



الهيئة الوطنية لاستقلال القضاء
وسيادة القانون - استقلال

Pretrial Detention and Criminal Justice Fair Trial Guarantee

Field Monitoring of Fair Trial Guarantees

March 2026



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This report is part of the organization's efforts to monitor the application of fair trial guarantees during the stage of pretrial detention. It is based on a combined field and analytical methodology aimed at identifying patterns in judicial practice, diagnosing structural and procedural shortcomings, and providing practical recommendations to strengthen the protection of fundamental rights.



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Disclaimer

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Table of Contents

Heading / Section Title	Page Number
Executive Summary	8
Chapter One: General Framework of the Study	10
Introduction	10
Methodology	11
General Framework and Adopted Approach	11
Study Population	11
(Data Entry Tools and Quality Management (Digital System	12
Monitoring Team and Integrity Safeguards	12
Field Monitoring of Detention Extension Hearings	13
Monitoring Indicators Adopted in Detention Hearings	14
Analytical Methodology	14
Methodological Limitations	14
Chapter Two: General Characteristics of the Monitoring: Scope (Courts Covered), Detainee Profiles, Security Agencies, Charges, and Duration of Detention	15
Introduction	15
Courts	15
Characteristics of Detainees by Age and Gender	16
Security Agencies	16
Charges	17
Relationship Between Type of Charge and Duration of Detention	17
Chapter Three: Monitoring Findings: Fair Trial Guarantees	19
Introduction	19
The Right of the Detainee to Appear in Person in Detention Ex- tension / Trial Hearings	20
Judicial Oversight of Arrest Procedures and Places of Detention	22
Verification of Arrest Date and Periods of Detention	22
Verification of the Legality of the Place of Detention	24
Public Hearings	25
Presence of Security Agencies in Detention Extension Hearings	25
The Detainee's Right to Defense	26
The Judge's Role During the Detention Extension Hearing	28

(The Investigative File (Justifications and Evidence	29
Effectiveness of the Public Prosecution's Performance in Extension Hearings	30
The Court's Response to Requests for Detention Extension / Detention: Judicial Indicators in Practical Application	32
Imbalance in the Principle of Equality of Arms and Procedural Bias in Favor of the Public Prosecution	33
Standardized Judicial Reasoning and the Emptying of Detention Oversight of Its Substance	34
Chapter Four: Allegations of Torture and Ill Treatment	35
Introduction	35
First: Documented Cases from the Monitored Hearings	35
Presentation of Cases	36
Second: Judicial Documentation of Torture Allegations During Detention Extension Hearings	38
Partial and Formulaic Documentation of Torture Allegations in Hearing Minutes	38
Judicial Failure to Transform Documentation into Effective Protection and Legal Accountability	39
Limited Exceptions That Do Not Amount to a General Pattern	40
Third: Restricting the Detainee's Right to Respond and Discuss, and Its Impact on Revealing and Documenting Torture Allegations	40
Fourth: Torture as a Persistent Practice Beyond the Nature of Charges and Evidence of a Systematic Pattern	41
Fifth: Medical Referral as the Missing Link in the Protection System Against Torture	42
Sixth: The Judicial System and Addressing Torture Allegations During Detention	44
Chapter Five: Possession of an Unlicensed Weapon: A Constructed Charge	46
Introduction	46
First: Monitoring	46
Second: the legal basis for the charge of weapon possession in the applicable Palestinian law in the West Bank and the practical reality according to the monitoring program	47
Third: Detention as the Rule and Liberty as the Exception	49
Fourth: Detention Without Evidence — A Weapon Not Seized	50

Fifth: judicial reasoning in weapon possession cases and its role in entrenching detention as a routine measure	51
Sixth: The security agencies that follow up on these cases or initiate them	52
Seventh: Outcomes of weapon possession cases after the detention phase	53
Post detention follow-up: release as the rule, not the exception	53
Detention as an end in itself: absence of effective investigations and risks of abuse	53
Chapter Six: Conclusions and Recommendations	55
Introduction	55
First: Conclusions	55
Second: Recommendations	58
Annexes	61

Executive Summary

This report presents the key findings of a systematic fieldbased monitoring exercise conducted by Istiqlal on 2,070 pretrial detention extension hearings held before the Courts of First Instance and Conciliation Courts in the West Bank. Monitoring focuses on the detention phase, which is one of the most critical stages of criminal proceedings, as it involves restricting an individual's liberty before a final judgment is issued. The report aims to assess the extent to which the criminal justice system complies with fair trial guarantees, examines how allegations of torture and illtreatment are handled, and sheds light on patterns in the use of the charge of unlicensed firearm possession — one of the most frequently cited grounds for detention requests.

Across its chapters, the report concludes that pretrial detention is effectively practiced as a rule, rather than as an exceptional measure justified only by necessity. It also reveals a significant weakness in judicial oversight over deprivation of liberty, undermining the right to personal freedom and diminishing the judiciary's preventive and supervisory role. This environment enables serious violations — including torture and coercion — to occur without effective accountability.

Chapter three shows that fair trial guarantees are often implemented partially or superficially, preventing meaningful judicial scrutiny of the necessity of detention. Although the prosecution was present in all monitored hearings, its role did not reflect a balanced representation of the public interest as a fair adversary. The prosecution requested 15day detention extensions in 1,082 cases (52.3%) and, in 572 cases (27.6%), recommended detention until the end of the trial. In total, nearly 80% of requests sought long or indefinite detention periods.

Courts widely granted these requests:

- 889 decisions (42.9%) ordered 15day detention,
- 421 decisions (20.3%) ordered detention until the end of trial,
- while only 178 cases (8.6%) resulted in release.

This indicates that detention is treated as the default option rather than an exceptional measure based on strict necessity and proportionality.

The report also documents weaknesses in the exercise of the right to defense, including excessively brief hearings, poor documentation of detainees' statements, and the absence of legal representation in some cases. A significant imbalance between the parties was observed, with the process heavily tilted in favor of the prosecution. Judicial reasoning was often formulaic and repetitive, lacking individualized justification.

Chapter four highlights' deficiencies in the judicial handling of torture and illtreatment allegations during detention. The monitoring recorded 28 cases involving allegations, physical indicators, or direct evidence of torture or illtreatment. Despite the seriousness of these claims, most detainees continued to be held for the maximum legal period; 16 individuals received 15day extensions, 5 individuals were detained until the end of trial — amounting to nearly 75% of all documented cases.

No independent investigations were initiated by the prosecution, despite being present in the hearings where allegations were made. Courts also failed to take immediate protective measures, such as transferring detainees to alternative facilities. Documentation of torture allegations in court records was insufficient, often limited to vague statements that undermine the evidentiary value of the minutes — a serious failure given that hearing minutes are often the only official record of such claims.

Medical referrals — a key safeguard — were issued in only 10 out of 28 cases (35.7%), and even then, referrals were made to general medical services rather than forensic specialists, contrary to the Istanbul Protocol. All detainees were returned to the same detention facilities where the alleged abuse occurred, without protective guarantees.

Chapter five examines the extensive use of the charge of unlicensed firearm possession as a procedural tool to prolong detention. The report documents 610 such cases, the vast majority classified as misdemeanors (98.4%). The prosecution frequently requested 15day extensions, and courts often complied, despite the scarcity of material evidence such as seizure reports or forensic examinations. A close review of 86 files reveals that most releases occurred during the first or second extension hearing, without any substantive investigative progress. Most cases did not end in conviction, and many were closed by the prosecution.

These findings reveal a significant gap between the high rate of detention and the weak outcomes in criminal justice, suggesting that pretrial detention is being used as a means of extracting confessions or as a punitive measure, rather than as a precautionary tool linked to serious and effective investigation.

The report concludes that the current pretrial detention system suffers from deep structural flaws, where security and procedural considerations overshadow fair trial principles. Judicial oversight is weakened, protections against torture are insufficient, and vague charges — such as suspicion of firearm possession — are used to justify detention without solid evidence.

Addressing these challenges requires comprehensive legislative and procedural reform, restoring liberty as the rule, strengthening judicial independence, and ensuring effective protection against rights violations, so that pretrial detention remains a strictly exceptional measure within a justiceoriented framework.

Chapter One: General Framework of the Study

Introduction

Pretrial detention is one of the most consequential legal measures affecting the right to personal liberty, given that it restricts an individual's freedom before a final judicial ruling is issued. Its nature makes it an exceptional tool that must be subject to heightened constitutional safeguards and international human rights standards. This requires strict judicial oversight grounded in the principles of necessity, proportionality, and exceptionality.

In the Palestinian context, the importance of examining this measure is amplified by the practical challenges facing the criminal justice system, particularly during the preliminary investigation phase. At this stage, the roles of law enforcement, the prosecution, and the judiciary intersect, creating a critical environment for testing the effectiveness of procedural safeguards — foremost among them the right to a fair trial, protection from torture and illtreatment, and guarantees of defense.

This report is based on systematic field monitoring conducted by the Civil Commission for the Independence of Judiciary and Rule of Law – Istiqlal, covering detention extension hearings before the Conciliation Courts and First Instance Courts in the West Bank during 2025. Its purpose is to assess the extent to which judicial authorities and other actors within the justice system adhere to fair trial guarantees, and to analyze the practical patterns governing the administration of pretrial detention cases.

The report is structured around three interconnected pillars that form the backbone of the analysis: Fair trial guarantees in detention extension hearings; judicial and prosecutorial handling of torture and illtreatment allegations; and the use of unlicensed firearm possession as a basis for detention requests. Through these pillars, the report provides an evidencebased analytical reading that exposes the gap between the legal framework and actual practice, with a focus on strengthening the rule of law and protecting fundamental rights and freedoms.

This report does not constitute an evaluation of judicial rulings nor an intervention in the work of the judiciary. Rather, it is a contribution aimed at reinforcing the judiciary's role as a protector of rights and freedoms. It does so through objective field monitoring of procedural patterns and by offering practical, applicable recommendations to support judicial development and enhance public trust in the justice system within a shared commitment to achieving justice and improving institutional performance.

Methodology

This chapter outlines the study's methodology, including the study population, sampling, data collection tools, fieldwork procedures, team selection and training, the timeline of field monitoring, and the data entry and statistical processing stages.

General Framework and Adopted Approach

This report relies on a combined analytical and monitoring methodology that integrates both quantitative and qualitative tools. Its purpose is to document and assess the practical application of fair trial guarantees during pretrial detention extension hearings before Palestinian courts in the West Bank.

The methodology derives its importance from the fact that detention extension hearings represent a decisive procedural moment in which decisions are made that directly affect the core of the right to personal liberty — a fundamental right enshrined in Article 11) of the Palestinian Basic Law and Article 9 of the International Covenant on Civil and Political Rights. These hearings serve as a practical test of:

- The seriousness of judicial oversight over arrest and investigative procedures
- The prosecution's adherence to the limits of its discretionary authority
- The judge's role in safeguarding detainees' rights and ensuring minimum fair trial guarantees.
- The effectiveness of legal defense and the detainee's ability to present arguments, respond to allegations, and exercise the right to counsel
- The balance of power between parties and the extent to which equality of arms is upheld

The methodology is grounded in the principle that detention extension hearings are not a technical or routine formality, but rather a critical judicial space where constitutional and international safeguards must be actively upheld.

Study Population

The study population includes all detention extension hearings that the monitoring team was able to attend during the designated period. The report does not claim to cover all hearings held but rather documents the minimum verifiable sample accessible within available resources. This sample forms a descriptive and methodological basis for analysis.

For the purposes of this study, hearings were monitored in Conciliation Courts' and First

Instance Courts across the following West Bank governorates: Jenin, Tubas, Nablus, Tulkarm, Qalqilya, Ramallah and AlBireh, Jericho, Bethlehem, Hebron, and Dura.

Data Entry Tools and Quality Management (Digital System)

The monitoring tool (the observation form/survey) was developed through a structured and scientific process, beginning with an initial draft of key indicators based on international standards such as the ICCPR, CAT, and the UN Standard Minimum Rules for the Treatment of Prisoners, as well as the Palestinian legal framework including the Basic Law, the Criminal Procedure Law, and amendments to applicable penal codes that criminalize torture and illtreatment, in addition to gaps identified in previous studies and monitoring reports.

The draft tool underwent extensive consultation with the field monitoring team, composed of specialized lawyers, and several legal experts. Their feedback was incorporated to ensure comprehensiveness, accuracy, and contextual relevance.

The final tool includes a combination of quantitative and qualitative indicators covering the physical appearance of the detainee before the judge, the legality of arrest procedures, the availability and presentation of the investigative file, the role of the prosecution and defense, the conduct and management of the hearing by the judge, the handling of torture and illtreatment allegations, and detailed field notes documenting the hearing environment and procedural context.

To ensure data quality, a dedicated digital system was designed for data entry, incorporating validation rules to minimize errors. The system was tested through pilot entries and preliminary reports, followed by a training session for researchers to standardize data entry procedures.

Monitoring Team and Integrity Safeguards

The monitoring team consisted of trained field researchers specializing in criminal justice and courtroom observation. Team members were selected per a professional criterion that ensured their ability to document proceedings objectively, accurately, and without interference. To guarantee neutrality and integrity, the monitoring process relied on a clear separation between monitoring and legal representation as separate entities, standardized training for all researchers on the monitoring tool and documentation protocols, internal verification procedures to ensure consistency and accuracy, and strict confidentiality measures to protect the personal information of detainees and other parties. These safeguards ensured that the monitoring process remained independent, impartial, and methodologically sound.

Field Monitoring of Detention Extension Hearings

Direct and systematic monitoring of pretrial detention extension hearings constituted the backbone of this report. This monitoring was carried out through regular, inperson attendance of hearings before Conciliation Courts and Courts of First Instance across various governorates of the West Bank (Jenin, Tubas, Tulkarm, Nablus, Qalqilya, Ramallah and AlBireh, Jericho, Bethlehem, Hebron, Yatta, and Dura) over the course of (126) monitoring days observed during the monitoring period.

The total number of observed hearings reached (2,070), distributed as follows:

(1,888) hearings before Conciliation Courts (91.2%).

(182) hearings before Courts of First Instance (8.8%).

This distribution reflects the practical reality of judicial jurisdiction, as the vast majority of detention extension requests in their initial stages are heard before Conciliation Courts.

The monitoring does not claim to have covered all hearings held during the period; rather, it includes all hearings that the monitoring team was able to attend in person within the available resources. This makes the sample the minimum verifiable dataset and provides a reliable descriptive and methodological foundation for analysis.

