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**Contro l'isolamento**

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## N. 1/2024 CONTRO L'ISOLAMENTO

a cura di Rachele Stroppa

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# ISOLATION AND DETERIORATING CONDITIONS FOR PALESTINIANS IN ISRAELI CUSTODY SINCE OCTOBER 2023

*Oneg Ben Dror\**

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## *Abstract*

*This article explores the deteriorating conditions and severe human rights violations faced by Palestinian prisoners and detainees in Israeli prisons, since October 2023. Drawing from the International Guiding Statement on Alternatives to Solitary Confinement, we highlight critical systemic failures that have enabled ongoing violations, resulting in violence, abuse, and fatalities among detainees. These findings underscore the urgent need for accountability measures to address and prevent further abuses.*

*Keywords: Palestinian prisoners and detainees, solitary confinement, medical neglect, violence and abuse*

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## 1. Introduction

Since the start of the war on Gaza in October 2023, the number of Palestinians detained in Israel Prison Service (I.P.S.) facilities has doubled to nearly 10,000, including an unprecedented 3,500 held in administrative detention<sup>1</sup>. Thousands more have been arrested in the Gaza Strip and are currently detained either in Israeli military bases or have been handed over by the military to the I.P.S. Among those detained are elderly individuals, women, minors, and people with chronic illnesses, injuries, and disabilities. Since the onset of the war, the Israeli military has also detained over 100 healthcare professionals in Gaza.

Palestinian prisoners and detainees are held in prisons and military facilities under harsh conditions, including severe overcrowding, medical neglect, and malnutrition. Additionally, they face violence, torture, humiliation, and abuse, which have already led to dozens of deaths. Physicians for Human Rights – Israel (P.H.R.I.) is aware of at least 60 Palestinians who have died in I.P.S. and military custody since October 2023. While this number is already unprecedented, there are reasons to suspect that the actual death toll could be even higher.

## 2. Drawing from the Solitary Confinement Pipeline

The recommendations in the International Guiding Statement on Alternatives to Solitary Confinement (I.G.S.) (Antigone and P.H.R.I., 2023) are aimed at reducing and ultimately eliminating the use of solitary confinement. The I.G.S. views solitary confinement not as an isolated problem but as part of broader structural issues within the criminal legal system. Among the most alarming of these concerns is mass incarceration, which has emerged as a system of racialized social control affecting underprivileged groups (Alexander, 2010) and vulnerable populations, including individuals suffering from mental health problems (Correctional Leaders Association, 2020), resulting in their over-representation in prisons and solitary confinement conditions worldwide.

The overcrowding caused by mass incarceration heightens stress and friction among people held in prisons. Insufficient prison resources such as healthcare services exacerbate these frictions, while a punitive approach by prison authorities fails to effectively resolve these issues, instead resorting to coercive measures – including solitary confinement. This has led to the establishment of a solitary confinement pipeline. What was once considered an extreme measure has

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<sup>1</sup> Administrative detention is the practice of detaining individuals without formal charges, based on confidential information, and for an indefinite period.

evolved into standard practice within the prison system.

To effectively reduce the use of solitary confinement in the long term, we must address the wider systemic issues within the criminal legal system and the way prisons are administered. In the following sections, we draw lessons from the solitary confinement pipeline and the recommendations for addressing it. We also show how these insights apply to the extreme conditions faced by incarcerated Palestinians over the past year, examining the underlying factors that contributed to this crisis and what sustains its continuation.

### 3. A hostile legal system

The history of how the Israeli legal system has been shaped to prosecute Palestinians since the State's earliest days is crucial for understanding the current situation.

Following the 1948 Arab-Israeli War, Palestinians who remained in the territory that became Israel were subjected to military rule from 1948 to 1966. During this period, Israel restricted the movement of Palestinians, expropriated land, and suppressed Palestinian political activity. Expulsion orders and various administrative restrictions were issued against Palestinians, and Palestinians were prosecuted in military Courts (Bäumel, 2011; Letter from 92 Palestinian detainees 1958; Minutes of the Knesset Internal Affairs Committee meetings 1950, 1953).

