



public committee against
TORTURE
In Israel

Joint input to the ENP Country Report on Israel 2013
Human rights of prisoners and detainees held in Israel, with focus on Torture / CIDT

October 2013

Submitting organisations:

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

Additional information provided by **Addameer** Prisoner Support and Human Rights Association

The report covers the period from October 2012 to October 2013, as well as UN reports from 2012.

Contents:

1. Overview
 2. Statistics on Palestinian political prisoners being held by Israel
 3. Newly released UN reports; recent EP resolution
 4. Information on the human rights of prisoners and detainees in Israeli custody, including torture and cruel, inhuman and degrading treatment (CIDT)
 5. Legislation
 6. Recent Supreme Court decisions
-

1. Overview

Israeli perpetrators of human rights violations against Palestinian prisoners and detainees in custody continue to enjoy impunity due to a lack of domestic legislation prohibiting torture and a lack of proper mechanisms of complaints, documentation, investigation and prosecution.

Despite a decrease in the numbers of administrative detainees, the administrative detention of Palestinians continues as a policy. Palestinian political prisoners are still classified as “security prisoners” and separate from common law prisoners; they suffer discriminatory and harsher treatment as a result.

The Israel Prison Service (IPS) still employs healthcare workers in the Israeli prisons system, instead of the Health Ministry, thus perpetuating a situation of ‘dual loyalty’, in which medics are trapped between the interests of their employers and their duty to their patients. This conflict of interest is expressed clearly in policies toward patients and can only end if healthcare is removed from the remit of the IPS to that of the Health Ministry.

A report published by the government-appointed Turkel Committee on 6 February 2013 pointed to some of these underlying issues, and made 18 recommendations, many of which echo those of civil society. However the recommendations are not legally binding and to date, the government has taken few steps to implement them.



public committee against
TORTURE
In Israel

In June 2013, a civilian ombudsman of complaints against the Israeli secret police (Shin bet, Shabak, GSS or ISA) was appointed for the first time, replacing the previous ombudsman, who was a member of the Shabak, and this post was relocated to the Justice Ministry. However, so far this has not led to the opening of criminal investigations into any of the hundreds of complaints of abuse and torture submitted over the past decade.

On the ground, no significant improvements have been recorded. On the contrary, an unexplained death during interrogation occurred this year, and retrogressive legislation and Supreme Court rulings threaten to further restrict the rights of prisoners.

On 26 June 2013, the 25th anniversary of the Convention Against Torture, the organisations issued a joint statement outlining a general blueprint for prevention of torture and abuse of the human rights of prisoners and detainees in Israel.

Documents:

- Joint statement demanding an independent investigation into the death of Arafat Jaradat: <http://adalah.org/Public/files/English/Newsletter/101-February-2013/Statement-Jaradat-Prisoners-Adalah-PCATI-PHRI-English.pdf>
- Joint analysis of Turkel report, with link to the report: <http://www.stoptorture.org.il/files/PDF%20Adalah%20PCATI%20PHR%20Statement%20The%20Turkel%20Report%2028.2.2013.pdf>
- PCATI analysis of the Turkel recommendations regarding the ISA and accountability: <http://www.stoptorture.org.il/en/node/1858>
- Joint statement on torture 26 June 2013 with links to other relevant documents: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1783>
- PHR-Israel comprehensive report on the hunger strikes of 2012: <http://www.scribd.com/doc/135298869/The-Palestinian-Prisoners-Hunger-Strikes-of-2012-Political-Moral-Medical-and-Ethical-Challenges-Encountered-While-Treating-Palestinian-Prisoners-on>
- PCATI statement on first civilian inspector of interrogees complaints <http://stoptorture.org.il/en/node/1876>

2. Statistics on Palestinian prisoners and detainees held in Israel ¹

Type of Prisoner	Number of Prisoners
Total Number of Political Prisoners	5007
Administrative detainees	137 (9 PLC members)
Female prisoners	12
Child prisoners	180 (31 under 16)
East Jerusalem prisoners	179
Palestinian citizens of Israel prisoners	214

¹ Statistics obtained by Addameer from the Israel Prison Service (IPS), 1 September 2013, available at <http://www.addameer.org/etemplate.php?id=645>



public committee against
TORTURE
In Israel

Prisoners from Gaza	400
---------------------	-----

As of 1 September 2013, Israel was holding 5,007 Palestinian political prisoners – classified by Israel as ‘security’ prisoners – from the occupied Palestinian territory (oPt) and Israel, as well as Arabs from the occupied Golan Heights.

