



Al-Mezan Center
for Human Rights



Al-Haq



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UN Committee Against Torture Found 'Numerous, Ongoing and Consistent Allegations' of Torture and Ill-treatment by Israeli Interrogators, in particular, against Palestinians and Calls for Independent Investigation into Israeli Military Offensive 'Cast Lead' in Gaza

On 5 and 6 May 2009, the UN Committee Against Torture (the Committee) held hearings in Geneva to review Israel's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which it ratified in 1991. During the dialogue with Israel's state representatives, members of the Committee stressed that “there is no balancing act when it comes to torture.” Committee members further asserted that “one’s security should not be built on the insecurity of others.”

On 14 May 2009, the Committee issued its Concluding Observations, which raised many of the issues contained in the oral and written interventions submitted by Adalah, Al-Haq, Al-Mezan, Defence for Children International – Palestine Section, Physicians for Human Rights – Israel, and the Public Committee Against Torture in Israel (PCATI) on behalf of the United Against Torture Coalition (UAT Coalition)¹ and by PCATI together with the World Organization Against Torture (OMCT). UAT Coalition member Al-Mezan was unable to send representatives to hearings in Geneva due to Israel's total closure of Gaza. In the Concluding Observations, the Committee raised serious questions involving what it categorised as “numerous, ongoing and consistent allegations” of torture and ill-treatment by Israeli interrogators, in particular, against Palestinians.

Among the Committee’s conclusions and recommendations were the following:

Applicability of CAT to the OPT

- “[...] the obligation to prevent acts of torture or ill-treatment in any territory under its jurisdiction must be interpreted and applied to protect any person, citizen or non-citizen, without discrimination subject to the *de jure* or *de facto* control of a State party. [...] the Committee further notes (i) that the State party and its personnel have repeatedly entered and established control over the West Bank and Gaza.”

Lack of Accountability

- “[...] the Committee is concerned that ISA interrogators who use physical pressure in “ticking bomb” cases may not be criminally responsible if they resort to the necessity defense argument.”
- “[...] the Committee is concerned that none of the over 600 complaints of ill-treatment by ISA interrogators received by the Inspector of Complaints between 2001 and 2008 has resulted in a criminal investigation.”
- “The State party should also ensure that allegations of torture and ill-treatment are promptly and effectively investigated and perpetrators prosecuted [...]”

¹ Adalah – The Legal Center for Arab Minority Rights in Israel; Al-Haq – Law in the Service of Man; Al-Mezan Center for Human Rights; Al-Quds University Human Rights Clinic; An Najah University Centre for Democracy and Human Rights; Defence for Children International – Palestine Section (DCI/PS); Gaza Community Mental Health Program (GCMHP); Hurriyat – Centre for Defence of Liberties and Civil Rights; Italian Consortium of Solidarity (ICS); Nadi Al-Asir (Palestinian Prisoners Club); Nafha Society for Defence of Prisoners and Human Rights; Mandela Institute for Human Rights and Political Prisoners; Public Committee Against Torture in Israel (PCATI); and Treatment and Rehabilitation Centre for Victims of Torture (TRC). Additional contributors to the reports to the UN Committee Against Torture included Addameer - Prisoners Support and Human Rights Association and Physicians for Human Rights - Israel.

Safeguards against torture and ill-treatment

- “The Committee calls upon Israel to examine its legislation and policies in order to ensure that all detainees, without exception, are promptly brought before a judge and have prompt access to a lawyer.”
- “The Committee recommends that, as a matter of priority, the State party extend the legal requirement of video recording of interviews of detainees accused of security offences as a further means to prevent torture and ill-treatment.”
- “The State party should prohibit by law that any statement which is established to have been made as a result of torture cannot be invoked as evidence [...]”

Administrative detention and solitary confinement

- “While the State party explains that this practice [of administrative detention] is used only exceptionally [...] the Committee regrets that the number of persons held in administrative detention has risen significantly since its last periodic report.”
- “The State party should amend current legislation in order to ensure that solitary confinement remains an exceptional measure of limited duration.”

Israel’s secret detention ‘facility 1391’

- “The State party should ensure that no one is detained in any secret detention facility under its control in the future, as a secret detention center is *per se* a breach of the Convention.”

Juvenile Detainees

- “[Israeli] Military Order 132 [applicable to West Bank child detainees] should be amended to ensure that the definition of minor is set at the age of 18, in line with international standards.”
- “[The Committee] expresses deep concern at reports [...] that Palestinian minors are detained and interrogated in the absence of a lawyer or family member and allegedly subjected to acts in breach of the convention in order to obtain confessions.”
- “The State party should ensure that juvenile detainees are afforded basic safeguards [...] from the outset of their detention.”

Israeli Military Operation “Cast Lead” in the Gaza Strip

- “The 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 make the results public.”

The Palestinian, Israeli and international human rights organisations strongly regret that certain issues raised by the Committee in the dialogue with representative of the State of Israel were not treated in the Concluding Observations. The following issues, in particular, were not included:

- impunity for police officers responsible for the October 2000 killing of 13 Palestinian citizens of Israel;
- the limitations in Israeli law on compensation for acts amounting to torture or ill-treatment for certain categories of persons;
- the coercion and extortion of Gaza medical patients at the Erez crossing;

Further, the human rights organisations regret that with regard to some issues the Committee’s recommendations are unduly weak. For instance, it only called upon Israel to permit humanitarian access to the Gaza Strip and thus failed to declare that a blockade imposed on the entire population of the Gaza Strip might constitute a violation of the Convention.

All NGO, State party and Committee documents including the submissions by the UAT Coalition and PCATI/OMCT and the Concluding Observations related to the review of Israel are available at: <http://www2.ohchr.org/english/bodies/cat/cats42.htm> .