

THE PROTECTION OF PRISONERS OF WAR IN THE ISRAEL-PALESTINE CONFLICT BASED ON INTERNATIONAL HUMANITARIAN LAW AND ISLAMIC LAW

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Abstract

This study examines the treatment of prisoners of war (POWs) in the Israel-Palestine conflict through the frameworks of International Humanitarian Law (IHL) and Islamic law. Both legal systems emphasize humane treatment for POWs; however, reports indicate severe rights violations against Palestinian detainees in Israel, including torture and inhumane conditions. Conversely, Hamas is reported to treat POWs by relatively higher standards. By integrating IHL and Islamic principles, this research provides a novel perspective on legal and ethical dimensions in POW treatment amid a prolonged conflict. Findings underscore the urgent need for enforcing humane standards to curb human rights abuses. Although based on secondary data, the study emphasizes the importance of further primary-source research and calls for enhanced international monitoring and strict adherence to IHL to ensure legal protections for POWs in active conflict zones.

Keywords: *Protection of Prisoners of War; International Humanitarian Law; Islamic Law; and the Israel-Palestine Conflict*

A. INTRODUCTION

1. Background

The conflict between Israel and Palestine has become one of the most complex and protracted geopolitical issues in the world, with deep historical roots and diverse influencing¹factors. Since the beginning of the 20th century, significant shifts in power in the Palestinian territories have created tensions between the local community and the Jewish community, the event that became the starting point of this conflict was the defeat of the Ottoman Turks in World War I (First), which resulted in the transition of the

¹ Ihwanarotama Bella Indriasandi and Wildana Wargadinata, "Palestine-Israel Conflict Resolution Analysis Study in the Perspective of Islamic History," *AI-AZHAR INDONESIA JOURNAL HUMANITIES SERIES* 8, no. 2 (2023): 102, <https://doi.org/10.36722/sh.v8i2.1742>; Tinok Haryani and Joko Setiyono, "Analysis of Jurisdictional Challenges in the Application of Humanitarian Law to the Protection of Victim's Human Rights in the Conflict Between Israel and Palestine," *International Journal of Social Science Research and Review* 7, no. 4 (April 9, 2024): 396–405, <https://doi.org/10.47814/ijssrr.v7i4.2102>; Raden Roro Ninda Karisha, "THE IMPACT OF ACTS OF GENOCIDE BY ISRAEL ON LIFE IN GAZA, PALESTINE," *Sindoro CENDIKIA EDUCATION* 5, no. 3 (2024): 1–10, <https://doi.org/doi.org/10.9644/sindoro.v4i5.3317>.

Palestinian territories to British² rule. Britain's promise to the Jewish community through the Balfour Declaration in 1917 in favour of the establishment of a "national home for the Jewish people" in Palestine became one of the main triggers for prolonged³ tensions.

The conflict between Israel and Palestine has been going on for decades and erupted again on October 7, 2023, Hamas launched a surprise attack on Israel, which then triggered a military response from Israel⁴. This attack was based on the Israeli Zionist movement, which is considered to threaten the sustainability of Palestine through the expansion of Jewish settlements, in addition, Israel also besieged the Al-Aqsa Mosque and imposed a blockade in the Gaza Strip, forcing Hamas to respond to the action⁵.

The ongoing armed conflict between Israel and Palestine often leads to attacks on civilians, who are the target of mass killings, violence, sexual harassment, expulsions, and restrictions on access to food, water, and medical care, in addition to many civilians being captured and taken prisoner of war⁶. These arrests include combatants and non-combatants, both in good health and wounded. It is undeniable that such prisoners of war were often subjected to very inhumane treatment during their period of detention⁷.

Quoted from the *website of the International Committee of the Red Cross* which explains about prisoners of war that prisoners of war are combatants (military members who participated in the war) who have fallen into the hands of the enemy, or certain non-combatant individuals (people who are not included in the military) whose status as prisoners of war is granted by International Humanitarian Law. Often, prisoners of war are Palestinians, both adults and children, which is the subject of research by Israel, one of which is the forcing of prisoners to consume drinks containing uranium⁸. In addition,

² Syahrul Adhim and Yuliati Yuliati, "The Conflict of the Formation of the State of Israel in 1948-1973," *ASANKA: Journal of Social Science And Education* 2, no. 1 (2021): 61–70, <https://doi.org/10.21154/asanka.v2i1.2429>.