On 13 August 2013, Israel released twenty-six (26) prisoners as a good-will gesture toward a new round of negotiations with the Palestinian Liberation Organization (PLO). The prisoners had been held by Israel since before the Oslo accords. In addition to these prisoners and detainees, as of late April 2013, according to B’Tselem, 1,267 Palestinians were held as ‘common law’ prisoners in IPS facilities for illegal stay in Israel, 24 of them from Gaza. In addition, at any given moment, dozens of Palestinians are held in facilities managed by the Israeli military for short periods of time (days to several weeks).

It should be noted that Israel classifies ‘security’ prisoners separately from common law prisoners and receive harsher treatment.²

The Head of the Palestinian Authority Ministry of Prisoners Statistics Unit, Abed el-Nasr Far’ouna, reported a 16.2% increase in arrest rates in 2012 compared with 2011. In 2012, 3848 Palestinians were arrested, including 881 children, 67 women, 11 members of the Palestinian Legislative Council (PLC), and 12 prisoners previously released under the Shalit deal. This amounts to an average of 321 arrests per month, and 11 per day. (Information provided orally to PHR-I).

3. Newly released UN reports; recent EP resolution

- In March and June 2012, the organisations submitted joint reports to the UN Committee Against Torture (UN CAT) and to the UN Human Rights Committee (UN HRC), detailing Israel’s lack of compliance with both the Convention Against Torture and the International Covenant on Civil and Political Rights (ICCPR) in its practices, which include, among others:
 - The “ticking time-bomb” justification for torture in interrogations of security suspects;
 - The use of methods of torture such as Illegal shackling, sleep deprivation, prolonged solitary confinement, inhumane conditions of confinement during interrogation, and severe restrictions on “security prisoners”;
 - A culture of impunity for torture: 700 complaints filed against the GSS and the prison service over the last 10 years have all been dismissed without prosecutions;³
 - The illegal punishment of the hunger-strikers by the Israel Prison Service (IPS)

Documents:

> Joint submission to UN CAT, March 2012, available at:
<http://www.stoptorture.org.il/files/Israeli%20Organizations%20CAT%20LOIPR%202012.pdf>

² See Adalah, Physicians for Human Rights – Israel, and Al Mezan Center for Human Rights’ Position Paper: “Inhumane Conditions of Imprisonment of Palestinian Security-Classified Prisoners in Israeli Prisons,” July 2012, http://adalah.org/Public/files/English/Publications/Position%20paper%20Prison%20conditions%20English%20final%2031_7_2012.pdf



public committee against
TORTURE
In Israel

> Joint submission to UN HRC, June 2012, available at:
<http://www.adalah.org/eng/?mod=articles&ID=1782>

- **In July 2012, UN CAT** released its “List of Issues for Israel,” relying heavily on submissions by the NGOs.

Document: **UN Committee Against Torture:** List of issues prepared by the Committee prior to the submission of the fifth periodic report of Israel (CAT/C/ISR/5), available within this link:
<http://adalah.org/eng/?mod=articles&ID=1814>

- **In August 2012, UN HRC** released its “List of Issues for Israel,” relying on submissions by the NGOs.

Reference: **Human Rights Committee**, 31 August 2012: List of issues prior to the submission of the fourth periodic report of Israel (CCPR/C/ISR/4) adopted by the Human Rights Committee at its 105th session, 9-27 July 2012, available within this link:
<http://adalah.org/eng/Articles/1832/UN-Human-Rights-Committee-Questions-Israel-on>

- **In June 2013, the UN Committee on the Rights of the Child (CRC)** issued Concluding Observations on Israel:

Reference: CRC/C/ISR/CO/2-4, 14 June 2013, “Concluding observations on the second to fourth periodic reports of Israel, adopted by the Committee at its sixty-third session (27 May – 14 June 2013),” available at <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>

The CRC harshly criticized Israel’s treatment of Palestinian minors in interrogation and detention, and raised concern that Israel had “fully disregarded the recommendations it made in 2002 and 2010 in relation to arrest and detention of Palestinian children and their detention conditions and has continued to deny all these guarantees and safeguards to children living in the OPT who remain subject to military orders. The Committee is gravely concerned that an estimated 7000 Palestinian children aged from 12 to 17 years, but sometimes as young as nine years, have been arrested, interrogated and detained by the State party’s army over the reporting period, (an average of two children per day), this number having increased by 73% since September 2011 as observed by the United Nations Secretary General (A/67/372 para 28).”

