

## Complaint

# For the Global Tribunal on Palestine

Date: June 6, 2024

**Complainant:** The Commission of Detainees and Ex-Detainees' Affairs in the State of Palestine and the victims' families

**Defendant:** The Israeli government, in addition to those responsible for violating the rights of Palestinian detainees, particularly the Ministers of Internal Security, the last of whom Itamar Ben Gvir (resident in a settlement), and The Minister of Financial Affairs Bezalel Smotrich (resident in a settlement), who employed members of their movements and militia in responsible positions within the Israeli security services, and the Prime Minister Benjamin Netanyahu, who passes their policies and provided them with governmental and military protection.

**Subject of complaint:** holding the Israeli officials accountable for the violations they committed against Palestinian detainees in Israeli prisons

### **List and reasons for the complaint:**

The Israeli practices against Palestinian detainees constitutes a flagrant violation of human rights and detainees' rights stipulated in all international conventions, especially the Third and Fourth Geneva Conventions and the two additional protocols, and the Rome Statute

of the international criminal court. However, Israel has intensified these violations against Palestinians after October 7, 2023, in an unprecedented manner in the history of armed conflicts. These violations have constituted international crimes as detailed in the following facts and incidents:

### **Firstly: Torture**

In spite of signing the Convention Against Torture and the Fourth Geneva Convention by Israel, both of which prevent the exposure of any person to torture and violence, it resorted to different types of torture in dealing with Palestinian captives and detainees. Physical and psychological torture is the common method used during interrogations to extract confessions and obtain information.

Palestinian captives and detainees are treated as criminals or terrorists who do not have rights or legal protections, which gave those who conduct detention and interrogation a permission to practice different methods of torture against Palestinians from the moment of arrest, during transportation to interrogation centers, as well as torture that is represented in inhumane detention conditions, in terms of place of detention, food, drink and health care.

The used types of physical torture include kicking and intense beating of all parts of the body, beat by rifle butts, and tools specifically designed for this purpose and practiced in brutal manner, which lead to loss of consciousness. Moreover, hands and feet are tied in inhumane manner, which has in several cases led to the amputation of the tied limbs due to the long time of handcuffing. In addition, they intend to hang detainees, do violent shaking using special methods, force detainees to be seated in painful positions and to stand up for long time, subjecting them to extreme heat and cold, depriving them of sleep for long time and prevent them from bathing and using sanitizers, as well as starvation and dehydration.

Psychological torture practiced by Israeli occupation authorities on Palestinian detainees includes threatening the detainee with death or rape, or threatening to kill or detain a family member such as father, mother, wife, daughter, or sister, and demolishing the home.

Additionally, female detainees are subjected to distressing noises, verbal abuse with insults, and degrading words and gestures.

Torture is generally practiced on captives and detainees regardless of their age, gender, or health condition, as men, women, elderly, children, healthy individuals, and the sick are exposed to torture. Reports from institutions monitoring Palestinians in Israeli prisons show that 95% of them are subjected to torture, where the Israeli occupation authorities intensified torture remarkably against captives and detainees, especially in detention cases carried out after October 7, 2023.

Torture led to the amputation of arms and legs of many detainees due to inhumane means of handcuffing, or exploiting detainees' injuries to extract confessions.

Tens of captives and detainees have died as a result of brutal torture during this period, where 18 deaths have been documented since that date, noting the actual number of deaths due to torture is much higher, but human rights organizations have not been able to document all cases due to the secrecy policies of the occupation authorities.

Torturing of captives and detainees represents a flagrant violation of the rules of international humanitarian law, particularly the Third and Fourth Geneva Convention of 1949, the joint Article 3 and the Convention Against Torture of 1984, Article 1/16. It is also considered an international crime according to Articles 7 and 8 of the Rome Statute of the International Criminal Court.

Cases in point:

1. Adnan Ahmad Barsh from Gaza, died in 19/4/2024, due to torture during interrogation
2. Nassar Omar Majid Taqatqa from Bethlehem, died in 16/7/2019 due to torture during interrogation
3. Ezz Al-Deen Ziyad Banna from Gaza, died in 24/11/2024 due to torture during interrogation
4. Ahmad Rezeq Qdaih from Gaza, died in 3/3/2024 due to torture during interrogation
5. Ismail Abdulbari Khader from Gaza, died in 2/5/2024 due to torture during interrogation

### **Secondly: Extrajudicial killings**

The Israeli occupation authorities practiced extrajudicial actual execution and deliberate killing against some Palestinian detainees after detaining them during the war on Gaza.