³ Adhim and Yuliati.

⁴ Nurlita Pratiwi, "Violation of the Principles of International Humanitarian Law in Israeli Military Aggression Against Palestine," *Indonesian Law Journal* 3, no. 2 (2024): 58–66, <https://doi.org/10.58344/jhi.v3i2.721>.

⁵ Simela Victor Muhamad, "Konflik Palestina (Hamas) - Israel," *Quick Info: A Brief Study of Actual and Strategic Issues* XV, no. 20 (2023): 6–10.

⁶ I Gede Susila Yuda Putra, Dewa Gede Sudika Mangku, and Ni Putu Rai Yuliartini, "Legal Protection of Children of War Victims in the Perspective of International Humanitarian Law (Case Study of Palestinian Child Prisoners of War by Israel)," *Journal of the Justician Community* 5, no. 2 (2022): 243–59, <https://doi.org/10.23887/jatayu.v5i2.51618>.

⁷ Senta Esterlita Ayomi, Natalia Natalia L. Lengkong, and Stefan Obadja Voges, "Treatment of Prisoners of War Under International Humanitarian Law," *Lex Et Societatis* VII (2020): 153–64.

⁸ Ralph Schoenman, *The Hidden History of Zionism* (Jakarta: Sajadah Press, 2007).

prisoners of war often get bruises, rape wounds and some even die⁹.

In that sense, the protection of prisoners of war is a very urgent issue, according to International Humanitarian Law or the law of war, prisoners of war should be protected and treated with respect for their dignity, and prohibited from being tortured or treated inhumanely¹⁰, however, many reports indicate that Palestinian prisoners of war are often subjected to treatment that violates these ¹¹legal principles. In addition, from the perspective of Islamic Law, the protection of prisoners of war is also strictly regulated, verses in the Qur'an and hadith underline the importance of good treatment of prisoners, as well as the prohibition of acts of revenge or excessive violence against them, this shows that despite the protracted armed conflict, the principle of humanity must still be upheld ¹².

In previous research, which became a benchmark in this study, in the first study written by Ali Zaeinal Abidin (2023) which focused on the treatment of prisoners of war from the perspective of International Humanitarian Law and Islamic Law in general¹³, in addition to another study written by Senta Esterlita Ayomi, et.al (2020), focused more on the treatment and determination of the status of prisoners of war based on International Humanitarian Law only¹⁴, the next previous study written by Queency Chelsea Femmy Tani (2019) focused on the protection of prisoners of war based on International Humanitarian Law and Human Rights and how the law is ¹⁵enforced. Previous studies have played an active role in knowing and knowing what kind of legal protection will be obtained, but here the researcher conducts reform research by focusing on the protection of prisoners of war in the Israeli armed conflict against Palestine, which aims to comprehensively examine issues related to the protection of prisoners of war and

⁹ Cahyo Yulianto, "The Difference Between Hamas and Israel's Treatment of Prisoners of War, Corpses Become Real Evidence," okezone.com, 2023, <https://news.okezone.com/read/2023/11/29/18/2929139/perbedaan-perlakuan-hamas-dan-israel-terhadap-tawanan-perang-jenazah-jadi-bukti-nyata?page=all>.

¹⁰ Queency Chelsea Femmy Tani, "A Study of Humanitarian and Human Rights Law on Violations of the Humanitarian Principles of Prisoners of War," *Lex Et Societatis* 7, no. 3 (2019): 28; Lona Puspita, "Legal Protection of Prisoners of War Based on the Geneva Convention III of 1949 and the Declaration of Human Rights," *Faculty of Law, Tamansiswa University of Padang*, 2017, 4.

¹¹ Yulianto, "The difference in the treatment of prisoners of war between Hamas and Israel, the corpses are real evidence."

¹² Ali Zainal Abidin, "Treatment of Prisoners of War in International Humanitarian Law and Islamic Law," *Qonuni: Journal of Islamic Law and Studies* 3, no. 01 (June 16, 2023): 1–8, <https://doi.org/10.59833/qonuni.v3i01.1161>.

¹³ Abidin.

¹⁴ Esterlita Ayomi, Natalia L. Lengkong, and Obadja Voges, "TREATMENT OF PRISONERS OF WAR UNDER INTERNATIONAL HUMANITARIAN LAW."

