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## **POSITION PAPER**

**July 2012**

# **Inhumane Conditions of Imprisonment of Palestinian Security-Classified Prisoners in Israeli Prisons**

This position paper describes the conditions of incarceration in which Palestinian political prisoners and detainees classified as “security prisoners” are held in Israel. It includes updated data and surveys the latest developments in both policy and legislation relating to the conditions of imprisonment of these prisoners in Israeli detention and prison facilities. It also examines their legal status under international human rights law, and in particular, those conventions which prohibit torture and cruel, inhuman, and degrading treatment and punishment.

## **Introduction**

At the beginning of July 2012, 4,706 Palestinians political prisoners classified by Israel as security prisoners and detainees were incarcerated in Israeli prison and detention facilities. Of these, six are women, 285 are administrative detainees, and 220 are minors.<sup>1</sup>

Because of their classification as security prisoners, as opposed to those who are classified as “criminal prisoners”, the Israel Prison Service (IPS) imposes stringent restrictions on their conditions of incarceration. These prisoners have been convicted of offenses, predominantly in the Israeli military courts, against the state’s security. They may not make telephone calls, apart from exceptional cases such as death or terminal illness of a first-degree family member, and subject to the special approval of the prison commander;<sup>2</sup> have conjugal visits with their spouses, or receive furloughs.<sup>3</sup> They are allowed to mail only two letters and four postcards a month.<sup>4</sup> Visits to these prisoners are strictly limited to first-degree family members, with visits by friends and other relatives absolutely forbidden. In many cases, the IPS and other Israeli authorities grant permits to first-degree family members only on rare occasions, or even prohibit these visits entirely on the “grounds of security.” Prisoners who are residents of the Gaza Strip, now around 550 individuals, had not received any family visits since 2007. However, following the recent hunger-strike agreement, the International Committee of the Red Cross (ICRC) announced the resumption of visits for a few dozen Gazan prisoners as part of a pilot program beginning in July 2012. Finally, Palestinian security-classified prisoners are not entitled to early release under the Conditional Release Law although, formally, this law is intended to apply to all prisoners, whether classified as criminal or security prisoners.

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<sup>1</sup> For detailed statistical data see: Addameer Association <http://www.addameer.org/etemplate.php?id=496>.

<sup>2</sup> Section 19 of Prison Ordinance 03.02.00.

<sup>3</sup> Prison Ordinance 04.40.00 <http://www.ips.gov.il/NR/rdonlyres/96BA8EAA-DE6B-4F80-AF43-2E546A06D103/0/044000.pdf>

<sup>4</sup> Section 12a of Prison Ordinance 03.02.00.



The IPS does not impose similar restrictions on all Jewish Israeli security-classified prisoners. The IPS's policy toward Israeli Jewish prisoners is to conduct an individual assessment of each person based on his personal case data to determine the necessary security measures, rather than imposing these restrictions based only on a prisoner's classification as a security prisoner.<sup>5</sup> By classifying many Palestinian prisoners as "security prisoners" and imposing extremely harsh conditions on them, Israel implements a racist and discriminatory policy, according to which Palestinians, by virtue of their identity, constitute a security threat.

The classification of a prisoner as a security prisoner cannot, in and of itself, justify an arbitrary violation of his fundamental rights. The Israeli Supreme Court recognized this principle, at least on the declaratory level, when it ruled that the IPS is authorized to take special measures regarding security-classified prisoners. However, the court also determined that these measures must be carried out while strictly safeguarding an appropriate balance between security needs and prisoners' rights and while refraining from the arbitrary violation of these rights.<sup>6</sup>

The rights of security prisoners are defined in the IPS Ordinance, "Rules Relating to Security Prisoners" (No. 03.02.00),<sup>7</sup> as well as other IPS directives concerning specific issues. Some of these regulations relate to rights that apply to all prisoners, and others only apply to specific groups of prisoners.

