



Report

Israel's Arrest Policy against Palestinian University Students (in the West Bank and Israel)

A Tool for Eroding Palestinian National Identity and Consolidating Israeli Colonialism

April 2023

This report was prepared for the purpose of submission to the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel, and to the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Ms. Francesca Albanese, in accordance with her call for submissions for her thematic report to the Human Rights Council on deprivation of liberty in the occupied Palestinian territory

Cover Photo: Israeli border guards detain a Palestinian protester during clashes following a demonstration by students from Birzeit University near Ramallah against the incarceration in Israeli jails of Palestinian university students, on 10 March 2015 [ABBAS MOMANI/AFP via Getty Images]

**Israel's Arrest Policy against Palestinian University Students (in the West Bank and Israel):
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1:0 Background

Since 1967, the Israeli occupation has maintained a largescale detention policy against Palestinian students, both in the Occupied Palestinian Territory (OPT) and inside the Green Line targeting Palestinians who hold Israeli citizenship. According to the Palestinian civil society organization Addameer Prisoner Support and Human Rights Association, the number of university students arrested in the West Bank between 1st January 2019 to 17 Oct 2022 (about 4 years) 214 Palestinian students.¹ In a statement condemning the increase in Israeli arrests of Palestinian university students, especially at the beginning of the 2019-2020 academic year, the Right to Education Campaign at Birzeit University pointed out that, in August-September 2019, 18 students from Birzeit University alone were arrested.²

This report only focuses on the Israeli detention policy against Palestinian university students engaged in student-related and union-oriented activities through various student associations within universities. Israel's arrest of students for security and military activities outside the university campuses is beyond the scope of this report.

All Palestinian political factions have student organizations that function as the political parties' extensions in Palestinian universities in the West Bank.³ These student groups engage in various student and union-related activities, such as organizing educational and scientific seminars and cultural activities, book fairs, and folk dance. These groups support poor university students, including through book fairs and by contracting with wholesale trade companies to provide students with commodities and services at a lower cost. They also lobby against the rising tuition fees by university administrations. In addition, these student groups engage in political activities, usually related to the situation in Palestine and their own political factions. Thus, in addition to organizing sit-ins and demonstrations against the Israeli

¹ Addameer Prisoner Support and Human Rights Association, Palestinian Students under Suspended Detention. 24 Jan 2023. Available at: <https://www.addameer.org/media/4974>

² Right To Education, Right to Education rejects repeated arrests of Birzeit University students, 11 September 2019.. Available at: <http://right2edu.birzeit.edu/right-to-education-rejects-repeated-arrests-of-birzeit-university-students/>

³ For example, the "Student Youth Movement" is considered an extension of the Fatah movement, the "Islamic Bloc" an extension of the Hamas movement, the "Progressive Student Pole" an extension of the Popular Front for the Liberation of Palestine, the "Student Unity Bloc" an extension of the Democratic Front, and so on.

occupation, they usually advocate for Palestinian rights, promote their political faction's events, distribute statements, and call for resistance and the end of the Israeli occupation. In most cases, these activities are carried out with the prior approval of university administrations.⁴ At the same time, Palestinian students in Israeli universities carry out similar activities expressing opposition to racial discrimination against Palestinians and to Israeli policies, whether in Israel or in the occupied territories. Such activities are usually organized through student associations that have no connections to Palestinian political factions in the West Bank.

According to Human Rights Watch, the Israeli occupation authorities target Palestinians for their anti-Israeli occupation speech, activism, and affiliations. They jail thousands of them, outlaw hundreds of their political and non-governmental organizations, and shut down dozens of their media outlets.⁵

In December 2022, the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel launched a call for submissions toward its ongoing investigation into the facts and circumstances regarding specific alleged violations and abuses of the rights to freedom of expression and association, along with related international crimes.⁶ Also, and in the preparation of her report that will be submitted to the Human Rights Council, Francesca Albanese, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, called on relevant organizations to submit reports on the on deprivation of liberty in the OPT.⁷ In response to these calls, **Law for Palestine** has prepared the following report on the detention of Palestinian students in the

⁴ Based on several interviews that Law for Palestine conducted with four of the students blocks active in universities in the West Bank.

⁵ Human Rights Watch, Submission to the Universal Periodic Review of Israel, 11 October 2022. Available at: <https://www.hrw.org/news/2022/10/11/submission-universal-periodic-review-israel>

⁶ Call for submissions. The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel. Available at: <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index>

⁷ See: Call for submissions: Thematic report to the Human Rights Council 52nd session on deprivation of liberty in the occupied Palestinian territory. Available at: <https://www.ohchr.org/en/calls-for-input/2022/call-submissions-thematic-report-human-rights-council-52nd-session-deprivation>

West Bank and in Israeli universities. The Israeli authorities do not usually carry out arrests and detention of university students in the Gaza Strip since Israel withdrew from Gaza in 2005.⁸

This report does not aim to present all the cases of arbitrary detention of Palestinian students in the West Bank and in Israeli universities, but to put these arrests in the broader context of Israel's colonial policy. The report thus focuses on the detentions of university students as a tool of military control, forced displacement, and erosion of cultural and national identity against the Palestinian people.⁹ As a report from the Hebrew University correctly points out, for the Israeli occupation, **“these students’ activities, at their best, indicate political activities, and at their worst, indicate subversive ones: The occupation without these activities is better off and for sure these activities will be the goal of the occupation in the long run”**.¹⁰

2:0 The Arrest of University Students in the OPT

2:1 Laws and Legislations that Israel Uses to Arrest University Students in the OPT

Since its occupation in 1967, the West Bank has been subjected to Israeli military judiciary and military order systems. These systems are the executive tools that Israel relies on to extend its control over the Palestinian people. Since 1967, Israel has issued hundreds of military orders aimed at limiting and even erasing Palestinian cultural and national identity.¹¹ Among these

⁸ This does not mean that Israel does not practice a policy of detention against Palestinian residents of the Gaza Strip, But in the absence of its physical presence in Gaza, Palestinians are arrested either at Beit Hanoun “Erez” crossing while traveling to the West Bank for business, medical treatment, and education, or in the sea while working in areas where fishing is permitted by Israeli authorities. During the year 2021, the Palestinian Center for Human Rights documented the arrest of 45 Palestinians from Gaza. By the end of 2021, there were 250 Palestinians from the Gaza Strip imprisoned in the Israeli jails.

See: Palestinian Centre for Human Rights, Annual Report 2021, P. 45.

⁹ See: May Kamal Ahmed Hamash, *Body Awareness Under Interrogation: A Study of the Experiences of Palestinians in Israeli Detention Centers* (Master's Thesis, Birzeit University, 2020), P. 10.

¹⁰ Naseer Aruri, *Universities under Occupation: Another Front in the War against Palestine*, in: Naseer Aruri (ed.), *Occupation: Israel over Palestine* (Belmont, MA: Association of Arab–American University Graduates, 1983), p. 334.

¹¹ Since 1967 till 1992, 1,377 military orders regulating Palestinian life in the West Bank have been published by the Israeli authorities. See: *Israeli Military Orders in The Occupied Palestinian West Bank 1967-1992*. Jerusalem Media & Communication Centre. Second Edition (1995). P. viii. See also: Raja Shehadeh, *The Law of the Occupier*, op. cit. 169.

are military orders that are concerned with Palestinian university students as the Palestinian national forefront.

