

ISRAEL

BLIND TO VIOLATIONS, DEAF TO OBLIGATIONS: ISRAEL'S HUMAN RIGHTS RECORD

*Amnesty International Updated
Submission to the UN Universal
Periodic Review, September
2013*

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

This submission was originally made for the review of Israel during the 15th session of the Universal Periodic Review (UPR) in January-February 2013, when Israel failed to participate, and has subsequently been updated for the review of Israel during the 17th session, scheduled for 29 October 2013. In it, Amnesty International comments on Israel's implementation of the recommendations it supported during its previous UPR in 2008, as regards compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, conscientious objectors and discrimination against minorities. In relation to the obligation to ensure that allegations of torture or other ill-treatment are investigated promptly, thoroughly and impartially by an independent body, Israel took a tentative step in the right direction by establishing the post of Inspector of Interrogatee Complaints under the Ministry of Justice in June 2013, but this institutional change has not yet translated into increased access to justice and reparation for victims.

With regard to the normative and institutional framework in Israel, Amnesty International is concerned that Israel has rejected the International Court of Justice's opinion on the wall, withdrawn its co-operation with the Human Rights Council, becoming the first state not to co-operate with the UPR, and continues to deny the applicability of international human rights law and the Fourth Geneva Convention in the Occupied Palestinian Territories (OPT). Amnesty International also draws attention to Israel's excessive use of force against Palestinian demonstrators in the West Bank. The High Court of Justice's annulment in September 2013 of the provisions of the Prevention of Infiltration Law which had allowed the automatic and prolonged detention of migrants and asylum-seekers in violation of international standards is a welcome development. Amnesty International is concerned about the failure of Israeli authorities to credibly and thoroughly investigate war crimes and possible crimes against humanity committed in the Gaza Strip.

With respect to the human rights situation on the ground, Amnesty International continues to express its concerns, raised for the 2008 UPR, about the ongoing practice of detention without charge or trial, forced evictions of Palestinians and arbitrary restrictions on their right to freedom of movement.

FOLLOW UP TO THE PREVIOUS REVIEW

Amnesty International regrets that Israel did not comment on the vast majority of the 133 recommendations made by participating states at Israel's UPR in December 2008 and adopted by the Human Rights Council in March 2009.¹ Issues reflected in many of those recommendations are treated in the following sections. First, the submission highlights three recommendations which, though accepted by Israel, continue to be relevant.

VIOLATIONS OF THE CONVENTION AGAINST TORTURE (CAT)

Israel voluntarily committed to acting in accordance with CAT and in particular to conducting prompt and impartial investigations,² as recommended by four states during the review.³ Torture and other ill-treatment continue to be carried out during arrest and interrogation, and prompt, thorough and impartial investigations are extremely rare. Methods include painful shackling and binding, immobilization in stress positions, sleep deprivation, threats against family members, and verbal abuse. Recently, detainees on prolonged hunger strikes have also reported suffering torture and other ill-treatment as punishment for their hunger strikes, sometimes inflicted with the complicity of doctors. Children have also been subjected to torture and other ill-treatment during interrogation. Between 2009 and 2013, an Israeli human rights organization received 64 complaints of ill-treatment sometimes amounting to torture, 56 of them from minors, committed by officers at the Etzion police station in the OPT.⁴ Israel's State Prosecutor confirmed that the Israel Security Agency (ISA) had used "special methods" between 25 and 27 August 2011, forcing a detainee to stand and kneel in painful positions repeatedly and for long periods of time. The information, given to the lawyer representing the detainee, was included in a petition to the High Court of Justice on 24 March 2013. Statements obtained through torture and other ill-treatment may be deemed admissible in court.

Israel's current legislation does not contain an absolute prohibition on torture. The Supreme Court ruled on 9 September 2009 that psychological pressure exerted by making threats against detainees' family members was forbidden, and the Attorney General modified interrogation guidelines accordingly. The Supreme Court ruling of 1999 permits interrogators using "physical interrogation methods" in "ticking time-bomb" situations to escape criminal liability under the "defence of necessity".⁵ This justification for torture has resulted in total impunity for ISA officers. Despite the filing of more than 750 complaints, no criminal investigation has ever been opened.⁶ Previously, Israel lacked independent procedures to deal with complaints of torture during ISA interrogations. In June 2013, the Ministry of Justice established the new position of Inspector of Interrogatee Complaints, which is institutionally separate from the ISA.

