



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME
الشبكة الأوروبية - المتوسطية لحقوق الإنسان

The EMHRN Contribution in relation to the ENP Progress Reports on the implementation of the Human Rights Chapter of the EU-Israel Action Plan in 2008

The current EU-Israel Action Plan section on shared values only makes a brief, and rather general, reference to human rights issues and includes no specific action item, in contrast to Action Plans between the EU and other Mediterranean countries¹. The human rights language used is very vague and generally worded. Indeed, although respect for human rights and international humanitarian law have found their way into the text of the EU-Israel Action Plan, this is only through insubstantial formulations such as to “work together”, “promote” or “explore”. The weakness and the general character of the Action Plan makes the monitoring by the EU and human rights organizations of Israel's human rights achievements very difficult, in spite of EU's declared intentions.

Despite this, the EMHRN and its partner organizations decided to participate in the consultation process organized by the European Commission by highlighting their main concerns regarding human rights violations committed by Israel inside Israel and in the OPT.

The EMHRN wishes to express its deep concern over the continuing deterioration of the human rights situation in Israel and the OPT in 2008. We urge that the issues raised in this contribution be included in the next ENP progress report with Israel to reflect the human rights situation in Israel and the OPT and the lack of political will of the Israeli authorities to improve the human rights situation.

EU-ISRAEL ACTION PLAN

Shared Values: democracy, human rights and fundamental freedoms:

– *“Work together to promote the shared values of democracy, rule of law and respect for human rights and international humanitarian law.”*

Regional and international issues: situation in the Middle East:

- *“While recognising Israel's right of self-defence, the importance of adherence to international law, and the need to preserve the perspective of a viable comprehensive settlement, minimizing the impact of security and counter-terrorism measures on the civilian population, facilitate the secure and*

¹ For example, the EU-Morocco Action Plan devotes more than two pages to democracy, rule of law, human rights and fundamental freedoms and includes concrete objectives to be achieved in the short and medium term.

safe movement of civilians and goods, safeguarding, to the maximum possible, property, institutions and infrastructure.”

I HUMANITARIAN CRISIS AND CLOSURE ON GAZA

Since 5 November 2008, Israel has closed all border crossings between Israel and the Gaza Strip and cut off much of the food, medical and fuel supplies and other basic needs intended for the Palestinian population of Gaza. Apart from two days in which Israel allowed the transfer of some industrial diesel, and the entrance on 17 November 2008 of 31 containers of foods and medicines through the Kerem Shalom crossing, including for UNRWA, Gaza has been totally cut off. Three weeks of the almost complete blockade has caused a serious crisis for the population, which suffers severe shortages in food, power and other essentials. According to PCHR latest weekly report² (20-26 November) the Gaza Power plant completely stopped operating due to the lack of energy fuel; the majority of the civilian population lack access to drinking water; UNRWA had been forced to suspend its humanitarian aid program for at least 750,000 Palestinian refugees in the Gaza Strip for 5 days; 75% of the bakeries in the Gaza Strip have been closed due to the lack of electricity supplies and cooking gas and the Israeli army has imposed additional restrictions on access of international diplomats, journalists and humanitarian workers to the Gaza Strip.

These recent restrictive measures on the population of the Gaza Strip has served to further aggravate the dire situation following several months of Israel's unlawful measures of collective punishment against civilians in the form of cuts in goods, electricity and fuel supplies as well as humanitarian assistance. Despite the Egyptian-brokered *Tahdi'a* (lull) between Israel and Palestinian armed groups, which began on 19 June 2008, Israel has continued to close Gaza for long periods, and has allowed only limited commodities into Gaza with disastrous humanitarian consequences. Gaza's population is now undergoing a humanitarian crisis unprecedented in the 41 years of Israeli occupation, with poverty and unemployment reaching disastrous levels, and essential health, sanitation and education services deteriorating in an alarming manner.

