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Mr Joao Nataf
Secretary
UN Committee against Torture
Treaty Bodies Branch, Office of the High
Commissioner for Human Rights
UNOG-OHCHR
CH-1211 Geneva 10
Switzerland

7 March 2012

Dear Mr Nataf

RE: ISRAEL - ADOPTION OF LIST OF ISSUES BY THE COMMITTEE AGAINST TORTURE

Amnesty International would like to draw the attention of the members of the Committee against Torture (the Committee) to the organization's concerns about the State of Israel's implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention), in advance of the Committee's adoption of a list of issues. Please distribute this briefing as appropriate.

The briefing presents a range of concerns of Amnesty International about Israel's failure to implement key provisions of the Convention both in Israel and in the Occupied Palestinian Territories (OPT). In particular, Amnesty International is concerned about the continued use of torture and other cruel, inhuman or degrading treatment or punishment during arrest and detention of Palestinians, including minors.

Amnesty International is further concerned about the use of measures amounting to cruel, inhuman or degrading treatment or punishment against Palestinian detainees through indefinite administrative detention without trial; prolonged incommunicado detention; solitary confinement; and worsening prison conditions. Other relevant human rights violations include forcible exile; exposure to violence committed by Israeli settlers in an atmosphere of impunity; demolition of homes and forced evictions; severe restrictions on freedom of movement and denial of necessary medical care.

Amnesty International also notes that since the review of its last periodic report by the Committee the Israeli authorities have failed to thoroughly and impartially investigate suspected violations of the Convention and in particular alleged war crimes and crimes against humanity committed by the armed forces during Operation 'Cast Lead' in the Gaza Strip in December 2008 and January 2009 and to bring those responsible to justice.

With regards to Palestinians and other foreign nationals, Amnesty International is concerned about allegations of Israel's role in abductions abroad and enforced disappearance. In relation to Israeli citizens, Amnesty International is concerned about the use of unnecessary or excessive force by the police against demonstrators, and the rise in violence against women. The briefing also addresses the treatment of asylum-seekers and other migrants in Israel.

Amnesty International intends to submit additional information on some of these violations and abuses to the Committee in advance of its consideration of the 5th periodic report submitted by Israel.

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1. Torture and other ill-treatment under interrogation: Articles 1, 2, 10, 11 and 16

Amnesty International is concerned about reports that torture and other ill-treatment are carried out by the Israel Security Agency (ISA)¹ during interrogation. Methods reported to Amnesty International and other organizations include painful shackling and binding, immobilisation in stress positions, sleep deprivation, the use of threats against family members, threats and verbal abuse. Interrogations under torture can last for days, with the detainee denied access to a lawyer. According to reports, torture and other ill-treatment are frequently inflicted with the complicity of doctors.²

Amnesty International and other organizations have documented recent cases of minors being subjected to torture or other ill-treatment, for instance the case of Islam Dar Ayyoub, 14, of al-Nabi Saleh in the West Bank, arrested on 23 January 2011.³ Moreover, the testimony of Islam Dar Ayoub was ruled by a military judge to be admissible as evidence in the case against Bassem Tamimi, the organiser of protests in al-Nabi Saleh, whom Amnesty International considers to be a prisoner of conscience, held solely on account of his peaceful exercise of his freedom of expression in organizing non-violent protests against the encroachment of Israeli settlers onto Palestinian land⁴. Amnesty International is concerned that evidence obtained through torture and other ill-treatment of witnesses is deemed admissible in court.

Amnesty International is further concerned that Palestinians in the OPT are subjected to ill-treatment at the hands of members of the army, the border police, the police and the ISA during raids and house searches and at checkpoints and during the arrest and transfer of suspects.

2. Failure to prohibit torture: Articles 2 and 4

There have been some limited positive developments on the legal side, noting in particular the 9 September 2009 ruling of the Supreme Court that psychological pressure exerted by making threats against detainees' family members was forbidden, and that the Attorney General modified the guidelines issued to ISA interrogators to reflect this.