These orders are usually issued in Hebrew, making it difficult for Palestinians to understand them. In most cases, they are also not publicized among Palestinian communities. As a result, Palestinians often only learn about these military orders in Israeli courts following their arrest for allegedly violating them.¹² By doing this, the Israeli occupation “has created a vague (non) system of military orders and policies based on total and systematic disregard of the education system in order to transform education from an emancipatory process for identity affirmation to a tool of subordination and alienation.”¹³

The following are some of the laws that the Israeli occupation authorities have used to indict Palestinian university students:

- Order No. 34 of 1967 and its amendments (Military Order No. (345) of 1969 and Military Order No. (854) of 1980): These orders co-opted and amended the Jordanian Education and Culture Law No. 16 of 1964, in which power and appointments in the educational system in the West Bank was transferred from the Jordanian Ministry of Education to a ‘responsible official’ appointed by the Israeli authorities.¹⁴ Accordingly, the entire Palestinian university system became subject to the authority of the Israeli governor and his orders. One provision of Military Order No. (854) “requires that every faculty member and student, before applying to any university in the West Bank or Gaza, must apply for a permit from the military government”.¹⁵ It also “tackle[s] the whole complex area of universities, including matters relating to certification, as a public order issue”,

¹² See: Testimony by Ms. Sahar Francis, General Director of Addameer Prisoner Support and Human Rights Association. Public Hearings - Commission of Inquiry on the OPT and Israel, 7 November 2022. Available at: <https://media.un.org/en/asset/k15/k15he7h92s?kalturaStartTime=2429> (at: 40:29 - 43:06).

¹³ Lourdes Habash and Ghada Almadbouh, Exception of the Exception: Palestinian “Bare” Education under Colonialism in Palestine. In: Omran, Arab Center for Research and Policy Studies. Issue 33 (2020), p. 85

¹⁴ Military Order 345, Order Concerning Education Laws. *Amendment to Military Order 91. Education Law 16, 1964*. 26 October 1969 and Military Order No. (854) of 1980. See: Adam Roberts, Boel Joergensen, and Frank Newman, Academic Freedom under Israeli Military Occupation - Report Of WUS/ICJ Mission of Enquiry into Higher Education in The West Bank and Gaza. 1984, p. 60.

¹⁵ See: Munir Fasheh, Why Israel Closed Palestinians' University, the New York Times Archives, 28 December 1981. Available at: <https://www.nytimes.com/1981/12/28/opinion/why-israel-closed-palestinians-university.html>

and it "permits a single appointed official to end the career of anyone who has been detained, even if no charge was brought and no evidence presented".¹⁶

- Military Order No. (854) also made university licenses temporary, resulting in it being obligatory for a Palestinian university to repeatedly renew its license. The renewal of a license is always linked to security considerations as it is done "in consultation with the District Chief of Police and the Military Governor of the area directly concerned", and "may take into account considerations of public order among other considerations".¹⁷ This means that "The educational process stops until the military ruler issues an order for education, and not the other way around; that is, education is the exceptional case, and prevention is the usual and permanent one."¹⁸
- Article (6) of Military Order No. (101) of 1967, which was amended several times and is concerned with the prohibition of acts of incitement and hostile propaganda in the West Bank, details the printing and publishing of political materials, as follows:

*It is forbidden to print or publicize in the region any publication of notice, poster, photo, pamphlet or other document containing material having a political significance, unless a license is previously obtained from the military commander of the place in which it is intended to execute the printing or publication.*¹⁹

- Concerning the ban on raising flags, Article (5) of the same Military Order states that "[i]t is forbidden to hold, wave, display or affix flags or political symbols, except in accordance with a permit of the military commander."²⁰ Accordingly, raising the Palestinian flag, or any banner that represents the Palestinian identity, requires the approval of the Israeli military commander. If raising the flag was done without permission from the military commander, the act is considered illegal and leads to

¹⁶ See: Adam Roberts, Boel Joergensen, and Frank Newman. Mentioned before. p. 61.

¹⁷ Israeli Defence Army, Order No. 854. Order Concerning Education and Culture Law No. 16 For The Year 1964 (Amendment) (West Bank).

¹⁸ Lourdes Habash and Ghada Almadbouh, Mentioned before, p. 96-97

¹⁹ Israel Defense Forces, Order No. 101. Order Regarding Prohibition of Incitement and Hostile Propaganda Actions (1967).

²⁰ Ibid.

imprisonment. In this regard, in April 1980, students at Bethlehem University were informed that wearing shirts with red, green, and black stripes was not permitted because these colors represented the Palestinian flag. Arrests were also carried out under the pretext of this order and merely for “owning illegal literature.”²¹ It is thus clear how this military order was designed to erode the identity of Palestinian people. The Military Order is broad enough to allow the military commander to interpret and deem any political actions, including those on social media, illegal.

- Article (251) of the 2009 Military Order No. (1651) considers a collection of actions that are performed in support of and in sympathy with a hostile organization to be illegal. These include, among others, publishing words of praise, sympathy or support for the organization or its objectives, or carrying out an action expressing identification with the organization or its objectives, including flying a flag, displaying a symbol or slogan, or playing an anthem or voicing a slogan in a public place. Such an expression of identity and sympathy carries with it an imprisonment sentence of up to 10 years.²²

Here it is important to note that Israel usually relies on the definition of “terrorist”, “hostile”, or “illegal” organizations found in the Emergency Regulations of the British Mandate Era (Defence (Emergency) Regulations, 1945), which permit outlawing political parties and organizations if they incite hatred, contempt, or disloyalty to the authorities, and to criminalize organizations, be they Palestinian or international. Consequently, nearly all Palestinian political groups (mainly Fatah, Hamas, the Popular Front for the Liberation of Palestine, and even the Palestine Liberation Organization) have been outlawed.²³

Practically, this means that Israel considers any political gathering inside Palestinian universities to be illegal. Consequently, all activities carried out by student groups inside these

²¹ Raja Shehadeh, *The Occupying Law of Israel and the West Bank*, Institute for Palestine Studies, 1990, p. 159-160.

²² Israel Defense Forces. Order No. 1651. Order Regarding Security Directives [Consolidated Version] (Judea and Samaria) (2009).

²³ This is in addition to the more than 400 other institutions and organisations declared illegal. See the full list here: Announcements on Unlawful associations and terrorist organizations, Ministry of Defense, Israel

הכרזות על התאחדויות בלתי מותרות וארגוני טרור <https://nbctf.mod.gov.il/he/Announcements/Pages/nbctfDownloads.aspx>

universities are considered terrorist or illegal, even if they are merely activities such as organizing a cooking day or distributing educational leaflets about university life.

Article (85) of the mentioned Emergency Regulations states that any person who “(a) is, or acts as, a member of an unlawful association, or (b) manages, or assists in the management of, an unlawful association, or holds any office or position in or under an unlawful association, or (c) does any work or performs any service for an unlawful association..., or (d) attends any meeting of an unlawful association, or (e) permits or suffers any meeting of an unlawful association ..., or (f) has in his possession, custody or control any book, account, periodical, handbill, poster, newspaper or other document, or any funds, insignia or property, belonging to or relating to or issued by or in the interests of, or purporting to belong to or relate to or to be issued by or in the interests of, an unlawful association, or (g) writes or otherwise prepares or reproduces, prints, types or otherwise reproduces, publishes, exhibits, sells or exposes for sale, distributes, transmits, or knowingly handles, any such thing as is mentioned in paragraph (f), or...” shall be liable and convicted to imprisonment one to ten years.²⁴

As soon as they engage in extracurricular activities during university years, whether in trade unions or with other professional, cultural, or political groups, Palestinian youth often find themselves punished with actual imprisonment. This is applicable to students who run for elections within the university's student union. The law considers students' participation in the elections illegal because it is organized by the student bloc, which is also considered illegal as it is linked to Palestinian factions. According to official Israeli statistics, between 2014-2019, Israel arrested 1,704 Palestinians in the West Bank on charges of “membership and activities in an illegal association”.²⁵

2:2 The Indictment of University Students in the OPT

University students in the West Bank are usually arrested at nights, often as part of Israeli military raids and incursions of their homes and villages, including those in Area A of the West

²⁴ The Defence (Emergency) Regulations, 1945. Article 85. The Palestine Gazette No. 1442 - Supplement No. 2 (27th September, 1945).

