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## ISRAELI

### C. B'TSELEM, REPORT ON ARRESTS AND DETENTIONS OF PALESTINIAN MINORS IN EAST JERUSALEM, JERUSALEM, DECEMBER 2010 (EXCERPTS).

*B'Tselem's twenty-nine-page report, titled "Caution: Children Ahead" (subtitled "The Illegal Behavior of the Police toward Minors in Silwan Suspected of Stone Throwing") compares the actual practices of the Jerusalem police in arresting and dealing with Palestinian minors to the rights of minors under Israeli (and international) law. In the course of describing the growing incidence of stone throwing and the official response, the report highlights the unfolding drama of the Jerusalem neighborhood of Silwan, from the 1990s the scene of increasing tensions and violence as the Palestinian residents face encroachment and displacement. The full text report is available online at [www.btselem.org](http://www.btselem.org).*

#### **Summary**

An investigation conducted by B'Tselem shows that, during the past year (November 2009 to October 2010), at least 81 minors from Silwan have been arrested or detained for questioning, the vast majority on suspicion of stone throwing. The arrests and detentions followed confrontations between Palestinians and settlers in the neighborhood, where there is great tension resulting from the taking of control of houses and archeological sites by settlers. These confrontations intensified following the killing of Samer Sarhan, 32, a resident of Silwan, on 22 September 2010. Sarhan was shot to death by a security

guard for the settlement, who contended he faced a life-threatening situation. From then until 31 October, at least 32 minors in Silwan were arrested. Since Israel has imposed its law on East Jerusalem, the police are required to carry out their functions there in accordance with Israeli law. However, B'Tselem's investigation indicates that the Jerusalem police repeatedly breached the law, and particularly the Youth Law, which grants minors extra rights in a criminal proceeding:

- Many arrests were made at night, by taking the minors from their beds and rushing them to interrogation at the Russian Compound, in most cases in order to obtain information on incidents that occurred a few days earlier.
- Often, the interrogators prevented the parents from being present during the interrogation, although their right to be present is enshrined in law.
- Many minors complained they were treated violently when they were taken from their home at night, and all the youths who were interviewed by B'Tselem on their arrest by special forces reported severe violence at the time of arrest. Also, a few minors complained of violence and degradation while waiting to be interrogated at the Russian Compound. Their complaints of violence were disregarded or treated with scorn, and in the isolated cases in which the Department for the Investigation of Police opened an investigation, it was closed without any proceedings being taken against the persons responsible. B'Tselem knows of one case in which the investigation was carried out negligently, took a long time to complete, and did not include questioning of principal witnesses.
- The police detained for questioning four minors under age 12, which is the age of criminal responsibility, meaning they are not subject to criminal proceedings. In one of the cases B'Tselem documented, an eight-year-old child was taken from his bed in the middle of the night only because his name was identical to that of another child who was suspected of throwing stones.

The throwing of stones by Palestinian minors in East Jerusalem has been widespread and has intensified over the past

year, with an especially sharp rise occurring in October 2010. Silwan, which lies at the foot of the Temple Mount, is a major focus of the confrontations between Palestinians and settlers, with both sides—Palestinians primarily—throwing stones.

The police are required to deal with the confrontations in the neighborhood, but this obligation does not justify systematic breach of the law. The police's conduct toward Palestinian minors in Silwan reflects flagrant contempt for the special protections given them as minors.

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### *Introduction*

The Silwan neighborhood lies just outside Jerusalem's Old City walls, south of the Temple Mount/al-Aqsa Mosque. Some 16,500 persons live in the central section of Silwan. Together with Ras al-Amud, which has geographical and family ties with Silwan, the total number of residents is 32,000. After the occupation of the West Bank in 1967, Israel annexed Silwan, together with the rest of East Jerusalem and adjacent areas. Israel law was applied in full to the annexed area. The residents were given the status of Jerusalem residents and Israeli identity cards, but not citizenship, and Israel law was applied to them in full. . . . Since the early 1990s, rightist Israeli organizations have taken control of houses in Silwan, on various legal pretexts; Peace Now estimates that 350 Israelis settlers now live in eighteen buildings in Silwan.

