

Racism, Violence and Humiliation

**Findings, Conclusions and Recommendations of the
Public Committee Against Torture in Israel
Concerning the Behavior of the Security Forces toward Persons Detained
during the Events of September-October 2000**

Public Committee Against Torture in Israel
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Contents

<u>INTRODUCTION</u>	5
<u>1. A REVIEW OF INTERNATIONAL STANDARDS REGARDING THE TREATMENT OF DETAINEES AND PRISONERS</u>	6
<u>2. LIST OF AFFIDAVITS AND LETTERS TO THE AUTHORITIES</u>	8
<u>3. PRINCIPAL FINDINGS</u>	10
A. THE RIGHT NOT TO BE SUBJECT TO DISCRIMINATION ON THE GROUNDS OF RACE OR NATIONALITY	10
B. VIOLATIONS OF THE RIGHT NOT TO BE SUBJECT TO TORTURE OR OTHER FORMS OF CRUEL, INHUMAN OR HUMILIATING TREATMENT OR PUNISHMENT	11
1. THE ISRAEL POLICE	12
2. GENERAL SECURITY SERVICE (GSS)	16
3. HUMILIATING AND INHUMAN CONDITIONS OF DETENTION	19
C. VIOLATIONS OF THE RIGHT TO DUE PROCESS	22
D. VIOLATIONS OF THE RIGHT OF CHILDREN TO SPECIAL TREATMENT AND PROTECTION	24
<u>4. CONCLUSIONS AND RECOMMENDATIONS</u>	26

Introduction

This report is presented to the public while the Commission of Inquiry to Clarify the Clashes between the Security Forces and Israeli Citizens which began on September 29, 2000 meets, and is aimed at encouraging attention to the issues raised herein.

The report includes a series of findings relating to the treatment by the security forces of persons who were under their custody during the course of the events of September - October 2000. (The documents on which these findings are based are available for viewing in PCATI's office).

The Public Committee Against Torture in Israel (PCATI) is a human rights organization that has been active for over a decade in defending the rights of detainees in Israel, the Occupied Territories and other places in the region and around the world. PCATI acts through legal, political and public means, with the goal of stopping torture and other forms of cruel, inhuman and humiliating treatment or punishment, and of inculcating among the various governmental authorities the international standards as established in the international conventions and other documents concerning human rights in general, and the rights of detainees and prisoners, in particular.

After the outbreak of the events covered in this report, PCATI naturally acted to defend those persons who were detained by the security forces, to bring some of the cases before the authorities, and to document their experience. The documents on which the report is based represent the summary of the intensive work undertaken by the staff and volunteers of PCATI and by attorneys who work in cooperation with PCATI.

It will be apparent from the above that the documents and findings presented below relate to the treatment of persons by the security forces only from the point at which they were in custody. This report does not address other issues, grave though these may be, such as the use of lethal force in dispersing demonstrations or riots. PCATI is aware that reports on this subject have been presented to the Commission of Inquiry by other human rights organizations. It must not be argued, however, that the investigation should be confined solely to the events that occurred during the course of the clashes themselves. The violent, humiliating and discriminatory treatment of Arab citizens as reflected in these reports did not end at the point of detention, and it is this treatment that lies at the root of the serious failings revealed during the course of these events.

The report includes a review of the international legal standards concerning the treatment of detainees and prisoners; a summary of the findings of complaints received by PCATI from persons detained during the events; and PCATI's conclusions and recommendations regarding steps to be taken in order to prevent future infringements of the rights of detainees and prisoners.

1. A Review of International Standards Regarding the Treatment of Detainees and Prisoners

The Public Committee Against Torture in Israel is of the opinion that the Commission of Inquiry should examine the behavior of the security forces toward persons in their custody during the course of the events, not only with reference to the provisions of Israeli law, but also with reference to the relevant provisions of international agreements and other documents relating to human rights – i.e., with reference to the standards established by the international community (which, of course, includes Israel) concerning the treatment of detainees and prisoners. This opinion is based on the following legal and public considerations:

- A. Israel has signed and ratified the principle conventions relating to human rights (as detailed below), and has thereby undertaken to observe their provisions;
- B. Some of the provisions of these conventions, and some of the provisions in other international documents (such as the declarations and statements of principle relating to behavior toward imprisoned persons) as mentioned below reflect provisions of customary international law, and as such are also valid in Israeli law;¹
- C. In PCATI's opinion, the partial or faulty implementation of international standards, or complete disregard therefore, constitute one of the reasons for the severe failures revealed in the findings;
- D. Conversely, strict observance of these standards in practice, and their inculcation among the authorities that are in charge of detainees and prisoners on the foundations of the expertise, experience and humanity reflected in these standards, will help prevent the recurrence of such failures in the future (we shall expand on this point in the section presenting our recommendations).

The following is a list of conventions and other documents relevant to the subject of the treatment of detainees and prisoners (and the subject of the prohibition against discrimination), and which have a direct bearing on the behavior of the security forces toward persons in their custody during the course of the events, and hence on the work of the Commission of Inquiry:

- **Universal Declaration of Human Rights**² – and particularly the articles relating to the prohibition of discrimination (articles 1,2,7), the prohibition of torture and abuses (5), and the rights of detainees and prisoners (9-11).
- **International Convention on the Elimination of All Forms of Racial Discrimination**³

¹ See, for example, SC 606, 610/78, *Suleiman Tawfiq Ayub and 11 others vs. Minister of Defense and 2 others*, Verdicts 33(2); SC 390/79, *Izzat Muhammad Mustafa Dweikat et al. vs. Government of Israel*, Verdicts 34(1)1; Civil Appeal 7029/94, *Her Majesty the Queen in Right of Canada vs. Edelson et al.*, Verdicts 51(1) 625,639-641, and the references therein.

² Universal Declaration of Human Rights, UNGA res. 217 A(III), adopted 10 December 1948. For text see UN Center for Human Rights, **Human Rights: A Compilation of International Instruments**, vol. 1 (First Part), New York and Geneva, UN, 1994, pp. 1ff. The full text of all the international documents mentioned here may also be found on the Internet site of the United Nations High Commissioner for Human Rights: <http://www.unhchr.ch>.

- **International Covenant on Civil and Political Rights**⁴ – particularly the articles relating to the prohibition of discrimination (articles 2(1), 4(1), 26, 27), the prohibition of torture and abuses (7), and the rights of detainees and prisoners (9,10,14).
- **Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment**.⁵
- **Convention on the Rights of the Child**⁶ – particularly the articles relating to the prohibition of discrimination (article 2), the prohibition of torture and abuses (19), and the rights of minor detainees and prisoners (40).
- **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**.⁷
- **Standard Minimum Rules for the Treatment of Prisoners**.⁸
- **Standard Minimum Rules for the Administration of Juvenile Justice**.⁹
- **Basic Principles for the Treatment of Prisoners**.¹⁰
- **United Nations Rules for the Protection of Juveniles Deprived of their Liberty**.¹¹
- **Basic Principles on the Role of Lawyers**.¹²

³ International Convention on the Elimination of All Forms of Racial Discrimination, UNGA res. 2106 A(XX), adopted 21 December 1965, entered into force 4 January 1969. For text see *ibid.*, pp. 66ff.

The convention was ratified by Israel in 1979. See **Convention Documents**, vol. 25, p. 547.

