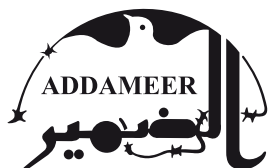




The Sounds of Silence

Isolation and Solitary Confinement of Palestinians in Israeli Detention

July 2008



רופאים לזכויות אדם - ישראל (ע"ר)
أطباء لحقوق الإنسان - إسرائيل
Physicians For Human Rights - Israel



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Introduction

This report is the result of the cooperative efforts of Addameer and Physicians for Human Rights-Israel (PHR-Israel) to protect the rights of Palestinian prisoners¹ and to fight against the practice of isolation, which jeopardizes prisoners' mental and physical health.

The report aims to:

- Examine how isolation is used in Israeli prisons;
- Examine prison conditions and healthcare for Palestinian prisoners held in isolation;
- Compare isolation conditions in Israel and abroad;
- Raise concern about the violations of human rights and medical ethics that result from subordinating patients' well-being to security and other considerations;
- Propose alternative courses of action for attending to the population of prisoners held in isolation.

The report is based on the testimonies of 19 prisoners, including 17 who are currently being held in isolation and two who were held in isolation in the past and who have since been released. The majority of the testimonies were received from sentenced prisoners. The testimonies were received by using a questionnaire on prison conditions, medical (including psychiatric) treatment, and communication with the world within and outside the prison. The report is also based on applications for assistance received by PHR-Israel and Addameer from prisoners who were or are being held in isolation; on medical, including psychiatric files of prisoners in isolation; and on visits made by PHR-Israel's volunteer psychiatrists to isolated prisoners.

Each year, tens of prisoners in Israeli prisons are held in solitary confinement, as a disciplinary measure, or in isolation, on grounds of state, prison or prisoners' security. Isolated prisoners are usually held alone in a separate cell for reasons other than as a disciplinary measure. In this cell, they are prevented from making contact with the general prison population, although isolated prisoners may sometimes share their separate cell with one or more other prisoners who also require isolation.

¹ The category of prisoners in this report refers to all types of prisoners and detainees held by the Israel Prison Service (IPS).

This report addresses the isolation of Palestinian prisoners for two primary reasons. First, PHR-Israel has mostly received complaints regarding isolation from Palestinian prisoners. Second, isolation of Palestinian prisoners further exacerbates the structural isolation imposed on all Palestinian prisoners due to the forced disconnection between them and their society and families, resulting from their imprisonment in Israel and from restrictions on contact with family members and the outside world. For over a decade, PHR-Israel, Addameer, and others have monitored the prison conditions of Palestinian prisoners. The documented restrictions imposed by the Israel Prison Service (IPS) and other security authorities – including restrictions on or the prohibition of family visits; the prohibition of telephone communication between prisoners and their families and friends; restrictions on the receipt of letters, newspapers and books; and the requirement to coordinate attorney visits, which is contrasted with the ability of prisoners of all other categories to meet their attorneys without delay during designated hours and without prior coordination – show that there is an intentional policy to disconnect the population of Palestinian prisoners from their community. Yet, all the arguments made in this report regarding the damaging consequences of the isolation policy as it is implemented today are relevant to all prisoners.

Palestinian prisoners held in isolation can be divided into two primary groups. The first includes prisoners who have been isolated on security grounds, and the second includes prisoners who suffer from mental health problems.² Mental health services in Israeli prisons are inadequate, as they are typically limited to medication only and do not include accompanying supportive therapy sessions. This problem is greatly exacerbated for Palestinian prisoners, in whose case a language barrier exists. In most cases, prison psychiatrists do not speak Arabic but rather interact with patients through a translator belonging to the prison staff. This mediation enhances the lack of trust between the prisoner and the physician. In addition, the mental health personnel's unfamiliarity with the culture and social codes of the Palestinian population creates an additional obstacle to providing optimal mental health treatment. Further, Palestinian prisoners are not eligible for the services of social workers, who provide an additional support network for criminal prisoners. Therefore, rather than working toward less damaging therapeutic and security alternatives, prison and security authorities use isolation as a default mechanism.

2 The distinction between prisoners isolated on security grounds and those isolated in order to deal with their mental health problems is based on PHR-Israel's assumptions, rather than on IPS information. According to IPS's response to this report, dated 11 December 2007, "A mental health problem in itself does not constitute grounds for holding [a prisoner] in isolation." Indeed, according to IPS, prisoners are isolated for security reasons, such as preventing the prisoner from harming other prisoners or him or herself. Harming other prisoners or oneself, however, or the concern that this may occur, may result from mental health problems suffered by prisoners, who are isolated due to the lack of appropriate mental health treatment.

Isolation and Solitary Confinement

In the eighth chapter of this report, the Prison Ordinances pertaining to isolation will be analyzed from a legal perspective. We shall now briefly present the definitions given by the Prison Ordinances for solitary confinement and isolation and describe PHR-Israel's activity on this issue. While the focus of this report is isolation, it is also important to briefly address solitary confinement and how it differs from isolation.

Solitary Confinement

Article 56 of the 1971 Prison Ordinance [new version] lists 41 disciplinary offenses for which solitary confinement may be imposed on IPS prisoners of all kinds. According to the Ordinance, the Commissioner, the Prison Director, and prison officers of the rank of Captain or higher who have been so authorized by the Commissioner each have the power to take disciplinary action against a prisoner by imposing a punishment of up to seven days in solitary confinement. This is an expansion of the authority to order solitary confinement, which should solely reside in the Prison Director. The Prison Director is authorized to sentence a prisoner to a maximum of 14 days in solitary confinement; each successive confinement period may not exceed 7 days.

This article also includes generally-defined offenses, such as "made noise unnecessarily" or "any action, behavior, disorder or neglect that disrupts good order or discipline, even if not detailed in the preceding clauses". These definitions place no restrictions on what may be considered disruption of order, and therefore there are numerous acts for which a prison officer of the rank of Captain may sentence a prisoner to seven days in solitary confinement.

Solitary confinement, along with a monetary fine, is the most common punishment taken against Palestinian prisoners in Israeli prisons.³ As solitary confinement constitutes an extreme form of punishment which potentially damages prisoners' mental and physical health, we find IPS's sweeping, frequent use of this measure to be unacceptable.

³ We do not have data on the frequency of use of solitary confinement against non-Palestinian prisoners.

Not only are solitary confinement and isolation imposed during a prisoner's sentence, but solitary confinement is also common practice during interrogation, typically employed immediately following arrest. In most cases during interrogation, the Palestinian detainee is held for varying periods in total isolation. According to martial law, security authorities may prohibit a detainee from meeting with a lawyer for up to 90 days. This prohibition may also apply to meeting with Red Cross representatives, who are authorized by international agreements to visit Palestinian detainees who are under interrogation. Thus, the Palestinian detainee is completely disconnected from the outside world for a prolonged duration.

This report, however, addresses isolation as defined in IPS ordinances and in the relevant legislation.

Isolation

According to the 1971 Prison Ordinance [new version], the following reasons warrant the isolation of a prisoner:

1. State security;
2. Prison security;
3. Protecting the well-being and health of the prisoner or other prisoners;
4. Preventing significant harm to discipline and the proper prison routine;
5. Preventing violent offenses, offenses included in the Law to Combat Organized Crime, or drug transaction offenses.

As stated, a prisoner held in isolation may be held in a cell alone (hereinafter: individual isolation), with one prisoner (hereinafter: joint isolation), or with additional prisoners also requiring isolation. However, none of the prisoners who gave testimony for this report were held in a cell with more than one additional prisoner. This report will primarily address prisoners held in individual isolation.

As opposed to solitary confinement, which is used as a punitive measure for disciplinary offenses, IPS defines isolation as a preventive measure. According to IPS, holding conditions in isolation are similar to those for non-isolated prisoners except for the constraints resulting from the isolation itself. In fact, however, a prisoner held in individual

isolation is held alone in his or her cell for 23 hours a day, and the only person with whom he or she has daily contact is the prison guard. The severe, sometimes irreversible mental reactions to isolation, resulting from the minimal environmental stimulation and social interaction, undermine the very definition of isolation as a preventive measure.

The IPS's use of the term "solitary confinement" to describe the punitive procedure by which a prisoner is held in a solitary confinement cell containing nothing but a mattress, as opposed to "isolation" (Heb. 'Hafrada', better translated as 'separation'), which describes the prisoner's isolation from other prisoners in order to protect his or her security or that of other prisoners, the prison, or the state, creates the impression that isolation is a legitimate measure and detracts from its severe mental and physical health implications. The holding conditions in cells that serve for punitive solitary confinement are indeed immeasurably worse than those of isolation cells, but at the same time, prolonged isolation can cause severe and irreversible mental and physical damage, which is very difficult for prisoners to withstand. The IPS's use of the term 'separation' for those held in individual isolation also blurs the distinction between individual and group isolation and diminishes the gravity of individual isolation. For purposes of clarity, this report will employ the term 'isolation' as a translation of the IPS term throughout this report.

PHR-Israel's Struggle against Isolation

In 1995, PHR-Israel and HaMoked – Center for the Defense of the Individual submitted a petition to the Israeli High Court of Justice on the issue of isolation of prisoners (HCJ 2089/95 Isolation of Prisoners). The petition, submitted against the Minister of Police and the IPS Commissioner, demanded the nullification or reformulation of Regulation 21 (1978) of the Prison Regulations. This regulation enabled a prisoner's isolation for an unlimited duration (given the Commissioner's authorization). We also demanded that initiated, periodic judicial review be conducted of isolation procedures, that prisoners be given the right to a hearing and the right to appeal during the isolation process, and that minimal living conditions be assured for isolated prisoners.