In May 2012, the Knesset approved Amendment no. 42 to the Prison Ordinance.<sup>8</sup> The purpose of this new law is to ensure appropriate prison conditions for the protection of the health and dignity of prisoners. This amendment is a positive and significant development regarding the incarceration conditions of all prisoners, and particularly of those classified as security prisoners. The amendment determines that the IPS must ensure appropriate sanitary conditions for the maintenance of personal hygiene; provide medical treatment to protect the health of the prisoners; provide food, drinks, clothing, and personal hygiene articles; and ensure reasonable lighting and ventilation conditions. The new law also recognizes additional rights such as a daily open air walk and participation in recreational or educational activities (restricted by the conditions set in the IPS's regulations). However, the new law restricts rehabilitation services and activities to prisoners who are Israeli citizens or residents and, therefore, does not apply to most security-classified Palestinian prisoners.

This new law was passed following a massive hunger strike launched in April 2012 by approximately 1,600 Palestinian security-classified prisoners. The hunger-strikers staged their actions in protest against the deprivation of their rights and the discrimination against them in all fields, particularly the solitary confinement of some 50 prisoners, the total denial of family visits from Gaza, and the use of

<sup>5</sup> See Abeer Baker "The Definition of Palestinian Prisoners in Israeli Prisons as "Security Prisoners" – Security Semantics for Camouflaging Political Practice," *Adalah's Review*, Volume 5, Spring 2009.

<sup>6</sup> HCJ 2245/06, MK Dobrin v. the Israel Prison Service (unpublished, decision delivered on 13.6. 2006), para. 15.

<sup>7</sup> Hereinafter Ordinance 03.02.00 <http://www.ips.gov.il/NR/ronlyres/91119974-1CB6-40C8-AAF7-AF6179BEDCC9/0/030200.pdf>

<sup>8</sup> Prison Ordinance Amendment (No. 42) Law, 5772-2012 (hereinafter: **Amendment no. 42**)



administrative detention/the Unlawful Combatants Law.<sup>9</sup> The prisoners' strike continued until 14 May 2012, when an agreement was reached between the Israeli authorities and the prisoners.<sup>10</sup> According to this agreement, the prisoners would not take part in "terrorist activity" from prison (a term not defined in the agreement), and the Israeli authorities would release prisoners being kept in solitary confinement to regular detention units, annul the policy of isolation, and renew the visits of first degree family members of all prisoners from Gaza as well as those prisoners from the West Bank who had been similarly denied family visits. Regarding administrative detainees, the Israeli authorities agreed to review each of the cases individually. Thus far, most of the provisions of the above agreement have not been honored and the use of administrative detention/detention under the Unlawful Combatant Law continues. The resumption of family visits from Gaza only began on 16 July 2012 when, for the first time since 2007, a few family members of prisoners being held at the Ramon Prison were permitted to visit in what was described as a "pilot" by the IPS, after which the possibility of renewing family visits from Gaza would be reexamined.

### **Prisoners' Contact with their Families**

Only first-degree family members - a spouse, mother, father, children, brothers, and sisters – may be granted permission to visit security-classified Palestinian prisoners.<sup>11</sup> These visits take place once every two weeks for 45 minutes. A glass barrier separates the prisoner from his or her visitors and communication is carried out by telephone.<sup>12</sup> Following a petition filed by Adalah to the Supreme Court on behalf of prisoners and their young children in 2004, the IPS now allows children under eight years of age to have some physical contact (hugging) with their incarcerated parent for the last 10 minutes of their visit, at a frequency of no more than once every two months.<sup>13</sup>

In September 2007, a ministerial committee for National Security imposed various restrictions on all residents of the Gaza Strip, including the prohibition of movement of people to and from Gaza to Israel. As a result, family members from Gaza were not permitted to enter Israel to visit their imprisoned relatives. Adalah, the Al Mezan Centre for Human Rights in Gaza, and the Association for Palestinian Prisoners submitted a petition to the Supreme Court against this policy in 2008 requesting that the

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<sup>9</sup> Israel uses the Unlawful Combatants Law (2002) to detain Palestinian residents of the Gaza Strip without charge or trial for an indefinite period of time. According to the law, an 'unlawful combatant' is a person who is suspected of direct or indirect participation in violence against Israel. It even enables incarceration of persons based on their membership in a group, irrespective of their personal conduct. The UN Committee Against Torture expressed concern about this law in its Concluding Observations of 2009:

<http://unispal.un.org/UNISPAL.NSF/0/DBE3C94863A888938525763300544555;>

The UN Human Rights Committee, in its concluding observations of 2010, called on Israel to repeal the Unlawful Combatants Law:

[http://www.adalah.org/upfiles/ConcludingObservations/HRC-Concluding%20Observations%20\(2010\).pdf](http://www.adalah.org/upfiles/ConcludingObservations/HRC-Concluding%20Observations%20(2010).pdf)

<sup>10</sup> See <http://www.shabak.gov.il/publications/publications/Pages/shotef140512.aspx>

<sup>11</sup> Article 17 a(3) of Ordinance 03.02.00.