- **On 13 March 2013 the European Parliament (EP)** passed a resolution calling for a fact-finding mission to be held by the EP in order to ascertain the conditions of Palestinians held in Israeli custody, as well as the issue of administrative detention.

Document: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0102+0+DOC+XML+V0//EN>

A broad coalition of NGOs issued a call on 9 July supporting the EP resolution and calling for a fact-finding mission.

Document: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1812>

4. **Information on the human rights of prisoners and detainees in Israeli custody, including torture and cruel, inhuman and degrading treatment (CIDT):**



public committee against
TORTURE
In Israel

- **Administrative detention**

Although the number of administrative detainees has dropped as a consequence of the hunger strikes of 2012, administrative detention continues to be used by Israel. As of 1 September 2013, 137 Palestinian are held under administrative detention including 9 Palestinian Legislative Council members.

The **Law on Unlawful Combatants**, which provides for administrative detention of residents of the Gaza Strip, is still in force. The law allows for the sweeping and swift detention without trial of large numbers of foreign citizens and Palestinian residents of the Gaza Strip. To date, the law has been used to detain 54 individuals, including 15 Lebanese nationals and 39 Gazans, most of whom were detained during Israel's winter 2008-2009 military action against Gaza codenamed "Operation Cast Lead" and have since been released. On 10 July 2012, Mahmoud Sarsak, the last Gaza resident held under this law, was released after a hunger strike lasting 80 days. The law remains in force for use in case of future military incursions into Gaza, or whenever prisoners are about to be released.

- **Collective punitive measures against inmates**

Violent night raids by IPS (Israeli prison services) Special Forces on prisoners' sections continue. Throughout the reporting period, prisoners and their families reported during 2013 to PHR-Israel that some wings in different prisons suffer from collective punishment due to suspicion of holding mobile phones. Punishments include fines, denial of permission to buy extra food and supplies, and denial of family visits.

- **Restrictions on access to healthcare**

Many Palestinian prisoners report **inadequate medical treatment** and long waiting periods for specialist treatment and examinations in external hospitals. IPS physicians do not adequately explain their patients' medical conditions to them, and patients are sent for tests but never hear about the results. In other cases, staff have reportedly belittled and ignored their patients' health complaints, often leaving them uninvestigated until serious deterioration. On 2 April 2013, Palestinian prisoner Maysara Abu Hamdiyah died of throat cancer complications, reportedly after a months-long delay in provision of both diagnosis and referral to specialist care by the medical staff of the IPS. Requests for investigation into the circumstances remain unanswered.

Palestinian patients incarcerated in Israeli prisons must endure **appalling conditions during their transport to hospitals and courts**. Because of these conditions, many prisoners prefer not to travel to undergo medical tests, and the IPS then considers them to be refusing treatment.⁴ These conditions continue despite commitments to improve made by the IPS before the Israeli Supreme Court in 2008 and 2010 for improvements (See HCJ 1482/08, *Adalah et al. v. The Israel Prison Service, et al.*, petition withdrawn 2010). On 5 June 2013, Adalah, PHR-I and the Haifa University Law Clinic for Prisoners' Rights and Rehabilitation sent a letter to the IPS Director, Aharon Franco, demanding immediate action to shorten the length of transport time; the replacement of metal seats in prison transport vehicles (called 'posta') and at waiting stations; provision of a daily main meal and water during transport; and access to toilet facilities en route to their destinations. The three organizations also stressed the urgent need for special vehicles to be provided

⁴ See Adalah, "Severely ill Palestinian prisoners endure 12-hour trips under harsh conditions to hospitals or court," 12 June 2013, <http://adalah.org/eng/Articles/2150/Severely-ill-Palestinian-prisoners-endure-trips>



public committee against
TORTURE
In Israel

to transport prisoners with cancer and other serious illnesses individually and directly to and from hospital, and for whom the journey in such prison vehicles is unbearably painful.

