

Captives of Injustice: How Israel's Detention System and Hamas's Hostage Strategy Sustain a Cycle of Suffering

The enduring conflict between Israelis and Palestinians is tragically reflected in the cycle of captives: Israel's system of arbitrary detention, torture, and dehumanization of Palestinians, and Hamas's hostage-taking in response. Both practices inflict immeasurable suffering. Palestinians live under the constant threat of disappearance into a system devoid of due process, while Israelis grieve over their loved ones held by armed groups. The result is a perpetual feedback loop of trauma, rage, and radicalization.

This cycle could have been interrupted—most recently through negotiated deals in October 2023 that might have freed captives on both sides. But Israel's government, under Prime Minister Benjamin Netanyahu and pushed by extremist elements, chose escalation over diplomacy, sidelining key negotiators and prolonging the agony. The refusal to end Israel's unlawful detention regime and the rejection of diplomatic channels entrenched the spiral of pain.

Israel's Detention Regime: Institutionalized Injustice

Since 1967, Israel has wielded administrative detention and military courts in the Occupied Palestinian Territories as tools of control. These mechanisms operate entirely outside the bounds of international legal norms. Palestinians can be imprisoned indefinitely without charge or trial, based on secret evidence, with no effective means of appeal. Military courts, with a conviction rate nearing 99.7%, function as instruments of coercion, not justice. These practices directly contravene the **Universal Declaration of Human Rights (Articles 9 and 10)**, the **International Covenant on Civil and Political Rights (Articles 9 and 14)**, and the **Fourth Geneva Convention (Articles 64–66)**.

Torture and abuse are systematic. Numerous reports from UN bodies and human rights organizations have documented the use of beatings, stress positions, waterboarding, electric shocks, sexual humiliation, and rape with objects. A 2015 report cataloged at least 60 cases of sexualized torture between 2005 and 2012. These acts breach both the **Convention Against Torture (Article 1 and 16)** and **ICCPR Article 7**, which prohibit torture under any circumstances.

Since October 7, 2023, these abuses have escalated dramatically. By August 2024, at least 53 Palestinian detainees had died in custody, with many showing signs of torture. Children as young as 14 have been subjected to forced nudity and degrading treatment. In effect, Palestinians held under such conditions are deprived not only of liberty but of humanity. Given the systematic nature and the intent to pressure a civilian population, these acts ar-

guably meet the definition of hostage-taking under the **1979 International Convention Against the Taking of Hostages**, which includes detaining individuals under threat of injury or death to compel action from a third party—in this case, Palestinian society.

Psychological Devastation in Palestinian Society

The trauma caused by arbitrary detention reverberates far beyond the prison walls. Families live in constant fear that loved ones—especially children—will be taken at night, held incommunicado, and subjected to torture. For many Palestinians, the word “arrest” does not imply due process—it means disappearance, violence, and potentially death. As of 2024, over 9,500 Palestinians had been detained, feeding collective terror and grief.

This widespread suffering generates not passivity, but resistance. Families and communities, desperate for answers, often turn to the only entities promising leverage—armed groups. This is not a justification of violence, but an acknowledgment of the psychological reality: when your child is unlawfully imprisoned, tortured, and there is a high probability you may never see them again alive, the instinct to do *whatever it takes* to secure their return is deeply human. This psychological imperative, though not a defense under international law, is key to understanding Hamas’s strategy.

Hamas’s Hostage-Taking: Illegitimate but Understandable

On October 7, 2023, Hamas captured 251 Israeli hostages, shocking the world. The action was illegal and morally indefensible under the **1979 Hostage Convention**, which unequivocally prohibits the seizure of civilians to compel government action. Yet, Hamas did not invent this tactic in a vacuum—it has historical precedent and psychological logic.

The 2011 Gilad Shalit prisoner exchange, in which over 1,000 Palestinians were released in exchange for a single Israeli soldier, reinforced the view among Palestinians that only hostage-taking yields results. With Israel’s legal system offering no pathway to justice for detainees, Hamas leverages hostages as bargaining chips—an ethically abhorrent yet politically effective strategy. Again, the point is not to defend the act, but to confront its root: a society brutalized into believing that diplomacy and legality have no value.

The moral and legal equivalency is thus not between the methods—hostage-taking and detention—but between their underlying illegality and dehumanizing effect. Israel’s arbitrary detention and Hamas’s hostage-taking both constitute violations of international law and both target civilians. One is state-sanctioned, routinized, and cloaked in legal bureaucracy; the other is spectacular and immediate. But both are part of the same cycle of coercion, trauma, and despair.

Shared Suffering

The grief on the Israeli side is profound. Families of hostages endure excruciating uncertainty, unable to know if their loved ones are alive, much less when or how they will be re-

turned. Their pain mirrors that of Palestinian families who experience the same absence, fear, and helplessness under a different name: “administrative detention.”

This parallel suffering should have created space for empathy. Instead, it has been weaponized. Protesters in Israel calling for a ceasefire and a hostage deal have been ignored or dismissed. Families of Israeli hostages, including figures like Haim Rubinstein, have publicly accused the Netanyahu government of sacrificing their loved ones for political gain.

Missed Opportunity and Policy Failure

A path out of this abyss existed. In October 2023, backchannel negotiations led by Gershon Baskin, with mediation by Qatar and Hamas contacts, offered a viable framework for a mutual release. But Netanyahu’s hardline government, dominated by ultranationalists like Itamar Ben-Gvir and Bezalel Smotrich, rejected these proposals. Oren Setter, then a key official in hostage negotiations, resigned in protest over the missed opportunity.

This was not a tactical mistake—it was a moral failure. Prioritizing military escalation over humanitarian resolution has not liberated Israelis or Palestinians. It has deepened the pain, driven further radicalization, and entrenched the use of captives as instruments of war.

Breaking the Cycle

Ending this cycle begins not with airstrikes or hostage rescues, but with dismantling the structures that made them necessary. Israel must abolish its system of arbitrary detention and military courts—practices that shred the rule of law and breed violent retaliation. Without addressing this core injustice, any temporary ceasefire or exchange will merely delay the next cycle of abduction and bloodshed.

Justice cannot be selective. The same principles that condemn Hamas’s hostage-taking must also reject Israel’s indefinite, extrajudicial imprisonment of civilians. Until both forms of captivity are abolished, both peoples will remain prisoners of a system that thrives on mutual suffering.