Approximately 8,300 Palestinians were detained in makeshift Prisoner of War (POW) camps. Men “of fighting age”, typically defined as 15-5 but often including young children and seniors, were taken to these camps, where they spent 6-18 months working with 81% ultimately expelled (Gortler and al-Ghubari, 2024).

Over the years, the Israeli legal system evolved to facilitate and justify the detention of Palestinians under increasingly restrictive measures. This includes the military rule instituted until 1966, the establishment of a military Court system after Israel's 1967 occupation of the West Bank and Gaza, and the ongoing governing of Palestinian civilians. These escalating conditions combine aspects of colonialism (foreign rule) and a perpetual state of emergency (martial law) (Hajjar, 2005). Among the tools excessively employed by Israel in its military Courts is administrative detention orders. Palestinians are held based on secret information, without any charges against them, and for indefinite periods. Administrative detention orders can be issued for up to six months but can be extended for an additional six months, indefinitely. Detainees do not know when they will be released, with some having spent years in these conditions (Pelleg-Sryck, 2011).

In cases where actual charges are filed against Palestinians in the West Bank, they often rely on a military order issued in August 1967, just two months after Israel's

occupation of the West Bank. Military Order 101 criminalizes participation in any gathering of more than ten people “which could be construed as political” without a permit, with violations punishable by a sentence of up to ten years. It further prohibits publishing materials “of political significance” or displaying “flags or political symbols” without Israeli military approval. In effect, any gathering that exceeds ten participants in the West Bank can be deemed unlawful (Jaraisy and Feldman, 2014).

In 2010, the Israeli military promulgated Military Order 1651, codifying 20 previous orders and imposing a 10-year sentence for anyone who «attempts, verbally or otherwise, to influence public opinion in the Area [the West Bank] in a manner which may harm public peace or public order». The order also defines “incitement” as «publishing words of praise, sympathy or support for a hostile organization, its actions or objectives». Additionally, the order outlines vaguely described “offenses against authorities”, with penalties including potential life imprisonment for any “act or omission that entails harm, damage, or disturbance to the security of the Area or the security of the I.D.F.” or for entering areas in close “proximity” to military or state property (Shakir, 2019). Unlike Palestinians, Israeli settlers arrested in the West Bank are tried in civilian courts inside Israel (Hajjar, 2005).

Alongside administrative detention orders, Israeli authorities also introduced the

designation of “unlawful combatants” in 2002. The legislation was developed concurrently with similar American policies, emerging in the broader international context of the Bush administration’s post-9/11 redefinition of terrorism. Both the Bush administration and, later, the Israeli government intended to use the term to justify the detention of foreign nationals from enemy territories. Israel first applied the term “unlawful combatants” to Lebanese nationals, using them as bargaining chips in prisoner exchanges. Following Israel’s military withdrawal from the Gaza Strip in 2005 and its subsequent classification as “enemy territory”, the term also began to be applied to Gazans, particularly during the 2008-2009 war on Gaza, when about 200 individuals were detained under this designation. Since 2011, the number of Gazans detained by Israel has decreased significantly. Many have completed their sentences, while others were released as part of a deal between Hamas and Israel to exchange 1,027 Palestinian prisoners for Israeli Corporal Gilad Shalit in late 2011 (Latte Abdallah, 2022).

Approximately 40% of the Palestinian male population across mandatory Palestine has been to prison, meaning that almost every Palestinian family has had at least one member arrested at some point. The threat of arrest looms over a very large number of people, including men, women, and children, and is applied according to Israel’s intelligence needs and political priorities. This

policy creates a system of governance over the Palestinian population through a penal system (Latte Abdallah, 2022; Agamben, 2007).

