



Balasan Initiative
for Human Rights

Palestinian Prisoners Day: Israeli Prisons as Structures of Subjugation and Collective Punishment Report





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Executive Summary

Israel's detention regime against Palestinians constitutes one of the most complex and violent systems of incarceration in the contemporary world, not only in terms of the scale of violations, but also in its structural nature as an instrument of colonial governance and control. Since 1967, Israel has employed detention as a central tool for managing the Palestinian population, dismantling social and political structures, and transforming political action of all forms, or human rights advocacy, into a "security offense".

This architecture of repression is reflected in the sheer scope and differentiation of incarceration: as of April 2026, approximately 9,600 Palestinian political prisoners are held in Israeli prisons, including 3,532 administrative detainees imprisoned without charge or trial; 342 child prisoners; and 84 women detainees. The regime extends across fragmented geographies, encompassing detainees from the 1948 territories (200), Jerusalem (400), and Gaza, including 1,250 Gaza Strip detainees classified as "unlawful combatants." It also targets political representation directly, with 10 members of the Palestinian Legislative Council currently imprisoned.¹

Long-term incarceration further underscores the punitive and exemplary nature of the system, with 119 prisoners serving life sentences, alongside others serving sentences exceeding 20 and 25 years, and prisoners detained continuously since before the Oslo Accords. These figures are not incidental; they demonstrate how detention operates as a foundational pillar of Israel's colonial order.²

Data indicates that the number of arrests among Palestinians since 1967 until the end of 2024 has reached approximately one million individuals, including more than 50,000 cases involving children under the age of 18, and over 17,000 arrests of girls and women, among them mothers. Furthermore, based on prisoners' institutions' data on administrative detention since 1967, more than 60,000 administrative detention orders have been issued against Palestinian detainees.³

Israeli prisons do not operate outside the law; on the contrary, they rely on an intensive production of law: military orders, emergency regulations, military courts, and judicial

¹ [Statistics | Addameer](#)

² [بالأرقام: الأسرى الفلسطينيين في سجون الاحتلال | سياسة | الجزيرة نت](#)

³ [بالأرقام: الأسرى الفلسطينيين في سجون الاحتلال | سياسة | الجزيرة نت](#)

interpretations that expansively redefine “security” to the point of emptying rights of their substance, in service of a broader architecture of subjugation and dispossession of rights and dignity. Human rights reports, by Palestinian, international, and even Israeli organizations, indicate that a significant proportion of Palestinians are detained outside any due judicial process. These reports document systematic violations and a deliberate institutional pattern of physical and psychological torture, solitary confinement, denial of medical care, severe restrictions on lawyers’ and family visits, isolation from the outside world, starvation, and systematic sexual violence, even against child detainees. This model transforms imprisonment from a mechanism of lawful punishment into a system of “population and security management”, and collective punishment, based on permanent suspicion rather than proof of criminal conduct.

Following 7 October 2023, this system witnessed a qualitative escalation, as detention was transformed into a tool of collective punishment. Practices expanded to include enforced disappearance, systematic and severe torture, including much broader use of sexual violence, the absence of basic conditions of life, medical neglect, malnutrition, detention without charge, and the deaths of dozens of detainees inside detention facilities, amid an almost total suspension of legal safeguards and a ban on access by international bodies responsible for ensuring minimum standards of humanity in detention, including the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).⁴

⁴ For more, read: [The United Nations Standard Minimum Rules for the Treatment of Prisoners](#)

Introduction

The Israeli detention regime imposed on Palestinians cannot be understood as a neutral legal response to security concerns or as an ordinary system of criminal justice. Rather, it must be understood in a context of colonization, as a structural component of a broader settler-colonial project, in which legal and institutional tools are systematically deployed to produce control, dehumanization, and the continuous subjugation of the Palestinian population.

Torture is not practiced as an incidental or exceptional violation, but as a structural instrument embedded within this system, serving a central function in undermining the collective capacity of Palestinians to survive as a group. Within this framework, deprivation of liberty is transformed from an exceptional measure into a normalized and routinized practice, administered through an integrated architecture of military orders, administrative detention, coercive interrogation methods, and restrictive judicial procedures.⁵

Patterns of violations, including physical and psychological torture, sexual violence, deliberate starvation, enforced disappearance, and deaths in custody, do not constitute isolated incidents. Rather, they reflect the operational logic of a system that produces a continuous environment of coercion and abuse, both within places of detention and beyond them. From detention facilities that have witnessed unprecedented escalation since 7 October 2023, to the broader extension of these practices across the Gaza Strip and the West Bank, these policies converge to create what may be understood as a comprehensive environment of torture, sustained through both physical and psychological means.⁶

