THE PUBLIC COMMITTEE AGAINST TORTURE IN ISRAEL

Submission to the United Nations Committee Against Torture List of Issues Prior to Reporting concerning the Sixth Periodic Report of Israel

25 June 2018

The Public Committee Against Torture in Israel (PCATI) is an independent human rights organization battling torture and cruel, inhuman and degrading treatment within Israel. Founded in 1990, PCATI advocates for all persons - Israelis, Palestinians, labour immigrants and other foreigners in Israel and the Occupied Palestinian Territories (OPT) – in order to protect them from torture and ill treatment by the Israeli security and law enforcement authorities. These include the Israel Police, the Israel Security Agency (ISA), the Israel Prison Service and the Israel Defense Forces (IDF).

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PCATI welcomes the opportunity to contribute to the List of Issues Prior to Reporting of Israel in preparation for its sixth periodic review.

Articles 1, 2, 4, 11 and 16

a. Legislation

On May 2016 the State party declared its commitment before the Committee to advance the legislation of a specific offense criminalizing torture and CIDT. To date, no memo has been published, i.e. even the first stage on the long road to legislation has not yet been taken, 26 months after the initial declaration before the Committee.

Suggested issues:

- Given the delay mentioned above, we ask the State to provide detailed information on the steps taken and the plans to advance the law criminalizing torture. Please also provide specific information on expected deadlines, and in particular the date by which it will be brought before the Ministerial Committee on Legislative Issues. Please specify also whether the intended law will include reference to CIDT and to mental suffering. Most important, we would ask the State to specify whether the offense will indeed be absolute as required by the Convention, or whether the existing defenses in the Israeli penal code, 1977, will be applicable to this offense, with special reference to article 34(11)

regarding the Necessity Defense.

b. <u>ISA interrogations – allegations of torture and CIDT</u>

According to data gathered by PCATI and based on testimonies of security detainees, ISA interrogations can and do include the following: incommunicado detention, inhuman conditions of detention, sleep deprivation, beatings, stress positions, sexual harassment and intimidation, use of family members, threats, and other methods of physical and psychological pressures. These methods are used in conjunction with one another, often with the suspect blindfolded, and cyclically over a period of several days, until information or a confession is elicited. Some of these interrogations are classified as "necessity"[1] interrogations, in which the use of so-called "special means" is permitted ahead of time by senior officials in the ISA and justified retroactively by the State Attorney General.

Suggested issues

- Please explain the measures taken to ensure that interrogation methods contrary to the Convention are not utilized under **any** circumstances. Please refer separately to regular ISA interrogations and to interrogations that include special means.

- The urgency and importance of these issues was recently illustrated in the decision of the District Court in Lod, delivered on 19th June 2018 in the *voir-dire* procedure of the so-called Duma case. The suspects claimed that their confessions were extracted after the use of "special means", employed in regular cycles over a period of several days. These so-called "special methods" included, according to testimonies: stress positions, sleep deprivation, sexual intimidation, beating, and threats of various kinds. In his testimony to the court, one of the interrogators under the alias of Miguel confirmed that "a great part of the power of the "necessity defense is its mental effect on the interrogees, who are put under great tension and opaqueness, and do not know how far the violent behavior of the interrogators may take them." (Paragraph 187 of the District Court ruling). Miguel further clarified that the means employed are " '**painful and perhaps very painful**' (emphasis in the original), having tried them on himself in the past. He also confirmed that the necessity interrogation includes humiliating statements, which are not employed in a regular interrogation." (Paragraph 186 of the District Court ruling).

  Given this testimony by a public official, making deliberate use of "necessity interrogations" with the intent to extract information, and who has employed these methods in this particular case - please explain how the State reconciles the severe pain and suffering engendered with the claim that these methods do not amount to torture as defined in article 1 of the Convention.