Reports of human rights organizations and eyewitnesses indicate that tens of persons have been shot dead after detention, while others died due to extreme torture and using inhumane methods of interrogation. Moreover, the Israeli authorities practiced executions and killings against detainees throughout deliberate medical neglect and refusal of providing appropriate medicine for sick detainees.

Furthermore, they intended to exploit wounded detainees in order to extract confessions, which resulted in killing and executing injured detainees. This gross violation practiced by Israeli soldiers and officers against Palestinians does not represent an individual case but rather represents a strategy supported by the political leadership of the Israeli authorities. This is obvious and appears in the call of the Israeli minister of National Security, Itamar Ben Gvir, to apply the penalty of execution against Palestinian detainees, in addition to the draft law of executing detainees 2015, which was submitted to the

Israeli Knesset for approval on November 2034, after the aggression of October 7.

This behavior constitutes a gross violation of all international conventions on human rights, particularly the Third and Fourth Geneva Conventions regulating legal protection for detainees in particular. It is also considered a crime against humanity in accordance with article 7 (1) (a) of the Rome Statute of International Criminal Court.

Cases in point:

1. Yaser Omar Saradeeh from Jericho, died in 22/2/2018 due to intense beat during arrest
2. Muhammad Zaghloul Remawi, died in 18/4/2018
3. Thaer Samih Abu Assab from Qalqilia, died in 18/11/2023 inside the prison due to intense beat
4. Dawood Muhammad Zubaidi from Qalqilia, died in 15/5/2023 due to depriving him of treatment
5. Muhammad Abdullah Hamed from Ramallah, died in 25/6/2022 due to depriving him of treatment

There are hundreds of detainees who were executed by shooting after arrest during the Israeli aggression against Gaza.

### **Thirdly: Enforced disappearance**

It means the arrest, detention or abduction of a person or a group of people by a state or political entity, or with their support or refusal to recognize depriving them of their liberty or giving information on their fate or place of detention, aiming at depriving them of law protection for long periods of time.

The seriousness of this procedure stems from depriving the detainee or captive of their rights and legal protections guaranteed by international treaties, as well as striking fear into the hearts of abductees, their families and the society in general, in addition to exposing them to torture without the knowledge of relevant authorities, including attorneys, human rights organizations and legal institutions.

The state of occupation has resorted to this procedure in a systematic manner and applied it to detention cases carried out during the war on Gaza on October 7, and practiced the enforced disappearance against the majority of detainees from Gaza.

Human rights organizations' reports and data showed that more than 1600 persons were exposed to enforced disappearance following the incidents of October 7, despite the recognition of the occupying state of the presence of only 850 detainees and captives. They are held in military camps, prisons and detention centers which are undisclosed or authorized by the International Committee of the Red Cross. Additionally, the Israeli authorities did not announce their place of detention nor their health and living conditions, and prevented human rights organizations from visiting them, and knowing their legal status or the conditions and procedures of investigation practiced on them. Therefore, the state of occupation violates the International Convention for the Protection of all Persons from Enforced Disappearance 2010, in addition to violating the Geneva Conventions. Enforced Disappearance represents an international crime based on article 7(1) (i) of the Rome Statute of the International Criminal Court.

Cases in point:

1. Muhammad Saeed Ramadan Al-Kurdi from Gaza - Paramedic -  
Date of disappearance: 22/11/2023

2. Youssef Abdul Karim Ahmad Barakat from Gaza - Doctor - Date of disappearance: 18/11/2023
3. Saeed Abdul Fattah Al-Jadyaan from Gaza - Doctor - Date of disappearance: 18/11/2023
4. Abdullah Ahmed Abdullah Al-Rantisi from Gaza - Nurse - Date of disappearance: 19/11/2023
5. Muhammad Nabil Ibrahim Al-Bess from Gaza - Nurse - Date of disappearance: 22/11/2023
6. Khader Kamal Hassan Abu Nada from Gaza - Nurse - Date of disappearance: 22/11/2023
7. Muhammad Matar Muhammad Afana from Gaza - Paramedic - Date of disappearance: 10/11/2023
8. Abdul Karim Muhammad Saleh Abu Ghali - Paramedic - Date of disappearance: 2/12/2023

