

# **Violation of Palestinian Prisoner's rights by Israel**

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## **ABSTRACT**

For many years, the issue of Palestinian detainees was one of the main sticking points in talks between Israel and the Palestinians over a possible peace agreement. Since the founding of the state of Israel in 1948 and the subsequent occupation of the West Bank, including East Jerusalem, and the Gaza Strip in 1967, Israeli authorities have imprisoned around one million Palestinians. It has consistently and unlawfully denied these Palestinian detainees their most basic HR, which are outlined in UN charters. According to Palestinians, the region won't experience peace until Israel is willing to confront its illegal activities and violations of HR, particularly those involving Palestinian political detainees, and finally adhere to its promise to free all of these prisoners. This article looks at the general rules and regulations pertaining to prisoners' HR and emphasizes how Israel is violating these rules.

## **KEY WORDS**

HR, Violations, Prisoners, Palestine, Israel

## **INTRODUCTION**

One of the criminal justice systems' tools for providing victims' compensation and social justice is the criminal justice system's ability to punish offenders. Every society's criminal justice system, in this sense, determines some penalties. One of the punishments included in this imprisonment is the detention of those found guilty in a prison. So even while the guilty person is given a prison sentence and has some of their liberties restricted, they still have fundamental rights and freedoms that must be upheld, even while they are imprisoned, and they have the choice of how they want to be punished. If a person is convicted of a crime and given a jail sentence, that person should only receive a prison sentence; other HR must not be violated as a result of that conviction (Raz, 1977). Only those prisoners who have been found guilty of the crime in a just and impartial court after a fair trial should receive an incarceration sentence. Given this situation and the other Executive legal domains' compliance with the theories of the rule of law, the punishment is limited by the law. As a result, the length of incarceration must be determined in accordance with legal principles, the rule of law, and prison administration. This also applies to the personnel responsibilities and other operations carried out by the Bureau of Prisons. International organisations, institutions with expertise in international criminal law, and HR organisations have made an effort to compile a list of these violations in this regard and to preserve the rights of people who have been given prison sentences (Tremblay, 1997). These rules are typically outlined in numerous international HR (IHR) texts or, more specifically, in the actions of professional and specialised institutions. The judges and prisons have then made announcements and recommended changes to domestic law to make these rules enforceable. States have agreed to these principles, and a worldwide commitment to uphold them in conformity with the rule of law has only lately been made. (Rouhi, Dezaki, & Karveh, 2017).

The simplest definition of a "prisoner" is a person who, after being found guilty of any crime, is denied his entire personal liberty against his will (Prisoners' Rights, 2018). When incarcerated in a jail or other facility, all detainees should have access to Human Rights (HR), which are believed to be the highest standards for both physical and mental health. They should also receive timely medical evaluations and, if necessary, all necessary medical care. The prison administration should treat the inmates with respect in order to encourage a sense of social and moral rehabilitation among them and promote the prisoners' personal reformation. The primary goal of the jail system and regime should be to provide guidance (Shodhganga, 2012).

## **LAWS ABOUT PRISONERS' RIGHTS**

There are still a number of international rules in place to protect prisoners' rights in general and to treat political detainees humanely. The IDHR (1948) made it very plain in Article 5 that physical abuse and other harsh treatment are prohibited (IDHR, 2015). Reiterating that no one "should be subjected to torture or cruel, brutal, or humiliating treatment or punishment," the ICCPR of 1966 underlined this (UNGA, 1966). Similar to this, Article 2 of the 1984 UN declared that "Each State Party should take appropriate legislative,

administrative, judicial or other measures to prohibit acts of torture in any territory under its authority... No extraordinary circumstances, including a state of war or the prospect of conflict, domestic political instability, or any other type of public emergency, may be used to justify the use of torture. Also, it is not permissible to use a public authority or a senior officer's command as grounds for torturing someone (OHCHR, 1984).

