

Universal Periodic Review (UPR) - Israel

Report submitted on 30 September 2013 by Addameer Prisoner Support and Human Rights Association



I. Introduction

1. Israel's continued colonization and occupation of the occupied Palestinian territory (oPt) is reliant on its ability to suppress the indigenous Palestinian population. While over the decades Israel has used various strategies in this suppression, one constant has been the mass detention and imprisonment of hundreds of thousands of Palestinians in an attempt to 'criminalize' any perceived resistance to this colonization and occupation. Given its scale, detention and imprisonment has served as an effective tool in the suppression of the Palestinian population. Mass detention and imprisonment is used as a tool of control and oppression of the Palestinian population, which is aimed at destroying Palestinian society and its ability to build a normal society, necessary to achieve their political sovereignty and self-determination.

2. This submission submitted by Addameer Prisoner Support and Human Rights Association, a civil society organization based in Ramallah, addresses the concerns arising from Israeli arrest and detention policies since Israel's last UPR in 2008 and Addameer's joint submission in July 2013 with the Palestinian Human Rights Organizations Council (PHROC).

3. In its previous Universal Periodic Review (UPR) of 2008, several recommendations were submitted to Israel by the Human Rights Council pertaining to the treatment of Palestinian prisoners, particularly:

- "to ratify the Optional Protocol to the Convention against Torture",
- "to ensure that administrative detention is carried out in accordance with international human rights standards",
- "to give all detainees the reasons for their detention respecting their fundamental rights during detention",
- "to ensure that human rights defenders are able to carry out their legitimate work in a secure and free environment", and
- "to adhere to its obligations under international human rights and humanitarian law with respect to the Palestinian people."

4. The submission aims to highlight Israel's failure to implement any of these recommendations since 2008, as well as highlight the unlawful ill-treatment of the prisoners and provide further recommendations in accordance to international law obligations.

II. Background

3. Since the Israeli occupation of Palestinian territories in 1967, Palestinians have been charged with offenses under Israeli military law and tried in military courts. Over the last 45 years, more than 800,000 Palestinians have been detained under Israeli military orders in the oPt, which constitutes approximately 20 percent of the total Palestinian population in the oPt, and as much as 40 percent of the total male Palestinian population.

4. As of 1 August 2013 there were 5,068 Palestinian political prisoners in Israeli jails, including 134 administrative detainees; 195 children; 13 female prisoners; and 13 Palestinian Legislative Council members.

5. While arrests can occur at any time and in any place, Palestinians are most commonly arrested at checkpoints, off the street, at border crossings and from homes in the middle of the night. Upon arrest, detainees are usually cuffed with plastic handcuffs and blindfolded.

6. All but one of the 17 prisons where Israel detains Palestinian prisoners are located inside Israel, in direct contravention of Article 76 of the Fourth Geneva Convention, which states that an Occupying Power must detain residents of occupied territory in prisons inside the occupied territory. In addition to illegality under international law, the practical consequence of this system is that many prisoners have difficulty meeting with Palestinian defense counsel, and do not receive family visits as their attorneys and relatives are denied permits to enter Israel on “security grounds.”

1. Administrative detention

Despite Israel’s commitment during its 2008 review to restrict the use of administrative detention, the Israeli military authorities have continued its use in a way that does not meet standards set by international humanitarian and human rights.

2. Torture and cruel, inhumane and degrading treatment and punishment

During interrogation, which can last for up to 90 days and where lawyer visits can be denied for the first 60 days,ⁱ a Palestinian detainee is often subject to some form of torture or cruel, inhuman or degrading treatment or punishment, both physical and psychological. Confessions extracted through these illegal practices are then admissible in court.

Since 2001, there have been more than 750 complaints of torture and ill-treatment against the Israel Security Agency (ISA). Not one complaint has resulted in a criminal investigation. Indeed, given that all complaints are reviewed by the Inspector of Interrogee Complaints, who is himself an ISA agent, it is a process that guarantees the absence of credible and impartial investigations. The fact that the Israeli Attorney General has ratified each recommendation not to investigate is further evidence of the institutional impunity which shields the ISA and those who commit torture in Israeli prisons.