In response to Israel's decision to cut fuel and electricity supplies to the Gaza Strip, ten Israeli and Palestinian human rights organizations filed a petition on 28 October 2007 to the Israeli High Court of Justice (HCJ), calling for an injunction to prevent the cuts.³ On 30 January 2008, the **HCJ rejected the petition and declared, in poorly argued terms, an end to Israel's "effective control" of the Gaza Strip, and thus to Israel's occupation and its related obligations under international humanitarian law towards Gaza's civilian population.** The HCJ decision goes against the almost unanimous position of the international legal and political communities. Indeed, as recently as 22 January 2008, at the 5824th meeting of the UN Security Council, Mr. Lynn Pascoe, UN Under-Secretary-General for Political Affairs, confirmed that the Gaza Strip is still occupied by Israel: "*I must state firmly that the Israeli occupation — including with respect to Gaza — carries clear obligations under international law.*"⁴ On 18 November 2008, the UN High Commissioner for Human Rights, Ms Navi Pillay, called on Israel to end Gaza blockade, recalling the "*Occupying Power's* obligation to fully

² [PCHR Weekly Report on Israeli human rights violations in the Occupied Palestinian Territory](#), No. 47/2008, 20-26 November.

³ See: <http://www.adalah.org/eng/features/opts/petition%20-%20english.doc>.

⁴ Mr. B. Lynn Pascoe, Under-Secretary-General for political affairs, [Briefing to the Security Council on the situation in the Middle East, including the Palestinian question](#), 22 January 2008.

cease all measures that are inconsistent with its obligations under international law".(emphasis added)⁵

On 13 May 2008, ten Israeli and Palestinian NGOs submitted a further petition to the HCJ. The organizations argued that the state had acted illegally by not allowing fuel supplies into Gaza even in the insufficient amount it had committed to do before the HCJ in response to the previous petition since 9 April 2008, and that the humanitarian situation in Gaza had therefore deteriorated. On 5 June 2008, the HCJ rejected the petition on security grounds, contrary to the protections provided by international law, which, while recognizing the right of every state to ensure its security, imposes specific restrictions on the manner in which states exercise this right for the purpose of protecting civilians under occupation or under armed conflict. In particular, the collective punishment of civilians is prohibited, as is the destruction of objects indispensable to the survival of the civilian population. As the HCJ rendered lawful such measures as border closures and fuel cuts, the Israeli military has increasingly imposed tighter closures and fuel cuts on Gaza's population.

The EMHRN also wants to highlight its concern over the **limited access to medical care** to individuals including children who have been injured or killed in the Gaza Strip. The Israeli army killed 368 Palestinians (including 58 children and 17 women) in Gaza between 1 January and 23 November 2008. Israeli army's attacks caused injury to at least 700 people (including 140 children and 45 women) in Gaza during the same period. Many civilians in need of healthcare unavailable in Gaza are denied access to hospitals outside by the Israeli army. Nearly 30 Palestinians in Gaza have died because of the Israeli army refusal to grant them permits to leave the Strip. Approximately 220 others have died for reasons directly related to the blockade⁶.

During the same period, the Israeli army **destroyed 317 homes** (28 completely demolished) in the Gaza Strip, forcing hundreds of families to relocate temporarily or permanently. Moreover, in Gaza, the obstruction of construction materials for over 17 consecutive months has led to a total halt of construction. As a result, UNRWA and other agencies suspended the construction of homes for thousands of households whose homes had been demolished by Israel over the past years. Housing is growing inaccessible for most of the population at a very rapid rate in Gaza owing to the increase in real estate prices. The Israeli army **destroyed over 1,982 dunams of cultivated land** inside Gaza (1 dunam equals 100 square meters) during this period, affecting hundreds of people.

In addition, the Israeli Army conducted **104 incursions inside the Gaza Strip**. During these incursions, the army employed excessive, disproportionate force that claimed the lives of civilians and led to further destruction of civilian property. The Israeli army furthermore arrested nearly 300 Palestinians, most of whom were subjected to degrading treatment. While the majority of those were released in a short time, many were transferred to detention centers inside Israel and tortured during their interrogations by the Israeli security services. As recently as 4 November 2008, the Israeli forces launched two incursions into the Gaza Strip and carried out dozens of aerial attacks, killing 15 Palestinians and destroying many homes and other civilian properties.