The right of the inmates to engage and communicate with the outside world, particularly with their families and relatives, must be curtailed, while the right of foreign prisoners to interact and communicate with their own diplomatic and political officials must be respected. If at all possible, the request of any prisoner to be housed at a facility closer to their residence will be granted. While minorities from various religious, linguistic, or ethnic groups have the right to practise their own religion, language, and culture, respectively, everyone in prison must be allowed the freedom of conscience, thought, ethics, and religion. Comparable to men, women inmates are also entitled to full protection under all political, socioeconomic, cultural, moral, and other legal considerations. Due to their significant prejudice and need for protection from any forms of assault, harassment, brutal treatment, or critical exploitation, female convicts must be housed separately from male prisoners in women's prisons (OHCHR, 2005).

Several measures guaranteeing the implementation of due process and proper administration of justice are included in the Fourth GC. Last but not least, it is important to note that "willfully depriving a protected person of the rights to a fair and regular trial" or "the unlawful deportation, transfer, or incarceration of a protected person" are considered to be seriously serious violations of this Convention. As a result of such violations, all 194 extremely high contracting parties that took part in and ratified the Fourth GC are now subject to significant legal and serious duties. They are required to impose appropriate penalties on those who engage in such severe wrongdoing or attempt to command such blatant infractions in order to find the offender(s) and bring them to justice. Regarding laws pertaining to IHR, Israel approved and ratified Article 9 of the ICCPR in 1991, and it continues to impose Israel with a number of required sanctions regarding proper procedure in pre-trial detentions. To deal with the rights of detainees to a fair and proper trial, Article 14 additionally imposed some additional restrictions on Israel (Alhaq, 2007).

### **ISRAEL'S VIOLATION OF PRISONERS' RIGHTS**

Since beginning its unlawful occupation of the Occupied Territories in 1967, Israel has imprisoned about 750,000 Palestinians (almost 20% of the region's current population). Israel has imprisoned many Palestinian males, as well as women and children, over these years of ongoing combat and non-stop hostilities. In order to govern its total control over every element of Palestinians' lives, Israel had tried to carry out these acts through a number of illegal and systematic sets of legislation, limiting or outright rejecting even the most fundamental of their HR. Also, examining the jails' environment and staff members' interactions with inmates creates the most pitiful and sympathetic circumstances. Palestinian prisoners are subjected to harsh military evaluations and hearings by the Israeli government's

military forces who are arrested in the Occupied Territories. These tribunals hardly ever adhere to the necessary international standards for such proceedings. The Israeli military personnel that are in charge of enforcing the law do so more frequently and more consistently than the general populace is aware of. So, surrounded by horrible and horrific conditions, the Palestinians also endure unjust sufferings brought on by an unsteady system of law and order that is the result of Israel's laws as well as many other international agreements being broken (Miftah, 2012).

In addition to being "brutal and cruel," the policies of the Israeli forces regarding the detention and imprisonment of Palestinians from the occupied territory under Israeli control, as well as their deprivation of regular family gatherings, could also be characterised as a clear violation and intentional breach of international law. In a report it was noted that "Israel's cruel approach of detaining Palestinian arrested prisoners from Occupied Territories in jails exposes its blatant violations of the Fourth GC." Additionally, because the detainees and their family members are not permitted to visit, Israel's unlawful and callous actions have terrible effects on them.

Almost 6,500 prisoners are currently held in prisons and detention facilities under Israeli control, according to a different report by the NGO known as the Palestinian Prisoner's Club (PPC), which sympathetically also includes at least 300 children. This number is based solely on security-related concerns. Only one of the 17 detention facilities isn't outside of Israel's borders out of the total 17. The following facts demonstrate Israel's devious and dishonest policies in order to provide a clearer picture and provide more compelling evidence. Even 13 members of the Palestinian Legislative Council (PLC) are currently being held in different prisons. The fact that at least 500 people are incarcerated and facing no charges is very strange. In accordance with international regulations that forbid arbitrary detention, Israel also detains numerous people under administrative detention (a procedure that has been in existence for quite some time). (Israel must end 'unlawful and cruel' policies towards Palestinian prisoners, 2017).