Field monitoring was complemented by an indepth followup documentation phase covering (114) specific cases through interviews. This phase focused on two sensitive areas that initial monitoring showed to have the greatest impact on fundamental rights. Each area was documented using a separate, specially designed form, while maintaining neutrality and objectivity:

- Unlicensed firearm possession cases: tracking the trajectory of (86) cases out of (610) recorded in the general hearings, with a focus on evidentiary completion, the presence of material evidence, and the outcomes of the cases (conviction, release, dismissal, or reclassification of the charge).
- Allegations of torture and illtreatment: followup of (28) documented cases, including documentation of statements made before the court, visible physical signs, medical referrals, and whether subsequent investigations were opened or whether any procedural action was taken regarding these allegations.

Through this integrated approach — combining large-scale direct monitoring with targeted follow-up documentation — the report seeks to present an accurate and comprehensive picture of procedural realities, highlighting the most significant challenges to personal liberty and fair trial guarantees during the pretrial detention stage.

Monitoring Indicators Adopted in Detention Hearings

The monitoring tool included a comprehensive set of indicators designed to measure compliance with fair trial guarantees. These indicators enclosed the presence and physical condition of the detainee, including whether the detainee appeared in person, whether visible signs of injury or distress were present, and whether restraints were used; the legality of arrest and detention procedures, including verification of the arrest date, the duration of detention prior to the hearing, and the legality of the detention facility; judicial conduct and oversight, including whether the judge inquired about the detainee's treatment, reviewed the investigative file, and provided reasons for the decision; the role of the prosecution, including the nature of the request, the presentation of evidence or justification, and responsiveness to defense arguments; the right to defense, including the presence of a lawyer, the detainee's ability to speak, and the documentation of defense statements; and the handling of torture and illtreatment allegations, including whether allegations were raised, how they were documented, and whether medical referral or protective measures were ordered. These indicators formed the backbone of the analytical framework used in the report.

Analytical Methodology

The analysis combined quantitative and qualitative approaches. Quantitative analysis involved statistical processing of all completed monitoring forms to identify patterns, frequencies, and correlations. Qualitative analysis included an indepth review of field notes, judicial reasoning, and procedural behavior to understand the context behind numerical trends. Comparative assessment was conducted by examining the findings against Palestinian legal standards, international human rights obligations, and best practices in judicial oversight of detention. Triangulation was used to cross-check data from different courts, researchers, and governorates to ensure reliability and reduce observer bias.

Methodological Limitations

The report acknowledges several methodological limitations, most notably that monitoring was restricted to detention hearings that were accessible for attendance, that the documentation of torture depended on the detainee's disclosure or the presence of visible signs, and that violations not raised during the hearing were difficult to detect. Accordingly, the findings reflect only what could be documented judicially at a specific procedural moment and do not claim to represent the full scope of the observed phenomena. The results should therefore be interpreted within this framework to preserve accuracy and avoid exceeding the limits of the available data.

Chapter Two

General Characteristics of the Monitoring: Scope (Courts Covered), Detainee Profiles, Security Agencies, Charges, and Duration of Detention

Introduction

This chapter presents the general characteristics of the monitored detention extension hearings, including the geographical and institutional scope of the monitoring, the demographic features of detainees, the security agencies involved in arrest and investigation, the types of charges brought against detainees, and the relationship between the type of charge and the duration of detention.

1. Courts

The monitoring process included attendance of (2,070) detention extension hearings before Conciliation Courts Conciliation Courts and Courts of First Instance across various governorates of the West Bank, with (1,888) hearings in Conciliation Courts and (182) hearings in Courts of First Instance.

The monitoring included attending and observing hearings involving detainees/detention extension sessions before Conciliation Courts in the governorates of: Jenin, Tubas, Tulkarm, Nablus, Qalqilya, Ramallah and AlBireh, Jericho, Bethlehem, Hebron, Yatta, and Dura. Meanwhile, the monitoring covered hearings before Courts of First Instance in the governorates of: Nablus, Jericho, Bethlehem, Jenin, Qalqilya, and Hebron.

This distribution does not reflect a fundamental difference in the nature or seriousness of the cases, but rather expresses the limits of procedural jurisdiction as stipulated in Articles (119)¹ and (120)² of the Criminal Procedure Law No. (3) of 2001 and its amendments.

1 Article 119 of the Criminal Procedure Law No. 3 of 2001: "Extension of detention by the Conciliation Judge: If the investigation procedures require that the arrested person remain detained for more than twentyfour hours, the Prosecutor may request the Conciliation Judge to extend the detention for a period not exceeding fifteen days."

2 Article 120 of the Criminal Procedure Law and its amendments No. 3 of 2001 — Detention Periods:

1. "After hearing the statements of the Public Prosecutor's representative and the arrested person, the Conciliation Judge may release him or detain him for a period not exceeding fifteen days. The judge may also renew his detention for additional periods, provided that the total does not exceed fortyfive days."

2. "No person may be detained for a period exceeding what is stated in paragraph (1) above, unless a request for his detention is submitted by the Attorney General or one of his assistants to the Court of First Instance. In this case, the detention period may not exceed fortyfive days."

3. "The Public Prosecution must present the accused, before the expiry of the threemonth period referred to in the two preceding paragraphs, to the competent court that will try him, in order to extend his detention for additional periods until the end of the trial."

4. "In no case may the detention periods referred to in the three paragraphs above exceed six months, and the accused shall be released immediately unless he has been referred to the competent court for trial."

Conciliation Courts are competent to extend the detention of the accused for a period not exceeding (15) days at a time, provided that the total does not exceed (45) days after arrest, which makes the majority of requests pass through them. When jurisdiction later shifts to the Courts of First Instance — for a period not exceeding (45) days — part of the cases will already have been resolved or their legal status changed, often through referral to the competent court, resulting in fewer requests before the Courts of First Instance.

2. Characteristics of Detainees by Age and Gender

Regarding the gender of detainees, the data confirms that the vast majority are male, amounting to (98.4%) of all documented cases, compared to a very limited percentage of females at (1.6%). This disparity remained consistent across the different governorates, with some governorates recording a complete absence of female detainees.

As for the distribution of detainees by age, the data shows that pretrial detention is concentrated among the age group (30 to 59 years), amounting to (55.1%), followed by the younger age group (18 to 29 years) at (42.9%). In contrast, detainees above the age of 60 constituted only a marginal proportion of (2%).

Overall, these demographic indicators reveal a clear concentration on a predominantly male population within young and middleaged groups.

3. Security Agencies

Monitoring data reveals a varied distribution of the security agencies responsible for holding detainees in their detention centers or facilities.

In this context, the General Police Force ranked first, assuming responsibility for (1,501) of the monitored cases, amounting to (72.5%) of the total. This prominence is explained by the fact that the police are the primary authority legally responsible for the initial stage of evidence gathering and receiving crime reports, in addition to their wide field presence through their network of stations and branches across the West Bank, and their frequent interaction with the public. The police also carry out the practical execution of orders issued by the prosecution and the courts.

In second place came the Preventive Security Agency, responsible for (324) cases, amounting to (15.7%). Its activity was notably concentrated in governorates such as Jenin, Nablus, Qalqilya, and Hebron.

It was followed by the General Intelligence Agency with (172) cases, amounting to (8.3%), with a more visible presence in governorates such as Hebron and Jericho compared to others.

Finally, the Joint Security Committee in Nablus and Jericho accounted for a total of (29)

5. “In all cases, the detention of the arrested accused may not exceed the maximum penalty prescribed for the offense for which he is detained.”

cases, amounting to (1.4%), with the highest proportion recorded before the Joint Security Committee in Nablus.

These data acquire descriptive importance when linked to other findings in the report, such as the nature of charges, places of detention, or allegations of illtreatment and suspected torture during detention. Identifying the agency responsible for detention provides an objective entry point for understanding the procedural dimensions of pretrial detention and contributes to forming a comprehensive picture of how security and judicial powers are distributed among the security agencies.

4. Charges

Monitoring results showed that (86%) of all observed hearings involved offenses classified by the Public Prosecution as misdemeanors, compared to only (14%) involving felonies. This pattern remained consistent across the different governorates, with only limited relative variations. Some governorates—such as Hebron and Jericho—recorded slightly higher proportions of felonies, without altering the overall prevailing trend of misdemeanor dominance. This comes even though the legal principle under the Criminal Procedure Law stipulates for release, unless exceptional, objectively justified conditions exist, such as risk of flight, tampering with evidence or witnesses, or the seriousness of the offense³.

Regarding the types of misdemeanor or felony charges, unlicensed possession of firearms ranked first, constituting (29.5%) of all cases. This was followed by property-related crimes—most notably issuing checks without funds and theft—amounting to (22.6%), then crimes against persons such as assault and homicide amounting to (21.7%). Drug-related cases (use or trafficking) accounted for (8.9%), and state security cases for (4.6%), while the remaining percentages were distributed across cybercrimes, economic offenses, and other miscellaneous categories.

5. Relationship Between Type of Charge and Duration of Detention

The monitoring data reveals clear patterns in the relationship between the duration of detention and the nature of the charge, reflecting a direct impact of the type of offense on the length of deprivation of liberty, and raising concerns on the extent of adherence to the principle of proportionality as one of the conditions for the legality of restricting this exceptional measure.

In charges of a security-related nature, such as cases of collaboration or land transfer, a

³ Article 34 of the Criminal Procedure Law No. 3 of 2001 — Immediate Hearing of the Arrested Person's Statements: "The judicial police officer must immediately hear the statements of the arrested person. If no justification for releasing him appears, he shall send him within twentyfour hours to the competent Prosecutor."

judicial tendency toward prolonged extensions becomes evident. This pattern also appeared in unlicensed firearm possession cases, indicating an almost general reliance by the prosecution on this charge as a justification for imposing the maximum possible detention period, without careful examination of the specific circumstances of each case or the strength of the available evidence. This constitutes an abuse of authority and an infringement on liberties without a sound legal justification.

A similar pattern is repeated in sexual assault crimes such as rape and indecent assault, where the rate of extension to (15) days reached (62.1%), with individual cases extending to (45) days. This reflects a prioritization of the seriousness of the charge over exploring less restrictive alternatives to detention or assessing the actual necessity of continued custody.

As for crimes against property or persons, decisions ranged between medium and extended detention periods, with some cases extending until the completion of trial proceedings. In state security crimes, a clear exceptional pattern appears, with (18.8%) of cases receiving extensions until the end of trial procedures, alongside low release rates, reflecting a particular sensitivity that influences the decisions of the extension judge.

These patterns indicate that detention periods are influenced largely by the classification of the charge itself, more than by the individual investigative needs or the objective circumstances of each case, in addition to the emergence of indicators suggesting abuse of detention authority⁴. This leads to the entrenchment of long extensions in certain categories, compared to flexibility in others, raising fundamental questions about the extent to which the principles of proportionality and necessity are respected, and the risk that the nature of the charge — independent of facts and evidence — becomes a decisive factor in depriving individuals of their liberty during the investigation stage.

4 Article 117 of the same law — Holding the Arrested Person:

“The person in charge of the police station must hold the arrested person if it becomes clear to him that:

A. He committed a felony and fled or attempted to flee from the place where he was detained.

B. He committed a misdemeanor and had no known or established place of residence in Palestine.

1. The holding period may not exceed twentyfour hours in all cases, and the Public Prosecution shall be notified immediately.”

Chapter Three

Monitoring Findings: Fair Trial Guarantees

Introduction

This chapter presents the results of the field monitoring conducted by Istiqlal on the performance of the regular courts (Conciliation Courts Conciliation Courts and Courts of First Instance) in the occupied West Bank with regard to their respect for, and guarantee of, fair trial guarantees during detention extension hearings or pretrial detention sessions. The chapter focuses on the following key indicators:

- First: The right of the detainee to appear in person before the court during the extension hearing.
- Second: Oversight of arrest procedures and the place of detention.
- Third: The public nature of detention extension hearings.
- Fourth: The presence of representatives of security agencies inside the hearings.
- Fifth: The right to defense and its procedural guarantees.
 - The detainee's right to respond and contest allegations.
 - The right to legal counsel and effective legal representation.
- Sixth: The conduct of the judge and their role in protecting safeguards.
- Seventh: Presentation of the investigative file to the court / bringing the investigative file and the justifications for the detention request.
- Eighth: The role of the prosecution in extension hearings.
- Ninth: The court's response to detention extension requests.

The chapter documents the patterns of practice followed by the actors within the justice system and identifies the areas of compliance or shortcomings in the application of fair trial guarantees in practice. This serves as a basis for evaluating the effectiveness of judicial oversight over detention, investigative procedures, and the physical and health safety of the accused, in addition to the role of the prosecution and defense representatives. It emphasizes that any failure to apply these safeguards does not only affect the rights of individual detainees but also undermines the essence of the rule of law and weakens public trust in the judicial system as the primary guarantor of fundamental freedoms and the pillars of justice.

1. The Right of the Detainee to Appear in Person in Detention Extension / Trial Hearings

The physical appearance of the detainee before the courts is a fundamental guarantee of fair trial rights⁵, a safeguard for the right to physical integrity, and an essential condition for exercising effective judicial oversight over the legality of detention or pretrial custody. Article (121) of the Criminal Procedure Law stipulates that: “No order for the detention of any accused may be issued in his absence, unless the judge is convinced, based on medical evidence, that it is impossible to bring him before the judge due to illness.”

Physical appearance is not a procedural formality, but an inherent right that enables the detainee to give his statements freely, allows the judge to observe his physical and health condition, ensures direct communication with the detainee, and enhances the effectiveness of judicial oversight over investigative procedures, particularly detention.

Field monitoring data showed that the physical appearance of detainees before the judge was achieved at a high rate of (99.3%) of the hearings, reflecting a general commitment to this fundamental principle. In contrast, the detainee was not brought physically in only (15) cases (0.7%), distributed as (12) cases before Conciliation Courts and (3) cases before Courts of First Instance.

The reasons for nonappearance varied between organizational and procedural factors, such as prior release orders that eliminated the need for extension, lack of sufficient police personnel assigned to bring female detainees, negligence by the judicial police in carrying out the transfer, or the Israeli occupation authorities not granting permission to Palestinian security forces to move between governorates, in addition to medical excuses in limited cases.

Most of these reasons constitute administrative failures whose consequences should not be borne by the detainee, as his right to appear before his natural judge does not lapse due to the shortcomings of the authorities responsible for bringing him or due to the lack of movement permits from the Israeli occupation authorities. In such cases, the court — in

5 Article 14.2 of the International Covenant on Civil and Political Rights: “Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.” Article 14.3 further states that “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail, in a language which he understands, of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him, ...”

order to preserve the principle of proportionality and the course of justice — should have released the detainee whenever possible to enable his personal appearance, instead of continuing to deprive him of his liberty, since liberty is the rule, and no accused may be detained before trial except when necessary, and release — with or without bail — must be the rule, not the exception⁶.