IMPRISONMENT OF CONSCIENTIOUS OBJECTORS

Israel voluntarily committed to granting conscientious objectors the right to serve in a civilian body,⁷ as recommended to it during the review.⁸ Israel has not followed through on this commitment and individuals continue to be penalized for refusing military service on grounds of conscience. On 12 May 2013, 20-year-old Natan Blanc was sentenced for the 10th time to 28 days in prison for refusing to be inducted into basic military training on the grounds that he does not want to participate in human rights violations against Palestinians.

DISCRIMINATION AGAINST MEMBERS OF MINORITIES WITHIN ISRAEL

Israel decided to adopt the recommendation to ensure that the rights of minorities are fully protected.⁹ Amnesty International is concerned that the housing rights of the Bedouin minority are not respected. Palestinian Bedouin who are citizens of Israel have suffered the repeated demolition of their homes as a consequence of discriminatory policies that do not recognize the legality of some 35 villages in the Negev/Naqab region. In September 2011, the Israeli cabinet approved a law to "regulate" Bedouin construction in the Negev/Naqab; it was passed on 6 May 2013 by the Ministerial Committee on Legislation and, if implemented, could lead to the forced eviction of more than 30,000 members of this minority.¹⁰

In January 2012, the Israeli Supreme Court rejected a petition that sought to annul a law, passed by the Israeli parliament on 31 July 2003 and renewed annually since then, barring family unification for Israelis who are married to Palestinians from the OPT.¹¹ The Citizenship and Entry into Israel Law formally institutionalizes a form of racial discrimination based on ethnicity or nationality, in particular against Palestinians from the OPT and Palestinian citizens in Israel who constitute 20 per cent of the population.¹²

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Amnesty International is concerned that certain Israeli policies, laws and practices contribute to systematic human rights violations. The government's stance towards certain human rights bodies is exacerbating the situation.

APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW AND HUMANITARIAN LAW TO THE OPT

Israel continues to deny that international human rights law and the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War are applicable in the OPT, and did not respond to recommendations regarding this during the first UPR.¹³ In this respect Israel is at odds with the international community including the International Court of Justice, which holds all UN conventions and treaties ratified by Israel to be applicable to the OPT. Additionally, the establishment of Israeli settlements violates the Fourth Geneva Convention, which prohibits an occupying power from settling its civilian population in the territory it occupies. Israel has established more than 150 Israeli-only settlements in the West Bank.

THE INTERNATIONAL COURT OF JUSTICE'S (ICJ) OPINION ON THE WALL

Israel rejected the ICJ advisory opinion of July 2004 that found the route of the Israeli military fence/wall to be illegal where it crosses into the OPT.¹⁴ The fence/wall, which continues to be built, creates an arbitrary restriction on Palestinians' freedom of movement and has led to violations of their rights to an adequate standard of living and to health, among other rights. Farmers who are cut off from their lands by the fence/wall have lost their source of livelihood, notably in Jayyus near Qalqiliya.¹⁵

CO-OPERATION WITH THE UN HUMAN RIGHTS COUNCIL (UNHRC)

After the UNHRC decided to dispatch a Fact Finding Mission to Investigate the Impact of Israeli Settlements¹⁶ on 22 March 2012, the Israeli government declared the withdrawal of its co-operation with the UNHRC. The Israeli government stated that it will selectively co-operate with UN fact-finding missions which it judges not to be biased.¹⁷ As a consequence of its isolation from the UNHRC, Israel did not participate in its Universal Periodic Review as scheduled in January 2013, the first country to fail to co-operate with this process.