In the summer of 2023, the number of Palestinians under administrative detention rose to 1,200 – the highest in over more than two decades<sup>2</sup> – with the total number of Palestinians in Israeli prisons reaching 5,000. As of October 2024, there are a total of around 12,000 Palestinians incarcerated in Israeli prisons and military bases. Including 3,400 classified as administrative detainees, approximately 2,300 are categorized as unlawful combatants (1,600 in prisons and 700 in military bases) and nearly 3,000 are pre-trial detainees (Hamoked website, 2024)<sup>3</sup>.

#### 4. Prison conditions under the Netanyahu-Ben Gvir government<sup>4</sup>

Even before Itamar Ben Gvir took office as security minister, he had already advocated as Knesset member for worsening the conditions of incarcerated Palestinians, advocating for degrading their meals, limiting family visits to once a year (Altman, 2021), and denying access to healthcare services that improve their quality of life (Bill to

amend the Prisons Ordinance, 2022). Such proposals contradict the medical profession's position, which argues that it is impossible to distinguish between "life-sustaining" and "life-improving" medical procedures. Additionally, he consistently called for implementing a death penalty for Palestinians labeled as "terrorists" (The proposed Penal Law, Amendment - Death Penalty Law for Terrorists, 2021), seeking to revoke the Court's discretion to impose alternative punitive measures and to allow a majority vote rather than the current requirement of unanimous consent to impose a death sentence.

After becoming the National Security Minister (a title at his own initiative) in December 2022, Ben Gvir gained control of the I.P.S., allowing him to introduce various new measures. These included banning incarcerated Palestinians from baking bread in prisons while inflating the amount the I.P.S. spends on food by 250% (Bandel, 2024). He also restricted shower time to just four minutes, threatened to confiscate televisions and eliminated all organizational affiliations to prevent prisoners from the same organizations from being placed together in the same cell (Brasky, 2023). In response to the escalation of their conditions, Palestinian prisoners

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<sup>2</sup> During the First Intifada (1987-1993) the number of administrative detainees reached 5,000 – the highest per capita in the world. During the Second Intifada, from 2000 to 2005, the highest number of administrative detainees was 960.

<sup>3</sup> <https://hamoked.org.il/prisoners-charts.php> (accessed 15 October 2024).

<sup>4</sup> Information in the following sections is mainly based on testimonies taken during lawyers' visits and after people have been released.

announced a collective hunger strike in September 2023 (Khahmon *et al.*, 2023).

### 5. Isolation and enforced disappearance

Following October 7, 2023, the I.P.S. declared a “lockdown policy” for incarcerated Palestinians. Within this policy, one of the most alarming aspects is isolation from the world outside. Lawyer visits became the only way to communicate with Palestinians in Israeli custody. But even this way is extremely limited to non-existent as lawyers face significant obstacles in scheduling visits with their clients. Even when appointments are confirmed, they might be scheduled for months in the future. In addition, when lawyers arrive for scheduled meetings, they are often cancelled on the spot, with prison administrations providing various excuses, such as emergency situations.

Most Gazan detainees have been designated "unlawful combatants", allowing their detention for extended periods, sometimes several months, without access to legal counsel or a court hearing (Abbas and Litvin, 2024). During the first six months, it was impossible to track down detainees from Gaza. Currently, a mechanism for locating them has been established, but it remains cumbersome; many requests go unanswered, and there are cases where individuals who have been released or have died are reported as still detained, and viceversa. Such cases

amount to forced disappearance, as they create a troubling uncertainty regarding the status and whereabouts of the individuals in question.

Beyond restricting access to legal representation, the Israeli government has barred international organizations, including the International Committee of the Red Cross (ICRC), from accessing Israeli prison facilities since October 2023. In addition, incarcerated Palestinians have been deprived of familial contact since that time. The ongoing reports of deaths in Israeli custody have further intensified the concerns and fears of families, leaving many in agonizing uncertainty regarding the condition of their loved ones and whether they are even still alive.