- **Sleep Deprivation**

  PCATI data indicates that 85% of the complaints submitted between Jan 2014 to include allegations of serious sleep deprivation. Given this prevalence, what are the regulations ensuring that interrogees are provided by the ISA and the IPS with

1 http://blog.omct.org/veil-torture-israels-necessity-defense/

adequate sleep, including during the interrogation period? How many hours of sleep are guaranteed to interrogees during a police interrogation? How many during an ISA interrogation? Are those hours consecutive? In the last year, how often were there exceptions to this rule by the police and by the ISA?

- **Threats**

PCATI data indicates that dozens of security interrogees from January 2016 until May 2018 were exposed to threats against themselves and their family members as part of the interrogation in the ISA, in attempt to elicit information and/or a confession. These threats included, for instance, the threat of an indefinite imprisonment, of house demolitions, of harm to family members and sexual intimidation.
What steps does the state party undertake to ensure that there are no such illegal threats in ISA interrogations?

- **Stress Positions**

According to PCATI data, since January 2012 at least 24 former interrogees have given affidavits testifying to the regarding the use of the "Banana" position. This position, in which the suspect is placed with his profile to the back of the chair, legs held to the legs of the chair on one side and his back bent backwards towards the floor on the other side, is known as positional torture and banned expressly in the Istanbul Protocol. In the 24 complaints mentioned, the allegation itself – regarding the use of a banned method of torture – has not been denied by the Ministry of Justice or other authorities, but no criminal investigation has yet been opened.

In addition, since 2012, at least 20 former interrogees have given affidavits testifying to the use of the "frog" stress position in a regulated ISA interrogation: relying specifically on a bending of the knees. Like the "banana" position, the "frog" position, which is used repetitively and over several days in ISA interrogations, creates extreme pressure on ligaments and the musculo-skeletal system, resulting in severe pain and suffering both immediately and over the ensuing days and sometimes weeks. In addition, it has been banned by the Israeli HCJ in 1999. In all of these 20 cases, the allegation itself – regarding the use of a banned method of torture – has not been denied, but no criminal investigation has yet been opened.

Given this information, can the State confirm or deny the regulated and systematic use of positional torture in certain ISA interrogation? Given the certain infliction of severe pain and suffering, do these methods amount to torture, and if not, why not?
For examples of these allegations, see Case Studies relating to Abu Ghosh and Tbeish, appended below at the end of the submission.

- **Beatings**

Data gathered by PCATI indicates the regular and systematic use of beatings as part of interrogations, especially in so-called "necessity interrogations" (see Case Studies relating to Abu Ghosh and Tbeish below).
What steps are taken to ensure that ISA interrogators understand that such a use is incompatible with the Convention? How many such complaints alleging beatings have been received by the ISA? What has been the result of the examinations conducted?

- **Conditions of Detention during ISA interrogations**

According to hundreds of testimonies given by security detainees over the last decades, the conditions under which detainees are held are frequently and unnecessarily harsh and inhuman. These conditions regularly include a cell of exceedingly small dimensions; permanent light fixtures lit for 24 hours a day; lack of sufficient and humane mattress and bedding; and lack of air and sunlight. These conditions undoubtedly amount at least to CIDT, if not torture in conjunction with other methods.

In a response by the State, given on 15.5.18 in the HCJ petition 1892/14, *ACRI vs. The Minister of Interior Security*, the Ministry of Justice stated that regardless of any amelioration in the conditions of detention for other prisoners and detainees, the state is opposed to any increase in the size of the cells for ISA interrogees, arguing that such a change in the size of the cell would lead to "***damage to the abilities of the ISA to conduct interrogative actions, based on the uniqueness of the interrogation facilities***." Therefore, the State opposed the increase of the cells during ISA interrogation.

Suggested issues:

- What is the size of the cell in which security interrogees are held? How many security interrogees have been held in cells of less than 3 square m. per person in the last year? How many security interrogees have been held in cells of less than 4.5 square m. per person in the last year? How does the State justifies its contravention of the Convention in this regard, given the gap between the current detention conditions and the international Minimum Standards?

