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# **Palestinian Prisoners and Martial Law in the West Bank**

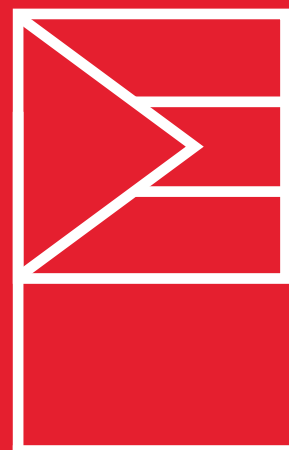
- how Palestinians  
in the West Bank live  
under the constant  
threat of arbitrary  
imprisonment by Israel

December 2023



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London | Washington



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# Overview of Israel's Imprisonment of West Bank Palestinians



## 01

# Overview of Israel's Imprisonment of West Bank Palestinians

Palestinians in the West Bank have one of the highest incarceration rates by population size in the world, with 1 in every 5 Palestinians being arrested and charged, a rate that increases to 2 in every 5 for Palestinian men.<sup>1</sup> Between 1967 and 2022, the United Nations estimates Israel arrested 1 million Palestinians in Occupied Palestinian Territory (OPT).<sup>2</sup>

Palestinians are held across 19 different prisons inside Israeli controlled territory, and 1 inside the West Bank.<sup>3</sup> These prisons break the Geneva Conventions, which prohibit an occupying power transferring occupied people from occupied territory.<sup>4</sup>

Israel is also reported to have a secret detention facility in use since the 1980s. Despite several petitions demanding an examination of the facility, these have all been rejected by the Supreme Court.<sup>5</sup>

Palestinian children are frequently detained, with over 12,000 being detained between 2000 and 2023, often due to accusations of stone throwing.<sup>6</sup>

## Legal Context of Martial Law

The use of military courts and martial law is applied to all 'adult' Palestinians in the OPT, on the basis of the alleged continuous 'security threat' to Israel.<sup>7</sup> Some of the most significant martial legislation includes:

Israel's Military Order 1591 uses the pretext of security threats to practice 'administrative detention', which **allows Israel to imprison Palestinians indefinitely, without legal trial or charges being brought.**<sup>8</sup>

Administrative detention, which initially lasts for six months, can be extended indefinitely based upon "secret evidence" that is not shared with detainees.<sup>9</sup>

After the 1967 war, Israel issued Military Order 101, which criminalised any activities which Israel considers "hostile propaganda and prohibition of incitement".<sup>10</sup> This loose definition allows Palestinians in the West Bank to be arrested for:

- Organising or attending protests
- Printing and distributing political material
- Waving the Palestinian flag or other political symbols
- Sympathy for organisations criminalised by Israel.<sup>11</sup>

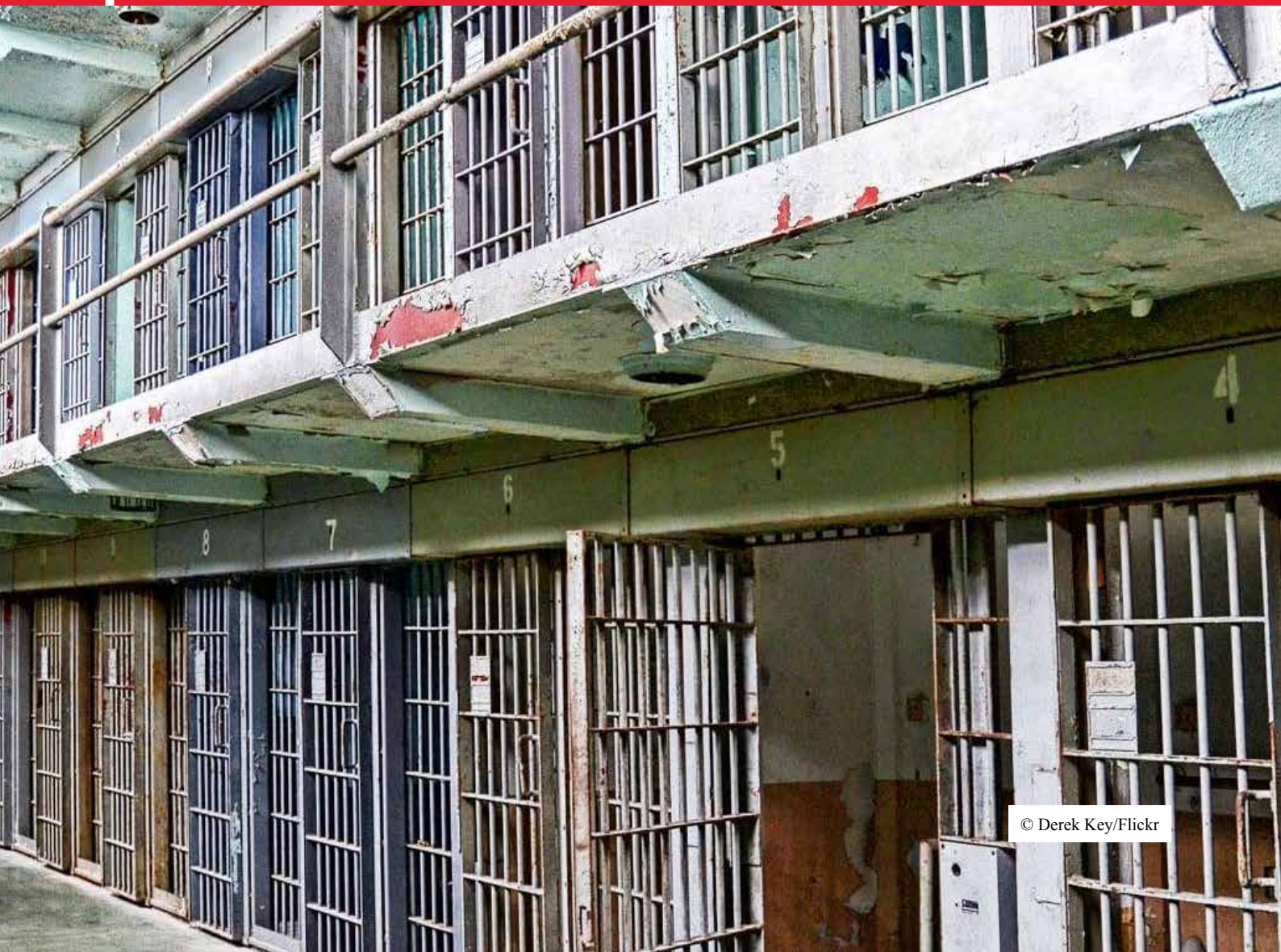
In 1970, Israel issued Military Order 378, which established military courts for trying Palestinians and criminalised any resistance to the occupation by Palestinians as "terrorism".<sup>12</sup>

