



**Briefing Paper on Recent Developments on Palestinian Prisoners held in Israeli Prisons
 23 June 2013**

Adalah submits this short briefing paper on recent developments concerning Palestinian prisoners held in Israeli prisons to the *UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories* for consideration at its meetings in Amman. This paper supports the testimony given by Adalah’s legal representative at this meeting. This briefing paper includes:

1. Statistics on Palestinian political prisoners being held by Israel
2. Information on prison and detention conditions, including torture and cruel, inhumane, and degrading treatment (CIDT)
3. New legislation
4. Recent Supreme Court decisions

1. Statistics on Palestinian political prisoners being held in Israel ¹

Type of Prisoner	Number of Prisoners
Total Number of Political Prisoners	4979
Administrative detainees	156 (8 PLC)
Female prisoners	17
Child prisoners	236 (44 under 16)
Palestinian Legislative Council members	13
East Jerusalem prisoners	184
Palestinian citizens of Israel (1948) prisoners	196
Prisoners from Gaza	423
Prisoners serving life sentences	529
Prisoners serving a sentence under 20 years	454
Prisoners serving a sentence above 20 years	77
Prisoners serving a sentence above 25 years	25
Prisoners detained before the Oslo Agreements	105

As of May 2013, Israel was holding 4,979 Palestinian political prisoners – classified by Israel as “security” prisoners – from the Occupied Palestinian Territory (OPT) and Israel, as well as Arabs from the Golan Heights. The chart above shows the breakdown of prisoners by place of residence, by status, as well as other factors. Security prisoners are classified separately from criminal prisoners and receive different and severely harsh treatment.²

¹ Statistics obtained by Addameer from the Israel Prison Service (IPS), May 2013, available at addameer.org

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

2. Prison and Detention Conditions – Torture and/or CIDT

A. UN Human Rights Committees

Adalah and its partners view with extreme gravity the treatment of Palestinian detainees and prisoners – adults and minors - held in General Security Service (GSS) detention facilities and in prisons in Israel. Adalah, the Public Committee Against Torture in Israel (PCATI), Physicians for Human Rights-Israel and Al Mezan submitted joint reports [to the UN Committee Against Torture \(CAT\)](#) in March 2012, and to the [UN Human Rights Committee](#), which monitors the International Covenant on Civil and Political Rights (ICCPR) in June 2012.

The reports detail Israel's lack of compliance with both the CAT and 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: the 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);

In July 2012, the UN CAT released its “List of Issues for Israel; [37 of 59 questions regarding Israel's compliance](#) with CAT relate to issues raised in our joint NGO Report to the Committee. In August 2012, the UN HRC released [its respective “List of Issues”](#), with 10 of the 26 questions asked relating to issues raised by the partners in our NGO report.

Adalah also wishes to call the Committee's attention to just released concluding observations on Israel issued by the UN Committee on the Rights of the Child (CRC). In June 2013, the CRC harshly criticized Israel's treatment of Palestinian minors in interrogation and detention, as both a violation of the Children's Rights Convention as well as a grave breach of article 32 of the Fourth Geneva Convention.⁴

The CRC urged Israel to:

- “(a) Immediately remove all children from solitary confinement;
- (b) Launch without delay an independent inquiry into all alleged cases of torture and ill-treatment of Palestinian children. This should include ensuring that at all levels of the chain of command, those who have been ordering, condoning or facilitating these practices be brought to justice and be punished with penalties commensurate with the gravity of their crimes;
- (c) Take immediate measures to ensure that children living in the OPT are provided with safe and child-friendly complaint mechanisms, including during trials, with regard to the treatment they were subjected to at the time of arrest and subsequent detention;

³ In June 2013, the Ministry of Justice announced the appointment of a new Inspector of Interrogatee Complaints, Colonel (Res.) Jana Modzagavrishvili, three years after the Attorney General announced that the position would be created. This decision finally transfers the legal authority to investigate torture complaints against GSS personnel to an external body, the Justice Ministry. It remains to be seen whether the new position will lead to the investigation and prosecution of complaints. See PCATI Public Statement on 11 June 2013, <http://www.stoptorture.org.il/en/node/1876>