In this context, the impact of torture extends beyond individual harm to target the very fabric of Palestinian society, including the systematic targeting of key groups essential to collective resilience. This broader pattern supports the conclusion that, when carried out in a widespread and systematic manner, such practices may constitute evidence of the specific intent (*dolus specialis*) required to establish the crime of genocide under international law.⁷

⁵ [Torture and genocide - Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 - Advance edited version \(A/HRC/61/71\) - Question of Palestine](#)

⁶ [Torture and genocide - Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 - Advance edited version \(A/HRC/61/71\) - Question of Palestine](#)

⁷ [Torture and genocide - Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 - Advance edited version \(A/HRC/61/71\) - Question of Palestine](#)

Accordingly, this report analyzes the detention regime as a coherent legal-institutional system operating within a broader framework of domination and apartheid. Assessed in light of international humanitarian law and international human rights law, the cumulative effect of these policies exceeds the permissible limits of security measures under the law of occupation. Instead, it gives rise to a systematic pattern of repression that may meet the legal thresholds of international crimes, including war crimes, crimes against humanity, and, in certain contexts, genocide.

Structural System of Imprisonment and Control

The Israeli detention system operates through a layered configuration of military, legal, and administrative mechanisms that regulate the conditions, duration, and scope of deprivation of liberty. Rather than functioning as a singular legal pathway, detention is administered through multiple, overlapping tracks, including criminal prosecution before military courts, administrative detention without charge, and emergency-based detention regimes, each governed by distinct but interconnected procedural frameworks.

At the core of this system lies an extensive body of military orders, which define a broad range of offenses and procedural rules applicable exclusively to Palestinians in the occupied territory. These orders establish the jurisdiction of military courts, regulate arrest procedures, authorize prolonged pre-trial detention, and permit the use of secret evidence. The reliance on classified material, coupled with limited disclosure to detainees and their legal counsel, significantly restricts the ability to challenge the legality of detention or mount an effective defense.

Administrative detention constitutes a central component of this structure. It enables the incarceration of individuals without formal charges or trial, based on undisclosed evidence, for renewable periods that may extend indefinitely. Judicial review, where available, is typically limited in scope, often deferring to security-based assessments that are not subject to meaningful adversarial scrutiny.

Procedurally, the system allows for extended periods of incommunicado detention, delayed access to legal counsel, and the frequent use of plea bargaining under conditions that undermine voluntariness. These features collectively alter the balance between prosecution

and defense, producing a legal environment in which procedural safeguards are formally present but substantively weakened.

The reach of this system is further expanded through its integration with broader control mechanisms, including movement restrictions, permit regimes, and digital surveillance practices. Arrest and detention are thus embedded within a wider matrix of governance that enables continuous monitoring and intervention at various stages of civilian life.

As a result, deprivation of liberty is administered through a flexible and multi-scalar system that does not rely solely on incarceration as a fixed endpoint, but operates through shifting forms of legal and administrative control. This produces a continuum of constraint, in which individuals may move between different modalities of detention, supervision, and restriction, without the full restoration of their legal protections or freedoms.

Israeli Prison Facilities Following 7 October 2023: Transformation into Torture Camps

The period following the events of 7 October 2023 marked a fundamental transformation in the structure of the Israeli detention regime, characterized by the erosion of traditional minimal safeguards and an unprecedented expansion of institutionalized, multi-layered violations, including excessive violence and torture against Palestinian detainees. During this period, they were transformed into closed punitive systems in which violence is systematically reproduced and codified. Based on certain human rights documentation and assessments, these facilities have been characterized as “torture camps” rather than correctional institutions or lawful places of detention.

Within this context, what may be described as a “legal vacuum” emerged as a result of the effective suspension of core due process guarantees. Administrative detention orders expanded significantly in both scope and frequency, with a marked rise in the number of detainees within a short timeframe. Approximately 6,000 arrest cases were recorded in the West Bank since the beginning of the war, with the total number of arrests in the West Bank rising to around 12,100 cases as of 16 December 2024, according to the Palestinian Prisoners’ Club. The total number of detainees in Israeli prisons has also exceeded 21,000, while the official capacity of these prisons is approximately 14,500, according to announcements by the

Israeli Prison Service and the Ministry of National Security in April 2024, reflecting an unprecedented structural overcrowding.⁸

