

Arrest and Detention of Palestinian Minors in the Occupied Territories¹

2015 Facts and Figures²

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Introduction

This document presents the primary findings collected from responses received from the military and police to Freedom of Information requests submitted by the Association for Civil Rights in Israel (ACRI) regarding the arrests of Palestinian minors within the military court system. The requests were sent as part of the examination the organization conducts of the military's activities in the Occupied Territories. ACRI pays special attention to the rights of Palestinian minors in legal proceedings, with an emphasis on proceedings of detainment, arrest and interrogation by Israeli police and military forces – and is highly concerned about the many breaches of human rights being committed in this context.

The figures that appear in the document solely reflect the situation in the West Bank in 2015. The data demonstrates as follows:

- 871 Palestinian minors were arrested in the West Bank in 2015
- Indictments were filed against 62% of those arrested
- 72% of the minors who were indicted were held in custody until end of proceedings
- 95% of the minors who were indicted were convicted in military courts

Arrests by the Police and by the Military

The Israel Police reported **681** arrests of Palestinian minors in 2015 in the West Bank:

- 2 minors arrested were 12 years old
- 24 minors arrested were 13 years old
- 73 minors arrested were 14 years old
- 132 minors arrested were 15 years old
- 197 minors arrested were 16 years old
- 253 minors arrested were 17 years old

¹ This is an abridged version of the original document. To read the document in full in Hebrew, [click here](#).

² This document was published in March 2017, and is based on official answers concerning arrests made throughout 2015.

The IDF reported **190** arrests of Palestinian minors in 2015 in the West Bank. On average, in 2015 the army arrested 16 Palestinian minors each month, and the police arrested 57 Palestinian minors each month.

Throughout 2015 the IDF arrested a total of 3,132 Palestinians in the West Bank. Of those, 190 were minors (under the age of 18). In other words, **only six percent of the arrests made by the IDF in the Occupied Territories in 2015** were minors.

Filing of Indictments

According to military data, **542 indictments** were filed in military courts against Palestinian minors throughout 2015. However, according to police data, **497** indictments were filed against minors that year.³ According to information received from the army:

- 17 indictments were filed against minors aged 12-14
- 151 indictments were filed against minors aged 14-16
- 374 indictments were filed against minors aged 16-18

Remand Until End of Proceedings

According to military figures, of the 542 indictments filed against Palestinian minors in 2015, **392 minors** were kept in custody until the end of proceedings. In other words, **72% of the minors** who had indictments filed against them in 2015 were remanded.

Outcomes of Trial

According to military data, of the 542 indictments filed against Palestinian minors in the military courts in 2015, **518 cases ended in conviction. This represents over 95% of all the indictments filed against minors.** The rate of conviction in general in Israel (for both minors and adults) is relatively high and stands at 83%.⁴

The majority of convictions were based on five offenses attributed to minors: disturbances to public order, hostile terror activity, traffic-related offenses, criminal

³ During a phone call on October 13, 2016 with Yaniv Chemi, an attorney with the public inquires department of the Israel Police, ACRI was told that the military data is more up to date and are transferred from the army to the police – and as such should be considered more accurate.

⁴ 2015 Annual Summary Report – State Prosecutors Office, p. 23.

offenses and illegal entry. The offense that the largest number of minors were punished for in 2015 was **causing disturbances to public order**.

Findings and Conclusions

From the data presented here as well as the information that ACRI has collected over the past few years,⁵ a clear picture emerges of a policy that rests on the proliferation of arrests of Palestinian minors in the West Bank, frequent use of remand, the absence of alternatives to incarceration, and conviction of almost every minor who was indicted.

This policy presents multiple and dangerous consequences for minors - emotional, educational and developmental. Arrest and interrogation are difficult proceedings, even for an adult, and all the more so when young children are involved. It is with good reason that international law, as well as Israeli law, relate to the interrogation and arrest of children and youth in a distinct manner. From the information ACRI obtained it appears that the arrests and interrogations of Palestinian minors in the West Bank, which are conducted at times in an unlawful manner, have a significant impact on the children. Following their release these children display constant fear of security forces, suffer from nightmares and insomnia, and experience deterioration in their studies and in their relationships.

In recent years, amendments have been made to military legislation⁶ that relate to the rights of Palestinian minors involved in legal proceedings and accused of security offenses. Juvenile military courts were established for the first time, in Ofer and in Salem; arrest periods that apply to minors have been shortened (as well as those of adults); and procedures for arrest, interrogation and trials of minors have been altered to benefit them and to try and meet the standards of international law regarding the rights of children. Yet despite of these changes, the information gathered reflects a different picture.

