



المركز العربي للأبحاث ودراسة السياسات  
Arab Center for Research & Policy Studies

Case Analysis | 28 April 2024

# Systematic Revenge: Israel’s “Administrative Detention” Policy Since 7 October

Nizar Ayoub

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Series: **Case Analysis**

28 April 2024

Nizar Ayoub

Lawyer active in defending human rights, specializing in IHL and international human rights law. He earned his PhD in International Law from the Institute of State and Law, Moscow (1998) and a Master's degree in Conflict Management and Mediation from Tel Aviv University (2019). He worked as a lawyer and legal researcher at rights group Al-Haq in Ramallah from 2000-2013 and has written many studies on the system of settler colonialism and apartheid in historic Palestine and the legal status of the Arab territories occupied since 1967 (Palestine and the Golan), particularly Israel's policy of ethnic cleansing in Jerusalem and the legal status of the city and its Palestinian residents. He has also published many studies on the conflict in Syria, including: "The Armed Conflict in Syria and Ways to Hold Perpetrators of War Crimes and Crimes Against Humanity Accountable" (*al-Nizā' al-musallah fī Sūriyā wa subul muḥāsabat murtakibī jara'im al-ḥarb wa-l-jara'im dīd al-insāniyyah*), "International Humanitarian Interventions in Syria and the Responsibility to Protect" (*al-Tadākhkhul al-duwalī al-insānī fī Sūriyā wa-mas'ūliyat al-ḥimāyah*) and "Transitional Justice or Transitional Policy? Foundations of Transitional Justice in Syria" (*'Adāla intiqāliyah am siyasaḥ intiqāliyah? Usūs al-'adālah al-intiqāliyah fī Sūriyā*).

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The Arab Center for Research and Policy Studies

Al-Tarfa Street, Wadi Al Banat

Al-Dayaen, Qatar

PO Box 10277, Doha

+974 4035 4111

[www.dohainstitute.org](http://www.dohainstitute.org)

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Israel's military and security services stepped up a long-running campaign of arrests in the occupied Palestinian territories after launching a war on the Gaza Strip on 7 October. Between that date and 31 March this year, approximately 7,845 Palestinian men, women and children were arrested.<sup>1</sup> This was accompanied by violent incursions, interrogations and summary executions; Israeli forces have severely beaten, abused and terrorised detainees and their family members, vandalised and demolished homes, and confiscated money and vehicles.<sup>2</sup>

The violence and ill-treatment inflicted on Palestinian detainees and the appalling conditions in which they are held has led to dozens of them dying at prisons and in camps, although the exact circumstances of these deaths remain unclear. Israeli newspaper *Haaretz* has reported the deaths of 27 detainees from the Gaza Strip being held at the Sde Teman army camp between the Israeli city of Beersheba and Gaza, the Anatot camp northeast of Jerusalem, or during interrogation at other facilities inside Israel. The Israeli army has not released information on how they died, but has said some had been injured in fighting while others were suffering from pre-existing medical conditions when they were detained.<sup>3</sup>

Palestinian citizens of Israel are also subject to a policy of abuse and oppression, with the aim of intimidating and silencing them. Since 7 October, they have faced a concerted campaign of silencing and repression by the Israeli security services, including arbitrary arrests and systematic vilification for simple acts such as expressing opinions in the war on the Gaza Strip, condemning Israel's attacks on innocent civilians, expressing sympathy with the people of Gaza, speaking about collective punishment and war crimes, or spreading news about what is happening in the territory. The authorities accuse anyone who expresses an opinion, whether through social media or by participating in protests, of violating Israeli laws, supporting "terrorist" organisations and inciting terrorism.<sup>4</sup>

This paper reviews the policies of abuse and revenge against Palestinian prisoners and detainees at Israeli prisons and detention centres, both civil and military, in light of International Humanitarian Law (IHL) and international human rights standards. Since the start of Israel's war on the Gaza Strip, Palestinians detainees have faced shocking and inhumane conditions in detention, as well as severe violence and abuse from the Israeli security services and prison guards.

## Systematic Abuse and Deplorable Conditions in Detention

According to figures published by the Israeli Prison Service, as of April 2024, there were 9,312 "security prisoners" in Israeli jails and detention centres. Israel held 2,071 sentenced prisoners, 2,731 inmates

1 Palestinian Prisoner's Society, *Mulakhas hamlat al-i'tiqālāt allatī nafadhahā al-iḥtilāl lil-yawm 28/3/2024*, 28/3/2024, accessed 16/4/2024, at: <https://bit.ly/3VEIoNK>.

