea bargain, because they would each be sentenced to seven months in prison instead of 18, and pay a 2,000 shekel (~570 USD) fine. I thought Ahmad wouldn't like it, but I managed to get across to him from across the courtroom that seven months were better than 18 and that "there's nothing left, the time will pass". So we took the deal and the judge issued the sentence at the next hearing.

During the hearings, I just watched my son and felt how unjustly the soldiers there were treating him. They looked at him and behaved towards him with contempt, like he was a fly or a piece of garbage. He tried not to look their way, but they kept looking at him all the time. The minute the hearing was over they whisked him away, and I would take advantage of the seconds we had as he passed through the courtroom on the way out to ask how he was doing and encourage him to be patient.

In the first hearing, I wasn't familiar with the procedures. When I saw the soldiers leading my son in, I called out to him and asked loudly how he was doing. The soldier who was there got furious. She yelled at me and wanted to remove me from the courtroom. I promised her I wouldn't speak to him again, and in the end she let me stay.

**Testimony of Maysoun al-Kaeid, 56, a married mother of three from the town of Sabastiya in Nablus District; her son Malek was arrested when he was 16 years old<sup>64</sup>**

On the night of 31 October 2016, at around 1:00 A.M., I heard knocking at the door. I opened my eyes and wondered what was going on. Suddenly, the window above my bed opened and someone drew the curtain aside. I saw an arm in military uniform and realized it was soldiers.

My husband, Medhat (53), had already gone to open the door. I can't get up quickly because I'm on medication that makes me weak and not function or concentrate properly. In the morning, it takes me time to fully wake up, but because of the soldiers I got out of bed immediately. I barely made it to the living room, and sank down on the couch as soon as I got there.

There were already a lot of soldiers in the house. Soon after, my son Muhammad (25) came downstairs with his wife, Rawan (25), and their baby, Tiya, who was three months old at the time. They live on the next floor up.

One of the soldiers ordered all the women into our bedroom. I went in there with Rawan, her baby and my daughter 'Orub (19). The soldiers told my husband and my sons – Muhammad (...) and Malek (16) – to stay in the living room. They told us all to show them our identity cards.

They kept us like that for about an hour. Then an officer came and started talking to my husband about all sorts of general things. I could hear them from the bedroom. He asked him about his work as an imam at a mosque and said: "I want to get to know you and your family". The officer then questioned Malek about his job and who he hangs out with, and asked if he knows someone called Hani. Malek said it's his cousin. The officer then asked him: Do you throw stones? And Malek said he doesn't.

Then the officer said to my husband: "We want to take Malek for a while". I understood they wanted to arrest him. I said to them: "What do you want from him? He's young". One of them answered: "We'll bring him back very soon". I said I wanted to give him clothes, because it was cold outside and he was wearing short clothes. A female soldier who was with them said: "I'll take the clothes", but I said: "No! I'll give them to him". I went to Malek's room and got him some clothes. The female soldier followed me and watched me the whole time. I give him his clothes and he put them on in the living room.

I took Malek's hand in mine and told him to take care of himself. Then the soldiers led him away and I burst out crying. He's a kid with a warm heart, very caring towards the people he loves. He likes joking around and always looks after me.

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<sup>64</sup> Given to Salma a-Deb'i on 19 December 2017.

I was very worried about him. He had never been arrested before and he's just a kid. I couldn't stop worrying and crying until he was released. I couldn't sleep and would lie awake crying. I didn't know where he was, what he was eating, whether he was hungry, cold, sleeping enough, being beaten. I kept saying: "Where is he? I want my son". My husband and my son Muhammad told me they had it on good authority that the army doesn't beat kids. They lied to me to make me feel better. After he was released, they told me they'd seen the soldiers hit him once they led him out of the house.

In the morning, my husband called the Red Cross and the Palestinian Prisoners' Society and told them Malek had been arrested. Later that day we were informed, I think by the Red Cross, that he was being held at Megiddo Prison. Medhat got the number of Defense for Children International from a friend and called to ask them to defend Malek.

The lawyer they appointed called us and said the army would bring Malek to court to extend his detention. The hearing was supposed to be held three days after he was arrested. That morning, at around 9:30 A.M., the phone rang and suddenly I heard Malek's voice. He spoke quickly and just said: "I'm okay, don't worry about me, everything's fine". It was a very short conversation, but I was so relieved just to hear his voice. He said he was at the court in Salem. That day, the court extended his detention.

My husband and I attended the second hearing at the Salem court. The night before, I couldn't sleep. I lay awake thinking about Malek and how I'd see him in the morning. We set out at 7:00 A.M., in a taxi. When we got there, we were frisked. Then we walked quite a long way and were patted down again. They inspect the women and the men in separate rooms. Then they put our names down on a waiting list and we waited outside until his hearing, which was at midday.