INVESTIGATIONS OF ALLEGED WAR CRIMES AND POSSIBLE CRIMES AGAINST HUMANITY

In 2009 Israel refused to co-operate with the UN Fact Finding Mission on the Gaza Conflict headed by Justice Richard Goldstone after Operation "Cast Lead" of December 2008 and January 2009. In September 2009, the Mission published its report identifying war crimes and possible crimes against humanity, which Israel rejected. Since then, Israel's Military Advocate General has indicted four soldiers on criminal charges in three different incidents relating to the 2008-2009 Gaza conflict. The scale and gravity of the Israeli violations necessitate a more thorough treatment. Amnesty International concludes that the Israeli authorities have failed to conduct investigations that are credible, independent and in conformity with international law, and failed to prosecute suspected war criminals.¹⁸ This in turn has reinforced the atmosphere of impunity in which ongoing violations are committed, not least during the November 2012 Operation "Pillar of Defense".¹⁹ The killing of some 100 civilians and injuring of many more, as well as attacks on medical and media facilities, during November 2012 have not been adequately investigated by Israel.²⁰

EXCESSIVE USE OF FORCE AGAINST DEMONSTRATORS AND VIOLATIONS OF FREE EXPRESSION AND PEACEFUL ASSEMBLY

The Israeli army has repeatedly used excessive or unnecessary force against Palestinian demonstrators in the West Bank, causing dozens of deaths and hundreds of injuries since 2004. Israeli forces regularly cause injury to protesters in villages such as Bil'in, Ni'lin, and al-Nabi Saleh, where demonstrations take place against the expansion of settlements and the building of the fence/wall on Palestinian lands. Protester Rushdi Tamimi, 31, a father of one, was fatally shot in the lower back with live ammunition in al-Nabi Saleh on 17 November 2012.²¹

Palestinians face sweeping and arbitrary restrictions on their freedom of expression and assembly. Military Order 101 makes any peaceful protests by Palestinians, when unauthorized by an Israeli commander, a criminal offence.

THE PREVENTION OF INFILTRATION LAW AND VIOLATIONS OF THE PRINCIPLE OF NON-REFOULEMENT

On 10 January 2012, the Israeli parliament passed the Prevention of Infiltration Law, which mandated the automatic detention for three or more years of anyone, including asylum-seekers, who entered Israel without permission. On 16 September 2013, the High Court of Justice invalidated the provisions of the Law allowing such detention. Over 1,750 migrants from Africa had been incarcerated under the law while it was applied and were not immediately released when the ruling was announced.

In 2013, Israeli migration officials coerced asylum-seekers and refugees into signing consent forms to be deported to countries of origin where they were potentially at risk of being exposed to violence, by telling Sudanese and Eritrean migrants in particular that "voluntary" deportation was the only way to avoid indefinite detention. This coercion was compounded by an August 2013 government agreement with Uganda on the transfer

of Eritrean and Sudanese nationals whose asylum cases had not been examined, violating the *non-refoulement* principle.

THE DEATH PENALTY

Amnesty International classifies Israel as abolitionist for ordinary crimes.²² The death penalty in Israel is retained for treason in wartime, crimes against the Jewish people, crimes against humanity, war crimes and genocide. Under military orders applicable in the OPT, the death penalty is retained for certain crimes.²³

THE HUMAN RIGHTS SITUATION ON THE GROUND

In addition to the problems listed in the two preceding sections, Amnesty International is compelled to reiterate concerns raised in the previous submission to the UPR in 2008 that have not been addressed, including the following patterns of human rights violations.

DETENTION WITHOUT TRIAL AND DETENTION CONDITIONS

Detention without charge or trial, practised by Israel in the form of administrative detention and detention under the Incarceration of Unlawful Combatants Law, violates Palestinians' right to a fair trial as stipulated in the International Covenant on Civil and Political Rights to which Israel is party. Administrative detainees – as well as other Palestinian prisoners held by Israel – are routinely subjected to torture and other ill-treatment; poor prison conditions, including inadequate medical care; detention in prisons inside Israel rather than in the OPT; and prohibitions on family visits. In July 2013, well over 4,000 Palestinians were detained or serving sentences in Israeli prisons. Over 130 of these were held under administrative detention orders.