2 Prisoner Support and Human Rights Association (Addameer), *Mulakhas mu'ayyāt hamalāt al-i'tiqāl ba'd al-sābi' min Uktūbar ḥattā tārikh al-yawm 31/1/2024*, 31/1/2024, accessed 16/4/2024, at: <https://bit.ly/3xaabei>.

3 "27 min sukkān Ghazzah laqū ḥatfahum fī marākiz al-i'tiqāl al-'askariyah fī 'Isrā'īl mundhu bidāyat al-ḥarb," *Haaretz*, 7/3/2024, accessed 21/3/2024 (in Hebrew), at: <https://bit.ly/3vasmq3>.

4 The Legal Center for Arab Minority Rights in Israel (Adalah), "*Ḥawla al-taḥqiqāt, al-i'tiqālāt wa-lawā'ih al-ittihām li-Filasṭīniyyi al-dākhil*," 14/11/2023, accessed 21/3/2024, at: <https://bit.ly/3Vzn8IZ>.



in pre-trial detention, and 3,661 administrative detainees, along with 849 individuals classified as “unlawful combatants.”<sup>5</sup>

All the available evidence indicates that the conditions faced by security prisoners and detainees have drastically declined since Israel launched its war of revenge on the Gaza Strip following the Hamas attack of 7 October. The prison administration has adopted a policy it calls “lockdown,” isolating inmates from the outside world and restricting their movement within prisons and detention centres, under a “temporary order” that has been extended 12 consecutive times, most recently on March 28.<sup>6</sup> The authorities also prevent the International Committee of the Red Cross (ICRC) from visiting prisons and detention centres, thus obscuring the conditions of Palestinian detainees – whether held on security or criminal charges – from the outside world. These detainees include children, women, and thousands of individuals detained since before the events of 7 October.<sup>7</sup> On January 18, 2024, Israel’s internal security minister Itamar Ben Gvir tweeted that: “The Red Cross will not receive information on Hamas terrorists imprisoned in Israel as long as the State of Israel does not receive a single piece of information on the situation of our hostages in Gaza.”<sup>8</sup>

The data reveals a noticeable increase in the number of security detainees in Israeli prisons and detention centres since 7 October, and their conditions have worsened as a result of Israel’s policies of systematic abuse, extreme violence and humiliation by the prison service and at military installations. Detention conditions have worsened considerably due to overcrowding, and unfair restrictions have been imposed on the movements of prisoners and detainees inside these facilities. They now have very limited access to medical services and treatment, and are forced to sleep on the floor.<sup>9</sup> Moreover, due to the war, it has become impossible for family members to communicate with prisoners, especially those from the Gaza Strip. Relatives of detainees and prisoners are afraid to go to court on behalf of their detained loved ones, fearing further abuse and retaliation from the Israeli authorities and security services.<sup>10</sup>

Even within Israel, the policies of retaliation, abuse and oppression against Palestinian detainees are not hidden. A report by the Israeli State Comptroller’s Office on the state of emergency at Israeli prisons and detention centres since the start of the war showed that security prisoners are being held in conditions of extreme cruelty. The report, based on prison visits by staff from the office of the State Comptroller for Prisons, revealed a bleak picture of abuse against security prisoners and detainees. It said they face, among other things, unbearable overcrowding, poor sanitary conditions, bad hygiene, pest infestations, insufficient ventilation, a lack of basic facilities and so on.<sup>11</sup>

<sup>5</sup> Hamoked, ‘Security’ Inmates in Prisons inside Israel: According to data provided by the Israel Prison Service, 22/3/2024, accessed 18/4/2024, at: <https://tinyurl.com/7t76b4f8>.

<sup>6</sup> Israeli Prison Service, *Temporary Order – Suspension of Routine Activities in Time of War*, 16/10/2024, accessed 21/4/2024 (in Hebrew), at: <https://bit.ly/445MUHf>.

<sup>7</sup> The Association for Civil Rights in Israel (ACRI), *Repeal of the Ban on Red Cross Visits to Palestinian Prisoners*, 22/2/2024, accessed 24/3/2024, at: <https://bit.ly/49d4r18>.

<sup>8</sup> Itamar Ben Gvir on X, 18/1/2024, accessed 23/3/2024, at: <https://bit.ly/4coFp1l>.

