

Submission to the United Nations Human Rights Committee
List of Issues Prior to Reporting
Israel Fifth session (2018)
11 April, 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 Defence 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 fifth periodic review. The issues raised below focus on torture and cruel inhuman and degrading treatment, including accountability for such allegations.

General Implementation of the Covenant:

1. Please provide detailed information on any significant developments in the legal and institutional framework within which human rights are promoted and protected at the national level that have taken place since the previous periodic report. Please include, any relevant case law, with specific reference to the promised law criminalizing torture. Please also provide specific information on measures adopted to disseminate the Covenant among judges, lawyers and prosecutors, including any plans for such dissemination and trainings in the coming years.
2. Pursuant to the concluding observations of the Committee in 2014, please provide detailed information on the implementation of the Turkel Commission. Please refer specifically to the adoption of the new legislation and to training programs designed to improve the effectiveness of investigative bodies. Please also refer to accessible remedies for the victims and their families, including equality and effectivity when in need of justice and reparations. In particular, - what percentage of alleged victims has received reparations in the last four years?

Safeguards

3. 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 an 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.

4. 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 have been granted by judges? In the case of detainees where the state asks for an extension of the remand period, what percentage of requests have been granted by judges? Please refer separately to the civil and the military courts.

Prohibition of torture, right to liberty and security of person

5. In the Committee's previous concluding observations, the Committee noted that the State should take steps to ensure that "interrogation techniques never reach the threshold of treatment prohibited by article 7 of the Covenant." How does the State ensure the legality of interrogation techniques under the Covenant? Please refer specifically in the answer to the statements by the Director of the Israeli Security Agency (ISA), Yoram Cohen, that in the case of suspects in the Duma arson attack, suspects were interrogated using "special means" (interview given to *Makor Rishon*, 6.4.2017). How did the State ensure that these methods did not cause pain and suffering?
6. Please refer to the case of High Court of Justice petition H CJ 5722/12, *Abu Ghosh et al. vs. Attorney General et al.*, who was interrogated in 2007, and complained that he 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 H CJ 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 H CJ ruling, given on 12.12.2017, the Judges stated that interrogators confirmed that "certain pressure means were applied during the appellant's interrogations, and they detailed these" (paragraph 4 of the H CJ ruling). 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? In paragraph 36 of the ruling, Judge Shoham 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." Please explain how the secret evidence ensures that the interrogation methods did not amount to torture; if it did not amount to torture, please explain why the Court did not address the issue of CIDT.
7. 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". What is the projected timeline for the incorporation of the crime of torture? Will the legislation confirm with CAT, including provisions for mental suffering, cruel, inhuman, and degrading treatment, and reparations and rehabilitation?
8. 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? Is the IP instituted as part of the curriculum in Medical and Legal training programs and schools?

9. 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. Please provide information on the number of state officials prosecuted for ill-treatment (or a percentage of the allegations received), divided according to security branch: Israel Prison Service (IPS), Army (IDF) and ISA (on police, see question 14 below).
10. Please provide data on the length of investigations in allegations of torture and ill-treatment in the different investigatory bodies: Inspector of Interrogee Complaints (ICC), Military Attorney General (MAG) and Police Investigative Department (PID). What is the average length of the preliminary investigation in allegations brought since the last review? What steps are taken to ensure that the investigation is prompt and effective?
11. Please provide information on the number of victims (or percentage of plaintiffs) of torture and ill-treatment who have received compensation.
12. Please provide information on the number of victims (or percentage of plaintiffs) of torture and ill-treatment who have received rehabilitation.
13. PCATI data indicates that 85% of the complaints submitted between Jan 2014 to June 2016 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 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?
14. Please indicate what steps have been taken to ensure that complainants of alleged torture and/or ill treatment are not subject to harassment by the alleged abusers during the investigation. Please provide information divided according to security branch: Police, army and ISA, and their respective investigatory bodies (PID, MAG, and ICC).
15. Please describe the steps taken by the state to ensure the safety and well being of demonstrators in East Jerusalem, including their freedom of assembly. Please address in particular 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.
16. Please provide the number and percentage of criminal indictments in allegations of police brutality since the last review.
17. Please provide information on efforts undertaken by the State to ensure that detainees and prisoners are not subjected to sexual humiliation or harassment. How many such complaints have been brought to the State's attention? How have such allegations been investigated? Please provide an explanation to the answer received by L.AO. (personal details on file with PCATI), a Palestinian woman who complained of sexual harassment during her interrogation in 2009. Her complaint was closed with no criminal investigation, with the explanation that "as far as what was said to the complainant regarding her external appearance, this was not said as a compliment, but as a relevant part of the ongoing investigation." Please explain how the complainant's physical appearance was relevant to the investigation.
18. 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?

19. Please provide information on the use of audio-visual documentation of security interrogations by the ISA. What percentage of the interrogations will be broadcast? What are the criteria determining the broadcast? Will any of the interrogations be recorded? If not, how will this system serve to further the investigation of complaints?

Treatment of persons deprived of their liberty and fair trial

20. Please 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 and prisoners)? 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?
21. Please provide information on the steps taken to ensure that women detainees are provided with conditions commensurate with human dignity. How does the State ensure dignified access to hygienic needs? How does the State ensure hygienic and dignified incarceration?
22. Please provide information on the steps taken to ensure that child detainees are provided with conditions commensurate with human dignity. How does the State ensure that incarceration of children meets their developmental needs? What percentage of child detainees is interrogated without their parents' presence?
23. Please provide information on the steps taken to ensure that the rights of people with mental or physical disabilities are guaranteed and that they are provided with conditions commensurate with human dignity. How does the State ensure that incarceration of people with mental or physical disabilities meets their needs? Please refer in the answer separately to the different custody stages - detention, arrest, interrogation and incarceration. Please differentiate in the answer between all security services - Police, Army, ISA and IPS.
24. How many detainees are currently held in cells of less than 3 square m. per person? How many detainees are currently held in cells of less than 4.5 square m. per person? Please provide information regarding how many of these are imprisoned on security offenses and how many are imprisoned on criminal offenses.
25. In its Update to the HCJ regarding HCJ 1892/14 (*ACRI et al. vs. Minister of Interior Security et al.*), The State indicated on 29/3/2018 its plan for improving the conditions of detention throughout the judicial and incarceration system. Unfortunately, the State also indicated that the interrogation wings for people detained on suspicion of security offenses would not be included in this plan (paragraph 31). How does this exemption meet the minimal standards for conditions of detention? How does this guarantee the human dignity of interrogees, which of course should be guaranteed regardless of the stage of the detention?