The Israeli army expanded the security **buffer zone** along its border with the Gaza Strip to as deep as 1 kilometre in some areas. Farmers and their families have left their homes inside or beside this buffer zone and do not have access to their land located inside this zone.

Gaza's population is also faced with serious **displacement risks** as a result of the Israeli blockade. In late October 2008, rain caused displacement for over 200 people. Al Mezan Center has reported that

⁵ UNHCHR Press Release, [United Nations High Commissioner for Human Rights calls for an immediate end to the Israeli blockade of Gaza, 19 November 2008](#).

⁶ These figures retrieved from the Gaza-based Al Mezan Center for Human Rights.

the population of southern Gaza faces serious health risks because they receive contaminated water in their homes. These problems are owed to the lack of materials and equipment necessary for the maintenance of the water and sewage water networks in Gaza. Despite the continuous requests by the Coastal Municipalities Water Utility to permit essential equipment and materials; however, serious problems continue to affect civilians owing to Israel's refusal to allow these materials into Gaza.

Intensifying the siege on Gaza is the total ban placed on family visits to the approximately 900-1,000 **Palestinian political prisoners from Gaza** currently being held in Israeli prisons. The ban was imposed by the Israeli authorities in June 2006 following the capture of Israeli soldier Gilad Shalit. On 26 May 2008, the ICRC called in a news release for the immediate resumption of the family visits, stating that, "*This measure is depriving both detainees and their relatives of an essential life line... People continue to come to our office every day to sign up for family visits in the hope that the suspension will be lifted... The lack of direct contact with their detained relatives is becoming unbearable.*"⁷ On 28 May 2008, Adalah – The Legal Center for Arab Minority Rights in Israel and Al Mezan Center for Human Rights in Gaza submitted a pre-petition to the State Attorney demanding his immediate intervention to enable the families of political prisoners from Gaza to visit their relatives incarcerated in Israel.

The EMHRN would also like to raise its strong concerns regarding the restrictions imposed on the freedom of movement of **human rights defenders** living in the Gaza Strip. Israel has frequently declined applications by Gazan HRDs to attend human rights related events in the West Bank and abroad, most of the time based on "security concerns" which are impossible to verify given that the evidence used by the relevant military bodies is not accessible. Since the siege on Gaza in June 2007 almost no HRD has been allowed to leave the Strip to participate in human rights activities or events. In order to exit the Gaza strip, an application must be submitted two weeks prior to the intended exit date, but even with the right documentation, the application process is uncertain because of unannounced rules and procedures decided by the Israeli military. Moreover, many human rights defenders, who received a permit at one moment in time, have afterwards seen their permit refused, putting in doubt the security reasons invoked by Israel. Preventing HRDs from carrying out their work freely is totally unacceptable and an important reason of concern. It is also all the more counter-productive in the current context of conflict and of political instability in the Palestinian Territories⁸.

The EMHRN condemns the **Palestinian mortar and rockets fire** aimed at Israeli population centers such as the attack on Kibbutz Nir Oz in the south of Israel that occurred on 4 May 2008 and which killed an Israeli civilian and wounded four others.⁹ Over the past seven years, Palestinian attacks in Israel and the OPT have killed hundreds and injured thousands of Israeli civilians, men, women, and children. We consider that the intentional killing of civilians is a grave breach of international humanitarian law and a war crime that cannot be justified in any circumstances.

⁷ ICRC News release, [Gaza: ICRC calls for immediate resumption of family visits to detainees in Israel](#), 26 May 2008.

⁸ EMHRN, Observatory for the protection of human rights defenders and Avocats Sans Frontière Press release, [Gaza: Human Rights defenders in prison?](#), 1 October 2008. In November 2009, Mahmoud Aburhama (Al Mezan Center for Human Rights in Gaza) and Hamdi Shaqqura (PCHR) were not allowed to participate in EMHRN working group on Palestine, Israel and Palestinians (PIP) in Brussels on 8-9 November 2009. Israel banned them from travel dozens of times during the past two years; during which they could not take part in significant human rights events; including events organized by the EU. They could not participate in the last five PIP WG meetings.