²⁵ Human Rights Watch, Born Without Civil Rights: Israel's Use of Draconian Military Orders to Repress Palestinians in the West Bank, 17 December 2019.

Bank, which according to Oslo Accords is supposed to be under the Palestinian Authority's control. Students are sometimes arrested during daytime at Israeli military checkpoints upon entry to towns and villages and on their way to university campuses. After being arrested, students are interrogated about their student activities and political affiliations. Indictments against them are then issued and, in most cases, are followed by prison sentences of 10-24 months.²⁶

For example, Jihad Ahmed, a student at the Faculty of Engineering at An-Najah National University (Nablus), was arrested at the dawn of 12 February 2020 when the Israeli occupation authorities stormed his home in Nablus. His house was searched and his furniture was vandalized. Jihad's detention continued for 16 months on charges of "affiliation or membership in a terrorist organization" and "participation in prohibited activities." According to Jihad, these prohibited activities were his membership in the Islamic Bloc (Hamas) at university, which Israel considers a prohibited organization, and for his engagement in trade union activities under its umbrella.²⁷

On 2 November 2020, Shatha Al-Taweel, a student at Birzeit University, was arrested by the Israeli occupying forces from her home in Al-Bireh. During her detention, she was subjected to violence and humiliation. Her hair was pulled, whereas female soldiers pushed her against a wall, while other female soldiers ridiculed and laughed at her. The soldiers prevented Shatha from closing the bathroom door,²⁸ infringing on her privacy. The indictment against Shatha states her membership in the "Student Pole" group, which is considered as the student arm of the Palestinian Popular Front for the Liberation of Palestine (PFLP). The indictment details her contribution to its administration and attending meetings as the reasons for her arrest. All these activities took place inside the university as part of the student union's work activities. According to the aforementioned indictment, the Ofer Military Court sentenced Shatha to 14

²⁶ This is based on our reading and analysis of dozens of indictment lists against university students, as well as based on several interviews conducted by the Law for Palestine team with individuals from different student blocs in different universities in the West Bank, who had previously been arrested for their student activities.

²⁷ Jihad Ahmed, a university student, interviewed by Law for Palestine on Zoom on 6 November 2022 at 1:12.

²⁸ See Addameer Prisoner Support and Human Rights Association: <https://www.addameer.org/ar/prisoner/4599>.

months of actual imprisonment and 12 months of suspended imprisonment, active for 5 years. In addition, she was fined 3,000 NIS.

Similarly, on 6 August 2020, Layan Kayed, a student at Birzeit University, was arrested at an Israeli checkpoint on her way from her village, Sebastia near Nablus, to university to complete her graduation papers and receive her degree in Sociology. The charges against Layan included participation in a student march, preparing and presenting a falafel dish at an activity organized by the Student Pole (which is outlawed), as well as participating in a political symposium at a book fair. She was sentenced to 16 months of actual imprisonment.²⁹

On 19 November 2018, Anas Shtayyeh, a student at the Faculty of Engineering at An-Najah National University (Nablus), was arrested and spent 9 months in prison for his student activity, according to his testimony to Law for Palestine. He stated that the charges against him were the affiliation with a banned organization. After reviewing his indictment, we found that it accuses him of: (1) being present in an illegal meeting, in violation of Article (85/1/d) of the Defense (Emergency) Regulations 1945, and Article (199/c/a) of the Military Order on Security No. 1651 of 2009; (2) membership and activity in an illegal gathering in violation of Article 84 and 85/1/a of the Defense (Emergency) Regulations 1945, and Article (199/c/a) of the Military Order on Security No. 1651 of 2009; and, (3) carrying out services for an illegal gathering, in violation of Article (85/1/c) of the Defense (Emergency) Regulations 1945, and Article (199/c) of the Military Order on Security No. 1651 of 2009.³⁰

Anas was released after having serving his sentence. Following that and his return to university, he was arrested again on 12 September 2021 and charged with wearing a green scarf. Under the aforementioned Military Order No. 1651, the green scarf is considered a symbol of the prohibited Islamic Bloc, and is an act of declaring a proscribed identity.

On 7 March 2018, six members of the Israeli occupation forces, disguised as Palestinian journalists, stormed Birzeit University. They beat and arrested the head of the Student Council, who is known to belong to the Islamic Bloc. Students' video recordings show that Israeli

²⁹ See: Aljazeera.net, Birzeit University: Four female students in an Israeli prison, 17 July 2020; and Addameer: Prisoner Support and Human Rights Association: <https://www.addameer.org/prisoner/4118>

³⁰An interview with Anas Shtayyeh, held by Law for Palestine via zoom on 3 November 2022.

soldiers in disguise carried out the arrest. Four of them drew their firearms and pointed them towards other students at the university so that they would not approach the other soldiers. Two other soldiers beat and suppressed Al-Kiswani. They then pulled him out of the university premises, where additional forces of the Israeli army were waiting. This was the second arrest of Al-Kiswani. In June 2015, he was arrested and sentenced a year of actual imprisonment and a 5-year of suspended sentence on charges of belonging to the “Islamic Bloc” student group.³¹ Following his second arrest, Al-Kiswani was sentenced to 50 months in prison and fined 55,000 shekels. It is noteworthy that, since 2004, Al-Kiswani was the seventh president of the Student Council arrested by the Israeli authorities.³²

According to an indictment submitted by the Israeli military prosecutor against a student (who preferred not to reveal his name), the offense committed by the accused was merely his presence in a prohibited meeting.³³ The indictments list stated only that, “on October 28, 2008, the accused, with others, participated in a march [organized] by the Islamic Bloc affiliated with Hamas, which is a banned organization”.³⁴ Another indictments list included a clause stating that the accused had committed a violation of “membership and activities in prohibited organizations”. In the details it said that “the accused was a member and activist of the Islamic Group affiliated with the Islamic Jihad Organization, and in this context, he participated in religious sessions”. It also said that, at another time, he provided services for the benefit of banned organizations, he “participated in organizing festivals celebrating new students or graduates” the Da'wah College, and that he “was taking photos of educational materials for the benefit of students in the photography office in the Da'wa College”.³⁵

³¹ Addameer Prisoner Support and Human Rights Association, Omar Al-Kiswani, 19 June 2018. Available at: <https://www.addameer.org/prisoner/omar-al-kiswani>

³² Committee on Academic Freedom (CAF) of the Middle East Studies Association of North America (MESA), Israel's recent kidnapping of Birzeit University Student, 13 March 2018. Available at: <https://mesana.org/advocacy/committee-on-academic-freedom/2018/03/13/israels-recent-kidnapping-of-birzeit-university-student>.

³³ The Israeli Military Court - Samaria. Court file No. (13/9511). 4/5/2013.

³⁴ Ibid.

³⁵ The Israeli Military Court - Judea. Criminal file No. (11/519560).

3:0 The Arrest of Palestinian Students Citizens of Israel

To sufficiently complete this report, interviews in Israel were conducted with relevant bodies to assist with the cultivation of mass information needed. It should be noted, however, that many potential interviewees did not feel safe enough to be interviewed about their political arrests and asked for their names and statements to remain anonymous. Furthermore, the access to said information proved to be limited as the statistics for student arrests within the Green Line (in Israel) and indictment lists are not made available for the public, presenting a further challenge in the information gathering process. This report presents information found along with interviewee answers to questions about the process of their arrest, its effect and consequences. It further explores the connection between political arrests of Palestinian students and the colonial erasure of Palestinian identity.