Since 2002, Israel passed the 'Unlawful Combatants Law', which allows the occupying state to class any Palestinians in the West Bank as 'unlawful combatants' and renew their detention indefinitely without judicial review, without evidence being provided to detainees or their lawyer and reportedly keeping detainees' charges secret.<sup>13</sup>

02

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# What Happens in Israeli Prisons



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02

# What Happens in Israeli Prisons

## Arbitrary and Indefinite Detainment

Between 1967 and 2013, Israel issued almost 100,000 administrative detention orders, which allow Palestinians to be held without charge. **Some Palestinians have been detained for up to six years without being charged or tried.**<sup>14</sup>

According to the UN, arbitrary detainment seems to be mainly used by Israel against Palestinians not engaged in violent activities.<sup>15</sup>

## Military Courts

Israel currently has 2 military courts in the West Bank, both of which are inside Israeli military bases.<sup>16</sup> In these courts, Israel's military orders "always take precedence over Israeli and international law".<sup>17</sup>

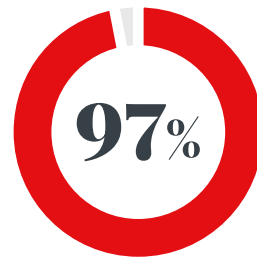
**Israel's military courts have an over 99 percent conviction rate** – making the courts a "humiliating charade" to create the illusion of Palestinians' right to trial, according to Israeli historian Ilan Pappé.<sup>18</sup>

## Child Prisoners

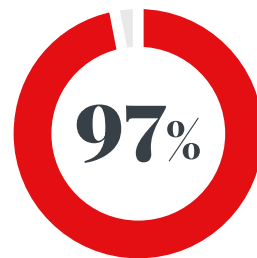
Every year, Israel arrests and prosecutes between 500-700 Palestinian children.<sup>19</sup> After their arrest, **Palestinian children are interrogated without a guardian or lawyer present**, and frequently face physical or psychological torture to provide confessions.<sup>20</sup>

The UN found that the 'ill-treatment of Palestinian children in the Israeli military detention system appears to be widespread, systematic and institutionalised', and that **Israel is the only country where children are "systematically" tried by military courts.**<sup>21</sup>

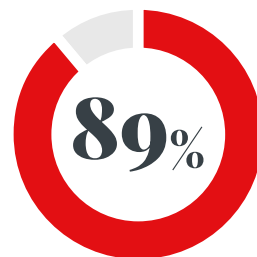
## Child Prisoners: At a Glance



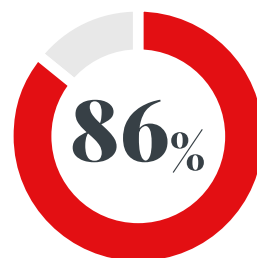
were interrogated without a family member present



had their hands bound



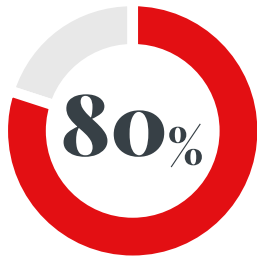
were blindfolded



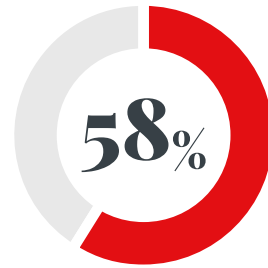
were not told the reason for their arrest