Administrative detention orders continued to rely on “secret evidence” that is not disclosed to either detainees or their lawyers, rendering the right to challenge the legality of detention substantively ineffective. According to the same data, the number of administrative detention orders and renewals since 7 October has exceeded 10,000 cases, while the number of administrative detainees reached approximately 3,376 by mid-December 2024, including women, children, and journalists. The system further included other categories of detention, including approximately 2,934 detainees awaiting trial, 2,025 sentenced prisoners, and 1,886 detainees from Gaza classified as “unlawful combatants,” in addition to around 3,600 cases of enforced disappearance of detainees during certain periods, reflecting an expansion of detention tools beyond traditional judicial frameworks.⁹

Such orders continued to rely on “secret evidence” that is neither disclosed to detainees nor their legal counsel, thereby rendering the right to challenge detention substantively ineffective. In parallel, the “Unlawful Combatants Law” was employed as a central legal instrument for indefinite detention, particularly with respect to prisoners from Gaza, enabling prolonged detention without charge or trial and significantly delaying access to legal representation. Judicial oversight, in turn, was substantially weakened, with court review procedures in certain contexts reduced to formalistic hearings that do not engage with detention conditions or detainee welfare, but instead serve to rubber-stamp detention decisions justified under the rubric of an ongoing “state of war.” This period was further accompanied by an escalating legislative effort toward harsher punitive measures, including renewed proposals for the imposition of the death penalty in cases characterized as motivated by “nationalistic intent,” reflecting an intensification of punitive logic extending beyond security administration to the legal framework itself.

Concurrently with this contraction of legal protections, a sharp escalation in physical violence within detention facilities was witnessed, indicating a shift towards a systematic and institutionalized pattern of torture. Documented abuses include severe beatings, physical humiliation, prolonged restraint, and the use of police dogs against blindfolded and handcuffed detainees. Reports further describe widespread forms of sexual violence,

⁸ [Fact Sheet on Detainees and Prisoners in Israeli Occupation Prisons - JAN 7, 2025](#)

⁹ [Fact Sheet on Detainees and Prisoners in Israeli Occupation Prisons - JAN 7, 2025](#)

including forced nudity, degrading treatment, and documented cases of sexual assault and rape, reflecting a grave and systematic violation of human dignity. In parallel, enforced disappearance has emerged as a structural feature of the detention regime, with thousands of detainees held in closed military facilities without disclosure of their whereabouts and without access by families or international monitoring bodies, thereby creating a complete absence of external oversight.

Available data further indicate that detention conditions have been systematically deployed as an additional punitive mechanism under the declared framework of a prison “state of emergency.” Severe restrictions have been imposed on food quantity and quality, resulting in significant weight loss and widespread malnutrition among detainees. At the same time, conditions of hygiene and medical care have deteriorated sharply due to the denial of basic sanitation supplies and adequate medical treatment, leading to the spread of contagious skin diseases among the prison population in the absence of effective intervention. Family visitation rights have been cancelled, while lawyer visits remain heavily restricted,¹⁰ alongside widespread prohibitions on access by the International Committee of the Red Cross, thereby contributing to the complete isolation of detainees and the imposition of a near-total informational blackout.

Collectively, these policies have coincided with a marked increase in deaths in custody since October 2023, leading to the deaths of over 97 detainees resulting from torture, medical neglect, or the cumulative impact of harsh detention conditions.¹¹ Investigations indicate that a significant proportion of these deaths occurred within closed military facilities, raising serious concerns regarding the structural nature of violence within the detention system. In this regard, these practices are understood as part of a broader pattern of “slow violence” combining physical deprivation, medical deterioration, and total isolation, which may, in legal terms, amount to grave breaches of the Geneva Conventions and potentially rise to the level of crimes against humanity under international criminal law.

Patterns of Systematic Violations within the Israeli Prison System

¹⁰ [Israel/OPT: Horrifying cases of torture and degrading treatment of Palestinian detainees amid spike in arbitrary arrests - Amnesty International](#)

¹¹ [Legislating Death under Occupation: The Expansion of Extrajudicial Killings and Executions – Balasan Initiative For Human Rights](#)

Violations committed against Palestinian prisoners constitute a systematic state policy aimed at control, humiliation, and the dismantling of both the individual and collective structure of prisoners, within a broader objective of managing a population subjected to colonial domination and asserting Israel's exclusive power dynamics. This systematic character is evident in the repetition of violations, their comprehensive scope, and their direct linkage to official decisions and legislative frameworks.

1. Starvation as a Tool of Torture and Control

Starvation becomes a systematic tool of torture designed to break the collective will of prisoners and dismantle the organized prisoners' movement by reducing detainees to a state of mere biological survival. Prison authorities have deliberately reduced both the quantity and quality of food to extreme levels, resulting in dramatic weight loss, exceeding 60 kilograms in some cases, alongside signs of severe emaciation, protruding chest and pelvic bones, and widespread incidents of recurrent fainting.