Israel's systematic arrests of Palestinian students in Israel can vary but are often carried out on campus when students participate in student-led activities. As the Ir Amim Organization reported, on 29 March of this year, an off-duty police officer detained two Palestinian students for listening to Arabic music using a loudspeaker at the Hebrew University of Jerusalem.³⁶ In many cases, the mere fact that they are students is unlawfully used against them in the investigation procedure. Several cases showcase that excessive force is used as part of student arrest procedures, with state forces reported to use extreme physical and verbal violence.

The Indictment of Palestinian students within Israel

Bashar Ali, a third-year student at Tel-Aviv University, was arrested on 5 May 2021 while attending a protest in Jaffa in solidarity with the residents of Sheikh Jarrah and against the gentrification of Jaffa.³⁷ In an interview conducted for this report, Ali affirms that, at the time of his arrest, he was isolated from other protestors and taken to a remote area by six members of the Yasam, the Israel Police Special Patrol Unit. There, they sat him on the ground and

³⁶ Ir Amim, Two Palestinian students detained for listening to Arabic music at Israel's Hebrew University campus, 29 March 2022. Available at: <https://www.ir-amim.org.il/en/node/2816>

³⁷ After the turning of an Arab girl's school to a prestigious Soho House, the gentrification of Jaffa continues as major Israeli housing company Amidar that controls 1,700 housing units in Jaffa raise housing prices which Native Jaffan Arab residents cannot afford. About 90% of Amidar's housing units are occupied by Native Jaffans that are at risk of eviction at any moment.

repeatedly physically assaulted him. Ali even reported that at some point a police officer had his knee on his neck. Furthermore, the officers verbally assaulted Ali by telling him that he is “unworthy of sitting on a chair” and made continuous threats of extreme physical abuse.

Similarly, Ahmad Jabarin, a second year student at Tel-Aviv University, was arrested while attending a student-led Nakba commemoration ceremony on 15 May 2022, an event that occurs annually and is authorized by relevant authorities with clear presence of state security forces. In an interview for this report, Jabarin mentioned that at the time of his arrest, about 10 officers from the Mista’rivim unit, the undercover “counterterrorism” unit of the Israeli army Forces, Israel Border Police, and Israeli Police, physically attacked him and two other students while arresting them. They isolated him in a police jeep from the rest of the ceremony participants and continued to abuse him physically and verbally for over an hour, including by severely beating, verbal insulting and cursing him.

The vagueness of the Israeli laws regarding violence during arrests is used to the advantage of the state. According to Article 19 of the Israeli Criminal Procedure Ordinance that deals with Search and Arrest,³⁸ “whoever is authorized to arrest a person subject to arrest may use any reasonable means necessary to carry out the arrest, if the person resists the arrest or tries to evade it.” The decision to employ force and its severity is left for the officers’ discretion. This technically and ‘lawfully’ allows for the excessive use of police force against Palestinian students, with no obligation for a reasonable employment of force. This thus deters Palestinians from expressing collective identification in fear of state prosecution that employs extreme force for the purpose of intimidation and unjustified punishment.

Furthermore, the vagueness of these state laws also facilitates the Israeli authorities’ abuse by justifying their confiscation of any materials it deems “terror related” at times of arrest, as the definition of what is “terror related” is left for the state to decide. This allows the state to confiscate anything and everything, from books to personal items to electronics, under the pretext of counterterrorism without further justification. This method is also used against

³⁸ 1969-פקודת סדר הדין הפלילי (מעצר וחיפוש) [נוסח חדש], תשכ”ט 38

Available at: https://www.nevo.co.il/law_html/law01/055_128.htm#Seif3

Palestinian students as a deterrent to defy their Palestinian identity and to prevent them from acquiring Palestinian literature, history, and academia.

Sumaya Falah, a fourth-year doctorate student at the Technion Institute in Haifa, was arrested on 11 January 2022 after attending a conference in October 2021 bringing together Palestinians from across historic (Mandate) Palestine. At the time of her arrest, Falah affirms that a troop of police officers arrived at her house at 7:00 am, searched it thoroughly and confiscated two laptops, two mobile phones, a Palestinian flag, and many books ranging from those by Ghassan Kanafani to academic research on the First Intifada. The materials remain confiscated to date. The confiscation of materials such as Palestinian literature and flags under the pretext of being “terror related” illustrates how the core of Palestinian identity is despised and persecuted by the Israeli state law and its enforcement.

While the state’s persecution techniques of students during arrests varies, it is evident that the incentive for these arrests is mainly to deter Palestinian students from expressing a collective Palestinian identity or any connection to its history and even people. In the case of Ali, the state accused him of assaulting a police officer, obstructing a police officer in the performance of his duty, disturbing, and resisting arrest, which he was later cleared of for insufficient evidence. Ali spent about six hours in a prison cell with his hands cuffed tightly behind his back. He affirms he asked for the cuffs to be loosened but his request was declined. He was interrogated for about 10 hours, starting at 2:00-3:00 am, with the interrogator constantly threatening to end his academic studies by making him spend time in prison. Furthermore, Ali noted that the interrogator attempted to coerce him to sign an incomplete testimony.

Jabarin was similarly accused by the state of assaulting a police officer, which he was acquitted of later for insufficient evidence. While being interrogated, he was also threatened about his academic future. Jabarin was transferred to Abu Kabir prison where he spent three nights. His jacket was destroyed as he entered the prison, as part of prison protocol, despite the freezing rooms in the facility. Jabarin noted that he was not allowed contact anyone but his lawyer for half an hour a day.

Falah, on the other hand, was accused by the state of being affiliated with a terrorist organization, establishing contact with a foreign agent, and planning a terror attack. Falah mentioned that when she inquired as to why she was being detained, she was told it was a “security offense”. At the time of her interrogation, Falah said the interrogators focused on a student movement in Haifa that she was working on, which connects Palestinian students in and outside the Green Line as well as in the diaspora. She mentioned that the interrogators wanted to prove her involvement in this student-led movement, which made her a “foreign agent” because she was recruiting for a group that could possibly constitute a “terrorist organization” and a security threat. Section 114 of the Israeli Penal Code states that “Anyone who knowingly has contact with a foreign agent and does not have a reasonable explanation for it, shall be sentenced to fifteen years in prison.”³⁹ The term foreign agent here includes “anyone who has reasonable grounds to suspect that he has engaged, or has been sent to engage, on behalf of or on behalf of a foreign country, in the prohibition of classified information or in other acts that may harm the security of the State of Israel.” Falah, who was later acquitted of the charges for insufficient evidence, also said that she was interrogated for 22 consecutive days for 10-12 hours per day, where she was continuously asked about her involvement in that student movement. At times, she was coerced to falsely admit that a foreign agent had recruited her, in which case they would reduce her punishment.

In all these cases, there were clear attempts to intimidate Palestinian students who openly and actively express their attachment to their history, their people, and their identity as Palestinians. The state uses its authority to dissuade Palestinian students from publicly displaying a collective identity by intimidation, exhaustion, and coercion in an attempt to completely disconnect them. These means of deterrence and intimidation manifest in the aftermath of arrests as well. Most, if not all, political arrests of students result in an obstruction of the student’s academic studies, with the student missing deadlines, lectures, exams etc. as well as an overall obstruction of their lifestyle.