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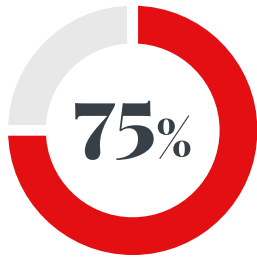
## Child Prisoners: At a Glance



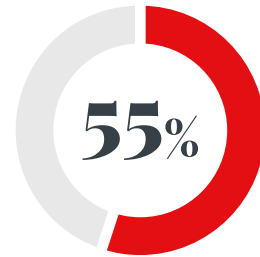
were strip searched



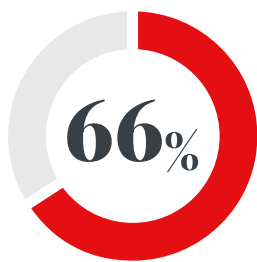
experienced verbal abuse, humiliation, or intimidation during or after their arrest



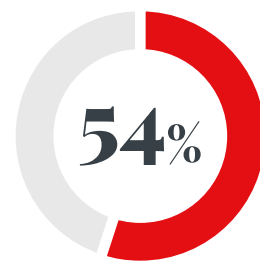
experienced physical violence



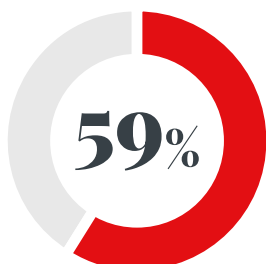
were shown or made to sign a paper in Hebrew, a language most Palestinian children do not understand



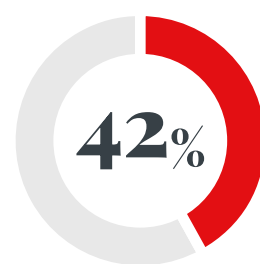
were not properly informed of their rights



were transferred from the place of their arrest on the floor of a military vehicle



were arrested at night



were denied adequate food and water.<sup>22</sup>

## What Happens in Israeli Prisons

Military Order 132 classifies Palestinian children as adults from the age of 16, allowing them to be tried and sentenced as adults.<sup>23</sup> In direct violation of international law, **Palestinian children are also charged based on their age when being sentenced, rather than at the time of the offence**, allowing Israel to extend the sentences given to Palestinian children.

Military Order 1651 states that **throwing a stone at a person or property has a maximum penalty of 10 years**, and throwing a stone at a vehicle has a maximum penalty of 20 years.<sup>24</sup> Under this order, **Palestinian children aged 14 or older can receive the maximum sentencing for stone throwing, of 10 and 20 years respectively, despite being children.**<sup>25</sup>

**Children as young as 12 can be held in solitary confinement**, sometimes for many weeks at a time.<sup>26</sup> Those held in solitary confinement do not have windows in their cells, and artificial lights remain on 24 hours a day.<sup>27</sup>

One of the most famous Palestinian child prisoners is Ahmad Manasra, who has been imprisoned since 2015 when he was just 13 years old.<sup>28</sup> He was imprisoned after being beaten by an Israeli mob, who left him with skull fractures and internal bleeding.<sup>29</sup> Ahmed was accused of attempted murder for the stabbing of two Israeli settlers, despite not having participated in the attack.<sup>30</sup> He is displaying severe mental health problems due to being held in solitary confinement.<sup>31</sup>

## Torture and Abuse in Israeli Prisons

Palestinian testimonies and video evidence point to many cases of torture and abuse by Israeli forces against Palestinian prisoners, including severe beatings and deliberate humiliation.<sup>32</sup> Methods of abusing Palestinian prisoners include:<sup>33</sup>

- Restraining them in very painful conditions
- Hooding
- The use of loud music for prolonged periods
- Sleep deprivation for prolonged periods
- Threats, including death threats
- Violent shaking
- Using cold air to chill
- Solitary confinement for prolonged periods
- Stripping them of clothes
- Sexual torture, especially of women.<sup>34</sup>

Since 1967, 72 Palestinian prisoners have been proven to have died because of torture or ill-treatment.<sup>35</sup>

These methods were permitted by Israel's Supreme Court in 1999, in "ticking bomb" situation, and enabling Israelis to escape criminal liability or investigation under the "defence of necessity".<sup>36</sup> Not a single Palestinian prisoner tortured under the "ticking bomb" exemption has been prosecuted for their alleged crimes.