¹⁵ Tani, "A Study of Humanitarian Law and Human Rights Regarding Violations of Humanitarian Principles of Prisoners of War."

violations that occur in this conflict, this research will also discuss various things, including legal analysis as well as the perspective of International Humanitarian Law and Islamic Law from the ongoing conflict, in addition to looking at the complexity and depth of this problem, this research is important to be carried out with an in-depth analysis of the legal protection of prisoners of war, it is hoped that this research can contribute to the reform and strengthening of legal protection for prisoners of war. This topic is particularly relevant in the context of the Israeli-Palestinian conflict, where human rights abuses continue to occur and are often ignored by the international community and promote awareness of the importance of respecting the rights of prisoners of war.

2. Problem Formulation

1. How to Protect Prisoners of War Based on International Humanitarian Law and Islamic Law?
2. How is the Protection of Prisoners in the Israeli-Palestinian Armed Conflict Based on International Humanitarian Law and Islamic Law?

3. Research Methods

The method used in this study is a normative legal research method using Statute Approach, Conceptual Approach to answer complex legal and ethical questions regarding the treatment of prisoners of war (POW), with a focus on comparative and interpretive analysis. By integrating the principles of HHI and Islamic law, this approach seeks to uncover discrepancies between mandated protection and reported practices. Data collection is carried out using secondary sources, including existing academic literature, reports from international organizations, media articles, and legal documents. These resources provide comprehensive insights into the legal framework, violation reports, and contextual interpretations of POW treatment by the parties involved. This approach provides an in-depth understanding of legal obligations and practices in conflict zones, and demonstrates the need for further research with primary sources to enrich insights into POW conditions.

B. DISCUSSION

1. Protection of Prisoners of War Under International Humanitarian Law and Islamic Law

a. Protection of Prisoners of War Under International Humanitarian Law

1. Prisoners of War Under International Humanitarian Law

International Humanitarian Law or commonly called the law of war regulates war which has humanitarian principles to help people affected by war without discrimination and aims to reduce human suffering, this humanitarian principle is a reminder that the parties to the dispute must pay attention to humanity where the parties are prohibited from using violence that will cause excessive injuries to the affected people, including prisoners of war¹⁶. In addition to upholding the principle of humanity, there is also the main source of this law of war which is the main reference, one of the main sources in International Humanitarian Law is the Geneva Convention, which in this study will focus on the III Geneva Convention of 1949 concerning the treatment or protection of prisoners of war and Additional Protocol 1 of 1977¹⁷.

Before we discuss the protection of prisoners of war, we must understand the concept or definition of prisoners of war according to International Humanitarian Law. Prisoners of war in general can mean soldiers captured during war, but in addition to the army, in war there must be members of militias or corps who are part of one of the parties to the ¹⁸conflict, this has been regulated in Article 4 letter A of the Third Geneva Convention of 1946 which misleads that,

"ART. 4.— A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

- 1) Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.*
- 2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfill the following conditions: a) that of being commanded by a person responsible for his subordinates; b) that of having a fixed distinctive sign recognizable at a distance; c) that of carrying arms openly;*

¹⁶ Farming.

¹⁷ Syifa et al., "Legal Protection Against the Repatriation of Prisoners of War in International Armed Conflicts According to the Geneva Conventions III of 1949," *Journal Diponegoro* 5, no. III (2016): 1–18.

¹⁸ Esterlita Ayomi, Natalia L. Lengkong, and Obadja Voges, "TREATMENT OF PRISONERS OF WAR UNDER INTERNATIONAL HUMANITARIAN LAW."

d) that of conducting their operations in accordance with the laws and customs of war. 3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power. 4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model. 5) Members of crews, including masters, pilots and apprentices of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law. 6) Inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war"¹⁹.

