

Israel's Long-Standing Violations of International Law, the Hostage Status of Palestinian Detainees, and a Path to Resolution

For decades, Israel has engaged in practices that violate international law and the human rights of Palestinian detainees, subjecting them to arbitrary detention without charges and severe mistreatment, including torture and sexual violence. These detainees, held without due process under abhorrent conditions, should be classified as hostages due to the coercive and arbitrary nature of their detention. Israel could secure the release of its own hostages held by Hamas and reduce the likelihood of attacks by ceasing its practice of arbitrary detention, releasing Palestinian detainees, and adhering to international legal standards, thereby addressing a root cause of the conflict.

Decades of Violations of International Law and Human Rights

Israel's use of administrative detention—holding individuals without charges or trial—dates back decades and constitutes a clear violation of international law. The Universal Declaration of Human Rights (UDHR) guarantees the right to liberty (Article 9) and a fair trial (Article 10), while the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel in 1991, reinforces these rights under Articles 9 and 14. The Fourth Geneva Convention, applicable to Israel as an occupying power, limits detention without trial in occupied territories, yet Israel's routine use of administrative detention flouts these standards. The UN Working Group on Arbitrary Detention has consistently classified this practice as arbitrary, particularly given the lack of transparency and legal recourse for detainees (UN Human Rights Office).

The scale of this practice is staggering. Before October 7, 2023, approximately 1,300 Palestinians were held in administrative detention, a number that surged to over 3,400 by early 2025 (Addameer Statistics). Historical data shows this is not a recent phenomenon; a 2015 study by Daniel J N Weishut documented systematic abuses from 2005-2012, with 60 cases of sexual torture among thousands of detainees, indicating a long-standing pattern (DOI: 10.1016/j.rhm.2015.11.019). The UN Commission in 2024 classified these practices as war crimes and crimes against humanity, citing their systematic nature (UN Commission).

Severe Mistreatment of Detainees

Palestinian detainees endure unimaginable conditions, facing torture, sexual violence, and humiliation that violate the Convention Against Torture (CAT) and ICCPR Article 7, which prohibit cruel, inhuman, or degrading treatment. The 2015 study detailed forced nudity, verbal sexual harassment, and physical assaults like genital pressing and rape with a blunt object (Weishut, 2015). Post-October 7, 2023, the abuses escalated: reports document beatings causing broken ribs, electric shocks, waterboarding, burns, and rape with objects and dogs. A female detainee at Kiryat Arba police station was threatened with rape while blindfolded, and UN experts reported 53 deaths in custody by August 2024 due to mistreatment, with autopsies revealing signs of torture (Amnesty International; UN Experts).

Humiliation tactics are rampant, such as stripping detainees naked, urinating on them, and forcing them to endure degrading acts like singing Israeli songs or kneeling during counts. These conditions, affecting even children as young as 14 by March 2025, demonstrate a systemic disregard for human dignity and international law (DCIP).

Palestinian Detainees as Hostages

Given the lack of charges, trial, or conviction, and the coercive nature of their detention, Palestinian detainees should be classified as hostages rather than prisoners. The 1979 International Convention Against the Taking of Hostages defines hostages as individuals detained to compel a third party to act, but the term can also apply rhetorically to state practices that arbitrarily deprive individuals of liberty for political or security purposes. Administrative detention, used to suppress Palestinian resistance and often involving torture to extract confessions, fits this mold. The systematic abuses—intended to humiliate and degrade—further align with the coercive intent typical of hostage-taking. Human rights groups like Amnesty International describe these detentions as arbitrary, drawing parallels with hostages held in Gaza, though they stop short of the legal term (Amnesty International). Labeling them hostages underscores the illegality and ethical severity of Israel's actions, distinguishing them from lawful imprisonment.

A Path to Resolution: Releasing Palestinian Detainees and Ceasing Arbitrary Detention

Israel could secure the release of its hostages held by Hamas and reduce the likelihood of attacks by addressing the root cause of Palestinian grievances: arbitrary detention and mistreatment. Hamas' hostage-taking, while illegal under the Hostage Convention, is explicitly aimed at negotiating mutual releases, as seen in the 2011 Gilad Shalit deal (1,027 Palestinian prisoners for one Israeli soldier) and the November 2023 ceasefire deal (105 hostages for 240 Palestinian detainees) (The Guardian; CNN). As of October 2024, 97 Israeli hostages remain in Gaza, with Hamas seeking a broader prisoner exchange (CNN). By releasing Palestinian detainees—particularly the over 3,400 in administrative detention—Israel could facilitate a mutual release, as Hamas has shown willingness to negotiate on these terms.

Moreover, ceasing the practice of arbitrary detention would address a key driver of Palestinian militancy. The October 7, 2023, attack, which killed 1,200 people and took 251

hostages, was partly motivated by the high number of Palestinian detainees—over 9,500 by April 2024, many held without charges under torturous conditions (Al Jazeera). This systemic injustice fuels resentment and violence, as groups like Hamas exploit the plight of detainees to justify attacks. Ending administrative detention, adhering to international law, and ensuring humane treatment of any lawfully detained individuals would reduce the incentive for such attacks, addressing a core grievance in the conflict.

Counterarguments and Rebuttal

Israel might argue that administrative detention is necessary for security, preventing attacks by detaining suspected threats. However, the lack of due process, secret evidence, and systematic abuses undermine this justification. The UN and human rights groups have documented that many detainees, including children, pose no credible threat, and the practice often targets activists and civilians as a form of collective punishment (B'Tselem). Furthermore, the scale of abuses—torture, sexual violence, and deaths in custody—cannot be justified under any security pretext, as they violate non-derogable rights under the CAT and ICCPR. Releasing detainees and reforming detention practices would not only comply with international law but also weaken the narrative of groups like Hamas, reducing their ability to rally support through the detainee issue.

Conclusion

Israel's decades-long practice of arbitrary detention without charges, coupled with the torture, sexual violence, and humiliation of Palestinian detainees, constitutes severe violations of international law and human rights, as outlined in the UDHR, ICCPR, CAT, and Geneva Conventions. These detainees, held under coercive and inhumane conditions, should be classified as hostages to reflect the illegality and ethical severity of their detention. By releasing these Palestinian hostages and ceasing arbitrary detention, Israel could secure the release of its own hostages held by Hamas, as demonstrated by past mutual release deals, and reduce the likelihood of attacks driven by grievances over detainee treatment. This approach would align Israel with its international obligations, address a root cause of the conflict, and pave the way for a more just resolution.

Key Citations

- Weishut, D. J. N. (2015). Sexual torture of Palestinian men
- Amnesty International: Horrifying cases of torture
- Amnesty International: Release of hostages and detainees
- UN Human Rights Office: Palestinian detainees held arbitrarily
- UN Experts: Escalating use of torture
- UN Commission: Report on the Occupied Palestinian Territory
- Addameer Statistics
- B'Tselem: Administrative Detention
- DCIP: Youngest Palestinian child in detention
- CNN: Israel-Hamas war: October 7 anniversary

- The Guardian: Gilad Shalit freed in exchange
- Al Jazeera: Palestinian Prisoner's Day