As for cases related to medical excuses, only three cases were recorded, including one notable case involving the detainee (Fadi), where the court moved to his place of detention and observed clear signs of torture on his body, yet decided to extend his detention for an additional (15) day. In the other two cases, the nature of the medical excuse was not clearly disclosed, and the reasoning of the decision did not indicate whether it resulted from illtreatment, improper detention conditions, or a natural medical condition, and no protective measures were taken for the detainee. Their detention was extended for (15) days according to what was stated in the hearing.

Referring back to Article (121) of the Criminal Procedure Law, the exception related to nonappearance must be interpreted in an extremely narrow manner, conditioned on convincing and independent medical evidence. It is legally and constitutionally unacceptable to extend the detention of a detainee whose appearance was prevented due to physical harm or torture he was subjected to, and to keep him in the same place where he was tortured, as this constitutes a double violation:

– A violation of the absolute prohibition of torture.

– And a deprivation of the guarantee of physical appearance, which serves as a protective shield against illtreatment.

Such practices not only weaken the effectiveness of judicial oversight, but also expose the detainee to additional risks, and strip the detention extension procedure of its essence as a protective measure rather than a disguised punishment.

6 Article 9 of the International Covenant on Civil and Political Rights:

1. “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

2. “Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”

3. “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power, and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.”

4. “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”

5. “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”

2. **Judicial Oversight of Arrest Procedures and Places of Detention**

Verifying the legality of detention — especially the actual date of arrest and the place of detention — constitutes a fundamental safeguard for protecting the right to personal liberty from arbitrary or unlawful arrest. It is one of the measures that help ensure that torture or legal violations do not occur in places or periods of detention, and monitoring and documenting it serves as an essential entry point for detecting any overstepping of legal time limits or secret detention. The judge in the detention extension hearing is the first authority to meet the detainee after he is brought by the Public Prosecution to the court, and therefore the primary overseer of the legality of procedures from the moment of arrest — a role that was not fulfilled, as indicated by the reports of Istiqlal’s monitors:

– Verification of the Date of Arrest and Periods of Detention

Monitoring data reveals an almost systematic absence of the court’s actual verification of the date of arrest before the detainee is brought before the Public Prosecution or the court. The judge failed to ask about the date of arrest in (93.9%) of the hearings (1,944 out of 2,070), and this question was raised in only (126) cases, amounting to no more than (6.1%). This indicator is extremely serious, as it weakens the court’s ability to detect any unlawful detention or any exceeding of the time limits stipulated in the Criminal Procedure Law, noting that legal procedures require the judicial police officer to immediately hear the statements of the arrested person, and if the detainee does not provide justification for release, he must be sent within 24 hours to the competent Public Prosecutor⁷, who may detain the accused for 48 hours after interrogation⁸. In practice, however, the reality is detention for 24 hours, followed by an additional 48 hours at the Public Prosecution before being brought before the Magistrate Judge.

In many cases, the detention extension hearing is the first real contact the detainee has with the outside world, away from the investigative authority, especially since detention periods, as explained above, extend to at least 72 hours — assuming the detention periods were legal — which makes this procedural sequence a barrier preventing most detainees from communicating with their families or legal representatives.

Failure to verify this period empties the detention extension procedure of its oversight role and allows unlawful detention to continue without accountability, in violation of the principle of legality and the strict necessity required to deprive individuals of their liberty.

The following cases represent documented examples of clear violations of detention periods before judicial presentation⁹, with no effective judicial response:

7 Article 34 of the Criminal Procedure Law: “The judicial police officer must immediately hear the statements of the arrested person, and if he does not provide justification for releasing him, he shall send him within twentyfour hours to the competent Public Prosecutor.”

8 Article 108 of the Criminal Procedure Law: “The Prosecutor may detain the accused for fortyeight hours after interrogating him, and the extension of detention shall be carried out by the court in accordance with the law.”

9 Article 29 of the Criminal Procedure Law No. 3 of 2001: “No person may be arrested or detained except in

– Detainee Khalil (Detention Extension File No. 483/2025, Ramallah Conciliation Court): Arrested on Wednesday, 25/6/2025, and not brought before the court until Sunday, 29/6/2025 — a clear violation of the legal time limit — and his detention was extended for an additional 15 days.

– Detainee Mohammad (Detention Extension File No. 490/2025, Ramallah Conciliation Court): Explicitly stated that he was arrested (detained) on Saturday, 21/6/2025, and referred to the Public Prosecution on 30/6/2025 — meaning he was held for (10) days by the General Intelligence Service before referral, a grave violation of legal time limits, which did not affect the extension decision.

– Detainee Alaa (Detention Extension File No. 4966/2025, Ramallah Conciliation Court): Received a release order on Sunday, 24/8/2025, through his legal representative, but the order was not executed. He was transferred to the Criminal Investigation Department and detained until Tuesday, 26/8/2025, during which he was subjected to torture and “shabeh,” then referred to the Public Prosecution on Thursday, 28/8/2025, and his detention was extended for 15 days — a sequence showing consecutive use of detention outside legal boundaries.

– Detainee Firas (Detention Extension File No. 711/2025, Ramallah Conciliation Court): Detained by the Criminal Investigation Department since Tuesday, 2/9/2025, and not brought before the Public Prosecution for five days without legal justification.

– Detainee Amir (File No. 480/2025, Hebron Conciliation Court): A release order was issued, but not executed, and his liberty was withheld — a clear violation of judicial authority and the principle of legality.

– Detainee Aseed (Detention Extension File No. 467/2025, Yatta Conciliation Court): Reported being detained for a full week before being brought to court, with visible signs of beating on his body resulting from police assault, recorded in the minutes. He was allowed to sit due to inability to stand, yet the court did not refer him to a medical committee, preventing activation of accountability or protection mechanisms.

These examples show a pattern of leniency toward violations of legal detention periods and the absence of systematic judicial inquiry into the legality of arrest and detention, in addition to abuse of detention authority by the judicial police and the Public Prosecution in general — especially in cases where detention coincides with weekends or official holidays, such as arrests on Thursday evenings. The rule is that the detainee should be released whenever attendance can be ensured, especially in misdemeanor cases, as the law restricts detention to cases where no known and fixed place of residence exists¹⁰.

accordance with the provisions of the law.” And Article 32 of the same law: “The arrested person must be referred to the Public Prosecution within 24 hours.”

10 Article 117 of the Criminal Procedure Law: “Holding the Arrested Person 1– The person in charge of the police station must hold the arrested person if it becomes clear to him that: A– He committed a felony and fled or attempted to flee from the place where he was detained. B– He committed a misdemeanor and has no known or es-

However, in practice, holding and releasing detainees is treated as a discretionary power of the judicial police and security agencies, a power that unfortunately is sometimes used in ways that amount to abuse of authority¹¹. It is worth noting that the monitored hearings were detention extension hearings, and the majority — (86%) — involved misdemeanor cases.

These violations and the absence of oversight weaken the role of the judiciary as a guarantor of personal liberty and expose detainees to the risks of arbitrary detention or ill-treatment without effective supervision. This requires urgent reforms, including obligating judges to systematically verify the date of arrest and place of detention in every hearing, and taking immediate measures (such as release or referring files to the Public Prosecution for investigation) when violations are suspected, to ensure full compliance with fair trial guarantees.

– Verification of the Legality of the Place of Detention

No person may be detained except in legally designated detention centers¹². Verifying the place of detention is a fundamental safeguard no less important than verifying the date of arrest and duration of detention, as it is directly linked to the legality and conditions of detention and constitutes a decisive entry point for detecting any unlawful detention or detention in unauthorized locations, which increases the risk of torture or ill-treatment. The judge, as the primary overseer of detention, must actively verify this element. However, monitoring data reveals shortcomings in this regard, as judges did not ask about the place of detention in (63.7%) of the hearings, and the question was raised in only (36.3%) of them. Out of (2,027) cases analyzed under this indicator, the place of detention was mentioned in only (737) cases. Although no explicitly unlawful detention locations were recorded among the mentioned cases, the absence of systematic inquiry itself is a serious issue, weakening the court's ability to detect any unlawful or improper detention.

This confirms the urgent need to activate an active and systematic judicial oversight role, including an obligation to ask specific questions about the date of arrest and place of detention in every hearing, document the answers, and take immediate measures when any violation is suspected, to ensure that constitutional and international safeguards become practical measures that protect human dignity at the most critical stages of interference with fundamental rights.

established place of residence in Palestine. 2– The holding period may not exceed twentyfour hours in all cases, and the Public Prosecution shall be notified immediately.”

11 Article 14 of the International Covenant on Civil and Political Rights: “1. All persons shall be equal before the courts ...”

12 Article 125 of the applicable Criminal Procedure Law: “No person may be detained or imprisoned except in reform and rehabilitation centers (prisons) and detention places designated for that purpose by law. No officer in charge of any such center may accept any person into it except pursuant to an order signed by the competent authority, and he may not keep him beyond the period specified in that order.”

3. Public Hearings

Monitoring data shows a general respect for this principle, as detention extension hearings were held publicly in (99.8%) of the documented cases, reflecting a prevailing commitment to the publicity of proceedings as a fundamental rule¹³. However, a limited number of hearings were not held publicly, mostly in situations where the court moved to detention centers because the detainee could not be brought for health reasons that prevented attendance, such as allegations of torture in the case of detainee Fadi, or under the pretext of an Israeli military incursion in the area, as in the case of detainee Halima (File No. 333/2025, Hebron Conciliation Court) and detainee Malik (File No. 1589/2025, Bethlehem Conciliation Court). Although relocation is justified only in cases of necessity or the presence of medical evidence, its repeated use without clear and predetermined criteria raises serious concerns about turning publicity from an actual safeguard into a formality, weakening societal oversight and exposing the detainee to additional risks in a nonneutral environment.

4. Presence of Security Agencies in Detention Extension Hearings

Monitoring data showed the presence of members or representatives of security agencies — other than the Judicial Police guards who are normally present in court — in (497) hearings out of the total monitored hearings, amounting to (24%). This is a notable presence in both scale and implications. This presence refers to legal advisors of the agencies or individuals from the agency that carried out the arrest or detention, not the courtroom security police.

This finding carries exceptional seriousness, especially in the context of detention extension hearings, which are supposed to be conducted within a purely judicial framework that ensures the neutrality of the court and the detainee's safety in expressing statements without pressure or intimidation. Nine of these cases involved detainees who explicitly reported being subjected to torture or illtreatment, reinforcing the risks of such presence as a factor that suppresses free disclosure and obstructs the detection of violations.

The presence of representatives of the detaining authority inside the courtroom or its surroundings creates direct psychological pressure on the detainee, limiting his ability to speak freely, especially regarding allegations of torture, and creates a potential indirect influence on the atmosphere of neutrality and judicial independence. This places the court in a difficult position and weakens its ability to effectively oversee the legality and conditions of detention.

Although there is no explicit legal provision prohibiting such presence, and despite the principle of public hearings, the absence of a prohibition does not justify its negative effects — especially when it becomes an actual or potential intimidation factor that dis-

¹³ Article 237 of the applicable Criminal Procedure Law: “The court proceedings shall be conducted publicly, unless the court decides to hold them in secret for considerations related to the preservation of public order or morals, and in all cases, it may prohibit minors or a specific category of persons from attending the trial.”

courages the detainee from presenting violations for fear of retaliation after the hearing.

Specific cases were documented illustrating this flaw, including the case of detainee Ahmad (Detention Extension File No. 722/2025), where security personnel other than courtroom guards were present, and one of them (a messenger) entered the judge's office to inform him of a security agency's desire to speak about the accused before the hearing. This was followed by a break announced by the judge and the entry of a person who, based on context, appeared to belong to the agency holding the detainee. This behavior is an extremely serious example of attempts to exert indirect influence on judicial independence.

These findings reveal a procedural flaw that undermines the core guarantees of a fair trial, as detention extension hearings are supposed to be a safe and neutral space. This pattern contributes to weakening detainees' trust in the judicial system and in equality between parties and limits the court's ability to uncover allegations of torture or other serious human rights violations, thereby emptying judicial oversight of its substance.

5. The Detainee's Right to Defense

The detainee's right to defense is a fundamental right that includes within its scope several associated rights, such as the right to legal representation, the right to defend himself and give his statements and testimony, and the right to be heard and listened to freely by the court without any obstacles or restrictions¹⁴.

– The Detainee's Right to Respond and Discuss What Is Raised Against Him

Regarding the detainee's right to discuss and respond to what is raised against him and to the request for extending his detention, monitoring showed that the court allowed the accused or suspect to discuss in the majority of cases. However, in (244) cases the detainee did not request discussion, and in (82) cases the court explicitly rejected the detainee's request to discuss.

Rejecting the request or not requesting it weakens the effectiveness of judicial oversight and may indicate a loss of trust and lack of seriousness in judicial authorities, and a belief that discussion is unproductive. This, in turn, empties the extension hearing of its role as a mechanism for free listening to the detainee.

14 Article 14 of the International Covenant on Civil and Political Rights: "2. ... Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail, in a language which he understands, of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him, and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him, ..."

– The Right to Legal Counsel in Detention Extension Hearings

Effective legal representation is a fundamental guarantee of a fair trial¹⁵, especially in a procedure that affects the core of the right to personal liberty. It enables the detainee to defend himself effectively and strengthens the principle of equality of procedural means between the parties. However, monitoring data reveals a gap in access to legal representation, particularly in misdemeanor cases where representation is optional before Conciliation Courts and in extension requests.

A defense lawyer was present in only (865) cases out of (2,070) monitored hearings, amounting to (41.8%), compared to (58.2%) of hearings in which the detainee appeared without any legal representation, noting that legal representation before Criminal Courts of First Instance is mandatory by law¹⁶. It is also worth noting the detainee's right to contact his lawyer and communicate with him, and to be given the opportunity to do so¹⁷. However, monitors documented cases in which the judicial police prevented the detainee from communicating with his legal representative¹⁸.

A clear geographic disparity appears in representation rates: Hebron (64.6%), Ramallah and AlBireh (54.6%), compared to low rates in Jenin (18.2%) and Nablus (26%). This reflects differences in access to legal services, not differences in the nature or seriousness of charges, and increases the risk of inequality before the law.

Despite limited presence, the lawyers who attended played a relatively active role, submitting arguments in (744 out of 865) cases (86%), indicating that representation, when available, is generally not merely formal. However, this role clashes with judicial nonresponsiveness, as the rate of release in response to defense arguments or requests did not exceed (8.6%), revealing a general tendency of the court to give greater weight to the Public Prosecution's requests compared to the detainee's defense.