Administrative detainees spend months and sometimes years in prison without even knowing the details of the allegations against them, making it impossible to defend themselves meaningfully, and do not know when they will be released because the orders are renewable. Such detention can amount to cruel, inhuman or degrading treatment or punishment. Over two decades, Saleh al-'Arouri spent more than nine years in administrative detention before he was forced into exile in March 2010.²⁴

FORCED EVICTIONS

Israel carries out forced evictions of Palestinians in East Jerusalem and in the more than 60 per cent of the occupied West Bank where Israel controls planning, zoning and security, known as "Area C". These communities suffer from policies that discriminate against Palestinians while favouring Israeli settlers. To the east of Jerusalem in Khan al-Ahmar and Wadi Abu Hindi, two primary schools that serve some 200 children are slated for demolition. If this is carried out, some of the children will not have access to education.²⁵ In al-'Aqaba, Khirbet Tana, Humsa and Hadidiya, and in the hills south of Hebron, whole villages are threatened with demolition.²⁶ Settlers in nearby settlements attack the marginalized communities with virtual impunity.

ARBITRARY RESTRICTIONS ON THE RIGHT TO FREEDOM OF MOVEMENT

Over 500 checkpoints and roadblocks in the West Bank limit movement and access between Palestinian towns and villages, in particular closing off East Jerusalem, part of Hebron, and the Jordan Valley to Palestinian access. Palestinians need an Israeli-issued permit, while Israelis, including settlers, enjoy free movement in the same areas. These arbitrary and discriminatory restrictions expose the Palestinians to harassment and other abuse by soldiers at checkpoints and impede access of Palestinian residents to medical care and to water.

In the Gaza Strip, the Israel-imposed blockade, which amounts to the collective punishment of the population of Gaza, has resulted in the near collapse of basic infrastructure, including medical facilities and sanitation. Israel

bans exports from Gaza and imposes severe restrictions on imports, stifling the economy. Israel controls the Gaza population registry and forbids the movement of people, including for travel to the West Bank, barring exceptional cases. Patients in Gaza who are referred for treatment in Israel and the West Bank are sometimes refused entry, delayed, or exposed to the risk of arrest at the checkpoint between Gaza and Israel.²⁷

RECOMMENDATIONS FOR ACTION BY ISRAEL

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF ISRAEL TO:

Violations of the Convention against Torture (CAT)

- Ensure all allegations of torture or other ill-treatment are investigated promptly, thoroughly and impartially by an independent body, bring to justice anyone found responsible for abuses, and ensure reparation to victims, as agreed by Israel in the previous UPR;
- Legislate an absolute ban on torture by annulling the “defence of necessity” in “ticking-bomb scenarios”;
- Declare evidence obtained under duress as inadmissible in court.

Imprisonment of conscientious objectors to military service

- Immediately and unconditionally release anyone deprived of their liberty for conscientious objection;
- If conscientious objectors are not entirely exempted from military service, introduce alternative, non-punitive, wholly civilian service.

Protecting rights of minorities within Israel, in principle adopted by Israel in the previous UPR

- End all forms of discrimination against minorities;
- Legally recognize excluded Bedouin villages in the Negev/Naqab and halt demolitions and forced evictions in these villages until laws comply with the international prohibition on discrimination;
- Annul the law that prevents the family unification of Israeli citizens with spouses from the OPT.

International human rights law and humanitarian law in the OPT

- Accept the applicability of human rights treaties and of the Fourth Geneva Convention in the OPT.

The International Court of Justice’s opinion on the wall

- Dismantle the fence/wall where its route encroaches on the OPT and compensate Palestinians for losses due to the fence/wall’s construction.

Investigations of alleged war crimes and possible crimes against humanity

- Thoroughly and impartially investigate all allegations of war crimes and possible crimes against humanity committed during Operation “Cast Lead” and bring anyone found responsible for crimes to justice;
- Co-operate with international mechanisms for accountability by giving access to UN missions.

Excessive use of force against demonstrators and violations of free expression and peaceful assembly

- Protect the right to freedom of expression and assembly in the OPT by rescinding military orders which unlawfully restrict these rights;
- Carry out prompt and independent investigations into the killings and serious injuries of demonstrators in the West Bank and prosecute anyone reasonably suspected of arbitrary or abusive use of force.

