



Input for ENP country progress report for Israel, November 2011

Combating torture and protecting the human rights of Palestinian detainees and prisoners incarcerated by Israel

Contributing organizations

1. Adalah - The Legal Center for Arab Minority Rights in Israel
2. Physicians for Human Rights-Israel (PHR-Israel)
3. Al Mezan Centre for Human Rights (Gaza)
4. Public Committee Against Torture in Israel (PCATI)

Overview

Prior to the prisoner swap agreement concluded for the release of Israeli soldier Gilad Shalit in October 2011, over 5,000 Palestinians, classified by Israel as “security” prisoners or detainees, were imprisoned by Israel. Two of these individuals were detained under the Incarceration of Illegal Combatants Law, and close to 300 were being held in 'administrative detention' (detention without trial). The vast majority of all prisoners and detainees are held within the borders of the State of Israel, and not in the OPT.

Palestinian political prisoners and detainees incarcerated by Israel are subject to harsher pre-trial detention laws (e.g., lengthy prohibition on meeting with lawyers, proceedings being held in their absence, etc.), interrogations and conditions of confinement than other prisoners and detainees held in Israel. For example, no family visits to hundreds of prisoners from Gaza have been permitted since 2007, in violation of international law.

In Israel Security Agency (ISA or shabak) facilities, testimonies taken by human rights organizations in past years indicate clear patterns of torture and/or cruel, inhuman and degrading treatment of Palestinian detainees.

There is an insufficient **legislative framework** to safeguard the rights of Palestinian prisoners and recent legislative initiatives have been enacted that violate their rights. The absolute prohibition on torture enshrined in international law has not been adopted in Israeli domestic law. Moreover, new legislation has been enacted, restricting meetings between “security” prisoners and lawyers and extending the validity of harsh, special detention procedures for those suspected of security offenses. Proposed legislation (e.g., the new Counter-Terrorism bill and the Shalit laws) would further violate the rights of Palestinians held by Israel.

Systemic **State practices** also violate the human rights of prisoners, including solitary confinement and restrictions on family visits.

There is **insufficient access to remedies**: oversight mechanisms and accountability are weak and there is a culture of **impunity**.

Medics employed in the prison system consistently fail to oppose, document or report suspicions of torture or ill-treatment. Similarly, civilian hospital staff members encountering suspected victims of abuse and/or torture fail to report them as such. This failure is due to a lack of legislation, as well as training and guidance from professional bodies such as the Ministry of Health and the Israel Medical Association that should encourage reporting and protection of whistle-blowers.

Relevant documents

The submitting human rights organizations have published several reports on different aspects of these issues in the course of 2011.

1. **For details on all issues outlined above, an update on issues related to the Shalit/prisoners swap and recommendations to the EU, see** Adalah, PHR-Israel, Al Mezan and PCATI, *Briefing Note: [Human rights of Palestinian detainees and prisoners held in Israel, with relation to the struggle against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#)* (October 2011).
2. **For a new report on involvement of medical professionals in torture and ill-treatment, see** PCATI and PHR-Israel, [Doctoring the Evidence, Abandoning the Victim: The Involvement of Medical Professionals in Torture and Ill Treatment in Israel](#) (October 2011).
3. **For a new update on impunity and accountability, see** PCATI, *Accountability Still Denied* (November 2011, PDF file attached)
4. **On solitary confinement** of common law as well as 'security' prisoners in Israeli facilities, see Adalah, PHR-Israel and Al Mezan, [Solitary Confinement of Prisoners and Detainees in Israel Prisons](#) (June 2011).

For the position of the UN Special Rapporteur on Torture, calling for prohibition of solitary confinement, see [Interim report of the Special Rapporteur of the Human Rights Council on Torture, Cruel, Inhuman or Degrading Treatment or Punishment, A/66/268](#) (5 August 2011)

Additional information

1. **The prisoners' hunger-strike:** From 27.09.2011 to 23.10.2011, about 2,000 Palestinian prisoners staged a [hunger strike](#) to protest their worsening conditions and the extensive use of solitary confinement. About 300 strikers held full hunger strikes while the rest fasted three days each week. After the conclusion of the Shalit/prisoners swap, as well as a deterioration in the health of some strikers, including political leaders, and their transfer to the Israel Prison Service (IPS) medical centre, the IPS signed an agreement undertaking to respect most of the demands of the strikers, including removing the Secretary General of the Popular Front for the Liberation of Palestine (PFLP) from his permanent solitary confinement and providing him with full medical care; removal of most Palestinian prisoners from solitary confinement; renewal of family visits; cessation of full body-strip searches of prisoners and their families, of nightly raids of cells, and of cuffing during family and lawyers' visits; and renewal of access to education, Arabic TV and books. The strike was then called off, with a proviso that the situation would be reviewed after three months.

During the hunger strike the Israel Prisons Service (IPS) adopted a [punitive approach](#) toward the strikers, placing strikers in solitary confinement, transferring them to other prisons, imposing fines, preventing family visits and meetings with legal counsel; and using physical violence. The

prisoners were cut off from the outside world and the only information available regarding their medical condition was from the International Committee of the Red Cross (ICRC) members who met the prisoners and passed on minimal information to the prisoners' families. Some 30 families applied to PHR-Israel for assistance in ascertaining the medical condition of their relatives.

In accordance with IPS rules and international standards that provide for entry of external doctors, PHR-Israel requested permission to send independent doctors to visit the strikers. However, the request was not met.

Although PHR-Israel does not know of actual force-feeding by medical personnel in this case, IPS policy and guidelines on medical response to hunger-strikers and force-feeding policies are unclear and do not conform fully with the guidelines for physicians on management of hunger strikers issued by the World Medical Association in the [Declaration of Malta on Hunger Strikers](#). This fact underlines the situation of "Dual Loyalty" in which prison medics are placed, when faced with contradictions between their duties to their patients and to their employers. PHR-Israel reiterates its position, according to which prison medical personnel should be subordinate to and supervised by the Ministry of Health and not the IPS.

2. **Psychological effects of arrests of minors in East Jerusalem:** In the wake of growing numbers of arrests of Palestinian minors, PHR-Israel commissioned a medical expert opinion from Dr. Garciela Carmon, a psychiatrist and PHR-Israel Board Member, regarding the emotional and developmental factors leading minors to give false confessions. The expert opinion was submitted to the military court by Att. Gaby Lasky in the case of I.A. a 14-year-old Palestinian: <http://www.phr.org.il/default.asp?PageID=116&ItemID=1323> .

For further details please contact Miri Weingarten, miri.weingarten@gmail.com



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