In the Article, it can be seen that prisoners of war are people who have fallen into the enemy's power which has several categories, such as members of the armed forces, members of militias or volunteer corps, members of the regular armed forces, people

¹⁹ Translation in Indonesian "Article. 4.— A. Prisoners of war, within the meaning of this Convention, are persons who fall into one of the following categories, who have fallen into the power of the enemy: 1) Members of the armed forces of a Party in the conflict as well as members of militias or volunteer corps who are part of such armed forces. 2) Members of other militias and other members of the volunteer corps, including members of organized resistance movements, who belong to one of the Parties to the conflict and operate within or outside their own territory, even if such territory is occupied, provided that such militia or volunteer corps, including such organized resistance movements, meet the following conditions: a) are ordered by the person responsible for their subordinates; b) have a fixed distinguishing mark that can be recognized from a distance; c) openly carrying weapons; d) carry out its operations in accordance with the laws and customs of war. 3) Members of the regular armed forces who profess allegiance to a government or a ruler who is not recognized by the Detaining State. 4) Persons who accompany the armed forces without actually being members of them, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of work units or bodies responsible for the welfare of the armed forces, provided that they have received authorization from the accompanying armed forces, who for that purpose must provide them with an identity card similar to the model to which it is attached. 5) The crew of the ship, This includes captains, pilots and operators of commercial vessels and crew of civil aircraft from parties to the conflict, who do not benefit from better treatment under other provisions of international law. 6) Inhabitants of unoccupied territories who, when the enemy approaches, spontaneously take up arms to resist the invading forces, without having time to form regular armed units, provided they carry weapons openly and respect the laws and customs of war."

accompanying the armed forces, all crew members including captains, pilots and ship's operators, residents of unoccupied territories who, when the enemy approaches, spontaneously taking up arms to resist the invading forces, without having time to form a regular armed unit, as well as people who are members of or have been members of the armed forces of an occupied country, or in short, a person can be called a prisoner of war not only a soldier or combatant as mentioned in points 1, 2, and 3 but there are several categories that can make a person called a prisoner of war, One of them is the civilian population as in point 4.5, these civilians can be said to be prisoners of war if the population raises weapons, if they do not take up arms the civilians if they are captured or surrender cannot be called prisoners of war²⁰.

In addition to the Geneva Convention III of 1949 in Additional Protocol 1 of 1977 also clarifies anyone who is entitled to be categorized as a prisoner of war, as in Article 43, we can conclude that the armed forces of a party include all armed units organized under the responsible command, including in situations where the party is not officially recognized and members of the armed forces, Except for health workers and clergy, considered combatants who have the right to engage in hostilities, Article 44 asserts any combatant captured by the enemy must be recognized as prisoners of war, meaning they are entitled to certain protections and emphasizes their responsibility in maintaining protection for civilians during combat.

2. Protection of Prisoners of War Under International Humanitarian Law

Upholding the principle of humanity for prisoners of war is the main goal of the 1949 Geneva III convention where everyone is obliged to uphold the honor of prisoners of war, one of which is by avoiding violence, humiliation, persecution and forms of revenge²¹. The protection of prisoners of war is also in the Geneva III convention in section 2 (two) on general protection for prisoners of war which is divided into several articles, such as:

²⁰ Esterlita Ayomi, Natalia L. Lengkong, and Obadja Voges, "TREATMENT OF PRISONERS OF WAR UNDER INTERNATIONAL HUMANITARIAN LAW"; Syifa et al., "Legal Protection of the Repatriation of Prisoners of War in International Armed Conflicts under the Geneva Convention III of 1949"; Hanung Hezbollah Hamda, "The Concept of Prisoner of War Protection According to International Humanitarian Law and Islamic Law," *Jurnal Hukum IUS QUIA IUSTUM* 12, no. 30 (2005): 174–92, <https://doi.org/10.20885/iustum.vol12.iss30.art2>.

²¹ Syifa et al., "Legal Protection of the Repatriation of Prisoners of War in International Armed Conflicts According to the Geneva Conventions III of 1949."

a. Article 13 regulates the obligation of the detaining state to treat prisoners of war in accordance with the principles of International Humanitarian Law, one of which is the humanitarian principle by prohibiting all clashes of persecution, both in the form of physical and non-physical violence, as well as insults and has been expressly stated in this Article that the detaining state shall not use violence against prisoners of war and in the event of acts that can harm prisoner of war, it would be considered a gross violation of the Geneva Conventions.

b. Article 14, which talks about prisoners of war who are entitled to respect for themselves and their honor.

c. Article 15 regulates that whoever holds prisoners of war captive has an obligation to provide free food and medical care according to the needs of each prisoner of war.

d. Article 16 regulates the preferential treatment of prisoners of war based on age and health, in addition to which all prisoners of war must be treated fairly without discrimination of race, nationality, religious or political beliefs, or others.