⁹ For further information see: http://www.btselem.org/english/Israeli_Civilians/20080605.asp

II EAST JERUSALEM

In 2008, Israel continued to create facts on the ground in order to reduce the number of Palestinians living in East Jerusalem while at the same time allowing for an increased Israeli presence. The Israeli authorities are applying a **combination of unlawful strategies under International Law**, including limiting family reunification permits, revocation of residency rights¹⁰, redrawing Jerusalem's municipal boundaries, home demolitions, enlarging existing illegal Jewish settlements in East Jerusalem and establishing new ones.

The occupying forces have **nearly completed the construction of the Wall** as they move to cut Jerusalem off from the rest of the West Bank. Upon its completion, the fear is that the Wall will serve as the de facto boundary for the city providing a new pretext for the denial of Jerusalem residency to thousands of Jerusalemites who will be located on the “wrong side” of the Wall.

Between the period of January and August 2008, Israeli occupying forces have **demolished 77 homes** in East Jerusalem under the pretext of lack of building permits, which are virtually impossible to obtain, while during the same period **plans for over 30,000 of additional settlement** housing units have been declared. Furthermore, huge new infrastructure projects are underway to support the settlements, including the East Jerusalem ring road and the Jerusalem Light Rail. Palestinian permit holders are allowed to cross the Barrier into East Jerusalem through only four of the 18 existing checkpoints and only by foot.

Palestinians are slowly being expelled from Jerusalem under eyes of the international community. The measures taken by the Israeli occupying forces constitute a sustained, systematic and flagrant breach of international law, and a grievous attack on Palestinian rights rendering negotiations meaningless.

III MOVEMENT RESTRICTIONS IN THE OPT

According to OCHA's figures, **the numbers of physical obstacles** (checkpoints, roadblocks, trenches, earth mounds, etc.) **in the West Bank increased in 2008**, compared to 2007, with 630 physical obstacles in September 2008 as well as a weekly average of 61 random or “flying” checkpoints¹¹. According to B'Tselem, as of 15 November 2008, the Israeli army had 63 permanent checkpoints inside the West Bank, 18 of them in the city of Hebron, and operates 40 permanent, staffed, around-the-clock checkpoints that are the last control points between the West Bank and Israeli sovereign territory. Most of these checkpoints are located well inside the West Bank, up to several kilometres from the Green Line.

By September 2008, approximately **57 percent (415 km) of the overall route of the Wall** has been completed, with 79 percent (329 km) of it running inside the West Bank, separating Palestinians from their land and leaving communities within isolated enclaves. Nine percent of the route is under construction - almost entirely inside the West Bank. Upon completion of the barrier, 11.9 percent of the West Bank (including East Jerusalem), will lie west of the barrier or be surrounded completely or partially by it. These areas are home to 498,000 Palestinians (222,500 in East Jerusalem) living in 92 towns and villages.

¹⁰ According to B'Tselem, in 2006, the residency of 1,363 Palestinians had been revoked. The Israeli authorities have refused to give B'Tselem more updated data so far.

¹¹ UN OCHA, [The Humanitarian Monitor – Table of Indicators](#), Number 29, September 2008.

The Israeli Army continues to prohibit or severely restrict the use by Palestinians of roads, rendering them largely for exclusive Israeli use. As of July 2008, **Palestinian travel is restricted or prohibited outright on 430 kilometres of roads in the West Bank**, while Israelis are allowed to travel these sections freely. On 137 of the 430 kilometres, the army prohibits Palestinian travel completely; on the remainder of the forbidden roads, Palestinians with permits or who live in East Jerusalem are allowed travel¹².

The Israeli government announced mid-2008 that since the end of March 2008, the army had removed 70 physical obstructions – dirt piles, boulders, and blocks – it had placed inside the West Bank. The obstructions were purportedly removed following Israel's commitment, made in March to US Secretary of State Condoleezza Rice, to reduce restrictions on Palestinian movement in the West Bank. However, investigations conducted by B'Tselem and other human rights organizations indicate that the government's declaration was no more than sleight of hand.