Prisoners have also been prohibited from purchasing food through the prison canteen or preparing their own meals, a deliberate policy intended to intensify physical and psychological pressure. This pattern constitutes a grave violation of the right to adequate food and amounts to torture and cruel, inhuman, and degrading treatment. When implemented on a widespread and systematic basis, it may be legally characterized as a war crime.

2. Sexual Violence and Humiliation

A serious pattern of systematic sexual violence and torture is being practiced inside the Israeli prisons, including rape, direct and indirect sexual assaults involving sharp objects and bottles, and the use of trained dogs to perpetrate sexual attacks against both male and female prisoners. These practices are accompanied by prolonged forced nudity, photographing detainees while naked, and the use of such images for blackmail and psychological coercion.

Female prisoners, in particular, have been subjected to direct threats of rape, rape and verbal sexual harassment.¹²

3. Systematic Physical and Psychological Torture

¹² PCHR Documents Testimonies of Systematic Rape and Sexual Torture in Israeli Detention against Released Palestinian Detainees in: [PCHR Documents Testimonies of Systematic Rape and Sexual Torture in Israeli Detention against Released Palestinian Detainees | Palestinian Centre for Human Rights](#)

Torture constitutes the backbone of the Israeli detention system. Practices include severe beatings with batons, kicking detainees in the head, and unleashing police dogs on prisoners, resulting in broken ribs, deep wounds, and permanent injuries. “Stress positions” are routinely used, forcing prisoners to stand or kneel in painful and degrading postures for extended periods, particularly during headcounts or transfers to military courts.

Psychological torture also extends into physical dimensions (Sensory Deprivation) through the prolonged exposure of detainees to direct and intense lighting, complete sensory deprivation in total darkness, or continuous exposure to loud and disruptive noise 24 hours a day.¹³ These practices result in severe sensory and neurological exhaustion and may lead to hallucinations, mental confusion, loss of cognitive stability, and in some cases a complete psychological breakdown.

On the psychological level, mock executions, threats to kill and rape family members, and the dissemination of false information about the execution of relatives are widely employed to generate a permanent state of fear, suspicion, and psychological breakdown. These practices constitute a flagrant violation of the absolute prohibition of torture as a peremptory norm of international law.

4. Economic Exploitation

Israeli prisons have evolved from mere sites of detention into systems of organized economic exploitation. The prison “canteen” has been transformed into a profit-driven market, with prices of basic goods raised by up to 794 percent, effectively transferring the occupying power’s legally imposed provisioning obligations onto prisoners themselves.

In addition, excessive financial fines are imposed as disciplinary sanctions or under military court judgments, draining the resources of prisoners’ families and the Palestinian community at large. Israeli private companies benefit from the privatization of services within prisons, such as telecommunications and transportation, entrenching a profit-based capitalist model of repression that generates revenue from deprivation of liberty.¹⁴

5. Deliberate Medical Neglect as a Form of “Slow Killing”

¹³ [Welcome to Hell: The Israeli Prison System as a Network of Torture Camps | B'Tselem](#)

¹⁴ [Palestinians in Israeli jails face 'conditions unfit for human beings,' state agency says | The Times of Israel](#)

Medical neglect is not the result of administrative failure but a deliberate policy. This includes the systematic denial of treatment for illnesses like cancer and diabetes, among other serious health conditions, with prolonged delays in medical examinations, and the withholding of medications, leading to the outbreak of infectious skin diseases such as scabies, which forced prisoners to scratch their bodies until bleeding.

Prisoners have also been compelled to pay for essential medical aids, such as eyeglasses and hearing devices, and have been denied routine medical check-ups. This constitutes a clear violation of the right to health and may amount to indirect killing through deliberate neglect.

6. Enforced Disappearance and the Withholding of Bodies

The bodies of hundreds of prisoners, particularly those from the Gaza Strip, are being held in undisclosed detention facilities such as "Sde Teiman" and "Rekefet." Their whereabouts are not disclosed, and lawyers and the International Committee of the Red Cross are denied access. Such actions are manifestly illegal and constitute enforced disappearance under international law.

Furthermore, Israeli authorities continue to withhold the bodies of Palestinians who died in custody or were killed outside prisons, burying them in so-called "numbered graves" for use as bargaining chips. This practice amounts to collective punishment and a grave violation of human dignity and the rights of victims' families.

7. Absence of Due Process

Administrative detention remains one of the most dangerous instruments of repression, enabling the indefinite detention of thousands of Palestinians without charge, or trial based on "secret files" inaccessible to the detainee or their lawyer.