The Prevention of Infiltration Law and violations of the principle of non-refoulement

- Immediately release all those held under the Prevention of Infiltration Law;
- Ensure the treatment of refugees and asylum-seekers conforms to the 1951 Refugee Convention and other international standards, in particular by establishing fair, effective and transparent refugee status determination procedures.

The death penalty

- Abolish the death penalty for all crimes.

Detention without trial and detention conditions

- Release all administrative detainees unless they are promptly charged with recognizably criminal offences and tried in accordance with international fair trial standards;
- End the practice of administrative detention;
- End the practice of forcible exile or transfer of Palestinians from the OPT or from the West Bank to Gaza;
- Ensure that all Palestinians from the OPT in Israeli custody are held in prisons and detention centres inside the OPT, in conditions which fully meet international standards, including in relation to access to families, lawyers and – when necessary – independent doctors.

Forced evictions

- Stop house demolitions and forced evictions in the OPT;
- Ensure victims of forced evictions have access to effective remedies and full reparation;
- Transfer planning responsibilities to Palestinian communities;
- Remove Israeli settlements from the OPT;
- Prosecute Israeli settlers who commit acts of violence against Palestinians.

Arbitrary restrictions on the right to freedom of movement

- Completely lift the blockade on the Gaza Strip;
- Lift all arbitrary restrictions on freedom of movement which violate the rights to health, education, and an adequate standard of living

ENDNOTES

¹ Report of the Working Group on Universal Periodic Review of Israel (referenced below as “UPR Working Group Report”), 8 January 2009 (A/HRC/10/76).

² Human Rights Council 10th Session Report, para. 461 (f).

³ UPR Working Group Report, para. 100.13 (Canada, France, Syria, Yemen).

⁴ B’Tselem, *Abuse and torture in interrogations of dozens of Palestinian minors in the Israel Police Etzion Facility*, 22 August 2013.

⁵ HCJ 5100/94 *Public Committee against Torture in Israel v. the State of Israel*, 6 September 1999.

⁶ Amnesty International, *Letter to UN Committee against Torture regarding adoption of list of issues by the Committee* (Index: MDE 15/029/2012), 7 March 2012.

⁷ Human Rights Council 10th Session Report, para. 461 (h).

- ⁸ UPR Working Group Report, para. 100.22 (Slovenia).
- ⁹ UPR Working Group Report, para. 100.28 (United Kingdom); Human Rights Council 10th Session Report, para. 460.
- ¹⁰ Amnesty International, *Israel: Knesset urged not to pass law that would forcibly evict tens of thousands of Negev/Naqab Bedouin* (Index MDE 15/008/2013), 20 April 2013.
- ¹¹ Citizenship and Entry into Israel Law (Temporary Order) 5763 – 2003.
- ¹² Amnesty International, *Torn Apart: Families split by discriminatory policies* (Index: MDE 15/063/2004), 12 July 2004.
- ¹³ UPR Working Group Report, para. 100.32 (Switzerland, Canada, Chile).
- ¹⁴ International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004.
- ¹⁵ Amnesty International, *Letter to UN Committee against Torture regarding adoption of list of issues by the Committee* (Index: MDE 15/029/2012), 7 March 2012.
- ¹⁶ Resolution A/HRC/19/17.
- ¹⁷ Danny Ayalon, *Theatre of the Absurd*, Foreign Policy, 30 March 2012.
- ¹⁸ The Hamas de facto administration has completely failed to prosecute perpetrators of crimes under international law committed during the 2008-2009 Gaza conflict. Amnesty International, *Amnesty International's updated assessment of Israeli and Palestinian investigations into the Gaza conflict* (Index: MDE 15/018/2011), 18 March 2011.
- ¹⁹ Amnesty International, *Gaza's lost children*, 22 June 2012.
- ²⁰ Amnesty International, *Israel's military investigations into Gaza conflict violations strengthen impunity*, 17 April 2013.
- ²¹ Amnesty International, *Activist jailed for peacefully demonstrating: Bassem Tamimi* (Index: MDE 15/062/2012), 28 November 2012.
- ²² As noted by Israel in its statement at the previous UPR, Nazi war criminal Adolf Eichmann was the only person put to death in the history of Israel. Human Rights Council 10th Session Report, para. 464.
- ²³ Amnesty International, *Eichmann Supreme Court Judgment, 50 years on: Its Significance Today* (Index: IOR 53/013/2012), 6 June 2012.
- ²⁴ Amnesty International, *Starved of Justice: Palestinians detained without trial by Israel* (Index MDE 15/026/2012), 6 June 2012.
- ²⁵ Amnesty International, *Stop the transfer: Israel about to expel Bedouin to expand settlements* (Index: MDE 15/001/2012), 8 February 2012.
- ²⁶ Amnesty International, *As safe as Houses? Israel's demolition of Palestinian homes* (Index: MDE 15/006/2010), 16 June 2010, and Amnesty International, *Troubled waters - Palestinians denied fair access to water* (Index: MDE 15/027/2009), 27 October 2009.
- ²⁷ Amnesty International, *Suffocating: The Gaza Strip under Israeli Blockade* (Index: MDE 15/002/2010), 18 January 2010.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS ON ISRAEL FOR FURTHER REFERENCE