Israeli law allows the right of all persons to protection of their life, body and dignity to be restricted during a state of emergency, which has been in place in Israel since 1948. Israel's existing legislation does not contain an absolute prohibition on torture. More specifically, the Supreme Court ruling of 1999,⁵ while prohibiting the use of torture and other ill-treatment generally, ruled that exceptionally, interrogators using "physical interrogation methods" in "ticking time-bomb" situations may escape criminal liability under the "defence of necessity" found in Israel's Penal Law. This justification for torture, in clear defiance of Articles 2 and 4 of the Convention, has – far from being a mere theoretical construct – resulted in total impunity for ISA torturers during the past 12 years.

Furthermore, Amnesty International is concerned that complaints of torture and other ill-treatment at the hands of the ISA are not properly and impartially investigated. The person in charge of investigating complaints, the Interrogee Complaints Comptroller, is himself an employee of the ISA. In November

¹ Israel Security Agency (ISA), also known as *Shabak*, formerly known as the General Security Service (GSS)

² Physicians for Human Rights – Israel and The Public Committee against Torture in Israel, *Doctoring the Evidence, Abandoning the Victim: The involvement of medical professionals in torture and ill-treatment in Israel*, October 2011, http://www.phr.org.il/uploaded/Doctoring%20the%20Evidence%20Abandoning%20the%20Victim_November2011.pdf

³ B'Tselem, 'Judge holds confession of Palestinian minor admissible, although it was obtained through breach of his rights', 15 January 2012, http://www.btselem.org/torture/20120115_flawed_confession_of_minor_held_admissible; See also forthcoming Amnesty International Annual Report 2012

⁴ Amnesty International, 'Israel/Occupied Palestinian Territories: Israel must release Palestinian detained for organising peaceful protests against expanding Israeli settlement', March 2012, <http://www.amnesty.org/en/library/info/MDE15/008/2012/en>

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

2010 the Attorney General announced that the Comptroller would become an employee of the Ministry of Justice; however, neither this transfer, nor any other structural changes to increase accountability have so far been implemented. Some of the elements leading to deficiency in accountability for torture and other ill-treatment are the absence of external and independent supervision of ISA interrogation practices, and the lack of audio and video records of interrogations available for the purposes of investigation. Despite the filing of more than 700 complaints, no criminal investigation has been opened to date.⁶

3. Administrative detention and indefinite detention under the Unlawful Combatants Law: Article 16

Amnesty International is concerned about the use of administrative detention, which is on the rise again since mid-2010. In January 2012, 309 Palestinians were held in administrative detention according to Israeli prison statistics, compared to 189 in August 2010.⁷ Military orders placing persons under administrative detention, and military court and Supreme Court decisions on appeals against them, are based on secret information that is not provided to detainees and their lawyers, thus failing to meet international standards of fairness. For example, Ahmad Qatamesh, a 61-year old academic and writer has been held in administrative detention on vague allegations of a risk to the security of the region since 21 April 2011. He had been detained similarly from 1992 to 1998.⁸ Citizens of Israel may be held in a similar manner under the 1979 Emergency Powers (Detentions) Law, Similarly, the Incarceration of Unlawful Combatants Law, passed in 2002 and amended in 2008, which in effect targets Palestinians from the Gaza strip and, in the past, Lebanese nationals, allows for indefinite detention without trial, based on secret information.⁹ Currently at least one Palestinian from the Gaza Strip is held under this law.¹⁰

Amnesty International believes that in order to fully comply with the Convention, the system of administrative detention in Israel and the OPT should be abolished altogether.

4. Prison conditions and solitary confinement: Article 16

Amnesty International is concerned that prison conditions for Palestinian prisoners held for security-related reasons have deteriorated further in 2011, especially ahead of the negotiated October 2011 release of Palestinian prisoners in exchange for the return of Gilad Shalit, a member of the Israel Defence Force held by Hamas in the Gaza Strip. Prison conditions were deliberately worsened as a means of pressure to bring about the release of Gilad Shalit. This resulted in the extended use of solitary confinement, the inadequate provision of medical care and the imposition of additional restrictions on family visits.¹¹ Since June 2007, there has been a blanket ban on family visits to over 700 prisoners from the Gaza Strip.¹² Most Palestinian prisoners from the OPT are held within Israel, in violation of the Fourth Geneva Convention, and this poses difficulties for families from the OPT who are frequently denied permits, issued by the Israeli army, to visit their relatives in prison.