⁴ International Covenant on Civil and Political Rights, UNGA res. 2200 A (XXI) adopted 16 December 1966, entered into force 23 March 1976. For text see *ibid.*, pp. 20ff.

The convention was ratified by Israel in 1991. See **Convention Documents** 1040, vol. 31, p. 269.

⁵ Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, UNGA res. 39/46 adopted 10 December 1984, entered into force 26 June 1987. For text *ibid.*, pp. 293ff.

The convention was ratified by Israel in 1991. See **Convention Documents** 1039, vol. 31, p. 249.

⁶ Convention on the Rights of the Child, UNGA res. 44/25 adopted 20 November 1989, entered into force 2 September 1990. For text *ibid.*, pp. 174ff.

The convention was ratified by Israel in 1991. See **Convention Documents** 1038, vol. 31, p. 221.

⁷ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Adopted by General Assembly resolution 43/173 of 9 December 1988. For text see *ibid.*, pp. 265ff.

⁸ Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. For text see *ibid.*, pp. 243ff.

⁹ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), adopted by General Assembly resolution 40/33 of 29 November 1985. For text see *ibid.*, pp. 356ff.

¹⁰ Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990. For text see *ibid.*, pp. 263ff.

¹¹ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of 14 December 1990. For text see *ibid.*, pp. 275ff.

¹² Basic Principles on the Role of Lawyers, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990. For text see *ibid.*, pp. 324ff.

2. List of Affidavits and Letters to the Authorities

The following list details the affidavits received and collected by PCATI, as well as letters sent by PCATI to the authorities following the receipt of these affidavits.¹³ The order is chronological, according to the date of submission of the affidavits.¹⁴ References to these affidavits below shall be according to their number in this list. It should be noted that the affidavits include those made both by victims and by witnesses to the violations of the rights of other persons. In some cases, victims also gave testimony relating to the violations of the rights of other persons.

1. Affidavit of Attorney H.T. of Kafr Kanna, collected on October 8, 2000 by Attorney Nizar 'Aboud, and PCATI's letter to the authorities dated October 14, 2000.
2. Affidavit of Mr. M.T. of Kafr Kanna, collected on October 10, 2000 by Attorney Nizar 'Aboud, and PCATI's letter to the authorities dated January 3, 2001.
3. Affidavit of Mr. 'A.H. of Kafr Kar'a, collected on October 12, 2000 by Attorney Ahmad Masalha, and PCATI's letter to the authorities dated December 4, 2000.
4. Affidavit of Mr. Y.A. of Musheirfa, collected on October 14, 2000 by Attorney Muhammad Mahajana, and PCATI's letter to the authorities dated January 8, 2001.
5. Affidavit of Mr. A.A.W. of Kafr Kar'a, collected on November 12, 2000 by Attorney Ahmad Masalha, and PCATI's letter to the authorities dated December 3, 2000.
6. Affidavit of Mr. M.A.W. of Kafr Kar'a, collected on November 21, 2000 by Attorney Nidal Fundaq, and PCATI's letters to the authorities dated December 3 and December 20, 2000.
7. Affidavit of Mr. 'I.M. of Kafr Kar'a, collected on November 21, 2000 by Attorney Ahmad Masalha, and PCATI's letter to the authorities dated November 28, 2000.
8. Affidavit of Mr. W.'A. (a minor) of Kafr Kar'a, collected on November 21, 2000 by Attorney Ahmad Masalha, and PCATI's letter to the authorities dated November 11, 2000.
9. Affidavit of Mr. W.'A. of Kafr Kar'a, collected on November 21, 2000 by Attorney Ahmad Masalha, and PCATI's letter to the authorities dated December 4, 2000.
10. Affidavit of Mr. J.F. of Kafr Kar'a, collected on November 21, 2000 by Attorney Ahmad Masalha, and PCATI's letter to the authorities dated December 10, 2000.
11. Affidavit of Mr. 'A.M. of Taibe, collected on November 25, 2000 by Attorney Nimer Sultani, and PCATI's letter to the authorities dated December 3, 2000.
12. Affidavit of Mr. H.A. of Rahat, collected on December 14, 2000 by Attorney Hanan Khatib, and PCATI's letter to the authorities dated January 1, 2001.
13. Affidavit of Ms. A.A.B. of Laqiya, collected on December 22, 2000 by Attorney Hanan Khatib.
14. Affidavit of Mr. S.A.B. of Laqiya, collected on December 22, 2000 by Attorney Hanan Khatib.
15. Affidavit of Ms. S.A.B. of Laqiya, collected on December 22, 2000 by Attorney Hanan Khatib.
16. Affidavit of Mr. W.A.B. of Laqiya, collected on December 22, 2000 by Attorney Hanan Khatib.

¹³ In some cases, there are only affidavits.

¹⁴ When more than one affidavit was collected on the same date, these are alphabetized according to the names of the declarants. Full names and identity numbers are included in the affidavits themselves.

17. Affidavit of Mr. Z.A.B.M. of Laqiya, collected on December 22, 2000 by Attorney Hanan Khatib, and PCATI's letter to the authorities dated January 4, 2001.
18. Affidavit of Mr. S.KH. of Akko, in the matter of the minor M.H., collected on December 25, 2000 by Attorney Samira 'Amar, and PCATI's letter to the authorities dated January 2, 2001.
19. Affidavit of Ms. I.H. of Akko, in the matter of the above-mentioned M.H., collected on December 25, 2000 by Attorney Samira 'Amar.
20. Affidavit of Mr. M.M.'A. of East Jerusalem, based on testimony collected by Yuval Ginbar on December 26, 2000, and verified and confirmed as an affidavit by Attorney Hanan Khatib on January 10, 2001.
21. Affidavit of Mr. H.D. of East Jerusalem, collected on January 7, 2001 by Attorney Hanan Khatib.
22. Affidavit of Ms. T.K. of Jerusalem, collected on January 10, 2001 by Attorney Hanan Khatib.
23. Affidavit of Mr. R.SH. of East Jerusalem, collected on January 7, 2001 by Attorney Hanan Khatib.
24. Affidavit of Mr. S.SH. of East Jerusalem, collected on January 10, 2001 by Attorney Hanan Khatib.
25. Affidavit of Mr. 'A.'A. of Kafr Kanna, collected on January 14, 2001 by Attorney Walid Khatib.
26. Affidavit of Mr. K.H. of Kafr Kanna, collected on January 16, 2001 by Attorney Walid Khatib.
27. Affidavit of Mr. F.H. of Kafr Kanna, collected on January 16, 2001 by Attorney Walid Khatib.
28. Affidavit of Mr. B.'A. of Kafr Kanna, collected on January 16, 2001 by Attorney Walid Khatib.
29. Affidavit of Mr. W.G. of Nazareth, collected on February 4, 2001 by Attorney Hanan Khatib.
30. Affidavit of Mr. M.M. of Yafi'a/Nazareth, collected on February 4, 2001 by Attorney Hanan Khatib.
31. Affidavit of Mr. M.'A. of Nazareth, collected on February 4, 2001 by Attorney Hanan Khatib.
32. Affidavit of Mr. B.A.H. of Nazareth, collected on February 5, 2001 by Attorney Hanan Khatib.
33. Affidavit of Mr. M.H.'A. of Nazareth, collected on February 5, 2001 by Attorney Hanan Khatib.