Document: Letter to IPS Director (Hebrew): http://adalah.org/Public/files/Hebrew/Legal_Advocacy/Letter-Posta05-06-2013.pdf

- **Access of independent (external) doctors to Palestinian prisoners:**

The IPS continues to deny access of external doctors to Palestinian prisoners and to detainees under interrogation. External visits have been enabled only through prolonged court processes after long periods of waiting. During 2013, PHR-I filed three court petitions in this regard, and only after their submission did the IPS allow access of independent doctors to six Palestinian prisoners. The denial of access to external medical advice is also used as a punitive and isolating measure toward hunger strikers.

Case study: Mohammad Taj, a Palestinian prisoner suffering from lung failure and other medical problems, waited three months for the approval of the IPS of a visit by a specialist volunteer doctor from PHR-I. Only after appealing to court in March was the doctor allowed to examine Mohammad on 11.04.2013. The doctor reported that the patient was in an extremely severe condition, and noted that he was in a need of a lung transplant and intensive medical maintenance (regular catheterization). She recommended immediate hospitalization and noted that his continued detention in prison would endanger his life. A week after this report, on 18.04.13, Mohammad was unexpectedly pardoned and released.

- **Independence of medical staff and the need for documentation and reporting of suspected torture**

Doctors examining detainees under interrogation and other prisoners are IPS employees, a fact that undermines their ability to fulfill their first ethical obligation, to treat and protect their patients. The organizations authoring this document have called for the immediate reform of this system through the transfer of prison and detention healthcare to the Ministry of Health (MoH), and urged all physicians to document and report suspected instances of torture. Furthermore PHR-Israel and PCATI have complained to the Israel Medical Association (IMA) regarding physicians' involvement in the interrogations system, and their disregard of victims' complaints of torture.

The UN-approved Istanbul Protocol provides important guidelines for the way in which physicians, psychologists and attorneys should document and report torture. The organisations have requested that The Israeli Ministry of Health (MoH) and the IMA 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. Following [PCATI](#) lobby efforts we are pleased with the IMA's recent agreement to publish a Hebrew translation (by PCATI) of the Istanbul Protocol on their website.

Documents: The Istanbul Protocol: <http://arsiv1.tihv.org/index.php?istanbul-protocol>

Hebrew translation: <http://www.ima.org.il/Ima/FormStorage/Type7/IstanbulProtocol.pdf>

- **Punitive policies toward hunger strikers**



public committee against
TORTURE
In Israel

From January to August 2013, dozens of Palestinian prisoners and detainees embarked on individual hunger strikes. About 20 of these prisoners reached very advanced stages and fasted for more than 90 days. Five of these prisoners were Jordanian citizens demanding the right to family visits, denied throughout the period of their incarceration. Another eight were administrative detainees protesting their arbitrary detention, and three were prisoners previously released under the prisoners exchange deal (the Shalit deal) but rearrested shortly after. In June 2013, three prisoners refused meals in protest against IPS medical neglect of female prisoner Leena Jarbona, 34, who was in need of urgent gall-bladder surgery.

As stated above, the IPS denies independent medical advice to hunger strikers as a punitive and isolating measure. As part of the same policy, the IPS prevents transfers of hunger strikers to civilian hospitals, until they are in critical condition, despite a clear need to provide specialized care not available in the IPS medical facility, which is not a hospital. Once transferred, hunger strikers are regularly shackled to their beds in civilian hospitals, despite their weakened state.

On 24 February 2013, following advocacy by PHR-I, the Israeli MOH sent an instruction to civilian hospitals according to which 'security' prisoners and detainees on hunger strike must be hospitalized after fasting for more than 28 days, even if they refuse medical care. Moreover, they must be hospitalized after fasting for less than 28 days if their medical condition necessitates hospitalization and endangers their life. PHR-I has voiced its position according to which hospitalization according to medical need is to be welcomed, but no patient should be treated against his/her wishes.

Documents: PHR-Israel comprehensive report on the hunger strikes of 2012, available at: <http://www.scribd.com/doc/135298869/The-Palestinian-Prisoners-Hunger-Strikes-of-2012-Political-Moral-Medical-and-Ethical-Challenges-Encountered-While-Treating-Palestinian-Prisoners-on>

Statement with Addameer regarding prisoners on hunger strike: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1707>

- **Death in custody**

On 28 February 2013, Adalah, PCATI and PHR-I sent a letter to the Israeli Attorney General (AG) demanding that he open an independent and impartial investigation into the circumstances of the death of 30-year old Palestinian detainee Arafat Jaradat in the Meggido Prison, in accordance with the Investigation into Circumstances of Death Law, and that the investigative authorities refrain from employing illegal means of interrogation. Arafat Jaradat died in the course of his detention and interrogation by the GSS.