⁶ The Public Committee against Torture in Israel, *Accountability Still Denied*, January 2012, http://www.stoptorture.org.il/files/PCATI_eng_web.pdf

⁷ B'Tselem, 'Statistics on Administrative Detention', http://www.btselem.org/administrative_detention/statistics

⁸ Amnesty International, 'Palestinian writer detained without charge by Israeli authorities', 10 May 2011, <http://www.amnesty.org/en/news-and-updates/palestinian-writer-detained-without-charge-israeli-authorities-2011-05-10>

⁹ B'Tselem and Hamoked, *Without Trial: Administrative Detention of Palestinians by Israel and the Internment of Unlawful Combatants Law*, October 2009, http://www.hamoked.org/items/111942_eng.pdf

¹⁰ Al Mezan Centre for Human Rights, 'Al Mezan Condemns the Israeli Increasing Indictments of Gazans as 'Unlawful Combatants'', 16 November 2009, <http://www.mezan.org/en/a.php?id=9231>

¹¹ Amnesty International, 'Israel-Hamas prisoner swap casts harsh light on detention practices of all sides', 18 October 2011, <http://www.amnesty.org/en/news-and-updates/israel-hamas-prisoner-swap-casts-harsh-light-detention-practices-all-sides-2011-10-10->

¹² International Committee of the Red Cross, 'Gaza detainees barred from family visits', 23 June 2011, <http://www.icrc.org/eng/resources/documents/news-footage/palestine-israel-tvnews-2011-06-23.htm>

5. Forcible Exile: Article 16

Amnesty International is concerned that Israel has forced Palestinian prisoners into exile, separating these persons from their families by preventing their return to their country in violation of both the Convention and international humanitarian law. Following a deal with the Palestinian faction Hamas, Israel exiled 41 prisoners in October 2011 to Syria, Qatar and Turkey instead of their serving their full terms in prison. In a separate case, Salah Mohammed Suleiman al-'Aroui, a Hamas official who had been in administrative detention in Israel, was sent into exile on 30 March 2010.

Amnesty International is further concerned that Israel uses legal and bureaucratic measures to prevent Palestinians from taking up residency with their spouses and their children, in particular if the spouses hold different types of Israel-issued identity cards or if one of the spouses is a foreign national. Since Israel controls the population registry and controls movement between and within the OPT, it can prevent Palestinians from Gaza from living with spouses from the West Bank or Israel, or Palestinians from the West Bank from living with spouses from Jerusalem or Israel.¹³

6. Violence by settlers and other Israelis: Articles 12, 13, 14 and 16

Amnesty International is concerned that violence by settlers and other Israelis against Palestinians is on the increase, is often carried out in an organised manner and enjoys extensive impunity.¹⁴ Some of the violent acts constitute violations of the Convention, since state inaction often leads to impunity for perpetrators.

7. Demolitions of Palestinian homes and forced evictions: Article 16

Amnesty International is concerned that the Israeli authorities continue to carry out demolitions of homes in areas of the West Bank, ostensibly for administrative reasons relating to planning and zoning, but in practice systematically favouring the expansion of Israeli settlements and their infrastructure over the rights of Palestinian inhabitants. For instance, near Maale Adumim settlement to the east of Jerusalem, 2,300 Jahalin Bedouin Palestinians are at risk of losing their homes and being forcibly transferred to a location that is not of their choosing in early 2012.¹⁵ In the Gaza Strip, house demolitions have been carried out recklessly and wantonly during military operations.¹⁶ Within Israel itself, Palestinian citizens of Israel have suffered the repeated demolition of their homes, for instance as a corollary of discriminatory policies that do not recognize the legality of specific Palestinian Bedouin villages in the Negev/Naqab region.¹⁷

