



**Adalah, Al Mezan Center for Human Rights, and Physicians for Human Rights-Israel
Joint NGO submission to the UN HRC's List of Issues for Israel**

14 October 2014

Adalah, Al Mezan, and Physicians for Human Rights-Israel submit this second report to the UN Human Rights Committee (HRC) regarding the State of Israel's lack of compliance with the International Covenant on Civil and Political Rights (ICCPR) concerning the use of torture and cruel, inhuman and degrading treatment against Palestinian prisoners and detainees held in Israeli prisons and Palestinians living in the Occupied Palestinian Territory (OPT). The three human rights organizations submitted an initial report to the Committee in June 2012 in advance of the Committee's issuance of its List of Issues in July 2012.¹ This report focuses on **Questions 13, 14, 15, 16, 17, 19 and 25** of the HRC's List of Issues to Israel.

Summary of Main Points:

1. The severe effects of Israel's blockade on the Gaza Strip, coupled with its recent military offensive in the summer of 2014, have resulted in the **significant deterioration in the rights of Gaza's civilian population to basic services including access to medical care;**
 2. Despite 18 recommendations from the Turkel Commission's second report ("**Turkel Part II**") on improvements needed in Israel's investigatory mechanisms in accordance with international law, Israel has **not taken significant steps to implement these recommendations;**
 3. There is still **no legislation in Israel that defines torture and ill-treatment as a crime;** in fact, new legislation has been introduced to legitimize methods and mechanisms for the use of torture and ill-treatment, including the **Force-Feeding Bill** and the **Anti-Terrorism Bill;** the **Unlawful Combatants Law** also remains in place;
 4. Israeli security forces continue to enjoy impunity in law and practice; examples include the absence of investigations into the use of **torture and ill-treatment against Palestinian children in the OPT,** and the continued **exemption of the General Security Service (GSS) from making audio-video recordings** of security suspects;
 5. The number of administrative detainees **rapidly rose in 2014;** **numerous cases of torture, ill-treatment and violations of international law were committed** against detainees during Israel's military offensive on Gaza in 2014; **family visits to Palestinian prisoners** continue to be greatly restricted and subject to arbitrary discretion of the Israeli prison authorities.
- **Question 13. In order to minimize the adverse effects on the civilian population living in Gaza Strip, in particular on their access to medical care and sufficient drinking water and adequate sanitation, please indicate which measures have been taken to lift the military blockade of the Gaza Strip (follow-up analysis on paragraph 8, CCPR/C/105/2). In light of the previous concluding observations (para. 8) and the follow-up analysis, please comment on the Committee's concern relating to the Turkel Commission and the Panel of Inquiry.**

There is no indication that the State of Israel **has any intention of lifting the military blockade/closure on the Gaza Strip,** now in its eighth year. Rather Israel has continued to maintain the closure as a form of collective punishment on the Palestinian people. The effects of the blockade

¹ NGO Report to UN HRC, submitted by The Public Committee Against Torture, Adalah, Al Mezan and Physicians for Human Rights-Israel, 4 June 2012:

http://adalah.org/Public/files/English/International_Advocacy/Torture_HRC%20LOIPR%203%206%202012.pdf.

are extremely exacerbated during Israeli military attacks on Gaza, as occurred during the operations in November 2012 and the last operation in the summer of 2014.

Among its many detrimental impacts, the closure of Gaza severely affects **the availability of safe drinking water and adequate sanitation**. The scarcity of power, drinking water, and adequate sewage systems as a result of the closure has been compounded by repeated military attacks on Gaza's infrastructure and municipal personnel during Israel's full-scale military operation in the summer of 2014.² With repairs requiring years to complete and necessary materials blocked from entering Gaza, Gazans' access to these basic needs is expected to deteriorate significantly. These developments are likely to worsen the UN's dire estimation that **the Gaza Strip could be on the verge of becoming uninhabitable by the year 2020**.³

Israel's closure of Gaza continues to **severely restrict patients' access to medical care** inside and outside of the territory. Thousands of medical patients from Gaza consistently require referral to hospitals in Israel and the West Bank, which are equipped with the necessary resources or specialized staff that are extremely limited or nonexistent in Gaza. However, patients continue to face numerous barriers in obtaining permission from Israeli authorities to travel out of Gaza. In the cases in which permission is granted, patients often face the threat of long delays, arrest, coercion, and in some cases torture and ill-treatment by Israeli security forces. Between July 2012 and August 2014, at the Erez crossing between Gaza and Israel, 3,432 patients faced long delays in passing through the checkpoint. 381 Gazans were denied permits to access Israeli hospitals out of a total number of 29,114 patients who needed medical care outside of Gaza and applied for permits to exit Gaza with the Israeli authorities.⁴ In addition, at least two Gazans died as a result of being delayed at the crossing or being denied a permit.⁵ Eight patients and seven persons escorting patients were arrested by Israeli security authorities inside the Erez crossing after arriving there upon instructions from the Israeli authorities themselves.⁶