In addition to withholding information on the locations, conditions, and fate of detainees, the I.P.S. also refuses to provide data on the detention conditions in the various wings or the number of incarcerated individuals held in each wing – despite being obligated to do so. For example, the number of incarcerated Palestinians held in solitary confinement wings since last October remains unclear. Although the I.P.S. is required to disclose this information to the Knesset, a P.H.R.I. request for information submitted in early September has not yet received a response by the required deadline, leaving the data currently unavailable.

As highlighted in the I.G.S. (Antigone and P.H.R.I., 2023), documentation, oversight, and accountability are essential cracks

in the prison wall, offering insight into prison conditions and enabling action to foster change.

When individuals are isolated and cut off from the outside world, it creates a fertile ground for human rights violations. Section A of the I.G.S. articulates the need for extensive oversight and accountability mechanisms, emphasizing that robust frameworks must be established to prevent the normalization of such abuses.

## **6. Confinement to cells, water and electricity cuts**

Under the “lockdown policy”, Palestinians were allowed to leave their cells for no more than an hour a day – and sometimes for mere minutes. This limited time outside often had to be used for showering, as the shower facilities in certain wings are located outside the cells. Palestinians who have since been released or who were able to meet an attorney have reported being unable to shower for weeks due to these circumstances, and that their meeting was the first time they were seeing daylight since the lockdown began. The electricity and water supply were disconnected in the wings holding Palestinians. In some wings, this lasted for a few hours daily, while in others, they remained cut off for most of the day. As a result, sinks, toilets, and showers became unusable, making it nearly impossible to maintain hygiene.

### **6.1. Starvation**

Prior to October 7, Palestinians in Israeli prisons could use their canteen allowances to consolidate food purchases and prepare their own meals. Yet, since the war began, all groceries have been confiscated, canteen accounts have been frozen, and purchases have been prohibited. Instead, prisoners have since been receiving meals from the I.P.S., with many complaining that they remain hungry due to the insufficient quantity and poor quality of the food. The minister’s stated aim of restricting the diets of incarcerated Palestinians has succeeded in causing widespread malnutrition, with many Palestinians who have been held even for a few months in prison losing upwards of 10 kg.

### **6.2. Overcrowding**

Even before the war, Palestinians in incarceration settings were being held in overcrowded conditions, with approximately 2.5 square meters (27 square feet) of space per person in cells. On October 18, 2023, the Knesset approved legislation allowing the unrestricted crowding of prisons and revoking the right of every individual to a bed, forcing many to sleep on the floor, some without a mattress. The number of individuals per cell since October 2023 has more than doubled.

### 6.3. Confiscation of all possessions

All personal possessions, including blankets and clothing, were confiscated after October 7. In addition, books, newspapers, stationery materials, and all electrical appliances kept in the cells, including televisions and radios, were seized by prison staff. Those able to meet with their attorneys said they were left without enough clothes and that they were suffering from the cold weather. H.S., who is incarcerated in Ofer prison, arrived at a meeting with his attorney in November wearing a t-shirt, saying that he was left without warm clothing after his possessions were confiscated; others reported they suffered from hypothermia. They further disclosed that they are being held in cells emptied of all objects other than beds and mattresses, of which there are far too few. This policy was also enforced in the solitary confinement units, resulting in even harsher conditions and leaving individuals with nothing but the bare walls of their cells. This intensification of solitary confinement – characterized by the removal of television, literature, and all personal belongings – further harms the mental health and well-being of those incarcerated.

### 6.4. Medical neglect

Since the I.P.S. declared a state of emergency, until February, Palestinians in Israeli prisons have reported being denied access to

medical care and the cancellation of scheduled treatments in hospitals. Other than a few chronically ill patients, no Palestinians have been able to visit prison medical clinics and be examined by prison physicians. After February, clinic visits and hospital referrals were partially restored, but incarcerated Palestinians still complain about the lack of follow-up care for chronic patients and the absence of diagnostic services.