8. Restrictions on freedom of movement: Article 16

Amnesty International is concerned that multiple forms of restrictions on the freedom of movement of Palestinians amounts in some situations to collective punishment, causes suffering to individuals and thus constitutes cruel, inhuman or degrading treatment or punishment. In September 2011, there were 522 checkpoints and roadblocks in the West Bank, limiting movement and access between Palestinian towns and villages, in particular closing off East Jerusalem, part of Hebron and the Jordan Valley to Palestinian access, for which an Israel-issued permit is necessary, while allowing the free movement of

¹³ Amnesty International, 'Israeli Supreme Court ruling continues to tear families apart', 13 January 2012, <http://livewire.amnesty.org/2012/01/13/israeli-supreme-court-ruling-continues-to-tear-families-apart/>; Human Rights Watch, *Israel: End Restrictions on Palestinian Residency: Military Control Over Population Registry Splits Families*, 5 February 2012, <http://www.hrw.org/news/2012/02/05/israel-end-restrictions-palestinian-residency>

¹⁴ Yesh Din, *Yesh Din Monitoring Update: Law Enforcement upon Israeli Civilians in the West Bank*, February 2011, http://yesh-din.org/userfiles/file/datasheets/YESH%20DIN_Law%20Enforcement%20Monitoring%20Eng_2011.pdf

¹⁵ Amnesty International, *Stop the transfer: Israel about to expel Bedouin to expand settlements*, Index Number: MDE 15/001/2012, 8 February 2012, <http://www.amnesty.org/en/library/info/MDE15/001/2012/en>

¹⁶ Amnesty International, *Israel/Gaza: Operation "Cast Lead": 22 days of death and destruction*, Index Number: MDE 15/015/2009, 2 July 2009, <http://www.amnesty.org/en/library/info/MDE15/015/2009/en>

¹⁷ Amnesty International, 'Israel condemned over Bedouin village demolition', 25 November 2010, <http://www.amnesty.org/en/news-and-updates/israel-condemned-over-bedouin-village-demolition-2010-11-25>; Association for Civil Rights in Israel, 'ACRI Calls on Government to Halt "Praver Plan" on Bedouin Issues', 1 September 2011, <http://www.acri.org.il/en/2011/09/01/acri-calls-on-government-to-halt-praver-plan-on-bedouin-issues/>

Israelis, including settlers.¹⁸ These arbitrary and discriminatory restrictions expose the Palestinians to abuse of soldiers at checkpoints during inspections¹⁹ and inhibit the access of Palestinian residents to medical care²⁰ and to water.²¹

Villagers who are cut off from their lands by the fence/wall that runs through the occupied West Bank have lost their source of livelihood as they are denied permits to cross the few gates that are occasionally open for crossing to the other side of the fence/wall, notably in Jayyus near Qalqiliya. This fence/wall makes this land inaccessible, effectively expropriating it.

In the Gaza Strip, the Israel-imposed blockade, nominally in place to isolate and weaken the Hamas *de facto* administration and to prevent attacks against Israel, has resulted in the near collapse of basic infrastructure, including medical facilities, sanitation systems and most economic activity.²² Amnesty International believes that the blockade amounts to the collective punishment of the Palestinian population of Gaza and a violation of the Convention.²³

9. Denial of access to medical care: Article 16

Amnesty International believes that the denial of medical treatment to patients from the Gaza Strip constitutes cruel, inhuman and degrading treatment. Hospitals in the Gaza Strip are not equipped to treat specific medical problems, and their capacity has been further weakened by the Israeli blockade, as noted above, and patients are occasionally referred for treatment in Israel and the West Bank, for which they need permits from the Israeli military. These are sometimes refused, delayed, or if granted, expose patients to the risk of arrest at the checkpoint between the Gaza Strip and Israel.²⁴ For instance, in January 2012 Bassam Rehan, 24-year-old man suffering from nerve failure in the leg, was arrested as he was travelling to a specialised hospital in Hebron in the West Bank.²⁵

