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The Struggle to End Detention of Unaccompanied Minors in Israel

For more than a decade now, the *Hotline for Refugees and Migrants* (HRM) has been struggling to release of unaccompanied minors from prisons. The HMW managed to bring about the release thousands unaccompanied minors as well as promote some legal changes improving their detention conditions.

During the last decade, several thousand unaccompanied minors entered Israel irregularly or overstayed their visas. During the first years, it was mainly minors from West Africa, hoping to find a better future, or unaccompanied minors who were trafficked into the country. In recent years, the numbers of minors entering the country grew rapidly, with the vast majority of them arriving from Sudan and Eritrea, seeking asylum.

Despite the fact that Israel is a signatory to the Convention on the Rights of the Child, the laws applied to illegal residents do not differentiate between a grown-up, a minor or a child. When the HRM found the first minors in Israeli prisons more than a decade ago, these minors were regarded at by the Israeli authorities as any other illegal residents, or as the Israeli authorities define them - "work infiltrators". Those already inside the country who overstayed their visas, were arrested by the Immigration Police and imprisoned to facilitate deportation to their countries of origin. In cases where deportation was not possible, for example, Sudanese and Eritrean minors who arrived through the Egyptian border, they were detained for long months and sometimes for more than a year.

The first success HRM achieved with regards to detained minors was their separation from adult detainees: In 2003, after HRM contacted the Israeli Prison Service and the Knesset Committee for Examination of the Foreign Workers Problem, a new policy was introduced, requiring the detention of minors in separate wards from adults.

Petitions served in 2005 by HRM together with ACRI, on behalf of four girls from West Africa, brought to the involvement of the welfare services in procedures affecting unaccompanied minors. In 2006, the State prepared a procedure for dealing with unaccompanied minors. According to the procedure, minors under the age of 12 will be transferred immediately to the welfare service while in the case of older minors, social workers will be involved in the detention and deportation procedures. Social workers will coordinate with authorities in the minor's country of origin to ensure that a responsible person will care for them. Yet the procedure did not set maximum duration of detention.

Until 2007, the HRM provided both legal representation and humanitarian assistance to about 150 minors who found their way into Israel by that time. In order to secure the minor's release from prison, HMW needed to find alternative placements in Israeli educational frameworks or in the homes of Israelis and members of migrant workers' communities. Since the Israeli authorities did not recognize their responsibilities for the wellbeing of these minors, all placements were on a volunteer basis, without receiving any



remuneration from the State.

To raise awareness to the issue of unaccompanied minors in detention, the HRM initiated numerous media articles about the detained minors, articles that resulted in securing more Israeli guardians as well as more donations to the boarding schools that agreed to absorb minors, donations that encouraged them to absorb more minors from detention.

Another problem detected by the HMW was faulty age testing procedures. Following several petitions the HRM submitted in early 2007, the State changed the medical examinations used to determine the age of minors with the goal of ensuring that the examinations are more reliable.

A petition the HRM served in 2006, with a court decision given in 2007, led the Israeli authorities to finance legal representation to unaccompanied minors. Since 2007, all unaccompanied minors are entitled to legal representation through the Ministry of Justice's Legal Aid Department. It is thanks to this achievement that the Legal Aid Department was able to serve in 2010 a general petition demanding the release of unaccompanied minors. The petition was rejected after several hearings, but it had an impact of significantly improving the conditions of the detained minors.

During 2009, HRM identified an unexpected ally in the parliament, MK Danny Danon, the head of the Rights of the Child Committee, who is one of the MKs leading the incitement campaign against asylum-seekers in Israel, but has a special sensitivity to children. Danon, in response to one of the media items about the detained minors, commented and stated that minors should not be in prison regardless of their legal status. The HRM contacted MK Danon and initiated a parliamentary hearing held on November 2009. The head of the committee expressed his discontent when hearing that minors are detained on average for seven month and called on the authorities to release all minors from prison and to find alternative solutions for them as quickly as possible. As a result of these efforts, within the next year, more than hundred minors were released to boarding schools.

After a long and intensive campaign joined by other Israeli human rights organizations, in August 2010 a new prison for unaccompanied minors was established, called Matan. Although the facility did not meet all the minors' needs, its establishment reflected the authorities' recognition that this is a special population.

