

The Torture and Ill Treatment of Palestinian Prisoners by the Israeli Occupying Power

The Palestinian Centre for Human Rights (PCHR) notes with grave concern the continuing prevalence of torture and ill treatment of Palestinian detainees in Israeli jails and detention centres, inside Israel and the occupied Palestinian territory (oPt). PCHR wishes to provide the Human Rights Council with information regarding Israel's continued violation of its obligations under international human rights and humanitarian law, in particular the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - to which Israel is a State party - to prevent torture and cruel, inhuman or degrading treatment or punishment, to investigate allegations of such treatment, and to bring to justice those responsible for the perpetration of violations.

Torture and Ill Treatment in Detention

There has been a serious increase in the number of Palestinians arrested by Israeli occupation forces and other governmental agencies. During 2012, more than 3,848 Palestinians were arrested and detained by Israeli occupation forces and other security services, which constitutes a 16.2% increase compared to 2011. The detainees included 881 minors, under the age of 18 (of whom 23 were between 12 and 15 years old), 67 female detainees, and 11 parliamentarians.¹ At the end of 2012, more than 4,750 Palestinians were kept in detention inside Israel, including 198 minors. During the same period, PCHR received increasing numbers of complaints of torture and ill treatment in detention, including of minors. Many detainees have been, or continue to be, subjected to methods of interrogation which amount to torture or ill treatment, including, but not limited to, painful shackling; '*shabeh*'²; sleep deprivation; exposure to loud music or screaming noises; beating, slapping and kicking; shaking; threats of physical and sexual violence; insults; forced squatting for long periods. Other abusive methods applied during interrogation periods, include: exposure to extreme temperatures alternately; prolonged or continuous exposure to bright spotlights; denial of timely and adequate medical care; tear gas and sound bombs; detention in inhuman and degrading conditions; denial of basic rights, including freedom of expression and freedom of worship. PCHR is particularly concerned about the treatment of Palestinian children and women upon arrest and during interrogation and detention. The Palestine Section of Defence for Children estimates that around 500-700 Palestinian children are detained and prosecuted in the Israeli military court system every year, with 2012 showing an increase of 32% compared to 2011.³ Furthermore, the overwhelming majority of the detained minors, some as young as 12, were subjected to a form of torture and ill treatment, including psychological methods, during arrest, transportation to detention facilities, as well as during interrogation or detention.

Deprivation of Family Visits and Other Basic Rights

Family visits for Palestinians kept in Israeli jails have been regularly suspended by Israel, in contravention of Rule 37 of the Standard Minimum Rules of the Treatment of Prisoners. In June 2006, following the capture of Israeli soldier Gilad Shalit, the Israeli authorities imposed a collective prohibition on family visits from the Gaza Strip, in violation of Article 33 of the Fourth Geneva Convention. In October 2011, after Shalit's release, Israel continued to prevent family visits.

¹ Figures provided by the Ministry of Detainees Affairs of the Palestinian Authority.

² The prisoner is bound by his wrists and hung up against a wall or door with his arms wide, while his feet only slightly touch the floor.

³ Defence for Children International-Palestine Section: Bound, Blindfolded and Convicted: Children held in military detention, April 2012.

Available at www.dci-palestine.org/sites/default/files/report_0.pdf

³Last accessed on 11 February 2013

Since July 2012, Israel has allowed only half of the prisoners from Gaza to receive a visit from a relative, under tight restrictions. Furthermore, PCHR has received several complaints of ill treatment of relatives by Israeli officials in prisons during visits. These complaints related to physical searches, particularly of women and children, conducted in a manner which constitute a form of degrading treatment.

Besides depriving prisoners of family visits, Israel further disregards the Standard Minimum Rules of the Treatment of Prisoners by depriving Palestinian prisoners from access to medical services, education, adequate nutritious food, suitable clothing, and means for maintaining personal hygiene.

Incommunicado Detention

Palestinians have continued to be subjected to incommunicado detention in the last year. The denial of rights to legal counsel and family visits facilitates torture and other forms of ill treatment. The Israeli Supreme Court has consistently refused requests for access to legal counsel submitted by PCHR and other human rights organizations, and has also refused to examine the legal basis for permitting incommunicado detention.