Document: Joint statement on Arafat Jaradat's death in custody, 1 March 2013: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1710>

- **Denial of education to minors**

As of March 2013, 94 Palestinian minors held in Ofer Prison did not receive any organized education, while 98 minors in Megiddo and Sharon Prisons receive inadequate and inappropriate training. While no educational system exists in Ofer Prison, the educational systems in Megiddo and Sharon Prisons are not properly organized and do not provide age-appropriate material for the children. On 7 March 2013, Adalah and Defense for Children International (DCI) sent a letter to the IPS demanding that education for all minors



public committee against
TORTURE
In Israel

held in Israeli jails be improved immediately, as it violates the children's right to education and discriminates unfairly between Palestinian minors and Israeli minors held on criminal charges. The lack of education leaves children "unable to re-integrate into their classes following their release" and unlikely to graduate from high school following their release.

Document: "Adalah and DCI demand teaching curriculum for Palestinian minors held in Israeli prisons," 7 March 2013, <http://adalah.org/eng/Articles/1936/Adalah-and-DCI-demand-teaching-curriculum-for-held>

- **Women in detention**

Research published by PCATI in July 2013 suggests that the conditions suffered by Palestinian women in Israeli custody differ slightly from those of men, in that their gender and religion are used during interrogation and detention as a form of pressure. Their conditions of imprisonment are substandard and the lack of separation of political prisoners from common law Israeli prisoners leads to cases of abuse from other prisoners.

Document: 'From the Testimony of a Palestinian Woman Prisoner', PCATI, July 2013, available at: http://www.stoptorture.org.il/files/Book%20eng_0_0.pdf

- **Treatment of civilians amounting to Torture or CIDT**

According to casework from PHR-I and Al Mezan, as well as a recent WHO report, a significant proportion of Palestinian patients from the Gaza Strip and the West Bank continue to be denied access to essential medical care, for which they are dependent on referrals to medical centres outside the oPt. During 2011-2012, applications for permits of 1,783 patients from Gaza and 77,815 patients, patient-companions and patient-visitors from the West Bank - one in five - were denied or delayed. The reasons for denial are not medical and are based on Israeli political and security considerations. The uncertainty and last-minute nature of the Israeli response as well as waiting conditions at the crossings make the process more stressful for patients and their families. Children are often denied access if their accompanying relative is not approved by the authorities. In addition, Gaza patients are sometimes called for security interviews with the GSS (Shabak, ISA) before receiving a response, during which they are asked to provide intelligence information as a condition for approval of their permits. In 2012, 206 patients (2.2%) were called by Israeli security services for an interview as part of the application procedure. Finally, requests for permits are sometimes exploited for purposes of arrest and detention of Gaza residents, who are called to Erez crossing to pick up their permits and then detained. According to Al Mezan, 13 Palestinians were detained in this way between January and August 2013.

Documents: WHO special report on access to healthcare, March 2013: http://www.emro.who.int/images/stories/palestine/documents/WHO_Access_Report-March_5_2013.pdf
Al Mezan statement on detention at Erez Crossing: http://www.mezan.org/en/details.php?id=17527&ddname=detention&id_dept=9&p=center

5. Legislation

- **Amendment No. 3 (2013) to the Criminal Procedure Law (Suspects of Security Offenses) (Temporary Order)**



This temporary order, enacted on 29 April 2013, is designed to extend the validity of harsh, special detention procedures for persons suspected of committing security offenses. The special procedures allow law enforcement authorities to delay bringing a security suspect before a judge for up to 96 hours after arrest (instead of 48 hours for other detainees). It also allows the courts to extend a security suspect's detention for up to 20 days at a time (instead of 15 days) and to hold extension of detention hearings in his/her absence. The order is valid through December 2015. It seeks to bypass a Supreme Court decision from February 2010 that struck down article 5 of the Criminal Procedure (Detainees Suspected of Security Offences) (Temporary Order) Law (2006), which stipulated that security suspects could have their pre-trial detention extended in their absence.⁵ 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.