Data also confirms a severe weakness in the legal aid system, as lawyers were appointed by detainees or their families in (99.8%) of cases, compared to only two cases (0.2%) through legal aid institutions. This highlights the absence of organized institutional intervention ensuring legal representation for vulnerable groups, despite the seriousness of detention as a measure affecting personal liberty and contradicting the presumption of innocence.

Regarding the defense's role in requesting the investigative file, it remains limited: the

15 Article 12 of the Amended Basic Law: "Anyone who is arrested or detained shall be informed of the reasons for his arrest or detention, and he must be promptly informed, in a language he understands, of the charges against him, and be enabled to contact a lawyer, and be brought to trial without delay."

16 Article 14: "The accused is innocent until proven guilty in a legal trial in which he is guaranteed the means to defend himself, and every person accused of a felony must have a lawyer to defend him."

17 Article 12 of the Amended Basic Law of 2003: "Anyone who is arrested or detained shall be informed of the reasons for his arrest or detention, and he must be promptly informed, in a language he understands, of the charges against him, and be enabled to contact a lawyer, and be brought to trial without delay."

18 Case of detainee Ahed (Detention Extension 616/2025, Hebron Magistrate Court): Where the detainee Ahed's lawyer stated that he was prevented from communicating with him and was not allowed to contact him or attend the interrogation before the Public Prosecution.

file was requested in only (61) cases (12%) of the cases in which the file was missing, and the court responded in (27) cases (44.3%). This reflects rejection of more than half the requests and weakens the defense's ability to exercise effective oversight over procedural foundations.

This shortcoming becomes more severe in the context of allegations of torture and ill-treatment, as the court did not refer the file to the Public Prosecution to open an investigation in any of the 28 cases in which detainees alleged torture or ill-treatment. In (53.6%) of these cases, neither the detainee nor his lawyer requested referral to a medical committee, indicating possible fear of escalation or lack of trust in the usefulness of judicial procedures, without excluding the possibility that some lawyers failed to perform their required defense role.

6. The Judge's Role During the Detention Extension Hearing

The detention extension hearing is the decisive judicial moment in the oversight of deprivation of liberty and ensuring respect for it. However, monitoring results reveal concerning imbalances in the exercise of this role, whether in the manner of dealing with the detainee, informing the detainee of procedures, or managing the hearing's duration. These issues weaken the core of procedural guarantees and turn the hearing in many cases into a formal process.

– Manner of Dealing with Detainees

Cases of inappropriate behavior by some judges were documented, characterized by a tone of contempt or threat, constituting a clear violation of the detainee's dignity and the presumption of innocence. For example:

– In the case of detainee Nu'man (Ramallah Conciliation Court, Detention Extension File No. 3551/2025), the judge said: "If we catch you again with drugs, you'll sleep on one side, not both."

– In the case of detainee Arafat (Ramallah Conciliation Court, Detention Extension File No. 4109/2025), the judge said: "Unlucky for you that you came to me. I've been issuing judgments for less than a month — this time will be different."

These statements reflect a departure from the requirements of neutrality and judicial independence, turning the hearing from a safe space into a tool of psychological pressure that hinders free disclosure of violations. It is also prohibited for a judge to rule based on personal knowledge, yet in both cases the court's statements were based on personal knowledge¹⁹.

Additional violations were documented involving the detainee's dignity, such as appearing before the judge in handcuffs — a practice that undermines human dignity, psychological safety, and the presumption of innocence.

19 Article 205 of the Criminal Procedure Law: "A judge may not rule based on his personal knowledge."

– Informing the Detainee of Procedures

Data shows deficiencies in informing the detainee or his lawyer of the procedures and decisions taken against him. Notification occurred in only (62.1%) of cases, often partially, limited to announcing the decision or the extension period, without sufficient explanation of reasons or legal basis. In (37.9%) of hearings, no notification occurred at all.

– Management and Duration of the Hearing

Monitoring data reveals a concerning procedural pattern: the short duration of hearings. (59.3%) of hearings ended in less than 10 minutes: – (28.4%) in less than 5 minutes – (30.9%) between 5–10 minutes. (39.4%) lasted between 11–15 minutes, while hearings exceeding 15 minutes represented only (1.4%) of all monitored hearings.

A geographic disparity appears: governorates with high caseloads, such as Nablus, recorded (81.8%) of hearings under 5 minutes, while governorates such as Hebron and Bethlehem recorded higher rates of hearings lasting 10–15 minutes — without this being reflected in deeper reasoning or different outcomes.

7. The Investigative File (Justifications and Evidence)

The investigative file constitutes the fundamental basis upon which the initial conviction regarding the commission of the alleged criminal act by the detainee is built. It is also the most prominent indicator of the seriousness of the Public Prosecution in conducting the investigation, and of the legality and necessity of the justifications for detention. The presence of a complete investigative file attached to the extension request is supposed to enable the court to examine the facts accurately, assess the sufficiency of the preliminary evidence, and exercise effective oversight over the continued restriction of personal liberty, in accordance with the principles of necessity and proportionality.

However, field monitoring results reveal a serious flaw in handling this file, as the Public Prosecution attached the investigative file to the extension request in only (32.7%) of cases, compared to (67.3%) of hearings in which the file was not presented at all. In absolute numbers, the investigative file was absent in (1,393 out of 2,070) extension hearings, and the court requested the Public Prosecution to bring the investigative file in only (55) cases, amounting to (3.9%) of all hearings, reflecting a deficiency in the court's performance of its oversight role.

As for the defense, the file was requested in (61) cases (12%) by the defense lawyer or the detainee himself, and the court responded to this request in only (27) cases, amounting to (44.3%), revealing a clear disparity in responsiveness to defense requests compared to facilitating the Prosecution's requirements.

The significance of this flaw becomes clearer when linking the absence of the file to deliberation decisions, as the court decided to adjourn the hearing for review and deliberation in only (93) cases, of which (16) ended with the release of the detainee. This

indicates that actual review of the investigative file, careful examination, and taking sufficient time to review the entire file can change the court's initial conviction, leading to more balanced decisions that respect personal liberty as the original rule and restrict pretrial detention only when strictly necessary.

Accordingly, it becomes clear that the absence of the investigative file from the majority of extension hearings is not a minor issue, but rather contributes in practice to turning the hearing into a formal procedure in which decisions affecting the core of personal liberty are made without serious examination of the case documents or real assessment of the sufficiency of evidence or forming a genuine conviction based on real legal facts. This significantly weakens the court's oversight role and undermines one of the most important guarantees of a fair trial: the detainee's right to have the deprivation of his liberty assessed on the basis of a clear, available investigative file subject to objective evaluation. This requires obligating the Public Prosecution to attach the investigative file as a fundamental procedural requirement and enabling the court and defense to access it automatically; otherwise, the procedural sanction of rejecting the extension request procedurally should apply.

8. Effectiveness of the Public Prosecution's Performance in Extension Hearings

Monitoring data shows full attendance of the Public Prosecution in detention extension hearings, at a rate of (100%), which formally complies with the legal requirement of its presence in criminal proceedings²⁰, as the hearing is not legally valid without the Public Prosecution. However, this regular attendance is not matched by a similar commitment to the substantive role assigned to the Public Prosecution, which is constitutionally and legally responsible for balancing investigative needs with the protection of fundamental rights and freedoms, and is the representative of the public interest and a fair adversary.

Practically, the data reveals a systematic pattern in the Public Prosecution's behavior, treating pretrial detention as a prevailing procedural rule rather than a limited exception, in clear violation of the principles of proportionality, necessity, and the exceptional nature of detention as intended by the legislator. This is clearly reflected in the requested extension periods, as the Public Prosecution requested the full 15day extension — the maximum allowed for the initial extension — before Conciliation Courts in (1,078) cases, amounting to (57.1%) of all monitored hearings, making this period the most common option rather than an exceptional measure justified by specific investigative circumstances.

In contrast, relatively short extension requests before Conciliation Courts (1 to 7 days) did not exceed (5.8%), and mediumlength requests (8 to 14 days) were almost absent at (0.7%). This distribution reflects an almost complete absence of the principle of grad-

²⁰ Article 302 of the Criminal Procedure Law No. (3) of 2001: "Sessions of the Magistrate Courts in misdemeanor cases shall be convened in the presence of the Prosecutor and the clerk."

ual restriction of liberty and an automatic reliance on the maximum extension without providing objective justifications related to each case, such as risk of flight, evidence tampering, or seriousness of the offense. This transforms pretrial detention from a limited preventive measure into a routine tool for prolonged deprivation of liberty.

This tendency toward prolonged extension increases the risk of turning detention into a disguised punishment before any conviction, potentially violating the presumption of innocence and the right to a fair trial.

Through precise field monitoring of detention extension hearings — including cases in which detainees explicitly reported torture or illtreatment — Istiqlal’s monitoring team observed a systematic repetition in the wording of Public Prosecution requests, which often relied on general, formulaic phrases lacking factual detail or evidence of investigative progress. The repeated extension request was almost as follows: “The Public Prosecution requests extending the detention of the accused for 15 days, as the Prosecution is still diligently pursuing investigative procedures and needs sufficient time to complete the investigation and build a full, integrated file ready for referral to the court, given the seriousness of the charge, which affects public security, public order, and civil peace, and in order to preserve the evidence.”

Monitors also documented several cases in which the Public Prosecution did not present an actual argument but merely copied and pasted a preexisting text into the record.

Monitoring data also shows reliance on extension requests “until the completion of proceedings,” recorded in 572 cases (27.6%) of all hearings — an extremely high percentage given that misdemeanor cases constitute (86%) of the total, and such cases rarely involve exceptional danger warranting openended deprivation of liberty. This procedural option, which transforms detention into extended, indefinite custody, constitutes a serious violation of the principles of proportionality and necessity, stripping detention of its exceptional nature and bringing it closer to a disguised punishment before any final conviction.

Although there is relative variation between governorates in resorting to this type of extension, this variation does not carry independent analytical significance; rather, it confirms the absence of unified, objective criteria governing court decisions in choosing this prolonged option, reinforcing the impression that extension until completion of proceedings becomes a routine choice in cases that do not necessarily require openended deprivation of liberty.

In Courts of First Instance — which accounted for a smaller share of monitored hearings (8.8%) — resorting to extension until completion of proceedings or other long periods (such as 45 days) appeared at notable rates, despite the assumption that this judicial level handles more serious cases requiring deeper scrutiny. However, monitoring confirmed that such scrutiny does not always translate into shorter periods or preference for alternatives, showing an approach similar to Conciliation Courts and reinforcing the absence of a procedural philosophy based on gradualism and proportionality as a priority rule.

The systematic pattern of prolonged extension intersects with a serious deficiency in the Public Prosecution's commitment to presenting the investigative file to the court with extension requests. This behavior empties extension hearings of their essential oversight function, turning them into a formal procedure based on presuming the correctness of the Prosecution's request without objective examination of evidence, in violation of the principles of transparency and proportionality.

9. The Court's Response to Requests for Detention Extension / Detention: Judicial Indicators in Practical Application

Monitoring data shows that the response of regular courts to detention extension requests submitted by the Public Prosecution follows a judicial pattern characterized by a noticeably high acceptance rate, compared to rejecting the extension request and releasing the accused or adopting less restrictive alternatives to liberty. Out of (2,070) monitored hearings, the courts granted the Prosecution's request for extension in the vast majority of cases, while release decisions did not exceed (178) cases, amounting to only (8.6%) of the total. This indicates that release remains a rare exception rather than a prevailing judicial practice, despite personal liberty being an inherent right that should only be restricted under strict necessity and proportionality.

The decision to extend detention for the full 15 days is the most common, issued in (874) cases (46.3%) before Conciliation Courts, followed by extension until the completion of proceedings in (421) cases (20.3%). This trend reflects a judicial inclination toward long periods that align with the Public Prosecution's requests, often without detailed individualized reasoning in the hearing minutes highlighting objective justifications related to the seriousness of the offense or the impact on evidence.

In contrast, short extension decisions before Conciliation Courts (1 to 7 days) amounted to only (129) cases (6.8%), and medium extensions (8 to 14 days) (77) cases (4.1%), revealing limited application of the principle of gradual restriction of liberty, even in cases of moderate seriousness. Hearings that ended with a final judgment resolving the criminal case reached (233) cases (11.3%), a relatively positive number but still limited in impact compared to the volume of extension decisions, reinforcing the impression that extension hearings are used primarily as a means to prolong detention rather than expedite adjudication.

Courts of First Instance, despite having fewer monitored hearings, adopted a similar approach, with a clear tendency toward long extensions (up to 45 days or until the completion of proceedings, representing 72.5% of extensions before them), despite the assumption of deeper scrutiny in more serious cases. Monitoring confirmed that such scrutiny does not always translate into shorter periods or preference for alternatives, as extended periods are issued without indepth reasoning that considers the significant impact of prolonged deprivation of liberty.

Reports and observations from monitors revealed convergence in judicial approaches between Conciliation Courts' and First Instance Courts, where acceptance outweighs rejection, long periods outweigh short ones, and release remains rare at both levels. These practices indicate the absence of a procedural philosophy based on clear differentiation between levels of seriousness and stages of the case, and instead reflect an institutional tendency that weakens effective judicial oversight over pretrial detention, transforming it from a limited exception into a routine practice that affects the core of personal liberty. This turns detention into the primary procedure in prevalent misdemeanor cases, despite the presumption of innocence as the original rule. Courts rarely reduced the requested extension periods and often relied on general, nonspecific justifications, turning the court's role into procedural endorsement rather than substantive analytical review.

10. Imbalance in the Principle of Equality of Arms and Procedural Bias in Favor of the Public Prosecution

Field data revealed a clear imbalance in the principle of equality of arms during the detention phase, where judicial and prosecutorial roles overlap in ways that limit the effectiveness of the right to defense and negatively affect the neutrality of the judicial process. Monitors observed that the Public Prosecution often plays a practical role that is not treated as an adversarial party in the proceedings, but rather appears functionally aligned with the court, weakening the procedural distance that should separate the prosecuting and adjudicating authorities.

This imbalance is clearly reflected in the unequal opportunities for communication with judges. Repeated cases were documented in which representatives of the Public Prosecution were present in the courtroom well before hearings began, enabling them to discuss requests, justify extensions, and present their views regarding the detainee or the investigation outside the public framework of the hearing. In contrast, the defense does not enjoy similar opportunities for discussion or communication outside the hearing, whether due to the absence of the lawyer in some cases or due to the nature of judicial work, which prevents the presentation of complete defense arguments or perspectives before the court forms its conviction.

