

Detention of Palestinian Martyrs' Bodies Under International Law

Refrigerators and Symetries of Numbered Graves as Model

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ABSTRACT

The Study focuses on the issue of detention of the bodies of martyrs by the Israeli occupation, a policy that has been adopted for many years but became public during the Jerusalem Uprising (Intifadat Al-Quds) of October 2015 and still continues until this day, where the Israeli occupation holds dozens of the bodies of Palestinian martyrs in refrigerators and in the cemeteries of numbered graves.

The Researcher believes that this issue is very important in these circumstances in which dozens of Palestinian families suffer from the pain of detention of the corpses. While families are fighting a legal battle in Israeli courts, such a study contributes to the development of legal tools in this long battle.

The researcher used the analytical method in the methodology of the study, analyzing the provisions of international law and international humanitarian law governing the cases of war victims in times of armed conflict, especially the rights of the dead and their families.

The key question this study aims to answer is: *What is the legal classification of the crime of holding the bodies of Palestinian martyrs in Israeli refrigerators and in the cemeteries of numbered graves?* The Researcher tried to answer this question through two chapters: The First Chapter deals with a number of international conventions and treaties governing the treatment of victims of war in armed conflicts and situations of occupation. In this chapter, which consists of three subjects, the researcher concluded that all these agreements recommend and obliges warring parties to respect the dead and to bury their bodies as soon as possible. Also, they prohibit desecration of the dead, ill-treating their bodies and not handing them over to their relatives at the earliest opportunity. Likewise, all divine religions paid close attention to the burying of the dead, the respect of their bodies and not to degrade their dignity.

As to the Second Chapter, which was presented in three subjects, the researcher reviewed the application of the crime of detention of the bodies of the dead by discussing the policy of detention and the justifications raised by the Occupation in pursuing such policy, and through addressing the conditions of detention of corpses in refrigerators and in cemeteries of numbered graves, the conditions imposed by the Occupation Authorities at the time of handing over the corpse, and the social and psychological implications of corpse detention.

At the end of the Study, the researcher arrived to the important conclusions that international law prohibits the detention of bodies, although not explicitly stated in its provisions, and that the proposed legal classification of the detention of corpses falls within the definition of the crime of torture that is prohibited internationally and which is considered a war crime.

One of the key recommendations concluded by researchers is the need to work on drafting international legislation that criminalizes in straightforward manner the detention of the bodies of victims of the Occupation and that impose sanctions on States that are engaged in carrying out such a crime. The researcher also recommends the Palestinian political level to put this issue at the highest level of attention and to work internationally and locally to counter this policy, including the preparation of a legal case file before the International Criminal Court.