

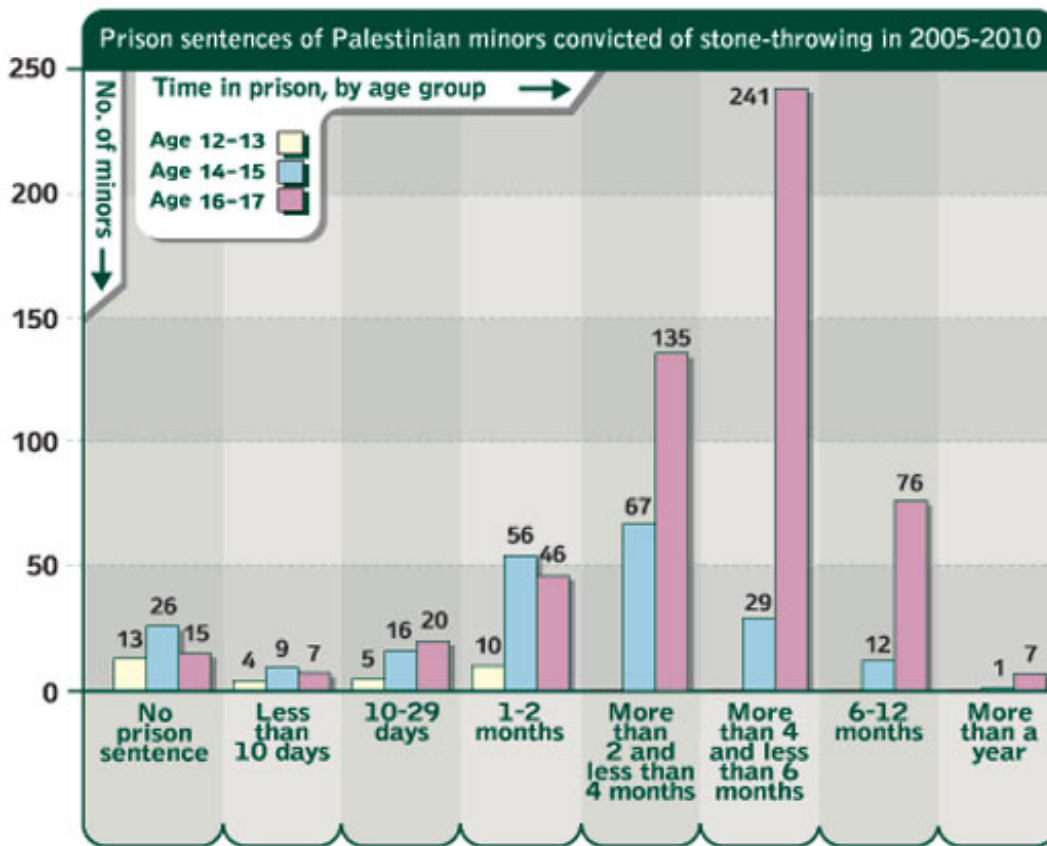
No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone-Throwing, July 2011

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From the beginning of 2005 to the end of 2010, at least 835 Palestinian minors were arrested and tried in military courts in the West Bank on charges of stone throwing. Thirty-four of them were aged 12-13, 255 were 14-15, 546 were 16-17. Only one of the 835 was acquitted; all the rest were found guilty.

Palestinian minors charged with criminal offenses are tried under the military legislation applying in the West Bank, which grants them very few of the special rights relating to persons their age. These protections, such as separation from adults during detention and imprisonment, are not always maintained. The same is true regarding protections prescribed in the military legislation for all suspects that are especially important in the case of minors, such as the right to consult with an attorney. The military legislation dealing with minors does not conform to international and Israeli law, which acknowledge that the minor's age affects his criminal responsibility and the manner in which he experiences arrest, interrogation, and imprisonment, and which assume that these experiences might harm the minor's development. Consequently, under international law and Israeli law, suspected offenders who are minors are given special protections, their parents must be allowed to be present during their child's interrogation, and their arrest and imprisonment are viewed as a last resort.

In November 2009, the Military Youth Court was established in the West Bank. The court was empowered to hear offenses committed by minors under age 16. The military judges, on their own initiative, expanded the jurisdiction of the court to cover all minors, i.e., up to age 18. A few judges expressed, in their judgments, their belief that the military justice system should try minors in accordance with the standard practice in juvenile courts around the world. The president of the Military Court of Appeals added that the military courts must operate in the spirit of the Israeli Youth Law, even though the Youth Law itself is not incorporated in the military legislation. Despite these declarations, institution of the Military Youth Court has brought limited change, and serious infringement of the rights of minors appearing before it continues.



In preparing this report, B'Tselem interviewed 50 minors, who described the events from the moment they were arrested to the time they were released from jail. Their testimonies indicate numerous serious violations of their rights, as follows:

- **The arrest:** Thirty of the minors said they were taken from their home by soldiers in the middle of the night and that their parents were not allowed to accompany them.
- **The interrogation:** Only three of the minors who were arrested at night said they were interrogated that night. Nineteen stated they were questioned the next morning, three were questioned in the afternoon, and two were not questioned until five days later. Only three of the minors who were arrested at night reported that they were given a reasonable chance to sleep prior to the interrogation, and five related that soldiers made a point of awakening them if they fell asleep while waiting for the interrogation. Nineteen also said they were treated violently and were threatened during the interrogation, and 23 said that they were not allowed, for many hours, to perform necessary functions, such as going to the bathroom, eating, and drinking.
- **Remand until the end of proceedings:** The military justice system does not have an alternative to remand until the end of proceedings as the Israeli law does. In the vast majority of cases, the judges order the minor held in custody until the end of the proceedings. Of the 133 minors who were prosecuted for stone throwing in cases handled by DCI-Palestine in 2009 and 2010, only 23 (17 percent) were released on bail pending their trial. As a result, many minors prefer to enter into a plea bargain, in which they confess to the charges against them in exchange for a shorter sentence, fearing that, if a trial is held, they would be kept in jail during the long period of time that it takes to complete the trial.
- **Imprisonment:** Imprisonment, rather than an alternative punishment, is the principal penalty chosen by the military courts. In the period 2005-2010, 93 percent of the minors convicted of stone throwing were given a prison sentence, its length ranging from a few days to 20 months. Nineteen minors under age 14, who accounted for 60 percent of this age group who were convicted of stone throwing during this period, were given a prison sentence. Under the law in Israel, incarceration of minors under age 14 is prohibited.

The age of the minor has a decisive effect on the length of the prison sentence: children under 14 on the day of sentencing served no more than two months' imprisonment, 26 percent of minors aged 14-15 served sentences of four months and more, and among 16-17 year olds, 59 percent served a sentence of four months or more.

During their imprisonment, most of the minors interviewed by B'Tselem were not visited by their families. Of the 29 minors who were held in detention or were imprisoned for more than a week, only one said he had been visited regularly once every two weeks, and four others said they had been visited a few times. Being security prisoners, minors convicted of stone throwing are not allowed access to a telephone. The prison authorities enable them to study only some of the subjects they were taking at school, which reduces their chances of successfully completing the school work for the year and of being promoted.

All the officials engaged in handling Palestinian minors in cases of stone throwing – police, judges, and soldiers serving in the West Bank – are well aware of the reality described in the report. Yet, the only call for change has come in the form of declarations by a few judges, and no action has been taken to end the infringement of the minors' rights. Israel has the obligation to ensure the rights of Palestinian minors under its responsibility, and bring the provisions of military law on par with those of Israel's Youth Law.

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