We entered the courtroom and then Malek was led in by two soldiers, with his hands and legs shackled. It wrenched my heart to see him like that, but I held back from crying in front of him. He was about 20 meters away from me, inside a cage. He asked me how I was, but the soldiers motioned him to be silent. They treated him cruelly.

The hearing lasted about 15 minutes. I understood what was going on because there was an interpreter. After it was over, the lawyer explained what was going on. He told us that Malek was being charged with throwing stones and assaulting a soldier. The soldier testified against him, but Malek denied the allegations.

We attended the third hearing, too. When it was over, as they were leading Malek out of the courtroom, I said to him: "Take care of yourself, don't worry, everything will be okay". He answered: "Don't worry, just look after yourself". He's always worrying about me, because I'm ill

and on a lot of medication. The soldiers grabbed him by the shoulder and pushed him ahead. They don't let the detainees talk to their families, but there was no other opportunity to go up to him and ask how he was – not even two minutes. We couldn't visit him in prison, either.

The lawyer called my husband and told him that a soldier had seen Malek throw stones. He also said that someone from our town had said under interrogation that Malek had once injured a soldier by throwing stones. The lawyer said he could get up to five years in prison for that and recommended that Malek agree to a plea bargain of two months in prison and a 1,000 shekel (~280 USD) fine. My husband agreed, and in the fourth hearing he handed the lawyer the money. My son Muhammad also came to the hearing but they wouldn't let him in, because they allow no more than two family members. At that hearing, the judge accepted the plea bargain that my husband agreed to with the lawyer and sentenced Malek to two years in prison and a 1,000 shekel fine.

When Malek came home, I couldn't believe it. Our house came back to life. The whole time he was in prison, I stopped cooking his favorite food. I couldn't even eat eggs, because Malek loves them. He's my son, he's part of me, part of my body, and I couldn't stand the fact that he was behind bars. The day he was released, I prepared a feast with his favorite dishes and invited all our friends and relatives. Everybody came.

**Testimony of Muhammad Fuqaha, from the village of a-Labad, Tulkarm District, who was arrested when he was 16 years old<sup>65</sup>**

On Friday, 21 July 2017, after Israel installed electronic gates at the entrance to al-Aqsa Mosque, protests and demonstrations took place throughout the West Bank. In our area, after Friday prayers, there were demonstrations near the Separation Barrier and young guys clashed with the military.

At around 2:30 P.M. I was near the schools close to Khadouri College, which is about 300 meters from the barrier. Suddenly, a military jeep drove up. The young guys and everyone else ran off, but I got all flustered and didn't manage to get away. Four soldiers caught me, threw me down to the ground and started hitting me. They tied my hands behind my back, blindfolded me with a cloth and put me in a military jeep that drove me to the checkpoint west of Tulkarm.

The soldiers took me out of the jeep and left me at the checkpoint. Then they brought other young guys there. We waited for three or four hours, eight guys in total. The soldiers transferred us to the police station in Ariel, where they put us in a room and ordered us to sit on the floor. During the night, the soldiers took us into interrogation one after the other.

They took me first. There were two people in the interrogation room. The interrogator warned me that whatever I said would be used against me in court and that I had the right to remain silent. He called a lawyer and gave me the phone. The lawyer talked to me and told me not to be scared, to answer the interrogator's questions quietly, and that he'd speak with him to make sure they treated me well. Afterwards, I found out that the lawyer called my elder brother and told him that I was being interrogated at the police station in Ariel.

The interrogator accused me of throwing stones. I denied it. The interrogation lasted about an hour, and he shouted at me for some of that time. When it was over, I was taken back to the room with the other detainees. They finished interrogating everyone by midday and transferred us all to the military base at Huwarah, and I stayed there until the next morning.

On Sunday morning I was taken in a prison service van to the court at Salem, to have my detention extended. There were two lawyers there. One of them was the guy who'd talked to me on the phone. My parents were at the court, too. I managed to speak to them briefly and ask how they were. The court extended my custody until Thursday, 27 July.

From the court, I was taken to Megiddo Prison in a van with some other kids. It took us until the evening to get there, because they stopped at all sorts of places along the way. The prison

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<sup>65</sup> Given to Abdulkarim Sadi on 7 January 2018.

service van has metal benches and metal cubicles with netting inside. Like iron lockers. They put two detainees in every locker. When we got to Megiddo, they searched us and then put us in Wing 3, which is for minors. I had supper there. I was exhausted from the drive, which took all day.