<sup>9</sup> Hamoked, *HCI1537/24: Association for Civil Rights in Israel Et Al. v. Government et al*, 22/2/2024, accessed 21/4/2024 (in Hebrew), at: <https://bit.ly/4d5Xime>.

<sup>10</sup> *Ibid.*, paras 24 - 25.

<sup>11</sup> Israeli Ministry of Justice, *A Special Report from the State Comptroller’s office on the prison emergency following the war*, 6/2/2024, accessed 24/3/2024 (in Hebrew), at: <https://bit.ly/3T5BMcb>.

Prisoners the State Comptroller met during inspections reported that security forces had confiscated their personal effects, including clothes and photos of their family members, and had forced them to wear the same clothes for 24 days. According to the report, at the Al-Maskobiyya detention centre in central Jerusalem, electricity to the cells was cut off daily from 5:00 AM until 9:00 PM, meaning prisoners stayed in the dark all day, including when eating. Mattresses and blankets are taken from them during the day, and they are prevented from going out into the prison yard. Some prisoners said that had not seen daylight since their detention.<sup>12</sup>

The cruel and humiliating conditions facing Palestinian prisoners and detainees have prompted several human rights organizations to submit petitions to the Supreme Court of Israel to challenge the authorities' policies on arrest and detention, and to demand information on the fate and conditions of detainees and prisoners, specifically residents of Gaza. These actions have included four petitions based on the principle of Habeas Corpus, urging the court to holding hearings for the detainees so it can rule on the legality of their detention.

However, the court rejected all of these petitions, fuelling fears for Palestinians held in inhumane conditions and exposing them to retaliation and collective punishment in a way that places their lives and wellbeing in danger.<sup>13</sup> Several Israeli human rights organizations also submitted a petition to the Supreme Court calling on the authorities to provide the ICRC with information about prisoners and detainees, and to allow it to visit them, check on their circumstances in detention, and inform their families where they are being held and in what conditions.<sup>14</sup> At the time of writing, the court had not yet considered this petition.

Since the outbreak of the war, a large number of Palestinian security detainees have been isolated and completely cut off from the outside world, as well as prohibited from meeting their lawyers. The Association for Civil Rights in Israel (ACRI) has obtained testimonies of rights abuses committed against security prisoners and detainees, including severe beatings and humiliation. There are also reports that Israel's Shin Bet internal security service has been holding suspected Hamas members in darkness since 7 October, continuously playing them the Israeli national anthem throughout the day, as jailers subject them to a barrage of insults.<sup>15</sup>

A petition submitted to the Israeli Supreme Court on 24 February by ACRI, several doctors affiliated with human rights organizations, and others, stated that six prisoners held by the Israeli prison service had died. Another, 38-year-old Palestinian died at the Ketziot prison in the Negev after being severely beaten by the guards, according to testimonies by his cellmates.<sup>16</sup>

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<sup>12</sup> Ibid.

<sup>13</sup> "HCJ 1537/24," para. 26.

<sup>14</sup> Ibid., para. 30.

<sup>15</sup> "HCJ 1537/24," para. 66.

<sup>16</sup> Ibid, para. 69.



Reports also indicate that detainees are showing evidence of illness and violence due to their inhumane conditions, torture, and ill-treatment. They are also prevented from receiving adequate medical care, following reductions in the medical treatment available to prisoners and the fact that some Israeli hospitals refuse to treat Palestinian prisoners and detainees at all, under instructions by the Ministry of Health.<sup>17</sup>

Male Palestinian detainees are not alone in facing harsh and inhumane conditions at Israeli prisons. Women and children are also at risk. Dozens of detained Palestinian mothers have been separated from their young children. Israel is currently holding at least 80 female prisoners, in extremely harsh conditions (this figure does not include female prisoners from Gaza detained at military bases).<sup>18</sup>

Since 7 October, Palestinian female prisoners and detainees have faced countless forms of abuse, including solitary confinement, deprivation from food and water, harassment, strip searches, insults, confiscation of their possessions and the stripping of all their rights.<sup>19</sup>

Both male and female detainees from the Gaza Strip have been subjected to enforced disappearance, and no accurate data are available on the numbers of detainees from the territory currently held by Israel. Dozens of female former detainees who have been released have given shocking testimonies about the humiliation, abuse and stripping of their rights during their arrest and transportation to the camps. They reported being threatened with rape, undergoing humiliating strip searches and harassment, being cursed and insulted by soldiers, and being forced to remove their hijabs throughout their detention.<sup>20</sup>

Nor are Israel's policies of arrest, repression, and intimidation limited to residents of the occupied Palestinian territories (OPT). They also extend to Palestinian citizens, whom Israel aims to silence and prevent from protesting at its genocidal war against Gaza and its civilian population, to the extent of banning them from showing the slightest hint of solidarity with their people.