Military courts function primarily as mechanisms of validation rather than as forums of justice. They systematically fail to meet minimum fair trial standards, rely on confessions extracted under torture, and frequently conduct proceedings in Hebrew, a language many detainees do not understand.

Additionally, the "Unlawful Combatant" Law operates as a legal black hole, permitting indefinite detention without meaningful safeguards and entrenching a permanent state of legal vulnerability and the absence of effective legal protection.

8. Systematic Deprivation of Conditions Necessary for Human Dignity

In addition to food deprivation, prisoners are subjected to a comprehensive denial of basic living conditions, including clothing, hygiene, and sanitation. Many detainees are left with extremely limited clothing that is unsuitable for climatic conditions, with restrictions on changing or washing garments for extended periods. Severe shortages of personal hygiene products further contribute to the spread of disease and the deterioration of overall health conditions.

Showering is subject to strict limitations, including restricted duration and external control over water temperature, which is at times used as an additional punitive measure. When combined with overcrowding and poor ventilation, these conditions produce a detention environment that falls below the minimum standards of human dignity and may amount to degrading treatment under international law.

Confiscation of personal property, including clothing, books, religious texts, and basic essential items, forms part of a broader policy of material deprivation. This deprivation undermines individual identity and personal dignity, while also weakening prisoners' psychological resilience and their ability to cope with daily life inside detention.

This pattern of deprivation is particularly severe in relation to female prisoners, who are subjected to additional gender-based forms of abuse, including the denial of essential menstrual hygiene products, restrictions on access to bathing facilities, and instances of humiliation and ridicule during menstruation. These practices constitute an aggravated form of ill-treatment, as they directly target fundamental biological and gender-specific needs, thereby intensifying the broader system of humiliation and degrading treatment within detention facilities.

9. Overcrowding of Prison Space

Overcrowding has reached levels that fundamentally alter the nature of detention itself, with the number of prisoners far exceeding the intended capacity of prison cells, forcing detainees to sleep on the floor under unhygienic conditions. This is not a temporary or incidental phenomenon but is enabled by policies and emergency measures that suspend minimum standards of detention.

Prison authorities have further engaged in a systematic reconfiguration of prison space by converting essential facilities such as canteens, storage rooms, and laundry areas into additional cells. This transformation not only intensifies overcrowding but also eliminates basic life-sustaining functions, thereby institutionalizing and permanently embedding inhumane detention conditions.

10. Isolation and the Fragmentation of Social and Human Relations

Prisoners are subjected to near-total isolation from the outside world through severe restrictions on family visits, limitations on access to legal counsel, and the prohibition of media access. This results in complete informational deprivation, with prisoners relying solely on newly admitted detainees for updates on external events.

In addition, strict internal restrictions prevent communication between prisoners, limit movement within detention facilities, and prohibit collective activities such as group prayer. These measures systematically dismantle social bonds and weaken the collective structure of the prisoner population.

11. Deprivation of the Right to Life and the Institutionalization of Death as a Legal Policy

The renewed legislative push to impose the death penalty on Palestinian detainees, reintroduced in late 2025 by the “Jewish Power” party led by National Security Minister Itamar Ben-Gvir and publicly endorsed by Prime Minister Benjamin Netanyahu, marks a decisive shift from de facto killings to the formal codification of death as a matter of state policy, effectively transforming the deprivation of life from a field-based practice into a legalized instrument of governance. This trajectory extends beyond the expansion of punitive powers, as it fundamentally reconfigures the right to life into a conditional entitlement subject to security and political determinations directed against a specific protected group. The linkage of capital punishment to so-called “nationalistic motives” further strips legal protection of its individual character, converting it into a mechanism of structural discrimination targeting Palestinians on the basis of identity, thereby undermining the principle of equality before the law.

Concurrently, vesting Israeli military courts, operating within a framework characterized by near-automatic conviction rates and the absence of fair trial guarantees, with authority to

impose death sentences, renders the deprivation of life a near-inevitable outcome within an institution lacking judicial independence. This is further compounded by the ongoing pattern of extrajudicial killings and custodial deaths resulting from torture, medical neglect, and inhuman treatment, revealing a convergence between unlawful field executions and their subsequent legislative normalization. In this manner, the right to life is no longer safeguarded as an absolute norm under international law but is instead reconstituted as an arena for the legal production of domination through formal mechanisms that entrench a regime of systematic discrimination and violence.