<sup>12</sup> Article 17 i(1) of Ordinance 03.02.00.

<sup>13</sup> HCJ 7585/04, **Kanaaneh v. Israel Prison Service**) unpublished, decision delivered on 25 March 2010)



Court order that such entry to Israel be permitted. In December 2009, the Court dismissed the petition on the grounds that family visits from Gaza do not constitute a basic humanitarian need; that "aliens," meaning Palestinians from Gaza, have no right to enter Israel; and that the government's decision stems from a legitimate political and security policy in which the court has no reason to intervene.<sup>14</sup>

Various international bodies have taken a strong stance against the denial of family visits. In June 2009, the head of the delegation of the International Committee of the Red Cross (ICRC) to Israel and the OPT stated that, "Palestinian families must be allowed to visit their next of kin in Israeli prisons. This is a humanitarian issue of utmost importance."<sup>15</sup> In June 2011, the ICRC published its position stating that "[t]he ICRC regards contacts between detainees and their families as a strictly humanitarian issue."<sup>16</sup> The UN Human Rights Council's 2009 report on the Fact-Finding Mission on the Gaza Conflict also criticized the practice.<sup>17</sup> In its concluding observations on Israel from July 2010, the UN Human Rights Committee, which oversees compliance with the International Covenant on Civil and Political Rights (ICCPR), determined that Israel violates many of its obligations concerning Palestinians under the Convention, including the imposition of restrictions on family visits to prisoners.<sup>18</sup> The committee determined in this regard:

The Committee notes with concern that the State party's Supreme Court upheld the ban on family visits to Palestinian prisoners in Israel, including for children. The Committee is also concerned that detainees suspected of security-related offences are not allowed to maintain telephone contact with their families... The State party should reinstate the family visit programme supported by the International Committee of the Red Cross for prisoners from the Gaza Strip. It should enhance the right of prisoners suspected of security-related offences to maintain contact with their families, including by telephone.<sup>19</sup>

In June 2012, the ICRC representative in Gaza noted that, "the Red Cross has completed all the preparations for the renewal of visits of families from Gaza to prisons in Israel. However we are waiting for instructions and approval from the relevant parties in Israel for the resumption of the visits and there are no new regulations concerning this matter."<sup>20</sup> The IPS replied to Adalah's letters stating that, "although there was a general announcement on the renewal of visits following the [hunger strike]

<sup>14</sup> HCJ 5399/08 *Adalah v. the Minister of Defense* (unpublished, decision delivered on 9 December 2009). See: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_12\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=09_12_10)

<sup>15</sup> See: The International Committee of the Red Cross, **Palestinian families must be allowed to visit their next of kin in Israeli prisons**: <http://www.icrc.org/eng/resources/documents/news-release/gaza-news-100609.htm>

<sup>16</sup> See: The International Committee of the Red Cross, Gaza detainees barred from family visits: <http://www.icrc.org/eng/resources/documents/news-footage/palestine-israel-tvnews-2011-06-23.htm>

<sup>17</sup> Paragraph 1972e of the report known as the "Goldstone Report" see: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>

<sup>18</sup> See: Concluding Observations of the UN Human Rights Committee, Israel, 3 September, 2010, <http://unispal.un.org/UNISPAL.NSF/0/51410EBD25FCE78F85257770007194A8>

<sup>19</sup> Article 21 of the committee's recommendations. See: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/448/06/PDF/G1044806.pdf?OpenElement>

<sup>20</sup> Telephone conversations held by Adalah Attorney Rima Ayoub with a representative of the ICRC in Gaza on 31 May 2012 and 7 June 2012



agreement, rumors concerning visits in the near future are groundless."<sup>21</sup> The pilot visits, which took place in July 2012, do not indicate a change in policy or the full renewal of family visits.