3. Principal Findings

The affidavits and the other information collected by the Public Committee Against Torture in Israel reveals that the police, the GSS and other authorities grossly violated the basic human rights of persons in their custody after their detention during the events of September-October 2000. In particular, the following rights were infringed: the right not to be subject to discrimination on the grounds of race or nationality; the right not to be subject to torture or to other forms of cruel, inhuman or humiliating punishment; the right to due process of law; and the right of children to special treatment and protection.

These human rights are enshrined in the Basic Laws of the State of Israel and, in varying degrees, in criminal law and other legislation. In addition, we would emphasize that these infringements relate to rights enshrined in international conventions to which Israel is a party and which it has undertaken to observe, since in any case these rights constitute part of international custom law binding on Israel, and, as such, constitute part of the local law therein; and that these are non-derogable rights,¹⁵ i.e. rights that may not be infringed even in an emergency.

The following sections detail our comments on the violations reflected in the affidavits and documents in our possession, together with a number of examples.

A. *The Right Not to Be Subject to Discrimination on the Grounds of Race or Nationality*

We saw fit to mention and illustrate this aspect as the first and foremost of PCATI's findings, since, in our opinion, the Commission of Inquiry should also consider the broader context of the discrimination that exists in Israel against the Palestinian citizens of the state. The roots of the violent and humiliating behavior of security force personnel toward these citizens during the events lie, we believe, in the racist prejudices rife in the Jewish sector in Israel, and in a manifestation of discrimination that reflects nothing less than full-fledged racism.

A racist and hostile attitude toward the Palestinian minority in Israel runs like a thread through all the findings quoted here. It is difficult to imagine the personnel of the police, GSS or other authorities acting with such gross violence, abuse, humiliation and infringement of rights toward Jewish detainees. It is difficult to fully understand such behavior, and it will surely be impossible to end it, without appreciating that, for the police and GSS personnel, the fact that detainees are Arabs or Palestinians (or, to use the euphemism, "security detainees") seems to unleash a response legitimizing the inhuman treatment of these detainees.

To exemplify the gravity of this situation, we shall quote a selection of statements from the affidavits – all repugnant, and some abhorrent – made by police and GSS personnel to Israeli citizens while the latter were in their custody:

¹⁵ In this matter, see, for example, Article 4(2) of the Convention on Civil and Political Rights, Note 3 above; Article 2 of the Convention against Torture, Note 5 above. The Convention on the Rights of the Child is completely non-derogable. Regarding the rights to due process of law, international law does not prohibit, in emergencies, the derogation of a certain aspect of these rights, but the basic right is also protected in the laws of war (see, for example, article 3(1)(d) of all the Geneva Conventions from 1949; articles 64-76 of the Fourth Geneva Convention); this certainly applies in emergency situations not amounting to war.

- “Filthy Arabs.”¹⁶
- “You’re lying Arabs... we’re going to expel you to the Territories and to Jordan.”¹⁷
- “You’re a terrorist, a son of a dog, a filthy Arab... even dogs hate the Arabs.”¹⁸
- “Start praying, say ‘*Allahu akbar*,’ because we’re going to kill you in ten minutes.”¹⁹
- “Call to your Muhammad to help you, because you’re going to die.”²⁰
- “You should lower your heads every time a Jew passes.”²¹
- “Filthy Arabs, terrorists, Arafats, we’ll educate you.”²²
- “The shoes of a Jew you threw stones at are worth millions of Arab souls.”²³
- “They serve tasty hummus in your village. I guess you all jerk off and come on it.”²⁴

These are just examples of the verbal treatment meted out by public servants in the State of Israel to a section of the public whom they are supposed to served. Accordingly, it will hardly come as a surprise that this same racist attitude is reflected in all the other aspects of the behavior of the security force personnel toward detainees who are Palestinian citizens of Israel.

B. Violations of the Right not to be subject to Torture or Other Forms of Cruel, Inhuman or Humiliating Treatment or Punishment

This right is a basic and fundamental one, which is not to be infringed in any situation. The UN Convention against Torture, to which Israel is a party, states that “no exceptional situation whatsoever, whether war or the threat of war, internal political instability, or any other public state of emergency, shall be used to justify torture.”²⁵ The Convention on Civil and Political rights, to which Israel is also a party, determines that the prohibition against torture and other forms of cruel, inhuman or humiliating treatment or punishment applies even “in an emergency threatening the life of the nation.”²⁶

It is evident from the affidavits, however, that Israel is still far from internalizing these universal human values, at least insofar as regards the treatment of Palestinian detainees. Widespread violence toward these detainees was seen among police officers making arrests and those handling the detainees at the police detention facilities and the GSS interrogation facilities.

¹⁶ Affidavit #11 in the list, para. 5.

¹⁷ Affidavit #16, para. 5.

¹⁸ Affidavit #16, para. 18.

¹⁹ #20 (testimony).

²⁰ Affidavit #21, para. 11.

²¹ Affidavit #21, para. 14.

²² Affidavit #23, para. 6.

²³ Affidavit #25, para. 6.

²⁴ Affidavit #26, para. 6.

²⁵ Article 2(2), see above, Note 5.

²⁶ Article 4(2), see above, Note 3.

1. The Israel Police

A. *Violence toward Detainees*

The material in this report relates to persons in the custody of the authorities – i.e. from the moment a person is under the control of the police officers, and is not physically opposing this control, **any use of violence toward that person is absolutely prohibited, and any use of force constitutes the excessive use of force.** The police officers were, it seems, unaware of this simple and basic rule, or preferred utterly to disregard it.

The affidavits paint a depressing picture of physical abuse by police officers of helpless persons subject to their authority. This abuse was manifested in the following forms:

- Pushing
- Kicking
- Beating – including the use of truncheons and rifle butts.
- Slapping.
- Tightening handcuffs to the point of causing pain.

The following are several examples:

From the affidavit of Mr. Y.A. of Musheirfa:

The security forces forcibly placed me in the patrol vehicle, and throughout the journey to the police station in Eiron all the soldiers [the reference is to police officers - PCATI] in the patrol vehicle beat me. After we arrived at the station, they took me out of the patrol vehicle, covered my head with the shirt I was wearing, and continued to beat me. As the result of the beatings, I sustained injuries to my body, bruises, swellings on my face and injuries on most parts of my person.²⁷

From the affidavit of Mr. 'A.M. of Taibe:

About five policemen grabbed me, and handcuffed my hands behind my back. The handcuffs were very tight and my hands really hurt. They started hitting me on all parts of my body, particularly in the stomach. They beat me with truncheons, hands and feet [...] They put me in the jeep. Four policemen from the Border Police who were in the jeep with me kept on beating me... They beat my stomach with their hands and with the back part of the rifle.²⁸

From the affidavit of Mr. M.M.'A. of East Jerusalem:

A policeman came... and kicked me in the ribs. Another one came from the other side and kicked me. All together there were maybe six of them, perhaps more, who beat me – all of them together, beating and slapping... One of them came and hit my head with the butt of his rifle. When another detainee came in, they threw him on the floor and beat him too. This went on intensively, perhaps for ten minutes, and then they kept on beating me from time to time. When a new detainee arrived, they would leave me and beat him.²⁹

²⁷ Affidavit #4, paras. 5-7.

²⁸ Affidavit #11, paras. 3-4, 7.

²⁹ Affidavit #20, lines 11-16.