Ali, for example, was placed under house arrest for approximately a year after his arrest as he waited trial. During that time, he was not allowed to work or attend university without a

³⁹ (חוק לתיקון דיני העונשין (בטחון המדינה, יחסי חוץ וסודות רשמיים)

Available at: https://www.nevo.co.il/law_html/law19/btl0249.htm#Seif23

supervisor. Ali added that this affected his whole family as his father, who was one of his supervisors, could not attend work as he had to chaperone him at all times. He explained that mentally, being under house arrest affected the way he perceives his home – his safe space – which has now turned into a prison with his family becoming the prison guards. Moreover, Ali noted that the state tries to “drain one’s energy” by continuously postponing meetings, which contributed to the weakening of his state of mind and a continuous feeling of isolation and guilt.

Falah was also put under house arrest and banned from entering Haifa, where she studies, for two months. She was also prevented from having any contact with national student movements. She was banned from traveling abroad and from entering the West Bank for six months following her charge-free release. Although crucial to her studies, restrictions such as a ban on the use of the internet and confiscated materials such as her laptop were also imposed on Falah by the state. She mentioned that in the earlier days of her interrogation, there was wide coverage of her case on social media. Falah noted that interrogators bluntly told her that this would damage her career and future employment. Clearly, student political arrests not only result in academic setbacks, but also in the overall obstruction of their freedom for mere identification with or public support of their Palestinian identity.

This should also be understood as an intimidation tactic against future student-led national movements as it is clear that de facto student movements are viewed and treated by the state as terrorist organizations for their political ideology. The state’s fear of a collective Palestinian identity pushes it to attempt to uproot it by any means to deter Palestinian youth from expressing it. The state’s law enforcement abuse, the vagueness of laws relevant to the use of excessive force, unreasonable judgment, and systematic punishments are clearly there to intimidate and deter Palestinian students from expressing a Palestinian national collective. Israeli state laws have long attempted to suppress the Palestinian national collective identification. For example, through the Nakba Law, first issued in 2011, which authorizes the Finance Minister to reduce state funding and support to an institution if it engages in an

activity that rejects the existence of Israel as a “Jewish and democratic state” or commemorates “the day on which the state was established as a day of mourning.”⁴⁰

These attempts at erasing the legitimacy of a major historic tragedy of the Palestinian people also manifest in their intolerance of Palestinian solidarity. Palestinian students are arrested for connecting with each other, with the state deeming them “foreign agent” and threatening security. Students are also arrested for commemorating a national catastrophe, or for protesting settler-colonial injustices in their homeland, such as in the cases presented above. The state strives to alienate Palestinians from their national identity by creating a clear connection between publicly supporting the Palestinian cause and state persecution. Student-led movements that encourage the continued interconnectedness of Palestinians wherever they reside, such as that of the case of Falah presented above, allow Palestinian youth to reflect as a collective on their history, tragedy, and future, and connect with each other over their collective identity. These movements are being persecuted and viewed as dangerous organizations posing a security threat to the state, when in reality, they are merely Palestinian student groups seeking to connect and share their history with each other. This suppression of this collective Palestinian connection to its history is also evident in the case of Jabarin when students were arrested in an authorized event. The presence of police is in itself illustrative of the state’s view and treatment of events such as the student annual event commemorating the Nakba that showcase collective Palestinian organization and identity.

In light of the aforementioned, Israel’s political arrests of Palestinian students in and outside the Green Line must be viewed as a method of the settler-colonial state to erase all collective national identity that is expressed by Palestinians publicly and privately. Furthermore, the above cases, which have all been found to lack sufficient evidence, reinforce the idea that students are frequently arrested to deter Palestinian youth, especially university students, from expressing a collective Palestinian identity.

⁴⁰ “Nakba Law” - Amendment No. 40 to the Budgets Foundations Law. Available at: <https://www.adalah.org/en/law/view/49621>

4:0 The Arrest of University Students as a Tool of Eroding Palestinian National Identity and Consolidating Israeli Colonialism

In a settler-colonial context, any display or organization of collective identity by the colonized is considered a threat to the settler-colonial regime. Historically, colonial identity erasure is evident in many cases, from the forced Christianization of Indigenous tribes in Northern America⁴¹ to the outlawing of Anti-Apartheid student movements in Apartheid South Africa⁴². Similarly, across historic Palestine national activities, symbols, and organizations are restricted by Israeli law, allowing the state to actively prevent Palestinians outside and within the Green Line from expressing a collective Palestinian identity. Though this manifests in many forms, political arrests are one of the most prominent.

Political arrests are fundamental tools of settler-colonialism used to deter all political or national organizations. Palestinian students, not only in the territories occupied in 1967 but also within the Green Line, have witnessed a surge in state aggression and intolerance for any nationally related activity on and off campus. This often manifests in the form of political arrests specifically of students that rarely rely on admissible evidence. Students are targeted for publicly expressing and connecting with their Palestinian identity, history, and people. The state's need to suppress this collective identity can be seen in the rising number of indictments against Palestinian students in both Palestinian and Israeli universities.

⁴¹ The Indian Act of 1876 authorized the Canadian federal government to regulate and control every aspect of Indian life. This authority has ranged from overarching political control, such as imposing governing structures on Aboriginal communities in the form of band councils, to control over the rights of Indians to practice their culture and traditions. Other laws expanded to such a point that virtually any gathering was strictly prohibited and would result in a jail term. See: The Indian Act, Indigenous Foundations, at:

https://indigenousfoundations.arts.ubc.ca/the_indian_act/

⁴² SASO (South African Student Organization) was a black university student organization that resisted Apartheid through non-violent political action. Legal historian Michael Lobban argued in his book, "White Man's Justice: South African Political Trials in the Black Consciousness Era", that the trial [of nine members of SASO and other Black Consciousness-affiliated organisations] offered particular insights into how the South African state sought to "use a political trial to control its opponents.". See: Anne Heffernan, Student resistance in South Africa: the SASO nine trial and Steve Biko. The Conversation, 16 April 2019. Available at:

<https://theconversation.com/student-resistance-in-south-africa-the-saso-nine-trial-and-steve-biko-115185>

The right to self-determination has an essential cultural element that should not be prevented from being developed, as identity and cultural expressions are paramount affirmation of the existence of a nation. In fact, as Virginia Tilley argues, the mass destruction of the culture of the colonized people was a “hallmark feature” of colonialism.⁴³ This indicates the exclusionary character of colonialism in its aim to erase the original culture and history by making it difficult for indigenous people “to express themselves and their right to self-determination”.⁴⁴

In the same manner, the Israeli occupation’s arrests of Palestinian students in Palestinian universities shows consistent and systematic attempts to undermine the ability of Palestinian university youth (especially those aged 18-24) to express themselves, organize and coordinate with one another for a free future of their people. The Israeli arrest policy also seeks at “Mowing Down the Grassroots”; i.e., it does not only lead to the exclusion and exhaustion of those students (involved in extracurricular and political activity) through harsh arrests at an early stage of life, but it also sends a shocking and threatening message to their fellow students not to even think about getting involved in community activism and resisting colonialism, apartheid and occupation (ignore their right to self-determination), so that they are not at risk of arrest.

It has become clear, as demonstrated in the following four points as well, that the Israeli authority’s practice of arresting Palestinian university students represents a systematic policy aimed at erasing the Palestinian identity of the students and at attacking their political struggle for self-determination.

4:1 A systematic policy aimed at paralyzing collective action

A reading of Israel's practice of arresting Palestinian students shows a long-term policy that intends to attack student activists and prohibit young Palestinians from expressing their sense of social responsibility for their colonized country. This policy is not limited to one university or one region itself, but rather extends over the course of the occupation, as explained by Penny Johnson, a Japanese author and researcher who has lived for a long time in

⁴³ Virginia Tilly, *Occupation, Colonialism, Apartheid? A re-assessment of Israel’s practices in the occupied Palestinian territories under international law*, 2009, p. 146

⁴⁴ *Ibid*, p. 121.