The respondents subsequently appointed a team to examine the issue of isolation and to prepare a proposed bill on the issue. In June 1998, following the publication of a memo on the bill, which included initiated, periodic judicial review of isolation and the right to a hearing and the right to appeal, and after the intention to regulate minimal living standards was formulated, the petition was withdrawn at the request of the petitioners and

respondents. In 2000, the Knesset passed an amendment to the Prison Ordinance, which established internal and external mechanisms for review of isolation. The amendment stipulated that isolation be employed as a last resort only, that a judge's ruling be required in order to extend individual isolation beyond six months and joint isolation beyond twelve months, and that prisoners had a right to a hearing during isolation proceedings. Subsequently, a significant decline was seen in the number of prisoners held in isolation.

In 2006, however, the law was amended again: the criteria for isolating a prisoner were expanded, as were the powers of those authorized to order isolation, and additional controlling mechanisms were canceled. Prisoners in isolation continued to apply to PHR-Israel for assistance due to their difficult mental health conditions, deficient mental health treatment, and near-absolute social isolation within the prison.

Data Concerning Conditions of Isolation in Israel and Abroad

According to IPS data received by PHR-Israel on 21 December 2006, on that date there was almost no difference between the percentages of Palestinian and non-Palestinian prisoners held in isolation. In December 2006, a total of 131 prisoners were being held in isolation (out of a total prisoner population of 20,740), 50 of whom were Palestinian. 30 Palestinians were being held in individual isolation and 20 were being held in joint isolation (a total of 9,614 Palestinian prisoners were being held in prison on that date). Thus, 65% of all isolated Palestinians in 2006 were held in individual isolation. Of these, about one-third were held in isolation for over a year.⁴

Palestinian prisoners who responded to our questionnaires have been held in isolation for extended periods, from five months to 23 years. On this issue, Israel can be compared to countries notorious for abusing prisoners' human rights, such as Tunisia and the US. Tunisia holds political prisoners in conditions that contravene international norms, sometimes holding prisoners in isolation for 13 years.⁵ In the US prisoners are held in isolation for unlimited periods, often for many years.⁶

In contrast, there are examples of countries that better protect the rights and health of prisoners in isolation:

■ Norway

In Norway, isolation may be extended beyond one year only if the prisoner himself so requests.⁷ In an isolation unit of one of Norway's prisons, which holds prisoners who have an adverse effect on others or who may escape, the prisoners have at their disposal a gym, a computer room, and various kinds of workshops in which they can spend time together.⁸

4 We do not have data on the percentage of other types of prisoners held in individual isolation or on the duration of that isolation.

5 "Tunisia: Long Term Solitary Confinement of Political Prisoners", Human Rights Watch, July 2004, <http://hrw.org/reports/2004/tunisia0704/tunisia0704.pdf>, p. 21.

6 "Cold Storage: Super-Maximum Security confinement in Indiana", Human Rights Watch, October 1997, <http://www.hrw.org/reports/1997/usind/>.

7 The Execution of Sentences Act, Norwegian Prison Service, p. 12.

8 Report to the Norwegian Government on the Visit to Norway carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 June to 6 July 1993, p. 34. For reports by the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment, see <http://www.cpt.coe.int/en/hudoc-cpt.htm>.

■ Finland

According to a report written by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) based on visits in Finnish prisons, isolation of prisoners in Finland is exceptional and usually does not exceed one month.⁹

■ Sweden

The CPT surveyed a number of prisons in Sweden, which is known for its humane treatment of prisoners and which prohibited solitary confinement in 1976. According to the survey, prisoners were usually placed in isolation for two weeks at the most if they posed a danger to themselves or to others or endangered prison order. Swedish law requires review of the isolation decision every ten days.

At the same time, prisoners who request to be isolated may be held in isolation for long periods of up to several years. Prisoners who are liable to escape or to participate in criminal activity within prison may be held in isolation for 4-6 years. However, these prisoners are allowed to associate in groups of 2-3, have at their disposal a gym and television, and are allowed to work and study.

While solitary confinement has been prohibited in Sweden, its Kumla prison, for example, includes a wing for “difficult” prisoners, where prisoners who have committed disciplinary offenses or whose presence endangers prison discipline and order may be held in isolation for up to six months. However, even in this wing, prisoners may spend some of the day in a group and engage in various sporting activities together.¹⁰

9 Report to the Finnish Government on the visit to Finland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 September 2003, p.38.

10 Report to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 14 May 1991, pp. 33-35. However, it is important to note that Sweden and Norway were strongly criticized by CPT for their use of isolation of detainees. On this matter see: Peter Schaff Smith, “Prisons and Human Rights: The Case of Solitary Confinement in Denmark and the US from the 1820s until Today”, Stéphanie Lagoutte, Hans-Otto Sano and Peter Scharff Smith (eds.), *Human Rights in Turmoil: Facing Threats, Consolidating Achievements*, Martinus Nijhoff Publishers/Brill Academic, 2006, p. 238.

Conditions of Isolation in Israeli Prisons

It is important to note the differences between solitary confinement cells and isolation cells. Prisoners held in solitary confinement are completely cut off from the world. They are held in an empty cell, consisting of a mattress only. Besides their clothes, prisoners are not allowed to take anything with them into confinement, including newspapers or a television set. A prisoner is held in this cell without a toilet for 24 hours a day, and when the prisoner wishes to use the toilet he or she must call out for a guard and wait until one agrees to take the prisoner out.

The isolation cells in the various prison wings are similar in size – between 1.5 X 2 meters to 3 X 3.5 meters. The cells include a toilet and shower – a single unit which forms part of the cell. Prisoners typically hang a curtain to separate the toilet and shower area from the rest of the cell. The cell usually has an iron door, which includes an opening at its lower part, through which guards insert food trays. As a result, prisoners do not have eye contact with other prisoners in the isolation wing or with guards. In a few prisons, the doors of isolation cells are made of iron grid, allowing eye contact to be maintained.

In the cell there is usually a window measuring 50 X 100 cm, which in most cases does not allow in sufficient light and air from the outside. One prisoner reported that there was no natural light or fresh air in his cell and that for two months his cell was lit by artificial light, day and night.

Most prisoners report that insects and sometimes mice inhabit the cells.

Prisoners in isolation are held alone in their cells for 23 hours a day. They are allowed to leave their cell for a daily walk of one hour, without the presence of other prisoners. One prisoner reported that his daily walk was scheduled for the early morning hours before full sunlight and that despite his protests, the prison refused to reschedule the walk. On their way to their walk, the prisoners' hands and feet are shackled. Handcuffs may sometimes be removed, but in many cases prisoners reported to PHR-Israel that they remained handcuffed and sometimes even leg shackled during the walk.

During every transfer from the isolation cell, including for attorney visits, the prisoner's hands and feet are shackled, and he or she is accompanied by a prison officer. It should be noted that during a visit made by a PHR-Israel attorney to one of the prisoners, the prisoner

remained shackled during the visit. A prisoner held in a cell with one other isolated prisoner goes out for an hour's walk with his cellmate, and all other conditions are the same as mentioned above.

Isolated prisoners are usually allowed to keep a television set, radio, electric hotplate, and electric kettle in their cells. This equipment may be bought at their own expense at the canteen. Sometimes, as a punitive measure, prisoners are not allowed to hold electric appliances such as a television.

Palestinian prisoners can receive books via the ICRC and their families during visits, but restrictions are always imposed by the prison on the kinds and number of books they are allowed to receive. They receive newspapers in Arabic, such as Alquds, free of charge, but other newspapers, in Hebrew or English, are distributed only to those holding a subscription. The newspapers are always distributed after a delay and are not up to date.

Palestinian prisoners in Israeli prisons are allowed to study only at the Open University of Israel. They may not continue their studies at any institution they studied at prior to their arrest, even if the university so approves. A years-long struggle to change this practice has been unsuccessful. The IPS claims that prisoners are barred from participating in study programs of Arab universities for security reasons. Prisoners who are held in isolation are not allowed to study even at the Open University of Israel.

Most prisoners reported that the food provided by the IPS was insufficient in terms of quality and quantity alike. The prisoners buy most of their food from the canteen and re-cook the cooked food they get from IPS. Sometimes, a prisoner's canteen account is closed, as has occurred to tens of prisoners, especially those who have been identified with Hamas over the past year. Prisoners report that IPS food is inappropriate for the medical needs of those who require a special diet. A., who suffers from hyperlipidaemia for which he receives medication, reports that the prison does not provide him with low-fat food.

The IPS does not provide essential hygiene products, such as toothpaste; only prisoners whose canteen accounts have been closed receive essential personal hygiene products and cleaning products for their cells. Prisoners report that personal hygiene products were provided up until 2002 but from that year on were significantly limited. All prisoners reported that IPS provided only half a liter of floor cleaning liquid and that the rest of their personal products, including all products used for cleaning their cell, were bought at their own personal expense.

Israeli courts have ruled that imprisonment does not justify violating the right to dignity, which is protected in Israel in “Basic Law: Human Dignity and Freedom”:

“Indeed, imprisonment requires, by its very nature, the denial of freedom, but it does not justify, by its very nature, the violation of human dignity. It is possible to maintain imprisonment that protects the prisoner’s human dignity. The prison walls need not separate the prisoner from his humanity... The prison must not become a pen, and the prisoner’s room must not become a cage. With all the difficulties involved, a civilized society must protect the minimal human standard of prison conditions. We would not be humane if we did not ensure a humane standard for the prisoners in our society. We must not achieve the goals of criminal imprisonment by impinging upon the prisoner’s human dignity and humanity.”¹¹

Among the minimal conditions “that enable a civilized life” are “food to eat, water to drink, clothing to wear, a bed to sleep in, fresh air to breathe, and a sky to gaze at.”¹² The Israeli High Court of Justice has also ruled that the prisoner’s right to “sunlight, air, and ventilation” should be anchored in legislation.¹³

Articles 9-14 of the Standard Minimum Rules for the Treatment of Prisoners stipulate the conditions of prison cells: each prisoner must have appropriate living space, sufficient daylight, and proper ventilation. Article 39 of the Standard Minimum Rules stipulates that the prisoner must be kept informed regularly of the more important events in the world outside prison via newspapers, periodicals, radio, or lectures. Article 40 stipulates that each prison must have a library that meets prisoners’ needs and from which prisoners can receive the maximal benefit. Article 77 stipulates that prisoners should be allowed to continue their studies and that illiterate minors must be taught to read and write. It is important to note that the Standard Minimum Rules emphasize that the prison sentence must be utilized to rehabilitate prisoners, support them, and help them be integrated into society upon their release, partly in order to prevent recidivism, and that prisoners may not be punished or oppressed.¹⁴

11 HCJ 540-546/84 Yossef et al. v. Director of the Central Prison in Judea and Samaria.

12 PPA 4463/94, Avi Hanania Golan v. Prisons Service, Piskei Din 50 (4) 136, 172.

13 HCJ 4624/04 Physicians for Human Rights-Israel and the Association for Civil Rights in Israel v. the Minister of Public Security and the IPS Commissioner, Piskei Din.