From the affidavit of Mr. H.D. of East Jerusalem:

Seven or eight policemen led me to the police point together with four or five other Arabs. The beating began as soon as we got to the entrance, at either side of the steps leading from the road to the station precinct yard. Along all the steps – there are about thirty – Border Police personnel stood on both sides, and from the first step they jumped on us, beating with their hands, legs, rifles and whatever they got their hands on [...] We were forbidden to raise our heads, and any movement met with kicking and/or beating with a rifle butt and/or spitting.³⁰

From the affidavit of Ms. T.K., Jerusalem:

At or about the beginning of November 2000, there was a terrorist attack in a street close to Machaneh Yehudah market. At that time, I was in the market shopping. After a few minutes, the Border Police people came and started shouting and gathering the Arabs who were in the market. They grabbed them by the scruff of their necks like “dogs” and beat them, slapped and kicked on all parts of their bodies, while cursing them and yelling at them to give them their identity cards. The workers obeyed without refusals [...] Later, on my way home, I saw one of the workers with clear signs of abuse all over his body – a picture I shall never forget.³¹

From the affidavit of Mr. W.G. of Nazareth:

... While I was at the entrance to my neighborhood, “Marah Al-Jozlan”, a *mist'arev*³² approached me, stopped me and tried to drag me forcefully. When I resisted, 5 *mist'arvim* immediately fell on me and began to beat me with their fists and rifle butts, kicking me on all parts of my body. As a result, my eye was badly injured, swelled and went blue. They smashed my head open three times. One of the *mist'arvim* covered my head with my shirt, and another began to kick me in the stomach. As a result of the beating and kicking, I was dazed and bleeding, and partially lost consciousness. Later they handcuffed me and threw me in the back of their vehicle. They laid me down and began to beat me with a rifle butt, stepping and spitting on me...³³

From the affidavit of Mr. M.M. of Yafi'a/Nazareth:

While I was getting in the vehicle and the door was still open, 4 members of the Special Patrol Unit dressed in khaki pants and blue shirts jumped on me and started firing rubber bullets. I was scared and closed the door, fearing injury. Suddenly two of them began to break the car. Two others opened the door and began to beat all parts of my body, particularly my left ear and shoulder. They were cursing me crudely and obscenely.

They dragged me and beat me on the back. They dragged me over ground covered with stones, glass and metal. Then they put plastic handcuffs on me [...] I told them I was innocent and asked “Why are you taking me?? I didn't do anything.” They didn't answer. They took me to their vehicle (a white

³⁰ Affidavit #21, paras. 6,9.

³¹ Affidavit #22, paras. 3,12.

³² *Mist'arev* (plural: *mist'arvim*) – undercover security person disguised as an Arab (trans.)

³³ Affidavit #29, paras. 2-4.

bus) and shoved me in between the seats, injured and bleeding. Three of them went on cursing, kicking and treading on me, and used me like a step.

It is important to note that, as the result of the beating and kicking I sustained during my arrest, I fainted and lost consciousness. I only came around at “Al-Musqubiya,” in the yard of the detention center in Nazareth...³⁴

From the affidavit of Mr. M.'A. of Nazareth:

[Special Patrol Unit personnel] dragged me to the main road where they were based, kicking me, hitting me with their fists, mocking and cursing me. They beat me severely on all parts of my body, particularly my head. They hit me with a rifle butt and with their shoes. I state that the commander was in blue uniform – I cannot remember his name, but I can identify him.³⁵

B. *Infringement of the Dignity of Detainees*

The responsibility of police personnel toward those in their custody includes the duty to act with dignity toward them, and not to humiliate them, degrade them or treat them in any inhuman manner. Even this basic and fundamental duty seems to be unknown to many police officers in the Israel Police; alternatively, they preferred to disregard it.

The affidavits show that the violent physical abuse by police officers of detainees subject to their authority was accompanied by severe psychological abuse.³⁶ This abuse included the following forms:

- Humiliation
- Curses
- Threats

The following are some examples:

From the affidavit of Attorney H.T. of Kafr Kan'a:

I saw a group [of policemen]... dragging and pushing a young man forcefully across asphalt ground. One of his feet was bare [...] I then identified myself as an attorney to the policemen and asked that they treat the young man properly, since he had in no way resisted his detention... [...] One policeman standing by the police vehicle pointed his rifle at my head and yelled that if I didn't go into my office immediately, he would shoot me.³⁷

From the affidavit of Mr. Y.A. of Musheirfa:

As well as beating me, the security forces cursed me in all kinds of ways, including “*manyak*”³⁸ and “sonofabitch.”³⁹

³⁴ Affidavit #30, paras. 4-6,8-9.

³⁵ Affidavit #30, para. 3.

³⁶ Although the distinction is somewhat artificial, we have chosen to relate separately to racist expressions by police officers and GSS personnel toward detainees, although such expressions naturally formed an integral part of their humiliating treatment of the detainees. See above.

³⁷ Affidavit #1, paras. 3,7.

³⁸ *Manyak* (an Arabic curse also used in Hebrew) is possibly the worst epithet that can be leveled by one man at another, implying an “accusation” of passive homosexuality (trans.).

³⁹ Affidavit #4, para. 8.

From the affidavit of Mr. H.A. of Rahat:

I was transferred to the police station in Ofakim, where they took my eyeglasses. I begged them to give me them back, but they refused. After 48 hours, and only after Attorney Dakwar intervened, they agreed to give me my glasses back.⁴⁰

From the affidavit of Mr. H.D. of East Jerusalem:

After they dragged me like a “dog” in front of my little son, they began to yell and push me, cursing me with obscene curses, such as “sonofabitches,” “we’ll fuck you,” and so on, and other crude expressions that I do not wish to mention in my affidavit [...] One of the policewomen came into the yard and said “I’m going to fuck every one of you.”⁴¹

From the affidavit of Mr. W.G. of Nazareth:

Then they handcuffed me and threw me into the back of their vehicle. They laid me down and began beating me with the butt of a rifle, stepping on my and spitting on me. All this was accompanied by yelling and obscene curses, such as: “We’re gonna fuck your mother, we’re gonna fuck your sister...”⁴²

From the affidavit of Mr. B.H. of Nazareth:

They dragged me to the center of the “Kishle,” about 80 meters, all the time beating and kicking me, and cursing me crudely and obscenely, for example: “We’re gonna fuck you, we’re gonna fuck your mother.”⁴³

C. *Infringements of the Rights of the Relatives of Detainees*

There is sometimes no alternative but to effect an arrest in the suspect’s home. It is evident, however, that in effecting such an arrest the relatives of the detainee are not to be injured in any manner, and that they and their property are to be treated with dignity. In particular, sensitivity must be shown in treating children present in the home. These basic human norms do not appear to have been inculcated to the Israel Police, at least insofar as regards arrests in the homes of Palestinian citizens of Israel.

The affidavits show that police officers who came to the homes of suspects to effect arrests acted violently, rudely and disrespectfully toward the home and those present therein, including small children. This behavior was manifested in the following forms:

- Violence toward relatives
- Intimidation and threats, including toward children
- Arbitrary damage of property

The following are some examples:

From the affidavit of Ms. A.A.B. of Laqiya:

⁴⁰ Affidavit #12, paras. 4-5.

⁴¹ Affidavit #21, paras. 5,12.

⁴² Affidavit #29, para. 4.

⁴³ Affidavit #32, para. 4.