#### **Fourthly: Administrative Detention**

Administrative detention refers to depriving a person of his liberty and detaining him based on administrative command issued by the executive authority without filing a charge. The occupation authorities resort to this system in the Palestinian Territories excessively, as they arrest thousands of civilian Palestinians on an annual basis for suspicions without taking into account any procedures or legal guarantees for the detainee. Administrative detention became a threat to Palestinians of all categories and ages, including men and women, misusing some articles of international agreements which exceptionally allowed the administrative detention, despite that it is coupled by strict conditions and under specific circumstances with the presence of judicial guarantees, to prevent misusing the articles that allowed administrative detention. However, the Israeli occupation authorities did not abide by the conditions and regulations of administrative detention, but it resorts to it as a base not as an exception, legitimizing this procedure by special military instructions and commands.

Usually, the order of administrative detention is renewed and extended to several times for long periods without the judicial supervision of each extent order, which constitutes a flagrant violation to the guarantee of judicial independence without any influence from any other authority.

This violation became an approach practiced by the Israeli authorities and a means of retaliation against Palestinians since October, as the number of administrative detainees exceeds 5000 following this date. The administrative detention constitutes a flagrant violation of the Fourth Geneva Convention, as Israel does not adhere to article 78, stipulating the detention conditions and house custody. It also breaches article 71 which stipulates that each detainee or captive shall have a fair trial. Moreover, administrative detention is considered an international crime in accordance with article 8 (2) (a) (6) of the Rome Statute of International Criminal Court.

Cases in point:

1. Mustafa Faris Sawalmeh from Nablus - Date of arrest: 14/12/2022
2. Dawood Muhammad Dawood Nassar from Tulkarm - Date of arrest: 16/3/2023
3. Amer Yusuf Amer Harinat from Ramallah - Date of arrest: June 2023
4. Khaled Abdullah Nimr Awad from Ramallah - Date of arrest: 3/11/2023
5. Khaled Muhammad Tawfiq Al-Qurm from Jenin - Date of arrest: 2/10/2023

### **Fifth: Children detention**

Contrary to the international charters that imposed a special protection for children and women out of fear of being exposed to



any form of violence and associated inhumane treatment, the state of Israel did not abide by these charters and treaties nor adhered to their provisions in dealing with the Palestinian children and women. The Israeli authorities resorted systematic detention procedures against Palestinian children, without distinguishing between minors and adults, in terms of reasons and conditions of detention or the methods used during arrest.

Children are exposed to grave violations during arrest, represented in verbal abuse, physical attack, intense beat, blindfolding and being arrested late at night. Furthermore, Israel enacted legislations that allow detaining children under the legal age, such as the law of prosecuting children under the age of fourteen 2015 and the law on increasing the sentence against children who throw stones 2015, contradicting the Convention on the Rights of the Child 1989, which considered anyone under the age of eighteen as a child.

Cases in point:

1. Ahmed Saleh Mahaina (Manasra) - Date of birth: 22/1/2002 - Date of arrest: 12/10/2015
2. Karim Mahmoud Abdul Fattah Ghawanimah - Date of birth: 13/4/2011 - Date of arrest: 29/11/2023
3. Adam Jamil Abdul Razzaq Abu Rayan - Date of birth: 25/2/2011 - Date of arrest: 31/10/2023
5. Mahmoud Ramzi Abdullah Dabbas - Date of birth: 30/11/2010 - Date of arrest: 6/3/2024
6. Ahmed Yusuf Ahmed Baraghtha - Date of birth: 10/5/2010 - Date of arrest: 5/2/2024
7. Othman Abdullah Abdul Qader Sabrah - Date of birth: 23/4/2010 - Date of arrest: 5/3/2024
8. Jihad Mousa Azzam Al-Hadra - Date of birth: 27/3/2010 - Date of arrest: 20/11/2023