The severe restrictions on any contact with the world outside the prisons influence every aspect of the prisoners' lives in prison and have lasting implications for when prisoners are released. Restricted contact with the outside world violates the prisoners' basic rights and can have dire consequences on their physical and mental health. Further, these restrictions impede the prisoners' ability to protest and alert others when their rights are being violated. Limited contact with family negatively impacts the prisoners' relationships with their families, making it more difficult for prisoners to return to normal life after release. Because of the far-reaching effects of these restrictions, these restrictions hurt the Palestinian society as a whole.

### **Prevention and Restrictions on Attorney Visits**

Due to the multiple restrictions imposed on the contact of Palestinian security-classified prisoners with the outside world, the meetings of these prisoners with their attorneys assume even greater importance. Recent legislative changes, however, further restrict these visits as well. In August 2011, the Knesset approved an amendment to the Prison Ordinance expanding the justifications for preventing prisoner-attorney visits and significantly extending the periods of time during which it would be possible to prevent a meeting.<sup>22</sup> Prior to the passage of the amendment, the prevention of a meeting was only possible if there was a real fear that it would result in harm to a person's security, public security, or the security of the state or the prison.

The new legislation allows for preventing such visits if there is a fear that a meeting would enable the transfer of information between prisoners or between prisoners and people outside the prison that is related to facilitating the activity of a terrorist organization. The amendment authorizes the prison warden to ban attorney visits for 72 hours, up from 24 hours previously, and even authorizes him to extend the ban for an additional 24 hours for "special reasons." The prison commissioner, who in the past was authorized to extend the meeting ban with the consent of the Attorney General for an additional five days, may now extend it for up to 15 days. And the court, previously the sole authority to extend a ban beyond five days, may now only hear a claim on the 15<sup>th</sup> day of the ban. At the hearing, the court is now allowed to extend the validity of the meeting ban for a period of up to 6 months rather than 21 days, and for a cumulative period of one year rather than the maximum of 3 months allowed prior to the approval of the amendment. In addition, the legislation enables the Supreme Court to extend the prohibition period indefinitely, if a request approved by the Attorney General is submitted and meets one of the reasons for the ban.<sup>23</sup>

<sup>21</sup> Telephone conversation of Adalah Attorney Rima Ayoub with a prison officer at Nafha Prison on 7 June 2012.

<sup>22</sup> Law Amending the Prison Ordinance (No. 40), 5771-2011

<sup>23</sup> For Adalah's position submitted to the Knesset prior to the enactment of the law see:

<http://www.adalah.org/heb/?mod=articles&ID=1028>. For additional information on the issue of regulations relating to meetings with counsel see: Adalah, Al-Mezan and Physicians for Human Rights-Israel position paper of 17 April 2012 entitled, "Denying the Right to Legal Counsel to Exert Pressure on Palestinian Detainees," <http://www.adalah.org/upfiles/2012/Joint%20Position%20Paper%20-%20Meeting%20with%20Lawyers%20-%20ENGLISH%20FINAL.pdf>; See press release regarding the appeal of human rights organizations against the



The rights of prisoners to meet with their attorneys was also limited in May 2012, when the Knesset approved an amendment to the Prison Ordinance authorizing the Prisons Commissioner to restrict the number of lawyers able to visit an individual prisoner or group of prisoners convicted of security offenses for a certain amount of time.<sup>24</sup> Under the amendment, the IPS Commissioner is authorized to order the restriction for a period of three months and also to extend it for an additional three months with permission of the Attorney General or his appointee. The District Court is also allowed to extend the period of restriction for up to six months at a time,<sup>25</sup> with no limits on the number of extensions, and without the examination of any evidence against the prisoners or the group.

The right to choose an attorney, to seek advice, and to be represented is of crucial importance to prisoners, and more so when the issues involved are the representation of prisoners in civil procedures, and conditions of the incarceration.<sup>26</sup> The realization of this right to representation ensures that derivative constitutional rights are also upheld, including the right to dignity, the right to bodily integrity, and the right to receive medical care. In this context it must be emphasized that preventing and restricting meetings with counsel can also be interpreted as a form of isolation of the prisoner, which may further expose him to torture and/or other cruel, inhuman and degrading treatment.<sup>27</sup> The right to counsel is particularly vital to security-classified prisoners due to the many restrictions already imposed against them relating to contact with the outside world.