Most of the physical obstructions mentioned by Israel had, in fact, been breached by local Palestinians or had been removed by the army itself before Israel made its commitment to Secretary Rice. An appreciable number of the obstructions have been placed in the northern West Bank, primarily in the area of Tulkarem, Qalqiliya, and Jenin, immediately after the attack in Dimona, on 4 February 2008, and were removed in the following weeks. Other physical obstructions on the list, many of which had been placed at the entrance to dirt roads leading to private farmland, had little effect on the fabric of life of the general population. However, obstructions placed on vital roads, affecting the entire Palestinian population in the West Bank, were not on the list. Furthermore, at a number of places in the northern West Bank, obstructions that had previously been removed by the residents were moved back into place by army bulldozers. The army then took pictures of these obstructions before removing them the same day or the following day.

Israel further claims to have removed four significant checkpoints in the West Bank, following an agreement reached with the office of the Quartet and its representative, Mr. Tony Blair. However, one of the checkpoints that Israel claimed has been removed – 'Asira el-Shamaliya, north of Nablus, remains closed at night time. During the day the checkpoint, which was closed in the last year, is indeed open, but soldiers are still present at the location. The status of the Beit-Ha'Arava checkpoint, north of the Dead Sea, has not changed. This checkpoint is still operating on weekends, prohibiting Palestinians from reaching the northern Dead Sea, in order to allow Israelis to use the Dead Sea resorts in the West Bank without any Palestinians being around.

The Rimonim Checkpoint has indeed been removed, as declared by the Israeli authorities. However, the significance of this checkpoint was low, as it had almost no effect on Palestinians' ability to travel around. Another checkpoint that was, reportedly, removed was the Sheep checkpoint. However, this was not an actual checkpoint but an earth mound that had already been removed. Furthermore, since its removal, the army has placed a flying checkpoint at the junction where it was located.

IV ADMINISTRATIVE DETENTION

Israel continues using administrative detention excessively and in violation of international law. According to official Israeli reports, **as of January 2008, 813 Palestinians were held in administrative detention**. Among these detainees were **328 minors**. By the end of October, the number of administrative detainees had decreased to 578, among these 297 minors, still, a very high

¹² Figures from B'Tselem: http://www.btselem.org/english/Freedom_of_Movement/Statistics.asp

figure. In 2007, the number of administrative detainees averaged around 830 per month, approximately 100 more than the average of the previous year.

Administrative detention must be future-oriented, i.e., must aim to prevent a prospective serious threat to security, and is permissible only if lesser measures have been found ineffective, according to international humanitarian law. It is absolutely forbidden to use administrative detention to punish a person for offenses that he or she has ostensibly committed. In hundreds of cases annually, however, the **Israeli authorities exploit administrative detention** as a rapid and efficient alternative to a criminal proceeding, especially when they do not have adequate admissible evidence to convict the individual, or when they want to conceal the evidence in their possession. Secondly, administrative detention must be subject to judicial review that meets minimal standards of a fair trial. However, in a majority of cases in Israel, the notice given to the detainee is extremely brief, and does not include even the most basic details (period of activity, nature of involvement, etc.) that the detainee might refute. In addition, the authorities generally declare the information provided to the judges confidential, and the judges routinely deny the defence counsel's request for access to the material. Under these circumstances, the **detainee's right to mount a defence against the administrative-detention order is an empty formality**. The harm caused to the rights to liberty and a fair trial are indicated by the scope of judicial intervention in the decisions of the military commander: in 2006, of 2,934 administrative detention orders (including extensions of existing orders), only 156 (some five percent) were found unjustified and nullified by the military court.

EMHRN would like to draw particular attention on the case of **Salwa Salah, 17 years old and Sara Siureh, 16 years old**, arrested on June 5, 2008 and under administrative detention since then. The arrest of Salwa and Sara marks the first time that girls of the age of 16 have been placed in administrative detention. Arrested from their family homes in Bethlehem and initially detained under respective four month orders (Sara's detention time was reduced after an appeal), their detention was further extended on 5 October 2008 on the basis that the girls remain "dangerous," despite the fact that the military prosecutor has not levelled any charges against either girl. Their current detention order expires on January 3, 2009. According to United Against Torture (UAT) "*The case of Salwa and Sara contravenes multiple human rights standards from the point of arrest to detention including central tenets of the international standards of juvenile justice. These standards require, for example, that if a juvenile is detained s/he should be detained in an appropriate facility and that recourse to deprivation of liberty should only be the last resort*"¹³.