10. Continuing impunity: Articles 13 and 14

Following its review of the 4th periodic report of Israel in 2009, the Committee recommended that in relation to the Israeli military's Operation 'Cast Lead' in the Gaza Strip, "[t]he State party should conduct an independent inquiry to ensure a prompt, independent and full investigation into the responsibility of state and non-state authorities for the harmful impact on civilians, and to make the results public".²⁶ However, there has been little success in bringing about accountability. Following the 22-day military operation in December 2008 and January 2009, the Israeli forces and Palestinian armed groups were faced with allegations of war crimes and crimes against humanity, including acts amounting to violations of the Convention, based on evidence gathered by human rights organizations

¹⁸ UN OCHA OPT, *Movement and Access in the West Bank*, September 2011, http://www.ochaopt.org/documents/ocha_opt_MovementandAccess_FactSheet_September_2011.pdf

¹⁹ Mahsom Watch, *En Route to Health*, 22 April 2010, http://www.mahsomwatch.org/en/spotlight/en_route_health

²⁰ UN World Health Organization, *The Impact of the Barrier on Health*, July 2010, http://issuu.com/who-opt/docs/who-ocha_impact_of_barrier_on_health_gb

²¹ Amnesty International, *Troubled waters - Palestinians denied fair access to water*, Index Number: MDE 15/027/2009, 27 October 2009, <http://www.amnesty.org/en/news-and-updates/report/israel-rations-palestinians-trickle-water-20091027>

²² Gisha Legal Center for Freedom of Movement, *Scale of Control: Israel's Continued Responsibility in the Gaza Strip*, November 2011, http://www.gisha.org/item.asp?lang_id=en&p_id=1443; Amnesty International, *Troubled waters - Palestinians denied fair access to water*, Index Number: MDE 15/027/2009, 27 October 2009, <http://www.amnesty.org/en/news-and-updates/report/israel-rations-palestinians-trickle-water-20091027>

²³ Amnesty International, *Suffocating: The Gaza Strip under Israeli Blockade*, Index Number: MDE 15/002/2010, 18 January 2010, <http://www.amnesty.org/en/library/info/MDE15/002/2010/en>

²⁴ UN World Health Organization, *Referral of Patients from Gaza: Data and Commentary for 2010*, 13 July 2011, http://issuu.com/who-opt/docs/who_referral_abroad_report_gaza/1; Al Mezan Centre for Human Rights, *Children in the Gaza Strip's Access to Medical Care*, 19 December 2011, <http://www.mezan.org/upload/13131.pdf>

²⁵ Al Mezan, 'IOF Detains Palestinian Patient at Erez Crossing', 19 January 2012, http://www.mezan.org/en/details.php?id=13374&id_dept=3&p=center

²⁶ UN Doc. CAT/C/ISR/CO/4, para 29

and the UN Fact Finding Mission on the Gaza Conflict headed by Justice Richard Goldstone.²⁷ Three years later, after partial and incomplete internal military investigations, only five Israeli officers have been disciplined.²⁸

11. Abductions abroad, enforced disappearance: Articles 1, 16

Amnesty International is concerned about Israel's reported involvement in recent cases of abductions and enforced disappearance possibly of foreign nationals, including the following cases, reported by the media.

- An unidentified male detainee died in custody in Ayalon Prison in December 2010. It is not clear how long he had been held. Initial reports suggested that officials had claimed he had committed suicide.²⁹ It is believed he may be an unidentified prisoner whose existence first came to light in June 2010, He had no legal representation, received no visits in his isolated cell, and the Israeli media was censored by a "gag order" at the instigation of the ISA from reporting on his existence.³⁰
- On 18 February 2011, Dirar Abu Sisi, accused of involvement in Hamas's weapons manufacturing, disappeared from a train in the Ukraine and later appeared in prison in Israel. His apparently illegal arrest and transfer in all likelihood involved at least mental pain and suffering.³¹

12. Excessive use of force against demonstrators: Article 16

Amnesty International is concerned that the Israeli police may have used excessive force to evict Israeli demonstrators in tent encampments protesting against government housing policies in locations across Israel from July 2011 onwards.³²

