



רופאים לזכויות אדם - ישראל (ע"ר)
أطباء لحقوق الإنسان-إسرائيل
Physicians For Human Rights - Israel



June 26, 2013

The United Nations International Day in Support of Victims of Torture

Human rights organizations call on Israel to use the 25th anniversary of the UN Convention Against Torture to fully renounce torture and ill treatment, and to commit to ending impunity that has allowed torture to continue as a practice in Israel.

Observed annually on 26 June, the International Day in Support of Victims of Torture marks the day in 1987 when the UN Convention Against Torture came into effect. Israel has ratified the Convention, but torture-related policies and practices against Palestinian prisoners and detainees have continued in 2013. Impunity and a lack of accountability continue to characterise the relationship of Israel's security services with civilians.

We call on Israel to fully and transparently investigate the [hundreds](#) of pending victims' complaints of torture, and to open credible prosecutions against the perpetrators.

1. Evidence of torture and ill treatment from arrest to interrogation: Israeli NGOs continue to receive complaints on a regular basis from detainees who allege torture and ill treatment at the time of arrest and during interrogation. These complaints are increasingly being supported by additional evidence gathered by the NGOs. Deaths in custody, usually a rare occurrence, have been recorded in two cases since the start of 2013.

Deaths in custody

Two Palestinians have died in Israeli custody since the beginning of 2013. Both of these cases indicate the absence of proper mechanisms of oversight, transparency and accountability that could prevent torture in the Israel Prisons Service (IPS).

In late February 2013, the death of Palestinian detainee Arafat Jaradat shortly after his arrest by Israeli forces raised serious questions prompting human rights organizations to [call](#) for an immediate, independent inquiry. A Palestinian physician who was present at an autopsy held by the Israeli authorities concluded that his death was almost certainly caused by violence amounting to torture during his interrogation by Israeli security agents.

The fact that even the exact time of his death remains unknown illustrates the secrecy and lack of transparency with which the Israel Security Agency (ISA, the body that interrogates security suspects, also known as Shin Bet or Shabak) is allowed to act, and the lack of proper complaints and investigations procedures by that state organ.

On 2 April 2013, Palestinian prisoner Maysara Abu Hamdiyeh died in prison of cancer complications, reportedly after a prolonged delay in the provision of medical diagnosis and care by the IPS medical staff.

This case highlights the role of health professionals, who should be a preventive and protective factor against abuse and neglect but are instead implicated in them.



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Other measures that could amount to torture or cruel, inhumane and degrading treatment (CIDT) have continued or increased in recent months, including **prolonged solitary confinement, isolation, serious medical neglect** and [substandard conditions of incarceration and transport](#), especially of sick prisoners.

Additionally, Israel Prisons Service (IPS) [policies toward hunger-strikers](#) protesting these and other practices have deteriorated and include **collective punitive measures** such as night raids on cells and wings, humiliating strip-searches, punitive isolation, and denial of access to appropriate medical care and/or forced medical care.

2. Lack of safeguards against torture from legislation to practice: The NGOs note that absent specific legislation against torture and credible monitoring mechanisms such as video and audio documentation of interrogations; open and independent inspections of Israel Security Agency (ISA) interrogation centres; and comprehensive education and oversight regarding the absolute prohibition on torture and ill treatment, torture will continue. We note that Israel continues in its refusal to join the Optional Protocol to the Convention Against Torture (OPCAT), which would provide for the establishment of an independent national inspections mechanism and allow for international inspections.

In February 2013, the government-appointed **Turkel Committee** published its [report](#) regarding Israeli investigations into reported violations of international law. The report confirms civil society complaints and calls for the incorporation of the **absolute prohibition** of torture in Israeli criminal law, and for a substantial increase and tightening of the external supervision and oversight of ISA interrogations.

Nonetheless, on 7 February 2013, Israel's **Supreme Court** upheld the extension of the exemption from audio/video documentation of interrogation of detainees suspected of serious 'security' offenses by ISA officials. This decision directly contradicts the Turkel Committee's recommendations, as well as UNCAT's 2009 [Concluding Observations on Israel](#). The ruling thus entrenches the immunity enjoyed by ISA employees, and increases the isolation of victims.

Moreover, retrogressive legislation recently passed or proposed by Israeli lawmakers increases the vulnerability of victims and protects potential perpetrators of torture and abuse:



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On 29 April 2013, the Knesset passed the third amendment to the Israeli Criminal Procedures Law (Suspects of Security Offenses). The law extends the validity of harsh, special detention procedures for persons suspected of committing security offenses such as the delaying of bringing the detainee before a judge for up to 96 hours after arrest (instead of 48 hours for other detainees); extensions of detention by the court for up to 20 days at a time (instead of 15 days); and holding extension of detention hearings in the detainee's absence. The new law removes a number of essential procedural safeguards from detainees, thus placing them at a greater risk of torture and ill-treatment and increasing the likelihood of false confessions.