V TORTURE AND ILL TREATMENT

The structural foundation of Torture and ill treatment by the Israeli authorities has remained largely unchanged in 2008. Torture and ill-treatment are still systematically used, predominantly against Palestinians from the OPT.

Violence during arrest of Palestinians by Israeli security forces

The arrest of Palestinians from the Occupied Territories is all too often accompanied by the use of excessive force that at times can be classified at times as ill treatment or even torture. Subdued and defenceless suspects often suffer abuse, physical and psychological, during their arrest and in the course of their transportation to detention and interrogation facilities. The phenomenon is, with a few exceptions, routinely ignored and denied by the Israeli army and the authorities responsibly for it such as the Ministry of Defence, the Knesset and in particular the Foreign Affairs and Security Committee,

¹³ United Against Torture (UAT), [The United Against Torture Coalition \(UAT\) calls upon the Israeli government, military and legal authorities to immediately release Salwa Salah \(aged 17\) and Sara Siureh \(aged 16\)](#), 13 November 2008.

and the State Comptroller. In June 2008, the Public Committee Against Torture in Israel (PCATI) published a report that reveals this widespread phenomenon titled "No Defence: Soldier Violence against Palestinian Detainees"¹⁴ The report reveals that although the phenomenon of violence against Palestinian detainees by soldiers is blatantly illegal, it is reinforced by a weak legal system which conducts only a small number of investigations and legal proceedings that concern cases of abuse by soldiers. The report also discloses that the army has no directives which regulate the treatment of Palestinian detainees in the period of time between their arrest and their placement in detention or interrogation.

Interrogation

The General Security Service (GSS/ISA) continues to interrogate Palestinians suspected of security offences in isolated interrogation units with the suspect often held incommunicado for extended periods of time, conditions in which torture and ill treatment can take place. This is made possible by a variety of means including the alleged practice of granting a-priori permits to employ coercive means of interrogation in contravention of the 1999 High Court of Justice ruling known as the "torture ruling". In November 2008, the Public Committee Against Torture in Israel, the Association for Civil Rights in Israel and HaMoked, the Center for the Defence of the Individual filed a contempt of court motion to the High Court of Justice against this practice. The motion claims that the contempt involved is enshrined in directives and procedures that violate the High Court judgment, domestic criminal law and international law

An example of a practice of torture and ill treatment is that of the illegal exploitation of family members to pressure interrogees and force them to confess. In March 2008, the Public Committee Against Torture in Israel published a report on this issue titled "Family Matters, Using Family Members to Pressure Detainees Under GSS Interrogation"¹⁵. The illegal exploitation of family members, who in most instances are not suspects themselves, has on many occasions caused severe psychological suffering to interrogees and to their innocent relatives and, in more extreme cases, this method takes the form of psychological torture. It must be emphasized that the use of family members as a form of psychological pressure continues although it was banned by the Attorney General who, in July 2007, in reply to a complaint submitted by PCATI, stated that "*...as a rule, in a situation where a member of a detainee's family is not under arrest, and when there is no cause to legally arrest him, there is no place to create a pretence before a detainee that a member of his family has been arrested*". On 16 April 2008, The Public Committee against Torture in Israel, Physicians for Human Rights-Israel, B'Tselem, Hamoked: Center for the Defence of the Individual and Adalah filed a petition to the High court of Justice demanding that this form of pressure be absolutely prohibited.

The absence of legislation outlawing torture and the existence of laws that make it possible to hold detainees in contravention of international legal standards

Torture and ill treatment are made possible by laws and regulations that violate the rights of individuals suspected of committing security crimes such as the law exempting security offences from the general obligation to make audio or video recordings of interrogations. On 4 March 2008, the Public Committee Against Torture in Israel, the Association for Civil Rights in Israel and Adalah filed a petition to the High Court of Justice against one of these laws that blatantly violates the basic rights of detainees suspected of security offences. The law allows such persons, under certain circumstances, to be detained for 96 hours without any judicial oversight, to have their detention extended in their absence, and not to be told of the court's decision to lengthen their arrest. The petitioners warned that the law, which was specifically enacted to provide the state with more draconian methods for handling

¹⁴ PCATI Report, [No Defense: Soldier Violence against Palestinian Detainees](#), June 2008.