14 The Standard Minimum Rules for the Treatment of Prisoners, <http://www1.umn.edu/humanrts/instree/g1smr.htm>.

Visits

“The visit is one of the most important means of contact between the prisoner and his family and friends. The visit may ease the prisoner’s stay in prison and encourage him in times of crisis.” (Commission Ordinance 04.42.00, “Arrangements for Prisoners’ Visits”)

In view of isolation’s severe implications for mental health, the contact that prisoners are allowed to maintain with the world within and outside the prison is of great importance. Inside prison, prisoners sometimes communicate by hearing, speaking with, or seeing other prisoners. They come into contact with prison guards for functional reasons. Therefore, family visits are of enormous importance, as they are the only opportunity provided to the prisoners to see those who are close to them and to have a meaningful conversation.

In contrast to other prisoners, security prisoners, the overwhelming majority of whom are Palestinian, are allowed to receive visits from immediate family members only, whether or not the prisoners are being held in isolation. This restriction is more difficult for isolated prisoners.¹⁵ B., for example, who is held in isolation and suffers from mental health problems, has not received visits for the past six years, as his mother is elderly, his brothers are in Jordan and Egypt, and his sisters are busy raising their children. Furthermore, while criminal (non-security) prisoners, including those who are isolated, are allowed to hold phone conversations, security prisoners are not. This restriction further intensifies the social isolation of the isolated Palestinian prisoners.

All Palestinian families wishing to visit a family member imprisoned in Israel must receive an entry permit into Israel (except for Jerusalem residents). The application for the permit is submitted via the ICRC and transferred to the Israeli side. Not only do the basic criteria for receiving entry permits restrict the visiting population (16-45-year-old men are prohibited from receiving permits), but also hundreds of families may not receive permits on security grounds. As a result, hundreds of prisoners do not receive family visits for extended periods that may reach a number of years. Other sweeping restrictions may withhold Palestinian family visits, such as the prohibition of visits by families from one, or all, areas of the Occupied Palestinian Territory, or to a certain prison, on security grounds. In the past, visits have been suspended for periods of over a year.¹⁶

¹⁵ Criminal (non-security) prisoners held in isolation are also allowed to receive visits from immediate family members only.

¹⁶ For a discussion of preventing visits in Israeli prisons, see: “Barred from Contact: Violation of the right to visit Palestinians held by Israel”, B’Tselem, September 2006.

Prisoners held in individual isolation suffer even more from this problem, as they are isolated from other prisoners, and without family visits they do not see a living soul, apart from IPS personnel. For example, E., who has been held in isolation for about three and a half years, was denied visits for about three years. A., who suffers from mental health problems, was denied visits for five months.

When they are not denied, visits with Palestinian prisoners take place once every two weeks for 45 minutes. As stated, only immediate family members are allowed to visit. A glass window, sometimes accompanied by bars, separates the visitor and the prisoner. All Palestinian prisoners, including non-isolated ones, are barred from receiving “open” visits (i.e., without a barrier between visitor and prisoner), in contrast to other prisoners. Criminal (non-security) prisoners in isolation, on the other hand, receive two “open” visits a month. It is important to note that according to Article 37 of the Standard Minimum Rules for the Treatment of Prisoners, prisoners are to be allowed to communicate with their family and close friends at regular intervals, both by correspondence and by receiving visits, and there is no restriction according to which only immediate family members are allowed to visit.¹⁷

Conversely, Israeli security prisoners in individual isolation receive benefits that Palestinians do not receive. Mordechai Vanunu was offered to receive visits without a barrier and to make phone calls. Judge Zvi Segal, who granted Vanunu these benefits, stated:

“I was surprised to learn that the variety of benefits that he received according to my previous decision (holding phone conversations with his family and attorney, purchasing a special computer adapted to his needs, and receiving visits without a dividing screen) were refused on his initiative, in a written statement to the prison commander and to the state’s attorney, as unsatisfactory and insufficient. He also refused to accept the state’s intention to place another prisoner in his cell due to his concern of being, in his words, ‘brainwashed’”.¹⁸

After eleven and a half years in harsh conditions of isolation, and following a psychiatric opinion that established that further isolation could cause his mental state to deteriorate, the IPS allowed Vanunu to leave his isolation cell, to walk freely around the prison, and to have contact with groups of guards and prisoners.¹⁹

¹⁷ <http://www1.umn.edu/humanrts/instree/g1smr/htm>.

¹⁸ Noam Sharvit, “The Story of Mordechai Vanunu: The Prisoner Who Knew Too Much”, *NFC*, 20 April 2004, <http://www.nfc.co.il/Archive/0018-D-5661-00.html?tag=09-32-42> (Hebrew).

¹⁹ *Ibid.*

Yigal Amir, who has been classified as a security prisoner, was transferred from Ohalei Kedar Prison to Ayalon Prison. Amir was transferred, following petitions he submitted in February 2003, after some eight years in isolation, as he wanted to be closer to his family. In his isolation cell at Ayalon Prison, Amir received family visits without a barrier once a week for an hour and was allowed to talk on the phone an hour a day.²⁰ Amir also received visits from Larissa Trimbobler even before they were married. In 2006, he was allowed to unite for ten hours with his wife Larissa.²¹ In December 2006, Amir was transferred to Rimomim Prison, where his prison conditions further improved: he is no longer under constant camera surveillance, and he can speak with nearby inmates.²²

20 Yaron Frost, "24 Hours in the Life of the Prime Minister's Murderer", *Tel Aviv Newspaper*, 26 September 2002, http://www.tam.co.il/26_9_2003/magazin2.htm (Hebrew).

21 Ra'anan Ben Tzur and Miri Hasson, "Yigal and Larissa to be United Tomorrow in Prison", *Ynet*, 23 October 2006, <http://www.ynet.co.il/articles/1,7340,L-3318613,00.html> (Hebrew).

22 Efrat Pe'eri, "In Amir's New Cell Surveillance Cameras Will not be Used", *Nana News*, 7 December 2006, <http://news.nana.co.il/Article/?ArticleID=415152&TypeID=1&sid=126> (Hebrew).

Mental Health Treatment: Delays and Neglect

Many studies have been conducted on the effects of solitary confinement on mental health, all of which indicate the severe mental damage solitary confinement inflicts upon the confined person, ranging from sleep disturbances, through depression and anxiety, to psychotic reactions, such as visual and auditory hallucinations, paranoid states, disorientation with regards to time and space, states of acute confusion, and thought disorders. While confinement is difficult for persons who do not suffer from mental illnesses, it may be intolerable for those who do suffer from them and who make up a significant proportion of the prisoner population. Solitary confinement may also aggravate psychotic states or arouse mental problems that were previously dormant:

“The conditions of solitary confinement cause severe psychological stress and may destabilize the mental state of prisoners who did not have a prior mental disorder or whose illness is under control, causing the disorders to erupt and be manifested in a variety of symptoms... Prisoners in confinement suffer twice as much from mental illness as those who are not in confinement; the common disorders are adjustment disorders and depressive syndromes, but severe dissociative and psychotic disorders may also occur among prisoners in confinement without prior illness.”²³

While some of the mental damage caused by confinement may diminish after confinement ends, some does not, and damage may be permanent to the point of amounting to an inability to function in society after release from prison. The severe mental effects of confinement caused the US Supreme Court in 1890 to disparage the practice as an excessive punishment and to bring about its abolition, until its reappearance in the last quarter of the twentieth century.²⁴ The severe mental implications of isolation are also accepted by the IPS. Following a petition submitted to the High Court of Justice by PHR-

23 Dr. Ze'ev Wiener, specialist in psychiatry and family medicine, opinion submitted to the court on the mental effects of isolation, 19 December, 2004. On this issue see also: Ruchama Marton, “Psychological Effects of Solitary Confinement”, *Voices for Vanunu*, published by the UK Campaign to Free Vanunu, 1998, pp. 35-42; Stuart Grassian, “Psychiatric Effects of Solitary Confinement”, *Journal of Law and Policy* 22 (2006), pp. 325-383; Craig Haney, “Mental Health Issues in Long-Term Solitary and ‘Supermax’ Confinement”, *Crime and Delinquency*, 43 (2003), pp. 124-156; Mary Howells, “A Study of the Effects and Uses of Solitary Confinement in a Human Rights Perspective”, 10th World Congress on Medical Law, Jerusalem, August 30, 1994.

24 Smith, “Prisons and Human Rights: The Case of Solitary Confinement in Denmark and the US from the 1820s until Today”, pp. 441-528.

Israel and HaMoked – Center for Defense of the Individual, a report was prepared in 1996 by a joint IPS-Ministry of Public Security team, which stated:

“Research findings on the issue are unequivocal and show that imprisonment in isolation causes deep psychotic reactions... Clearly the duration of time a prisoner is held in solitary confinement has direct implications on its side effects, as holding an individual alone in a cell for one day is not the same as isolating him, as stated, for a period of three weeks, months, or years. There is no doubt that there exists a certain time limit after which most people will feel that solitary confinement is intolerable and will suffer, as a result, from long-term effects.”²⁵

Nearly half of the respondents, including those who did not suffer from mental health problems before their arrest, reported that they were experiencing some degree of mental distress in isolation. Some injured themselves on a regular basis. In the words of one prisoner who described herself as mentally healthy prior to her arrest: “I am going crazy, I have no hope.” The mental health condition of some prisoners with a history of mental illness prior to their arrest deteriorated during their isolation.

