

“Administrative Detention” of Palestinians as a Crime Against Humanity of the Zionist Regime

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1-Introduction

The policy of the Zionist regime towards the Palestinians has exposed this regime to severe domestic and international criticism. These critiques focus on the government's disregard for international decisions and regulations, as well as its violations of Palestinian rights. A key area of concern involves the administrative detention of Palestinians and the treatment they receive. Conducting such operations in Palestinian territories raises questions of legitimacy and authorization, particularly as the criteria outlined in various international documents are not being adhered to. The scale of these arrests suggests a systematic violation of Palestinian rights, potentially amounting to crimes against humanity.

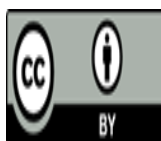
2- Methodology and Theoretical Framework

Crimes against humanity are defined as serious offenses committed by governments or organizations as part of a coordinated attack against civilian populations. Intentional murder and destruction are explicitly mentioned in Article 7 of the Rome Statute. However, certain acts may not be formally recognized as crimes against humanity, despite their international implications. One such act is the widespread and unlawful practice of "administrative detention," which occurs without court orders and is often justified on security grounds to prevent crime.

In fact, although the justification for carrying out these operations has entered the realm of law and international relations, stemming from

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concepts such as "preemptive defense," and many countries use it to combat terrorism, illegal immigration, and other desirable goals, the Israeli regime has extensively resorted to these operations without any specific justification, thereby infringing upon the rights and freedoms of Palestinians.

The International Criminal Court (ICC) has employed broad terminology and general references in its statutes concerning crimes against humanity. This approach has fostered hope that it may address the previously overlooked issue of labeling the "administrative detention" of Palestinians as a crime. In drafting this international document, there was an emphasis on anticipating significant future crimes. The use of general terms reflects a desire to expand the ICC's jurisdiction over crimes against humanity, potentially including cases of administrative detention.

In this context, it appears that the administrative detention of Palestinians may be classified as a crime against humanity under clauses (e), (h), and (k) of the first clause of Article 7 of the statute, which refer to "imprisonment," "persecution," and "other inhuman acts." However, for such classifications to hold, it is essential to consider the contextual and psychological elements inherent in crimes against humanity, alongside the requirement of illegal intent. The administrative detentions must demonstrate characteristics related to scale, organization, and an attack on the civilian population.

The definition of "widespread" typically encompasses two key features: an attack on a large scale and a significant number of victims. Meanwhile, "systematic" or "organized attack" indicates a high level of coordination, characterized by ongoing actions, strategic planning, and execution. Additionally, the term "civilian population" underscores the collective nature of the civilian victims involved.

The research method in this article is a descriptive-analytical method, which was done using first-hand library sources.

3- Disussion

Despite the absence of a legal framework in Palestinian territories that permits such operations, the Zionist regime illegitimately justifies widespread administrative detention of Palestinians through military

orders. This approach provides the necessary means for carrying out these detentions. Consequently, the administrative detention of Palestinians must be examined within the context of international law. According to Articles 4 and 9 of the Covenant on Civil and Political Rights, a public emergency threatening the lives of citizens is required to establish an administrative detention center. As Palestinian administrative arrests typically occur outside of emergency situations, they lack international justification. These arrests can be prosecuted under the criminal definitions of "imprisonment" or "persecution" as outlined in clauses (e) and (h) of Article 7 of the statute. Both behaviors involve the deprivation of freedom, but "persecution" specifically denies freedom based on political, racial, or religious grounds. Furthermore, the Zionist regime's implementation of these operations disregards legal requirements. Detainees are often denied basic rights, including being informed of the reasons for their detention. This failure to adhere to legal standards results in suffering and serious health repercussions for detainees, raising concerns about violations outlined in clause (k) of the aforementioned statute regarding "other inhumane acts." It is important to recognize that the Zionist occupiers have systematically and extensively employed this system since the early years of occupation in 1967. The continuous nature of these acts, driven by political objectives, signifies that the widespread detentions of Palestinian civilians are organized efforts aimed at establishing a Jewish state in Palestine.

Despite the lack of a law in Palestinian territory that allows such an operation, the Zionist regime, by insisting on some military orders, illegally justifies the widespread administrative arrests of Palestinians and provides the necessary tools to carry it out. Thus, the administrative detention of Palestinians can only be studied within the framework of international laws. Since according to the content of Articles 4 and 9 of the Covenant of Civil and Political Rights, the existence of a public emergency that threatens the lives of the citizens of a nation is necessary for the establishment of an administrative detention center; so, administrative detention of Palestinians have no international justification, because they are not usually done in emergency situations. Therefore, these arrests can be prosecuted under

the criminal headings of "imprisonment" or "persecution" in clauses (e) and (h) of Article 7 of the statute. The focus of both mentioned behaviors is deprivation of the right to freedom, with the difference that in "persecution" people's freedom is denied based on political, racial and religious aspects. On the other hand, the actions of the Zionist regime in this operation do not adhere to legal standards. As a result, detainees are denied their basic rights, including the right to be informed of the reasons for their detention. This disregard for legal requirements leads to significant suffering and serious harm to the health of the detainees, making the realization of paragraph (k) of the mentioned statute (other inhumane behaviors) a troubling possibility. Since failure to comply with these requirements causes suffering and serious damage to the health of the detainees, the realization of clause (k) of the aforementioned statute (other inhumane behaviors) is not far from the mind. In relation to the necessity of realizing the underlying elements of crimes against humanity in administrative detentions of Palestinians, it should be noted that the Zionist occupiers have continuously and "extensively" resorted to this system since the early years of the occupation in 1967 until now. Given that "systematic" actions have a continuous nature, the ongoing arrests of Palestinian civilians by this regime—aiming to establish a Jewish state in the Palestinian territories—highlight the systematic nature of this operation.

4-Conclusion and Suggestions

It seems that there is no legal loophole in accusing the Zionists of crimes against humanity related to the administrative detention of Palestinians. However, the lack of serious international will, particularly from Western countries and the United States, hampers the prosecution of this regime. The court's limited resources and reliance on these countries undermine its independence in prosecuting certain perpetrators of crimes against humanity, including agents of the Zionist regime. It seems that there is no legal loophole in accusing the Zionists of crimes against humanity for administrative detention of Palestinians; However, the lack of serious international will, especially in the western countries and America, prevents the international prosecution of this

regime. In fact, due to not having enough resources and manpower and being dependent on the mentioned countries, the court does not have complete independence in prosecuting some perpetrators of crimes against humanity, such as agents of the Zionist regime. Of course, due to the non-membership of the Zionist regime in the court, it may be said that this organization cannot exercise jurisdiction over the crimes of this regime, however, considering the commission of this crime in Palestinian territory and its government's membership in the court, it seems that there is no obstacle in the way of exercising the jurisdiction of the court.

Finally, creating the necessary infrastructure for the independence of authorities such as the International Criminal Court in order to adopt fairer and more just positions is a practical solution to end the immunity of criminals such as agents of the Zionist regime.

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