The Israeli Military Court System as a Mechanism of Structural Domination

The Israeli prison system is grounded in a foundational legal framework that enables broad and selective jurisdiction comprising more than 2,500 military orders, foremost among which is Military Order No. 1651 (the Order Regarding Security Provisions), applied as the primary criminal code in the occupied territory and effectively prevailing over both Israeli civil law and international law in practice. This framework reflects a structurally discriminatory regime, whereby military courts exercise jurisdiction exclusively over Palestinians in the West Bank, while Israeli settlers residing illegally in the same territory are subject to a much more favorable Israeli civil law. This results in a dual legal system predicated on legal and ethnic segregation. The definition of “offenses” is further expanded to encompass “hostile terrorist activity” and a wide range of “public order” violations under instruments such as Military Order No. 101, which criminalizes conduct including the raising of flags, participation in demonstrations involving more than ten individuals, or the production and dissemination of politically expressive material.¹⁵ Within this legal architecture, no procedures aligned with international humanitarian law for determining combatant status, thereby enabling the blanket criminalization of any Palestinian political activity as “terrorism.”¹⁶

Military courts operate within a structurally deficient environment that lacks the fundamental guarantees of a fair trial, which is reflected in conviction rates exceeding 99 percent.¹⁷ Judges and prosecutors are serving officers in the Israeli military, operating within the same

¹⁵ [Israeli military orders relevant to the arrest, detention and prosecution of Palestinians | Addameer](#)

¹⁶ [Israeli military orders relevant to the arrest, detention and prosecution of Palestinians | Addameer](#)

¹⁷ [Military Courts | Addameer](#)

institutional framework responsible for arrest and interrogation, and therefore lacking meaningful judicial independence. Convictions are frequently based on confessions obtained under coercion or pressure, often recorded in Hebrew by Israeli police, even though many detainees do not understand the language, and subsequently signed by detainees without comprehension, later serving as primary evidentiary material.¹⁸ This deficiency is further amplified in the context of administrative detention, whereby individuals are held indefinitely without charge or trial based on “secret evidence” that is neither disclosed to the detainee nor their legal counsel, effectively nullifying the right to a meaningful defence.

The discriminatory nature of the system extends beyond its adjudicative structure to its procedural and punitive rules, which are designed to provide only minimal due process guarantees, significantly below those afforded under the Israeli civilian legal system. Palestinians may be detained for interrogation without charge for up to 90 days, compared to shorter periods applicable to Israeli citizens, and proceedings may extend up to 18 months before judgment, compared to a maximum of nine months in civilian courts. Sentencing disparities are equally pronounced: in comparable cases, a Palestinian convicted of manslaughter may receive a life sentence, or multiple ones, whereas an Israeli convicted of the same offense against another Israeli citizen before a civilian court would typically face a sentence not exceeding 20 years. If the victim is Palestinian, the punishment for murder becomes much less, if any. With respect to minors, although the age of majority is formally set at 18, Palestinian children are frequently interrogated without the presence of parents or legal counsel, and may be prosecuted as adults if they reach the age of 16 during ongoing proceedings, in clear violation of international juvenile justice standards.

Within this context, the Israeli High Court of Justice plays a central role in legitimizing this system through what human rights literature describes as a process of “legal sanitization.” Rather than addressing structural practices and violations such as arbitrary detention or systematic deprivation of liberty as international crimes requiring accountability and cessation, the Court often reframes them as “administrative deficiencies” amenable to procedural improvement or enhanced oversight. This judicial approach effectively provides legal cover for the continuation of violations of international humanitarian law and international human rights law, while maintaining the formal appearance of the rule of law.

¹⁸ [Military Courts | Addameer](#)

In conclusion, the UN Special Rapporteur, Francesca Albanese, concludes that the Israeli carceral system functions as a tool of settler-colonialism, designed to achieve the "de-civilianization" of the Palestinian population, deprived of their standing as protected persons under international law.¹⁹ This fragile legal existence is instrumentalized as a mechanism for sustaining permanent control over land and population within a broader settler-colonial framework that systematically reshapes law itself into an instrument of domination rather than justice.

Applicable Legal Framework & Analysis

The Israeli detention regime imposed on Palestinians must be assessed within a binding international legal framework composed primarily of international humanitarian law, in particular the Fourth Geneva Convention, alongside international human rights law, most notably the International Covenant on Civil and Political Rights and the Convention Against Torture. In situations of occupation, deprivation of liberty does not constitute an unfettered sovereign prerogative, but rather an exceptional measure strictly constrained by requirements of military necessity, proportionality, and fundamental procedural safeguards. Article 27 of the Fourth Geneva Convention obliges the occupying power to ensure humane treatment and respect for the dignity of protected persons at all times, while Articles 31 and 32 explicitly prohibit any form of physical or moral coercion, torture, or cruel treatment. Furthermore, Article 78 permits recourse to administrative detention only where "necessary for imperative reasons of security," subject to effective and periodic review.