The danger involved in isolating a mentally-ill prisoner was expressed in a judgment given by the European Court of Human Rights. The Court awarded 31,000 British pounds to the mother of Mark Keenan, a mentally-ill British prisoner who committed suicide while being held in isolation. Keenan had a history of mental health problems, had suicidal tendencies, and had been taking anti-psychotic medication. He had been sentenced to four months’ imprisonment for assaulting his girlfriend and served his sentence in the prison’s medical center due to his mental condition. Following a disciplinary offense, Keenan was placed in isolation. Two weeks into his isolation, after his detention was extended by 28 additional days, Keenan committed suicide by hanging. The court ruled that there had been a violation of Article 3 of the European Convention on Human Rights (prohibition of inhuman or degrading treatment or punishment) and that the lack of effective monitoring of Keenan’s mental state, misjudgment of this state, and lack of appropriate treatment indicated significant departures from the way a mentally-ill prisoner with suicidal tendencies should be treated. The imposition of seven days’ isolation on Keenan, the court ruled, “was not

25 IPS report on the isolation of prisoners, 16 April 1996, p. 11. It should be noted, however, that in our opinion a time period after which the person held in isolation will suffer from mental problems cannot be determined, as it differs from one individual to another.

compatible with the standard of treatment required in respect of a mentally-ill person.”²⁶

In three US rulings, the courts not only warned of isolation’s dangers, but also prohibited holding mentally-ill prisoners or those at risk of mental illness in isolation in “Supermax” prisons.²⁷

Israeli attorney Israel Junger recently filed a suit against the IPS on behalf of the family of the late Samir Hanukayev, a prisoner who committed suicide by hanging in an isolation cell in Shata Prison. Hanukayev was transferred to Shata Prison from Ayalon Prison, despite his opposition and resistance to his transference. Shata’s social worker defined Hanukayev as a “prisoner in distress” due to his mental state: he was on the verge of tears during his evaluation, went on a hunger strike, and had a history of suicide attempts. Despite his mental condition which required monitoring, Hanukayev was placed in an isolation cell inappropriate for his condition, and within 48 hours of being transferred to Shata, he committed suicide. “His very placement in a cell with a bed sheet, a stool, and a hook in the ceiling,” attorney Junger argued in his lawsuit, “may be likened to placing him in a cell with a loaded gun, knowing that he was not far from pulling the trigger.”²⁸

In April 2006, PHR-Israel received an application for assistance regarding M., a 25-year-old prisoner held in isolation who suffered from mental distress. During a visit by an Addameer attorney, M. reported that he suffered from severe mental stress and that even prior to his arrest he suffered from mental problems and had made some 25 suicide attempts. M. reported that he had been held in isolation for three years and that he was dissatisfied with the psychiatric treatment he was receiving. Subsequently, on 18 June 2007 PHR-Israel volunteer psychiatrist Dr. Noa Bar Haim visited the prisoner for an evaluation.

26 Judgment in the case of Keenan v. United Kingdom, 3 April 2001, <http://www.echr.coe.int/Eng/Press/2001/April/Keenan-judepress.htm>.

27 The US is notorious for violating prisoners’ human rights, especially in Supermax prisons, which impose a new, especially harsh method of isolation developed in the last decade of the 20th century (Human Rights Watch defined Supermax prisons as the most troubling phenomenon in the realm of detention). Prior to the advent of these prisons, punitive isolation was imposed in the US for limited time periods for violation of prison’s rules; inmates were allowed to maintain contact with guards and other inmates. Isolation in Supermax prisons differs in terms of the reasons for which it is imposed and its duration. Supermax inmates may be isolated for years as part of a long-term program aiming to exercise increased control over inmates, rather than as a punitive measure. Inmates may leave their cell only for a daily one-hour walk, they eat meals in their cell, and they do not participate in any group social activity. Upon leaving their cell and during doctors’ or psychiatric examinations, they are cuffed. There are severe constraints on keeping personal belongings and access to the prison library, legal documents, and the canteen. The daily walk takes place in a closed-off area through which only a glimpse of sky may be seen. Visits are conducted through videoconferencing rather than in person. See Haney, “Mental Issues in Long Term Solitary and ‘Supermax’ Confinement”, pp. 145-148, 125-127.

28 Nativ Nahmani, “Family of Prisoner Who Committed Suicide Sues IPS”, *Walla*, 1 March 2008, <http://news.walla.co.il/?w=10/1217135> [Hebrew].

This visit revealed that M., who was hospitalized at a young age in a psychiatric hospital and was subsequently treated by a psychiatrist at another clinic, was being held in isolation at the prison's recommendation, based on a psychiatric opinion. M. suffers from uncontrolled violent outbursts. In his childhood, he also suffered from a lymphoma, for which he was treated in Egypt. M. expressed his wish to continue his studies and to go into psychological therapy. He claimed that he was denied the opportunity to study or to read as punishment for his violent behavior and that in fact he did nearly nothing but sleep twenty hours a day (M. believed that the reason for this was his medication). M. also said he had been denied visits for five months.

Following the visit, Dr. Bar Haim recommended that M. be transferred to a psychiatric institution for observation, and so that an appropriate place to hold him and proper treatment for him may be determined. Dr. Bar Haim also stated that isolation worsened his mental condition, that it should be limited to the extent possible, and that visits should be resumed. Dr. Bar Haim wrote in her opinion that "This is a complex case, and there is a diagnostic question that cannot be assessed in sporadic visits. M. should be transferred to a psychiatric institution for observation for a certain time period. Diagnosis is important in this case in order to determine the setting of his imprisonment: hospital vs. prison, as well as for determining appropriate treatment. Re-evaluation may also be important for assessing criminal responsibility for the event for which he was arrested and tried. In any case, a physical examination should also be demanded in order to rule out an organic explanation for his mental state, and in particular, recurrence of lymphoma should be ruled out, especially in its brain form. I have no doubt that his prolonged isolation is worsening his mental state and I recommend limiting the isolation to the extent possible, allowing for therapeutic sessions to take place, and renewing visits soon."

On 30 July 2007, a response to Dr. Bar-Haim's opinion from Dr. Alex Adler, Chief Medical Officer of the IPS, was received by PHR-Israel. Adler stated that IPS refuses to accept Dr. Bar-Haim's recommendations "and does not agree to refer the prisoner to a psychiatric hospital for diagnostic observation." Dr. Adler claimed that the prisoner, who suffers from a severe personality disorder, "is treated with medication, is well-balanced, and his recent behavior has been quiet and calm." We believe, however, that diagnosis of the prisoner's mental

state is unclear and needs to be re-evaluated in appropriate conditions, that is, in a psychiatric institution. If M. is found to be mentally ill, he should be placed in a psychiatric hospital rather than prison. If he suffers from a personality disorder, isolation is the worst option for him, as it exacerbates his mental state. Leaving M. in isolation endangers his mental state, indicating that IPS has given up on helping M.

Palestinian prisoners in isolation in Israeli prisons receive deficient psychiatric treatment. Prisoners report that those suffering from mental health problems may be examined according to the severity of their mental state. Who determines the severity of their mental state? How long does one wait? Prisoners who do not suffer from mental health problems are not examined by a psychiatrist at all, despite the serious risks posed by isolation even for those without a history of mental illness.

When psychiatric treatment is given, prisoners report that not only is it carried out in Hebrew, but also that in some cases the session is conducted in the presence of a guard, in violation of medical ethics.

In May 2005, HaMoked attorney Sigi Ben Ari contacted PHR-Israel requesting our assistance on behalf of H., a prisoner in a severe mental state. With a history of mental problems, H. was held in isolation for four years, a year and eight months of which he spent in individual isolation for assaulting guards and inmates. The mental treatment H. received in prison was deficient, and his mental state deteriorated. H. was examined by Dr. Ze'ev Wiener, a PHR-Israel volunteer psychiatrist, who recommended addressing the problems for which H. was isolated by psychiatric medication and psychotherapy, hospitalization for observation, an evaluation at Maban, the IPS Mental Health Center, and visits exceeding the regular allowance in order to minimize mental damage. Dr. Wiener also recommended allowing H. to maintain eye contact and conversation with other prisoners.

Following these recommendations, an appointment was made for H. with an IPS psychiatrist, but the latter insisted on examining H. in the presence of a guard, in violation of medical ethics and the prisoner's right to medical confidentiality, privacy, and dignity. According to the IPS Chief Medical Officer:

“Medical and psychiatric examinations conducted within the prison are not identical to examinations conducted outside of prison... the physician will not be left with the patient without the presence of a guard or paramedic.”²⁹

The IPS made no effort to hold the visit in a manner accommodating medical staff security, medical confidentiality, and patients’ rights. This could have been achieved, for example, by placing a guard within viewing range of the patient, yet not within hearing range, as was done during H.’s examination by a PHR-Israel psychiatrist. Similarly, H.’s allowance of visits was not increased, nor was he hospitalized in the IPS Mental Health Department. Thus, in disregard of the patient’s welfare and his right to receive appropriate psychiatric care, H. remained without proper treatment. Subsequently, PHR-Israel and HaMoked submitted a petition (5733/05) demanding that Dr. Wiener’s professional opinion be followed and his recommendations acted on or, alternately, to allow an IPS psychiatric examination without a guard present within hearing range from H. to take place. Following the petition, H. was examined by a psychiatrist without a guard’s presence, was hospitalized for a week in the IPS Mental Health Department, and began to receive medication. Following this treatment, H.’s mental state improved, and he requested to be transferred to a regular section. Meanwhile, the IPS has transferred him to joint isolation. Today, however, H. complains that his treatment is limited to medication only.