As a result, some extension hearings are based on an initial conviction formed in advance by the court based on what the Public Prosecution presented outside the formal procedural framework. This reduces the effectiveness of defense arguments during the hearing and limits their influence on the judicial decision. The content of detention decisions also shows, in some cases, nearcomplete adoption of the Public Prosecution's narrative and request without serious discussion of defense arguments or genuine evaluation of alternatives to detention.

Thus, this alignment is not merely an organizational issue related to courtroom logistics, but extends to the core of procedural guarantees, foremost among them judicial neutrality.

ty, the right to defense in fair competition, and the detainee's right to have the request to restrict his liberty examined within a balanced adversarial framework, not in a context dominated by prosecutorial bias.

11. Standardized Judicial Reasoning and the Emptying of Detention Oversight of Its Substance

Monitors observed a noticeable similarity in the wording and justification of detention extension decisions issued by courts, even in cases where the court directly heard defense arguments and detainees' statements. A unified formula appeared in many of these decisions, relying on general phrases such as noting that the court heard the Prosecution and the accused, clarifying whether the decision is an initial or subsequent extension, emphasizing that the Prosecution has begun investigative procedures, and that the investigation does not end with the interrogation of the accused, with the extension justified by enabling the Prosecution to complete its investigations and prepare a file suitable for referral, given the nature and seriousness of the charge. These decisions are usually based on Article (120) and subsequent articles of the Criminal Procedure Law.

In subsequent extension hearings, the same phrases were repeated by Public Prosecution representatives without any new evidence, investigative progress, or actual developments. Meanwhile, courts continued adopting the same standardized reasoning without conducting a precise evaluation of the investigative file or a genuine assessment of the necessity and proportionality of each extension decision.

This repeated pattern of justification raises serious questions about the effectiveness of judicial oversight over pretrial detention decisions. These procedures constitute some of the most serious intrusions into the right to personal liberty guaranteed under Article (11) of the Basic Law and require strict adherence to standards of necessity, suitability, and regular, careful review.

The continuation of this approach weakens the court's role as a guarantor of rights and freedoms and as an independent regulator of procedures, especially in cases involving allegations of torture or illtreatment. The situation requires the court to carefully examine the legality of continued detention and obligate the Public Prosecution to present concrete evidence of investigative progress, ensuring a fair balance between the interests of justice, the presumption of innocence, and the protection of the right to liberty.

The absence of individualized reasoning tailored to each case strips detention extension decisions of their exceptional nature, turning them into a routine procedure reproduced automatically. The result is prolonged detention without clear objective justification, representing a direct violation of fundamental individual rights and fair trial principles.

Chapter Four

Allegations of Torture and IllTreatment

Introduction

Monitoring by civil society organizations of detention extension hearings is one of the most important tools for detecting allegations of torture and illtreatment, as the physical and psychological effects of torture and illtreatment are usually still visible, and time is a decisive factor in documenting and proving them. This enables the judge to take immediate measures to protect the detainee in accordance with international standards.

Detention extension hearings constitute a central anchor point in the system of preventing torture and illtreatment. Any shortcomings in enabling the detainee to exercise his right to defense, or in seriously listening to his complaint, or in taking immediate measures (such as independent medical examination or transferring him from the place of detention), directly affect the ability to uncover, document, and prevent the recurrence or continuation of torture and illtreatment. This reality requires strengthening procedural safeguards through judicial measures that ensure allocating sufficient time to hear the detainee, encouraging effective legal representation, and imposing a systematic response to every allegation of violation, to preserve human dignity and ensure effective judicial oversight over detention or pretrial custody.

This section presents the results of field monitoring conducted by the Istiqlal monitoring team, which focused on suspicions of detainees being subjected to torture or illtreatment. During the monitoring of (2,070) detention extension hearings, the organization documented a total of 28 cases in which detainees explicitly reported before judges as subjected to torture or illtreatment by security agencies, or in which monitors observed visible signs of torture on them, aimed at extracting forced confessions or for retaliation, in grave violation of the absolute prohibition of torture.

First: Documented Cases from the Monitored Hearings

During field monitoring, the independent monitoring team observed signs on the bodies of several detainees' indicating exposure to torture or illtreatment by the competent security agencies, including the Special Police, branches of the Criminal Investigation Department, AntiNarcotics Police, Preventive Security, and General Intelligence, during arrest, transfer to the detention center, recording statements, and even after referral to the Public Prosecution.

A total of 28 cases were reported in which direct evidence, testimony, or physical indicators confirmed that detainees were subjected to acts amounting to torture or cruel treat-

ment, supported in some cases by visible physical injuries or noticeable psychological effects. These allegations were raised exclusively before Conciliation Courts.

The hearings in which defendants or suspects made such allegations constituted (1.4%) of the total monitored detention/extension hearings, noting that the actual number of detention extension hearings before regular courts far exceeds the scope covered by the monitoring process. Had the monitoring extended further, the documented percentage would likely have been higher, as the documented cases reflect only those in which visible physical signs appeared or in which the detainee gave direct testimony before the judge. Cases involving psychological torture or nonvisible coercion, or cases in which detainees refrained from disclosure due to fear of consequences or pressure, remain outside the scope of direct courtroom monitoring, despite their high likelihood.

Therefore, this percentage does not reflect the actual scale of the phenomenon but represents the minimum objectively documentable level within judicial procedures. These serious suspicions underscore the need to strengthen legal safeguards from the earliest moments of detention, including immediate independent medical examination, unrestricted access to legal representation, and impartial, swift investigations into every allegation of torture or illtreatment, per the international standards binding on the Palestinian Authority.

These violations, often aimed at extracting forced confessions to obtain information, admissions, punishment, intimidation, or retaliation, not only violate human dignity and physical and psychological integrity but also undermine the core guarantees of a fair trial and strip pretrial detention extension procedures of their constitutional and international legitimacy. This requires immediate intervention by the competent authorities to ensure accountability and prevent impunity.

Presentation of Cases

Below is a brief and objective presentation of some of the 28 documented cases, focusing on the facts explicitly stated by detainees before judges during detention extension hearings. These cases were selected to reflect the diversity of alleged violations, the security agencies involved, and the visible physical and psychological effects. It is noteworthy that despite the seriousness of these allegations, none of the cases resulted in immediate referral for independent investigation or suspension of the extension process; instead, detainees were mostly returned to the same detention centers, raising serious concerns about the effectiveness of judicial safeguards in addressing such suspicions.

– Detainee Salah AlDin (40 years old, Ramallah) (File No. 740/2525):

Detained by the Preventive Security on charges of possessing an unlicensed weapon. He reported before the Ramallah Conciliation Court that he was severely beaten with solid objects on multiple parts of his body, painfully shackled causing wrist swelling, sub-

jected to prolonged shabeh, beaten on the genitals, had his shoulder dislocated, suffered fractures in limbs and chest, and had a rope tied between his feet and genitals for long periods, causing urinary bleeding for five days. Visible injuries were present on his body, yet he was returned to the same detention center and his detention was extended.

– Detainee Imad AlDin (39 years old, Ramallah) (File No. 675/2025):

Detained by the Preventive Security on charges of selling firearms. He informed the court that he was severely beaten with solid objects, painfully shackled, subjected to prolonged shabeh, and had statements extracted under coercion, with visible signs of injury. Despite this, he was returned to the same center and his detention was extended.

– Detainee Omar (Ramallah):

Detained by AntiNarcotics Police and the Criminal Investigation Department on charges of assaulting a security officer with violence or threat. He reported before the court that he was severely beaten, insulted continuously during transport from Qalandia Camp to the Suburbs Police Station (not a main station, one for the surrounding areas of the camp), then beaten again inside the station. He added that during interrogation he felt dizzy, exhausted, and in pain throughout his body, requested medical services, was taken to the hospital after hours, then returned to the center where interrogation resumed, and statements were extracted under pressure and coercion, forcing him to sign them despite informing them that he was illiterate.

– Detainee Mu'ath (40 years old, Bethlehem):

Detained by the police on charges of resisting security officers, he informed the court that he had been beaten on various parts of his body, including being kicked with boots and struck with staplers on the head and back, without receiving any medical care or follow-up. Despite this, the judge extended his detention and returned him to the same detention center.

– Detainee Mohammad (Hebron Court) (File No. 514/2025):

Detained by the Criminal Investigation Department on charges of possessing an unlicensed weapon. He reported before the court on 17/8/2025, while crying intensely in the courtroom, that he was subjected to continuous torture and harsh insults to extract a confession, including placing cloth on his hands, shabeh with chains despite informing them of a previous eye surgery, repeated beatings lacking any humane consideration, and sleep deprivation for three days. The court decided to refer him to medical services and instructed the Public Prosecution to follow up, and he was detained for 3 days.

– Detainee Ahed (Hebron Court) (File No. 616/2025):

Detained by the Criminal Investigation Department on charges of attempted murder and theft. His lawyer informed the court on 21/02/2025 that he had been tortured and had visible marks on his body, and requested referral to forensic medicine. However, the court's

decision focused on extending his detention for 15 days to complete investigative procedures and referring him to military medical services when necessary.

These selected facts reveal recurring patterns including severe beating, shabeh, painful shackling, assault on sensitive areas, use of harsh chemical substances, and psychological and physical coercion to extract confessions. This constitutes a violation of the absolute prohibition of torture and cruel, inhuman, or degrading treatment, and reflects the absence of immediate judicial response — such as independent medical examination, referral of complaints for investigation, or transferring detainees to alternative detention centers. This reinforces concerns about impunity and weakens the effectiveness of judicial oversight over early stages of detention, requiring urgent reform measures to ensure respect for and protection of the right to physical integrity.

Second: Judicial Documentation of Torture Allegations During Detention Extension Hearings

Data related to monitoring detention extension hearings, which addressed serious suspicions of torture or cruel, inhuman, or degrading treatment during the detention period — totaling 28 hearings — reveals a fundamental deficiency in complying with the duty of judicial documentation. It also shows a noticeable disparity in how courts handle detainees' allegations expressed explicitly before judicial bodies.

This significant variation in documentation practices and in handling torture allegations indicates the absence of a clear, binding procedural standard requiring judges to immediately and accurately record allegations, document injuries, identify the potential responsible party, and take immediate protective and investigative measures. This deficiency transforms documentation from a strict legal obligation — based on Article (13) of the Basic Law, Article (12) of the Convention Against Torture, and the provisions of the Criminal Procedure Law — into a practice dependent on individual discretion. As a result, the strength of judicial keeping as the first mechanism of accountability diminishes, and the likelihood of perpetrators escaping punishment increases.

1. Partial and Formulaic Documentation of Torture Allegations in Hearing Minutes

Regarding the documentation of torture allegations in hearing minutes, it was found that courts recorded these allegations in only 20 hearings, amounting to 71.4% of the monitored cases, while they were not recorded at all in 8 other cases (28.6%) despite being clearly stated in the courtroom. Although this number may appear revealing on the surface, it does not necessarily reflect systematic compliance with judicial documentation.

Qualitative analysis of hearing minutes shows that the level of seriousness and accuracy in recording torture allegations varied greatly. In most cases where documentation occurred, it was limited to brief, general phrases such as “the accused stated that he was subjected to torture,” without providing details about the nature of the alleged acts, when

they occurred, who was responsible, or describing injuries — even when some injuries were visibly apparent in the courtroom.

In contrast, a few limited cases showed more accurate and comprehensive documentation, where judges recorded the detainee's statements verbatim and described visible injuries in terms of location, shape, color, and size. However, these practices remained isolated and were not adopted as a consistent, sustainable approach.

The seriousness of this deficiency lies in the fact that the hearing minutes constitute the only official document capable of providing initial evidence of torture. Given that such crimes are usually committed in closed environments and physical signs fade over time, relying on superficial or inaccurate documentation is not merely a procedural flaw — it practically results in the loss of the most crucial evidence available to the detainee at a critical stage.

2. Judicial Failure to Transform Documentation into Effective Protection and Legal Accountability

The text addresses judicial failures in transforming the documentation of allegations during detention into practical measures ensuring effective protection and legal accountability. This failure goes beyond mere shortcomings in recordkeeping and reveals a deeper gap related to the absence of procedural pathways that convert documentation — when it exists — into real protection for the detainee or serious accountability for those responsible for violations.

In many cases, courts failed to take steps to verify these allegations, such as ordering a medical examination or referring the allegations to competent authorities, despite the presence of visible injuries or the seriousness of the claims. In some cases, the judge merely listened orally to the allegation without formally documenting it; in others, the allegation was completely ignored as if it had never been made. For example, in the case of detainee Omar, the judge refused to examine internal, nonvisible injuries and limited the assessment to visible injuries. In the case of detainee Muhannad Zaid, who stated he had been tortured, his testimony was not recorded, nor was he referred to a medical committee.

Additionally, some cases showed compounded failures, including lack of documentation, refusal of medical referral, renewal of detention orders, and returning the detainee to the same authority he accused of torturing him. These actions significantly increase the detainee's vulnerability and reduce protection, while enhancing the likelihood of impunity for perpetrators. An example is the case of detainee Jamal, who reported being tortured by AntiNarcotics Police and Special Police officers, yet the court merely extended his detention without taking any protective or accountability measures — not even suspension of detention.

These violations were also evident in other cases, such as detainee Issa before the Bethlehem Conciliation Court (Detention Extension No. 2397/2025), where his allegation was recorded but no medical measures were taken despite the absence of legal representation. Similarly, detainee Fadi's testimony and his lawyer's statements were neither recorded nor referred for medical examination.

The same applies to detainees Abdullah (Criminal Case No. 431/2025, Yatta Conciliation Court), who showed signs of wounds and severe exhaustion, yet the court took no protective measures.

The situation worsens when some courts consider torture allegations as “substantive defenses,” as observed by monitors in a case where the judge deemed the lawyer's claim of torture a substantive defense not subject to consideration during the detention phase — disregarding the fact that torture constitutes an independent crime requiring immediate investigation under the law and constitution, regardless of the nature of the original case.

These judicial failures are exacerbated by the absence of legal representation for detainees, as the lack of a lawyer is often associated with failure to document allegations and rejection of requests for medical examinations or protective measures. This reveals the fragility of legal protection mechanisms for detainees, especially those without legal representation, and reflects an overreliance on defense efforts instead of the judiciary fulfilling its essential role in ensuring and protecting individual rights.