In addition, Israeli forces continue to routinely use **excessive force against Palestinian civilians in and around the Israeli-enforced buffer zone** in the Gaza Strip. For example, on 23 May 2014, a 16-year-old boy named Mohammed Abu Shahada was shot while collecting hay for his family's cattle. The bullet, which perforated his lungs and shattered part of his spine, has left him paralyzed in half his body. Since July 2012, 14 Palestinian civilians, including one woman and two children, were killed as a result of Israeli forces firing at civilians in the buffer zone. Another 238 civilians, including 43 children, were also injured. The Israeli military has also used force against Palestinians participating in demonstrations against the blockade in the buffer zone; 47 Palestinians including eight children were injured during these demonstrations in the buffer zone since July 2012.⁷

Altogether, the structural conditions imposed by the blockade on Gaza create an environment in which collective punishment and forms of ill-treatment are an omnipresent part of the daily lives of the Palestinian civilian population. The dire state of Gaza's healthcare system, coupled with the harassment of Palestinian medical patients requiring access to hospitals outside of Gaza, are specific examples of the effects of the closure on Gaza. For many patients, the lack of available treatment

² Adalah press release, "Adalah demands investigation into suspected Israeli war crimes in Gaza", 18 July 2014: <http://adalah.org/eng/Articles/2308/Adalah-demands-investigations-into-suspected-war>.

³ UNRWA Report, "Gaza in 2020: A Liveable Place?" 27 August 2012: <http://www.unrwa.org/newsroom/press-releases/gaza-2020-liveable-place>.

⁴ Data obtained by Al Mezan from the Gaza Ministry of Health (with the department coordinating permit applications for patients with Israeli authorities).

⁵ Al Mezan database monitoring impact on access to healthcare as a result of Israeli closure.

⁶ Al Mezan database; also represented the detainees before Israeli authorities and/or courts.

⁷ Al Mezan database.

and the lack of access to appropriate medical care outside of Gaza constitute ill-treatment. These practices severely violate the rights of Palestinian civilians in Gaza as guaranteed by the ICCPR, including **Articles 6, 7, 9, 12 and 16**.

- **Question 14. In light of the previous recommendation by the Committee (para. 9), please indicate whether the State party has launched credible and independent investigations into all allegations of excessive use of force by the Israeli forces, in particular the Israel Defense Forces (IDF), against Palestinian civilians and demonstrators, particularly in the Gaza Strip and at checkpoints in the Occupied Palestinian Territory, including East Jerusalem. Please also provide information on measures taken to ensure that the perpetrators are promptly prosecuted and punished. Please provide updated information in particular on investigations related to "Operation Cast Lead" and other recent incidents such as the case where a family had been confined to a house and the house was subsequently shelled by members of the Israeli Defense Forces.**

Israel has taken essentially no measures to ensure that cases of torture, ill-treatment, and the disproportionate use of force are independently investigated and that those responsible are prosecuted and punished. Five years after Israel's military operation "Cast Lead" (December 2008-January 2009), **the Israeli security forces continue to enjoy impunity for their actions against civilians**. Thus far, no military commander, political official or state body has been held accountable for gross violations of international law during these incidents. To date, the existing mechanisms in Israel to investigate and prosecute these violations do not comply with the international standards of independence, impartiality, timeliness and thoroughness. In pursuing civil compensation cases in Israel, human rights organizations representing civilians have encountered increased legislative, judicial, procedural and financial barriers that are, in practice, becoming insurmountable.⁸ With almost no Palestinian victims of "Cast Lead" receiving compensation or redress in Israeli courts, Palestinian victims in Gaza remain without an effective legal remedy in Israel.

In a report issued in February 2013 ("**Turkel Part II**"),⁹ the Turkel Commission put forward **18 recommendations for Israel to improve its military investigative mechanisms**.¹⁰ While the Commission insisted that Israel's practices complied with international law, the issuance of these recommendations inherently illustrated the significant deficiencies in these mechanisms, which have been consistently highlighted for years by human rights organizations.