In the OPT, the Israeli army uses excessive force against Palestinian demonstrators and Israeli and foreign activists who protest with them against the fence/wall that separates Palestinian villages from their lands. Mustafa Tamimi, aged 28, of al-Nabi Saleh, died of his wounds on 10 December 2011, a day after being shot in the face at close range with a tear gas canister.³³ Another protestor, U.S. citizen

²⁷ See the Report of the UN Fact-Finding Mission on the Gaza Conflict, UN Doc. A/HRC/12/48 (2009) and Amnesty International, *Update of the Briefing to the Committee against Torture*, Index Number: MDE 15/014/2009, 31 March 2009, <http://www.amnesty.org/en/library/info/MDE15/014/2009/en>; Amnesty International, *Israel/Gaza: Operation "Cast Lead": 22 days of death and destruction*, Index Number: MDE 15/015/2009, 2 July 2009, <http://www.amnesty.org/en/library/info/MDE15/015/2009/en>

²⁸ Palestinian Center for Human Rights, Status of Criminal and Civil Complaints Submitted to Israeli Authorities on behalf of Victims of Operation Cast Lead, 18 January 2012, http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=8087:status-of-criminal-and-civil-complaints-submitted-to-israeli-authorities-on-behalf-of-victims-of-operation-cast-lead-&catid=144:new-reports; B'Tselem, 'Three years since Operation Cast Lead: Israeli military utterly failed to investigate itself', 18 January 2012, http://www.btselem.org/gaza_strip/20120118_3_years_after_cast_lead

²⁹ Dimer Rider, Ayalon Prison: Nameless inmate commits suicide, then disappears, 27 December 2010, <http://972mag.com/ayalon-prison-inmate-commits-suicide-then-disappears/>

³⁰ The Telegraph, 'Israel gripped by identity of 'Prisoner X'', 21 June 2010, <http://www.telegraph.co.uk/news/worldnews/middleeast/israel/7844607/Israel-gripped-by-identity-of-Prisoner-X.html>

³¹ BBC News, 'Israel, Ukraine and the mysterious case of Dirar Abu Sisi', 25 August 2011, <http://www.bbc.co.uk/news/world-middle-east-14529749>

³² Association for Civil Rights in Israel, 'ACRI Condemns Efforts to Suppress Tent Protests', 26 July 2011, <http://www.acri.org.il/en/2011/07/26/acri-condemns-efforts-to-suppress-tent-city-protesters/>

³³ Ynet News, 'Palestinian injured in Friday protest dies', 10 December 2011, <http://www.ynetnews.com/articles/0,7340,L-4159488,00.html>

Tristan Anderson, was left paralyzed in part of his body after his skull was crushed by a high-velocity tear gas projectile on 13 March 2009 during a demonstration in the village of Ni'lin.³⁴

13. Violence against women and girls: Articles 1, 16

Amnesty International is concerned about the recent rise in violence against women and girls within religious communities in Israel. Statistics from an Israeli organization which operates crisis shelters in Israel indicate that women and children have been using their shelters for an increasing number of days per year since 2000.³⁵ Though Israeli women in general have access to safe shelters and legal support, it appears that women in ultra-orthodox communities and from the Palestinian minority, as well as other minorities such as the Ethiopian and Russian Jewish minorities, are less able to realize their right to protection from violence.³⁶

Amnesty International is also concerned about Israel's continued position in international human trafficking routes. Israeli non-governmental organizations report that Israel continues to be a transit country and destination for human trafficking for labour and for coerced sex work.³⁷

Amnesty International is concerned that the Israeli authorities do not always fully exercise due diligence to prevent, investigate, prosecute and ensure reparations for such crimes.