Palestine.⁴⁵ For example, as Johnson explained, in 1985 half the Palestinians who received administrative detention orders were students.⁴⁶ An Israeli officials at the time stated that, instead of closing the universities, Israel "improved its system" by barring student "troublemakers" from campus.⁴⁷ With this same systematic practice, at the beginning of the First Intifada in 1987, Israel carried out a huge campaign of mass arrests in the Palestinian territories and imposed several restrictions on students' freedom of thought and expression.⁴⁸

Prior to the Palestinian elections in 2006, "the Israeli military arrested dozens of university students for being members of student political movements that Israel considered to be affiliated with Palestinian political parties".⁴⁹ This demonstrates how Israel escalates its arrests policy against students based on the general political situation, not based on individual acts, as it should be in the rules of criminalization and punishment.

Shatha Hassan, who is a student at Birzeit University and former chair of its Student Council Conference, was arrested on 12 December 2019 and placed under administrative detention for 5 months. Her brother, Mohamed, who is also a student activist at the University, was arrested a few months after her. He was sentenced to 14 months in prison and fined \$1,800 for his activities on campus. "My parents were activists when they were students at Birzeit University, and they were arrested because of this," Shatha said. "Today, we are exposed to the same experience after more than 30 years."⁵⁰

Past practice also shows that Israel sometimes arrests students collectively in response to acts of solidarity organized by those students. For example, in the late afternoon of 14 July 2021, the Israeli occupation forces launched a mass arrest campaign against students at Birzeit University, when students were returning by bus from the village of Turmus 'Ayya in the occupied West Bank that they visited in solidarity with a Palestinian family therein, whose

⁴⁵ Penny Johnson, Palestinian Universities under Occupation 15 August-15 November, *Journal of Palestine Studies*, vol. 18 (2), 1989, pp. 92-100.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ Sawsan Zahr, *Decisions of the Israeli Supreme Court Concerning the Occupied Palestinian Territories*, 1976, p. 89

⁴⁹ Rasha Shammas, In Practice: Interview with Attorney Saher Francis on her Experiences in Representing Palestinians before the Israeli Military Courts, *Adalah's Review Volume 5 - On Criminalization*, 2009, p. 59

⁵⁰ Anadolu Agency, Jailed by Israel, students pay heavy price in Palestine, 16 April 2021. Available at: <https://www.aa.com.tr/en/life/jailed-by-israel-students-pay-heavy-price-in-palestine/2210746>

home had been recently demolished. The Israeli soldiers forced the students off the bus, violently searched them, physically assaulted them, and then arrested over 45 of them.⁵¹

Similarly, on 16 September 2022, the occupation forces detained 23 Palestinian students from Birzeit University who were on a trip to 'Aboud village, west of Ramallah. While most of the students arrested were released within hours or days, the occupation forces kept Mo'az Butma, the coordinator of "Al-Qutop Al-Tulabi Group" at the university, and Zaid Qaddumi, the group's secretary, under administrative detention (i.e., without trial).⁵²

Anat Matar, a senior lecturer of Philosophy at Tel Aviv University, explains this policy by noting that "[w]hile on campuses around the world, student activism tends to be accepted and welcomed, that same kind of activism is forbidden for Palestinian students."⁵³ Israel's systematic and long-term arrests of Palestinian students is a unique practice compared to other campuses around the world. By targeting Palestinians at the beginning of their adult life, Israel is directly intending to deepen young Palestinians' feelings that their life is besieged, their movement is restricted, and their future must revolve around the self, not the collective. As the National Lawyers Guild International Committee rightly put it in their May 2014 report on their investigative visit to Palestine: "the targeting of youth is intended to stifle leadership development, curtail educational and vocational opportunities for Palestinian youth and further the goal of "self-deportation".⁵⁴

4:2 Targeting political activism and the development of a future political leadership

Israel's detention practices against Palestinian students deprives them not only of their right to education, but also of their rights to freely express their opinions, take part in peaceful

⁵¹ See: Addameer Prisoner Support and Human Rights Association, IOF Launch Mass Arrest Campaign Against Birzeit University Students Visiting Site of Israeli Home Demolition, 18 July 2021. Available at:

<https://www.addameer.org/news/4458>

⁵² See: Samidoun, Two Palestinian student leaders jailed without charge or trial, 20 September 2022. Available at:

<https://samidoun.net/2022/09/two-palestinian-student-leaders-jailed-without-charge-or-trial-freepalestinianstudents/>

⁵³ Anat Matar, In its war on Palestinian students, Israel deems book fairs and falafel sales a crime, +972 Magazine, 03 February 2021. Available at: <https://www.972mag.com/palestinian-university-students-israel-arrests/>

⁵⁴ Prisoners of Injustice: Report of the National Lawyers Guild Delegation to Palestine, May 2014, p. 15. Available at: <https://www.nlginternational.org/report/PrisonersOfInjustice-Report.pdf>

assembly, and express their Palestinian national identity. Often, “[t]he most likely targets for detention are student leaders and others involved in student political life—in other words, the most politically empowered university students”.⁵⁵

In her latest report, UN Special Rapporteur on the occupied Palestinian territories since 1967 Francesca Albanese argues that “[i]n a settler-colonial context and an apartheid regime, any display of collective identity and (re)claimed sovereignty from the subjugated people represents a threat to the regime itself”.⁵⁶ Indeed, the Israeli arrest policy blatantly proves this claim. Palestinian university students are particularly targeted “because they, as empowered and often socially conscious individuals, are likely agents of resistance.”⁵⁷ Their universities “were quick to become centers, perhaps the centers of political, national, and cultural activity”, which served to turn them “into targets of systematic repression and harassment by the military government and Civil Administration”⁵⁸. Thus, interrupting these students’ education and isolating them “removes them from the atmosphere in which they may become politically active and thereby reduces the power of the resistance”.⁵⁹ Ultimately, this restricts their ability to develop as a people.⁶⁰

According to the Committee on Academic Freedom (CAF) of the Middle East Studies Association of North America (MESA), the arrests of Palestinian university students “are part of a larger policy that directly targets students and undermines the role of academic institutions for thousands of students living under occupation”.⁶¹ This represents a

⁵⁵ Lindsey Suha Hennawi, *Education as Resistance: Detention of Palestinian University Students under Israeli Occupation and Palestinian Political-Cultural Responses*, 2011, p. 38.

⁵⁶ UN General Assembly, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese. 21 September 2022, A/77/356.

⁵⁷ Lindsey Suha Hennawi, *Education as Resistance: Detention of Palestinian University Students under Israeli Occupation and Palestinian Political-Cultural Responses*, 2011, p. 41.

⁵⁸ Maya Rosenfeld, *Confronting the Occupation: Work, Education, and Political Activism of Palestinian Families in a Refugee Camp*, Stanford University Press, 2004, p. 126.

⁵⁹ Lindsey Suha Hennawi, *Education as Resistance: Detention of Palestinian University Students under Israeli Occupation and Palestinian Political-Cultural Responses*, 2011, p. 41.

⁶⁰ UN General Assembly, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 21 September 2022, A/77/356.