The next day – Monday, 24 July – I was told I was being taken to the police station in Ariel for interrogation. On the way, the van passed through several prisons and I only got to the police station eight or nine hours later. At the station, I was interrogated again about throwing stones at Border Police officers and injuring soldiers. I denied everything and refused to sign the written transcript of the interrogation. It lasted for about half an hour. Then they drove me to Hasharon Prison, where I spent the night. On Tuesday morning they transferred me back to Megiddo Prison. The drive took about seven hours.

On Thursday morning, they took me to court in Salem again, with other detainees, to have our detention extended. I waited there from morning until afternoon, for them to finish proceedings with the other detainees who came with me. My detention was extended by another four days. I saw my lawyer there and told him that I'd been interrogated again. My father was in the courtroom and I managed to speak with him for two minutes. I was brought to court at least eight more times after that.

The last time was on 3 October 2017, when the court convicted me and sentenced me to six months and a day in prison in addition to a 1,000 shekel (~280 USD) fine, for throwing stones at Israeli soldiers. I didn't confess, but my lawyer said there were testimonies of soldiers and that I could have been given a heavier sentence, so he agreed to a plea bargain with the prosecutor.

I was released on 31 December 2017 and taken to Jalameh checkpoint, north of Jenin. I'm supposed to go back to school at the beginning of the second term, at the end of January 2018.

**Testimony of ‘Abed Sabah, from al-Jalazun Refugee Camp, Ramallah District, who was arrested when he was 15 years old<sup>66</sup>**

On 20 August 2017, at around 3:00 A.M., my mother woke the whole family up and said there were soldiers at the entrance so we had to get up. I got up before everyone else, because I was afraid the soldiers would burst into the house. A few seconds later, the soldiers knocked on the door and my father opened it.

About ten soldiers came in. They were all carrying guns and wearing protective flak jackets. I didn't think I was going to be arrested because I'm a kid, and I didn't do anything. I was sure they were there to arrest my brother 'Omran, who is eighteen. Their officer made my brother and me stand together, with the soldiers surrounding us. They asked us our names and told us to turn around on the spot. They held up photos of us and compared them to our faces. In the end, they let 'Omran go and the officer said to me: "Get dressed, you're coming with us". I only had an undershirt on, so I went to get dressed. In the meantime, the officer handed my father an arrest warrant, without explaining why I was being arrested or where I was being taken.

The soldiers led me outside and one of them tied my hands behind my back with plastic cable ties. He blindfolded me with a strip of cloth and then the soldiers led me through the alleyways until we reached the end of the camp, about 300-500 meters away. There were military jeeps parked there. Along the way, the soldiers slapped me, hit me with their hands and rifles, and kicked me with their heavy boots. They hurt me and swore at me.

When we got to the jeeps, they put me inside one, on the floor, and sat down around me. I couldn't see a thing. During the ride, they continued hitting me. When the jeep stopped, the officer who had arrested me came up and told me we were in the military base at Beit El. The soldiers led me to a big yard. At first, they removed my blindfold, sat me down on the floor and leaned me up against a wooden post. Then they tied me to the post, blindfolded me again and left me there for several hours. The whole night, I wasn't allowed to go to the bathroom. I also asked them to loosen the plastic cable ties a bit because they were really hurting me, but the soldiers refused and also hit me every now and then. They gave me a particularly painful smack on the back of the head with a hard object, and after that I had very dizzy spells once in a while. During the arrest, I had two attacks like that, and both times they gave me medication that soothed it.

At around 7:00 A.M., they told me to get up because I was being taken to a police station. When I got up, I felt all wobbly and one of the soldiers held me up. They put me in a jeep, and again the

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<sup>66</sup> Given to Iyad Hadad on 25 December 2017.

soldiers hit me throughout the drive, but not much. When we got to the police station at Binyamin, the soldiers removed the blindfold and switched the cable ties to metal handcuffs. They also put my legs in restraints. I could hardly walk and almost fell over. They took me straight up to the second floor and sat me down on a chair facing the interrogator. There was another interrogator in the room, wearing a police uniform, and someone else in a military uniform.

As soon as I was inside the room, the interrogator told me he was going to question me about throwing stones and a pipe bomb. He let me call my family before the interrogation began. I spoke with my brother and told him I was being interrogated and that I wanted a lawyer, but then the interrogator took the phone out of my hand and I couldn't continue the conversation. I didn't even get a chance to tell my brother where I was being held. The interrogator started questioning me without reading me my rights, and didn't even tell me I had the right to remain silent until I saw my lawyer.

