

הוועד נגד
THE COMMITTEE
AGAINST TORTURE
اللجنة المناهضة للتعذيب



fidh



ISRAEL UPR REVIEW 2023

(43rd session of HRC UPR Working Group)

-Factsheet-

SUMMARY

PCATI has highlighted severe violations of IHRL and IHL committed against Palestinian detainees by members of the Israeli security apparatus amounting to the following war crimes:

- Arbitrary Arrest and Detention, including Torture and Ill-treatment
- Denial of Access to Justice and Fair Trial / Right to effective remedy
- Lack of prohibition of torture and ill-treatment

Report specifically relates to the following recommendations of the 3rd UPR to the State of Israel: 118.13, 118.72; 118.74; 118.75; 118.76; 118.77; 118.84; 118.160, 118.162; 118.196; 118.198, 119.4 (The State of Israel has not accepted any recommendations made regarding torture and ill-treatment). Recommendation 118.167 - to combat impunity for human rights violations - was supported by Israel.

CONTEXT AND DEVELOPMENT

Since the last review until today, PCATI documented **dozens of incidents of severe torture yearly**, including psychological as well as physical. Despite the long-standing criticism of Israel's use of the "**necessity defense**" to justify torture in interrogations, **this practice is still used on a regular basis. Israel's HCJ upheld this justification**, and declined to order a criminal investigation of torture in the cases of Abu Gosh (2017) and Tbeish (2018).

ARBITRARY ARREST AND DETENTION

(Relating to recommendations 118.72; 118.84; 118.160; 118.162; 118.198; 119.4)

Unlawful Deportation:

Arrested Palestinians are frequently being deported to detention locations outside the oPt, within the territory of Israel (violation of Article 76 Geneva Convention IV) for the purpose of using torture and ill-treatment.

Recommendation: Israel must halt the practice of unlawful deportation of Palestinians, especially of minors, for the purpose of interrogation and imprisonment on Israeli territory.

Torture and other cruel, inhuman and degrading treatment:

Following deportation to Israel, detainees are frequently tortured according to the 'necessity procedure' during ISA interrogations, causing both physical and mental injuries and symptoms during and long after the torture sessions.

Recommendation: The use of the necessity defense for all acts of torture must be halted.

DENIAL OF ACCESS TO JUSTICE AND FAIR TRIAL / RIGHT TO EFFECTIVE REMEDY / LACK OF ACCOUNTABILITY

(Relating to recommendations 118.77; 118.167; 118.196)

Administrative detention and remand proceedings, either during or after interrogation, and trial proceedings, may rely on **detainees' confessions obtained through torture** or cruel, inhuman or degrading treatment. This is backed by new (2022) legislation allowing Israel courts to consider a confession made in front of the police which was based on the use of torture during a previous ISA interrogation.

Recommendations: Amend the Evidence Act in a way that any evidence obtained as a result of coercive and illegal means are inadmissible and should be automatically disqualified from being used as evidence in trial.

ISA interrogations are not recorded by means of audio-visual technology that can later be used to prove torture allegations. Current Israeli law merely requires CCTV broadcasting of interrogations, observed by authorized state officials at the time, which is not recorded.

Recommendations: Interrogations must be recorded by audio-visual means and complainants should be given full access to the video footage to prove allegations of torture or ill-treatment.

Israel's legal system does **not recognize Istanbul Protocol assessments** as a valid means of evidence.

Recommendations: Israel must recognize the Istanbul Protocol as valid evidence in court to prove the use of means of torture and ill-treatment against a person.

LACK OF PROHIBITION OF TORTURE AND ILL-TREATMENT

(Relating to recommendations 118.13; 118.74; 118.75; 118.76)

To this day, Israel has not adopted any legislation explicitly criminalizing torture.

Recommendation: Israel must enact a law criminalizing torture and ill-treatment immediately and without exceptions. Israel must present a reasonable timeline outlining the timescale of the legislative procedure for such a law.