Another source claims that Israel currently has more than 10,000 Palestinian detainees in administrative detention, including 780 adults and 400 children. In addition, a large number of Palestinian government officials are currently being held without cause or justification. The essential principles of IHR and pertinent legislation regarding rights to fair and just trials have been violated by Israel's aggressive possession and unlawful occupation, which will soon reach 40 years. Even laws requiring inmates to be treated humanely have been repeatedly broken. Since 1967, almost 800,000 Palestinians had been jailed; as of March 2017, however, there were over 6300 Palestinian prisoners being held in Israeli jails, with nearly 500 of them being held as administrative detainees (Gostoli, 2017).

As a result of several agreements established in the past, Israel had been regarded as the Occupying Power in the Occupied Palestinian Territory (OPT). With relation to the protection of civilians during times of war, Article 76 of the Fourth GC explains the rights of those who are protected while being held by an occupying power. These rights included the

ability to serve one's sentence even after being found guilty, as well as the ability to remain in the occupied territory during various imprisonment periods. In order to visit the numerous Palestinian prisoners who are now being imprisoned in Israeli prisons, the families from the OPT must endure great challenges and trying circumstances. Together with specific provisions for the protection of women and children, the same article spelt out the occupying power's duties to provide the detainees with enough and deserving medical care.

According to Addameer, a member of the Palestinian Prisoners' Rights Group (PPRG), since 2015, adolescents and teenagers have made up roughly one-third of the Palestinians detained. According to reports, there are currently 300 youngsters among the 6,300 Palestinians being held in Israeli prisons. The attorneys who work in these facilities documented child abuse and other violations of the laws protecting HR, stating that " among the worst were late-notification of their right to legal representation, night arrests, brutal beatings in front of their parents, shooting at them before detaining them, handcuffing, foot cuffing, and blindfolding. Beyond the use of excessive force, Israeli police repeatedly and gravely violated kids (Maan News, 2017).

### **WOMEN PRISONERS**

On Israeli military orders, 10,000 Palestinian women are said to have been held or jailed during the past 43 years. Palestinian women detainees are often subjected to abuse, humiliation, and appalling living conditions while they are in custody. Most Palestinian female inmates who have been subjected to interrogation are then moved to either Damon or Hasharon-Telmond Prison. According to Fourth GC article 76, which requires an occupying force to hold citizens of an occupied region in jails located within that territory. These two jails are located outside of the area that was occupied in 1967. Both lack a gender-sensitive approach, and the Israeli prison administration regularly degrades Palestinian female prisoners by forcing them to strip in front of usually male prison guards, subjecting them to brutal body searches, frequently harassing them sexually, punishing them in solitary confinement, prohibiting them from using the canteen or taking outside breaks, conducting cell searches, and taking away their personal belongings.. By excluding women from contact with the outside world and restricting family visits, the prison administration also tries to splinter the bonds among female inmates. A large number of Palestinian women prisoners were simply detained to exert pressure on their husbands, frequently threatening to harm them or their families if they did not comply with Israel's demands (Miftah, 2012).

Long-standing Israeli military techniques against Palestinian prisoners of war include sexual harassment and sexual abuse. Men and children are also susceptible to these kinds of mistreatment, but women typically bear the brunt of it. A female Israeli police must be present when questioning women. She frequently serves as a cover for, though, as well as evidence of, illicit activities. In order to win the respect and attention of male soldiers or superiors, female commanders use aggressive tactics of control against both men and women. This is not any less brutal than what their male counterparts do. Under Israeli national security, the violence and harassment that these women must put up with are considered

tolerable because it serves as a necessary means of state protection. The fears and abuse that Palestinian women experience are inextricably linked to the Palestinian national discourse, which says that their bodies are an imagined national body, making them susceptible to being turned into weapons.