### **Humiliating Strip Searches of Prisoners and Visiting Family Members**

Security-classified prisoners in various prisons have reported that they and their visiting family members have been subjected to humiliating strip searches. Various testimonies collected by Adalah during the second half of 2011 and the first half of 2012 reveal that members of the IPS special guard units regularly raid the prisoners' rooms after midnight or at dawn while the prisoners are sleeping, and conduct strip searches using illegal means of pressure, including intimidating dogs and/or physical and verbal abuse, which in some cases has resulted in physical injuries to the prisoners. These searches also often occur during prisoners' transfer between prisons.

On 4 June 2012, Adalah submitted a detailed complaint to the IPS Commissioner against these humiliating and violent searches, which violate the right of the prisoners to dignity, privacy and bodily integrity. The complaint demanded that the Commissioner order an immediate inquiry into the events, initiate charges against wardens who were involved, and immediately halt the degrading strip searches of the prisoners.<sup>28</sup>

Under Israeli law, the consent of the prisoner is required before strip searches, and if a prisoner objects, a strip search may only be conducted with the written consent of an IPS officer, and only after the

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policy of preventing meetings of prisoners with their attorneys during the 2012 hunger strike:

<http://adalah.aiforms.com/eng/?mod=articles&ID=692>

<sup>24</sup> Amendment to the Prison Ordinance (no. 43)5772-2012

<sup>25</sup> See Adalah's position paper submitted to the Knesset prior to the enactment of the amendment:

<http://www.adalah.org/eng/?mod=articles&ID=1754>

<sup>26</sup> Criminal Appeal 5121/98 *Issacharov v. Chief Military Prosecutor*, PD 61(1), 461, 760-761.

<sup>27</sup> Report by the Special Rapporteur on the Question of Torture UN Doc. A/54/426.

<http://www.un.org/documents/ga/docs/55/a5544.pdf>

<sup>28</sup> See: <http://www.adalah.org/eng/?mod=articles&ID=1778>



prisoner has been given an opportunity to explain his objection to the Director of the prison. Moreover, if a prison officer decides that a strip search is appropriate, he is required to inform the prisoner that reasonable force may be used against him for the purpose of conducting the search.<sup>29</sup> The events detailed in the complaint reveal that IPS wardens do not comply with the above stipulation: the prisoners were frequently ordered to strip, whether because of transfer from one prison to another or in the framework of a night raid against a group of prisoners. The searches were carried out without the presentation of a written consent by an IPS officer and without affording prisoners the opportunity to raise their objections prior to the search.

The complaint also included cases of strip searches of both male and female family members of Palestinian security prisoners when entering the prisons for visits. The IPS conducted these searches in violation of the directives of the Prison Ordinance which determine that only an officer is authorized to order a strip search of a visitor, and only if a reasonable suspicion was raised that the visitor has on his person evidence proving a drug-related offence, an offence under the Firearms Act 5709-1949, or an offence that may harm the security of the state or the security of the prison.<sup>30</sup> None of these prerequisites for carrying out a strip search of a visitor to a prison existed in the cases specified in the complaint.

Strip-searching prisoners' family members exerts considerable pressure on the prisoners and is tantamount to cruel, inhuman and degrading treatment. This practice forces the prisoners to make a cruel choice between realizing their right to family visits and subjecting their family members to degrading treatment or forgoing these visits in order to avoid the humiliation.

The international community has spoken clearly regarding the strip-searching of prisoners and their families. The European Court for Human Rights (ECHR) determined that a strip search of a prisoner should only be carried out in cases where it is required for the protection of the prison's security and in order to prevent the execution of a crime. The court also found that a strip search of a prisoner carried out illegally or as a matter of routine breaches Article 3 of the European Convention on Human Rights, which prohibits torture, and inhuman or cruel treatment or punishment.<sup>31</sup> Similarly, both the UN Human Rights Committee and the European Court of Human Rights in assessing violations of Article 7 of the International Covenant on Civil and Political Rights (prohibition of torture and cruel, inhuman or degrading treatment), or Section 3 of the European Convention, respectively, have regularly demonstrated how harming an individual's family members may cause that person emotional suffering that amounts to ill-treatment or torture.