14. Attacks against persons for their sexual orientation: Articles 1, 16

Amnesty International is concerned about incidents of violence against lesbians, gays, bisexuals and transsexuals (LGBT) in Israel motivated by homophobia, which is encouraged in some purportedly religious teachings. On 1 August 2009, two persons, Nir Katz, aged 26, and Liz Trobishi, aged 16, were killed by a gunman, and a further ten people were injured, during a weekly meeting at an LGBT social and advocacy centre in Tel Aviv; the killer has not been found and his motives are unknown. In Jerusalem, LGBT-rights demonstrations have come under violent attack from members of the religious communities, and have been cancelled by the police.³⁸

Amnesty International is concerned that the Israeli authorities do not always fully exercise due diligence to prevent, investigate, prosecute and ensure reparations for such crimes.

15. Detention of asylum-seekers and unregulated migrants: Article 16

Amnesty International is concerned that the Israeli parliament passed a law that allows for the automatic and lengthy detention of unregulated migrants and asylum-seekers, known as the Prevention of Infiltration Law, on 10 January 2012.³⁹ News reports stated that 180 African migrants were detained on 19 January 2012.

³⁴ The Independent, 'Fighting for life: American peace activist shot by Israelis', 24 March 2009, <http://www.independent.co.uk/news/world/middle-east/fighting-for-life-american-peace-activist-shot-by-israelis-1652604.html>

<http://www.independent.co.uk/news/world/middle-east/fighting-for-life-american-peace-activist-shot-by-israelis-1652604.html>

.co.il/Statistics/Statistics071.htm" <http://www.no2violence.co.il/Statistics/Statistics071.htm> }

³⁶ The Association for Civil Rights in Israel, 'Women's Rights', <http://www.acri.org.il/en/category/the-right-to-equality/women/>; Kayan Feminist Organization, *Five Years of Legal Aid: Summary and Analysis*, 2011, http://www.kayan.org.il/Public/ER20110101_5%20Year%20Legal%20Aid%20Report.pdf

³⁷ Kav LaOved, 'State handling of trafficking in migrant workers for farm labor', 13 February 2010, http://www.kavlaoved.org.il/media-view_eng.asp?id=2731; Hotline for Migrant Workers and Kav LaOved, *Human Trafficking and Exploitation of Female Migrant Workers and Asylum Seekers*, June 2010, http://www.hotline.org.il/english/pdf/Hotline_and_Kav_Laoved_Human_Trafficking_060810_WL_Eng.pdf

³⁸ Jerusalem Open House for Pride and Tolerance, 'Jerusalem Pride', <http://joh.org.il/index.php/pride>

³⁹ Amnesty International, 'Israel: New detention law violates rights of asylum-seekers', 10 January 2012, <http://www.amnesty.org/en/news/new-israeli-detention-law-violates-asylum-seekers-rights-2012-01-10>

16. Forcible returns: Article 3 of the Convention

Amnesty International is concerned that until July 2011, asylum-seekers have been returned at the Israel-Egypt border without being interviewed and without due appeal process against the decision to expel them, in accordance with a policy of so-called “hot returns” coordinated between Israel and Egypt. The Israeli military declared that they were suspending the practice in March 2011. Therefore, the Israeli High Court of Justice ruled a petition filed by human rights NGOs requesting the court to instruct the state not to deport asylum-seekers in a manner that violates the principle of non-refoulement to be no longer relevant.⁴⁰

Note on violations of the Convention by the Palestinian authorities

Since Israel’s fourth periodic report was considered by the Committee, Amnesty International has received reliable information concerning cases of torture and other ill-treatment of detainees and prisoners by both the Palestinian Authority in the West Bank and the Hamas *de facto* administration in the Gaza Strip. In Nablus in the West Bank, human rights defender Saed Yassin was arrested by the Palestinian Authority General Intelligence Services (GIS) on 19 November 2009, less than one month after he was released from administrative detention in Israel, and was held without due judicial process until 30 May 2010. He was denied specialised medical care during his incarceration though he was suffering from what was later diagnosed as gall bladder stones.⁴¹