Among the conclusions of Turkel Part II, the Commission recommended that the Israeli Ministry of Justice should initiate legislation for all violations of international law that do not have a corresponding violation defined under domestic legislation. Specifically, **the Ministry should ensure that there is legislation to translate the absolute prohibition of torture and ill-treatment into both law and practice**, as stipulated under international law. The Ministry's obligation stems from the requirement of international law to enable "effective penal sanctions". Additionally, the Turkel

⁸ *HCI 7042/12, Abu Daqqa, et al. v. Interior Minister, et al.*; Adalah position paper, "Obstacles for Palestinians in Seeking Civil Remedies for Damages before Israeli Courts", May 2013:

<http://adalah.org/Public/files/English/Publications/Articles/2013/Obstacles-Palestinians-Court-Fatmeh-ElAjou-05-13.pdf>.

⁹ Official Second Report of Turkel Commission, February 2013: <http://www.turkel-committee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf>.

¹⁰ Adalah summary of Turkel Commission Recommendations, Second Report, February 2013: <http://adalah.org/Public/files/English/Publications/Reports/Turkel-Committee-2ndReport-February-2013-Adalah-Summary.pdf>. See also Adalah, PHR-I and PCATI, Turkel Report, Preliminary Analysis: <http://www.stoptorture.org.il/files/PDF%20Adalah%20PCATI%20PHR%20Statement%20The%20Turkel%20Report%202028.2.2013.pdf>

Report recommended that, in order to ensure that those found guilty are punished with appropriate sentences, **legislation should be enacted to impose direct criminal liability on military commanders and civilian superiors for violations committed by their subordinates**, in cases where the former did not take all reasonable measures to prevent the violations or did not act to bring the matter to the attention of the competent authorities when they became aware of the violations. Furthermore, the report called for a mechanism to establish fact-finding assessments as bases for the Ministry of Justice's decisions on whether an investigation into suspected violation is necessary. The report called for this mechanism to comply with the international legal requirement of a prompt and professional assessment that facilitates a potential investigation and does not hinder it. The report noted that in order to be "effective", **the investigation "must comply with the international legal principles of independence, impartiality, effectiveness and thoroughness, promptness, as well as transparency"**.

However, despite the detailed recommendations of the Turkel Commission, **Israel has failed to take measures to implement these recommendations** to ensure investigations of alleged cases of torture, ill-treatment and disproportionate use of force by the military. For example, regarding the Israeli military operation on Gaza in the summer of 2014, of eleven complaints submitted by Adalah and Al Mezan to the Israeli authorities requesting the opening of independent criminal investigations into suspected war crimes, only four of the complaints received responses so far from the Israeli Military Advocate General (MAG). The responses for two of the cases stated that the military prosecutor had ordered a military investigation into the complaints (the military is investigating itself), while the responses for the other two cases stated that the complaints will be closed without investigations. Adalah sent follow-up letters to the MAG raising **serious concerns and problems that questioned the decisions, effectiveness and investigative work of the MAG**, arguing that the MAG did not comply with international law obligations of an independent investigation.¹¹

While the Ministry of Justice has announced a new committee to oversee the implementation of the Turkel Report, no information has been provided on its activities or its plans of action.¹²

- **Question 15. Please provide information on legislative measures envisaged or taken to incorporate the crime of torture in the legislation in conformity with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the Covenant and to remove any justification of torture, including the notion of "necessity" (follow-up analysis on paragraph 11, CCPR/C/105/2).**

As noted in the organizations' first submission to the HRC in June 2012, **Israel has no legislation that establishes torture as a crime**, as defined in Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and which is prohibited by Article 7 of the ICCPR. Further the notion of 'necessity', as is used in cases classified as 'ticking bombs', continues to be frequently invoked as a justification for the harshest methods of torture.¹³ The absence of this legislation remains in 2014. Alarming, Israel is in fact **introducing new legislation aimed at providing legal cover for the use of practices that constitute torture and ill-treatment**.

The most dangerous legislative bill that emerged in 2013 and 2014 related to the practice of torture and ill-treatment was the **Force-Feeding Bill**. The proposed bill provides a legislative foundation for torture and CIDT by permitting and providing for forced feeding of prisoners on hunger strike. This

¹¹ Adalah PR, "Military's investigations of war crimes in Gaza lack professionalism, neutrality, transparency", 18 September 2014: <http://adalah.org/eng/Articles/2328/Adalah-to-the-Military-Advocate-General:-The-of-war>.