The Legal Center for Arab Minority Rights in Israel (Adalah) and the Emergency Committee of the Supreme Follow-up Committee for the Arab Population together recorded some 251 cases of arrests, interrogations, and warnings by the security services in the period from 7 October to November 13, 2023, including 68 cases involving women. These practices are clearly aimed at deterring the Palestinian population inside Israel from organizing or taking part in any type of demonstration or sit-in opposing the war on Gaza – or even criticizing it on social media. According to Adalah, 76 indictments have been filed against Palestinian men and women from within the Green Line on

<sup>17</sup> Physicians for Human Rights – Israel, *Systematic Violation of Human Rights: The Incarceration Conditions of Palestinians in Israel Since 7 October*, February 2024, accessed on 30/3/2024, at: <https://bit.ly/3TC5u4V>.

<sup>18</sup> Prisoner Support and Human Rights Association (Addameer), *Warqat haqā'iq šādīra 'an mu'assasat al-asrā 'ashiyata 'yūm al-asīr al-Filistīnī' al-sābi' 'ashar min Nīsān / Abril 2024*, 16/4/2024, accessed 21/4/2024, at: <https://bit.ly/3W8lQoJ>.

<sup>19</sup> Prisoner Support and Human Rights Association (Addameer), *Fī yawm al-umm... al-ihtilāl ya 'tiqal 28 ummān Filastīniyah fī sījūnihi*, 21/3/2023, accessed 16/4/2024, at <https://bit.ly/3IKimB1>.

<sup>20</sup> Ibid.



charges of supporting “terrorist” organizations, under Article 24 (A) of the Anti-Terrorism Law, and incitement to terrorism, under Article 24 (B).<sup>21</sup>

## International Law and the Protection of Detainees

International law includes various safeguards for the protection of Palestinians in Israeli detention. International human rights standards stipulate that anyone subjected to any type of detention or imprisonment, including Palestinians held at Israeli prisons and detention centres, should be treated decently and with respect for their human dignity.<sup>22</sup> It is not permissible to restrict the rights of detainees under any circumstances, except on orders issued by a judicial authority, with special attention to the conditions and rights of women (particularly those who are pregnant or breastfeeding), children and juveniles, the elderly, the sick, and the disabled.<sup>23</sup> Given that Israel is the occupying power in the OPT, it has an obligation to implement the standards stipulated by international human rights agreements and covenants within those territories.

Both customary international humanitarian law and international treaty law provide protection for Palestinians detained by Israel. This obliges the occupying state to detain them in decent, humanitarian conditions, provide them with access to medical services and sufficient amounts of food, allow them to meet their lawyers, provide the ICRC with details about their detention, and enable its delegates to visit prisons and detention centres to check on the conditions of inmates there.

## International Human Rights Law

Israel's policies of revenge and abuse against Palestinian prisoners and detainees, particularly since 7 October, are inconsistent with international human rights standards. These start with those guaranteed by the Universal Declaration of Human Rights (1948), which guarantees every person “the right to life, liberty and security of person.”<sup>24</sup> It stipulates that nobody can be arbitrarily arrested or detained,<sup>25</sup> subjected to any type of torture or cruel, inhuman or degrading treatment or punishment,<sup>26</sup> and that everybody has the right to have their cases heard publicly by an independent impartial court that allows defendants all the means necessary to defend themselves.<sup>27</sup>

Israel's practices also constitute serious violations of the Covenant on Civil and Political Rights (1966), which stipulates that “everyone has the right to liberty and security of person,” prohibits arbitrary

<sup>21</sup> Adalah, *Hawla al-tahqiqāt*.

<sup>22</sup> UN, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (established by General Assembly resolution 43 / 173 of 9 December 1988), Principle 2, accessed 23/4/2024, at: <https://tinyurl.com/5t3fymv8>.

<sup>23</sup> *Ibid.*, Principles 3 - 5.