- Please inquire whether the detention conditions are indeed used as an interrogation measures, as implied by the State response quoted above, and specifically how the State ensures that detention conditions during ISA interrogations do not amount to CIDT.

c. <u>Police brutality - Allegation of torture and CIDT</u>

According to the information collated by PCATI over the past three years, it appears that different groups encounter different and distinct treatment from the police, especially in policing demonstrations. PCATI data also indicates a general deterioration in the prevalence of police brutality, specifically aimed at populations protesting government policies, including but not limited to the Ethiopian community (protesting police brutality and discrimination), the Bedouin community (protesting discrimination and lack of land rights), the Ultra-Orthodox community (protesting the forced draft into the army), and the disabled community (protesting the lack of government assistance).

Suggested Issues

- Please detail the regulations ensuring appropriate treatment of women and disabled protesters, with special reference to care taken not to abuse their vulnerabilities. PCATI has received information that at several protests, disabled protesters were surrounded intentionally by spikes laid on the ground around their wheelchairs, effectively depriving them of freedom of movement. How does the State reconcile

these incidents with the duties to avoid ill-treatment?

- Please detail what percentage of people killed by the use of lethal means by the police are Arabs with an Israeli citizenship?
- Regarding the Ultra-Orthodox community, PCATI's monitoring indicates the systemic and regular use of crowd dispersal mechanisms inside densely-populated and mixed-age residential areas, resulting in injuries to bystanders and residents from water cannons, pebble-cannons, tear gas, and the so-called "skunk" cannon. What are the regulations for the employment of these severe methods of crowd dispersal in mixed residential areas? How does the State ensure lack of disproportionate injury to bystanders and residents?

d. <u>Safeguards of security detainees:</u>

Suggested issue:

- How does the State party ensure that detainees under interrogation are afforded, in practice, all the fundamental safeguards, including the rights to have prompt access to a lawyer, to have independent medical examination, to notify relatives and to receive visitors? Since the last review, how many detainees have been detained without access to counsel for over 24 hours? How many for over 5 days? How many for over 10 days? How many for over 20 days? How many for over 30 days? Please refer separately to people detained under the civil and the military law.
- Please provide information on the effectiveness of judicial review during extension of remand proceedings. In the case of detainees where the state asks for an extension of the incommunicado period, what percentage of requests has been granted by judges? In the case of detainees where the state asks for an extension of the remand period, what percentage of requests has been granted by judges? Please refer separately to the civil and the military courts
- **Audio-visual documentation of interrogations of security suspects**

In January 2018 the State installed cameras in all ISA interrogation rooms; these cameras broadcast to a control room, regularly and in real-time, via closed-circuit mechanism. The broadcast is monitored at random intervals by officers of the Ministry of Justice.

Suggested issues:

- Please provide information on the use of audio-visual documentation of security interrogations by the ISA Since January 2018. What percentage of the interrogations is broadcast? What are the criteria determining the broadcast? Given that the interrogations are not recorded, how has this system served to further the investigation of complaints? Have any regulations or interrogation methods been changed following the audio-visual broadcasts?

e. <u>Minors</u>

Specific issue:

- Please provide specific information regarding **ISA security interrogations** of

minors. What percentage of minor interrogees has been interrogated between the hours of 22:00 and 06:00? Have any ISA interrogators been trained to interrogators of minors under 18? How many minors have been interrogated while shackled throughout the interrogation? How does the State ensure that minors specifically are not threatened in the interrogation?

- Please provide specific information regarding the **police interrogations** of minors. What percentage of minors has been interrogated without their parents present? What percentage has been interrogated between the hours of 22:00 and 06:00? What percentage has been interrogated by licensed and trained youth interrogators?

f. The role of Medical Staff

Please provide concrete information regarding the investigation and accountability of medical staff accused of involvement in torture and other ill treatments. What steps have been taken to ensure that medical staff in detention facilities are aware of their duty to document injuries and report any suspicions of ill-treatment to an independent authority? How have allegations of complicity been addressed by the State? Please provide information on the regulations in place for such reporting in detention facilities and the steps taken to promulgate them.