H.J. is a Palestinian administrative detainee held in solitary confinement who suffers from multiple medical conditions, including high blood pressure, elevated blood lipids, and hypercoagulability. She requires regular treatment for these medical issues, along with medical supervision and a specialized diet. However, the supply of her regular medication is inconsistent, and when her treatment is altered, she does not receive any explanation for the changes. In addition, she reports that she is not under medical supervision, that the conditions of her confinement are unsuitable for her medical needs, and that even fundamental legally required conditions – such as a window, ventilation in her room, and daily yard access – are not being met.

The overall emerging picture reveals a substantial deficiency in medical supervision, including for mental health patients, affecting both those requiring regular treatment and those experiencing the outbreak of an illness while in prison. This is especially critical for individuals held in solitary confinement,



a setting known to exacerbate mental health deterioration and contribute to the onset of mental illnesses.

Since March 2024, hundreds of incarcerated Palestinians have contracted scabies. The outbreak has been triggered by overcrowding, lack of treatment, and the I.P.S.'s refusal to provide or allow the provision of clothing and hygiene products. Even patients who had already recovered from the infection were reinfected due to the harsh conditions. Following a Court petition on the matter (High Court Case No. 5908/24, P.H.R.I. v. I.P.S.), additional clothing was distributed in several wings, along with some hygiene products and limited laundry services. However, as of November 2024, the scabies outbreak continues to impact many incarcerated Palestinians.

Muhammad Zabar, 21, died in Ofer prison in February 2024. He suffered from a chronic intestinal disease that required a specialized diet, which he was denied, causing him to suffer for several weeks. By the time he was finally transferred to a hospital, it was too late, and he died within a few hours of arrival.

## **7. Violence, abuse, and death in custody**

Following prison visits by attorneys on behalf of P.H.R.I. and other organizations, along with the release of some incarcerated Palestinians, testimonies emerged detailing the severe staff violence against Palestinians in custody since October 7. In dozens of cases, Palestinians in incarceration settings stated that guards entered one or two cells at a time and brutally beat them with batons without any prior provocation. In some prisons, such occurrences took place regularly, indicating that these are not singular incidents of wayward guards but a pattern of systematic violence. Palestinians in custody also reported physical assaults, including punching, slapping, and kicking whenever they exited their cells or were transferred to a different facility – including against sick and disabled individuals. Other testimonies describe degrading treatment and severe abuse, including sexual assault. Palestinians in prison have complained that even after sustaining serious injuries, their requests for medical assistance continued to be ignored, and, sometimes, even met with further beatings.

Media reports have revealed the deaths of at least 60 Palestinians in Israeli custody over the past year, with 43 of them from the

Gaza Strip<sup>5</sup>. Some died in military detention camps, while others died en route, likely due to extreme violence at the hands of Israeli soldiers transporting them from Gaza<sup>6</sup>. P.H.R.I. is aware of at least 17 Palestinians who have died in I.P.S. custody, with its physicians participating in the autopsies of five of them. Two of the autopsies indicated severe signs of violence as the cause of death, while others showed evidence of medical neglect. In the other cases, P.H.R.I. was unable to send a physician on its behalf because the autopsy was performed without notifying the families or had not yet taken place.

## 8. The role of the Israeli Courts

The declaration of a state of emergency, as stipulated in Section 9 of the Order of Government and Justice (and later in the Basic Law: The Government), has been in effect in Israel continuously since its declaration of independence on May 19, 1948, and remains in place today. This state of emergency grants the Knesset and the government the authority to implement specific measures that allow for the infringement of fundamental freedoms (The joint committee for the Foreign Affairs and Security Committee and the Law and Justice Committee regarding the

declaration of a state of emergency, 2016). The Israeli Supreme Court's rulings are characterized by a reluctance to intervene in military and security decisions, particularly when justified under emergency regulations (Latte Abdallah, 2022).