<sup>24</sup> UN, *Universal Declaration of Human Rights*, (1948), Article 3, accessed 28/3/2024, at: <https://tinyurl.com/bjtb5fxm>.

<sup>25</sup> *Ibid.*, Article 9.

<sup>26</sup> *Ibid.*, Article 5.

<sup>27</sup> *Ibid.*, Articles 10 - 11.





arrest or detention, and requires that anyone who is detained must be told why and promptly informed of the charges they face.

Israel's practices violate the right of Palestinian prisoners and detainees to appear before a judge as quickly as possible. This also contravenes international human rights standards, which provide all those deprived of their liberty the right to a court ruling, without delay, on the legality of their detention, ordering their release if they are being held illegally.<sup>28</sup>

Israel's policy of administrative detention, established under British mandate-era emergency laws dating back to 1945, amounts to arbitrary detention and thus constitutes a flagrant violation of Palestinians' human rights. Israel argues that it is holding these detainees on the basis of secret evidence that cannot be revealed to the detainee or their lawyer. This violates the right to a fair and public trial and equality before the judiciary, or the principle that "the everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."<sup>29</sup> Administrative detention is executed through military orders issued by the occupying authorities, which are valid for a maximum period of six months but can be renewed an unlimited number of times. This means that detainees may spend many years in prison without ever finding out what charges they are facing.

These punishments and political measures are manifestations of an official Israeli government policy that sees administrative detention as a tool to collectively punish the Palestinians. This type of detention is prohibited by international law, because the detention orders do not specify the maximum period for which a detainee can be held. The military commander may therefore extend a detention order according to his individual discretion. This means many Palestinians are detained for years without being convicted of any violation or having an opportunity to challenge the allegations against them – or even be informed of their nature. They are thus prevented from clearing their names, due to the absence of any indictment in the first place, and can be arbitrarily detained for an indefinite period.<sup>30</sup>

Various segments of the Palestinian population have suffered from this policy of arbitrary, "administrative" detention. Military commanders in charge of the OPT since 1967 have issued thousands of administrative detention orders against Palestinians, including political and human rights activists, workers, university students, and lawyers.

The conditions endured by Palestinian prisoners and detainees at Israeli prisons and detention camps, especially since 7 October, include torture, ill-treatment, deprivation of access to food and health care, prohibitions on meeting their lawyers, and a lack of information on where many of them are being held. All these are serious violations of international laws and norms. Specifically, they violate the "Body of Principles for the Protection of All Persons under Any Form of Detention or

<sup>28</sup> UN, *International Covenant on Civil and Political Rights*, (1966), Articles 9 and 11, accessed 28/3/2024, at: <https://tinyurl.com/38dw2m7v>.

<sup>29</sup> *Ibid.*, Article 14 (1).

<sup>30</sup> The Israeli Information Center for Human Rights in the Occupied Territories (B'tselem), *Administrative Detention*, accessed 23/4/2024, at: <https://tinyurl.com/266vbvpy>.



Imprisonment” adopted by the UN General Assembly in 1988, which prohibits subjecting prisoners and detainees to torture or ill-treatment, justifying torture under any circumstances,<sup>31</sup> or keeping any person in detention without giving him or her a realistic opportunity to make a statement as soon as possible before a judicial authority in order to defend themselves, with the support of a lawyer.<sup>32</sup> The same treaty guarantees detainees and prisoners the right to inform members of their families of where they are being held,<sup>33</sup> to access necessary medical care, and to undergo medical examinations and to receive appropriate treatment where needed.<sup>34</sup>

The policy of abusing and retaliating against Palestinian prisoners and detainees also contradicts the UN's Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) adopted by the world body in 2015. These rules relate to protecting the rights of persons deprived of their liberty, whether they have been sentenced or not. Israel's policy also violates the obligation to treat detainees with respect for their dignity, given their inherent status as human beings, and to refrain from subjecting them to torture or mistreatment, provide them with the same medical care as any patient, along with adequate food and water.<sup>35</sup>

## International Humanitarian Law (IHL)

International Humanitarian Law (IHL), which applies in situations of armed conflict and occupation, regulates all matters related to deprivation of liberty, and constitutes the fundamental legal basis for the protection of persons deprived of their liberty, whether prisoners of war or normal detainees. The Third and Fourth Geneva Conventions of 1949 contain many provisions regulating matters related to the internment both of prisoners of war and civilians,<sup>36</sup> including the restoration of a person's liberty. Both conventions, as well as the First Additional Protocol to the Geneva Conventions (1977), stipulate that all torture or ill-treatment of prisoners and detainees is prohibited; that prisoners and detainees must be held in appropriate, humane conditions; that detainees such as women and children must be given special treatment; and that prisoners must be provided with the necessary medical care, sufficient quantities of food, and opportunities to spend enough time outdoors and contact their families.<sup>37</sup>

Israel's policy of administrative detention also violates its obligations under IHL to guarantee a fair and legally sound trial. This practice even does away with the presumption of innocence unless proven

<sup>31</sup> UN, *Body of Principles for the Protection of All Persons*, Principle 6.