⁴ 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),” <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>

(d) Ensure that relevant judicial authorities are exercising due diligence in investigating and prosecuting acts that amount to torture or other forms of ill-treatment, even in the absence of a formal complaint when circumstances cast a doubt about the way confession was obtained; and

(e) Ensure physical and psychological recovery as well as social reintegration assistance to all children living in the OPT who have been victims of torture and ill-treatment.” (CO #36)

The CRC expressed “deep concern about the continuous use of Palestinian children as human shields and informants (14 such cases having being reported from January 2010 to 31 March 2013 only) and about the failure of the State party to comply with the ruling of the High Court of Justice in *Adalah et al. v. Commander of the Central Region et al.* (HCJ 3799/02, Judgement of 23 June 2005) as recommended by the Committee in 2010 (CRC/OPAC/ISR/CO/1 para. 25) in this respect.” (CO #71)

The CRC also raised concern that Israel “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).” (CO # 73)

The CRC also urged Israel, “to guarantee that juvenile justice standards apply to all children without discrimination and that trials be conducted in a prompt and impartial manner, in accordance with minimum fair trial standards ... and to dismantle the institutionalized system of detention and use of torture and ill-treatment of Palestinian children at all stages of the judicial procedure. All those who have been involved in this illegal system should be brought to justice and punished if found guilty.” (CO #74)

B. New cases

New cases in which Adalah and its partners are working include the following:

- **Severely ill Palestinian prisoners endure 12-hour trips under inhumane conditions to hospitals or court**

Palestinian prisoners incarcerated in Israeli prisons must endure appalling conditions during their transport to hospitals and courts, endangering their health. Because of these inhuman conditions, many prisoners prefer not to travel to undergo medical tests. IPS then considers them to be refusing treatment.⁵ These inhumane 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](#) (Hebrew) to the Director of the IPS, Aharon Franco, demanding immediate action to shorten the length of transport time; the replacement of metal seats in

⁵ 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>

“posta” prison vehicles and at waiting stations; for the provision of a daily main meal and water during their 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 to transport prisoners with cancer and other serious illnesses individually and directly to and from hospital, and for whom the journey in posta vehicles is unbearably painful.

- **Call on Israel to open an independent investigation into the suspicious death following the interrogation of Palestinian detainee Arafat Jaradat**

On 28 February 2013, Adalah, PCATI and PHR-I sent a letter to the Israeli Attorney General (AG) to 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 that will cost additional lives.⁶ Arafat Jaradat died in the course of his detention and interrogation by the GSS.⁷

- **Punishing prisoners and hunger strikers by extremely limiting medical care**

The IPS continues to deny entry of independent doctors to prisons to visit hunger strikers, and visits have been permitted only through prolonged court processes. The IPS also prevents transfers of hunger strikers to civilian hospitals, despite a clear need to provide specialized care not available in the IPS medical facility. More generally, the quality of medical care provided to all prisoners is a continuing complaint of Palestinian prisoners and their families. The IPS and not the Ministry of Health oversees prisoners' health and healthcare, despite a multitude of complaints and requests for improvement.⁸ Following the hunger strike, female Palestinian prisoners held in Hasharon prison boycotted the prison clinic for one week in protest at the lack of adequate medical care and the unreasonable waiting periods.⁹ In June 2013, three prisoners refused meals in protest against IPS neglect of Leena Jarbona, 34 years-old, in need of urgent gallbladder surgery.