- **Proposed amendment to the Prison Ordinance (Denial of Privileges from a Prisoner Belonging to a Terrorist Organization that is Holding an Israeli Captive)**

According to amendment, which was proposed in March 2013, as long as a 'terrorist organization' holds an Israeli citizen in captivity, a security prisoner from the same organization will be denied special privileges listed in the bill such as visits, recording videos or photographs of themselves to send to their families, receiving and sending letters and other rights.

- **Bill to Fight Terrorism**

On 9 June 2013, the Ministerial Committee on Legislation approved this bill.⁶ This expansive bill, spanning over 105 pages, threatens to enact into law various existing procedures, and to authorize new ones, which are applied discriminatorily against Palestinians from the OPT and Palestinian citizens of Israel, allegedly in the name of fighting terror. The bill seeks to entrench many emergency regulations currently in effect in Israeli law, some of which date back to the British Mandate period, in a move that will significantly undermine the rights of "security detainees".⁷ The bill includes additional 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 the evidentiary requirements on the state in these cases; establishes new criminal offenses, including for any public expression of support or sympathy with a terrorist group;⁸ and sharply increases the maximum sentences people convicted of such offenses. Moreover, the bill uses the following, troublingly vague definition of terrorism and terrorist organizations: "a group of people who act to execute an act of terrorism or to enable or promote the execution of an act of terrorism."⁹ The Justice Ministry first proposed the bill in April 2010, and it passed first reading in the Knesset plenary on 3 August 2011.

⁵ HCJ 2028/08, *The Public Committee Against Torture in Israel, et al. v. The Minister of Justice* (petition withdrawn 24 March 2009). For more information, see Adalah's Press Briefing, 23 February 2010: http://www.adalah.org/eng/pressreleases/pr.php?file=23_02_10

⁷ Israeli authorities often invoke the Prevention of Terrorism Ordinance (1948) and the Prohibition on Terror Financing Law (2004) in security procedures. Other laws often used include the Defense (Emergency) Regulations (1945), the Incarceration of Unlawful Combatants Law (2002), and the Criminal Procedure Law (Detainee Suspected of Security Offense) (Temporary Order) (2006).



public committee against
TORTURE
In Israel

Documents:

Adalah's Discriminatory Law Database,

http://www.adalah.org/eng/?mod=db&dld_page=law&slg=bill-to-fight-terrorism.

ACRI, "Counter-Terrorism Bill: Undemocratic Emergency Regulations Could Become Permanent Law," 4 August 2011, available at: <http://www.acri.org.il/en/?p=2999>;

Israel Democracy Institute, "Roundtable: The Counter-Terrorism Memorandum Bill," 2 October 2010, available at:

<http://www.idi.org.il/sites/english/ResearchAndPrograms/NationalSecurityandDemocracy/Pages/Counter-TerrorismMemorandumBill.aspx>

- **Proposed law to legalise force feeding**

Recent reports in the media exposed a government initiative, involving the Ministry of Justice, Ministry of Public Security, the Israel Security Agency, the IPS and others, to draft a law that will allow force-feeding of Palestinian prisoners on hunger strike. The proposal is currently under examination by the Attorney General.

Such legislation would be contrary to international conventions and ethical guidelines such as the *Malta Declaration*, which states that force-feeding can never be regarded as ethical, and the *Tokyo Declaration* of the World Medical Association (1975), which defines force-feeding of hunger striker as torture and forbids doctors from participating in such actions. On 11 July 2013 the Israel Medical Association (IMA) voiced a similar position and opposed the legislation.

Document: Statement regarding force feeding: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1811>

4. Recent Israeli Supreme Court Decisions

- **Reversing prior precedent, Supreme Court rejects Palestinian prisoners' appeals to continue higher education in prison**

In December 2012, the Supreme Court rejected an appeal by Rawi Sultany (27 years-old), a Palestinian citizen of Israel classified as a 'security prisoner', to continue his higher education at the Open University (OU) after two years of political science study via correspondence. The Court held that education is not the right of a prisoner.¹⁰ The Court's ruling sharply contradicts the longstanding principle in Israeli case law that prohibits arbitrary discrimination between prisoners classified as "criminal" or "security" prisoners, and that the violation of a prisoner's rights is only allowed if it is necessary to maintain public order or prison security. In 2010, 270 prisoners took courses at the OU; 200 prisoners classified as "security prisoners" and 70 prisoners classified as "criminal prisoners". In June 2011, the IPS suddenly and arbitrarily decided to stop all Palestinian political prisoners from studying higher education courses. The Court also rejected two further petitions brought respectively by the Haifa University Prisoners' Rights Legal Clinic and the Association for Civil Rights in Israel (ACRI) on behalf of prisoners who had nearly completed their studies when the IPS instituted its new policy. In January 2013, the three organizations filed a motion to the Supreme Court to re-consider the decision.