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<sup>29</sup> Article 95f of the Prison Ordinance 1971; Section 7e of the Commission's Ordinance no. 03.06.00 "Conducting a Search of a Person and a vehicle": [http://www.ips.gov.il/NR/rdonlyres/2BF5F1C2-3755-4138-B398-1FE7D4E19FC0/0/030600\\_62\\_car\\_search.pdf](http://www.ips.gov.il/NR/rdonlyres/2BF5F1C2-3755-4138-B398-1FE7D4E19FC0/0/030600_62_car_search.pdf) and Section 9c of the Commission's Ordinance no. 03.08.00 "Conduct of Various Searches": <http://www.ips.gov.il/NR/rdonlyres/43903B5E-4696-4DB2-9B1D-4C8D91E13762/0/03080064%D7%91%D7%99%D7%A6%D7%95%D7%A2%D7%97%D7%99%D7%A4%D7%95%D7%A9%D7%99%D7%9D%D7%9C%D7%A1%D7%95%D7%92%D7%99%D7%94%D7%9D.pdf>

<sup>30</sup> Section 95j(b) of the Prison Ordinance (new version) 5731-1971

<sup>31</sup> *Van der Ven v. The Netherlands*, no. 50901/99, ECHR 2003-II  
<http://sim.law.uu.nl/sim/caselaw/Hof.nsf/d0cd2c2c444d8d94c12567c2002de990/cf791e3a070d8d9941256cc30058f63b?OpenDocument>



The UN Human Rights Committee's decisions unequivocally reinforce the absolute prohibition of the use of torture, including the use of psychological means such as the threat of violence towards family members or friends. For example, in a complaint regarding the matter of *Estrella* that was submitted in 1980 to the Committee against the state of Uruguay, the committee determined that threatening to torture relatives and friends constitutes a form of psychological torture and falls within the absolute prohibitions set in the Convention against Torture.<sup>32</sup>

### Solitary Confinement of Prisoners

Israeli law permits the holding of prisoners and detainees in solitary confinement for months and even years. The IPS holds tens of prisoners in isolation, and about one third of them are Palestinian prisoners classified as security prisoners. Despite international criticism of the use of solitary confinement and the recommendations of various international committees to employ this measure only in exceptional cases,<sup>33</sup> Israel continues the practice.

In 2011 to commemorate the International Day in Support of Victims of Torture, Adalah, Al-Mezan and Physicians for Human Rights-Israel detailed the policy of solitary confinement and its impact, and called for an immediate halt to this practice.<sup>34</sup> In May 2012, 19 security-classified Palestinian prisoners were being held in isolation.

According to information provided by the Palestinian Ministry for Prisoners' Affairs, removing prisoners from solitary confinement was the one clause of the hunger-strike agreement that was at least partially implemented. However, according to the Ministry, the 18 prisoners who were released from solitary confinement following the agreement have since been shackled by the hands and legs during visits by attorneys and family members.<sup>35</sup> Additionally, the detainee Dirar Abu Sisi from Gaza, who is awaiting trial, is still being held in isolation on the grounds that the agreement applied only to convicted prisoners and not to detainees. Furthermore, only those prisoners who were held in solitary confinement based on GSS orders were moved to the regular section following the agreement; those prisoners held in solitary confinement for other reasons are still held in solitary confinement and the severe violation of their rights continues.

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<sup>32</sup> *Estrella v. Uruguay*, Communication No. 74/1980, U.N. Doc. CCPR/C/OP/2 at 93(1990). <http://www1.umn.edu/humanrts/undocs/newscans/74-1980.html>

<sup>33</sup> See article 18 of the June 2009 concluding observations on Israel of the UN Committee against Torture: "The State party should amend current legislation in order to ensure that solitary confinement remains an exceptional measure of limited duration..."