Matan Prison could house 70 detainees who reside in seven rooms, with 10 detainees in each room. Each room had five bunk beds, a toilet, a shower and a television set. Until May 2011, the minors were locked in their rooms for 23 hours a day and were allowed out for only one hour a day.

The minors receive basic education in Hebrew, provided by six teachers employed for that purpose.

The HMW addressed the Knesset Committee for Examination of the Foreign Workers Problem and the Legal Aid Department clarified the detention conditions in a complimentary statement within their petition to the Supreme Court.

On August 2011, in an official response to the Legal Aid Department petition, the state committed to allow minors to be free in the building and out of their rooms in Matan prison during the day, rather than for only one hour a day.

However, because Matan Prison was often housed in full capacity, unaccompanied minors were still jailed in Saharonim or Givon Prison, near Ramle.

According to the Public Defender's report published in August 2011, "*In the Givon Prison, the living quarters for a detainee are extremely small (with dimensions of between 2.3 to 2.9 square meters per detainee) and the level of maintenance and upkeep in the cells is quite poor. The women and minors who are detained complained that there are cockroaches in the wing, primarily in the yard and on the beds. The cells where the minor detainees are held contain only basic equipment and are quite minimal. They do not contain a television, table, or chairs. In addition, the cells do not include built in toilets and with the exception of long and narrow windows covered in dense bars and located in the upper part of the room, there are no additional openings for ventilation. ... The minor detainees complained about the size of their yard (very small and includes all of the minors staying in prison) and that they are suffering from the intensity of the sun's rays and from the heat in the yard, which is not ventilated or cooled and is built out of concrete*".¹

The HRM, together with ACRI and ASSAF organizations, initiated hearings about detention of minor in the Knesset Committee for Examination of the Foreign Workers Problem, and on September 22, 2011, the committee toured Matan prison. The committee, headed at that time by MK Nizan Horowitz, found that there were 60 minors there, two of whom were under the age of 14. One of the minors was detained for 13 months and the average detention time was stated to be seven months. According to the prison commander, there were 19 suicide attempts among the 179 minors who were detained there during its first year of activity. The commander reported that a suicide attempt results in psychiatric supervision, whereby a psychiatrist visits the prison every three weeks. One of the minors who attempted suicide was sent to a closed ward at a psychiatric hospital.

The NGOs published the data provided by the IPS with the hope to achieve a quicker release of the minors and the average detention period was reduced.

During 2013, due to the fence erected on the Egypt-Israel border, not even one new unaccompanied minor entered the country. Little by little, the unaccompanied minors were released from Matan prison and on August 2013 the place was closed, since all minors were released. Three unaccompanied girls from Ethiopia, who, according to the authorities, refused to cooperate, were released on January 2014, for a year and a half in

¹ Israeli Public Defender Yearly Imprisonment condition Report, August 2011:
<http://www.justice.gov.il/NR/rdonlyres/87763C09-FBC3-46A6-A885-B5557CB25C3E/0/Doch20092010.pdf>,
page 69.

Givon prison. During the same month, two more Eritrean girls crossed the border and are now detained in Givon prison as well.

The fact that there are almost no unaccompanied minors detained right now only because there are no newcomers and not because we were successful in our struggle is troubling. More minors might arrive despite the fence, from other directions. Yet, examining more than a decade of activities, one can feel the change: hundreds of minors were released to boarding schools, the detention period was shortened and detention conditions improved significantly. A clear mark of the authorities' change of attitude toward unaccompanied minors was made when legislating the draconian Anti-Infiltration Law on 2012. The law enables release only under "exceptional circumstances", yet clarifies that unaccompanied minors should be released when a suitable alternative solution is found for them. The 4th amendment to the Anti Infiltration Law passed on December 10th, 2013, also conditions detention of minors in the Knesset approval of special procedures in order to protect the minors.

The change reflected in this short overview was achieved through years of monitoring the unaccompanied minors' situation in the prisons, collecting their personal testimonies, addressing various authorities, initiating Knesset hearings. All these activities were accompanied by the media and assisted in changing the views of decision makers regarding detention of minors.