Both in the West Bank and Gaza, there have been cases of death in custody apparently resulting from torture. Haitham Amer died on 15 June 2009 while detained by the GIS in Hebron. The autopsy revealed death caused by torture. A Palestinian military court trial, unique in its addressing a criminal investigation of torture by Palestinian security forces, acquitted all five indicted GIS officers.⁴² On 28 February 2011 Hamas security forces in Gaza City used excessive force to prevent a demonstration and arrested and tortured one of the organisers, Ahmad Arar.⁴³ There were four deaths in custody in the Gaza Strip during 2011.⁴⁴

Amnesty International is also concerned that the Hamas *de facto* administration in Gaza fails to prevent, thoroughly and impartially investigate and prosecute members of armed groups in the Gaza Strip for acts which violate the Convention and international law more generally. This failure not only relates to indiscriminate rocket attacks on Israeli towns and villages in southern Israel during Operation ‘Cast Lead’ in December 2008 and January 2009 and since, but also to attacks on Palestinian residents in Gaza. On 13 January 2012, human rights activist Mahmoud Abu Rahma was stabbed repeatedly by masked men in front of his home, after receiving death threats following the publication of an article critical of some activities of Palestinian armed groups.⁴⁵

⁴⁰ African Refugee Development Center, ‘Hot Returns: High Court Delivers Decision’, 9 July 2011, <http://www.ardc-israel.org/en/articles/56>; HCJ 7302/07 *Hotline for Migrant Workers et alia v. the State of Israel*, 7 July 2011

⁴¹ Amnesty International, Urgent Action, ‘Palestinian Authority: Human Rights Defender Denied Medical care’, AI Index: MDE 21/005/2009, 16 December 2009, <http://www.amnesty.org/en/library/info/MDE21/005/2009/en>

⁴² Human Rights Watch, ‘Palestinian Authority: No Justice for Torture Death in Custody’, 16 February 2011, <http://www.hrw.org/news/2011/02/16/palestinian-authority-no-justice-torture-death-custody>

⁴³ Human Rights Watch, ‘Gaza: Investigate Torture of Protest Organiser’, 11 March 2011, <http://www.hrw.org/news/2011/03/11/gaza-investigate-torture-protest-organizer>

⁴⁴ See forthcoming Amnesty International Annual Report 2012.

⁴⁵ Amnesty International, ‘Hamas authorities must guarantee safety of human rights activist’, 18 January 2012, <http://www.amnesty.org/en/news/hamas-authorities-must-investigate-attacks-human-rights-defender-gaza-2012-01-18-0>

Palestinian and other human rights organizations have reported additional violations of the Convention within the OPT - including violence in the home and violence against women, girls and LGBT persons – where the Palestinian authorities have failed to exercise due diligence to prevent such acts, investigate, prosecute and ensure reparations to victims. According to Palestinian statistics, 26 per cent of women who are over 18 in OPT experience physical abuse at the hands of a male family member.⁴⁶

Under international law, these territories in their entirety remain under Israeli occupation. However, the extent to which Israel is responsible for these specific acts of torture and other ill-treatment is less clear, as are the remedies that could be specifically sought from Israel under the Convention. An obvious case where Israel's responsibility was far from straightforward was the incarceration of IDF soldier Gilad Shalit, who was held in cruel, inhuman and degrading conditions in Gaza for over five years, clearly against Israel's wishes.

Amnesty International would like to emphasise that whilst this situation creates difficulties in the appropriation of responsibility for violations of the Convention by the Palestinian authorities, it is inconceivable that Israel's partial withdrawal and consequent inability, or lack of will, to prevent or stop such torture and other ill-treatment would render the population of these territories unprotected by the Convention or ignored by the Committee. Indeed, the Committee has expressed concerns over violations of the Convention by the Palestinian authorities and Amnesty International calls upon it to continue addressing them.

We hope this information will be of use to the Committee when drawing up the List of Issues Prior to Reporting ahead of the submission of Israel's 5th periodic report. Please do not hesitate to contact Amnesty International for further information or clarifications.

Yours sincerely

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⁴⁶ Palestinian Women's Research and Documentation Center *Violence against women in Palestine (2007)*, Arabic, http://www.pwrdc.ps/site_files/Arabic%20read%20with%20appendix.pdf