

*Knowledge is power!*

## **The Rights of Minors during Detention, Arrest and Interrogation in the Occupied Territories:**

### **A Handbook for Parents and Minors**

March 2015

The purpose of this handbook is to clarify for Palestinian minors and their parents what their rights are in the process of detention, arrest and interrogation by Israeli police or military forces operating in the West Bank, and what paths and tools are available to them for reducing the infringement on the rights of the minors.

It is important to emphasize that according to the position of the Association for Civil Rights in Israel, the authorities are currently not acting in accordance with their obligations towards Palestinian minors who are residents of the occupied territories, obligations that are enshrined in international human rights law and the laws of occupation. Hence, the rules described below do not necessarily reflect the legal situation that is appropriate in our opinion. However, they are described here in the hope that knowledge of the rules under which military and police forces operate in the territories will help minors to demand their rights and will ultimately reduce the infringement on these rights.

#### **The Age of Criminal Responsibility**

- A minor is a person who has not yet reached the age of 18.
- The age of criminal responsibility in the occupied territories is 12. This means that minors under the age of 12 cannot be arrested or detained. **If you are under the age of 12, and you are detained or arrested by a soldier or a police officer, it is important to promptly notify them of your age and to ask to be immediately released.**
- If you are the parent of a child who is under the age of 12, make sure to teach your child that if a soldier or a police officer detain or arrest him/her, the child should immediately tell them how old he/she is and ask to be released. If the soldier or police officer refuses to do so, the child should ask to contact you or another relative as soon as possible, in order to notify you of the detention or arrest and of their location. Once you are aware of the detention or arrest, seek an attorney immediately for legal consultation.
- **An advice to parents:** If you live in areas of friction, it is recommended to equip your minor children with identification cards or a copy of any other document that could serve as a proof of their age, such as a birth certificate or the paper appendix of the parents' identity card, particularly in the case of minors under the age of 12.

## During Detainment

- Detainment is a measure for restricting a person's liberty to move freely, for a short and limited period of time.
- A minor or an adult may be detained only in the following cases: when there is reason to believe that this person has committed or is about to commit an offense that might endanger the safety of an individual or a public; for the purpose of receiving information from a person who was a witness to an offense; for the purpose of conducting a search and presenting documents.
- **A person may not be detained as deterrence, intimidation or punishment!**
- **Obligation to identify:** If a soldier or police officer is detaining you, they are required to identify themselves to you, to inform you that you are being detained and to clarify the reason for this detainment.
- **Conditions of detainment:** The soldier or police officer is required to ensure that you are held in a place with adequate conditions, and they must provide you with water and food as necessary. It is prohibited to restrain you with handcuffs or to cover your eyes.
- **Remember: If you are being detained, you have the right to know the reason for this detainment. It is important to always ask the soldier or police officer: "Why are you detaining me?" It is also your right to know and write down the details of the person who is detaining you.**

## During an Arrest

- An arrest is a more exceptional and severe measure for restricting freedom than detainment.
- A person may be arrested only when he/she is suspected of committing an offense or planning to commit an offense.
- **An arrest may not be used for punishment!**
- **Obligation to identify:** If a soldier or police officer is arresting you, they are required to identify themselves to you and to inform you of the reason for the arrest.
- **Reason for arrest:** If the reason for the arrest was not provided, you have the right to ask if you are indeed under arrest and for what reason.
- **Restraining in handcuffs:** An arrestee may not be restrained in handcuffs, unless the commander of the force believes that this measure is necessary order to protect the force or prevent the arrestee's escape. In any event, the cuffing will be done with three plastic handcuffs, with both hands of the arrestee placed in front.
- **Location of the arrest:** A person who was arrested should be transferred as soon as possible to a police station or an arrest location.
- **Note for girls:** If you arrested, the military is obligated to attach a female soldier to you for the entire arrest procedure, including your stay in the facility of arrest.