Articles 5 and 7

Specific issue:

- Anibel Teodoro Gauto, a resident and citizen of Israel for the past decade, is wanted by the government of Argentina in connection with an investigation on suspicion of crimes against humanity; in particular, he is sought on suspicion of having employed and ordered the use of torture in the notorious camp of La Cacha during the years of the military dictatorship in Argentina (1976-1983). Gauto faces an international arrest warrant. Does the State party intend to extradite him to Argentina to face the investigation, or to investigate and if necessary charge him in Israel in order to bring him to justice and fulfill the terms of the Convention? We note that a High Court of Justice petition in the matter is pending as of June 2016 (*HCJ 4594/16*).

Article 10

a. Training related to international law and the convention against torture

In the previous concluding observations from 2016 the Committee has often recommended training, especially regarding international standards and the definitions of torture and CIDT, and that this recommendation has been repeated by internal Israel government commissions.

Suggested issue:

- **ISA interrogators:** Would the State party define what relevant training ISA interrogators receive, with special reference to international law, the definitions of torture and other obligations arising from the convention, and the extent and duration

of such training? If no such training takes place, would the State outline its plans and timeline for instituting such training in order to reduce cases of torture and other ill-treatment?

- **Israel Prison service**: Would the State provide information on training related to international law and the definitions of torture and ill-treatment for IPS guards? Please outline plans and timeline for instituting such training.
- **Israel Police:** Would the State provide information regarding training received by Police officers regrading respect for the Convention? Would the State provide information regarding training received by the Police Investigation Department unit in the Ministry of Justice received regarding the convention, proper investigation procedures (including the use of the Istanbul Protocol) and the definition of torture? We note with approval and relief that in 2018, 11 officers of the IPS investigative unit participated in a one-day training regarding international law and international Minimum Standards for prisoners and the investigation of complaints. Would the State outline its plans and timeline for instituting any further training?
- PCATI data indicates an increase in the violence of policemen towards Muslims attending prayers in Al-Aqsa Mosque since the last State report. What training do the policemen and policewomen receive in order to ensure the well-being of the attending?

b. <u>Training regarding Istanbul Protocol</u>

Suggested issue:

- Is the IP instituted as part of the curriculum in Medical and Legal training programs and schools?
- In the case of Asad Abu Ghosh (detailed in the Appended Case studies, the High Court of Justice accepted the State's position that a Legal-Medical Assessment based on the Istanbul Protocol should be dismissed. To quote,

> *"According to the experts, "the torture" which the Petitioner recounted "may" be a cause for the medical diagnosis, while the existence of a causal connection between the two is "reasonable to a large extent". In reference to this conclusion of theirs, one should note that the experts cannot determine whether the interrogative means used in the Petitioner's interrogation amounted to torture by the Convention, in spite of their training in the field of documentation of torture. They are experts in the medical profession, while the question regarding "torture" by the Convention, has been examined in this case by experts in the field of international law, on behalf of the Petitioners".* (Paragraph 29 of the HCJ ruling).

How does the State reconcile this position and the dismissal of Legal-Medical Assessments with the international and legal standing of the Istanbul Protocol in identifying and assessing allegations of torture?

Articles 12-13

a. <u>Investigation allegations of torture and CIDT within the ISA</u>

PCATI notes that of the time of writing, the last four years show a welcome improvement in the seriousness of examinations of torture and CIDT carried out by the Interrogee Complaints Comptroller (ICC). That said, the examinations of allegations of torture and ill-treatment are plagued by an egregious lack of effectiveness and a lack of promptness which renders them a barren exercise.

Between the years 2001- 2018, over 1,100 complaints of torture and CIDT have been presented to the ICC in its various guises. To the best of our knowledge and according to information given through the Freedom of Information Act in 2017, only one complaint has led to a criminal investigation in 2017, and as of the time of writing, no indictments have been presented. In addition, although some 40 appeals have been presented against the closing of files, not a single appeal has ever been accepted. Such dire statistics are evidently far from meeting the requirement for effective investigation.