¹² Letter from Israeli Deputy Attorney General (International Law) to Adalah on 2 March 2014.

¹³ See NGO submission by Public Committee Against Torture in Israel to UN HRC, September 2014: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ISR/INT_CCPR_CSS_ISR_18197_E.pdf.

legislation violates the human rights of the prisoners as well as the medical ethics of attending doctors/nurses; makes ill use of medicine and of physicians in order to achieve a political security and public image advantage; and violates Israel's Patient's Rights Law and international obligations and treaties.¹⁴ Significantly it provides impunity for all participants in forced feeding.

In an exceptional move, the **UN Special Rapporteurs on Torture and Health** issued a statement urging Israel to drop the bill, and **described it as cruel, inhumane and degrading treatment.**¹⁵ Additionally, the **UN High Commissioner for Human Rights**,¹⁶ the **spokesperson on Palestinian detainees at the EU**,¹⁷ and the **Secretary General Ban Ki-Moon**¹⁸ also stated their concern and opposition to bill and administrative detention of Palestinian prisoners. The challenges against the Force-Feeding Bill intensified in June 2014 with the acceleration of the Knesset's discussions on the bill in parallel with the worsening health status of the Palestinian hunger-striking prisoners. However, due to strong opposition from local and international actors, as well as political developments that compelled the prisoners to end their hunger strike on 25 June 2014, the Force-Feeding Bill lost its momentum and the legislative process was frozen.

- ***Question 16. Please indicate any measures taken to ensure that all alleged cases of torture, ill-treatment and disproportionate use of force by law-enforcement officials including with respect to detained children, are promptly, impartially and thoroughly investigated by an independent body, that those found guilty are punished with appropriate sentences, and that compensation is provided to victims and their families. Furthermore, please provide more detailed information on the Draft Bill on Criminal Procedure Law that would exempt security services from recording interrogations in cases involving security offences.***

Numerous cases of **torture, ill-treatment and the disproportionate use of force by police, military and others security forces against Palestinian children** in the OPT persist. For example, on 1 June 2014, Adalah sent an urgent letter to the Israeli Attorney General containing 21 shocking testimonies made by Palestinian children and recorded by the Defense for Children International-Palestine Section (DCI-P), detailing dangerous practices that constituted serious criminal offenses such as assault, damage, threat, sexual harassment and other unlawful activity committed by security authorities, including soldiers, GSS interrogators, and prison wardens.¹⁹ The testimonies revealed the frequent use of **night-time arrests, physical abuse and psychological violence, denial of family accompaniment, extended lengths of detention, and other cruel treatments** that left severe harm on the children. Despite the shocking frequency of these practices, no investigations were made into them. Adalah's letter demanded that the AG immediately open criminal investigations into such cases, prosecute those responsible, and order the end of such practices. Adalah also highlighted that these practices contravened both Israeli law and international laws such as the UN Convention for

¹⁴ PHR-I, Addameer, Al Mezan and Adalah, Urgent Action Letter to UN Special Rapporteur on Torture: [http://adalah.org/Public/files/Special%20Rapporteur%20on%20Torture-Allegation%20Letter%20on%20Legislation%20\(1\).pdf](http://adalah.org/Public/files/Special%20Rapporteur%20on%20Torture-Allegation%20Letter%20on%20Legislation%20(1).pdf).

¹⁵ OHCHR press release, "Force-feeding is cruel and inhuman – UN experts urge Israel not to make it legal", 25 June 2014: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14770&LangID=E>.

¹⁶ OHCHR press briefing notes on Israel/occupied Palestinian territory, 20 June 2014: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14750&LangID=E>.

¹⁷ EEAS Statement by the Spokesperson on Palestinian Detainees, 13 June 2014: http://eeas.europa.eu/statements/docs/2014/140613_01_en.pdf.

¹⁸ UN News Centre, "Ban concerned at reports of worsening health of Palestinian detainees on hunger strike", 6 June 2014: <http://www.un.org/apps/news/story.asp?NewsID=47979#.U8aJ3fmSxEL>.

¹⁹ Adalah press release, "Adalah to AG: Shocking testimonies from Palestinian children who were tortured during arrest and interrogation", 4 June 2014: <http://adalah.org/eng/Articles/2285/Adalah-to-Attorney-General:-Shocking-testimonies>.

the Rights of the Child. No measures have yet been taken. The forms of torture and ill-treatment against Palestinian children directly violate their rights under **Articles 2, 7, 9, 14 and 24** of the ICCPR.