3. Limited Exceptions That Do Not Amount to a General Pattern

Despite the overall picture, a few limited cases showed higher compliance with legal standards, such as the case of detainee Salah AlDin before the Ramallah Conciliation Court, where the full testimony and defense argument were recorded, the Head of the Human Rights Unit at the Public Prosecution was notified, and explicit reference was made to the constitutional and legislative framework and the Convention Against Torture, with the detainee referred to medical services. Some limited cases also showed more accurate and comprehensive documentation, where judges recorded the detainee's statements verbatim and described visible injuries in terms of location, shape, color, and size. However, these practices remained isolated and were not adopted as a consistent, sustainable approach.

These cases remain individual exceptions that do not reflect the existence of an institutional, binding standard; rather, they confirm that handling torture allegations depends on the individual judge's discretion, not on a unified procedural rule.

Third: Restricting the Detainee's Right to Respond and Discuss, and Its Impact on Revealing and Documenting Torture Allegations

Field monitoring results reveal recurring practices in which detention extension hearings are conducted in a rapid manner, effectively limiting detainees' ability to express ade-

quately and freely the violations they were subjected to, especially allegations of torture and illtreatment. These restrictions worsen in cases where effective legal representation is absent, marginalized, or where judicial practices focus solely on issuing the extension decision without giving sufficient weight to complaints related to the detainee's physical and psychological safety, often under the pretext that the judge's role at this stage is limited to "reviewing procedures" without addressing the "substance of the case."

This approach was clearly documented in the case of detainee Mohammad Alayan before the Tulkarm Conciliation Court, where he publicly stated that he had been tortured, yet the judge ignored his statement and did not grant him sufficient opportunity to defend himself or respond to the Public Prosecution's request for extension, preventing effective documentation of his complaint or the adoption of any protective measures.

Restricting the right to respond and defend contradicts fundamental judicial guarantees; detention extension hearings constitute a crucial — and often the only — opportunity for the detainee to present any violations suffered during the initial detention period, given his isolation and difficulty communicating with the outside world. Ending hearings by returning detainees to the same security agency suspected of involvement in the violations, without taking steps to protect them or document their complaints, reinforces a culture of fear and intimidation and weakens the preventive role of the court in addressing torture and illtreatment.

Fourth: Torture as a Persistent Practice Beyond the Nature of Charges and Evidence of a Systematic Pattern

A study of the distribution of charges against detainees in the 28 detention extension hearings — which included serious indications of torture or illtreatment — shows that these violations were not limited to major or exceptional security cases but extended to ordinary cases typically heard before] Conciliation Courts. Unlicensed weapons possession cases constituted the largest share (28.6%), followed by offenses against persons such as assault and harm (21.4%), then cases related to public office and security personnel (17.9%). National security cases constituted a smaller percentage (10.7%), with the remainder distributed among drug offenses, economic crimes, and others.

This distribution reveals that the use of torture or ill treatment is not directly linked to the seriousness of the charge or its potential impact on public security; rather, it is used even in ordinary cases that do not pose exceptional threats. This indicates that the primary purpose of these practices is to extract forced confessions regardless of the nature of the offense or stage of investigation. It reflects a recurring behavior by the judicial police relying on pressure and coercion instead of professional fact-finding.

However, this should not be interpreted as leniency toward torture in more serious cases. Torture and illtreatment are absolutely prohibited, with no exceptions or justifications, including so-called exceptional circumstances or security considerations.

Reports indicate that torture is practiced as a persistent method across crime categories, not as isolated acts or tied to specific circumstances. This reflects a flaw in judicial policing and investigative practices, where torture becomes a routine pressure tool violating the absolute prohibition stipulated in Article (13) of the Palestinian Basic Law and Article (2) of the Convention Against Torture, which affirms that no circumstance may be invoked to justify torture or cruel, inhuman, or degrading treatment.

This systematic nature of the phenomenon requires comprehensive reform, not limited to individual cases, but including strengthening independent oversight of places of deprivation of liberty, activating immediate and impartial investigation mechanisms in every suspicion of torture, and providing systematic training to relevant agencies on respecting the absolute prohibition, including the principles of effective interviewing and information gathering (Méndez Principles), ensuring that constitutional and international obligations become actual practices protecting human dignity and safety in all circumstances.

Fifth: Medical Referral as the Missing Link in the Protection System Against Torture

Immediate referral to a specialized medical authority is one of the fundamental pillars of procedural protection in torture cases, given the nature of this crime, which is often committed in closed, nontransparent environments, and the fact that its physical effects tend to fade quickly. Therefore, early medical examination is almost the only means of documenting such violations. However, the report's data highlights a deep and systematic gap between the essential role medical referral should play and the way it is actually practiced within judicial procedures.

A review of the 28 cases involving suspicions of torture or illtreatment during detention shows that courts ordered referral in only about 10 cases (35.7%), while they refrained from referral in 18 cases (64.3%), despite clear evidence, including detainees' statements, direct observations of visible injuries, or explicit requests from the defense.

The problem does not stop at the limited number of referrals; it also appears in their nature and implementation. Judicial decisions often refer detainees broadly and imprecisely to "medical committees" or "medical services," without specifying the purpose of the referral: Is it intended to legally document torture or merely provide medical or psychological treatment? This procedural ambiguity weakens the value of referral as legal evidence and reduces it to a humanitarian or health measure without contributing effectively to justice or uncovering the crime.

This approach contradicts international standards in the Istanbul Protocol, which states that medical examination in torture allegations is not merely a therapeutic process but a precise legal procedure aimed at documenting the relationship between statements, physical and psychological effects, and detention conditions, allowing the medical report to serve as decisive evidence during investigations and accountability. The protocol also emphasizes the importance of independence of examining authority, prompt referral, and

ensuring protection from returning the detainee to an environment where further pressure or retaliation may occur.

Given these findings, the issue is not isolated failures but a concerning judicial trend treating medical referral as a secondary or optional measure rather than a fundamental legal obligation linked to preventing torture and the state's duty to conduct immediate and thorough investigations. These gaps weaken the possibility of legal proof and reinforce impunity, undermining the preventive role of the judiciary during the most sensitive moments concerning physical safety and detainee rights.

Data shows a noticeable disparity in referral opportunities depending on the presence of a lawyer: among 19 cases with legal representation, referral was requested in 11 cases and rejected in 8. In 9 cases without legal representation, only two detainees requested referral, and the court approved both.

This disparity reveals two intertwined issues:

- Weak awareness among unrepresented detainees of their right to medical examination.
- Broad, unregulated judicial discretion in responding to referral requests, even when supported by concrete facts and submitted by lawyers.

Even in cases where referral to medical committees was ordered, followup showed that several decisions were not implemented. In some cases, referrals were hindered due to the court clerk's failure to issue or follow up on necessary instructions. In other cases, detention authorities refused to execute the referral without accountability.

Delayed or unexecuted referral defeats its purpose, as time is critical in torture cases: bruises fade, wounds heal, and marks from beating, shabeh (staying in one position mostly hung for lengthy periods of time with battery), or restraints disappear. Thus, the detainee is deprived of crucial evidence, and legal protection loses its practical meaning.

It is noteworthy that in all cases where referral to medical committees occurred, detainees were returned to the same centers where they alleged torture. This exposes them to the risk of repeated torture or retaliation, discourages victims from continuing to report, and undermines any safe environment for disclosure or cooperation with investigations.

This practice contradicts the core obligations of the state under the Convention Against Torture, which requires immediate measures to protect complainants from any pressure or retaliation.

Given this shortcoming, the importance of the role played by some judges becomes evident, through accurately recording visible marks (location, color, size, nature of injury) and documenting detainees' statements verbatim in hearing minutes. This documentation

often becomes the only remaining evidence that can be relied upon later, especially when medical referral fails or is obstructed. However, this effort remains an exception, not a rule, and depends on individual judicial initiative rather than a binding judicial policy.

Sixth: The Judicial System and Addressing Torture Allegations During Detention

Close monitoring of detention extension hearings before Conciliation Courts reveals a fundamental weakness in the judicial system, extending to the unserious handling of torture allegations, whether in terms of investigation or documentation, as well as the nature of judicial decisions issued against detainees who alleged torture or showed physical signs raising suspicion of illtreatment. This approach reflects a decline in the judiciary's preventive role in protecting physical integrity and human dignity at early procedural stages.

Out of 28 cases that included either explicit statements of torture or clear physical observations, courts decided to extend the detention of 16 detainees for 15 days, amounting to 57.1%. They also decided to extend the detention of 5 detainees until the end of trial, amounting to 17.9%. Thus, decisions in 21 out of 28 cases — equivalent to 75% — resulted in long or opened detention periods, showing that procedures focused on restricting liberty rather than protection.

These practices become more problematic in cases where courts approved referring detainees to medical committees. Although this may reflect implicit concern about their health condition, medical referral occurred in only 10 out of 28 cases. Worse still, 8 of the detainees referred for medical examination remained in detention for long periods, with 7 detained for 15 days and one until the end of trial. Thus, these referrals often represent a formal procedure lacking any real protective value.

What worsens the situation is the absence of any judicial measures to ensure the protection of detainees or to investigate torture allegations. No case was recorded in which judges or prosecutors initiated an independent investigation into a torture crime. Nor were detainees' places of detention changed or they themselves removed from the authorities alleged to have committed the torture, despite the clear risks they may face.

In all 28 cases, judges did not refer the files to the competent prosecution offices to investigate torture allegations. This comes despite Palestinian laws clearly criminalizing torture and obligating public officials to take steps to prevent it and punish anyone who participates in or condones it. However, the absence of legal procedures obligating judges and prosecutors to report such allegations — and clarifying their responsibility for failing to do so — has proven to be one of the main factors perpetuating this deficiency and the absence of judicial inspection in this regard²¹.

21 Any public official or person acting in an official capacity who orders the torture of a person, or commits it himself, or does so with his permission, or knows of it and refrains from stopping it, shall be punished with temporary imprisonment from three years to seven years. If the torture results in temporary physical, mental, or psychological

This situation leads to a significant disruption in the possibility of early documentation of violations, as long detention extensions may cause physical signs of torture to disappear over time. Medical examination reports prepared later lose their evidentiary value, especially with delayed referral to forensic medicine and reliance on medical committees or medical services that focus on treatment rather than documentation.

These facts highlight the weakness of the judiciary in performing its role as a primary protector against torture during detention, making the judiciary a partner in its continuation through silence and failure to intervene. The combination of formal referrals, long detention periods, and the absence of necessary legal steps for investigation and accountability transforms detention extension procedures into a mechanism for reproducing violations under an official legal framework. As a result, constitutional and international guarantees related to the prohibition of torture and the protection of personal liberty erode.

harm lasting more than thirty (30) days, he shall be punished with temporary imprisonment from five years to seven years. If the torture results in permanent physical, mental, or psychological harm, he shall be punished with temporary imprisonment from seven years to ten years. If the torture results in death, he shall be punished with life imprisonment. (b) Any public official or person acting in an official capacity who orders the illtreatment of a person, or commits it himself, or does so with his permission, or knows of it and refrains from stopping it, shall be punished with imprisonment from three months to one year and a fine of one thousand Jordanian dinars or its equivalent in legally circulated currency. (c) Any public official or person acting in an official capacity who incites, participates, or intervenes with others in committing any of the crimes stipulated in items (a) and (b) of paragraph (2) of this article, and the crime is committed based on such incitement, participation, or intervention, shall be punished with the penalties prescribed for the principal perpetrator.

Chapter Five

Possession of an Unlicensed Weapon: A Constructed Charge

Introduction

The charge of possessing an unlicensed weapon is one of the most frequently observed charges by the Istiqlal monitoring team during detention extension hearings before regular courts in the West Bank, particularly before Conciliation Courts. This made it a central monitoring focus within Istiqlal's work during the project's implementation period between June and December 2025. This charge carries heightened procedural significance due to its direct connection to detention and pretrial custody, and the broad discretionary power granted to both the Public Prosecution and the court in assessing the "seriousness of the charge" and the necessity of continued detention.

In this context, monitoring did not stop at counting or describing cases but extended to analyzing the procedural and legal basis for detention on this charge, the availability of preliminary material evidence — foremost among them the weapon seizure report — as the essential foundation for justifying the charge of possessing an unlicensed weapon, in addition to tracking the trajectory of detention requests, their duration, the court's response, and the authorities responsible for the detention.

This chapter presents the monitoring results of detention extension hearings for defendants accused of possessing, transporting, selling, or manufacturing an unlicensed weapon. The importance of this chapter lies in its inclusion of a complementary monitoring file built on two stages:

- The stage of direct field monitoring of detention extension hearings.
- The stage of followup conducted by researchers through completing (86) supplementary forms, reviewing court hearing records, and posthearing notes, per the project's methodology.

First: Monitoring

The charge of possessing and/or transporting and/or selling and/or manufacturing an unlicensed weapon was one of the most frequently observed charges in the monitored detention extension hearings, appearing in (610) hearings, amounting to (29.5%) of the total monitored hearings/files — 593 hearings before Conciliation Courts (97%) and (17) hearings before Courts of First Instance (2.8%) of all monitored hearings involved weapon possession.

This large number of cases places a double monitoring burden on these courts, especially Conciliation Courts, as they are the first judicial authority overseeing the legality of detention in such cases, particularly given that most of these cases end with file closure and are not referred to the competent court for trial.

Geographically, data shows that more than threequarters of the monitored cases were concentrated in three governorates: – Nablus: 267 hearings (43.8%) – Hebron: 113 hearings (18.5%) – Jenin: 95 hearings (15.6%).

Meanwhile, other governorates such as Yatta, Dura, Tubas, and Jericho recorded very marginal numbers of hearings. It should be noted that these percentages reflect only the hearings that were monitored, not the total number of hearings held in courts for such requests, as monitoring opportunities were not equal across courts, preventing definitive numerical conclusions.

Combining the qualitative distribution (Conciliation Courts vs. First Instance Courts) with the geographic distribution reveals that weapon possession cases follow recurring patterns in their use as grounds for detention extension and produce similar outcomes. Detainees in such cases often end up being released without referral to court, or the file is closed during the investigative stage, or no conviction is issued even when referred. This makes the charge of possessing an unlicensed weapon a highly significant model for understanding the practical logic of detention and pretrial custody within the judicial system — not as an exceptional measure governed by evidence, but as a broad tool for arbitrary detention.

Second: the legal basis for the charge of weapon possession in the applicable Palestinian law in the West Bank and the practical reality according to the monitoring program.