<sup>32</sup> *Ibid.*, Principles 11 - 12.

<sup>33</sup> *Ibid.*, Principle 16.

<sup>34</sup> *Ibid.*, Principles 24 - 25.

<sup>35</sup> UN, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, Rule 1, accessed 28/3/2024, at: <https://tinyurl.com/y757p6ut>.

<sup>36</sup> Third Geneva Convention, Article 21 (1), Fourth Geneva Convention, Articles 42 (1) and 78 (1), accessed on 28/3/2024, at <https://tinyurl.com/4budpmwc>.

<sup>37</sup> Tilman Rodenhäuser, "Strengthening IHL protecting persons deprived of their liberty: Main aspects of the consultations and discussions since 2011," *International Review of the Red Cross*, No. 903, December 2016, accessed 28/3/2024, at: <https://tinyurl.com/3dnxccc>.



guilty, the right to a trial without delay, the right of the accused or their legal representative to question witnesses, and the right to a public trial, given that IHL prohibits holding such trials in secret.<sup>38</sup>

IHL also distinguishes between civilian detainees and persons with prisoner-of-war status. This latter category includes members of organized resistance movements who belong to a party to the conflict and operate within or outside their home territory, even if this territory is occupied. Such persons must fulfil several basic conditions, such as submitting to the command of a person who is responsible towards his subordinates, adhering to the laws and customs of war, carrying any weapons openly, and wearing a symbol that distinguishes them from others.<sup>39</sup>

The legal status of Palestinian prisoners and detainees in Israeli jails is a subject of perennial controversy among legal experts. Some see them as prisoners of war, placing their cases under the Third Geneva Convention of 1949 and its provisions on the protection of such POWs. Others consider them to be detainees who have committed security violations and are therefore subject to the 1949 Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, which includes dozens of provisions related to the treatment and protection of detainees.

However, regardless of this distinction, Israel's policies of revenge and abuse against Palestinian prisoners and detainees at its detention facilities, especially since 7 October, amount to serious violations of the rules and provisions of IHL, which oblige Israel to respect their right to protection and humane treatment.

## Conclusion

The sweeping campaign of arrests of Palestinians by Israeli forces and security services since the start of the war on the Gaza Strip is clearly intended to exact revenge on Palestinians, punish them and silence them. Prisoners and detainees in Israeli prisons and detention camps are living in inhumane conditions, subjected to torture and ill-treatment and deprived of medical attention and appropriate care. They do not even receive sufficient quantities of food, pursuant to an official decision by the Ministry of National Security headed by extreme right-wing minister Itamar Ben Gvir under the pretext of Israel's state of emergency and security needs.

Yet despite the Israeli authorities' policies and arbitrary measures against Palestinian prisoners and detainees, which constitute blatant violations of international human rights standards and Israel's obligations under IHL to protect and treat all its detainees and prisoners humanely, the Supreme Court has ignored these violations, rejecting a string of petitions submitted by Israeli human rights organisations challenging the legality of detaining Palestinians in such harsh and inhumane conditions.

<sup>38</sup> ICRC, *International Humanitarian Law Databases*, Rule 100, 25/3/2024, <https://tinyurl.com/5xfucc6u>.

<sup>39</sup> UN, *Geneva Convention Relative To The Protection Of Civilian Persons In Time Of War*, (12 August 1949), accessed 23/4/2024, at <https://tinyurl.com/46xjmv92>.



Allegations that Hamas committed violations during its attack on Israeli population centres near the Gaza Strip in October do not release Israel from its obligations under IHL or give it a free pass to carry out mass retaliation and collective punishment against Palestinian detainees. Indeed, the practices described above reinforce suspicions that Israel is concealing further, grave violations against Palestinian prisoners and detainees inside its jails and detention camps.



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