On 7 February 2013, the Israeli Supreme Court dismissed a petition filed by Adalah and other human rights groups to cancel a sweeping exemption in law that allows the GSS **to avoid making audio or video recordings of their interrogations of suspected security offenders**.²⁰ The court justified its decision on the grounds that the Ministry of Justice had committed to examining alternatives to the law's exemption by 2015. Additionally, the court noted that relevant ministries were working to clarify the definition of security offences as stipulated by Israeli law. In its decision, the Court confirmed that the Knesset must amend the law, but that "it is necessary to wait until the law is amended" by a newly elected Knesset. At the same time, however, the Knesset had extended the temporary order granting the exemption of making audio/video recordings, as such, the state did not commit to making any fundamental changes to the law. Following the latest extension in 2012, the law is currently valid until July 2015. This decision contradicts a recommendation made by the Turkel Commission in "Turkel Part II" to ensure that audio/video recordings are made of all interrogations, including security suspects; the decision also contradicts the conclusion of UN CAT on the same issue.²¹ The GSS' exemption from accountability violates these detainees' rights under **Articles 2, 7, 9, 14 and 16** of the ICCPR.

- ***Question 17. Please provide detailed information on efforts made to end the practice of administrative detention and whether the State party envisages withdrawing its derogations from article 9 of the Covenant. Please...provide information on cases of ill-treatment of detainees and arbitrary detention, in particular in cases of "shabah" and beatings.***

Israel continues to **systematically use administrative detention in blatant violation of international law, as a mechanism of deterrence and punishment against Palestinian society**. It is imposed with the deliberate goals of instilling fear and disrupting social and political life in the OPT. As the HRC has observed in previous concluding observations, this type of indefinite administrative detention constitutes arbitrary detention and violates **Article 7** of the ICCPR.²²

Following a mass hunger strike by prisoners protesting against the use of administrative detention, which ended in May 2012, Israel committed to limiting the use of administrative detention to only 'exceptional circumstances', as required under international law. However, Israel reneged on this agreement by continuing to use administrative detention on a systematic basis. In July 2013 the number of administrative detainees was 136, the lowest number since the Palestinian prisoners' hunger strikes in April 2012. Since then, **the number of Palestinian administrative detainees has risen, with particularly sharp increases in the summer of 2014** during Israeli military operations in both the West Bank and the Gaza Strip.²³ As a result, the number of administrative detainees increased from 196 in May 2014, to 363 in June 2014, to 446 in July 2014, and 473 in August 2014.

²⁰ H CJ 9416/10 Adalah v. Ministry of Public Security; Adalah press release, "Supreme Court rejects petition against GSS exemption from requirement to record interrogations with security suspect", 10 February 2013: <http://adalah.org/eng/Articles/1920/Supreme-Court-rejects-petition-against-GSS-from-to>.

²¹ Adalah press release, "Turkel Commission recommendations to investigate war crimes must be implemented", 28 May 2013: <http://adalah.org/eng/Articles/2124/Turkel-Commission-recommendations-to-war-crimes>.

²² Concluding observations of the Human Rights Committee: Israel. 1/08/2003. [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.78.ISR.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.78.ISR.En?OpenDocument); Report of the Human Rights Committee, UN Doc. A/53/40 (Vol. I, 1998), para.317; A/58/40 (Vol. I, 2003-4, para.85(12). A/65/40, Vol. I (2009-10), para. 7

²³ Statistics from B'tselem, 31 August 2014: http://www.btselem.org/statistics/detainees_and_prisoners, and Addameer, 1 September 2014: <http://www.addameer.org/etemplate.php?id=727>.

From 24 April to 25 June 2014, approximately 125 Palestinian prisoners went on a **50-day hunger-strike protesting against administrative detention**. With the announcement of the hunger-strike, the Israel Prison Service (IPS) announced and imposed a series of punitive measures in order to end the strike. Among the most brutal punitive measures proposed was the threat of force-feeding (discussed in Question 15). The measures actually imposed included obstructing lawyers' visits, banning family visits, and preventing prisoners from going out to the yard, among others.²⁴

One of the most severe practices was **the shackling of sick detainees on hunger strike to their hospital beds by their hands and feet 24 hours a day**. This restraint prevented prisoners from moving at all and further complicated their already deteriorating health status. The restrictions impeded on the prisoners' most basic humanitarian needs, such as going to the bathroom, especially at night when staff claimed that there were not enough wardens to accompany them to the toilet. In response to a letter sent by Adalah in June 2014, the Israeli Health Ministry claimed that the IPS, rather than the ministry, had decided to shackle prisoners. The Health Ministry claimed that it had no knowledge about this issue. Following this exchange, Adalah and the Addameer Prisoner Support and Human Rights Association filed a petition to the Nazareth District Court against this policy on 18 June 2014.²⁵ The petition argued that these practices **constituted torture and/or cruel, inhuman and degrading treatment**. A hearing was held on the case; no judgment has been delivered to date.