The interrogator accused me of throwing a pipe bomb towards Beit El, but I denied it. He kept insisting that I confess and said it could help me get less time in prison. After about an hour, he told me to sign two documents in Hebrew. He said they would help me get a shorter sentence and could get me released. I didn't believe him and refused to sign. When the interrogation was over, they took me to another room where they took my photo and fingerprints. Then I was taken down to the entrance, with my both my hands and legs in restraints. About half an hour later, I was taken to the detention facility at Ofer. At Ofer, they ordered me to take my clothes off, strip-searched me and stood me in front of a metal detector. They ordered me to squat and stand back up in front of the detector about four or five times. Then they gave me a prison shirt and pants and took away everything I had on me – my clothes, my shoe laces – and handcuffed me, tying my hands in front of me. They put me in a cell for minors.

From the cell, I was taken with my hands tied in front of me in metal handcuffs to a waiting room. About twenty guys around my age were sitting there, waiting for their court hearing. From that room, we were taken by bus to the court, which is in the same military base. Every time we were taken there, they would chain our legs to the seats of the bus until we got to the court, where they would remove the restraints. In the court, we were taken into a waiting room. We sat there on concrete benches. We could move, but there was barely any space because the room was very small, about three by three meters with twenty people in it. Air came in through one window. When we were taken from there to the courtroom, they put the restraints back on. They called the detainees into their hearings one by one. While the rest of us waited, they

brought us each an apple and a cucumber for breakfast. Lunch was a slice of bread, a small yoghurt and a cucumber.

I was taken into the courtroom at midday. One soldier walked ahead of me and another behind me. No lawyer came to represent me and none of my family showed up. Maybe they didn't know about the hearing. I didn't understand what the purpose of the hearing was. The judge only asked me my name, and the interpreter translated. Then the judge informed me that the trial had been postponed, I don't remember until what date. A few minutes later, they took me back to the waiting room. I stayed there until 4:00 P.M., with my legs in restraints, and then they drove us back to the prison by bus.

We were put back in the cell. It's about three and a half by two meters and holds fifteen boys. There is one and we slept on bunk beds. Every bed had a mattress and blanket. We got two meals a day. Lunch was bread with jam and hummus, served at midday. For supper, we got meat stew or chicken with rice at 6:00 P.M. Between the meals, we could buy at commissary – tinned food, bags of chips, sweets and chocolate. They would open the doors of the cells every half an hour and we could go out to the yard. In the yard we could play table tennis and exercise. Also, every cell had a TV that the prison management controlled, as well as some games and books.

In early September, I don't remember the exact date, I was taken out of the cell at 6:00 A.M. and driven to court. I waited in the waiting room until 2:30 P.M. and then they took me into the courtroom. This time, there was a lawyer there to represent me. He spoke with me for about five minutes inside the courtroom. He said they were charging me with throwing stones and Molotov cocktails, and asked if I had confessed to any of those charges. I said I hadn't. He said they could give me two years, but he'd try and postpone the trial until the end of October.

The lawyer spoke with the judge. I didn't understand what he said because they spoke in Hebrew and the interpreter didn't translate what they were saying for me. I used the opportunity to talk to my mother, who was in the courtroom. I could only talk to her from a distance, because they didn't let her come near me or even shake my hand. I couldn't say anything except "What's up?" and "How are you?" because we had no privacy. But it made me feel better, knowing that my family was okay and they knew that I was doing alright. The hearing only lasted five minutes, and my trial was postponed until the end of October. I was taken back to the waiting room and at 4:00 P.M., when all the hearings were over, they took us back to prison.

On October 30th, I was taken again to court at 6:00 A.M. My hearing began at 2:30 P.M. My parents were there and again, I could only say hello to them from a distance. The lawyer came

up to me and said: "I want to make a deal". The deal included two months and 15 days in prison – which was the time I'd already spent in detention – as well as a 2,000 shekel (~570 USD) fine and another five months on probation. The lawyer asked my father if he had the money, and told him that if he did, I would be released that day. My father handed him the cash outside the courtroom. There was no hearing, and at 7:00 P.M. I was taken back to prison.

At 8:00 P.M. I was called and informed I was getting out. They gave me my clothes back and drove me to Beit Sira checkpoint. There were three other detainees with me, whom I didn't know. I was dropped off at the checkpoint at 11:00 P.M. No one was there waiting for me, because no one knew I was being released there. I asked one of the Arab drivers who work in the area to use his phone, and I called my brother. He told me he was waiting for me outside Ofer Prison. He came to pick me up with a taxi and we went home.

I missed more than 45 days of school and the midterm exams. I don't know if the school will help me make up the studies I lost, but I'll do my best to catch up.