When they [the policemen] entered, they made us stay in the kitchen. I was with some of my family, including my sick daughter, who suffers from mental retardation; and my eighteen-month old nephew, who began to cry and shout... They held us for some 40 minutes. During this period, they prohibited us to go out to the toilet, although my sick daughter needed to do so. My begging and requests were denied [...] They began to search every corner of the house, in closets and bedrooms. In the kitchen they spilt oil and flour...⁴⁴

The impact of this protracted and violent search on the young nephew is described in the affidavit given by his mother, S.A.B. of Laqiya:

... As a result of the search carried out in Wisam's house, in the presence of my son, he suffers from anxiety and trauma. This has caused him to be reticent about going near the house, or even the relatives who live there. Since then, my son has suffered from insomnia. He wakes up in the middle of the night crying and shouting, has lost his appetite, and refuses to go outside or stay in his room on his own. I should add that we are quite careful about turning the television on, because as the result of the event if he's watching television and sees policemen or a police car, or hears a siren, he starts crying and shouting: "Look, a gun, police, dog, boom, boom, boom." [...] Until this event, my son was completely healthy in body and mind [...] As the result of and following the event, my son suffers from trauma, insomnia and loss of appetite, and he is under medical supervision at the Kupat Holim.⁴⁵

From the affidavit of Z.A.B.M. of Laqiya:

They started banging doors strongly, the whole house was afraid, and my little brothers woke up and started crying and shouting... I should note that they broke a window in the house. About 20 members of the Special Patrol Unit entered the house at once [...] Then my little brother noticed and started to cry. One of the SPU men grabbed him forcefully by the head, pointed his rifle at his neck and pushed him cruelly and violently into the room. They locked the door and closed him inside – something that has traumatized him.⁴⁶

From the affidavit of Ms. T.K.:

It was really hard for me to see the little children who were there, the children of workers who always accompanied their fathers and helped them. I won't forget the faces of the little ones who stood there watching their fathers be beaten and humiliated by the Border Police.⁴⁷

2. General Security Service (GSS)

Some detainees were taken for interrogation at GSS facilities. In 1999, responding to petitions filed by PCATI, the Association for Civil Rights in Israel, and Hamoked Center for the Defense of the Individual, the High Court of Justice ruled that the interrogative powers of

⁴⁴ Affidavit #17, paras. 2,4.

⁴⁵ Affidavit #15, paras. 4-9.

⁴⁶ Affidavit #17, paras. 2,4.

⁴⁷ Affidavit #22, para. 4.

GSS personnel are identical to those of police interrogators, and prohibited them from using the forms of torture formerly permitted by the Landau Committee.⁴⁸ However, the affidavits show that the GSS personnel have not yet internalized the fact that violence, physical and mental exhaustion, humiliation, threats and insults are no longer legal “means of interrogation” in the State of Israel.

According to the affidavits, GSS interrogators employed the following “means of interrogation:”

- Pushing, beating and slapping
- Tying detainees to chairs for prolonged periods in painful positions
- Causing exhaustion through protracted interrogation and interrogation in the middle of the night
- Tight handcuffing
- Humiliation, threats and curses⁴⁹

The following are some examples:

From the affidavit of Mr. M.A.W. of Kafr Kar’a, who was interrogated at the GSS facility in Kishon Detention Center:

My interrogation was accompanied by the use of violence, hitting and pushing. I was tied to a chair for the entire night. [The interrogator - PCATI] threatened me and my family.⁵⁰

From additional information provided to PCATI regarding the case of Mr. A.W.:

Every night he was woken up at 3 am... and they began to interrogate him. One night, when he refused to give answers to the satisfaction of the interrogators, he was tied to a chair fixed to the floor for about six hours, and told that when he wanted to talk he should call the interrogators.

In addition he was slapped and humiliated; for example: “They’re gonna fuck the face off you in court, you sonofabitch.”⁵¹

From the affidavit of Mr. ‘I.M. of Kafr Kar’a, who was interrogated at the GSS facility at Kishon Detention Center:

My interrogation was accompanied by threats, beatings, curses, handcuffing during interrogation, and blindfolding.⁵²

From the affidavit of Mr. W.A.B. of Laqiya, who was interrogated by the GSS in five different locations:

Many things concerned me, including curses, humiliation and offensive expressions directed at me by the GSS interrogators, such as: “We’ll stop you, you’re a lying terrorist...” [...] I should also state that they used obscene and humiliating expressions about my parents and family:

⁴⁸ SC 5100/94, *PCATI vs State of Israel through the Government Secretary*, September 6, 1999.

⁴⁹ Including racial expressions discussed separately above.

⁵⁰ Affidavit #6, para. 7.

⁵¹ PCATI’s letter to the Attorney-General and Attorney Eran Shendar of the Police Investigation Department in the Ministry of Justice dated December 20, 2000, para. 3.

⁵² Affidavit #7, para. 7.

A. My brother is doing research work about the Palestinian refugees. They told me that they would expel me to Jordan, to provide vital information for my brother's research.

B. Another of my brothers has been a driver with Egged for 15 years; they referred to him as "a terrorist, just like you."

C. The interrogation included threats to bring my mother into the room, to force me to admit the charges of attacking policemen about which I was interrogated. [...]

... I was interrogated in the GSS facility the day before the trial, and they pressured me in various ways. Among other things, they handcuffed me to a chair, with my hands stretched behind my back. My feet were also manacled, so I was in a very painful position... I should add that any movement I made was reacted to with beatings, curses and threats.⁵³

From the affidavit of Mr. 'A.'A. of Kafr Kanna, who was interrogated at the GSS facility at Kishon Detention Center:

During the interrogation, improper forms of interrogation were used against me... Interrogation late at night (although not to the point of sleep deprivation), tying for long periods, verbal threats – "You'll die in detention" – and curses "You terrorist"... They used psychological pressure, and claimed that my family was glad that I'd been arrested and didn't want me to be freed (because I'm a drug user)...⁵⁴

From the affidavit of Mr. K.H. of Kafr Kanna, who was interrogated at the GSS facility at Kishon Detention Center:

... They used the following improper means against me:...

- Threats, cruses and verbal humiliation: "You terrorist," "I'm gonna fuck you," "Pig," "Crocodile."
- Threats against my family. When I claimed that I had an alibi, and that my sister could testify that I was at home after the funeral finished, they threatened that they would bring my sister too, and then they would have two of us instead of one.
- Protracted interrogation and interrogation late at night, including the use of psychological pressure and lies...⁵⁵

From the affidavit of Mr. F.H. of Kafr Kanna, who was interrogated at the GSS facility at Kishon Detention Center:

During the interrogation, they used numerous improper means of interrogation against me to exhaust me, and to extract confessions of actions I had not committed...

- Curses and humiliations, such as "You're mother has no honor," etc.
- The use of psychological pressure and threats to my family: "You're buried here." "If you're married or engaged, you should release you partner. It's a pity to keep her, you're going to die here."⁵⁶

⁵³ Affidavit #16, paras. 5-6, 19.

⁵⁴ Affidavit #25, para. 6.

⁵⁵ Affidavit #26, para. 6.