## **Sixth: deliberate medical neglect**

The Israeli occupation authorities pursued the policy of deliberate medical neglect against Palestinian detainees in Israeli prisons, as detainees suffer from lack of healthcare and necessary medical services. The Israeli prisons lack clinics and appropriate medicines for the majority of diseases, where the treatment only includes painkillers. Moreover, the administration of prisons pursued the policy of procrastination in providing treatment and examinations, and intended to complicate the procedures, as detainees sometimes resort to judiciary to have their treatment. Additionally, they suffer from the mechanism of transportation from prisons to hospitals, as they got transferred while being handcuffed and blindfolded, instead of being transported in ambulances. However, the hospital designated for treating detainees (Ramla Hospital) does not differ from the prison from which they were transferred, which lacks healthcare and treatment facilities. The policy of medical neglect was escalated after October 7, where the administration of prisons stopped providing detainees medicine, treatment or medical examinations necessary for sick detainees. Furthermore, the administration of prisons does not provide the appropriate healthcare for injured detainees, who have been wounded during arrest and subjected to gunfire, or fractures, which in some cases led to the death of injured persons due to lack of treatment and healthcare.

These procedures constitute a blatant violation of the Third and Fourth Geneva Conventions, stipulating that the state which conducts detention shall provide treatment and healthcare for detainees in a way that equates the healthcare provided for armed forces of the detaining state.

These procedures are also war crimes and crimes against humanity based on article 7 (1) (k), and article 8 paragraph (2) (a) (3) of the Rome Statute of the International Criminal Court.

### **Cases in point:**

1. Muhammad Amer Al-Jallad from Tulkarm died in 10/2/2017 due to medical neglect.
2. Fares Muhammad Baroud from Gaza died in 6/2/2017 due to medical neglect.
3. Bassam Amin Al-Sayeh from Nablus died in 8/9/2019 due to medical neglect.
4. Kamal Najeeb Abu Wa'ar from Jenin died in 10/11/2020 due to medical neglect.
5. Saadia Salem Matar from Hebron died in 2/7/2022 due to medical neglect.
6. Ahmed Badr Abu Ali from Hebron died in 10/2/2023 due to medical neglect.
7. Nasser Muhammad Abu Hmeid from Ramallah died in 20/12/2022 due to medical neglect.
8. Walid Daqqa from Baqa al-Gharbiyye died in 7/4/2024 due to medical neglect.
9. Assef Abdul-Moti Al-Rifai from Ramallah died in 29/2/2024 due to medical neglect.
10. Abdul Rahman Ahmed Mar'i from Salfit died in 13/11/2023 due to medical neglect.

**Seventh:** holding Palestinian detainees inside the occupying state

Israel pursued the crime of enforced transfer against Palestinian detainees, as it detains Palestinians and subjects them to interrogation in prisons and interrogation centers designated for this purpose inside the boundaries of Israel, contradicting international agreements that organized the obligations of the occupying state and the rights of detained persons.

These rights include their right to remain inside the occupied territories in all stages of detention, and criminalize enforced transfer against residents.

It is worth mentioning that the supreme court of the occupation has rejected several appeals filed by human rights organizations requesting the end of detaining Palestinian detainees inside the occupying state. By this practice, Israel violates article 76 of the Fourth Geneva Convention and commits war crimes against detainees in accordance with article 7 (1) (d) of the Rome Statute of the international criminal court.

**Request:**

Based on the above mentioned information and the brief recount of the Israeli violations against Palestinian detainees and captives, we respectfully request the following from your honorable court:

1. Compel the Israeli occupation authorities to immediately stop these violations against Palestinian detainees, and to adhere to the provisions of the International Humanitarian Law, particularly international conventions regulating the legal protection for detainees and captives.
- 2- Identify all violations committed against Palestinian prisoners and detainees in order to give the appropriate legal description in accordance with the conventions that define serious international crimes such as murder, kidnapping and torture, as well as the countries that signed the Convention against Torture, which obliges these countries to legally prosecute the perpetrators of the crime of torture and inhuman and degrading treatment.
3. Hold the state of Israel fully responsible for the crimes committed against Palestinian detainees and captives.
4. Hold Israeli war criminals accountable, for being perpetrators of international crimes against Palestinian detainees and captives

5. Treat Palestinian detainees in Israeli prisons as prisoners of war in accordance with the International Law, not as security prisoners or terrorists as labeled by the Israeli occupation authorities

7. Release all Palestinian detainees and captives, being considered freedom fighters not terrorists.

Note that our Commission possesses sufficient and clear evidence of all the convictions it presents against the accused and from judicial agencies from the families of the victims, and it is at the disposal of the clients defending the victims from your honorable Tribunal.

### **Signatures**

Commission of Detainees and Ex-Detainees' Affairs in the State of Palestine and the victims' families