

# Collective Punishment as a Violation of International Law : The Case of Israel and Eritrea

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In the wake of recent clashes between Eritrean asylum seekers and Israeli authorities, the question of whether returning refugees can be considered a form of collective punishment under international law has emerged. This article examines the legal implications of such actions, considering the principles of non-refoulement and international human rights law. It also explores the potential steps that can be taken to prevent Israel from taking drastic measures that may contravene international legal norms.

In a recent development, Israeli Prime Minister Benjamin Netanyahu strongly condemned Eritrean asylum seekers involved in violent clashes in Tel Aviv, signifying a significant escalation of tensions. This article delves into the legal ramifications of returning refugees as a potential method of collective punishment, assessing whether such action aligns with international law principles.

## **The Principle of Non-Refoulement**

The principle of non-refoulement stands as a cornerstone of international human rights law and a fundamental right granted to refugees by the international community. It seeks to protect vulnerable individuals who have fled their home countries due to persecution. This principle not only shields them from threats in their country of origin but also safeguard their rights in the host country. It is recognized as a customary principle of international law, many nations have incorporated it into their domestic legislation.

### **Collective Punishment Under International Law**

Collective Punishment is a punitive measure imposed on a person or group in response to the actions of an individual within that group. It contradicts the idea that individuals should be held accountable for their own wrongdoings. One infamous historical example of collective punishment is Nazi Germany's imposition of collective penalties on the entire Jewish population. International law, particularly Article 33 of the Fourth Geneva Convention, stands as a bulwark against the application of collective punishment, stating that no protected person should be punished for an offense they did not personally commit.

### **Addressing the Issue**

The crux of the matter revolves around preventing Israel from taking drastic steps that may contravene international law. One possible approach is a broad interpretation of the meaning of war crimes, as defined under Article 8 of the Rome Statute. Such an interpretation would encompass a violation of common Article 3 of the Geneva Convention and Additional Protocols, which protect rights during peacetime, wartime, and national emergencies. Another avenue is the submission of the dispute to the International Court of Justice (ICJ), either through advisory proceedings or contentious proceedings. In this context, Israel could face prosecution for unlawful acts under relevant Geneva Conventions and provisions of international human rights law.

The recent clashes between Eritrean asylum seekers and Israeli authorities have brought to the forefront questions about the legality of returning refugees as a form of collective punishment under international law. In line with the principle of non-refoulement and international human rights law, it is essential to address these concerns. Exploring legal avenues, such as interpreting war crimes broadly and seeking recourse at the International Court of Justice, can help safeguard the rights of refugees and ensure compliance with international legal norms. In a world striving for justice and respect for human rights, it is imperative to uphold the principles enshrined in international law, even in times of turmoil.

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