3. Humiliating and Inhuman Conditions of Detention

Maintaining the dignity of detainees includes minimal conditions that must be provided by the detaining authorities for all detainees. These conditions include proper medical treatment; cleanliness and hygiene; ventilation; food of good quality; comfortable conditions for rest and sleep; clothing; a daily walk; separation of detainees and sentenced prisoners, minors and adults, and women and men; the possibility of visits by relatives; the possibility to observe religious customs; availability of reading material, etc. The affidavits show that the police and GSS authorities at whose facilities Palestinian citizens of Israel arrested during the events were housed denied detainees most of the above-mentioned rights.

The appalling conditions that have prevailed for years at the GSS facilities raise the possibility that these conditions actually constitute a “means of interrogation,” i.e. an illegal way to abuse interrogees, thus forcing them to serve the purposes of their interrogators.

According to the affidavits, the conditions of detention included:

- Dirt, odor, and poor sanitary conditions.
- Lack of basic items for personal hygiene, such as soap and toilet paper.
- Unavailability of showers at reasonable intervals.
- Poor food.
- Overcrowding and stifling atmosphere
- Preventing or delaying other basic rights, such as medical treatment and contact with families

The following are some examples:

From the affidavit of Mr. M.A.W. of Kafr Kar’a, who was detained at the GSS facility at Kishon Detention Center:

I was held for six days in a 10-meter room with 7 other detainees. We lacked basic items such as soap, toilet paper, etc.⁵⁷

From the affidavit of Mr. J.F. of Kafr Kar’a, who was detained at the GSS facility at Kishon Detention Center:

I was held in a 20-meter room with 22 people... we lacked basic items in the room. The room was very overcrowded, and for entire days I couldn’t manage to fall asleep.⁵⁸

From the affidavit of Mr. S.A.M. of Laqiya, who was detained at the Negev District police station:

The detention room was about 4 square meters, and intended for 6 people. In fact they put 12-13 people in the room, which prevented comfortable and minimum sleep. There were cockroaches in the detention cell, a constant flow of water during day and night, causing insomnia [...] I should note that the

⁵⁶ Affidavit # 27, para. 5.

⁵⁷ Affidavit #6, para. 8.

⁵⁸ Affidavit #10, para. 8.

food was not clean nor the mattresses, blankets. The lack of ventilation and the foul odor almost made us get various illnesses.⁵⁹

From the affidavit of Mr. W.A.B. of Laqiya, who was detained, inter alia, at a lock-up in the Negev District police station:

The conditions in the solitary lock-up were very poor and disgusting. The cell is neglected. The toilets in the lock-up do not have a partition wall. There are cockroaches everywhere. The food was bad, and I didn't eat for the entire period. I lost 12 kgs during this time. I was not allowed to wash or change my clothes.⁶⁰

From the affidavit of Mr. 'A.'A. of Kafr Kar'a, who was detained at the GSS facility at Kishon Detention Center:

Most of the time I was held, and manacled, in a very narrow cell, 1.5 m wide, 2 m long and 3 m high... The cell was not properly ventilated and the odor was foul. The hygienic conditions were very poor, and there was a constant noise from the ventilation window that disturbed my sleep. The food they served was of very poor quality; the smell of the eggs made me lose my appetite... I was detained for four days, during which time they only let me take a shower once. I did not have a change of clothes, because they would not let me take any from home. They did not let me have visits from my family...⁶¹

From the affidavit of W.G. of Nazareth, who was detained, inter alia, at police detention facilities in Ramle:

... I was transferred to "transition" in Ramle for three days. The conditions in "transition" were very poor and intolerable. The cell was full of cockroaches; there was a smell of sewage; the toilets and showers were combined with no partition from the cell. The food was dirty and spoilt.

From "transition," I was moved to the main wing at Nitzan Ramle, where conditions were very poor and dirty... The cell was full of cockroaches and, as a result, I caught a skin disease for which I received medical treatment and was moved to a different cell.⁶²

From the affidavit of Mr. M.'A. of Nazareth, who was detained, inter alia, at Kishon Detention Center:

... I would beg them [the prison guards - PCATI] to let me call my wife, who was pregnant, in order to calm her down, and I also asked them for a free visit, but all my requests were in vain. Only after I complained to the commander, and he intervened, was I allowed to call my family [...] As a result of and following my detention, I suffered from pain in my legs, and when I asked to receive medical treatment, they replied "You're just acting."⁶³

⁵⁹ Affidavit #14, paras. 10-12.

⁶⁰ Affidavit #16, para. 14.

⁶¹ Affidavit #25, para. 7.

⁶² Affidavit #29, paras. 11-12.

⁶³ Affidavit #31, paras. 18, 20.

From the affidavit of M.H. of Nazareth, who was detained, inter alia, at Kishon Detention Center:

The conditions there were very poor. About 30 of us were held in a cell, although it was intended for 8 people (according to the number of beds). Here, too, we had to share. Some people slept on the floor and some slept two on one bed. There were cockroaches in the room. There was no hot water. The food was dirty and spoiled and there was a lack of ventilation... I suffer from asthma, and the lack of ventilation exacerbated my condition. When I asked to receive medical treatment, they said "Bring in medicine from outside."⁶⁴

⁶⁴ Affidavit #33, para. 7.

C. *Violations of the Right to Due Process*

Every detainee has the right to know exactly what their situation is; to understand the proceedings instigated in their matter; to raise their claims without fear; and to receive appropriate legal assistance. Accordingly, legal proceedings must be transparent and fair. The affidavits show that throughout the process – from the entrance of security forces personnel into the homes of Palestinian citizens, through detention itself, and in contacts with attorneys – the proceedings were the opposite of the above – they were opaque and arbitrary.

According to the affidavits, the following flaws marred the proceedings:

- Forcible entry into homes without any attempt to ask for permission from the residents
- Police officers and other security force personnel refrained from identifying themselves to civilians
- Detainees were not informed of their rights
- Detainees were prevented from meeting with their attorneys
- Detention was prolonged “for the purposes of interrogation” although detainees were not interrogated at all during this period

The Public Committee Against Torture in Israel wishes to draw the attention of the Commission of Inquiry to the fact that, in the cases of at least six of the detainees under discussion in the affidavits, orders were issued preventing their meeting with their attorneys; accordingly, they were denied the basic right to proper legal protection.

The right to legal representation is enshrined in Israel both in legislation⁶⁵ and in court rulings.⁶⁶ As a general rule, suspects may not be prevented from meeting with their attorneys for a period exceeding 48 hours, even “when this is required for the purpose of protecting human life.”⁶⁷ However, “persons suspected of a security offense” are excluded from this rule; in their case, meeting with an attorney may be prevented for a period of up to 21 days.⁶⁸ The authority to isolate the detainee from basic means of legal protection for such a lengthy period immediately following detention, at a time at which the danger of torture and abuse on the part of the detaining and interrogating bodies is at its highest, is inconsonant with international standards.

International legal standards binding on Israel establish that “provisions are to be established against incommunicado detention... protection of detainees also required **prompt and regular access** by physicians and attorneys...”⁶⁹ In the “Basic Principles on the Role of Lawyers” it is established that such access shall be enabled **at the latest** within 48 hours from the time of detention [emphases ours].⁷⁰

⁶⁵ See, for example, article 22 of the Israel Bar Law, 5721-1961.

⁶⁶ See, for example, SC 515/74, *Anonymous vs Investigative Military Police*, Verdicts 29(2); criminal appeal 134/89, *Avrajil vs State of Israel*, Verdicts 44(4).

⁶⁷ Article 34 of the Criminal Proceedings Law (Enforcement Authorities - Detentions), 5756-1996; the quote is from sub-section (f).