Since the last UPR submission in 2008, there has been one case of death resulting from torture during interrogation. Arafat Jaradatⁱⁱ (30 years old) was arrested at midnight on 18 February 2013 taken to Jalameh Interrogation Center and then Megiddo Prison. He was found dead in his cell on 23 February 2013. An autopsy conducted by the Palestinian Medical Society at the Israeli National Medical Center found that he suffered from deep bruising, broken ribs and internal bleeding shortly before his death and concluded that his death was due to torture.

3. Lack of fair trial in military tribunals

Palestinian prisoners are processed for trial, sentencing and imprisonment in the military court system. In these courts, military orders always take precedence over Israeli and international law. Judges are military officers in the regular or reserve services and most do not have long-term judicial training. Many previously served as military prosecutors. A Palestinian can be held without charge for an initial period of 90 days, which can be extended for an additional 90 days. The trials are held in Hebrew, and all court documents are in Hebrew, in direct violation of international law, which requires the tribunals to be held in the indigenous language of the prisoner.

4. Inhumane Treatment and Living Conditions

All but one of the prisons holding Palestinian prisoners are located outside of the OPT, in direct contravention of international law. In these prisons, there is a overcrowding, poor hygiene, humidity, and lack of basic amenities. The average living space per prisoner has dropped from 3.4 to 2.9 square meters, far below the international standard. Between 2007 and 2012, 1,493 Palestinian prisoners were held in isolation, either in solitary confinement or in pairs.ⁱⁱⁱ Additionally, Israeli authorities regularly neglect their duties to provide medical support to Palestinian prisoners, as required by Articles 76 and 91 of the Fourth Geneva Convention. Medical practitioners in the prison clinics are soldiers employed by the Israeli Prison Service and are not registered members of the Israeli Medical Association. Since 1967, there have been 52 documented cases of death resulting from deliberate medical negligence, five in the past two years alone. All rights are treated as privileges that can be revoked at any moment, including access to education, family visits and use of the canteen.

5. Denial of family visits

All Palestinian families from the oPt, with the exception of Jerusalem ID holders, are required to apply for an entry permit into Israel to visit a family member in prison. Hundreds of families are denied permits based on “security grounds,” and are not given a specific reason for the rejection of their permit except for the standard phrase “forbidden entry into Israel for security reasons.” Only first-degree relatives are allowed to visit the prisons and men between the ages of 16 and 45 are typically denied permits. When allowed, visits only last 45 minutes every fifteen days and take place through a glass divider.

6. Lack of Special Considerations for Female Prisoners

Hundreds of women have been subjected to arrest and detention. They are not given any special considerations as provisioned by CEDAW. They are subjected to beatings, insults, threats, sexual harassment and humiliation during interrogation. In prison, they are subjected to degrading and intrusive body searches during transfers to court hearings and sometimes in the middle of the night as a punitive measure.^{iv}

7. Suppression of Political Process

Although according to international law and Israeli courts no one can be detained for their political opinions, in practice Palestinian political leaders are routinely arrested and detained as part of an ongoing Israeli effort to suppress the Palestinian political process, and a necessary result – political sovereignty and self-determination. Over 70 Palestinian Legislative Council members have been detained, most of them given administrative detention orders and held without charge or trial.

8. Mass arrests of human rights defenders, activists and civil society

Hundreds of Palestinian human rights defenders who engage in demonstrations against the Apartheid Wall, settlements or other human rights violations have been arrested. Over 300 were arrested in 2011 alone, many of them under the age of 18. Many of these demonstrators are

prosecuted in the military courts under Military Order 101, which criminalizes civic activities including organizing and participating in protests, taking part in assemblies or vigils, waving flags and other political symbols, and printing or distributing political material.

9. Hunger Strikes

Several mass and individual hunger strikes have taken place since 2008 due to the further deterioration of prison conditions and treatment of prisoners. Most notably from 17 April until 14 May 2012, 1,200 prisoners started open hunger strikes and 2,300 refused meals from the IPS. Hunger strikers are subjected to harsh conditions in an attempt to break their strike, including being put in isolation, beaten, taken for questioning by intelligence officers, confiscation of all belongings and bans on lawyer and family visits. They are also subjected to medical negligence and denied access to independent medical care. The IPS and hunger strikers reached a deal that included the removal of prisoners from isolation, an immediate end to the use of administrative detention, reinstating family visits and improvement of daily conditions. The agreement has since been renege on, resulting in over 50 individual hunger strikes since 14 May 2012.