¹⁵ PCATI Report, [Family Matters, Using Family Members to Pressure Detainees Under GSS Interrogation](#), April 2008.

suspects from Gaza after the dismantling of the military regime there, reflects norms unacceptable for a democratic society. The petitioners argued that in practice the law is used solely against Palestinian detainees and thus it discriminates against them and divests them of fundamental rights.

Detention conditions that are substandard and inhuman, contributing to ill treatment

Poor conditions of detention, particularly in facilities housing Palestinian detainees, constitute degrading and inhuman treatment. In order to combat this situation, PCATI in 2007 filed a complaint with the Shomron detention facility commander protesting the violation of the detainees' rights to basic hygiene and humane standards of detention followed by a petition to the High Court of demanding that the State justify the refusal to allow detainees at the facility free access to toilet facilities and demanding that additional toilets be built. In October 2007, after no progress was made, the Court issued an interim order to the State to immediately notify the detainees at the Shomron detention facility of a new regulation allows them 24 hours access to toilet facilities and to submit a progress report on the construction of additional toilets. The Court also questioned whether the use of plastic bottles for the purpose urination is at all acceptable in a law abiding and enlightened state. The petition ended successfully when in February 2008, the Shomron detention facility director reported that arrangements were made to ensure immediate response to the request of a detainee to use the toilet and that additional toilets and showers had been installed.

Impunity and the complaints investigation process

Torture and ill treatment are facilitated by Israel's ongoing and systematic failure to adequately investigate complaints of torture or ill treatment and its corresponding failure to bring to justice perpetrators of torture and ill treatment. Since 2001, the Israeli State Attorney's Office has received over five hundred complaints of torture or ill treatment by interrogators of the General Security Service (GSS) yet no perpetrator has been investigated or brought to justice. The State Attorney's decisions are based on the findings of an examination conducted by a specially assigned inspector who is an active GSS agent, answerable to the head of the ISA. He is neither independent nor impartial and his findings are kept secret. This mechanism creates the appearance of a complaints investigation process while actually providing total immunity from criminal liability contributing to an ongoing system of impunity which makes torture inevitable.

VI INSTITUTIONAL DISCRIMINATION AGAINST THE ARAB MINORITY IN ISRAEL

EU-ISRAEL ACTION PLAN

Shared Values: Democracy, human rights and fundamental freedoms:

- Promote and protect rights of minorities, including enhancing political, economic, social and cultural opportunities for all citizens and lawful residents

New legislation that discriminates against Palestinian citizens of Israel.

In 2008, the Knesset enacted several new pieces of "anti-Arab" legislation that conceive of Palestinian citizens of Israel as a potential security threat and/or have a disparate impact on them.¹⁶ For example, on 28 July 2008, the Knesset enacted Amendment 9 to the Citizenship Law, which permits the revocation of citizenship for "an action that entails a breach of trust *vis-à-vis* the State of Israel". It provides a very broad definition of "breach of trust", and although it could result in the statelessness of citizens, it does not require that an individual be criminally convicted of this action. The law violates the fundamental right to citizenship not to be arbitrarily deprived of citizenship, as

¹⁶ See Haneen Na'amnih, "New Anti-Arab Legislation," *Adalah's Newsletter*, Volume 50, July 2008, available at: <http://www.adalah.org/newsletter/ara/jul08/haneene.doc>

well as other basic rights protected by Israeli law and international human rights law. A further example is an amendment to the Basic Law, The Knesset enacted on 9 July 2008 and which denies any individual who have visited states defined by Israel as “enemy states” the right to run for Knesset office. The amendment defines these visits as “support for armed struggle against the State of Israel.” The explanatory notes emphasize that it was drafted in the context of recent visits by Arab Members of Knesset to Lebanon and Syria. The amendment flagrantly violates the right to be elected under international law.