Law No. (2) of 1998 on Weapons and Ammunition and its amendments in DecreeLaw No. (27) of 2020 constitute the governing legislation for this type of charge and offense, including legal classification and penalties. While the original 1998 law prohibited acquiring and carrying weapons without a license and classified most offenses under it as misdemeanors punishable by no more than three years, the 2020 amendment added new offenses and classified them as felonies punishable by more than three years — such as amending Article (25/c) of the original law to impose imprisonment of no less than five years and no more than fifteen years for anyone who sells or provides a firearm or ammunition, and amending paragraph (d) of Article 25 to impose imprisonment of no less than five years and no more than fifteen years for anyone who imports or exports firearms or ammunition or participates or conspires with others to do so, and anyone who practices the profession of trading firearms and ammunition without a license from the competent authorities. Paragraph (e) was amended to impose imprisonment for five years for anyone who manufactures firearms or ammunition without a license from the competent authorities.

Field monitoring data, based on tracking (610) detention hearings on the charge of possessing an unlicensed weapon, shows that this charge was mostly classified as a misdemeanor under Law No. (2) of 1998 on Weapons and Ammunition and its amendments. The number of cases classified as misdemeanors reached (600), representing (98.4%) of all monitored weapon possession cases, compared to only (10) cases classified as felonies (1.6%). These were extended before Conciliation Courts. These numbers reveal a clear pattern: most weapon possession cases are treated as low-severity offenses legally classified as misdemeanors.

Monitoring data related to weapon possession cases — including the distribution of cases by court type and requested detention periods — indicates a near-routine pattern in which the Public Prosecution consistently requests the longest detention period as its primary option, with only minor formal differences between Conciliation Courts' and First Instance Courts and no substantive change.

Of the (610) weapon possession cases monitored before courts, Conciliation Courts handled most of them (593 cases). In this context, the Public Prosecution requested a full (15-day) detention period in (553) cases — (93.3%) of all cases before Conciliation Courts. In contrast, short detention requests (1–7 days) did not exceed (3.0%), and no medium-term requests (8–14 days) were recorded, reflecting a clear marginalization of the principle of gradual restriction.

As for Courts of First Instance, despite the limited number of cases (17), they requested (45-day) detention in (12) cases (70.6%), while the (15-day) were present in only (17.6%) of cases, with no short-term requests recorded.

This pattern indicates that adherence to the requested detention period is not based on individualized assessment of case facts or procedural risks but follows a near-fixed framework that transforms pretrial detention in weapon possession cases into an automatic tool of control, disregarding the principles of necessity and proportionality that must govern any measure affecting personal liberty. This empties the principle that “liberty is the rule and detention is the exception” of its practical meaning and turns detention into an almost automatic measure not based on reliable objective criteria such as risk of flight, evidence tampering, or threat to public safety.

It is also noted that classifying the charge as a misdemeanor was not accompanied, in most cases, by the presentation of complete material evidence or a reasonable investigative file, which increases the danger of resorting to detention. Pretrial detention, when imposed in the context of a misdemeanor charge lacking a seizure report, technical report, or seized material evidence, transforms detention from a legitimate precautionary measure into a procedural pressure tool used to fill investigative gaps or compensate for deficiencies in the judicial police's ability to complete evidentiary requirements.

Accordingly, the overwhelming misdemeanor nature of the monitored weapon possession cases is not merely a statistical description but reveals a structural problem in the

judicial management of the files. It highlights a stark contradiction between the legally mild classification of the charge on one hand and the severity of interference with the detainee's personal liberty on the other, necessitating a comprehensive reassessment of detention policies in such cases and strict linkage to actual risk, strength of evidence, and legally prescribed alternatives to detention, in line with fair trial guarantees and protection of personal liberty.

Third: Detention as the Rule and Liberty as the Exception

Monitoring data on courts' responses to Public Prosecution requests in weaponpossession cases shows a clear tendency to entrench detention and pretrial custody as the rule rather than the exception, weakening the core judicial oversight expected over decisions that deprive individuals of liberty. According to the data, Conciliation Courts granted 15day detention requests in (430) out of (593) cases, representing (72.5%) of all cases reviewed by Conciliation Courts — the highest percentage by far compared to any other procedural option. Courts of First Instance imposed the maximum detention period (45 days) in (10) out of (17) cases presented before them, amounting to (58.8%) of the cases monitored before these courts.

A numerical comparison between the Prosecution's requests and the courts' responses shows that Conciliation Courts accepted approximately (72.5%) of 15day detention requests, while acceptance rates before Courts of First Instance rose to (82.4%) for maximumperiod detention requests. These high percentages reflect a strong alignment between what the Prosecution requests and what the court decides, weakening judicial independence and indicating that maximum detention periods are adopted as the practical rule rather than the exception that should be subjected to strict tests of necessity and proportionality. The data also reveals an extremely narrow margin for release, as release decisions did not exceed (5.9%) of all cases, despite the overwhelming majority of these files lacking a weapon seizure report or any preliminary material evidence — raising serious questions about the criteria for imposing extended detention periods before a court expected to exercise deeper, not harsher, oversight.

This practice contradicts relevant international standards, which stipulate that liberty is the rule and detention and pretrial custody must be exceptional, justified, necessary, proportionate, and subject to effective judicial review. The Human Rights Committee has affirmed in its General Comments that detention without individualized assessment of necessity and proportionality constitutes a violation of the right to personal liberty. In this context, the high rates of prolonged detention compared to the low rates of release — in misdemeanor cases lacking material evidence — indicate a structural flaw in applying these standards and transform pretrial detention into a punitive measure imposed before any judgment is issued.

Accordingly, what this data reveals is not merely a description of procedural choices but an institutional pattern that weakens judicial oversight and reproduces detention as the easiest and fastest measure, not the most just or lawful. This calls for a fundamental reassessment of the court's role at this stage and strengthening its commitment to necessity and proportionality standards, linking detention decisions to the existence of serious preliminary evidence, in line with the State of Palestine's international human rights obligations and fair trial guarantees.

Fourth: Detention Without Evidence — A Weapon Not Seized

The structural weakness in weaponpossession cases deepens when moving from analyzing detention decisions and their duration to examining the evidentiary basis on which these decisions rely — foremost among them the weapon seizure report as the essential material evidence in such cases. Monitoring data reveals a dangerous gap between the severity of interference with personal liberty on one hand and the absence of the minimum evidentiary requirements on the other.

Out of (610) detention cases on the charge of possessing an unlicensed weapon, a weapon seizure report was available in only (24) cases — such as the case of detainee Anwar (Detention Extension File 233/2025) before the Bethlehem Conciliation Court, and detainee Anas Taher Bassam (Detention Extension File 1414/2025) before the Qalqilya Conciliation Court. Thus, a seizure report was available in only (3.9%) of all monitored cases, compared to (586) cases (96.1%) in which no seizure report was presented before the court. The seriousness of this finding is not only numerical but becomes even more alarming when broken down by court type: all cases before Courts of First Instance (100%) lacked any weapon seizure report, while the presence of such a report before Conciliation Courts — despite the high volume of cases — remained a rare exception rather than a procedural rule.

This neartotal absence of seizure reports cannot be separated from the pattern shown in previous sections regarding courts' broad acceptance of detention requests. Detention extension decisions — including 15day and extended detention — were issued mostly without the court having the essential evidentiary tool needed to examine the basic fact of possession. In this sense, detention is no longer based on assessing the seriousness of evidence but becomes a measure built on the assumption of accusation and the narrative of the arresting authority without any material verification.

The weapon seizure report constitutes the material element of the crime of possessing an unlicensed weapon, as it is supposed to demonstrate the actual existence of the weapon, the place of seizure, the circumstances of its discovery, its connection to the detainee, and the legality of search and seizure procedures. Therefore, the absence of this report in such many cases is not a minor procedural flaw or an individual oversight but reflects a systematic pattern in managing these cases, where detention procedures are initiated before — and sometimes without — the legally required preliminary evidence.

This pattern results in several serious human rights consequences, most notably the fragility of the legal basis for detention, near total reliance on statements from the arresting authority or Prosecution summaries without tangible material support, and depriving the court of the ability to exercise effective oversight over the legality of detention. It also reverses the logic of pretrial detention from an exceptional measure conditioned on serious preliminary evidence into a pressure tool used to keep the detainee in custody while awaiting the completion of what should have been available from the first moment of detention — the evidence, i.e., the justification for detention and pretrial custody.

This finding becomes even more significant when noting that the weapon itself is not present in the courtroom, not displayed, and not referenced regarding its storage or fate — meaning that “the material element of the crime is missing,” turning the case into a singlesource narrative that contradicts fair trial requirements, personal liberty, and the presumption of innocence, and weakens the judiciary’s role in protecting human rights.

Fifth: judicial reasoning in weaponpossession cases and its role in entrenching detention as a routine measure

Judicial reasoning in detention and detentionextension decisions in weaponpossession cases is supposed to be one of the key tools for regulating the use of this exceptional measure, given the broad interpretive scope of this charge and its direct impact on personal liberties. However, monitoring reveals that reasoning in such cases has not fulfilled its essential regulatory role; instead, it has practically contributed to transforming detention into an almost automatic outcome of the charge, regardless of the details of the investigative file.

Data indicates that in weapon-possession cases, the most frequently cited justification for extending detention was the broad phrase, “completion of investigative procedures and the seriousness of the charge to public order and security.” This rationale appeared in 386 decisions, representing 63.3% of all extensions. While the need to complete an investigation can, in principle, justify temporary detention, relying on such a generalized phrase is problematic given the nature of these cases—particularly since tangible evidence is rarely present.

In many cases, detention extension requests were not accompanied by any data or material evidence such as weapon seizure, seizure report, technical report, weapon type, or even a clear identification of the place and circumstances of seizure. This absence raises a fundamental question about the nature of the “investigative procedures” that need completion. In this context, reasoning appears more like a prejustification for continued detention rather than a tool for assessing the actual necessity of this step based on investigative developments.

As for the description of “seriousness of the charge,” it appeared as a reason in (70) decisions (11.5%). Legal data highlights the problem with this justification when (98.4%) of weaponpossession cases were classified as misdemeanors, not felonies. This reali-

ty weakens the legitimacy of invoking seriousness without presenting factual elements supporting it, such as the type of weapon seized, its usability, the circumstances of its possession or use, and the existence of an actual threat to public safety. Thus, the concept of “seriousness” becomes a vague term used to justify continued detention without subjecting it to rigorous objective examination.

More concerning is the existence of a tangible level of violations, as (94) extension decisions (15.4%) were issued without stating any reason at all. Such decisions violate the right to a fair trial, depriving the detainee of knowing the legal basis for restricting his liberty and preventing him from exercising his right to challenge the decision, thereby emptying judicial oversight of any real substance.

Based on these findings, judicial reasoning in weaponpossession cases has not been used as a tool to regulate judicial authority in issuing detention decisions; rather, it has contributed to linking those decisions to the general description of the charge, detached from the strength or absence of evidence. This approach effectively entrenches pretrial detention as a default measure rather than an exceptional one that must adhere to necessity and proportionality standards. Ultimately, this approach reproduces decisions far removed from the foundations of criminal justice and the presumption of innocence.

Sixth: The security agencies that follow up on these cases or initiate them

Monitoring data shows that the execution of arrest and initial detention procedures in unlicensedweapon cases is carried out by multiple security agencies, without a single centralized authority assuming this role. The agencies responsible for detention were distributed as follows: the Preventive Security at (45.9%) of cases, followed by the Police at (27.4%), then the General Intelligence at (20%), while (4.1%) of cases were carried out by the Joint Security Committee.

The court does not treat the variation in the detaining authority as a factor requiring additional scrutiny or procedural accountability; rather, detention requests are reviewed in a nearly uniform manner, without actual examination of whether each agency adhered to the minimum procedural safeguards. As a result, the court faces files of varying quality, weakening its ability to exercise genuine oversight over the legality of detention and practically dispersing legal responsibility when material evidence is absent.

Within this reality, the court shifts from being an examining authority that restricts the power to deprive liberty into an entity that endorses an existing detention based on preliminary security narratives that differ depending on the detaining authority, rather than on a unified, objective examination of evidence. This entrenches detention as a flexible procedural tool used independently of necessity and proportionality standards.

Seventh: Outcomes of weaponpossession cases after the detention phase

This section aims to track the outcomes of weaponpossession cases after the detention phase, as a practical indicator of the seriousness of investigations and the proportionality of liberty deprivation to the results of criminal justice.

1. Postdetention followup: release as the rule, not the exception

This section examines weaponpossession cases not only during detention extension hearings but expands the scope to include the procedural trajectory of these cases after the detention phase ends. A study of 86 cases was prepared based on direct followup with detainees after release, reviewing legal files with defense lawyers, and analyzing detentionextension minutes, while maintaining separation between documentation and methodological analysis.

Data indicates that early release was the most prominent feature of these cases, as a large proportion of detainees were released during the first extension hearing, while the second hearing saw most releases after detention periods often reaching fifteen days. The significance of this lies in the absence of any meaningful investigative progress between extension hearings — no new evidence such as a weapon seizure report, no technical reports proving the alleged weapon's usability, and no material documents supporting any change in the legal status of the case.

1. Detention as an end in itself: absence of effective investigations and risks of abuse

Studies show that pretrial detention in these cases was not used as an opportunity to strengthen investigations; rather, it remained an isolated measure unrelated to any integrated investigative effort. No new seizure reports were completed between the first and second hearings, no additional reports were submitted, and no verification or examination of the alleged weapon took place. As a result, the files remained unchanged without qualitative improvement in the evidence presented since the first hearing, despite continued deprivation of liberty.

Results also showed that conviction rates for weaponpossession charges were significantly low. Many cases concluded without conviction judgments, and other files were closed after release without serious investigative followup. Only a few cases saw changes in the legal classification of the offense or remained pending without final resolution. This highlights a clear disparity between the high rate of detention and the final judicial outcomes, reflecting a fundamental imbalance between imposing restrictions on personal liberty and the results of criminal justice.

This situation becomes more concerning when considering testimonies from individual cases, such as that of detainee Mohammad Rashid, who stated that he was detained on grounds unrelated to weapon possession and claimed he was subjected to psychological pressure and torture to force him to surrender a weapon or confess to its existence. This example highlights the risk of weaponpossession charges deviating from their legal pur-

pose and being used as a tool of pressure and coercion — a blatant violation of detainee rights.

Chapter Six

Conclusions and Recommendations

Introduction

This section presents a comprehensive analysis of the report's findings, based on field monitoring and quantitative and qualitative data related to pretrial detention practices and the roles of various actors within the justice system. The results reveal recurring patterns indicating fundamental imbalances in ensuring the application of fair trial guarantees, addressing torture allegations, and the exploitation of certain charges as a pretext for prolonged detention without solid investigative grounds. Based on these findings, the report provides practical recommendations aimed at establishing mechanisms to recalibrate the practice of pretrial detention so that it remains within its exceptional framework, strengthening judicial oversight, and ensuring the protection of rights and freedoms in accordance with domestic laws and international standards.

