

Palestinian political prisoners

Mass imprisonment as a political instrument

There are currently around 10,400¹ Palestinian prisoners held in Israeli jails. Imprisonment of Palestinians is an essential element in Israel's occupation and control of the Occupied Palestinian Territories. Since 1967 over 650,000 Palestinians have been imprisoned.

The use of imprisonment as a response to Palestinian resistance is well illustrated by the treatment of young people who throw stones at Israeli soldiers and military vehicles in the occupied territories. Since the start of the second intifada in September 2000 some 5,000 Palestinian children (under 18 years old) have been arrested by the Israeli occupation authorities. Almost all of them are charged with throwing stones. The sentences typically handed down for stone throwing are between one and four months' imprisonment for those aged between 14 and 17, with substantially longer sentences in some cases.

International law

In international law, East Jerusalem, the West Bank and the Gaza Strip are occupied territories to which the 4th Geneva Convention (1949) applies – and to which Israel is a signatory. This was put beyond doubt by the International Court of Justice in its 2004 Advisory Opinion, on the illegality of the West Bank Wall.

As is clear from Israel's control of borders and airspace, and the frequent military incursions, the removal of Israeli settlers from the Gaza Strip in 2005 has not ended the occupation. On the contrary, it has enabled Israel to put the entire area under a tight siege.

As an occupying power, Israel has responsibilities in international law towards the occupied population who, under the 4th Geneva Convention, are "protected persons". Among the rights of protected persons in international law are the following:

- Not to be subjected to torture or to "physical or moral coercion... in particular to obtain information from them or from third parties" (Articles 31 and 32).



- Not to be sentenced without a "regular trial", which includes the right to present evidence and call witnesses, to be represented by a lawyer "who shall be able to visit them freely and shall enjoy the necessary facilities for preparing a defence" (Articles 71 and 72).
- Not to be detained or imprisoned outside the occupied territory and to "enjoy conditions of food and hygiene which will be sufficient to keep them in good health" (Article 76).
- Not to be interned without trial except for "imperative reasons of security" (Article 78).

"No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."

Article 37b, UN Convention of the Rights of the Child

Israel flouts all of these legal conventions.

Israel is also a party to other international law instruments which are relevant to its treatment of prisoners. Both the UN International



Most children are jailed for throwing stones at Israeli tanks in the Occupied Palestinian Territories

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Covenant on Civil and Political Rights (1966) and the Convention against Torture and other Cruel, Inhuman and Degrading Treatment (1984) prohibit the infliction of torture and cruel, inhuman and degrading treatment or punishment by public officials or other people acting in a public capacity. Israel's use of torture is considered below.

International law requires states to have systems of juvenile justice which are not merely punitive but provide opportunities for education and training. Israel abides by these norms in its internal justice system but not in relation to the Occupied Territories, where it treats juveniles aged 16 as adults and generally fails to make necessary distinctions between the treatment of juvenile and adult prisoners.

Arrest, interrogation and torture

Israel boasts that its legal system operates according to the highest international standards. But the experience of Palestinians under Israeli occupation is far removed from the image that Israel seeks to project. They are subjected to inhuman and degrading treatment and tried before military courts which are more concerned with supporting the occupation than with the proper administration of justice.

The majority of arrests of Palestinians in the Occupied Territories, even of those accused of such minor offences as stone throwing, are carried out by Israeli soldiers removing people from their homes in the early hours of the morning. The person arrested is painfully handcuffed with plastic ties, blindfolded and taken away in a military jeep while family members look on. Once in the jeep the detained person is made to sit or lie on the floor at the feet of the arresting soldiers and is often kicked and hit as well as verbally abused during the journey to the detention centre.

Although in some cases there is no interrogation and release follows after a few days, most of those arrested are interrogated and then charged. Interrogation, often without access to a lawyer, can continue for lengthy periods before charges are brought. An initial period of eight days detention without charge can be extended by the military court by a further 15 days and thereafter further extensions can be obtained up to a maximum of three months.