<sup>34</sup> See position paper of Adalah, Al-Mezan and Physicians for Human Rights-Israel, "Solitary Confinement of Prisoners and Detainees in Israeli Prisons," June 2011:

<http://www.phr.org.il/uploaded/Solitary%20confinement%20position%20paper%20English%2026%206%2011.pdf>

<sup>35</sup> See: <http://www.freedom.ps/showNews.php?id=746>



## Education and Rehabilitation Services

Inequality between criminal-classified prisoners and security-classified prisoners is also blatant in the areas of education and rehabilitation, and the situation has recently deteriorated. Whereas criminal prisoners enjoy a variety of educational services that are provided by the IPS, including formal education (both elementary and high school studies), and informal education such as enrichment and general knowledge programs, workshops, classes, and lectures in various fields, security-classified prisoners are not entitled to receive any educational services provided by the IPS.

Today, the only option for security-classified prisoners is to study from one another in their cells with fellow prisoners who happen to be teachers. Until June 2011, security-classified prisoners were permitted to take academic courses via correspondence within the framework of the Israeli Open University.<sup>36</sup> In June 2011, Prime Minister Binyamin Netanyahu announced the cancellation of that right of prisoners as part of the sanctions taken against Palestinian prisoners in order to secure the release of the captured soldier, Gilad Shalit.<sup>37</sup> Following Gilad Shalit's release, the restrictions on education remained and in 2012, several appeals demanding that Palestinian prisoners be allowed to complete their studies were rejected by the lower courts. The courts dismissed these petitions and ruled that academic studies are a benefit, not a right, that no constitutional rights are being violated, and that the IPS has confidential information which suggests that permitting studies will result in harm to the state's security.<sup>38</sup> Requests for permission to appeal these rulings have been filed to the Supreme Court, but the Court has made no decisions yet.<sup>39</sup>

Moreover, the IPS prevents all Palestinian prisoners who are residents of the OPT from taking part in rehabilitation programs. The recently-approved Amendment no. 42 of the Prison Ordinance, which was aimed at ensuring appropriate conditions of incarceration, has confirmed this policy by determining that only prisoners who are citizens or residents of Israel are entitled to take part in these programs.

## Summary and Conclusions

The conditions in which Palestinian political prisoners, classified as security prisoners are held in Israeli prisons violate their basic rights as prisoners and as human beings. The conditions of these prisoners are

<sup>36</sup> According to the Prisons Commission Ordinance no. 04.48.00 "**Security Prisoners studies at the Open University**". <http://www.ips.gov.il/NR/rdonlyres/464DD4E2-2560-4DD6-BF34-336D2D9E57AF/0/044800.pdf>

<sup>37</sup> See: <http://www.haaretz.com/news/diplomacy-defense/netanyahu-israel-to-toughen-conditions-of-palestinian-prisoners-1.369269>

<sup>38</sup> Civil Appeal (Nazareth District Court) 16207-09/11 **Sultani v. the Israel Prison Service**, Civil Appeal (Nazareth District Court) 27387-09/11 **Salah v. the Israel Prison Service**, Civil Appeal (Nazareth District Court) 8955-11/11 **Salhut v. the Israel Prison Service** (the three appeals were deliberated jointly, the decision, yet unpublished, was delivered on 7.3.12); Civil Appeal 4902-08/11 (Central Region District Court) **Younis v. the State of Israel** (unpublished, delivered on 7.5.12).

<sup>39</sup> Request for Permission to Appeal 2539/12 **Sultani v. the Ministry of Internal Security** (pending), Request for Permission to Appeal 4063/12 **Younis v. the Israel Prison Service** (pending).



significantly inferior to the conditions in which prisoners classified as criminal prisoners are kept; they are also inferior to those of Jewish Israeli prisoners classified as security prisoners and constitute illegal discrimination.

Adalah, Al Mezan and Physicians for Human Rights-Israel believe that the conditions in which Palestinian political prisoners are incarcerated amount to cruel, inhuman and degrading treatment. Accordingly, the human rights organizations demand that:

1. Visits of families from Gaza and the West Bank be resumed immediately and fully;
2. Laws restricting and/or absolutely preventing meetings between security prisoners and their attorneys be annulled;
3. Strip-searching prisoners be prohibited other than in the most exceptional cases and in keeping with the regulations set in the law;
4. Strip-searching of visiting family members be prohibited without conditions;
5. The use of solitary confinement be halted;
6. Shackling prisoners by the hands and legs during family and/or attorney visits be prohibited;
7. Palestinian prisoners classified as security prisoners be allowed to take part in educational and/or rehabilitation programs in a way that is equal to that of other prisoners.



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