e. Articles 25 to 28, in these Articles stipulate that countries that hold prisoners of war must meet their basic needs, including clothing, food, and clothing, and that prisoners of war must be provided with proper clothing, food, and shelter.

f. Articles 29 to 32, in these articles, regulate the obligation of the state to maintain the health of prisoners of war.

g. Articles 34 to 42 which regulate these Articles regulate the obligation of the detaining state to provide freedom to prisoners of war in carrying out religious, intellectual, and physical activities, prisoners must be free to worship in addition, the detaining state must also support educational, entertainment, and sports activities among prisoners.

h. Articles 58 to 68 regulate the obligation of the detaining state to pay advances and wages to employed prisoners of war as well as all financial resources for each prisoner of war.

i. Articles 58 to 68, these articles regulate the right of prisoners of war to communicate with the outside world.

j. Article 78, in this Article regulates the right of prisoners of war to lodge complaints about the conditions and treatment they receive to the military ruler or representatives of the protectorate state.

k. Articles 99 to 108, in these articles, regulate the obligation of the detaining state to guarantee the right of prisoners of war to obtain a fair and impartial trial.

The protection of prisoners of war is not only regulated in the Geneva III convention in Protocol 1 of 1977 but also provides protection for prisoners of war, such as Article 43 which has been discussed above regarding the protection of the right to protection must be observed, in addition to Article 43, in Article 11 of Protocol 1 Supplement 1977 also discusses the protection of prisoners of war which guarantees health and the prohibition of conducting research experiments on people who are in the under the authority of the opposing parties ²². Article 11 discusses the protection of the health and welfare of detained prisoners of war, where actions that endanger their health, whether intentionally or negligently, are strictly prohibited and prisoners of war must not be forced to undergo medical procedures that are incompatible with their health conditions. Performing actions such as mutilation, medical experiments, or organ transplants is also strictly prohibited, unless there is a clear medical reason, but blood or skin donations are permissible and should only be done voluntarily and for medical purposes, if any act endangers the health of prisoners of war can be considered an offense. Prisoners of war also have the right to refuse surgical operations and medical records must be made for any blood donation or medical procedure, which must be readily checked by the patron state.

a. Prisoners of War Under Islamic Law

Islamic law is a law that attaches importance to peace in daily life and is also included in providing protection to prisoners of war, because the Qur'an has explained this ²³. In language prisoners of war can be called al asiru or usro al harb, while according to the term prisoners of war means infidels who are captured and held alive by Muslims during the war or after the war ends, this is allowed in the Qur'an according to Surah At-Taubah verse 5 and Surah Muhammad verse 4 ²⁴. Quoted from Hanung who quoted an opinion from Farhad Malekian defining war in *The Concept of Islamic International Criminal Law*; Another opinion of Al Ghunaimi in his book *The Muslim Conception of International Law and Western Approach*

²² Hamda, "The Concept of Prisoner of War Protection According to International Humanitarian Law and Islamic Law."

²³ Abidin, "The Treatment of Prisoners of War in International Humanitarian Law and Islamic Law."

²⁴ Hamda, "The Concept of Prisoner of War Protection According to International Humanitarian Law and Islamic Law."

which also defines a prisoner of war as a prisoner of war is someone captured by a Muslim army, and when viewed from the two understandings of Farhad Malekian and Al Ghunaimi that a prisoner of war is those who are made into prisoners of war. Prisoners of war in Islamic Law are only combatants, but this is still considered inappropriate because Islamic Law does not recognize the division of combatants and non-combatants ²⁵.

1. Protection of Prisoners of War Under Islamic Law

In the Qur'an and As-Sunnah, it has been explained how to treat and provide protection to prisoners of war who are held captive, such as:

a. Surah Al-Anfal verse 67, in this verse explains the prohibition of capturing the enemy with the intention of getting as much ransom as possible during the war, before the enemy is completely defeated.

b. Surah Al-Anfal verse 70 which explains that Muslims have an obligation to spread the teachings of Islam to prisoners of war captured by Islamic soldiers, but a Muslim is forbidden to force anyone, including prisoners of war, to convert to Islam, because Allah has affirmed that there is no compulsion in religion.