In a High Court petition filed by Israeli human rights groups (High Court Case No. 7650/23 The Association for Civil Rights in Israel v. the Minister of National Security) regarding mass overcrowding, the Court dismissed the claims of severe rights violations and discrimination of Palestinians in incarceration settings. In rejecting the appeal, the Court ruled that “in times of war, detainees and security prisoners may be accommodated on the floor and in overcrowded conditions”.

In response to another High Court petition concerning the incarceration conditions of Palestinians in Israeli prisons since the start of the war (High Court Case No. 7753/23 The Association for Civil Rights in Israel v. the Minister of National Security), the state argued that the deteriorated conditions and the isolation from the outside world were necessary security measures. The High Court accepted this claim despite the extreme conditions in the prisons and the many warnings by rights organizations

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<sup>5</sup> <https://www.haaretz.com/israel-news/2024-06-03/ty-article/.premium/idf-conducts-criminal-investigation-into-48-deaths-of-gazans-in-the-war-mostly-detainees/0000018f-dd46-db0d-a98f-dd4f27950000> (accessed 15 October 2024).

<sup>6</sup> [https://www.btselem.org/sites/default/files/publications/202408\\_welcome\\_to\\_hell\\_eng.pdf](https://www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf) (accessed 15 October 2024).

regarding systematic human rights violations under the auspices of the national security emergency.

In addition, on December 18, 2023, the Knesset approved amendments to the Unlawful Combatants Law, extending to 180 days the period in which attorney visits can be denied and allowing up to 75 days before detainees must be brought before a judge.

In a petition to the High Court concerning these amendments (High Court Case No. 1414/24 *The Public Committee Against Torture in Israel v. The State of Israel*), the state proposed revising the terms to a maximum of 45 days without a detention order, 45 days during which attorney visits could be prevented (70 days with judicial approval), and 45 days before detainees must appear before a judge. Since detainees can be held under this law for prolonged and indeterminate periods – often without any charges filed – this law effectively constitutes another form of administrative detention, with even harsher limitations on contact with the outside world. Often, the state’s objective is to hold detainees as bargaining chips and to collect information about the areas they come from. Since the start of the war, Israel has arrested over 4,000 Palestinians in Gaza, classifying most of them as unlawful combatants, with about 1,900 since release. As of July 2024, some 2,300 Gazans classified as unlawful combatants remain in Israeli prisons and military bases. All testimonies of those who have been released include severe

accounts of torture and abuse. More than 40 Gazan detainees did not survive their detention and died while in Israeli custody.

When attorneys presented evidence of violence to military and civil Courts, the judges observed the signs of abuse on the bodies of the detainees. Yet, other than noting the concerns and notifying the I.P.S., the Courts did not order any measures to prevent violence and protect the rights of those in custody. Similarly, P.H.R.I. and other organizations brought harrowing evidence of violence and abuse amounting to torture to the attention of the High Court during the proceedings of Case No. 7753-23, but this did not elicit any substantial response from the Court.

## 9. Conclusion

The Minister’s inflammatory statements and legislative proposals aimed at worsening the lives of Palestinians in prison, along with the existing hostile legal system allowing the political persecution and mass incarceration of Palestinians, has been implemented under the existing state of emergency policy, without the need for special legislation or accountability mechanisms.

The “lockdown policy” in Israeli prisons as part or state of emergency over the past year, endorsed by Israel’s Courts, has served as justification for a policy of severe human rights violations, maltreatment, abuse, and unprecedented violence, resulting in tragic

consequences for the health, well-being, and lives of Palestinians in Israeli custody.

For more than a year, the health and lives of Palestinians in Israeli detention facilities have been in danger. As time goes on, the impact of the extreme conditions and medical neglect becomes increasingly difficult to endure. Consequently, the most recent deaths in custody have predominantly involved chronically ill patients. The lack of accountability allows these abuses to continue, highlighting the need for immediate action and international pressure to end these violations.

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