The Preliminary examinations conducted by the ICC take well over a few months. In fact, according to PCATI's data, the average length of such a preliminary examination from 2014 to the time of writing has been 34.7 months; with some examinations lasting as long as five years. Crucially, all cases of "necessity interrogations" from 2014 are still pending. In addition, the average length for the examination of appeals stands at 450 days as of the time of writing. Evidently, such a lengthy examination is far from meeting the requirement for promptness, and creates irreparable harm to the possibility of redress.

Specific issues:

- What measures has the State taken to speed up investigations of cases of torture and CIDT by the ISA? Please refer to necessity interrogation in particular. Please detail any plans and timelines for remedying the situation.
- Given the information presented above regarding the use of non-physical methods of torture and CIDT, what is the mechanism employed by the investigation mechanism for assessing the psychological pain and suffering caused by these methods? What is the mechanism employed by the investigation mechanism for assessing the psychological long term consequences caused by these methods? In how many cases has the investigation mechanism made use of psychological assessments in assessing the allegations of torture and CIDT?
- Istanbul Protocol**:** Please provide information on how the State party ensures that all allegations of torture are examined in light of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol/ IP). How many cases have been examined by the State using legal-medical evidence obtained by professionals trained in the Istanbul Protocol?

b. <u>Investigation of allegation of torture and CIDT within the Israel Police</u>

Suggested issues:

- Please address the events of July 2017, when following demonstrations in East Jerusalem, PCATI presented 13 complaints of egregious ill-treatment. As of the time of writing, all 13 of the complaints have been closed with no criminal prosecutions. Please provide information regarding this decision.
- Please address the speed of investigations into allegations of torture and CIDT by the police. How many investigations are completed within 6 months? How many within 10 months? How many investigations last over a year?
- Please indicate to what extent appeals against the closure of files are reasonably effective mechanisms. What percentage of the appeals presented since the last State report have been accepted? How long does the investigation of the appeals last, on average?
- Please provide the number and percentage of criminal indictments in allegations of police brutality since the last review.
- In latter sent on 10 April 2018 and later publicized, Judge (ret) David Rosen in the Ministry of Justice recommended that in case of allegations of torture and CIDT the suspected police officer "should be placed until the decision or a court ruling in his matter in a place or position which does not require immediate contact with citizens" Have these recommendations been implemented? From what date? What is the timeline for their implementation?

c. Investigation of allegations of torture and CIDT within the Israel Prison Service

Complaints against officers in the IPS are conducted by trained investigators of the National Prison Wardens Investigation Unit (NPWIU).

Suggested issue:

- According to PCATI's information, as part of their investigation, NPWIU officers interview complainants. These interviews take place with complainants still shackled. In addition, complainants who do not speak Hebrew are not provided with an independent translator but required to use a prison warden. Please explain how this practice meets international standards for a professional investigation into allegations of torture and CIDT. If there are plans for changing this practice, please detail these plans and their timeline.

Article 14

Rehabilitation and compensation

In its previous concluding observations, the committee expressed its concern about the lack of system of rehabilitation for victim of torture (paragraph 48).

Suggested issues:

- Please describe the available mechanism for identification and rehabilitation of

torture victims, with specific reference to asylum seekers, former prisoners, and others. How accessible is this mechanism? How often has the State made use of it, and for what percentage of the affected population? Does it provide an adequate response to the unique rehabilitative needs of victims of torture?