⁶⁸ Article 35 of the above-mentioned law.

⁶⁹ General comment No. 20 (44) (art. 7), **Report of the Human Rights Committee**, UN GAOR Sup. No. 40 (A/47/40), Annex VI (adopted in 1992), para. 11. See also, for example, principle no. 15 in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Note 7 above.

⁷⁰ Principle No. 7, Note 12 above.

In countries that respect these standards, the right to prompt access to attorneys is not denied, even in emergency situations. In Britain, for example, meetings of detainees with an attorney within 48 hours of the time of detention have been enshrined in legislation, including in emergency legislation relating to Northern Ireland, since the end of the 1970s. A similar situation exists in the United States: in an affidavit submitted to the Supreme Court at the request of PCATI, Attorney Robert Neigh testified that following the detention of his client Timothy McVeigh (the most dangerous terrorist in the history of the United States, responsible for the death of 168 people in the bomb attack in Oklahoma in 1995), McVeigh was allowed to meet with his attorney **immediately on his detention**, and the attorney was present each time his client was interrogated.⁷¹ It therefore goes without saying that there was no justification for preventing the Palestinian citizens of Israel who were detained from meeting with their attorneys.

The following are some examples of infringements of the other rights mentioned above:

From the affidavit of Mr. 'A.M. of Taibe:

I remained in detention for 25 days [...] I wish to note that none of the policemen or interrogators explained to me my rights as a detainee.⁷²

From the affidavit of Mr. H.A. of Rahat:

On December 10, 2000, the police filed an application to extend my detention by 5 additional days. I appeared before Judge Zlochover at the Magistrate's Court in Beersheva; he ordered my detention for 4 additional days. [...] I swear that after the extension of my detention, I was not interrogated at all, despite the fact that their application for extension of my detention stated that they required several days to complete the interrogation.⁷³

From the affidavit of Ms. A.A.B. of Laqiya:

Suddenly, and without permission, the door opened and some ten persons entered at once, accompanied by a dog. Some of the persons were in civilian clothes and others in uniform. They entered without identifying themselves and without a warrant ...⁷⁴

From the affidavit of Mr. S.A.B. of Laqiya:

I swear that I asked them to explain my rights and the suspicions against me; why was I being interrogated? They responded that they were from the GSS, and that it is the policemen in blue uniform who caution the interrogee and explain his rights. [...] The police filed an application to extend my detention for 11 additional days in order to complete the interrogation. The court agreed to give them 6 days [...] during the six days from the extension of my

⁷¹ See SC 7563/97, *A'Rahman Isma'il Janimat and PCATI vs Government of Israel et al.*, Application to Add Reference Material to the Principle Claims, Application to Add Affidavits to the Factual Description, January 10, 1999, affidavit of Attorney Robert Neigh (appendix), January 8, 1999, para. 4.

⁷² Affidavit #11, paras. 12-13.

⁷³ Affidavit #12, paras. 3,6.

⁷⁴ Affidavit #13, paras. 3-4.

detention, I was not interrogated at all, apart from their taking fingerprints and a computerized photograph.⁷⁵

From the affidavit of Mr. Z.A.B.M. of Laqiya:

Some 20 persons from the Special Patrol Unit entered my home at once, after my father opened the door. He asked them what they wanted and they said they wanted me. At that moment, I was on the stairs. They grabbed me forcefully and told me I was wanted. They did not identify themselves and did not show me a warrant.⁷⁶

D. Violations of the Right of Children to Special Treatment and Protection

The special status enjoyed by children in society, and the special obligations this status imposes on adults in general, and on persons exercising authority in particular, might seem to be so obvious as not to require detailed specification. Regrettably, however, the affidavits show that the police officers who detained and interrogated children completely ignored the basic rights of children in detention, including: the right not to be exposed to violence, threats or humiliation; the right to be accompanied by welfare workers and relatives, particularly during interrogation; and the right not to be imprisoned together with adults. This was accompanied by the exposure of the children to situations, sometimes traumatic, of violence and humiliation against their parents and other relatives, as described above. All these constitute grave infringements of the international convention that has been ratified by more countries than any other (including Israel): the UN Conventions on the Rights of the Child.⁷⁷

According to the affidavits, the treatment of detained children included:

- Violence
- Humiliation and threats
- Detention and interrogation in inappropriate conditions

The following are some examples:

From the affidavit of W.'A. (a minor) of Kafr Kar'a, born 1983:

On October 20, 2000, at 2 am, I was detained by the Central Unit [...] My detention was carried out using beating, handcuffs and pushing. [...] I was interrogated and questioned by the GSS and the Central Unit. [...] I swear that my interrogation took place through use of violence; the interrogator punched me in the face with his fist, causing me to feel dizzy.⁷⁸

From the affidavit of Mr. W.'A. (a minor) of Kafr Kar'a, born 1984:

On October 20, 2000, at 2 am, I was detained by the Valleys Central Unit on suspicion of participation in the riots at the beginning of October at Kafr Kar'a intersection. [...] I was interrogated and questioned by the GSS and the Valleys Central Unit. [...] My interrogation was accompanied by the use of

⁷⁵ Affidavit #14, paras. 5,13.

⁷⁶ Affidavit #17, para. 3.

⁷⁷ See above, Note 6.

⁷⁸ Affidavit #8, paras. 4-7.

threats that, if I did not confess, they would use force against me. [...] I was held in a solitary lock-up for 4 days out of the total period of 7 days. I was held in a 6- meter room, together with 4 other people. A police stooge was put into the detention cell. He tried to make me confess to things I hadn't done. The stooge tried to complicate and damage my relations with my attorney.⁷⁹

From the affidavit of Mr. S.H. of Akko, in the matter of the minor M.H., aged 10:

On October 3, 2000, at or about 6 pm, I was in the Old City of Akko, opposite Monte Carlo Restaurant. The special unit of the police was there at the time, including the commander of the Akko station... [...] From the direction of the market, I saw a policeman arrest a minor brutally, grabbing him by the back of his neck. [...] I drew closer and approached the policeman, asking him to release the minor, who turned out to be M.H. I believed his age to be no more than 6-7 years. The policeman refused. Another policeman on the scene shouted and threatened me, saying that if I did not leave he would arrest me, too. Then the policemen took the minor to Akko police station. [...] When I arrived at the police station, I went up to the interrogation office. When I opened the door, two policemen, one of them an officer, were sitting three meters from me. I heard them interrogating the above-mentioned minor, shouting and threatening that if he did not speak they would arrest him. The interrogation took place without the presence of any of the minor's parents or relatives.⁸⁰

⁷⁹ Affidavit #9, paras. 4,6-8.

⁸⁰ Affidavit #18, paras. 2-4,7.

4. Conclusions and Recommendations

The events of September-October 2000 in Israel represented a test for the Israeli security forces. The test was not only their capacity to cope with these demonstrations and riots but also, and no less importantly, a test of their ability, in a difficult and complex situation, to maintain a level of professionalism and discipline, and to protect the dignity of any man, woman or child and their rights as humans – rights that must form the basis of any enlightened society.

The security forces and other authorities gravely failed this test. It should be reiterated that this report relates to detainees. In this case, there can be no claim of self-defense or danger to life. Specious arguments used by the GSS in the past, such as the “ticking bomb” claim, do not apply in these cases. Any violence toward detainees is, by definition, unnecessary violence; and humiliation and abuse are utterly prohibited and improper. Yet despite this, we found violence, abuse and humiliation at every turn.