During the summer of 2014, the Israeli military **detained at least 150 Palestinians from Gaza**, and placed them in a temporary military detention camp.²⁶ As of 31 August 2014, there were still 32 Palestinians from Gaza detained in IPS facilities. One of the detainees has been declared as an "unlawful combatant". Reports indicated that the majority of these arrests took place in the northern areas of Gaza, during Israel's ground troop offensive. Al Mezan visited 22 Palestinian detainees from Gaza who were arrested during the operation and then released, and recorded **testimonies that detail ill-treatment during detention that amount to the use of physical and psychological torture**. Ten of the detainees reported being directly tortured during their interrogations. The reports detail detainees being blindfolded; forced into stress positions such as sitting on small chairs with their legs shackled and their hands cuffed behind their backs; deprived of sleep as a form of coercion; frequently and severely beaten with blows to the face and genitalia, sometimes with rifle butts; and psychological abuse including threats to demolish their homes.²⁷

Further violations around the detention of Palestinian from Gaza include:

1. **The withholding of information about:** the number of detainees from Gaza held by the Israeli military, their identities and their whereabouts; details of their living conditions and arrangements in the temporary detention facilities; information on wounded and ill detainees from Gaza that were in need of medical care; information on the number of detainees that were interrogated by the Israeli security forces and under what conditions; information on the number of detainees interrogated in the field, as well as the lack of immediate notification to the International Committee of the Red Cross (ICRC) of every detained individual. In July 2014, PHR-I sent a letter to the Israeli Attorney General, the IPS

²⁴ Adalah PRs on 2014 Palestinian hunger strike: <http://adalah.org/eng/tags/Hunger-strikes/1>.

²⁵ *PP 35172-06-14 Abdel Razeq v. Israel Prison Service*; Adalah press release, "Adalah and Addameer petition Nazareth District Court against policy of shackling hunger-striking prisoners to hospital beds", 24 June 2014: <http://adalah.org/eng/Articles/2297/Adalah-and-Addameer-petition-Nazareth-District-of>.

²⁶ Adalah press release, "Adalah demands that AG announce the names of Gaza detainees brought to Israel and allow lawyers to visit them", 25 July 2014: <http://adalah.org/eng/Articles/2312/Adalah-demands-that-Attorney-General-announce-the>.

²⁷ Al Mezan database.

and the Israeli military, requesting that they provide information on the above issues, to ensure the wellbeing, dignity and rights of those detained, and to refrain from using any form of torture or ill-treatment. The IPS replied that it was holding 25 detainees from Gaza who had been arrested during combat, and that they were being treated in accordance with Israeli and international law.

2. **The release of detainees from Israeli custody to Gaza without coordination with the ICRC during combat, and thus risking their health and lives.** Reports from detainees' families indicated that some individuals were detained and then released during active combat, without coordination with the ICRC and without ensuring their safe return to Gaza. According to the reports, the way in which they were released endangered their lives and health, either due to medical conditions that required transport by ambulances, or because of the risk of being harmed during the fighting taking place in the area. On July 2014, PHR-I wrote to the IPS and the Israeli military demanding that the release of detainees to Gaza be done in coordination with the ICRC, through ambulances, and while ensuring their safe arrival back to Gaza.
3. **Disappearances of Palestinians from Gaza during the military offensive.** As a result of the Israeli ground incursions in the northeastern areas of the Gaza Strip, the widespread destruction of properties and buildings, and the killing of hundreds of Palestinian civilians and their families, many Palestinian civilians have been reported missing. Families were, and some are still, uncertain of the fate of relatives and loved ones, including whether they were wounded, arrested, or killed. Since the second week of the ground invasion, PHR-I received dozens of requests for help in locating the missing and wounded, since there was a concern that they could have been arrested by Israel during the fighting. Approximately 10 people were found being held in the Shikma interrogation facility in Israel and were denied meetings with an attorney.