- On 24.4.2017, the District Court in Jerusalem ruled in the case of 78 plaintiffs regarding claims of torture by the Palestinian Authority. The Court ruled that 49 of the plaintiffs were indubitably subjected to torture by Palestinian Authority or its agents. This ruling of course carries significant weight, placing the duty of rehabilitation on the State of Israel where the victims are currently residing, according to article 14 of the Convention. As the Committee has elaborated in it General Comment #3, this rehabilitation must be as comprehensive as possible and as prompt as possible. The Committee further elaborated that the State must ensure the existence of a mechanism to identify the needs of the victims, based *inter alia* on the Istanbul Protocol. On June 17 2018, the Public Committee Against Torture in Israel and Physicians for Human Rights sent a joint letter to the Israeli Ministry of Health and the Ministry of Labor, Social Affairs and Social Services requesting information on the required rehabilitation, since to the best of our knowledge no such steps have been provided. The two NGOs offered their help in constructing an operational programmer to answer the immediate legal and medical need for a rehabilitative mechanism. Where does this matter stand? What is the timeline for providing an adequate rehabilitative answer to these 49 victims of torture, who were recognized by an Israeli court?

Article 16

<u>Transfer of prisoners</u>

The issue of conditions of transfer of detainees has arisen as a systemic problem in the last 15 years. Documented complaints show that the travel times are unjustifiably long, and that detainees do not have regular and reasonable access to food, water, and toilets. Altogether, the transfer of detainees creates conditions amounting to inhumane treatment; a petition to the HCJ on this is pending (HCJ 3354/17 *Awiwi et al vs. IPS et al*)

Suggested issue:

- Would the State provide information on the steps taken to ensure that prisoners and detainees in transport between detention, court and medical facilities are treated in a way commensurate with human dignity? How does the State ensure that the travel times are proportionate to the distances? How does the State ensure access to food, water, and toilets? Are there regulations governing the frequency of stops, and how is the implementation of these regulations guaranteed? How is access to toilets guaranteed during the transfer (specifically with reference to women detainees)? How is the access and quality of food and water guaranteed? How have complaints regarding excessive travel times, inhumane conditions and the lack of such facilities during transport been addressed?

Case Study A – Asad Abu Ghosh:

The case of Asad Abu Ghosh illustrates several of the systemic violations plaguing so-called "*necessity interrogations*" by the ISA and the inability of the examination process or the legal system to provide remedy and accountability; it also exemplifies the lack of safeguards, and specifically the refusal to make use of the Istanbul Protocol, as mentioned above.

In the High Court of Justice petition HCJ 5722/12, *Abu Ghosh et al. vs. Attorney General et al.*, Abu Ghosh claimed he was interrogated in 2007 and was subjected to beatings, slamming against the wall, threats against himself and his family, sleep deprivation, various stress positions, bending of digits, and incommunicado detention for a month. In the HCJ petition asking the State to open a criminal investigation, PCATI presented - as well as other evidence - a Medical-Legal assessment conducted according to the Istanbul Protocol, which presented additional physical and psychological findings. In the HCJ ruling, given on 12.12.2017 ten years after the interrogation, the court stated that interrogators confirmed that "certain pressure means were applied during the appellant's interrogations, and they detailed these" (paragraph 4 of the HCJ ruling). Judge Shoham also states:

> *"I have meticulously reviewed the classified material submitted by the Respondents in court, specifying the conduct of the Petitioner's interrogation and various actions the Respondents carried out later, in order to examine the Petitioner's complaints. Following a thorough review of this material, I conclude that the Respondents' position, as to the factual picture arising from the relevant material not consolidating the conclusion that the actions amounted to torture."* (para 36)

Ultimately, the HCJ decided not to order the Attorney General to open a criminal investigation. This decision led to unprecedented criticism from the UN Special Rapporteur on torture, Nils Melzer. On February 20, 2018 he expressed his utmost concern after a December 2017 ruling by Israel's Supreme Court exempting security agents from criminal investigation despite their undisputed use of coercive "pressure techniques" against a Palestinian detainee.

> "This ruling sets a dangerous precedent, gravely undermining the universal prohibition of torture," the expert said. "By exempting alleged perpetrators from criminal investigation and prosecution, the Supreme Court has essentially provided them with a judicially sanctioned 'license to torture'.
>
> "I urgently appeal to all branches of Israel's Government to carefully consider not only its own international obligations, but also the consolidated legal and moral views of the international community, before whitewashing methods of interrogation that are more closely associated with barbarism than with civilization" (see link).