Administrative Detention

In 2012, Israel continued to apply the procedure of administrative detention in a manner that does not conform with article 16 of the Convention Against Torture. PCHR is increasingly concerned by the continued detention of Palestinians without charge or trial for long periods without recourse to even the most basic requirements of judicial procedure. Administrative detention orders are generally based on classified information to which the detainee's lawyer has no access. They are issued by Israeli military commanders in the oPt, rather than judges, and can be renewed an indefinite number of times. Over the past few years this practice has led detainees who were subjected to this kind of detention to launch prolonged open ended hunger strikes as a means of protest.

The UN Human Rights Council's Working Group on Arbitrary Detention adopted two opinions in 2012, holding that the administrative detention of two Palestinians, during 2011-2012, by Israeli authorities was in violation of the detainee's right to liberty and security and their right to judicial review as enshrined in the ICCPR.⁴ The working group in both the opinions rendered that these detentions were arbitrary.

Transfer of Detainees and Prisoners

Palestinians arrested by the Israeli occupation forces or other governmental agencies are either initially detained in military posts in the oPt or immediately (forcibly) transferred to detention facilities in Israel. In both situations they are often subjected to severe psychological pressure and physical abuse. The overwhelming majority of Palestinian detainees and prisoners is, at some point, transferred to detention facilities and/or prisons inside Israel.

The transfer of Palestinian detainees and prisoners to detention facilities and prisons inside Israel constitutes a violation of Articles 49 and 76 of the Fourth Geneva Convention, which prohibits the (forcible) transfer of detainees and prisoners outside of occupied territory. Furthermore, this

⁴ Working Group on Arbitrary Detention, Opinion No. 3/2012, A/HRC/WGAD/2012/3; Opinion No. 20/2012, A/HRC/WGAD/2012/20.

violation facilitates the prevalence of incommunicado detention and consequently the use of methods of interrogation which may amount to torture or ill treatment.

Since 1996 PCHR's lawyers, like all lawyers from the oPt, have been denied access to clients held in detention and imprisoned in Israel. PCHR has consequently been forced to instruct Israeli lawyers to act on its behalf in conducting client visits and representing clients in court. With no choice but to resource to Israeli lawyers, the detainees, prisoners, their families, and organizations like PCHR, are facing prohibitively high costs of Israeli legal fees.

In light of Israel's failure to submit its report for the Universal Periodic Review in January 2012, and recalling list of issues prepared by the Committee Against Torture in 2012, prior to the submission of the fifth periodic report of Israel, PCHR calls upon:

The Government of Israel,

- To take immediate steps to implement, protect and enforce the provisions of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which they are a State Party;
- To incorporate fully the provisions of the Convention Against Torture into domestic legislation, including a clear prohibition on torture and ill treatment as defined under the Convention;
- To fulfill its legal obligations under other international laws, including the Fourth Geneva Convention, to prohibit torture and ill treatment, to immediately halt the illegal transfer of prisoners outside of the oPt;
- To end the culture of impunity which members of the Israeli Security Agency, the Israeli occupation forces and other security institutions have consistently enjoyed for acts of torture and ill treatment and to prosecute those responsible for the perpetration of torture and ill treatment;
- To provide effective means of adequate compensation for victims of torture and ill treatment;
- To revise military and civilian laws and policies to ensure that all detainees are provided prompt access to lawyers and families in accordance with international standards, without discrimination;
- To cease the practices of administrative and incommunicado detention.

The UN Commission on Human Rights and the UN General Assembly,

- To monitor Israel's fulfillment of its obligations as a State Party to the Convention Against Torture to prohibit and prevent torture and ill treatment, to fully investigate complaints of torture and ill treatment, and to provide effective and adequate redress for victims of torture and ill treatment.

The High Contracting Parties to the Fourth Geneva Convention,

- To recognize their obligations under Article 1 to "ensure respect for the Convention in all circumstances" and thereby to ensure that Israel applies *de jure* the Fourth Geneva Convention in the oPt, including the prohibitions on torture and ill treatment of protected persons, and the transfer of prisoners outside of the oPt;

- To recognize their obligations under Article 146 of the Fourth Geneva Convention to search for and prosecute those responsible for grave breaches of the Convention as defined in Article 147, in conformity with the universal jurisdiction over grave breaches, including torture and inhuman treatment, recognized by the Convention.