All the prisoners in isolation who were treated by a psychiatrist reported that they were dissatisfied with their treatment, as it was limited to administering medication and did not include therapy sessions, which they regard as essential and potentially helpful in significant ways. One prisoner testified: “The treatment consists of prescribing pills only; no psychiatrist talks with you or listens to you. The appointment with the psychiatrist is only a few minutes long. During the appointment, the psychiatrist re-prescribes the medication.” Further, one prisoner reported that treatment was terminated completely after he refused to take his medication.

29 Letter from IPS Chief Medical Officer, Dr. Alex Adler, to Atty. Sigi Ben Ari, dated 23 August 2005.

A. has been held in individual isolation for about six months as she does not get along with the other prisoners. She was held in individual isolation during her previous three-year sentence as well. A. injured herself in prison numerous times. She says that the prison authorities have tried to remove her from isolation but she does not want to be with other people. A. requested that PHR-Israel provide her with mental assistance and a place to rehabilitate herself mentally before her release. She reported that the mental health treatment she received was insufficient and limited to prescribing medication. The only people with whom A. speaks are her sister, who visits her once every five months, and the ICRC representatives, who visit once every three months. When a PHR-Israel attorney visited her for the first time in October 2006, A. was able to make partial contact with a prisoner in an adjacent cell, which did not include eye contact between the two.

Following this request, PHR-Israel recruited an Israeli-Palestinian family physician who could visit A. once every two weeks, but the IPS Central Bloc Commander refused to approve the visits. At a later date, during a visit by a PHR-Israel attorney, A. reported that she had had appointments with a Hebrew-speaking social worker from the IPS, but that she mistrusted her and no longer maintained the appointments: "I no longer believe in anything or anyone... I feel alone and am trying to survive the rest of my sentence... everyone has given up on me." As stated, Palestinian prisoners are not eligible for the support of social workers; this case was an exception. We assume that the appointments with the social worker were set in view of A.'s grave mental state, and it is possible that PHR-Israel's request to allow special visits had an impact on the matter.

A.'s need to talk to someone is also evident in her medical file. She clearly uses her visits with the prison doctor as an opportunity for conversation. She refuses to be examined, sometimes refuses to take psychiatric medications, but wants to talk. The prison doctor writes: "The prisoner agreed to have a conversation. She does not want to be examined... the prisoner refused to undergo the remainder of the examination, was interested only in conversation."

Review of her psychiatric file also reveals A's need to talk with the psychiatrist and the psychiatrist's unresponsiveness to this need. He writes: "This time she came of her own free will, is interested in talking with a psychiatrist. During the

examination she speaks in a stressful manner about many things, many topics... It is impossible to speak with her... talks about how she is being harmed and not treated... goes into long, irrelevant explanations, asks for help."

On 5 July 2007, A. was examined in prison by a physician on behalf of PHR-Israel. During the visit, A. reported about the mental and physical damage caused to her by imprisonment, stating her mistrust of psychiatric medication as a response to her mental problems. PHR-Israel's physician recommended continuous and frequent supportive therapy:

"She is interested, justifiably, in therapy sessions and in my opinion could benefit from continuous and frequent supportive therapy, given imprisonment conditions would enable it. With the help of such therapy, emphasizing a cognitive approach, she may be able to contain her many frustrations, to learn how to control herself, and plan her life after her release from prison, in order to prevent additional entanglements. She requested to emphasize the importance of decreasing the stress imposed on her by prison authorities, which she views as one of the factors contributing to her current mental state."

T. has been isolated for about two years, as other female security prisoners refuse to be with her. T. attempted suicide prior to her imprisonment, due to her abuse at the hands of a relative. She gets no visits at all, and only once every six months she is allowed to talk with her mother on the phone. During her imprisonment, she has injured herself many times. Her medical files have defined her as a "prisoner in distress" and potentially suicidal. T. reported that her mental health treatment is limited to administration of medication and that she stopped taking her medication as it did not help. She suffers from insomnia, one of the mental effects of isolation. "As for taking the medications, I had taken breaks. In July, I refused to have a physician's visit after realizing that he was not helping me. He is not an expert in the field but rather an expert in addiction. Two months ago, I stopped taking the medications once and for all because the pills were killing me." The psychiatrist also writes in his examination report: "Says she is nervous, that she is not being helped, that she is depressed." She stated that after she stopped taking the medication her mental state improved.

T. requested mental assistance from PHR-Israel. In response, we requested that the IPS allow T. to receive visits from a Palestinian social worker, a PHR-Israel volunteer, but the visits were not approved. During the latest visit by a PHR-Israel attorney on 28 June 2007, T. reported that a social worker visited her daily (T.'s psychiatric file contains a recommendation for T. to have conversations with a social worker), that their conversations took place through the screen of the cell door, in Hebrew, and that T. was uncooperative because she did not believe in the social worker's treatment or reliability.

A solution enabling the removal from isolation in either of the above two cases has not yet been found, and frequent visits from immediate family are not possible for either prisoner. Therefore, we recommend that both of them be allowed to receive frequent visits from people who are not immediate family members, such as Red Cross volunteers or others. Such visits may enable improved monitoring of the prisoners' physical and mental conditions. We also recommend that these be open visits without a divider.

Prisoners who require special supervision and treatment and who have difficulty functioning in standard prisons may be held in the IPS's Body-Mind Center (Magen). A significant share of these prisoners suffer from mental health problems. In July 2007, PHR-Israel addressed the IPS, asking whether Magen had a special division for Palestinian prisoners requiring special supervision and, if not, whether Palestinian prisoners were held in the supervision division when necessary. According to IPS's response, received on 18 September 2007, "the medical and mental treatment of security prisoners is identical and fully equal to the treatment given to all prisoners." The response also stated that if a security prisoner were in need of hospitalization in the special supervision division, the IPS would take care of his needs, as it does concerning any other prisoner. We conclude from IPS's response that the supervision division does not contain cells specially designated for Palestinian prisoners, such as those found at Marash (IPS Medical Center), which includes a special section designated for Palestinian prisoners. We believe this further compromises mental health treatment for Palestinian prisoners, as the lack of designated cells for Palestinian prisoners in the supervision division would clearly make transferring them to the division difficult. The question then arises as to whether Palestinian prisoners, whose condition warrants their holding in the supervision division, are held in isolation in standard prisons, where their mental and physical health is at risk, or are hospitalized at Maban (IPS Mental Health Center).

It is important to note that people with a high potential for committing violence against themselves and others are hospitalized in psychiatric hospitals. However, these people are not held in solitary confinement. Solitary confinement is employed in these hospitals in order to restrain the patients, in limited conditions, for short time periods, and does not serve as a form of treatment.

In addition, prisoners who do not suffer from mental problems but who are isolated on security grounds also reported to PHR-Israel of their difficult mental state resulting from isolation, including feelings of depression, suffering, loneliness, and longing for human company: "I feel lonely, and suffer"; "I am in a bad state, which is worsening"; "I am in a state of depression, because I am away from people, I have no human rights, I receive poor treatment"; "I feel lonely, I feel like half a person"; "I miss a social and community life. When you are alone and lonely, you are weak".

Some other countries, more conscious of the mental risks inherent in isolation, have taken action to address these risks. In Canada, for example, each prisoner has access to psychological help.³⁰ In Britain, a committee supervises the isolation procedure and follows up on the prisoner's condition. The Prison Service Orders recommend including a psychologist and a representative of prison medical staff among the committee's members. The committee receives notice within 24 hours of a prisoner's isolation. A committee member then contacts the prisoner and those who ordered the isolation and conducts regular visits in the isolation section. Members of the committee can appeal against the isolation decision and may attend the proceedings for its extension.³¹ It is important to indicate that in Britain, responsibility for prisoners' medical services was recently transferred from the Prison Service to the public health system (specifically, to Primary Care Trusts, or PCTs). A 1997 study on health services in European and Canadian prisons demonstrated that removing health services from Prison Service control significantly improved services and resolved the medical staff's dual loyalty dilemmas.³²

30 Correctional Service of Canada, Commissioner's Directive, Administrative Isolation, 24.1.1997, <http://www.csc-scc.gc.ca/text/plcy/cdshtm/590-cde-eng.shtml>.

31 Prison Service of England and Wales, Prison Service Orders, Isolation, <http://pso.hmprisonservice.gov.uk/pso1700/default.htm>.

32 Katarina Tomasevski, "Prison Health – International Standards and National practices in Europe", Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, Publication Series No. 21, Helsinki, 1992.

Physiological Effects of Isolation

Research has shown that solitary confinement causes not only harsh mental reactions, but also physiological effects, which result from the anxiety caused by solitary confinement: "Persons have developed gastro-intestinal, cardiovascular, and genito-urinary symptoms; tremulousness, sleep disturbances with extreme fatigue and recurrent and acute episodes of tachycardia (excessively fast heart beating) and diaphoresis (sudden and excessive sweating)."³³

Indeed, prisoners have reported problems such as those mentioned above: constipation, intestinal problems, stomach problems, vomiting, gas, stomachaches, problems relating to the spleen and sexual organs, and a burning sensation during urination. Some prisoners experience these problems after commencing isolation. It cannot be determined, however, whether the problems are a direct result of isolation or whether they would have emerged irrespective of isolation.

33 Ruchama Marton, "Psychological Effects of Solitary Confinement", p. 37.

Dual Loyalties

Clearly, a practice as detrimental as isolation warrants a response from medical personnel who have ongoing contact with prisoners, namely IPS physicians and psychiatrists who visit prisoners.