At the entrance to Silwan lies the City of David National Park, an archeological site of the Nature and Parks Authority. The archeological digs in the national park are of great importance to Jerusalem's long history. The management of the site has been given to the Elad association, which is also the main organization promoting Jewish settlement in the neighborhood. Thus the site is closely tied to the settlement enterprise in the neighborhood. The Elad-operated site has been turned into a major tourist site, which hosted 380,000 visitors in 2008 and 270,000 in 2009.

There is a high level of tension between the residents of Silwan and the settlers, since the settlers have taken control of houses and of areas in which the archeological digs are conducted, causing ongoing friction between the two populations. The settlement's private security guards, funded by the Housing and Construction

Ministry, are a major source of this tension. According to the residents, the security guards act like the settlers' private police force, controlling and limiting Palestinian movement. Minors reported they were harassed by security guards, whom they claim prevent them from playing in the streets. In addition, the law-enforcement authorities stationed in Silwan clearly side with the settlers. . . . In the past year, Jerusalem's mayor, Nir Barkat, has been promoting the "Gan Hamelech" (King's Garden) plan, that would demolish twenty-two houses in the al-Bustan neighborhood of Silwan and turn half of al-Bustan into a tourist park. The increasing tension in the neighborhood is reflected in the phenomenon of stone throwing by Palestinian minors, and to a lesser extent by Israeli minors as well.

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### *Statistics*

According to Israel Police figures, from 1 November 2009 to 26 October 2010, the Jerusalem District opened 1,267 criminal files against Palestinian minors living in East Jerusalem who were accused of stone throwing. Of these, 143 cases involved incidents that occurred from 22 September 2010 to 26 October 2010. This figure includes all the neighborhoods in East Jerusalem, and not just Silwan. B'Tselem also requested statistics detailing the number of minors who were detained for questioning without opening a criminal file against them, but the police claimed that it cannot provide this figure.

B'Tselem is aware of at least 81 minors who were arrested or detained for questioning over the past year on suspicion of stone throwing. . . . According to B'Tselem's figures, at least 32 minors were arrested or detained for questioning in Silwan in October 2010 alone. We have documented some cases in which minors were arrested several times over the course of the year. The vast majority of the minors were suspected of stone throwing, though a few were arrested on suspicion of committing other offenses.

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### *Conclusion*

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The minors' acts are not the sole factor for the enflamed sentiments in Silwan. Recently, cases of violence, including stone throwing, by settlers in the village against

the Palestinian residents have been documented. Stone throwing by settler adults and minors is much less prevalent than by Palestinians, but we see that the authorities treat the two phenomena in a completely different manner. On 15 October 2010, for example, the Wadi Hilwa-Silwan Information Center documented adult and minor settlers throwing stones at Palestinians from the yard of one of the houses whose possession had been transferred to settlers. Border Police present at the site to protect the settlers did nothing to stop the stone throwing, and certainly did not arrest any of the persons involved, adults or minors.

On 17 October 2010, the Wadi Hilwa-Silwan Information Center filmed border policemen joining settlers in stone throwing. The Jerusalem police stated that the matter would be investigated and handled in a disciplinary proceeding. Settling for disciplinary handling of an offense of this kind endangers the residents and also places the policing forces clearly on the one side of the conflict.

The severe measures, in contravention of the law, that the police take against Palestinian minors in Silwan are especially grave given the authorities' lenient treatment regarding violent offenses committed by settlers, minors and adults, which have been documented on various occasions, and by border policemen in Silwan. The law provides government authorities with various alternatives for coping with the stone throwing, such as requesting the parents to bring their children in for questioning.

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