In most cases, the Israeli army and the IPS denied knowing anything regarding the whereabouts or the fate of many of the missing individuals. On 28 July 2014, PHR-I and the HaMoked Center for the Defense of the Individual filed a petition for *habeas corpus* to the Israeli Supreme Court on behalf of families of five missing individuals from Gaza. However, after the petition was filed to the Supreme Court, it was confirmed, contrary to the IPS' initial response, that two of the missing individuals had been in IPS custody, while the others' bodies were found in Gaza several days later.

Al Mezan's documentation indicates that the Israeli military detained at least 19 Palestinians in Gaza and **used them as human shields** in the town of Khuza'a during the military operations in the summer of 2014. At least one of these detainees was under the age of 18. Three of the victims were forced to stand in front of windows inside homes while the soldiers stood behind the victims and fired at targets outside of the house. One of the victims was handcuffed and blindfolded, and forced to climb up and sit on a tank that drove around for about three hours; during this period of time, the soldiers fired tank missiles at targets. Other victims were forced to walk in front of soldiers, enter and search houses, and search for alleged tunnels in Khuza'a. These practices violate numerous provisions of the ICCPR and IHL, as well as a 2005 Israeli Supreme Court ruling that forbids the use of civilians as human shields.²⁸

According to testimonies collected by Al Mezan, there is also evidence to show that Israeli security forces **carried out executions of Palestinian detainees** during the military operation in Gaza, in violation of the laws of war.²⁹ On 1 August 2014, residents of the town of Khuza'a found the dead bodies of six men in a house; evidence collected from the site indicated that Israeli soldiers used the house as an outpost. Five of the men were found in the bathroom, two of whom were still

²⁸ H CJ 3799/02 Adalah et al. v. Yitzhak Eitan, Commander of the Israeli Army in the West Bank et al.

²⁹ Al Mezan database.

handcuffed and in a seated position; one had a cut on his neck. All of the victims' bodies had bullet holes in them. Bullet cases were also found on the site from a type of weapon used by Israeli forces. The five victims are believed to be combatants who were captured alive and then executed by Israeli soldiers. In another case in Khuza'a, a Palestinian man, who was among 70 men being held on a street by Israeli forces, was shot at from close range. The rest of the detained men were prevented from giving first aid to the man for approximately thirty minutes. The soldiers did not provide any medical care for the man and he bled to death. On other occasions, Israeli snipers fired at unarmed civilians who posed no threat to them. In one example, a video recording of an attack in Shuja'iya shows a young man being shot by a sniper; he falls to the ground, and then is shot again and killed.

- ***Question 19. Please provide detailed and updated information on concrete efforts by the State party to ensure that measures taken to respond to threats of terrorism are in line with the Covenant. Please specify whether the State party has reviewed its legislation to comply with the requirements that definitions of terrorism and security suspects be precise, and that the maintenance of national security be in full conformity with the Covenant. Please provide any new legal safeguards and remedies available to suspects, detainees or victims of terrorism and whether and when the State party envisages repealing The Detention of Unlawful Combatants Law as amended in 2008.***

Israel has not taken positive measures in ensuring that its definitions and responses to security threats comply with international law. To the contrary, a proposed government-supported legislation, the “**Anti-Terrorism Bill**”, contains broad and vague definitions of terrorism and terrorist organizations, which may be exploited to criminalize legitimate political action by Palestinian citizens of Israel and Palestinian residents of the OPT.³⁰ The bill seeks to entrench many emergency regulations currently in effect in Israeli law, some of which date back to the British Mandatory period. The bill includes 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; lowers the evidentiary requirements of the state in such cases; creates new criminal offenses, including for any public expression of support for or sympathy with a terrorist group; and sharply increases the maximum sentences for people convicted of security offenses. The bill was first introduced in July 2011, and then re-tabled in June 2013. The Ministerial Committee on Legislation approved the bill on 9 June 2013; the bill remains pending in the Knesset.