The affidavits and the other information presented by the Public Committee Against Torture in Israel reveal that the basic human rights of Palestinian citizens of Israel detained in connection with these events were grossly violated. We shall now summarize the findings, and offer our recommendations for ways to amend this situation. PCATI hopes that the conclusions and recommendations drafted by the Commission will be in similar vein.

The right not to be discriminated against on the grounds of nationality or race: The report shows that the security forces and other authorities in Israel are tainted by **institutionalized racism** against the Palestinian citizens of the state. This does not imply overt institutional policy of discrimination on the grounds of race or nationality. Rather, we refer to a situation in which racist views among police and GSS personnel, on the one hand, and the absence of effective mechanisms for diagnosing and uprooting such views, on the other, mean that **in practice**, and despite declared policy, the attitude of the said institutions toward the Palestinian minority is a racist one.

The expression “institutionalized racism” in the above sense was coined by a British commission of inquiry that examined the police investigation following the murder of a young Afro-Caribbean man, Stephan Lawrence, in 1993. In our opinion, and notwithstanding the differences, the comments of that inquiry are regrettably valid and cogent with regard to the situation in Israel:

All the institutions must examine their actions and the practical results of their policies in order to guard against discriminatory injury to any of the communities among us... **The problem and characteristics of institutionalised racism must be recognized unequivocally** before it can be confronted – a confrontation that is essential, in full cooperation with the minority communities... [our emphases]⁸¹

⁸¹ The Stephan Lawrence Inquiry, Report of an Inquiry by Sir William Macpherson of Cluny, Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty. February, 1999, Cm 4262-1.

The Commission of Inquiry in our case should also act courageously and reach similar conclusions – not for the sake of castigation, but as a first essential step toward remedying the problem. In addition to the behavioral aspects reflected in the report, it should also be examined to what extent acts of legislation and regulations on security matters in general, and with regard to “security” detainees in particular, reflect a discriminatory attitude toward Palestinians (who constitute the overwhelming majority of such detainees), rather than constituting a response to legitimate security needs.⁸²

Practical recommendations: PCATI recommends that a firm policy be adopted toward all manifestations of racism. In the longer term, the value of equality of all persons must be inculcated in the population as a whole, and among security force personnel in particular, both by legislative and disciplinary means and by educational and informational means, in cooperation with international organizations, governmental and non-governmental, and with Israeli organizations, and in full cooperation with the Palestinian citizens of Israel.

In this context, it may be noted that as long as an end is not put to the even grosser discrimination, and the even more sweeping denial of rights, of the Palestinian residents of the Territories, it is doubtful whether it will be possible to uproot the scourge of racism within Israel itself.

The right not to be subject to torture and other forms of cruel, inhuman and humiliating treatment or punishment: The report reveals that security force personnel systematically adopted violent, abusive and humiliating means against Palestinian detainees. A state whose agents act in such a manner toward helpless persons subject to their authority must examine itself thoroughly and act energetically in order to remove, once and for all, the shameful tarnish imposed by such treatment.

Practical recommendations: PCATI recommends that all instances of violence and abuse toward detainees be fully investigated, and that those suspected of direct or indirect involvement be prosecuted, while ensuring full protection of their legal rights as defined in international law. In the longer term, Israeli legislation should adopt international standards completely prohibiting torture and abuse of all forms and shades, and allow access to the United Nations committees and experts so that individuals may complain to these committees and Israel may learn from their experience. These standards should be enforced by disciplinary and legal means on security force personnel, and they and their superiors should refrain, for once and for all, from attempts to use various excuses to justify torture and abuse. The Attorney General should act energetically to implement the High Court of Justice decision of 1999, pending the adoption by the Knesset of more comprehensive legislation.

⁸² It is difficult, for example, to explain the refusal to provide a bed or to allow a daily walk for “security” detainees alone as “grounds of the sake of the interrogation or the benefit of the detainee, or state security,” in the terms of article 11 of the Criminal Proceedings Law (Enforcement Authorities – Detentions), 5756-1996. It is no less difficult to draw on such grounds in justifying differences in conditions of detention, such as the fact that a detention cell in which “security” detainees are held is to be whitewashed once a year [Criminal Proceedings Regulations (Enforcement Authorities – Detentions) (Conditions of Detention), 5757-1997, Regulation 22(A)(1)], as opposed to once every six months for other detainees [*ibid.*, Regulation 4(A)]; or the allocation of three pairs of sock to “security” prisoners [*ibid.*, Appendix 2, No. 8], as opposed to four pairs of socks for other detainees [*ibid.*, Appendix 1, No. 17].

Israel is not a poor country, and there is no reason why an immediate stop cannot be put to the miserable and degrading conditions facing detainees in Israel in general, and “security” detainees – i.e. Palestinians – in particular.

The right to due process: The report shows that the treatment of detainees by security force personnel and the other authorities disregards fundamental aspects of due protection for their rights, such as: identification, informing detainees of their rights, the right to legal protection, etc. A state that claims to be based on the rule of law cannot disguise and conceal the law from those whose liberty it curtails.

Practical recommendations: The State of Israel should adopt the standards established by the international community and implemented in most Western nations – standards that respect the right of detainees to due process of law, even in a state of emergency or in the context of terrorist actions. Among other steps, legislation should be passed and enforced requiring police officers to identify themselves and to inform citizens fully of their rights immediately on detention (along the lines of the “Miranda Ruling” in the US⁸³). Detainees must be allowed immediate access to an attorney.

The rights of minor detainees: The report shows that even children, who are considered universally to be entitled to special treatment and protection, were not spared violence, humiliation and intimidation. Indeed, it was sometimes difficult to discern any distinction in the treatment of minors and adults by police officers and GSS personnel – all were subject to indiscriminate beating, humiliating and cursing.

Practical recommendations: All those responsible for abusing children should be prosecuted, while fully protecting their legal rights. In the longer term, legislative and disciplinary means should be used to make it unequivocally clear to security force personnel that violence and other forms of abuse are not to be used against detained children. In addition, children require and are entitled to special protection, to be accompanied by sympathetic adults, to maintain uninterrupted contact with their families, to be separated from adult detainees and, in brief – to enjoy the full range of rights detailed in the Convention on the Rights of the Child and in other international documents.

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Official spokespeople for the State of Israel often describe the country as “the only democracy in the Middle East,” and as a member of the family of progressive and enlightened nations. The behavior of agents of the state – security force personnel and other authorities – toward its Palestinian citizens threatens to render such declarations hollow and meaningless.

The State of Israel must recognize that its law enforcement systems are tainted by institutionalized racism. During the events of September-October 2000, this was reflected in ugly and widespread manifestations of violence and humiliation. Yet this racism is also reflected in less overt ways in legislation, regulations and procedures that effectively discriminate against these citizens.

In PCATI’s opinion, the most effective way to uproot racism, discrimination, violence and inhuman treatment is through the adoption, internalization and implementation of the values of human rights as expressed in the conventions and other documents agreed upon by the

⁸³ 384 U.S. 436 (1996).

international community, including Israel. This must take place through open and ongoing dialogue with the international community, and particularly with institutions and organizations involved in human rights; with Israeli society; and in full partnership with the Palestinian citizens of Israel.