IPS Physicians

The fact that prison physicians are directly employed by the IPS exposes the physicians to various situations of dual loyalties (to their patients on the one hand and to IPS on the other) and to the need to deal with difficult ethical dilemmas. This situation becomes especially problematic when loyalty to the IPS prevails over loyalty to the patient, potentially compromising treatment and patients' rights.³⁴

Commission Ordinances determine a number of procedures regarding medical examinations of prisoners held in isolation and solitary confinement, both at the onset of and during isolation and solitary confinement. Every prisoner in solitary confinement or isolation is to be examined by the unit's physician or, in his or her absence, by a paramedic no later than 48 hours after entering solitary confinement or isolation. In addition, the medical condition of prisoners held in isolation or solitary confinement cells is to be examined daily by the unit's paramedic and no less than once a week by the unit's physician (Commission Ordinance 04.44.00 "Medical Treatment of Prisoners"). Every prisoner in isolation is to be examined periodically by a physician once every two months. When isolation exceeding three months is required, the authorized prison authority is obligated to consult with a bloc physician or his or her representative regarding the decision to isolate the prisoner (Commission Ordinance 04.03.00, "Isolation of Prisoners").

Isolated prisoners' medical files indicate that the Commission's orders regarding medical examinations are sometimes not carried out or not documented in medical reports. A number of problems arise from a review of medical files. First, there is no documentation of the said medical examinations that are supposed to be conducted weekly by the unit's physician. Are the exams not conducted or not documented? Second, the medical files

³⁴ Various organizations throughout the world, such as, for example, the World Medical Association, have determined that a physician's allegiance is first and foremost to his or her patient. See http://www.wma.net/e/policy/17.a_e.html.

also indicate that medical exams that are supposed to be conducted once every two months do not always take place as required. Finally, the files indicate that there is no attempt to address cases in which the prisoner refuses to be examined by a physician or psychiatrist.

Medical documentation found in the files includes IPS physicians' opinions regarding the prisoner's isolation, such as "isolation is not medically precluded" or "fit for isolation". We believe that such opinions constitute a kind of approval to continue isolation. Not only are such opinions sometimes provided on the basis of "external appearance only" when the prisoner refuses to be examined and lack any acknowledgement by the physician of the risks involved in isolation, but the very demand to provide these opinions places the physician in a problematic position in terms of medical ethics. The physician is in fact asked to approve a measure that has been demonstrated to be physically and mentally damaging. By granting such approval, the physician commits an ethical violation. Principle 4 of the Principles of Medical Ethics Relevant to the Role of Health Personnel adopted by the UN stipulates that it is a violation of medical ethics to certify or participate in the certification of the fitness of prisoners for treatment or punishment that may adversely affect their physical or mental health.³⁵

Psychiatrists

In contrast to IPS physicians, psychiatrists who examine prisoners are employed by the Ministry of Health rather than the IPS. As isolation has been shown to be mentally and physically damaging, these examinations pose an ethical challenge to psychiatrists. When there is an indication that isolation has been mentally damaging to a prisoner, the psychiatrist provides assistance and treatment and may order the prisoner's removal from isolation. However, in the absence of an indication of mental damage, the psychiatrist may become involved in a mentally and physically damaging mechanism, as the psychiatric opinion neither includes a general warning as to the risks involved in isolation nor a recommendation to remove the prisoner from isolation for this reason. The opinion usually includes a recommendation regarding medication and supervision and typically does not address the fact that the prisoner is being isolated. It should be noted that in the psychiatric opinions we reviewed, we found no recommendation to remove a prisoner from isolation, even when he or she suffered from mental problems.

³⁵ Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, http://www.unhcr.ch/html/menu3/b/h_comp40.htm.

To date, the Israeli Psychiatric Association has not published an official position on the use of isolation in Israeli prisons and its implications for mental health. In 2000, PHR-Israel addressed the Israeli Psychiatric Association and demanded that the Association formulate its position on prisoners' isolation, in view of the proposed bill on the issue that was submitted to the Knesset at the time. The Association stated that it was not a partner in the isolation procedure: "We do not view ourselves as involved in the decision to isolate, in defining its nature or its reasons. Of course, if and when a person is referred or refers himself to a psychiatrist requesting an examination in order to administer support and treatment, this is done. I also have no doubt that psychiatrists will act according to medical ethics and will not find themselves involved in deeds that exceed the bounds of medicine."³⁶ In the framework of the proposed bill, the Ministry for Public Security recommended conducting periodic psychiatric examinations of isolated prisoners. This recommendation met with opposition from the Mental Health Department in the Ministry of Health on the grounds that psychiatrists were unwilling to become part of the isolation procedure, and the recommendation was subsequently withdrawn.

We believe, however, that the ethical dilemma involved in isolation is still present, as psychiatrists who examine isolated prisoners must address the fact that the patient is subject to a physically and mentally damaging measure. In 2007, we contacted the Israeli Psychiatric Association once again and demanded that they formulate their position on isolation. In the response we received in September 2007, the Association refused to determine its position on the matter, claiming that it was an issue of principle and that the position has to be formulated by the Israel Medical Association.

In their responses to this report, both the Ministry of Health and Dr. Moshe Birger, director of the Psychiatric Service of IPS's Mental Health Center, emphasized that decisions regarding prisoners' isolation were made only by the prison's security authorities and were therefore a clear-cut security issue. However, PHR-Israel believes that due to the clear-cut health implications of isolation, medical personnel must actively oppose it.

³⁶ Letter from Dr. Michael Schneiderman, Former Chairman of the Israeli Psychiatric Association, to PHR-Israel, dated 31 July 2000.

Legal Analysis of the Prison Ordinances on Isolation

As stated, an important turning point on the issue of isolation occurred in 2000, when the Knesset passed an amendment to the Prison Ordinance (hereinafter: the Ordinance) which set mechanisms for review of prisoners' isolation. This law was passed following the petition submitted in 1995 to the High Court of Justice by PHR-Israel and HaMoked – Center for the Defense of the Individual. Following this petition, amendment no.18 to the Ordinance was implemented, redefining who was authorized to order isolation and the duration of isolation that could be imposed. The amendment also stipulated the prisoner's right to a hearing. Prior to the amendment, the IPS Commissioner was authorized by Ordinance amendment no. 21 (1978) to order isolation of a prisoner for up to eight months, which could be extended an unlimited number of times, without the right to a judicial review over this decision.

Article 19A of the Ordinance defines an isolated prisoner as one who is held separately from other prisoners in a cell on his own, with another prisoner or other prisoners who are also being isolated. Article 19B of the Ordinance stipulates four grounds for isolation: state security, prison security, maintaining the welfare and health of the prisoner or other prisoners and preventing significant harm to discipline or to the proper routine of the prison. This article, which did not change the grounds for which the Commissioner was authorized to order isolation in the past, is problematic as it does not define the circumstances that constitute "harm" to state security, prison security, discipline, or proper prison routine and leaves considerable liberty for IPS security authorities or those of other systems to claim that there are grounds for isolation. Article 19K of the Ordinance also stipulates that the party who decided on isolation has the authority not to state his or her reasons for the decision if he or she believes that informing the prisoner of these reasons may violate one of the grounds listed in Article 19B.

Article 19C(a) stipulates that a prison officer of the rank of Lieutenant Colonel may order isolation of up to 48 hours; this period may be extended by the prison director from time to time for up to 48 hours, up to a total of 14 days. Article 19C(b) stipulates that a prison officer authorized by the Commissioner, whose rank is no lower than a Brigadier General, is allowed to order isolation of a prisoner in a cell alone for a period exceeding 14 days, up to one month, and to extend this period for additional periods not exceeding one month each, up to a total duration of six months. Isolation along with one other prisoner in the cell

may be ordered for more than 14 days and less than two months, extendable from time to time for up to two months per extension, up to a total of 12 months. Isolation for over six months requires the Commissioner's authorization. These rules define who is authorized to order isolation and for how long it can be imposed. Following this amendment, there was a decline in the number of prisoners held in isolation.

Article 19D of the amendment adds the prisoner's right to a hearing if the duration of isolation exceeds 96 hours or 14 days. According to Commissioner's Ordinance 04.03.00, Articles 7B and 7C, the hearing is to be held verbally. A prisoner may be isolated for over six months alone in a cell, or for twelve months with one other prisoner, only if so ordered by the court, which is authorized to extend the isolation period from time to time for no more than six or twelve months, respectively, per extension. According to Article 19E of the Ordinance, the court hearing is to be conducted in the presence of the prisoner and his or her attorney. This decision may be appealed before the Supreme Court, if it grants permission to do so.

Despite the restrictions imposed by the amendment on the authority to order isolation, the broad definition of grounds for isolation, and the authorization of the court to review confidential material in the presence of one party, that is, not to reveal it to the prisoner and his attorney (according to Article 19H of the Ordinance), give the court relatively broad liberty in relation to isolation, particularly in cases related to state security. Grounds of state security are a mechanism that may serve as the basis for holding tens of Palestinian prisoners in isolation for prolonged time periods.

An amendment passed in 2006 eroded the 2000 amendments mentioned above that had advanced the rights of isolated prisoners to a certain degree. PHR-Israel opposed these changes. The 2006 amendment expanded powers and removed some of the restrictions and review procedures that had been stipulated in the previous amendment.

Already in the defining article 19A, this amendment grants the prison's deputy director isolating authority similar to that of the director. Article 19B specifies additional grounds for isolation: preventing a violent offense, an offense according to Part B of the Law to Combat Organized Crime, or a drug transaction offense. In the absence of a senior prison officer, Article 19C(a) authorizes a junior officer of the rank of Major to order isolation for 12 hours. Article 19C(b)(1) allows an authorized prison officer whose rank is no lower than Colonel to order in advance the isolation of a prisoner for a month's time and cancels the

procedure of review every 48 hours that was previously in effect. Article 19C(b)(2) also expands the authority to order isolation with an additional prisoner in one's cell for two months in advance. This amendment in fact expands the possibility of violating prisoners' rights, in the absence of a supervisory mechanism for careful examination of the necessity of isolation, which may harm the prisoner's physical and mental health.