All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/israel-occupied-palestinian-territories>

Last Call for Israel's Universal Periodic Review: the international community urges Israel to participate on 29 October 2013 (Index: MDE 15/014/2013).

Forced evictions of Palestinians to go ahead (Index: MDE 15/013/2013).

Accountability needed for killings in Israeli raid on West Bank refugee camp, 27 August 2013.

Protect citizens' rights to protest peacefully against forced evictions, 31 July 2013.

Demolitions of Bedouin homes in the Negev desert must end immediately, 18 July 2013.

Israeli army destroys homes for sixth time (Index: MDE 15/012/2013).

Stop judicial 'bullying' of Palestinian activists, 4 July 2013.

Deportations of asylum-seekers must stop (Index: MDE 15/005/2013).

Israel must remove new settler outpost in the West Bank, 2 May 2013.

Palestinian academic given detention extension must be released, 25 April 2013.

Knesset urged not to pass law that would forcibly evict tens of thousands of Negev/Naqab Bedouin (Report; Index: 15/008/2013).

Israel's military investigations into Gaza conflict violations strengthen impunity, 17 April 2013.

Stop use of excessive force against Palestinian civilians in the West Bank, 4 April 2013.

Conscript facing jail again for refusing to go against his conscience, 25 March 2013.

West Bank wall and settlements an affront to Palestinian rights, 21 March 2013.

Amnesty International's written statement to the 22nd session of the UN Human Rights Council: The Need for Accountability for Gaza/Israel conflicts (Index: MDE 02/001/2013).

Hunger striker gravely ill, life at risk (Index: MDE 15/003/2013).

Israel/Gaza conflict: UN must impose arms embargo, send international monitors immediately, 19 November 2012.

Palestinian activist jailed for West Bank protest must be freed, 7 November 2012.

Detainee ends hunger strike pending release (Index: MDE 15/060/2012).

Rachel Corrie verdict highlights impunity for Israeli military, 29 August 2012.

Government urged to allow all from Syria seeking refuge to enter Golan Heights (Index: MDE 15/043/2012).

International pressure mounts over Gaza blockade (Index: MDE 15/033/2012).

Starved of Justice: Palestinians detained without trial by Israel (Report; Index: MDE 15/026/2012).

Israeli government should reverse decision to deport South Sudanese (Index: MDE 15/020/2012).

Amnesty International's response to the ICC Office of the Prosecutor's statement that it cannot investigate crimes committed during the Gaza conflict (Index MDE 15/018/2012).

Letter to UN Committee against Torture regarding adoption of list of issues by the Committee (Index MDE 15/029/2012).

Stop the transfer: Israel about to expel Bedouin to expand settlements (Report; Index: MDE 15/001/2012).

New detention law violates rights of asylum-seekers, 10 January 2012.

Suffocating: The Gaza Strip under Israeli Blockade (Report; Index MDE: 15/002/2010).