Given all this, how did the State ensure in this case that the interrogation techniques did not amount to torture? If it did not amount to torture, how did the State ensure that the techniques did not amount to CIDT? Please explain how the secret evidence mentioned in the ruling allowed the determination that the interrogation methods did not amount to torture, given the dismissal of any Legal-Medical Assessments.

Case Study B – Firas Tbeish

The case of Firas Tbeish, illustrates both the prevalence of torture in ISA interrogations, and the incapacity of the examination to provide remedy and accountability. The case is currently pending before the HCJ (HCJ 9018/17 *Tbeish et al. v. State attorney General et al).*

On November 2nd, 2011, Mr Tbeish was arrested in his house by Israel security forces and taken to "Ofer" detention center, where he was told that he is being detained administratively at least until October 1st, and that he is denied the right to meet with a lawyer (or anyone else) for a month. From "Ofer" detention center, he was taken to "Ktsiot" prison (located in the south-west part of Israel, approximately 190 km from "Ofer"), and was held there until September 5th, 2012.

Torture and cruel, degrading and inhumane treatment during interrogation:
Between the dates of 5.9.2012-12.9.2012, for 7 days, Mr. Tbeish was transferred from one prison to another in a vehicle used for transferring inmates, with his hands and feet shackled. These drives were very lengthy, sometimes lasting a few days without any breaks and without letting Mr. Tbeish out of the vehicle, with no access to toilets or water. After 7 days of transferring Mr. Tbeish from one place to another – a transfer that seems designed for the sole purpose of wearing him out - he was registered again in "Shikma" prison on and was immediately taken to the interrogation room.
According to the logs and protocols handed to PCATI by the authorities, 31 interrogators were involved in the interrogation of Mr. Tbeish, all of them ISA (Israel Security Agency) agents.
The first period of the interrogation began on September 12th, 2012 at 13:25 and lasted until September 15th, 2012 at 03:25. This period was characterized by used threats and intimidation, included cursing Mr. Tbeish and his family and threatening to kill him.

The second phase of the interrogation began when on September 15th at approximately 22:00, two interrogators entered the room and identified themselves as "Hertsel" – the interrogation director, and "Oscar" - the interrogation coordinator. They threatened Mr. Tbeish that unless he confesses, he will be taken to a "military interrogation". They also noted that for them to interrogate him that way, they have to receive approval from higher ranks of command.
After approximately an hour, a man entered the room and identified himself as the deputy head of the ISA. The man told Mr. Tbeish that he had better confess, since the ISA already has all the information concerning his deeds. The man also threatened Mr. Tbeish that he will harm his family and home, and told him that "he'd better talk from his mouth, before they'll make him talk from his ass".
Mr. Tbeish was given a "last chance" to confess; after he declined, he was taken to

another room, where five interrogators waited for him (they identified themselves as: "Tsachi, "Russo", "Hertsel", "Elisha" and "Oscar")."Tsachi" asked Mr. Tbeish again if he wants to "tell them the story" and when answered "no" hit him with in the right eye with his fist.

Immediately after this, the interrogators forced Mr. Tbeish into a "Banana" stress position, in which his back was placed on the seat of the chair, one of the interrogators held his legs down and another one lowered his head to the floor. At a certain point, the interrogator holding Mr. Tbeish's legs began shaking his body. This caused Mr. Tbeish severe pain in the back, the abdomen and hands – Mr. Tbeish testified that he felt as if his back was breaking. At the same time, the other interrogator slapped Mr. Tbeish's face. This routine lasted for 2-3 minutes for a few rounds, with a minute break between every round. During theses "breaks", Mr. Tbeish was brought back to sitting position and asked if he wants to start talking.

After a few rounds of the "banana" position, Mr. Tbeish lost consciousness and regained it inside a toilet, soaked with water, while prison guards were pouring water on him. The guards told him that they are not a part of the interrogation and that they are merely helping him. The prison guards changed his clothes and brought him on an office chair chair with wheels since he could not stand or walk, back to interrogation room. Upon returning to the interrogation room, Mr. Tbeish was asked once again if he wants to talk and when he responded with "no", the interrogators attacked him by slapping him and using their fists, aiming mainly at his eyes and face.

