



## Report by B'Tselem and HaMoked

### *Unprotected: The Detention of Palestinian Teenagers in East Jerusalem*

– Executive Summary –

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Palestinian teenagers from East Jerusalem are pulled out of bed in the middle of the night, unnecessarily handcuffed and then made to spend a long time waiting for their interrogation to begin. Only then, when they are tired and broken, are they taken in for lengthy interrogation sessions, without being given the opportunity to speak to a lawyer or their parents before the questioning begins and without understanding that they have the right to remain silent. They are then held in the detention facility under harsh conditions, for days and weeks, even once the interrogation has, in fact, ended. In some cases, all this is attended by threats, verbal and physical abuse – before or during the interrogation.

Once the boys are officially placed under arrest, their parents are excluded from the proceedings altogether. At no point in time do the law enforcement authorities consider them relevant to the process or as persons entitled to protect their children. They are given no more than the very barest minimum of information about what is happening with their son or what rights he has. Only very rarely are they even allowed to meet with their child. This leaves the parents powerless, unable to help their own child.

Without the protection of their parents or any other adult they can trust, and in complete disregard of their youth, the boys have to endure this entire process alone, far from their families, away from their normal daily routine and anything familiar. The boys find themselves in a threatening and bewildering situation, with none of the adults around them taking the trouble to tell them what is going on. No one explains to them where they are being taken, what they are suspected of, what their rights are, who they may confer with, how long the process will take and when they will return to their families and homes. Worse still, the accounts given by the boys indicate that the adults around them – police officers, agents of the ISA (Israel Security Agency), prison guards and judges – treat them as though they are not entitled to anything at all. Whenever the boys make requests that are granted – be it for food and drink, a towel, access to the toilet or speaking to their parents – it is seen as a gesture of good will, completely at the discretion of whoever is in charge.

These practices leave law enforcement agencies free to use pressure to force them to confess. And indeed, many of the detained minors sign involuntary confessions (sometimes the confessions are false and sometimes written in a language they do not understand), which are then used as the basis for the indictments against them.

This reality is reflected in 60 affidavits B'Tselem and HaMoked collected from East Jerusalem teenaged boys who had been arrested and interrogated over the space of a year and a half, from May 2015 to October 2016. Some of the boys were released after the interrogation, while others were indicted. The findings that emerge from these affidavits, in conjunction with the great deal of information amassed by HaMoked, B'Tselem and other human rights organizations, demonstrate that the situation as described in this report is the primary mode of conduct adopted by the State of Israel for dealing with boys who are suspected of stonethrowing. What we are dealing with is not a few individual rogue interrogators or prison guards who defy regulations. Rather it is a case of a plain and clear policy followed by the various authorities: the police who carry out the arrests; the IPS (Israel Prison Service) which keeps the boys incarcerated in harsh conditions; and finally, the courts, where judges virtually automatically extend the boys' custodial remand, even in cases when the arrest was unwarranted to begin with, even when the interrogation is already over, and even in cases of boys complaining of being subjected to physical abuse.

The authorities make sure this policy remains, technically, nominally, within legal provisions: it issues arrest warrants (at least sometimes); interrogation sessions are (usually) conducted in the hours permitted by law; the courts extend remand for the periods of time stipulated by the law; and the boys sign written confessions. In addition, the system includes an oversight mechanism that has the authority to review complaints made by minors regarding the conduct of police officers, prison guards or interrogators.

But none of this does any more than create a semblance of legal conduct, with a view to granting legitimacy to these proceedings. In practice, the conduct itself is based on a literal, technical interpretation of the protections afforded to minors by law and reliance on the exceptions it provides. When it comes to Palestinian minors from East Jerusalem, the safeguards set out in the Youth Law are routinely rendered hollow and meaningless by police officers, prison guards and judges who consider their nominal, technical observance of the provisions puts them in the right.

Below are some striking examples:

- **The arrest:** Under Israeli law, minors may be arrested only in rare exceptions, and even then, for as short a time as possible. However, the affidavits collected for the present research show that arrest is in fact the police's preferred course of action. Only in 13% of the cases did police refrain from arresting the boys, instead summoning them to come in for questioning. In all other instances, the boys were apprehended either in their homes or on the street and brought in for interrogation. Arrest warrants were issued in advance in some of the cases, but all arrests were retroactively approved by the courts, which also repeatedly sanctioned the minors' custodial remand after the initial (unjustified) arrest, including after the interrogation had ended.
- **Physical restraints:** Restraints may be used on minors only in exceptional cases and for the as short a time as possible. The affidavits collected for the present research show that placing minors in restraints is the rule rather than the exception: In 81% of the cases, the boys were handcuffed before being taken into the vehicle that transported them to the interrogation. Seventy percent of the boys were kept in restraints during the interrogation sessions, sometimes kept in both handcuffs and leg restraints.
- **Night interrogation:** Israeli law prohibits interrogating minors at night, subject to certain specific exceptions. Nevertheless, a quarter of the boys said they were interrogated at night. Moreover,

91% of boys who were arrested at home were arrested at night, when most were already asleep in bed. Even if at least in some of the cases, interrogators waited until morning to begin the interrogation, the boys arrived at the interrogation tired and scared after a sleepless night.