As for evidence, the new amendment allows the court to hear evidence in the presence of one party, not only on security grounds, but also for the reasons listed in Article 19B, that is, prison security or prevention of real harm to discipline or to the prison's proper routine, on the condition that doing so is crucial for the making of justice. This amendment impinges upon the prisoner's right to plea, as he or she is unaware of the reasons for isolation and as a result cannot make arguments against them. As Association for Civil Rights in Israel (ACRI) lawyer Lila Margalit argued in her 19 December 2004 letter to MK Yuri Stern, Chairman of the Knesset's Interior and Environmental Committee that discussed the bill: "Reliance on confidential material critically undermines the prisoner's right to due process. It renders meaningless the right to plea and nullifies the effectiveness of court proceedings. Even if there is a formal judicial review, it has no real value, as the confidentiality prevents the court from carrying out the basic inquiry required to make a just, proper decision."

International Law

It should be noted that all treaties and international rules that address prisoners prohibit the use of solitary confinement as a punitive measure or attempt to limit its use significantly. Article 10 of the Covenant on Civil and Political Rights stipulates that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.³⁷ The Standard Minimum Rules for the Treatment of Prisoners passed by the UN in a 1995 convention and which were ratified by the Economic and Social Council in Decisions 663C (D-24) on 31 July 1957 and 2076 (D-62) on 13 May 1977 stipulate in Article 31 that corporal punishment or punishment by holding a prisoner in a dark cell and any other cruel, inhuman or degrading punishment are prohibited as a disciplinary measure.³⁸ In addition, in certain cases and in specific circumstances, isolation has been declared a kind of torture and therefore prohibited by international law.³⁹

37 International Covenant on Civil and Political Rights, <http://www2.ohchr.org/english/law/ccpr.htm>.

38 <http://www1.umn.edu/humanrts/instreet/g1smr.htm>

39 Howells, "A Study of the Effects and Uses of Solitary Confinement in a Human Rights Perspective", p.4.

Legal Representation of Palestinian Prisoners in Isolation

As stated, the Prison Ordinance and the Commission Ordinance stipulate the right to a hearing for isolated prisoners. Commission Ordinance 04.03.00, Article 6, states that extending individual or joint isolation beyond the initial 96 hours requires holding an oral hearing before the person who made the decision. Extending individual isolation beyond 6 months or joint isolation beyond 12 months requires a court decision, and the proceedings are to be held in the presence of the prisoner and his or her attorney.

Article 7 of the Commission Ordinance indicates that the hearing is to take place only prior to the first extension; subsequently the prisoner may make his or her arguments in writing against the decision to extend isolation. Article 7E stipulates that the IPS has the authority to order isolation even after the court has denied the IPS's request to isolate, if grounds for isolation continue to exist after the decision.

Needless to say, the hearing is held in Hebrew, and a guard is supposed to serve as interpreter, but experience shows that, for the most part, Palestinian prisoners do not comprehend what is said during the hearing, especially when the isolation is requested on the grounds of state security. In such cases the evidence is restricted, and the grounds for the decision are described in very general terms, such as that there are grounds to believe that a real threat exists to state security. It is difficult to legally contend with such wording. The questionnaires filled out by prisoners held in isolation do not provide a clear picture as to how hearings proceed. This raises the concern that hearings may not have taken place in some cases; in any case, it indicates the hearing's limited effectiveness in its current format.

Most Palestinian prisoners do not receive legal representation during the hearing on extending isolation, partly due to restrictions on contacting the outside world and particularly due to the absence of frequent family visits. The prisoners are forced to appear in court without any representation. The proceedings are conducted in a language in which they are not fluent and rely on confidential information to which the prisoners or their counsel are not privy. In effect, prisoners or their attorneys are compelled to contend with arguments without knowledge of their basis.

On more than one occasion, the court has ruled that balance must be achieved between the authorities' responsibility to ensure, on the one hand, systematic prison operations and protection of the welfare of prisoners and the public and, on the other hand, the prisoner's right to basic living standards inside prison. This balance also requires that the authorities examine from time to time ways to mitigate isolation's damaging effects. The longer the duration of the isolation, the greater the authorities' need to indicate the existence of an essential need for continuing the isolation.⁴⁰ However, security grounds, which serve as the basis for most isolation requests regarding security prisoners, prevail over considerations relating to prisoner's rights.

⁴⁰ See Request for Appeal 10/06 Attias v. IPS and Request for Appeal 1552/05 Hijazi v. the State of Israel.

Conclusions and Recommendations

The report states the following:

1. Palestinian prisoners are isolated in order to deal with the fact that they suffer from mental health problems or constitute a security risk.⁴¹
2. Palestinian prisoners are discriminated against in terms of their conditions of imprisonment. Due to these conditions, along with restrictions on family visits, the prisoners are almost completely cut off from the world outside the prison. The mental and physical implications of this discrimination are much graver for prisoners held in isolation or solitary confinement, who are disconnected from the prison population as well.
3. Isolation causes mental and physical damage, both among mentally healthy prisoners and among prisoners with a history of mental illness.
4. Mental health treatment provided to Palestinian prisoners in isolation is deficient: it is limited to prescribing medication and does not include therapy sessions with the administering psychiatrist. There is no psychiatric monitoring of prisoners who have not visited a psychiatrist or have not been referred to one by the prison physician. In this realm as well, Palestinian prisoners are discriminated against, as they are a culturally and linguistically alien population for the medical staff. The Palestinian prisoners are not even eligible for the support of social workers. In addition, there is no space allocated for Palestinian prisoners in Magen Prison's supervision division, which may make it difficult to transfer Palestinians there when necessary.
5. The psychiatric examinations of isolated prisoners expose psychiatrists to a potential conflict of dual loyalty.
6. Medical examinations of isolated prisoners expose IPS physicians to a potential conflict of dual loyalties and violate the rights of prisoners as patients as well as the rules of medical ethics.

⁴¹ See footnote 1.

7. In some countries, there is awareness of the damage caused by isolation and solitary confinement, and efforts have been made to minimize this damage.
8. Most Palestinian prisoners do not receive legal representation during court proceedings on isolation. The proceedings are held in Hebrew and at times on the basis of undisclosed information to which the prisoner or his attorney are not privy. Thus, prisoners' rights to a fair trial are violated.
9. Most requests to isolate prisoners are made on security grounds, which prevail over all other grounds related to prisoners' rights. As a result, prisoners are isolated for years on security grounds.
10. Recently amended legislation on isolation facilitates isolation of prisoners.
11. Solitary confinement is frequently used as a disciplinary measure against Palestinian prisoners and during interrogation of Palestinian detainees.

Therefore, immediate action must be taken as follows:

1. The Ministry of Health and the Israel Medical Association must combat the mechanisms of isolation and solitary confinement, take action to stop their use in Israel, and prevent physicians' involvement in these practices.
2. The Israel Medical Association and its member organization, the Israeli Psychiatric Association, must instruct psychiatrists who examine prisoners in isolation or solitary confinement to demand their removal from isolation or solitary confinement and to take action to implement this demand. Yet, in exceptional cases, it may be possible to deviate from the demand to remove the prisoner from isolation, following a close assessment of his or her condition.
3. The psychiatrist examining a prisoner held in isolation or solitary confinement must warn of the mental damage they cause, order their discontinuation, and take action to implement those instructions.

4. IPS physicians must refuse to take part in isolation and solitary confinement procedures, as these practices harm prisoners' physical and mental health.
5. The Scandinavian model, according to which isolated prisoners are placed in separate sections where they can spend time with each other for much of the day and participate in various activities, should be implemented in Israeli prisons. In sections consisting of prisoners who suffer from mental problems, enhanced supervision should be provided by a special therapeutic staff. For this purpose, the state must provide designated funding to the IPS.
6. The state must ensure representation of prisoners during court hearings on isolation, similar to that provided to each prisoner during his or her criminal trial, when he or she cannot fund his or her legal representation.
7. Action must be taken to restore legislation on isolation to its state prior to the 2006 amendment discussed above.

Responses

Israel Prison Service

Israel Prison Service
- Protected Status -

Internal Control Unit

Date: 11 December 2007

File:

Ref: 97769907

Director, Prisoners and Detainees Department – Ms. Anat Litvin
Physicians for Human Rights

Commissioner

Deputy Commissioner

Head of General Staff Branch

Legal Advisor

Re: **Response to Physicians for Human Rights-Israel's Report on Isolation and Solitary Confinement of Palestinian Prisoners**

Ref: Report on Isolation of Palestinian Prisoners from 4 November 2007

- 1) Physicians for Human Rights-Israel, in cooperation with the Addameer organization, conducted a review of IPS facilities on the issue of isolation and solitary confinement of Palestinian prisoners in prisons in Israel.
- 2) The following are the findings that require our response:

Prison Conditions in Isolation

- √ Lack of light and fresh air.
- √ Presence of insects and mice.
- √ In most cases, the prisoners' hands and legs are shackled when they take their walk.
- √ Prisoners are not permitted to continue their studies at institutions they studied at prior to imprisonment.

- √ Isolated prisoners are not even permitted to study at the Open University.
- √ The food provided to prisoners is unsatisfactory in terms of quality and quantity and does not fit the medical needs of prisoners requiring special diets.
- √ Essential hygienic products (toothpaste) are not distributed.
- √ Floor-cleaning products are inadequate and prisoners purchase these products at their own expense.

Visits

- √ Limiting permission to receive visits to one's immediate family is difficult for prisoners held in isolation; a certain prisoner held in isolation and who suffers from mental health problems has not received visits for six years, as his family members are unable to come [to prison] and some of them live abroad.
- √ Security prisoners are not allowed to hold phone conversations.
- √ The basic criteria for receiving permits to visit are very restrictive (the male population aged 16-45 is barred from receiving permits), and as a result, many families do not receive permits.
- √ Family visits may be canceled in a sweeping fashion at any time given a security reason. Isolated prisoners suffer more from this problem.
- √ Family visits are conducted with a glass divider and without contact with visitors; the critics indicated names of Jewish prisoners whom they claim have received improved conditions (Mordechai Vanunu and Yigal Amir).