The figures demonstrate that 72% of the Palestinian minors in the West Bank who were indicted in 2015 were held in custody until end of proceedings, whereas in Israel 17.9% of minors who were indicted were remanded.⁷ The data presented in this

⁵ See ACRI report, "Arrests, Interrogations and Indictments of Palestinian Minors in the Occupied Territories: Facts and Figures for 2014. See: <http://www.acri.org.il/en/wp-content/uploads/2016/02/arrests-minors-OPT2014-ENG.pdf>

⁶ HCJ 4057/10 The Association for Civil Rights in Israel v IDF Commander of Forces in Judea and Samaria.

⁷ Children in Israel 2015, Children who had committed offences, The Israel National Council for the Child, Table 12.16 p. 476

document also points to an increase in the scope of this phenomena when comparing 2015 with 2014 (72% in 2015 compared with 61% in 2014). This is not coincidental, but rather a clear policy of remand - in total contravention of the International Convention on the Rights of the Child, which underlines that the arrest of a child should be the last resort and should be carried out for the shortest period of time possible.⁸ The high percentage of minors remanded also contravenes the essence of Israel's Youth Law (Adjudication, Punishment and. Methods of Treatment), which seeks to provide support and rehabilitation instead of arrest and punishment. It should be noted that in recent years the military has tried to make its orders and rulings in the West Bank more compliant with the spirit of the Israeli Youth Law.

These policies constitute the denial of freedoms of those presumed innocent, as arrest of this kind ought to be the exception and not the rule.⁹ Administering legal proceeding during remand until end of proceedings is liable to undermine the chances of a fair trial, since the remand increases the chances for a plea bargain in order to avoid a protracted detention.

The vast majority of indictments filed against Palestinian minors in both 2014 and 2015 ended in conviction (95%). This means that an indictment filed against a minor guarantees a conviction in almost every case. Over half the convictions were for causing disturbances to public order. In this context it should be noted that in Israel, the general conviction rate is relatively high and stands at 83%.¹⁰ However the conviction rate of minors in the West Bank is especially stark, and raises concerns that this harsh treatment is applied because of the national and political conflict.

A study published in February 2015 by Israel's Prisoner Services on the rates of recidivism (repeating a prison sentence) among prisoners who were released in 2008, revealed that the highest rate of recidivism was found among minors, and that about 75% of those imprisoned before the age of 18 will find their way back to prison.¹¹ If this is the situation in Israel, where minors are offered diverse rehabilitation options and where existing frameworks and institutions guide and assist minors who got in trouble with the law, one can assume that the situation is even worse in the West Bank, given the near complete absence of options for rehabilitation for minors and in light of the continued conflict and military occupation.

⁸ Article 37 (b) of the Convention on the Rights of the Child. See: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁹ Article 37 (b) of the Convention on the Rights of the Child. See: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

¹⁰ 2015 Annual Summary Report – State Attorney, p. 23.

¹¹ Recidivism of criminal prisoners released in 2008, Research and Strategy Department, Planning Manager, The Israel Prison Service (2015).

International law places the best interest of the child as a guiding principle in actions and decisions regarding minors. The policy described here contravenes the spirit and content of the International Convention on the Rights of Child, which Israel is a signatory of, since it states that the incarceration of a minor should be the last resort and should be carried out over the shorter possible period of time.¹²

In addition, the Fourth Geneva Convention, which addresses the treatment of detainees in occupied territories, relates explicitly to the obligation to provide “special treatment” to minors living under occupation.¹³ The policy of increased and protracted arrests followed by holding children in custody until the end of proceedings contravenes the idea of seeking out what is in the best interest of the child. It is important to be aware that the increase in arrests of minors in the West Bank exists in the absence of alternatives to incarceration such as house arrest, electronic monitors, participation in rehabilitative institutions and programs, public service work and so forth.

The International Convention on the Rights of the Child clearly specifies: “State Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular...[...] Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.” The convention also states: “A variety of dispositions, such as care, guidance and supervision orders; counseling; probation; foster care; education and vocational training programs and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offense.”¹⁴ These mechanisms for rehabilitations and alternatives to arrest and imprisonment are entirely absent from the military system that rules the Occupied Territories.

A comparison of the figures shows that 1,375 Palestinian minors were arrested in the West Bank in 2014, compared with 871 minors arrested in 2015 - a 36% drop. At the same time, this is still a widespread phenomenon that takes place on a monthly basis, and involves wide-scale harm to the basic rights of children, their bodily integrity, emotional state, and future development.

¹² Article 37 (b) of the Convention on the Rights of the Child. See: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

¹³ Article 76 of the Fourth Geneva Convention: “Proper regard shall be paid to the special treatment due to minors.”

¹⁴ Article 40 of the Convention on the Rights of the Child. See: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>