⁶¹ Committee on Academic Freedom, Letter protesting ongoing policy of arrests and detention of students in Palestinian universities, 13 April 2021. Available at:

substantial and effective strategy of the Israeli efforts “to delegitimize and silence the voices of youth and student unions, in addition to all other attacks against voices that challenge its systematic and widespread attacks on the Palestinian people’s inalienable rights”.⁶²

4:3 Plea Bargains: a mean to admit charges and stifle resistance

The testimonies submitted by previously detained students, their lawyers, and human rights reports show that the trials of detained university students begin by presenting the indictments against the students. For the detained students and their lawyers to be able to plead before the Israeli military judiciary is quite limited as students are often forced to sign plea bargains to avoid harsher penalties.⁶³ In these bargains, the prosecution usually agrees to reduce charges or ask for a lighter sentence in exchange for a guilty plea.⁶⁴

Audrey Bomse, who worked for seven years as a human rights attorney on issues of Palestinian prisoners, points out that “[w]hile plea bargaining gives individuals who have admitted guilt the best sentence they could hope for under the circumstances, the politics of plea bargaining contradicts the politics of resistance”.⁶⁵ Thus, arresting students based on their political activism and forcing them to take plea bargains must be seen “as a foreclosing of political opportunity” and courts must be “regarded as the place where resistance ends”.⁶⁶

<https://mesana.org/advocacy/committee-on-academic-freedom/2021/04/13/protesting-ongoing-policy-of-arrests-and-detention-of-students-in-palestinian-universities>

⁶² Al-Haq, Israel’s Designation of the Democratic Progressive Student Pole an “Unlawful Association” Is Another Manifestation of its Apartheid Regime, 8 December 2020. Available at:

<https://www.alhaq.org/palestinian-human-rights-organizations-council/17626.html>

⁶³ Ihsan Adel Madbooh, Legal Status of Palestinian Prisoners in Israeli Occupation Prisons and their Protection According to the International Humanitarian Law Rules, University of Jordan (LLM Thesis), 2013, p. 193.

⁶⁴ Palestine Solidarity Campaign, Palestinian political prisoners - Fact Sheet. Available at: https://www.palestinecampaign.org/wp/wp-content/uploads/Political-Prisoners_factsheet_2017_DOWNLOAD.pdf.pdf

⁶⁵ Audrey Bomse, Palestinian Prisoners and International Law, 21 April 2006. Available at: <https://nlginternational.org/2006/04/palestinian-prisoners-and-international-law/>

⁶⁶ Ibid.

4:4 Classifying students as security prisoners and denying them educational development

The vast majority of Palestinian prisoners, including university students, are classified by the Israel Prison Service (IPS) as “security prisoners,” as opposed to criminal prisoners. This classification is of great importance as it determines the nature of rights or privileges one is entitled to while in jail. Security prisoners are deprived of many rights granted to non-security prisoners, including the right to conjugal visits (seclusion), phone calls, and the early release system.⁶⁷

Abeer Bakr, a practicing Palestinian-Israeli lawyer, notes that the classification of a security prisoner is an “instrumental concept of law” intended for all Palestinian detainees regardless of what led to their arrest. According to Bakr, this classification decontextualizes and “depoliticizes” prisoners’ actions and “blur[s] their political aspirations”⁶⁸.

Anat Matar explains this further by stressing that “[d]enying the political nature of these prisoners and referring to them collectively as ‘security’ prisoners strips them of their humanity... and their political nature.” As such, this denial goes beyond the prisoner’s “particular act of resistance” to instead constitute “a rejection of the entire Palestinian political experience”, so that “[t]he entire political existence is fossilized and turned into a type of dangerous object for the ‘only individual subject’ in its proximity,”⁶⁹ that is, the Israeli one (the colonizer).

The Israel Prison Service also imposes many restrictions against “security prisoners”, including with regard to the titles of books allowed, banning those that contribute to building a national identity and collective political awareness under the pretext that they include “inflammatory material.” These especially include history, philosophy, and politics books. For example, “Notes from the Gallows” by Czechoslovak journalist Julius Fučík and all books by Italian philosopher

⁶⁷ Israeli Prison Service - IPS Commission directive, February and May 2000. See: Abeer Baker, The Definition of Palestinian Prisoners in Israeli Prisons as “Security Prisoners” – Security Semantics for Camouflaging Political Practice, Adalah’s Review Volume 5 - On Criminalization, 2009, p. 65-78.

⁶⁸ Abeer Baker, The Definition of Palestinian Prisoners in Israeli Prisons as “Security Prisoners” – Security Semantics for Camouflaging Political Practice, Adalah’s Review Volume 5 - On Criminalization, 2009, p. 74.

⁶⁹ Anat Matar, Objects or Subjects? Theoretical Comments on the De-Politicization of the Issue, Adalah’s Newsletter, Volume 33, February 2007, p. 3.

Antonio Gramsci are banned.⁷⁰ Since 2011, unlike criminal prisoners, the Israel Prison Service has also stopped allowing Palestinian “security prisoners” to complete their education at the Open University of Israel, a distance education institution.⁷¹

5:0 Grave Breaches of International Law

The Israeli military orders that Palestinians are subjected to have led to an indefinite suspension of Palestinians rights and crippled their ability to enjoy public and political life. Despite its prolonged duration, the Israeli occupation continues to rely on the same military orders, which “are written so broadly that they violate the obligation of states under international human rights law to clearly spell out conduct that could result in criminal sanction”.⁷² These military orders are consistently used as a tool to deprive Palestinians of their basic civil and political rights.

When issuing decisions, Israel’s First Instance Courts usually rely on the decision of the Israeli High Court. The Israeli High Court observed that the organizational civilian and military activity of Palestinian political factions feed each other, and, as such, “there is no difference, or division between military and organizational activities.”⁷³ In another ruling, the High Court observed that any attempt to distinguish between the two is artificial and misguided.⁷⁴

This definition, articulated by the highest Israeli judicial body, is not only applied to arrest cases, but also operationally. The Israeli army’s spokesman stated in an interview to the BBC in 2009 during the Israeli war on Gaza that:

⁷⁰ See: Palestine Writes, Khalida Jarrar Smuggles A Letter for Palestine Writes, 17 October 2020. Available at: <https://www.palestinewrites.org/news1/khalid-jarrar-smuggles-a-letter-for-palestine-writes>

⁷¹ Addameer Prisoner Support and Human Rights Association, The Cultural and Educational Life of Palestinian Political Prisoners in Israeli Prisons and Detention Centers, Opened - Books on Cuffed - Hands, 2020, p. 48-49.

⁷² Human Rights Watch, Born Without Civil Rights Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank, 17 December 2019. Available at: <https://www.hrw.org/report/2019/12/17/born-without-civil-rights/israels-use-draconian-military-orders-repress>

⁷³ HCJ 6404/08 Abu Maria v. Commander of the IDF Forces in the West Bank (2008).

⁷⁴ HCJ 5287/06 Za’atri v. Commander of the IDF Forces in the West Bank, para. 7 (2006).

[A]nyone who is involved with terrorism within Hamas is a valid target. This ranges from the strictly military institutions and includes the political institutions-that provide the logistical funding and human resources for the terrorist arm.⁷⁵

This position was opposed by Amnesty International, considering it “an overly broad definition, which undermines the principle of distinction” in International Humanitarian Law. Amnesty also noted that “Hamas members or supporters who are not taking direct part in hostilities are civilians who must not be made the object of attacks”.⁷⁶ The Inter-American Commission on Human Rights stated on the petition of 17 plaintiffs who were imprisoned by the United States during its invasion of Granada in 1983 that there was not any information that indicated most or all of those who held political office took part in the hostilities. Accordingly, given that they were civilians, the Committee said they should be subject to the provisions of the Fourth Geneva Convention.⁷⁷

Considering that Palestinian university students are civilians, and since Israel and Palestine are parties to the Geneva Convention, the Convention prohibits the arrest of Palestinian students (as civilians) unless they have committed a crime in violation of the legislation in force in the Occupied Palestinian Territory. In accordance with International Humanitarian Law, particularly Article 64 of the Fourth Geneva Convention, the occupying authorities must respect the continuity of the legal system of the occupied country. As such, the legal status of the Palestinian parties and student blocs which are permitted by the Palestinian Authority's regulations cannot change, except for necessary purposes required for the security of the state.