Documented practices, however, reveal a clear structural departure from these constraints. Administrative detention is employed in a widespread and systematic manner, without charge or trial, and based on secret evidence inaccessible to detainees and their legal counsel. This practice effectively empties the requirement of "imperative necessity" of its substantive meaning and transforms an exceptional measure into a routine mechanism of control. It further constitutes a direct violation of Article 9 of the International Covenant on Civil and Political Rights, which prohibits arbitrary detention and guarantees the right of individuals to be informed of the reasons for their arrest and to challenge the lawfulness of their detention before a competent tribunal.

¹⁹ [Summary of the UN Special Rapporteur's Report on the Widespread and Systematic Deprivation of Liberty in the Occupied Palestinian Territory - Law for Palestine](#)

With respect to judicial guarantees, Articles 71 to 75 of the Fourth Geneva Convention require that any prosecution be conducted in accordance with fundamental fair trial standards, including the right to be informed of charges, to present a defense, to be assisted by counsel, and to be tried by a properly constituted court. Similarly, Article 14 of the International Covenant on Civil and Political Rights enshrines the right to a fair and public hearing before an independent and impartial tribunal. In practice, however, the operation of Israeli military courts reflects a structural deficiency in these guarantees, given the institutional integration of judges and prosecutors within the military establishment, and the recurrent reliance on confessions obtained under coercion. Such conditions fundamentally undermine judicial independence and render proceedings incapable of meeting minimum international standards, potentially amounting to the war crime of “wilfully depriving a protected person of the rights of fair and regular trial” under Article 8(2)(a)(vi) of the Rome Statute of the International Criminal Court.

Article 76 of the Fourth Geneva Convention establishes a clear and binding rule governing the treatment and location of detention for protected persons under occupation. It stipulates that individuals accused of offences must be detained within the occupied territory, and that, in the event of conviction, they must serve their sentences within the same territory. This provision is not merely procedural; it reflects a core legal safeguard designed to prevent the geographic and legal displacement of protected populations from the territory in which they reside.

Within the broader framework of the Fourth Geneva Convention, this rule is reinforced by an explicit prohibition on the transfer of detainees from the occupied population outside the occupied territory. The occupying power is therefore legally barred from relocating prisoners to detention facilities beyond the territorial boundaries of occupation. Such transfers undermine the protective regime of international humanitarian law by severing detainees from their social, familial, and legal environment, and by effectively extending the reach of the occupying power beyond what is permitted under the law of occupation.

Moreover, the application of a dual legal system within the same territory, where Palestinians are subject to military law while Israeli settlers are governed by civil law, constitutes a violation of the principle of equality before the law as enshrined in Article 26 of the International Covenant. When this discrimination is combined with the systematic

deprivation of fundamental rights, it may amount to the crime of persecution as a crime against humanity.

The practices documented within detention facilities further indicate a widespread and systematic pattern of physical and psychological torture, including severe beatings, stress positions, threats, and sexual humiliation. These acts fall squarely within the definition of torture under Article 1 of the Convention Against Torture, which defines torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted for purposes such as obtaining information, punishment, or intimidation, when carried out by or with the consent of a public official. Article 2 of the Convention further establishes the absolute and non-derogable prohibition of torture, irrespective of circumstances, including situations of war or public emergency. When committed in the context of an armed conflict, such acts constitute grave breaches under Article 147 of the Fourth Geneva Convention and qualify as war crimes pursuant to Article 8(2)(a)(ii) of the Rome Statute.

Detention conditions themselves constitute an independent category of violations. Policies of deliberate starvation, denial of medical care, and prolonged isolation contravene Article 76 of the Fourth Geneva Convention, which requires the occupying power to ensure humane conditions of detention, including adequate medical attention. Where such deprivation is intentional and results in severe suffering or serious risk to health or life, it may amount to inhuman treatment or torture, and may further qualify as a war crime under Article 8(2)(a)(iii) of the Rome Statute, which criminalizes the wilful infliction of great suffering or serious injury to body or health.

The use of secret detention facilities and the denial of contact with the outside world further give rise to the crime of enforced disappearance under customary international law. The refusal to acknowledge the deprivation of liberty or to disclose the fate or whereabouts of detainees places individuals outside the protection of the law and constitutes a composite violation of multiple fundamental rights. When carried out as part of a widespread or systematic practice, enforced disappearance amounts to a crime against humanity under Article 7(1)(i) of the Rome Statute of the International Criminal Court.