In the 1990s, through litigation in the Israeli High Court, it was proved that Israeli security services, despite previously always denying doing so, had

routinely used interrogation methods amounting to torture or inhuman and degrading treatment, as defined in international law. Following a ruling of the Israeli High Court in 1999 certain interrogation techniques, such as violent shaking, exposure to extremely loud and constant music, and the use of stress positions (Shabeh) by tying detainees to small tilted chairs, were outlawed. As is the invariable practice of the Israeli High Court, it did not apply international law norms in reaching its conclusion but merely decided that those methods of interrogation were not permitted under Israeli domestic law. The High Court said it was open to the Israeli parliament to "legalise" such methods but this has not happened because the Israeli government does not want to be seen to authorise the use of torture.

Since the start of the second Intifada in September 2000, abuse amounting to torture or inhuman and degrading treatment during arrest and interrogation has once again become commonplace. The Israeli security services even admit to the continued use of what they euphemistically refer to as "physical pressure", in a number of cases against so-called "ticking bombs". However, research by the Public Committee against Torture in Israel shows that Israeli security service agents who interrogate Palestinian detainees continue to torture them, degrade them and otherwise ill-treat them routinely, in violation of international law.

The most common forms of abuse are beating, slapping, kicking, stepping on shackles, bending the detained person and forcing him into painful positions, intentionally tightening the shackles by which he is bound, violent shaking, sleep deprivation, prolonged shackling behind the back, cursing, threats (for example to set dogs onto the arrested person or to electrocute him or to harm his family), humiliations, depriving the detainee of essential needs and exposure to extreme heat or cold.

The ostensible purpose of the routine use of such methods, over and above their deterrent effect, is to extract confessions, which can then be used in court, and to induce those under interrogation to implicate others. When a confession has been secured it is written out in Hebrew – a language which most Palestinians cannot read – for the arrested person to sign. Confessions obtained in this way are the most common form of evidence relied on by the military courts in convicting and sentencing Palestinians.

The military court system

Although on paper the military court procedures closely resemble those of criminal courts in the UK, the practical reality is very different. For example, while there is a right to be represented by a lawyer, in most cases there is either no legal representation or it is of poor quality. This is attributable both to a lack of sufficient competent lawyers to take on cases and to Israeli restrictions on movement and other obstacles to non-Israeli lawyers



The "stress" position

visiting Palestinian clients in prison.

In the great majority of cases there will be a confession by the accused person. While it is open to the defendant to ask the court to rule that the confession is inadmissible evidence because it was obtained by threats or by the use of force, in practice military courts will always accept the evidence of the security services about their interrogation practices, in preference to the prisoner's account. There is therefore seldom any realistic prospect of being acquitted and sentencing is based on a plea bargain, whereby in exchange for a guilty plea the prosecution agrees to reduce the charges or to ask for a lighter sentence. A person who has antagonised the prosecution and the court, by making allegations of improper conduct against the security services, is not going to be in a good position to secure a favourable outcome from a plea bargain. On the contrary, he is more likely to receive a higher sentence.

Administrative detention

In some cases the Israeli authorities avoid the criminal justice route and choose instead to detain without trial. There were in December 2007 more than 840 Palestinians in administrative detention. In some cases detention has lasted for years, with no prospect of charges ever being brought. There is a requirement that every such detention be initially authorised by a military judge and reviewed periodically, but such judicial scrutiny is based on secret evidence, provided by the security services and not disclosed to the detainee or his lawyers, which therefore cannot be investigated or challenged. According to Hamoked, the Israeli human rights organisation, even in the small number of cases where the judge is not willing to make or renew an order for administrative detention, the security services often refuse to release the detainee, claiming that new information has come to light.

Israeli law formally recognises that administrative detention is a radical departure from the normal principles of the rule of law, and Article 78 of the 4th Geneva Convention limits it to cases where it is necessary "for imperative reasons of security", but in practice it is often used to restrict peaceful political activities. For example, Palestinians engaged in non-violent actions against the Wall in the village of Budrus have been placed under administrative detention.

Prison conditions

Israel holds Palestinians in more than a dozen prisons and detention centres of which several are outside the Occupied Territories. This is



Ketziot prison camp in the Negev desert

contrary to Article 76 of the 4th Geneva Convention. Because of restrictions on Palestinians entering Israel, family visits are infrequent, if not impossible.