First: Conclusions

This report provides a comprehensive analysis of the pretrial detention system in the West Bank governorates, based on systematic field monitoring of 2,070 detention extension hearings before Conciliation Courts Conciliation and First Instance Courts, in addition to tracking subsequent case trajectories and analyzing hearing minutes and judicial decisions. The findings reveal a structural and recurring dysfunction in the pretrial detention system, negatively affecting fair trial guarantees, weakening the judiciary's preventive role, and enabling the investigative phase to be exploited for serious violations such as torture and ill treatment, alongside the excessive use of the weapon possession charge for procedural purposes.

1. Transformation of PreTrial Detention into a routine measure rather than an exceptional measure

The report shows that pretrial detention is not practiced as an exceptional measure but has become the default option in courts. Most extension hearings ended with prolonged detention decisions, with 15 day detention orders dominating, followed by detention until the end of trial. In contrast, the use of less restrictive alternatives or decisions rejecting extension requests and ordering release was extremely limited, reflecting the absence of a gradual methodology that considers the objective conditions of each case.

2. Weak judicial oversight and the transformation of extension hearings into a formality

Observations indicate that detention extension hearings are often conducted quickly and superficially, preventing the formation of an independent judicial conviction. This was evident through the short duration of hearings and the formulaic nature of decisions and reasoning. Data also showed that courts frequently accepted prosecution requests for extension without thoroughly reviewing investigative files or requiring concrete evidence of investigative progress.

3. Absence of judicial balance between the public prosecution and the defense

The report reveals a high level of arbitrariness in courts' issuance of pretrial detention decisions, accompanied by a lack of serious judicial oversight over the grounds presented by the Prosecution, which itself treats extension requests as an almost mandatory step in most investigative files. The Prosecution is treated as a procedural partner rather than an adversarial party, undermining neutrality and equality of arms. Cases were documented in which the Prosecution benefited from unequal opportunities to present its justifications, while the defense had limited opportunities, especially in the many cases lacking legal representation.

4. Fragility of the right to defense and weak effectiveness

Although lawyers were present in some hearings, their role and impact remained limited due to the speed of proceedings, short hearing durations, and lack of adequate access to investigative files. The absence of a lawyer eliminates essential safeguards such as documentation or requesting medical examination in torture cases, further weakening procedural protection and affecting defendants' rights.

5. Failure to provide effective protection against torture and illtreatment by the judiciary

The report highlights the judiciary's failure to seriously address torture and illtreatment allegations. In most cases where detainees reported torture or showed physical signs indicating presence of torture, courts continued to extend detention without initiating an independent investigation or taking urgent measures such as medical referral or changing the place of detention. Medical referrals were often delayed or improperly executed, undermining their value as evidence in torture cases.

6. Therapeutic Rather than evidentiary nature of medical referrals

Practical experience shows that even when detainees are referred to medical authorities by judicial order, the focus is placed solely on therapeutic aspects through general medical committees or services, without consistently relying on specialized forensic and

psychological medicine legally responsible for documenting torture and illtreatment in accordance with international standards such as the Istanbul Protocol.

This approach reduces the likelihood of effectively documenting crimes later, stripping medical referrals of their humanrights function and reinforcing a culture of impunity.

7. Exploitation of the weaponpossession charge as a procedural tool for detention

The report shows that the weaponpossession charge is used as an almost automatic justification for extended detention, even in the absence of strong material evidence in many cases. These charges saw high rates of 15day detention decisions, despite most being classified as misdemeanors rather than felonies.

Subsequent case reviews indicate that many of these cases ended in release without conviction or without thorough investigations, suggesting that detention was used as a pressure tool or a pretext for investigating other matters — reflecting a pattern of procedural misuse.

8. Discrepancy between the scale of detentions and final case outcomes

Reports show a clear gap between the large number of detainees during investigations and the final judicial outcomes. A significant proportion of defendants in weaponpossession cases were released without conviction, after a charge reduction, or without serious followup of their files.

This situation reveals a violation of proportionality, as severe restrictions on personal liberty are imposed early on without sufficient legal justification for such restrictions once cases conclude.

9. Absence of unified standards and variations in judicial performance

The report shows noticeable variation in how courts and governorates handle detention cases, whether in detention duration, judicial responses to the prosecution's requests, or handling torture allegations. This inconsistency results from the absence of unified standards guiding judicial procedures, leading to legal instability and decisions subject to fluctuating personal discretion.

10. Weak institutional mechanisms for evaluation and accountability

The findings reveal clear deficiencies in the justice system's oversight and corrective mechanisms. There is disregard for inadequate reasoning, arbitrary detention, and torture-related complaints. Practices show the absence of an effective role for judicial inspection bodies or internal oversight in addressing and reducing these violations, leading to repeated errors and lack of reform.

Second: Recommendations

Based on the findings of the report, which revealed structural and systematic imbalances in the pretrial detention system — whether at the level of judicial practice, the role of the Public Prosecution, or the justice system’s handling of torture allegations, in addition to the lack of proportionality between the nature of charges and detention periods — the report presents a set of practical recommendations aimed at recalibrating pretrial detention as an exceptional measure, strengthening procedural safeguards and effective judicial oversight, according to the following axes:

First: ShortTerm Recommendations (Immediate Measures)

1. At the level of judges and courts

- Conduct an actual and complete physical examination of the detainee in the first hearing and every extension hearing and document it in detail.
- Record all essential detention data (location, authority, timing, duration of detention before presentation).
- Reject extension requests not accompanied by the full investigative file.
- Require individualized, detailed reasoning and prohibit formulaic reasoning.
- Allocate a minimum actual time for detention hearings and link it to casemanagement systems.
- Prohibit any informal communication or meetings between judges and parties outside the hearing.

2. At the level of Public Prosecution

- Request detention only when clear and substantiated legal grounds exist.
- Clarify the purpose of detention and link it to the charge and actual risks.
- Prohibit repeated extensions without tangible investigative progress.
- Prohibit reliance on “medical excuses” resulting from torture.

3. Right to Defense

- Enable the detainee to respond and discuss and record his statements verbatim.
- Inform the detainee of basic rights from the first hearing and ensure it is documented.
- Allocate specific times for extension hearings to ensure defense presence.

4. Torture Allegations

- Immediate referral for medical examination (preferably forensic) when an allegation or visible signs exist.
- Request the judge to follow up on medical report results and include them in the file.
- Immediate initiation of an investigation by the prosecutor present in the hearing upon allegation.
- Change the place of detention immediately when torture is suspected.
- Immediate reporting of torture by judges and prosecutors.

5. Security Agencies

- Prohibit the presence or interference of security agencies in detention hearings or influencing the court.
- Impose immediate and deterrent sanctions on perpetrators of torture or illtreatment.

Second: MediumTerm Recommendations (Institutional and Organizational Reforms)

1. Judiciary and Public Prosecution

- Assign specialized judges for detention cases (minimum 4 years of experience).
- Integrate actual time indicators for detention hearings within casemanagement systems.
- Train judges and prosecutors on: proportionality as a principal, Preventing procedural fraud and The Istanbul Protocol.

2. Right to Defense

- Impose mandatory legal representation in cases with penalties exceed three months.
- Develop an effective and institutional legal aid system.

3. Torture

- Ensure forensic medicine is the primary reference in torture cases instead of general medical committees.
- Give torture cases temporal priority in adjudication.
- Require linking tortureinvestigation results to the investigative file presented to the court.

4. Weapon Possession Cases

- Establish a specialized police unit to handle weapon cases.
- Require the presence of an actual seizure report and material evidence before accepting detention.
- Prohibit using the charge as a cover for investigating other crimes.
- Integrate the concept of procedural fraud into judicial training.

5. Oversight

- Activate judicial inspection to review detention and extension decisions.
- Regulate the relationship between the Public Prosecution and the judiciary as adversarial parties under oversight.

Third: Long Term Recommendations (Legislative and Structural)

1. Legislative Framework

- Review the Criminal Procedure Law to restrict pretrial detention and strengthen its alternatives.
- Introduce alternatives to detention (bail, electronic monitoring, house arrest).

2. Judicial Independence

- Repeal amendments that undermine protections against judicial dismissal and strengthen guarantees of independence.

3. Combating Torture and Accountability

- Activate and develop the national mechanism for combating torture with full oversight powers.
- Establish an effective system for protecting whistleblowers on cases of torture and illtreatment.

4. Criminal Justice and Oversight

- Ensure alignment between the number of weaponspossession cases and actual seized items per inventory procedures.
- Develop oversight systems for material evidence and in line with judicial procedures.

Annexes:

Annexes

Table (1): Distribution of Monitored Hearings by Court Location and Court Type

Court Location	Conciliation Court		First Instance Court		Total	
	Number	%	Number	%	Number	%
Jenin	152	8.1%	2	1.1%	154	7.4%
Tubas	32	1.7%	0	0.0%	32	1.5%
Tulkarm	46	2.4%	0	0.0%	46	2.2%
Nablus	405	21.5%	45	24.7%	450	21.7%
Qalqilya	115	6.1%	1	0.5%	116	5.6%
Ramallah & AlBireh	317	16.8%	0	0.0%	317	15.3%
Jericho	38	2.0%	14	7.7%	52	2.5%
Bethlehem	283	15.0%	40	22.0%	323	15.6%
Hebron	217	11.5%	80	44.0%	297	14.3%
Yatta	234	12.4%	0	0.0%	234	11.3%
Dura	49	2.6%	0	0.0%	49	2.4%
Total	1,888	91.2%	182	8.8%	2,070	100%

Table (2): Defendant’s Gender (where DetentionExtension Requests Were Presented)

Gender	Conciliation Court		First Instance Court		Total	
	Number	%	Number	%	Number	%
Male	1,858	98.4%	179	98.4%	2,037	98.4%
Female	30	1.6%	3	1.6%	33	1.6%
Total	1,888	100%	182	100%	2,070	100%

Table (3): Defendants’ Age Groups

Age Group	Conciliation Court		First Instance Court		Total	
	Number	%	Number	%	Number	%
18–29	830	44.0%	58	31.9%	888	42.9%
30–59	1,019	54.0%	122	67.0%	1,141	55.1%
60+	39	2.1%	2	1.1%	41	2.0%
Total	1,888	100%	182	100%	2,070	100%

Table (4): Types of Crimes Prosecuted

Crime Category	Conciliation Court		First Instance Court		Total	
	Number	%	Number	%	Number	%
01. Cybercrimes	52	2.8%	0	0.0%	52	2.5%
02. Crimes Against Property	411	21.8%	57	31.3%	468	22.6%
03. Crimes Against Public Office	43	2.3%	3	1.6%	46	2.2%
04. Crimes Against Persons	411	21.8%	39	21.4%	450	21.7%
05. State Security Crimes	69	3.7%	27	14.8%	96	4.6%
06. Economic Crimes	48	2.5%	2	1.1%	50	2.4%
07. Traffic Crimes	23	1.2%	0	0.0%	23	1.1%
08. Drugrelated Crimes	158	8.4%	26	14.3%	184	8.9%
09. Rape / Sexual Assault	22	1.2%	7	3.8%	29	1.4%
10. Weapon Possession	594	31.5%	16	8.8%	610	29.5%
11. Money Transfer	25	1.3%	3	1.6%	28	1.4%
12. Other Crimes	32	1.7%	2	1.1%	34	1.6%
Total	1,888	100%	182	100%	2,070	100%

Table (5): Cases in Which the Detaining Authority Was Specified

Detaining Authority	Conciliation Court		First Instance Court		Total	
	Number	%	Number	%	Number	%
Police	1,354	71.7%	147	80.8%	1,501	72.5%
Intelligence	154	8.2%	18	9.9%	172	8.3%
Preventive Security	317	16.8%	7	3.8%	324	15.7%
Internal Security	1	0.1%	0	0.0%	1	0.0%
Joint Security Committee	25	1.3%	4	2.2%	29	1.4%
Criminal Investigation	37	2.0%	6	3.3%	43	2.1%
Total	1,888	100%	182	100%	2,070	100%

Table (6): Court Response to Prosecution Detention Requests

Duration	Conciliation Court		First Instance Court		Total	
	Number	%	Number	%	Number	%
Release	173	9.2%	5	2.7%	178	8.6%
Judgment Issued	226	12.0%	7	3.8%	233	11.3%
days 7–1	129	6.8%	2	1.1%	131	6.3%
days 14–8	77	4.1%	1	0.5%	78	3.8%
days 15	874	46.3%	15	8.2%	889	42.9%
days 45	0	0.0%	99	54.4%	99	4.8%
Until end of trial	388	20.6%	33	18.1%	421	20.3%
Written request (duration not specified)	11	0.6%	19	10.4%	30	1.4%
Unspecified	10	0.5%	1	0.5%	11	0.5%
Total	1,888	100%	182	100%	2,070	100%

Table (7): Indicators of Court Procedures

Indicator	Conciliation Court	%	First Instance Court	%	Total	%
Cases where Prosecution submitted the investigative file	626	33.2%	51	28.0%	677	32.7%
Cases where judge requested the file	33	2.6%	22	16.8%	55	3.9%
Cases where defense requested the file	49	11.0%	12	18.5%	61	12.0%
Cases where judge accepted defense request	18	36.7%	9	75.0%	27	44.3%
Defendants allowed to respond	1,587	84.1%	157	86.3%	1,744	84.3%
Cases with defense lawyer present	770	40.8%	95	52.2%	865	41.8%
Cases where lawyer pleaded	656	85.2%	88	92.6%	744	86.0%
Court informed defendant of procedures	1,194	63.2%	92	50.5%	1,286	62.1%
Hearings adjourned for deliberation	79	4.2%	14	7.7%	93	4.5%
Presence of security agency representatives	455	24.1%	42	23.1%	497	24.0%

Table (8): Exposure of Defendants to Torture

Indicator	Conciliation Court	%	First Instance Court	%	Total	%
Defendant reported torture or signs observed	28	1.5%	0	0.0%	28	1.4%
No torture reported	1,860	98.5%	182	100%	2,042	98.6%
Total	1,888	100%	182	100%	2,070	100%

Table (9): Qualitative Indicators of Magistrate Judges’ Response to Torture Allegations

Indicator	Yes	%	No	%
Judge recorded torture allegation in the hearing minutes	20	71.4%	8	28.6%
Judge ordered medical referral	10	35.7%	18	64.3%
Judge opened an investigation	0	0.0%	28	100%
Defense requested medical referral	13	46.4%	15	53.6%
Judge returned detainee to same detention center	28	100%	0	0.0%
Torture allegation recorded in a separate official report	0	0.0%	28	100%
Prosecution initiated investigative steps	0	0.0%	28	100%