The displacement, dispossession and evacuation of the Palestinian Bedouin citizens of Israel from their land.

Israel is currently defending orders it issued to evacuate all of the 1,000 residents of the “unrecognized” Arab Bedouin village of Atir-Umm el-Hieran in the Naqab (Negev) and destroy their homes before the Israeli courts.¹⁷ It is apparent from the state’s master plan for the area that the destruction of village and the evacuation of its inhabitants are designed to allow for the establishment of a new Jewish town. Around 75,000 Arab Bedouin live in the “unrecognized” villages in the Naqab (Negev) in southern Israel. Denied official status, these villages are excluded from state planning and receive little-to-no basic services, including electricity, water, telephone lines, or education and health facilities. Israel views their inhabitants as “trespassers on state land,” although many were living on these ancestral lands prior to 1948, and seeks their direct, collective re-location. One of the major tools used by Israel to achieve this goal is filing evacuation orders against homes. However, never in the judicial history of Israel has a court delivered a decision to destroy an entire village and expel all its residents, as the state is now requesting it do in this case.

The Attorney General decides to officially close the case against police commanders and officers in the October 2000 killing cases.

In November 2000, Israel established the official Or Commission of Inquiry to investigate the circumstances of the killing of 13 unarmed Palestinian citizens by the security forces and injury of hundreds of others during protest demonstrations in October 2000. The Commission recommended that the Police Investigations Unit (Mahash) investigate the killings. It found the security forces’ opening of fire unjustified and deemed the use of live ammunition and snipers unjustified in every instance, and found police commanders responsible for the use of excessive force. In September 2005, Mahash released a report on the investigation in which it recommended no indictments against police officers and commanders. In January 2008, the Attorney General endorsed Mahash’s report and announced the final closure of the case against police over the deaths and injuries, with no indictments filed.¹⁸

The extension of the validity of the Citizenship and Entry into Israel Law (Temporary Order) 2003: Banning family unification for another year.

On 1 July 2008, the Knesset approved the government’s decision to extend the validity of the Citizenship and Entry into Israel Law for another year until 31 July 2009. This vote marks the ninth extension of the law to date. The law, first enacted in July 2003, denies Palestinian citizens of Israel

¹⁷ See “Adalah Demands that Court Prevent the Expulsion of 1,000 Arab Bedouin from their Homes and the Destruction of their Village in the Naqab in Israel,” Adalah News Update, 13 November 2008, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=08_11_13

¹⁸ The Attorney General has filed indictments regarding the October 2000 events only against Arab citizens of Israel, including relatives of the deceased. For more information, see: <http://www.adalah.org/eng/october2000.php>. To view a summary of the AG’s decision in English, see: <http://www.justice.gov.il/NR/rdonlyres/5B88648A-D537-47E1-9CE8-EE9D586CFCFE/9728/english2.doc>. The UN Special Rapporteur on Extra-Judicial Executions, Prof. Philip Alston, discussed the failure to issue indictments in his report of 2 May 2008. Referring to his previous communication to Israel, he stated that, “[t]his outcome... would appear to fall short of the international standards.” Prof. Alston’s report is available at: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A-HRC-8-3.doc>

the right to acquire residency or citizenship status in Israel for their Palestinian spouses from the OPT solely on the basis of nationality. New amendments to the law, which took effect in 2007, expand the law to also exclude spouses from “enemy states”, defined as Syria, Lebanon, Iraq and Iran, and extend the ban to “anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out,” according to the security services. The law is sweeping in its application and violates the rights to family life, equality, dignity and liberty and is totally disproportionate to the alleged security reasons cited by Israel to justify its original enactment. Thousands of families have been forced to separate, live outside Israel or live illegally in Israel under constant risk of arrest and deportation. Even where temporary residency permits are issued in restricted circumstances, the provisional nature of these permits precludes the normal functioning of family life. A petition challenging the law remains pending before the Israeli Supreme Court.¹⁹

¹⁹ (High Court) H.C. 830/07, *Adalah v. The Minister of the Interior, et al.* (case pending).