The **Detention of Unlawful Combatants Law**, as amended in July 2008, allows for the holding of an “unlawful enemy combatant” under administrative detention for up to 14 days, before bringing him or her in front of a District Court judge to determine whether his or her status is that of an “unlawful combatant.” The law also allows for that detainee to be prevented from having access to a lawyer for up to 21 days. Additionally, the detention is subject to judicial review once every six months, until the release of an “unlawful combatant” is deemed no longer a danger to state security – a condition which might not be met until the end of the armed conflict. Although the Israeli Supreme Court has upheld the constitutionality of this law, it has also held that there must be evidence of danger emanating from the particular “unlawful combatant,” and that the burden of proving that danger must be greater the longer the detention continues, thus detentions can still be indefinite.³¹ As mentioned earlier, Israel currently holds one “unlawful combatant” who was arrested during the 2014 military operation on Gaza. **This recent use of the law indicates that the state has no plans to repeal it.**

³⁰ Adalah Discriminatory Laws Database entry on “Anti-Terrorism Bill”:

http://www.adalah.org/eng/?mod=db&dld_page=law&slg=bill-to-fight-terrorism.

³¹ *Cr. App. 6659/06 Anon v. State of Israel (decision delivered 11 June 2008)*, para. 67, per Pres. Beinisch.

The Unlawful Combatants Law is an extension of Israel's illegal administrative detention policy. The law's authorization of the incommunicado detention of individuals with severely limited judicial review **constitutes a form of ill-treatment and further facilitates the use of torture and other ill-treatment**. As the **UN General Assembly** has repeatedly stated, "prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment."³² The **UN HRC** has stated that legal provisions should be enacted against the use of incommunicado detention,³³ and the **UN Committee Against Torture (CAT)** has consistently called for its elimination.³⁴ The **UN Special Rapporteur on Torture**, recognizing that "torture is most frequently practiced during incommunicado detention," has also called for such detention to be made illegal.³⁵

- **Question 25. Please provide information on measures taken by the State party to reinstate the family visit programme supported by the International Committee of the Red Cross, for prisoners from the Gaza Strip. Please also indicate measures taken to enhance the right of prisoners suspected of security-related offences to maintain contact with their families, including by telephone.**

Family visits for the 5,500-6,200³⁶ Palestinians classified by Israel as 'security prisoners' and held in Israeli prisons remain infrequent and highly disrupted, and leave the prisoner particularly vulnerable in emergency situations. While family visits are permitted by the Israeli authorities weekly on Tuesdays and Wednesdays, if the situation in Gaza is unstable or Israel tightens access and movement restrictions, the family visits to prisons are also halted. Prohibitions on lawyers' visits to prisoners, which can often last several days or weeks if legally unchallenged, further affect the rights of families to know the health and welfare of the prisoners during emergencies.

Restrictions and obstacles on family visits were raised again during the prisoners' hunger strike in 2014. Adalah submitted several letters to the IPS during the hunger strike demanding that family visits to hunger-strikers be permitted, and then filed a petition to the Lod District Court on 1 July 2014 **demanding the cancellation of IPS instructions prohibiting family visits** for prisoners participating in hunger strikes, arguing that they were illegal and must be revoked.³⁷ This punitive measure, which has been imposed from 2001 until today, is part of numerous actions taken by the IPS to suppress prisoners' protests against the conditions of their detention. The petition further stressed that the IPS is also increasingly denying family visits to administrative detainees, who have not been charged or brought to trial. These individuals have not been convicted of any charge, and therefore their detention conditions should consider these factors. A hearing for the petition will be held on 5 November 2014.

³² UN General Assembly resolution A/RES/66/150 17 December 2007. para. 15; UNGA res. 63/166, 12 December 2008, para. 20; UNGA res. A/RES/66/150 19 December 2011, para. 22.

³³ Human Rights Committee, General Comment 20, Article 7 (Forty-fourth session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 30 (1994), para. 11.

³⁴ See for instance Report of the Committee against Torture, UN Doc. A/52/44 (1997), paras. 121(d) (re Georgia); 146 (re Ukraine); UN Doc. 44(A/55/44) (2000), para. 61(b) (re Peru); UN Doc. A/58/44 (2003), para. 42(h) (re Egypt); UN Doc. A/59/44 (2004), para. 146(d) (re Yemen).

³⁵ UN Doc. E/CN.4/2002/76, 27 December 2001, Annex 1.

³⁶ Statistics from B'tselem, 31 August 2014: http://www.btselem.org/statistics/detainees_and_prisoners, and Addameer, 1 September 2014: <http://www.addameer.org/etemplate.php?id=727>.

³⁷ *PP 1698-07-14 Abdel Razeq Farraj v. Israel Prison Service*; Adalah press release, "Adalah petition for family visits to Palestinian hunger-striking prisoners to be heard in November 2014", 27 August 2014: <http://adalah.org/eng/Articles/2318/Adalah-petition-for-family-visits-to-Palestinian>.