¹⁰ Prisoner Appeal 2459/12, *Said Salah v. Ministry of Public Security and the Israel Prison Service* (decision delivered on 24 December 2012); motion to reconsider pending.



Document: Adalah Press Release, 26 December 2012, available at:

<http://www.adalah.org/eng/Articles/1894/Reversing-Prior-Precedent,-Israeli-Supreme-Court>

- **Supreme Court rejects petition against law exempting GSS from recording interrogations of security suspects; decision contradicts Turkel Committee recommendations**

In February 2013, the Supreme Court dismissed a petition submitted by Adalah, PCATI, PHR-I and Al Mezan in 2010 to cancel a sweeping exemption in law that allows the police and GSS (Shin Bet/Shabak) not to make audio or video recordings of their interrogations of suspected security offenders.¹¹ The Court dismissed the petition on the grounds that the Justice Ministry had committed to examining alternatives to the exemption by 2015 and that relevant ministries were working to clarify the law's definition of security offenses. However, the Knesset has extended the temporary order repeatedly since 2002.

Notably, the court's decision in this case completely contradicts the recommendations published by the Turkel Committee – the official government-appointed committee set up to investigate the events of the Gaza aid Flotilla in May 2010. In its recommendations, the Turkel Committee clearly stated that there was a need to change the status quo, and to oblige the GSS to make audio and video recordings of its interrogations of security suspects. In addition, Yuval Diskin, former head of the GSS, testified to the Turkel Committee that he was in favor of recording interrogations. The UN Committee Against Torture has also expressed its sharp criticism of this sweeping exemption in its 2009 Concluding Observations on Israel.

Documents:

Excerpts from the petition: <http://adalah.org/Public/files/English/Publications/On-Torture/On-Torture-English-12-HCJ941610-73-83.pdf>

Court decision: http://adalah.org/Public/files/English/Legal_Advocacy/Petitions/2010/HCI-9416-10-Judgement-English.pdf

The Turkel Committee report: <http://www.turkel-committee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf>

Analysis of the Turkel report by Adalah, PHR-I and PCATI: <http://adalah.org/Public/files/English/Newsletter/101-February-2013/Statement-Turkel-Adalah-PCATI-PHRI-English.pdf>

UN CAT Concluding Observations 23 June 2009: [http://adalah.org/upfiles/ConcludingObservations/CAT-Concluding%20Observations%20\(2009\).pdf](http://adalah.org/upfiles/ConcludingObservations/CAT-Concluding%20Observations%20(2009).pdf)

- **Supreme Court ruling on access to external doctors**

In April 2013, PHR-I applied to the District Court against an IPS denial of a request for an external doctor, based on the right of prisoners to a second medical opinion under Israeli law. Although the district court ordered the entry of the doctor it refused to comment on the systematic denial of access to external doctors by the IPS. An appeal was then submitted to the Supreme Court concerning the general question of delays in treatment of requests for the entry of external doctors. In its reply to the court, the IPS claimed that "as a rule, applications for private medical visit of common law prisoners receive a response within a

¹¹ HCJ 9416/10, *Adalah, et al. v. Ministry of Public Security, et al.* (decision delivered on 7 February 2013; petition dismissed).



week and the response to requests for private medical visit for security prisoners may take about three weeks". In fact, requests for external doctors had been delayed by one month up to six months. In the Court's decision of 18 July 2013, Justice Rubinstein wrote, "Indeed there will be cases where a week will suffice, however, three weeks seem to be too long and should be very short. The IPS and its doctors should take note of this issue and recognize it as a right and not a privilege." However, since this court decision the IPS has implemented neither its own declared policy nor the court's guidance, and still denies the entry of external doctors.



This publication is part of a programme funded by the European Union. The contents of this publication are the sole responsibility of the above-mentioned organisations and can in no way be taken to reflect the views of the European Union.