- **Medical treatment:** If you have been arrested and you need medical treatment, the soldier or police officer must make sure that you receive this treatment without delay.
- **Notifying relatives:** If you have been arrested, you have the right to have a notification of your arrest and your location made to a relative and an attorney on your behalf without delay.
- **Meeting with an attorney:** Aside from exceptional circumstances, as an arrestee you have the right to meet with an attorney without delay, in private and under conditions that ensure the secrecy of the conversation.
- **Conditional release:** A senior police officer or a military judge are authorized to order the release of an arrestee under certain conditions or without any conditions. Either way, it is very important to consult with an attorney before signing the conditions of the release, to ensure that they are reasonable. It is always possible to demand a change in the conditions of the release.
- In the case of release under unreasonable conditions, an appeal can be filed to the military court. Such an appeal should be filed within 7 days of the date of release.

#### **Important information for parents:**

- If your child was arrested at home, the arresting force must give you a **notification form concerning the arrest and interrogation of a minor**. This form should include the child's details and the reasons for the arrest, the suspicions against the child, the police station to which he/she will be taken for interrogation and the details of the person who filled out the form. If this form was not provided to you or if it was provided but empty, filled in a language that you do not understand or missing any details, you should note that before the arresting force and demand to receive the required information about the arrest from the soldiers or police who are found at the scene.
- In addition, once the soldiers arrive **it is important to seek an attorney immediately** and inform this attorney of the arrest, its reasons and the location to which your child was taken. Furthermore, it is important to inform the attorney of any exceptional event that took place during the arrest: physical or verbal violence towards you or the arrested minor, an assault on you or on your property, failure to provide the required details concerning the arrest, failure to provide the notification form or any other event.
- **Presence of parents in arrest hearings:**
  - You have the right to be present during the arrest hearings concerning your children.
  - You have the right to enter the military court compound in which the hearing takes place without coordinating this in advance.
  - You have the right to bring inside with you the following items: money, cigarettes and food. Any other item has to be deposited at the entrance to the compound.

- All visitors in the military courts are required to undergo a security check. Security checks of women must be conducted only by women.
- It is the right of your arrested child to receive adequate translation during the hearing on his/her behalf. If the translator is not present in the courtroom during the hearing or fails to adequately translate the hearing, ask your attorney to demand that the court instruct the translator to execute the translation properly.

### During an Interrogation

- The interrogation of a minor must be conducted by an interrogator who has training as a youth interrogator.
- At the beginning of the interrogation, the police officer conducting it is required to inform you of the suspicions against you.
- **You have the right to remain silent during the interrogation and to not answer the questions asked by the interrogators, either in the interrogation room or outside of it. You also have the right to consult with an attorney.** The interrogating police officer is required to inform you of these rights at the beginning of the interrogation.
- The interrogating police officer is prohibited from threatening or implying that silence during the interrogation or questioning can be used against you in court. If the police officer did so, it is important that you tell your attorney about that as soon as possible. It is your right to ask the police officer, during the interrogation, to write down his words in the transcript of the interrogation.
- If you have an alibi (a claim that you were not present in the location of the offense) you should tell it to the interrogator as soon as possible, already in the beginning of the interrogation.
- You have the right to be questioned in your native language or in a language that you understand.
- At the end of the interrogation, you will be asked to sign the transcript of the interrogation conducted by the police officer. You have the right to read this transcript before signing it. In case the transcript is written in a language that you do not understand, or if it does not reflect what was said during the interrogation, you may refuse to sign and write down the reason for your refusal.
- During an interrogation that takes place in unusual hours or that continues for many hours, you are allowed to ask for a break in order to rest.
- If force or threats were used against you during the interrogation, or if other exceptional circumstances took place, it is important that you ask the interrogator to write this down in the transcript of the interrogation.
- It should be noted that, under the military legislation that applies to the occupied territories, there is currently no right to the presence of parents during the interrogation of Palestinian minors in the occupied territories, there

is no prohibition on night arrests, and there is no obligation to document the interrogations of minors suspected of committing offenses that are defined as security offenses, such as stone throwing or participating in demonstrations that are not authorized by the military.

**Important information for parents:**

- If your child was summoned for questioning, it is important to seek an attorney in order to receive consultation before your child arrives at the police station at the time set for the interrogation.
- You have the right to accompany your child to the interrogation at the police station, even if the station is located within a settlement. If you were not allowed to enter the settlement or the police station, you should inform the attorney who is representing your child as soon as possible.
- In addition, and although the law does not obligate the police officers to allow you to be present in the interrogation room during the interrogation, it is always recommended to demand that they allow you to be present during the interrogation. If you were not allowed to be present, it is important to inform the attorney who is representing your child as soon as possible.