## 02

## What Happens in Israeli Prisons

### Prevention of Family Visits

Israel frequently suspends Palestinians kept in Israeli jails, and frequently detains Palestinians in incommunicado detention, with families not knowing why or where their loved ones have been detained.<sup>37</sup> Women Palestinian prisoners' children are often prevented from visiting them.<sup>38</sup>

### Palestinian Hunger Strikes

Many Palestinian prisoners undertake hunger strikes to draw attention to and protest their detainment without trial, as well as the inhumane conditions they are detained in.<sup>39</sup> Some prisoners have gone on hunger strike for over 200 days and some prisoners have died from their hunger strikes.<sup>40</sup>

In 2012, around 2,000 Palestinian political prisoners participated in a mass hunger strike to draw attention to their conditions.<sup>41</sup> In 2017, 700 Palestinian prisoners went on hunger strike over their conditions.<sup>42</sup>

### Detainment of West Bank Palestinians Since October 7th

Between 7 October and 26 November, Israel arrested 3,200 Palestinians in the West Bank.<sup>43</sup> Many of those were imprisoned during the Israeli military's daily raids of Palestinian towns and villages.

Since 7 October, six Palestinians have died in Israeli custody, whose deaths are yet to be investigated.<sup>44</sup> A freed detainee said that he saw Israeli prison guards beat one of the deceased to death.

During the first four days of the prisoner exchange, Israel released 150 Palestinian prisoners but arrested 133 new Palestinians.<sup>45</sup> Many Palestinian prisoners released during the exchange have also reported being threatened with re-arrest for celebrating their release or conducting media interviews.<sup>46</sup>

Similarly, many Palestinians released in the 2011 Israel-Hamas prisoner exchange were later rearrested and had their sentences reinstated.<sup>47</sup>

### Hostage Swaps

Whilst the media describes all Israelis captive in Gaza as 'hostages', despite a quarter being Israeli soldiers,<sup>48</sup> Israel refuses to recognise Palestinian prisoners as prisoners of war, instead treating them as criminals or terrorists.<sup>49</sup> However, of the 300 Palestinian prisoners listed for release by Israel:

- Almost 80 percent were never formally charged.
- Most are children as young as 14, the rest are women.
- Nearly 50 percent are not affiliated with any Palestinian political or armed group.<sup>50</sup>

# Footnotes

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- <sup>16-17</sup> ‘Imprisonment of Women and Girls’, Addameer: Prisoner Support and Human Rights Association (November 2018) available at [https://www.addameer.org/israeli\\_military\\_judicial\\_system/military\\_courts#:~:text=Both%20military%20courts%20are%20located,to%20favor%20the%20occupying%20power](https://www.addameer.org/israeli_military_judicial_system/military_courts#:~:text=Both%20military%20courts%20are%20located,to%20favor%20the%20occupying%20power).
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- 24 ‘Policy briefing: Violating international legal obligations: Israel’s treatment of Palestinian prisoners’, DG EXPO/B/PolDep/Note/2013\_95, Directorate-General For External Policies
- 25-26 ‘Children in Israeli Military Detention’, page 9
- 27 ‘Policy briefing: Violating international legal obligations: Israel’s treatment of Palestinian prisoners’, page 10
- 28-31 ‘Calls grow for release of Palestinian prisoner Ahmad Manasra’ (13 April 2022) *Al Jazeera* available at <https://www.aljazeera.com/news/2022/4/13/calls-grow-release-palestinian-prisoner-ahmad-manasra>
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- 36 ‘Israel’s apartheid against Palestinians: Cruel system of domination and crime against humanity’ Amnesty International (1 February 2022) available at <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>
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- 39-41 ‘Policy briefing: Violating international legal obligations: Israel’s treatment of Palestinian prisoners’, DG EXPO/B/PolDep/Note/2013\_95, Directorate-General For External Policies
- 42 ‘Hundreds of Palestinian prisoners in Israel go on hunger strike’ *The Guardian* (17 April 2017) available at <https://www.theguardian.com/world/2017/apr/17/palestinian-prisoners-israel-hunger-strike>
- 43 ‘880 Palestinian children detained by Israel this year: NGO’ *Middle East Monitor* (20 November 2013) available at <https://www.middleeastmonitor.com/20231126-number-of-palestinians-arrested-since-oct-7-climbs-to-3200-palestinian-group/>
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- 50 ‘Jailed without charge: How Israel holds thousands of Palestinian prisoners’ *Al Jazeera* (29 November 2023) available at <https://www.aljazeera.com/news/2023/11/29/jailed-without-charge-how-israel-holds-thousands-of-palestinian-prisoners#:~:text=The%20vast%20majority%20of%20the,The%20youngest%20is%2014>