"Weaponization" refers to the use of women's bodies as weapons in the warfare of patriarchal powers. By assaulting specific female victims and focusing on gender relations in Palestinian society, the term "isqat," which means "downfall," shows how women's bodies have been exploited as weapons against the Palestinian national fight. Isqat includes using sexual assault on Palestinian women to gather "security information." Instead of acknowledging the HR or experiences of these oppressed women, the word is supposed to highlight how military power structures exploit patriarchal notions of sexuality and honour to undermine particular women and their families on a personal, social, and political level. The struggle for national identity and resistance is thus pitted against Palestinian women through the exploitation of their bodies as a weapon. Since sexual harassment and other forms of torture are frequently employed to intimidate and coerce confessions, interrogations are frequently regarded by many women as one of the most severe aspects of detention. Techniques for physical/psychological torture include beatings, stress postures, sleep deprivation, shouting sexual slurs, and inquiries about her husband. The majority of women experience sexual violence, which can take various forms such as beatings, threats, sexually explicit harassment, threats of rape (including threats against family members), and body searches. During these routine body searches, practically all clothing is violently torn off, occasionally including knickers. The women frequently had to crouch while naked and go through intrusive interior body searches. The majority of strip searches take place on the way to and from court appearances, where younger women are typically the targets. Strip searches may also take place at night as a disciplinary measure, and they frequently escalate to torture. Despite the ICCPR' rarity, strip searches are prohibited by IHR. A common/systematic form of racial and gender-based state violence against Palestinian women, and a key component of their jail experience, is sexual harassment and violence (Dylann, 2020).

These women's sexual assault has been perceived as a threat to national security, making it challenging for them to talk about their attack and get post-assault support. IDF soldiers committed innumerable rapes during the 1948 Nakba, but because rape has such a severe stigma in Palestinian society, victims have actively buried this entire history. Speaking up on these problems is viewed as being in opposition to the national cause and endorsing the goal of foreign forces aiming to destroy Palestine. In light of this narrative, a woman's body becomes not only her own but also protects real Palestinian culture, making her a part of the country and the national story. As a result, jail inmates not only endure gender-based discrimination but also bear the responsibility of using their own bodies as weapons to defend themselves and their country. Palestinian women are subjected to a variety of forms of gender discrimination, including sexual harassment and violence in Israeli prisons. The Israeli enterprise repeatedly sexualizes the difficulty these women face in an effort to dehumanise them, sever their ties to their families, and destroy their ties to the land. These Palestinian bodies and their society, who live in the occupied Palestinian Territories and within the

boundaries of historic Palestine, are subjected to a new level of anguish as a result of this sexualized immorality.

### **CHILD PRISONERS**

Children are still being detained by occupying authorities notwithstanding international and Israeli law. Every year, Israeli military tribunals try over 700 West Bank-based Palestinian minors who are under the age of 18. Throwing stones is the most prevalent accusation levelled against youngsters, which is punishable by up to 20 years in prison under military law. 176 Palestinian youngsters, 31 of them are under 16, are now detained in Israeli prisons. Palestinian youngsters are treated, tried, and punished as adults starting at the age of sixteen, by Israeli military instructions. In reality, Israeli military tribunals may charge and sentence Palestinian juvenile detainees as young as 12 years old. Hence, Palestinian children who are detained are subjected to harsh, tough treatment, such as torture, solitary incarceration, and cramped quarters. Ninety-nine percent of young prisoners experienced such harsh treatment, according to the PA Department of Planning and Statistics. They are denied enough sleep, a sufficient education, medical care, family visits, and leisure activities. Many ailments affect more than 25% of the Palestinian children imprisoned.

### **ACCESS TO HEALTH CARE AND ADEQUATE FOOD**

Even though Israel has prison rules governing the provision of food and medical care, their actualization frequently falls far short of the UN's Standard. Despite the prevalence of serious illness among prisoners, effective medical care is infrequently offered, and when it is, the lengthy wait times for care put the lives of those who need it most in danger. Over-the-counter medicines are used as a treatment for practically all medical issues because specialised doctors and services are not frequently accessible. Women who are expecting are more at risk. Women reportedly being handcuffed while giving birth has been reported. Prisoners are frequently given insufficient food, thus they must rely on their loved ones to provide them enough food. Particular needs are disregarded, such as those of people with diabetes. People frequently leave jail with substantial health issues, both physically and mentally, as a result of the extreme neglect of prisoners' health.

### **CONCLUSION**

Israel has repeatedly tortured Palestinian detainees, including children, especially during detention and interrogation, in violation of UNHR regulations since its founding. The international community must push Israel to recognize the validity of HR accords and IHL and assure their effective implementation. This is both morally and legally required. Israel must be pressured by the international community to quickly adopt torture as a crime and guarantee that its definition complies with all convention and treaties.

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