The Defence for Children International, Palestine section (DCI/PS) describes the way the system operates: "Since most of post-trial detainees are held inside Israel, West Bank Palestinian residents must first obtain a permit, usually through the International Committee of the Red Cross just to get into Israel – a lengthy and bureaucratic process which often ends in outright rejection on security grounds, with no further explanations given. With only a few exceptions for work and medical treatment, blanket bans are issued on entry into Israel by all male Palestinians aged between 16-40, meaning that most Palestinian child detainees cannot be visited by their father or older brothers. Even if another male relative such as an uncle was able to obtain an Israeli entry permit, he would not be able to visit the child in prison, as Israel refuses to permit family visits to Palestinian detainees by anyone who is not a relative of the first degree."

In those cases where family members are able to visit, they are allowed no physical contact with the prisoner. They are kept apart by a thick pane of wire-reinforced glass, through which small holes have been drilled. There is no privacy and often the visit room is filled with families, all trying to talk through the glass barrier thus making normal conversation impossible.

In addition to restrictions on family visits, prison conditions fall below acceptable standards in other respects. In at least three of the prisons, including

Ketziot (also known as Ansar 3) in the Negev, Palestinians live in tents all year round. DCI/PS describes the conditions: "Tents ... are intended to sleep 20 but often hold many more due to overcrowding. The beds consist of wooden pallets covered with thin foam mattresses. Prisoners have complained to DCI/PS that the canvas tents are old and provide little protection against snakes, rats, scorpions and insects. Nor do they offer adequate shelter against the



Palestinian prisoners are routinely subjected to humiliating treatment

stifling heat of summer or the freezing winter nights.” Food is insufficient and of poor quality, there are too few toilets and washing facilities for the number of prisoners, prisoners are not provided with a change of clothes and medical services are inadequate and overseen by doctors who have colluded in the torture and ill-treatment of prisoners. Guards raid cells and tents on a regular basis, personal belongings are confiscated and detainees are subjected to humiliating body searches and to physical and verbal abuse.

Such conditions are particularly hard on juvenile prisoners (of whom there were 365 in February 2008, including 100 who are 13-15 years old) and women prisoners (approximately 120). In only one of the three prisons where juveniles are held is there any formal education. Despite a 1997 Israeli court ruling that child detainees are entitled to an education according to the Palestinian curriculum, the teaching of history, geography, religion and Arabic literature is banned on “security” grounds.

The prison authorities have responded punitively to efforts by women prisoners to improve conditions. In testimony given in February 2003 to Al Haq, the West Bank affiliate of the international commission of jurists, women at Al-Ramleh prison reported that when they demanded hot water for washing they were placed in solitary confinement with no change of clothes and some of them were severely beaten.

Imprisonment of Palestinian political leaders

Throughout the occupation Israel has imprisoned Palestinian political leaders such as Marwan Barghouti who in 2004 was given five life sentences. Since the collapse of the unity government project in 2007, 39 democratically elected Hamas representatives, including ministers, have been abducted and imprisoned – part of Israel’s sustained attempt to undermine Palestinian democracy. In some instances those arrested were charged with membership of a “proscribed organisation”, namely Hamas.

Wives of political leaders have also been arrested.



There are major obstacles to visits by family members, even to child prisoners

For example, on 13 October 2006 Amani Jaghameh, whose husband is wanted by the Israeli authorities, was arrested at her home, where she was asleep with her four children, and taken to an interrogation centre for questioning. Her interrogation included sleep deprivation and being held for three days in a sitting position attached to a chair. For over 30 days she was held without being allowed access to her lawyer. She was finally released, without charge, on 23 November after several court appearances during which the judges showed no interest in her allegations about the methods of interrogation which she reported to them, despite these being incompatible with the 1999 High Court ruling on torture.

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¹ Palestinian Ministry of Information Press Statement, April 14, 2007.

• Sources:

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What can you do?

- Join the PSC
- Boycott Israeli goods, tourism, cultural and sporting events and academic institutions supporting the occupation
- Express your views to the media
- Write to the Prime Minister, the Foreign Secretary, your local MP or Euro MP to urge government action in support of Palestinian rights
- Write to the Israeli Embassy demanding an end to the occupation and the freeing of all political prisoners

For full details of how to get involved, for further information on the historical and political background and for links to other organisations, see the PSC website: www.palestinecampaign.org

For boycott information:
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