On 9 June 2013, the Ministerial Committee for Legislation approved a [proposed Law Against Terrorism](#). This expansive bill seeks to entrench many emergency regulations currently in effect in Israeli law, in a move that will significantly undermine the rights of 'security' detainees. The bill includes draconian measures for investigating detainees accused of security offenses; provides for the extensive use of secret evidence in court; limits detainees' access to judicial review; weakens evidentiary requirements on the state; establishes new criminal offenses; and sharply increases the maximum sentences people convicted of such offenses. Moreover, the bill uses a troublingly vague definition of terrorism and terrorist organizations.

A proposed law on the Protection of the Identity of an Intelligence Agent, if passed, would prohibit revealing the identity of an intelligence agent and/or making public any kind of information that, according to the law can risk state security, its international relations, the security of the public or a person's safety and which will lead to revealing the identity of that agent. This proposed law would entrench the immunity enjoyed by interrogators of the ISA.

3. Lack of appropriate complaints, investigations and accountability procedures: Israel is obligated under the CAT, which it voluntarily joined, to investigate and prosecute allegations of torture, yet [more than 700](#) complaints submitted by Palestinians who were interrogated in Israeli facilities since 2000 are still pending, and not a single criminal investigation has been opened. The Israeli government-established Turkel Commission [noted](#) the State's failure to properly investigate complaints of torture, indicating the importance of reform. The NGOs [welcome](#) the State's commitment in June 2013 to reform the torture investigations process by transferring initial inquiry obligations from the ISA (The Israel Security Agency, the body that interrogates security suspects) to a civilian inspector in the Justice Ministry. The organizations demand that the Attorney General and the new inspector open proper and credible investigations into all pending complaints by victims.

4. Need for additional preventive mechanisms: The NGOs note the need for additional mechanisms to effectively prevent, document and report torture. Detainees under interrogation do not have access to independent physicians, and physicians who examine the interrogees are employed by the Israel Prisons Service (IPS), undermining their ability to fulfil their first ethical obligation, to treat and protect their patients. The organizations call for the immediate reform of this system through the transfer of prison and detention healthcare to the Ministry of Health (MOH), and remind all physicians that they must document and report



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suspected instances of torture. The Istanbul Protocol provides important guidelines for the way in which physicians, psychologists and attorneys should document and report torture. The Israeli Ministry of Health (MOH) and the Israel Medical Association (IMA) should fully implement and apply the Istanbul Protocol, and enforce mandatory training and guidelines for identification, documentation and reporting of suspected torture for medical staff in the prisons, for civilian physicians in public medical centres, and for students of the medical professions, in accordance with [mechanisms proposed](#) to the MOH for this purpose.

5. Lack of rehabilitation for torture survivors: Israel is responsible not only for the victims of its own practices of torture but also for protecting victims of torture who find their way to Israel as refugees and asylum seekers. There are an estimated [7,000 survivors of torture in Israel](#), who arrived from Eritrea and Sudan via the Egyptian Sinai, and were apprehended and tortured by smugglers and traffickers. Of these, several hundred are currently in detention, with no access to identification, treatment, rehabilitation or release from detention as required for victims of torture. The only psycho-social rehabilitation services offered to this community are provided by civil society actors. They have no opportunity for occupational rehabilitation as they are forbidden to work, and they receive no financial assistance. Israel must fulfil its obligations under CAT of *non-refoulement* of torture victims.

To stop and prevent torture in Israel, we recommend the following steps:

1. Israel's Ministry of Justice (MOJ) should initiate legislation to transpose clearly into law and practice the absolute prohibition in international law on torture and cruel, inhuman and degrading treatment.
2. The MOJ should formulate, implement and oversee mechanisms of transparency and accountability including independent complaints and investigations procedures for the ISA, the IPS and the military. As an integral part of this new procedure, all ISA interrogations should be fully videotaped; Palestinian detainees and prisoners should be given telephone access to external ombudsmen at all times.
3. Medical staff providing medical care to prisoners and detainees should be employed and supervised by the Ministry of Health (MOH) and not the Ministry of Public Security, the IPS, or any other organ with the chief purpose of enforcing security and maintaining order. Their independence should be ensured through legislation that makes the medical documentation and reporting of abuse mandatory, and protects whistleblowers. Moreover, structural and legislative mechanisms should be introduced to ensure that medical considerations are not overruled by security considerations. Access to external doctors, to which prisoners are entitled by law, should be ensured at all times. Additionally, the MOH should incorporate information about the treatment of prisoners and detainees and identification of torture victims into the curricula of medical and nursing schools and into trainings for medical professionals in hospitals.
4. Access of lawyers, medical experts, and relevant human rights actors, inspectors, and



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interpreters to prison and detention facilities and to potential victims of torture should be enshrined in law and the MOJ should formulate regulations to this end. The duty of IPS staff to respond to inquiries from civil society regarding individuals in custody in a timely and honest manner should be formally recognized. Further, in line with these recommendations, Israel should ratify the Optional Protocol to the UN Convention Against Torture.

5. Protocols for the identification, treatment and rehabilitation of survivors of torture, and provisions for their release from detention should be initiated by the MOH and the MOJ. Rehabilitation for all torture survivors should include full public health and psycho-social services as well as financial assistance.

Adalah – The Legal Center for Arab Minority Rights in Israel
Physicians for Human Rights-Israel (PHR-Israel)
The Public Committee Against Torture in Israel (PCATI)