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Israel/Occupied Palestinian Territories: Urgent steps needed to address UN Committee against Torture's concerns

The concluding observations of the UN Committee against Torture issued today show a worrying lack of progress in the seven years which have passed since the Committee last examined Israel's compliance with its obligations as a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).

All the recommendations issued by the Committee in November 2001 and all the concerns expressed then remain outstanding. In addition the Committee today also expressed concern about several additional issues.

The outstanding concerns previously raised and reiterated today by the Committee include the failure to incorporate into Israeli domestic law the crime of torture as defined in Article 1 of the Convention against Torture; the fact that "necessity" remains a possible justification for torture; the fact that not a single one of more than 600 complaints of ill-treatment at the hands of members of the Israel Security Agency (ISA, General Security Services – GSS – in the original Hebrew) has resulted in prosecution or even criminal investigation and the lack of an independent investigating mechanism; the admissibility of evidence possibly obtained under torture; the use of administrative and incommunicado detention; and "punitive" house demolition.

New areas of concern raised by the Committee include:

- The exclusion of "security" detainees from the requirement of the *Criminal Procedure (Interrogating Suspects) Law* that all the stages of a suspect's interrogation be recorded by video camera. Since "security" detainees are virtually all Palestinians, and in some cases nationals of other countries considered as "enemy" states, and it is precisely "security" detainees who are most at risk of torture or ill-treatment during interrogation, in practice this exclusion is discriminatory and deprives those who would most benefit from the provision.
- The failure to incorporate into Israeli law the principle of *non-refoulement* and the summary deportation, without due process, of asylum-seekers.
- The interrogation in detention of Palestinian juveniles without the presence of a lawyer or family member and their detention in prisons inside Israel, which hinders or prevents family visits, as in some cases the Israeli authorities refuse permits to enter Israel to their parents and relatives.
- The impact of the Israeli blockade on Gaza, notably the restrictions on the entry of humanitarian aid into Gaza and on the freedom of movement of Gaza's inhabitants.
- The lack of investigations into allegations of torture and ill-treatment of Palestinian detainees by security forces acting under the authority of the Palestinian Authority (PA) in the West Bank and of the Hamas de-facto administration in the Gaza Strip.

- The use of white phosphorus by Israeli forces during operation “Cast Lead” (between 27 December 2008 and 18 January 2009) in densely populated areas in Gaza, and the suffering and death caused by this weapon for people who could not receive the necessary treatment in Gaza’s hospitals due to the doctors’ lack of knowledge of the weaponry used and to the fact that medical facilities were “used as headquarters, command centres and hiding places for Hamas attacks”.

Amnesty International shares the Committee's concerns and calls on the Israeli authorities to take immediate steps to implement the Committee's recommendations. The organization notes that the Committee has taken the unusual step of addressing a recommendation to the Palestinian Authority (PA) and to the Hamas de-facto administration in the Gaza Strip. While procedurally, the Committee has not followed its established practice of engaging in a review of a report prepared by the concerned authorities, it nevertheless suggests a need for the Committee to find a way to engage with the relevant Palestinian authorities.

At the same time, Amnesty International is also concerned that the Committee’s assertion, that medical facilities in Gaza were used as “headquarters, command centres and hiding places for Hamas attacks”, is erroneously cited by the Committee as a possible reason why victims of white phosphorus attacks could not receive the necessary treatment in Gaza’s hospitals. All the information gathered by Amnesty International from patients and from the doctors in charge of the burns units in Gaza’s hospitals in the course of its field investigations in Gaza showed that the reason for the lack of adequate treatment for the victims was the doctors’ and medical personnel’s lack of knowledge that the burn had been caused by white phosphorus, because they had never experienced burns from such chemical and because the Israeli army and government authorities continued to deny that white phosphorus was being used by their forces in Gaza. Amnesty International found no evidence that Hamas and/or other armed militants did in fact use hospitals as hiding places or to carry out attacks and to date the Israeli authorities have not provided evidence to substantiate such allegations. If such allegations were to be proven, such practices by Hamas and/or other armed groups would constitute a grave violation of international humanitarian law – but they would remain – and indeed are – irrelevant to the Israeli denial of use of white phosphorus, which prevented doctors from administering the necessary treatment to the victims of white phosphorus attacks.

Amnesty International has been calling and continues to call for a thorough independent and impartial international investigation into all allegations of violations of international humanitarian and human rights law by all parties – Israeli and Palestinian, and believes that it is imperative that the Committee be scrupulous in its findings so as not to prejudice any investigation which will be carried out.

Background

The UN Committee against Torture is the expert body established by the UN Convention against Torture to monitor countries’ compliance with that treaty. It is composed of 10 independent, impartial members who are elected by the states parties to the treaty. Governments must submit periodic reports to the Committee which in turn make recommendations to further the State party’s implementation of the treaty.

Amnesty International briefed the Committee against Torture on Israel’s failure to implement the Convention in the Occupied Palestinian Territories (OPT), and the intensification of measures amounting to cruel, inhuman or degrading treatment or punishment against Palestinians through indefinite administrative detention without trial, prolonged incommunicado detention, demolitions of homes, gross restrictions on freedom of movement, and denial of necessary medical care. The briefing also addressed the forcible return of asylum-seekers and other migrants to countries

where they may be exposed to torture. In addition, an update was prepared to address the violations that have taken place in Gaza during the 22-day military campaign, operation "Cast Lead". Amnesty International's delegates also attended the hearing in Geneva on 5 and 6 June. The organization also provided information to the Committee against Torture at this session regarding implementation of the Torture Convention by Nicaragua.

Public Document

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