10. Arbitrary re-arrests of former prisoners

Military Order 1651 Article 186 establishes a military committee, headed by an IDF officer, whom is empowered to cancel the reduced sentence granted to prisoners released in any agreement based on secret evidence. The secret evidence is submitted by the special military committee to the court in the presence of a representative of the military prosecution. The information is not disclosed to the prisoner or lawyer. Since the latest prisoner exchange on 18 October 2011, there have been dozens who have been re-arrested and subject to this law, many of them who were previously serving long sentences, including life sentences.

11. Lack of accountability with complaints

While the ill-treatment and torture of Palestinian prisoners continues on a systematic basis there is a serious lack of accountability for those involved in carrying out such abuses. Complaints that are subsequently made are routinely dismissed by the Israeli authorities. In fact, over the last 10 years more than 700 complaints have been submitted, none of which resulted in charges, prosecution or conviction of any Israeli interrogator.

III. Final Recommendations

1. The Human Rights Council should condemn Israel's use of administrative detention. Israel must immediately end the use of administrative detention that does not meet standards set by international humanitarian and human rights law.
2. The Human Rights Council should urge Israel to halt all use of torture and cruel, inhuman or degrading treatment or punishment of Palestinian prisoners and detainees. Israel should repeal the September 1999 High Court of Justice ruling which allows for the use of torture in "ticking-time bomb" cases.
3. The Human Rights Council should urge Israel should bring an end to its institutionalized policy on torture and ill-treatment, and ensure that these abusive practices cease to be used against prisoners in its care and that any such abuse is properly investigated and punished.

4. The Human Rights Council should urge Israel to abolish the military court system. Israel should stop applying the jurisdiction of the military courts in the oPt to civilians in such a broad manner and instead apply it in accordance with the provisions of international law.
5. The Human Rights Council should urge Israel to immediately release all sick prisoners and respect international standards of medical care and cease all complicity of prison doctors in the ill-treatment of prisoners, particularly hunger strikers.
6. The Human Rights Council should urge Israel to guarantee that minimum standards of detention are respected, particularly with regard hygiene, nutrition, and access to health care.
7. The Human Rights Council should urge Israel to immediately end isolation, both short and long-term, as a means of punishment.
8. The Human Rights Council should urge Israel to allow visits of family members according to the principles of international law, including by immediately resuming family visits to all prisoners from the Gaza Strip, extending visitation rights to non-family members and allowing “open visits” and physical contact to all detainees.
9. The Human Rights Council should urge Israel to stop the practice of physical and mental torture and ill-treatment of Palestinian women under interrogation and develop a gender-sensitive policy for the treatment of Palestinian female prisoners in accordance with CEDAW.
10. The Human Rights Council should urge Israel to immediately release all PLC members currently detained and cease its policy of targeting Palestinian elected representatives.
11. The Human Rights Council should urge Israel to reverse Military Order 101 due to its criminalization of activities that go beyond the limited scope of permitted changes to the penal laws of the occupied territory provided for in Article 64 of the Fourth Geneva Convention.
12. The Human Rights Council should urge Israel should immediately implement the 14 May 2012 agreement between the prisoners and the Israeli Prison Service which brought an end to the mass hunger strike of 2011 and 2012, while granting all current and future hunger strikers access to independent medical care, legal counsel and refrain from the forcible transfer of prisoners upon release agreements.
13. The Human Rights Council should urge Israel to cancel Article 186 of Military Order of 1651 and release all re-arrested prisoners.

ⁱ Military Order 1651 – Article 37

ⁱⁱ PHROC, 14 Palestinian and Israeli Organizations Condemn Lack of Accountability for Torture of Palestinian Detainees, <http://www.addameer.org/etemplate.php?id=583>. (Accessed 11 September 2013).

ⁱⁱⁱ B'tselem, *More than 1,400 Palestinian held in Isolation in the last six years*,

http://www.btselem.org/detainees_and_prisoners/20130602_solitary_confinement (Accessed 11 September 2013)

^{iv} Addameer, *case of Hana Shalabi*, <http://www.addameer.org/etemplate.php?id=161> (Accessed 11 September 2013).