Even if we assume, for the sake of argument, the existence of a security necessity (although it is not clear what security need requires the prevention of student union activities), the restriction shall not violate human rights. However, Israeli military orders that prohibit political

⁷⁵ Amnesty International, Israel/Occupied Palestinian Territories: The conflict in Gaza: A briefing on applicable law, investigations and accountability, 19 January 2009. Available at: <https://www.amnesty.org/en/documents/mde15/007/2009/en/>

⁷⁶ Ibid

⁷⁷ Inter-American Commission on Human Rights, Organization of American States, Report No. 109/99, Case 10.951, Coard et al. United States, 29 September 1999. Available at: <http://www.cidh.org/annualrep/99eng/Merits/UnitedStates10.951.htm>

work and criminalize affiliation with political parties and the expression of political identity by merely raising a Palestinian flag, do just that under the pretext of state security.⁷⁸

Israel's control of Palestinian lives through the more than 1,800 military orders that criminalize the daily life and all forms of political and trade union activities must be understood as a tool of subjugation in a settler-colonial regime,⁷⁹ which aims to use wide scale arrest and detention against Palestinians to dismantle their collective consciousness and erase their national and political identity.

Additionally, Article 65 of the Fourth Geneva Convention affirms that the penal provisions imposed by the occupying power on the occupied people **"shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language"**, something that the Israeli occupation authorities fail to do. Further, Article 66 requires that trials be held **"in the occupied country"**. In most cases, Palestinian students stand trial in Israeli military courts in Israel, outside the occupied territory.⁸⁰

Israel's targeting of student blocs and the criminalization of their affiliates for alleged involvement in "terrorist" organizations violates not only the Geneva Conventions, but also the right of Palestinian youth to education and freedom of association, expression, and the formation of student unions. These rights are all guaranteed under the Universal Declaration of Human Rights (Article 26), the International Covenant on Economic, Social and Political Rights in accordance (Articles 13 and 18), as well as Article (19) of the International Covenant on Civil and Political Rights, the latter two of which Israel is party to. Arrests on charges of

⁷⁸ Ihsan Adel Madbooh, Legal Status of Palestinian Prisoners In Israeli Occupation Prisons and their Protection According to the International Humanitarian Law Rules, University of Jordan (LLM Thesis), 2013, p. 88.

⁷⁹ A reading of Military Order No. (1827): The Israeli military justice system is a tool of oppression and control. Available at: <https://www.alhaq.org/ar/palestinian-human-rights-organizations-council/16899.html>

⁸⁰ According to Articles 1 and 7(f) of Military Order 378, the military courts have the jurisdiction to prosecute any crime by any person committed in the entire area of the West Bank. In practice, though, the courts prosecute only Palestinians in the area. A settler who murdered a Palestinian in the West Bank should therefore be prosecuted in the military courts. However, settlers are prosecuted in the regular Israeli criminal courts system, which imposes considerably less severe criminal penalties. See: Rasha Shammas, In Practice: Interview with Attorney Saher Francis on her Experiences in Representing Palestinians before the Israeli Military Courts, Adalah's Review Volume 5 - On Criminalization, 2009, p. 57. See also: B'Tselem, Tacit Consent: Israeli Policy on Law Enforcement toward Settlers in the Occupied Territories, 2001. Available at: https://www.btselem.org/download/200103_tacit_consent_eng.doc

belonging to a particular party constitute a violation of the prohibition of discrimination on the basis of political belief, in contravention of Articles 25 and 26 of the International Covenant on Civil and Political Rights.

In June 2021, the UN Working Group on Arbitrary Detention concluded that the detention of three female Palestinian students from Birzeit University was arbitrary,⁸¹ as they were detained on the basis of their status as university students and their legitimate exercise of their freedoms of expression, peaceful assembly and association.⁸² In addition to the fact that the arrest itself was arbitrary, the Working Group also found that the arrests of these three students were carried out with apparent excessive force in violation of the Bangkok rules, the UN Convention against Torture, and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The students were also denied access to a lawyer from the moment of their arrest and were tried before a military court in violation of the International Covenant on Civil and Political Rights and customary international law. The Working Group stated that the widespread and systematic practice of detention in violation of the rules of international law may amount to crimes against humanity.⁸³

Additionally, according to the findings of the 2008-2009 United Nations Fact-Finding Mission on the Gaza Conflict report, the arrests by the Israeli occupation authorities of Palestinian politicians, which "were carried out in response to political events unrelated to the individual detained members, may amount to collective punishment, contrary to Article 33 of the Fourth Geneva Convention".⁸⁴

Finally, according to Article 147 of the Fourth Geneva Convention, "unlawful confinement of a protected person... or willfully depriving a protected person of the rights of fair and regular trial" constitutes "grave breaches" that trigger the responsibility of all state parties to the

⁸¹ These students are: Ms Layan Kayed (23-years-old) who was sentenced to 16 months of imprisonment and fined 6,000 NIS (approximately \$1,820); Ms Elyaa Abu Hijla (21-years-old) who was sentenced to 11 months of imprisonment and fined 1,500 NIS (approximately \$465); and, Ms Ruba Asi (21-years-old), who was sentenced to 21 months of imprisonment and fined 3,000 NIS (approximately \$925).

⁸² UN Human Rights Council, Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its ninetieth session, 3-12 May 2021. A/HRC/WGAD/2021/8

⁸³ Ibid.

⁸⁴ UN Human Rights Council, Report of the United Nations Fact Finding Mission on the Gaza Conflict, 25 September 2009. A/HRC/12/48. Para 1492 – 1495.

Convention "to provide effective penal sanctions for persons committing, or ordering to be committed" such grave breaches, and "to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts".⁸⁵

6:0 Conclusion

In light of what was presented in this report, the submission concludes that Israel seeks to abolish any Palestinian political or national movement and detain those responsible, including key members of youth and union movements at universities. This practice, confirmed through the indictments, shows that Israel instrumentalizes military orders and laws and uses loose concepts to carry out and justify the detention of and charges against Palestinian students. This illustrates the lengths to which the Israeli occupation goes in order to dismantle the collective consciousness of Palestinians, namely through the targeting of Palestinian university students, erase their national identity, and weaken their political activism to further its settler-colonial rule.

In light of this, Law for Palestine calls on Israel to:

1. Stop the policy of arbitrary detention of civilian Palestinian university students in both the occupied territory and in Israel.
2. Abolish the military orders and regulations that outlaw Palestinian student movements and the symbols and slogans through which the Palestinians express their national identity and in affirmation of their right to self-determination.
3. Treat all detainees with humanity and according to fair trial guarantees
4. Fully cooperate with UN bodies and human rights mechanisms, including the Independent International Commission of Inquiry, by allowing them access to Israel and the OPT.

⁸⁵ See: Article 146 and Article 147 of the Geneva Convention IV relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

Law for Palestine also calls on:

1. Third states and relevant UN Special Procedures to put exert pressure on Israel to immediately cease arresting Palestinian students (as civilians) in line with the Geneva Convention.
2. The UN Commission of Inquiry to investigate violations of Palestinian students' rights of education, freedom of association, freedom of expression, and freedom of union formation in universities in the occupied territories and inside the Green Line alike.
3. Third states and all United Nations bodies to take serious steps to protect the rights of Palestinian youth to education and freedom of association, expression, and the formation of student unions which are guaranteed under the Universal Declaration of Human Rights and the two International Covenants.
4. Third states, the UNSC and the UNGA to consider developing mechanisms to impose sanctions on Israel, individually or collectively, as long as it keeps disregarding international law and UNGA and UNSC resolutions.