- **Violation of rights:** The rights afforded to minors were enshrined in law to help them protect themselves and to mitigate the immense power imbalance between them and the interrogators. These rights are upheld in a technical manner that renders them meaningless:
  - The right to remain silent: Interrogators informed the boys of their right to remain silent in only 71% of the cases, but in 70% of these, the boys did not understand what the right meant and were afraid that they would be harmed if they did in fact remain silent.
  - The right to counsel: In 70% of the cases, interrogators allowed the boys to speak to a lawyer prior to the interrogation, but these conversations were inadequate and failed to help the minors understand their rights and what they were up against – especially in the cases in which interrogators contacted lawyers on their own phones, so that the boys spoke to a lawyer on an interrogator’s phone.
  - The right to have a parent present during the interrogation: The law grants this right to minors suspected of an offense, subject to exceptions. However, once placed under arrest, parental presence is no longer a right, although the police does have discretion to allow it. In 95% of the cases, the boys were in the interrogation room on their own, without parents or other relatives.
- **In the interrogation room:** The lack of protection for the minors’ rights, and the fact that they find themselves alone in the interrogation room mean the interrogators are able to harm them physically and emotionally, taking advantage of the loopholes in Israeli law that allow using violence during interrogation and the fact that the mechanisms in place for investigating complaints regarding ill-treatment and torture are ineffective and non-deterrent as most complaints are closed with no measures taken. Secure in the knowledge that their superiors do not consider anything in their conduct prohibited, that they in fact support them and that no action will be taken against them, police officers, prison guards and interrogators can freely continue harming the minors. Interrogators take advantage of this state of affairs. Seventy percent of the boys were only interrogated once or twice; 25% of the boys who gave affidavits for this report said interrogators employed some degree of violence against them; 55% reported shouting, threats and verbal abuse from the interrogators; 23% said they were denied access to the toilet, and 26% said their requests for food or drink were denied. Forty-three percent of the boys received their first meal more than ten hours after being taken into custody. This method of interrogation is partly what led to 83% of the boys signing confessions, 80% of which were in Hebrew so they did not understand the statements they were signing.
- **Holding conditions:** The law stipulates that minors be held in age-appropriate conditions which include adequate food, health services, access to education, visits by social workers and family members and access to telephone calls with their families. In this area too, there are exceptions that allow withholding some of these rights. Holding conditions at the Russian Compound police station in Jerusalem, where most of the teenagers who gave affidavits for this report were taken, are light years away from these provisions, and do not allow the detainees to maintain their

dignity. The supply of toiletries was incomplete and irregular. None of the boys received a change of clothes. In addition, during their detention at the Russian Compound, none of the boys were given any opportunity for meaningful activities and most remained locked in their cells for most hours of the day and night. The information given by the boys indicates they were allowed to contact their families in rare cases only.

This conduct exposes Israel's policy which aims to allow authorities to continue this maltreatment of Palestinian minors while shrouding in a cloak of legality an extensive, systematic and well-documented abuse of the fundamental human rights of hundreds of minors, every year, for decades.

It stands to reason that the law enforcement system would treat these teenagers in an age-appropriate manner that takes their physical and mental maturity into account, recognizing that every action could have long-term repercussions for the boys themselves as well as for their families. It stands to reason that the system would treat the boys humanely and fairly and provide them with basic protections. But that is not the case. Instead, Israel's law enforcement system treats them as members of a hostile population all of whom, minors and adults alike, are presumed guilty until proven innocent, and employs against them extreme measures that it would never venture to use against other segments of the population. Israel's justice system is, by definition, on one side of the fence, with Palestinians on the other: The police officers, the prison guards, the prosecutors and the judges are always Israeli citizens who arrest, interrogate, judge and lock up Palestinian teenagers who are seen as enemies out to harm the interests of Israeli society.

This aspect of life in East Jerusalem cannot be separated from Israel's overall policy in the city. In 1967 Israel unlawfully annexed approximately 7,000 hectares of land – namely, some 600 hectares that constituted the Jordanian portion of Jerusalem, along with some or all of the land belonging to 28 nearby villages and towns. Yet, it has always treated the people living on that land as unwanted and state authorities and their agents have never viewed them as having equal rights.

All Israeli authorities operating in East Jerusalem follow a policy aimed at encouraging Palestinian residents to leave the city. This is why strict bans are in place on residential construction and East Jerusalem residents must live in overcrowded conditions or – in the absence of any other alternative – risk building without a permit and then live in fear of demolition. This is why strict policies are in place with regards to family reunification, effectively forbidding East Jerusalem residents who married residents from elsewhere in the West Bank or from the Gaza Strip to live with their spouses in the city. This is why institutional, systemic discrimination is practiced in municipal and state budgeting, as a result of which East Jerusalem residents suffer from substandard infrastructure and a chronic shortage of public services.

There is no possible justification for the extreme measures the law enforcement system uses against East Jerusalem minors. The reality described in this report is part of the underpinnings of Israeli control over the Palestinian population of East Jerusalem. So long as this control continues, Israeli authorities will in all probability continue to treat Palestinians in East Jerusalem as unwanted, less equal people, with all that implies. Real change will come only if the reality in Jerusalem is completely overhauled.

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