- **No education for incarcerated Palestinian minors**

As of March 2013, 94 Palestinian minors held in Ofer Prison do 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 held in Israeli jails be improved immediately, as it violates the children's right to education and discriminates unfairly between Palestinian

⁶ See Joint Statement by Adalah, PCATI and PHR-I, “Israel: Open Independent Investigation into the Suspicious Death following Interrogation of Palestinian Detainee Arafat Jaradat,” 28 February 2013, <http://adalah.org/Public/files/English/Newsletter/101-February-2013/Statement-Jaradat-Prisoners-Adalah-PCATI-PHRI-English.pdf>

⁷ For more details on Arafat and his death, see “Addameer Prisoners Support and Human Rights Association Demands an official international inquiry into the death of Arafat Jaradat, a martyr of the prisoners movement,” 24 February 2013, <http://www.addameer.org/etemplate.php?id=578>

⁸ See PHR-I Report “The Palestinian Hunger Strikes of 2012,” January 2013, <http://www.phr.org.il/default.asp?PageID=116&ItemID=1732>

⁹ Information from NGO Report “Update on the current situation of Palestinian prisoners,” 26 June 2012, http://adalah.org/Public/files/English/International_Advocacy/PrisonersUpdate26Jun2012.pdf

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.¹⁰

3. New 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.

The order 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.¹¹ 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.

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

According to the bill, which was introduced 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.¹² 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 Mandatory period**, in a move that will significantly undermine the rights

¹⁰ See Adalah, "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>

¹¹ 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

¹² See Adalah’s Discriminatory Law Database, http://www.adalah.org/eng/?mod=db&dld_page=law&slg=bill-to-fight-terrorism. For more, see ACRI, “Counter-Terrorism Bill: Undemocratic Emergency Regulations Could Become Permanent Law,” 4 August 2011, available at: <http://www.acri.org.il/en/?p=2999>; the 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>

of “security detainees”.¹³ 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;¹⁴ 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.”¹⁵ The Justice Ministry first proposed the bill in April 2010, and then it passed first reading in the previous Knesset plenary on 3 August 2011.

4. Recent Israeli Supreme Court Decisions

- **Reversing prior precedent, Supreme Court (SCT) 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.¹⁶ 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. [Press Release](#)

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

In February 2013, the SCT dismissed a [petition \(Excerpts in English\)](#) submitted by Adalah, PCATI, PHR-I and Al Mezan in 2010 to cancel a sweeping exemption in law that allows the police and General Security Service (GSS) (Shin Bet/Shabak) not to make audio or video

¹³ 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).

¹⁴ Under the bill, three-year prison sentences would be given to anyone who waves a flag, displays a symbol, or publishes a slogan of a terrorist group.

¹⁵ See the Israel Democracy Institute, “New Comprehensive Counter-terrorism Memorandum Bill,” May 2010, available at:

http://www.idi.org.il/sites/english/ResearchAndPrograms/NationalSecurityandDemocracy/Terrorism_and_Democracy/Newsletters/Pages/17th%20newsletter/1/1.aspx

¹⁶ 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. See Adalah, “Reversing Prior Precedent, Israeli Supreme Court Rejects Palestinian Prisoner Rawi Sultany’s Appeal to Continue his Higher Education Studies in Prison,” 26 December 2012, <http://www.adalah.org/eng/Articles/1894/Reversing-Prior-Precedent-Israeli-Supreme-Court>

recordings of their interrogations of suspected security offenders.¹⁷ The Court dismissed the petition ([court's decision in English](#)) on the grounds that the Justice Ministry 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 continuously 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 Freedom 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. [Read Adalah, PHR-I, and PCATI's analysis of the Turkel Report](#)

Further in May 2009, the UN Committee Against Torture expressed its sharp criticism of this sweeping exemption in its [concluding observations on Israel](#). The committee stated that that “Video recording of interrogations is an important advance in protection of both the detainee and, for that matter, law enforcement personnel.” The committee further recommended that Israel should, “as a matter of priority, extend the legal requirement of video recording of interviews of detainees accused of security offenses as a further means to prevent torture and ill-treatment.”

¹⁷ HCJ 9416/10, *Adalah, et al. v. Ministry of Public Security, et al.* (decision delivered on 7 February 2013; petition dismissed).