In addition, the application of two distinct legal systems based on identity, whereby Palestinians are subjected to military law while Israeli settlers are governed by Israeli civil law within the same territory, constitutes a violation of the principle of equality before the

law as enshrined in Article 26 of the International Covenant on Civil and Political Rights. Such systematic discrimination, when coupled with the deprivation of fundamental rights, may amount to the crime of persecution as a crime against humanity under Article 7(1)(h) of the Rome Statute.

Following 7 October 2023, the expansion of arbitrary detention, the erosion of legal safeguards, and the escalation of violence within detention facilities indicate a qualitative shift toward the use of detention as a form of collective punishment, in direct violation of Article 33 of the Fourth Geneva Convention, which categorically prohibits collective penalties. The documented increase in deaths in custody, in conjunction with patterns of torture and medical neglect, further engages legal responsibility for wilful killing or inhuman treatment, constituting grave breaches of the Convention and war crimes under the Rome Statute.

Accordingly, a comprehensive legal assessment of these practices, in light of the aforementioned provisions, demonstrates that the issue extends beyond isolated violations or procedural deficiencies. Rather, it reflects a systematic pattern of arbitrary deprivation of liberty, coupled with torture, the absence of judicial guarantees, and structural discrimination. The convergence of these elements, when implemented on a widespread and systematic basis, not only constitutes serious violations of international humanitarian and human rights law but also meets the legal threshold of war crimes and may rise to the level of crimes against humanity, thereby engaging international criminal responsibility.

International Responsibility and Failure

The persistence of these violations is inseparable from the broader failure of the international community to fulfill its legal obligations. Under common Article 1 of the Fourth Geneva Convention, all states are required not only to respect but to ensure respect for the Convention, thereby imposing a positive duty to act in response to serious breaches. Despite extensive documentation by international organizations, including Amnesty International and Human Rights Watch, the response has remained largely confined to declaratory condemnation, without the adoption of effective enforcement measures.

This inaction is particularly evident in the limited progress toward accountability for conduct that may constitute international crimes. The widespread and systematic deprivation of

liberty, coupled with patterns of torture, enforced disappearance, and structural discrimination, meets the legal threshold of crimes against humanity under the Rome Statute of the International Criminal Court. However, mechanisms such as the International Criminal Court continue to face significant political and practical constraints, resulting in a gap between legal qualification and judicial enforcement.

At the same time, third states bear independent legal obligations not to recognize as lawful an illegal situation, nor to aid or assist in its maintenance. Continued forms of cooperation that contribute to sustaining the detention regime may therefore engage derivative responsibility under international law. This failure is further compounded by the obstruction of international oversight, as Israel has restricted access to detention facilities and limited the role of monitoring bodies such as the International Committee of the Red Cross, particularly in the period following October 7, 2023. The resulting absence of transparency reinforces conditions of impunity and weakens already fragile accountability mechanisms.

Judicial dynamics within Israel also play a role in sustaining this system. The Israeli High Court, rather than addressing structural violations as breaches of international law, has frequently reframed them as administrative or procedural deficiencies, a process often described as “legal sanitization.” This approach preserves the formal appearance of legality while enabling the continuation of unlawful practices, effectively integrating the judiciary into the broader architecture of control. In this context, the failure is not merely one of omission, but of systemic accommodation, in which international norms are acknowledged yet not enforced, allowing violations to persist in a normalized legal environment.

Conclusion

The Israeli detention regime, when assessed in its totality, cannot be understood as a lawful security framework operating within the bounds of international law. Rather, it constitutes a central component of a broader system of control that restructures legal, political, and social relations within the occupied territory. Through the combined use of arbitrary detention, torture, denial of fair trial guarantees, enforced disappearance, and structural discrimination, Palestinians are effectively stripped of meaningful legal protection and placed in a condition of permanent vulnerability.

This system produces what may be described as a form of carceral continuity, in which mechanisms of confinement extend beyond the physical space of prisons to regulate the broader fabric of Palestinian life. Since October 7, 2023, this regime has undergone a qualitative escalation, characterized by the erosion of legal safeguards and the intensification of violence, giving rise to patterns of detention that approximate a model of “lethal governance,” in which deprivation, abuse, and neglect are systematically deployed as tools of domination.

From a legal perspective, the convergence of these elements satisfies the threshold of grave breaches under international humanitarian law and constitutes war crimes. When considered within their widespread and systematic context, these practices may further rise to the level of crimes against humanity, engaging international criminal responsibility. The legal characterization of this system is therefore neither indeterminate nor contested in principle; rather, the central issue lies in the absence of effective enforcement and accountability, which continues to allow the persistence of a structurally unlawful regime.

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