c. Surah Al-Baqarah verse 190 explains the message that even in conditions of war, Muslims are prohibited from treating enemies and prisoners in an inhumane or overstepping manner, torture or violation of the dignity of prisoners of war is strictly prohibited.

d. Surah Muhammad verse 04 explains that Muslims are obliged to treat prisoners of war well and must not make prisoners of war as slaves and in the Qur'an it is clear that prisoners of war only have two choices, namely, to be released well or to be released with ransom.

e. The hadith quoted by Muhammad Abu Zahroh which explains that the Prophet Muhammad PBUH said that "You accept my will to do good to the prisoners" ²⁶, in the hadith it can be concluded that Muslims who captivate prisoners of war must do good and not arbitrarily to prisoners of war.

The main source in Islamic Law is the Qur'an, but sometimes the verses in the Qur'an still explain in general or general terms so that they require a formulation

²⁵ Hamda.

²⁶ Hamda.

that interprets the Qur'an which can be done by means of ijtihad by the Fuqaha ²⁷. In Islamic studies there are two groups of prisoners of war, namely, First, children, women, fools, crazy people and the like, this first group the Prophet Muhammad PBUH is strictly forbidden to be killed, get physical treatment, violence, intimidation and the like, Second, the adult male group, regarding this group Fuqaha has different opinions, there are those who allow to be killed or only in captivity, but Al Jaziriy explained that the scholars allowed this second group to be killed, held captive or enslaved but this was based on the situation and conditions ²⁸.

Regarding the treatment of prisoners of war, there are several opinions, quoting from Hanung who quoted from Sulaiman Rasjid in Islamic Fiqh explaining where prisoners of war are divided into two groups, namely, first, children and women, where this first group is forbidden to be killed, this is in accordance with the hadith narrated by HR. Bukhari and Muslim "From Ibn Umar; Indeed, the Prophet has checked in one of his battles. He found that a woman had been killed. Therefore, he does not justify killing women and children", Second, this group is adult men whose punishment is handed over to the commander or imam where there are four types of punishment, namely the death penalty, release, exchange of enemy prisoners or being made a slave of the sahaya ²⁹.

Another opinion of Muhammad Ali Ashobuny explains that the Fuqaha agreed to kill prisoners of war, even Ali's opinion is in line with the opinion of Imam Al-Jashosh who is of the opinion that killing prisoners of war has been Ijma' which is based on practice and hadith, where there are several prisoners of war who were killed such as Uqbah bin Abi Mu'aith, Nadhir bin Harit, Halal bin Khothol, Abdullah bin Abi Sarh and Maqis bin Hababah ³⁰. However, in killing a prisoner of war must meet the conditions that must be met, namely the approval of the commander or imam so that Muslims cannot kill of their own volition, and must be in accordance with the principle in Islam that prisoners of war must be treated humanely and protect the dignity and honor of every prisoner of war ³¹.

²⁷ Hamda.

²⁸ Hamda.

²⁹ Abidin, "The Treatment of Prisoners of War in International Humanitarian Law and Islamic Law."

³⁰ Hamda, "The Concept of Prisoner of War Protection According to International Humanitarian Law and Islamic Law."

³¹ Hamda.

2. Protection of Prisoners in the Israeli-Palestinian Armed Conflict Based on International Humanitarian Law and Islamic Law

The conflict between Israel and Palestine heated up again on October 7, 2023, starting with Hamas attacking Israel, this is based on Israel continuing to threaten the existence of Palestinian territories ³². The most highlighted thing is that many civilians are captured and taken prisoners of war regardless of whether they are civilians or soldiers and during their detention, the prisoners are often subjected to very inhumane treatment. One of the inhumane treatments was the one that happened to the three Palestinian brothers ³³.