After a few more rounds of the "Banana" stress position, Mr. Tbeish vomited involuntarily on the interrogator holding his feet. The interrogator, as a punishment, hit him with his fist. Mr. Tbeish lost consciousness again, and woke up again in the toilet facilities, soaked with water. As before, the prison guards changed his clothes and brought him back to interrogation room.

This interrogation continued with changing teams making use of various stress position, including the “frog” position. A medic was called into the interrogation room; he told the interrogators that Mr. Tbeish should be examined by a doctor. A doctor was called in and decreed that Mr. Tbeish was not really suffering and that it is all a "show". This doctor's examination, which was held in the interrogation room, is documented in the prison's medical logs. On the examination form, under "the reason of referral" it states that: "the doctor was invited by an interrogator to check blood pressure…please continue the recommended medical care". After the doctor left the room, the interrogators accused Mr. Tbeish of "putting on a show" and then placed him in the "Banana" position once again, which again made him lose consciousness. After some time, Mr. Tbeish testified that he felt as if he had no control over his body – he couldn’t open his eyes or even talk. During that interrogation, while Mr. Tbeish was held by the interrogators standing him up, his pants fell to his ankles. The interrogators used sexually-oriented comments and took

photos of him without his pants, humiliating him.
All of the mentioned above started on 15.09.2012 and lasted until 21.09.2012. At that point, Mr. Tbeish admitted to some of the accusations.

Supplementary evidence concerning Mr. Tbeish's complaint:

1. According to the medical documents available, Mr. Tbeish was examined by a doctor three times on one same date – the 21st of September. These documents include the doctor's findings of: "red eyes" (caused by sleep deprivation) and trauma to the knee.
2. On October 4th, Mr. Tbeish was brought to a military court for an extension of remand hearing and was allowed to meet with a lawyer for the first time since his arrest. The protocol of that hearing notes the bruises on Mr. Tbeish's knees.
3. At the same hearing session, Mr. Tbeish complained to the judge about the violence and abuse that he had endured. The judge was handed a secret report. After viewing the report, the judge ruled that although extreme measures were taken against Mr. Tbeish, in this case, they were required for the safety of the public. Mr. Tbeish asked the judge to ensure that the violence stop, and the judge explained to him why these measures were taken and that the court expects that these measures will not be taken again. All this is documented in the court protocol.

Legal proceedings and examination of the complaint

1. On April 2nd, 2013, a complaint was filed by PCATI in the name of Mr Tbeish against ISA interrogators, on the grounds of torture and cruel, inhumane and degrading treatment.
2. On November, 2014 (18 months after filing the complaint, and after sending 3 notices to the authorities), PCATI filed a petition to the High Court of Justice of Israel. The petition asked for two main remedies. First, that the court instruct the Attorney General to open a criminal investigation against the interrogators involved in the torture. Second, that the court instruct those responsible to put an end to the internal system of guidelines in the ISA that uses consultations and approval at the cases which are defined as "necessity" and to cancel parts of the attorney generals guidelines that approves this system.
3. On September 2016 (41 months after the complaint was first filed), the commissioner in charge of the investigating body stated that there is no need to open a criminal investigation on the grounds that in this interrogation, extreme measures were taken, but those fall under the protection from criminal liability granted in cases of "necessity".

4. On January 30, 2017 – the High Court of Justice ruled to dismiss the case on the grounds that the commissioner's examination fulfilled the need for an examination and changed the legal situation, rendering the original HCJ petition moot. PCATI submitted a second HCJ petition on19 November 2017, HCJ 9018/17 *Tbeish et al. v. State attorney General et al.* This petition repeats the request to dissolve the system of regulations and assurances permitting the use of severe violence in cases of "necessity". It is currently pending and will be heard before the HCJ on July 26, 2018.