Quoted from antaranews.com, there are three Palestinian brothers arrested by Israel in the Gaza Strip who revealed that they experienced torture and persecution during detention. Sobhi Yaseen and his two brothers ³⁴, Sady and Ibrahim, were among the many men who became prisoners of war after the Israeli military besieged the area where they lived, they reported the harsh treatment they received during their time as prisoners of war, such as beatings, humiliations, and physical torture, which was also described by more than 20 (Twenty) other former prisoners as evidenced by their showing circular scars on their wrists. stitch scars on the thighs, scars on the backs as well as signs of torture on their bodies such as Israeli soldiers turning off cigarettes on the backs of prisoners of war ³⁵. Another example quoted from BBC.com, which discusses a video showing Israeli soldiers stripping male prisoners was uploaded on the YouTube account of Yosii Gamzoo Letova, who is an Israeli soldier. The video shows a male prisoner sitting tied to a chair while being interrogated naked, wearing only his underwear and bloody hands and tied ³⁶up. In addition, it was quoted from okezone.com discussing the difference in treatment between Hamas and the Israeli Army towards prisoners of war, where, according to existing reports, Hamas, according to existing reports, did not apply torture to their prisoners and tried to treat the hostages well, thus ensuring that

³² Muhamad, "Konflik Palestina (Hamas) - Israel."

³³ M Razi Rahman, "How Do Israeli Soldiers Treat Prisoners from Gaza?," antaranews.com, 2023, <https://www.antaranews.com/berita/3893619/bagaimana-perlakuan-tentara-israel-terhadap-tahanan-asal-gaza>.

³⁴ Rahman.

³⁵ Rahman.

³⁶ Merlyn Thomas and Jamie Ryan, "Video of Israeli Army Stripping Gaza Prisoners Violates International Law, Experts Say," BBC.com, 2024, <https://www.bbc.com/indonesia/articles/c9e87e8pv0mo>.

they did not suffer injuries. On the other hand, Israel is often criticized for the torture suffered by prisoners, which often results in physical injuries and even death due to inhumane treatment. The difference is also seen in terms of the delivery of the body. Many bodies received from the Israeli side show evidence of violence, while Hamas rarely sends bodies to Israel ³⁷.

In the context of International Humanitarian Law, the protection of prisoners of war is governed by humanitarian principles that prohibit acts of violence, or acts that degrade prisoners of war. The Geneva III Convention of 1949, in particular, stipulates that prisoners of war are entitled to humane treatment and protected from any form of violence or humiliation during their detention. They are entitled to physical protection, medical care, and treatment with respect for their personal honor and dignity, without distinction based on race, religion or nationality, but reports from various news sources, including the BBC and Antara News, indicate allegations of mistreatment of Palestinian prisoners by the Israeli army. For example, three Palestinian brothers named Sobhi Yaseen, Sady, and Ibrahim, reported that they were subjected to physical torture and inhumane treatment during detention, such as beating and extinguishing cigarettes on their bodies. This violates the provisions of humanitarian law that prohibit acts of violence or torture against prisoners. On the other hand, reports from several media stated that Hamas claimed to not torture the prisoners of war they held, even providing good treatment to ensure their safety. There are also differences in the treatment of bodies, where bodies handed over by Israel often show signs of violence, while Hamas rarely hands over bodies to Israel.

From the perspective of Islamic humanitarian law, prisoners of war must also be treated well. The Qur'an and Hadith teach the prohibition of torturing or cruelly treating prisoners. In Islamic teachings, prisoners of war should be entitled to be protected from any form of torture or inhuman treatment and what Israel has done to Palestinian prisoners of war has certainly violated the laws of war in Islamic Law.

C. CONCLUSION

This research directly answers the key question of how the protection of prisoners of war is applied in the Israeli-Palestinian conflict based on International Humanitarian Law and Islamic Law. The results show that, although these two legal frameworks

³⁷ Yulianto, "The difference in the treatment of prisoners of war between Hamas and Israel, the corpses are real evidence."

explicitly stipulate the humane treatment of prisoners of war, violations of these basic rights continue to occur, particularly against Palestinian prisoners of war in Israeli custody. Media reports and secondary data explain that Palestinian prisoners often face physical violence, torture, and inhumane treatment, while Hamas reportedly treats their prisoners of war relatively better, although there is still a lot of in-depth data needed and that this research contributes to the development of new perspectives that combine in-depth analysis of the application of International Humanitarian Law and the principles of Islamic Law related to the protection of prisoners of war, especially in complex conflicts such as those in Israel-Palestine. This approach enriches the academic discourse on human values in both legal frameworks, but the study has limitations, particularly in access to primary data from hard-to-reach conflict sites, as well as reliance on secondary reports that may be biased. Recommendations for future research include the use of additional data, which are expected to strengthen the validity of the findings and deepen the analysis of the role of the international community in protecting prisoners of war in the Israeli-Palestinian conflict.

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