Delays and Neglect in Administering Mental Health Treatment

- √ Psychiatric treatment administered to isolated Palestinian prisoners in Israeli prisons is deficient; who determines the severity of one's condition and how long does one wait?
- √ The condition of some prisoners who suffered from mental illness prior to their arrest has deteriorated during their isolation.
- √ The critics indicate a case from April 2006 involving the prisoner M., who was being held in isolation and suffered from mental distress, and regarding whom conflicting opinions existed between the IPS Chief Medical Officer and the medical opinion of Noa Bar Haim; the critics request re-evaluation of the medical diagnosis and M.'s transfer to a psychiatric hospital; holding him in solitary confinement endangers his mental condition.

- √ Psychiatric treatment is administered in the presence of guards. The meeting between physician and prisoner is conducted in Hebrew only.
- √ Isolated prisoners who received psychiatric treatment complained that they were unsatisfied with the treatment, that treatment was limited to administering medication, and that treatment did not include therapy sessions.
- √ Magen's supervision section does not have space designated for Palestinians.
- √ The critics raised two cases of prisoners held in isolation at N.T. [Neve Tirza Women's Prison] and who have mental problems. The critics request allowing family visits by relatives who are not immediate family, allowing visits by volunteers, and that visits be conducted without a separating divider.

Physiological Effects of Isolation

- √ Physiological symptoms increase as a result of prolonged isolation.

Dual Loyalties

IPS Physicians:

- √ Commission instructions regarding medical examinations of isolated prisoners are not carried out or not documented in medical reports.
- √ Weekly medical examinations conducted by a physician are not documented (are they not conducted, or conducted but not documented?).
- √ Review of medical files shows that sometimes bi-monthly examinations are not held as scheduled.
- √ No attempt is made to respond to cases in which the prisoner refuses to undergo medical examination.
- √ Requiring the physician to medically authorize holding a prisoner in solitary confinement and isolation places the physician in an ethical dilemma, as the physician knows that such approval will harm the prisoner's mental and physical health; in giving this authorization, the physician commits an ethical offense.

Conclusions of the Examining Team

- 1) Palestinian prisoners are isolated as a way to deal with the fact that they suffer from psychological problems or constitute a security risk.
- 2) Palestinian prisoners are discriminated against in terms of their conditions of imprisonment; these conditions and the restrictions on family visits sometimes lead to the prisoners' nearly complete disconnection from the world outside the prison.

This discrimination has much more severe mental and physical implications for prisoners held in isolation and solitary confinement, who are separated from the prison population.

- 3) Isolation causes mental damage for mentally-fit prisoners as well as for prisoners who suffered from mental illness prior to their arrest; in addition, isolation causes physical damage.
- 4) The mental health treatment given to Palestinian prisoners who are held in isolation is deficient: it is limited to administering medication and does not include therapy sessions with the administering psychiatrist. There is no psychiatric follow-up of the mental state of prisoners who have not referred themselves or been referred to a psychiatrist by an IPS physician. In this realm as well, Palestinian prisoners are discriminated against, as this population is alien to the medical staff, both culturally and linguistically. Palestinian prisoners are not even eligible for the support of social workers. In addition, in the supervision section at Magen there are no designated spaces for Palestinians, which may make it difficult to transfer them there when necessary.
- 5) In some countries, there is an awareness of the damage caused by isolation and solitary confinement, and efforts are made to minimize it.
- 6) Psychiatric examinations of isolated prisoners expose psychiatrists to situations of dual loyalties.
- 7) Medical examinations of isolated prisoners expose IPS physicians to situations of dual loyalties and violate the prisoners' rights as patients as well as the rules of medical ethics.
- 8) Most Palestinian prisoners do not receive legal representation during court proceedings on isolation. The proceedings are conducted in Hebrew, sometimes on the basis of confidential information, which the prisoners or their representatives have no right to view, thus violating the prisoners' right to defend themselves.
- 9) Security grounds serve as the basis for most requests for isolation and prevail over any other ground related to prisoners' rights. As a result, prisoners are held in isolation for years on security grounds.
- 10) It is evident that the amendments made to the legislation regarding isolation in recent years facilitate the isolation of prisoners.
- 11) Use of solitary confinement against Palestinian prisoners as punishment is frequent and occurs during interrogation as well.

Recommendations of the Examining Team

- 1) A psychiatrist who examines any prisoner held in isolation or solitary confinement must warn of the mental damage involved, order the discontinuation [of isolation or solitary confinement], and take action to implement this order.
 - 2) IPS physicians must refuse to participate in the isolation and solitary confinement process, as these practices damage prisoners' physical and mental health.
 - 3) The Scandinavian model, according to which isolated prisoners are placed in special sections, where they can be in each other's presence for much of the day and participate in various activities, is to be adopted. In sections that contain prisoners with mental illness, increased supervision is to be provided by special therapeutic staff.
 - 4) The state must ensure prisoners' representation during court proceedings on isolation, similar to representation provided in a criminal trial to prisoners who cannot afford to fund their own representation.
 - 5) Action should be taken to restore the legislation on isolation to its state prior to the 2006 amendments.
3. The following is the IPS response to the critics' findings:

Background information

- √ According to the 1971 Prison Ordinance [new version] (hereinafter: the Law), a prisoner may be held in isolation as a last resort in order to achieve the goals specified in section 19b and as long as the goal has to be achieved and there is no other way to achieve it.
- √ The Law specifies, in accordance with the duration of isolation, the IPS personnel authorized to order isolation and the time periods beyond which only the district court is authorized to order a prisoner's isolation.
- √ According to the instructions of the Law and those of the relevant Commission's Ordinance (04.03.00), the need to continue isolation of an isolated prisoner is examined from time to time, as is the need to appeal to the district court on this issue.
- √ Therefore, the arguments made in the report as regards these issues are baseless. The rules defined in the Law and the Commission's Ordinance are clear and are implemented.
- √ As for the claim that Palestinian prisoners are isolated as a way to deal with their

mental problems or with the fact that they constitute a security risk, it should be stated that among the goals indicated in the Law, there exist additional grounds as regards protecting state security, protecting prison security, protecting the welfare or health of the prisoner or other prisoners, and more. A prisoner's mental health problem in itself does not constitute a ground for isolation.

- √ As for the claim that most Palestinian prisoners do not receive representation during the legal proceedings on isolation, we state that article 19e(b) of the Law stipulates that court proceedings are to be held in the presence of the prisoner or his representative. The possibility of representation exists for each prisoner (including Palestinians).
- √ The language to be used during court proceedings is under the court's authority only, similar to other elements taking place in the framework of the proceedings held before the court.
- √ As for the claim that security grounds serve as the basis for most requests for isolation, we state that the grounds are presented for the district court's review and it is the court that is authorized to decide on extended isolation. The court is also able to hold a second review according to article 19f of the Law, if new facts have been revealed or if circumstances have changed in such a way that warrants changing the court's decision; there is also the possibility of appealing to the Supreme Court (if permission is granted).
- √ As for the claim that changes made in recent years in the Law regarding isolation facilitate isolation, we indicate that the amendments did not ease isolation, not with regards to the grounds nor the time periods [beyond which the matter is] to be brought before the court.

Prison Conditions in Isolation

Prisoners are isolated due to security reasons in the event of concern for state security, prison security, guards' lives, or prisoners' lives. The isolation and solitary confinement rooms have been constructed in a manner physically different from regular cells due to security needs and in order to thwart attempts to harm security and to prevent escape from prison, harm to personnel or to other prisoners, and more. Therefore, the isolation and solitary confinement cells are characterized physically by an emphasis on security components and stringent standards such as thickness of the walls, window openings, doors, and more.

Presence of insects and mice – the IPS takes a number of courses of action to eliminate various pests via extermination, setting of traps (as needed), and spray. The spraying

is done by an outside contractor according to a set yearly program, in all prisons and various divisions, and, when necessary, in cooperation with the prison's sanitation staff. Extermination products and spray are used in controlled quantities, as they contain poisonous materials and their excessive use may put prisoners' health at risk. At the same time, it should be stated that the presence of various pests results from keeping open food products and food scraps and the prisoners' lack of hygiene. The IPS instructs prisoners on keeping proper rules of hygiene.

Shackling prisoners during their walk – shackling of prisoners is done during the segment between taking the prisoner out of his cell until his entry into the walking yard for security reasons and due to concern for prisoners' lives. When prisoners are in the yard, the shackles are removed.

Food – The IPS provides all prison inmates with three meals, according to a uniform, fixed food schedule set by the logistics staff in the Commission's general headquarters. The food schedule includes a variety of seasonal fruits and vegetables, a portion of meat, poultry, or fish (at lunch), cooked vegetables, cheese products, eggs, bread, legumes, and various spreads. There is no shortage of food and we know nothing of complaints due to lack of food or physical problems due to malnutrition. Prisoners who require a special medical diet receive the food they need in isolation as well.

Hygienic products – The IPS provides needy prisoners with a haberdashery package that includes essential hygienic products.

Cleaning products – The IPS provides all prisoners in cells with cleaning products in a controlled, restricted manner, due to concerns that cleaning products may be used to harm security.

Visits

Security prisoners who are residents of the Territories are permitted to receive visits from their immediate family members only. Security authorities and the IDF permit only prisoners' immediate family members to enter Israel. The criteria for visitors' entry into Israel are under the army's responsibility. The army bars entry into Israel of the population of 16-45-year-old men for security reasons. Family visits are canceled very rarely, and even when there is a closure on the Territories, family visits are possible.

Phone conversations – Security prisoners are generally not allowed to talk on the phone except in humanitarian cases, such as the death of a relative, the marriage of a relative, etc.

Glass divider during family visits – Security prisoners’ family visits are conducted through a glass divider for security reasons and to prevent the possibility of smuggling prohibited items.

Physical effects of isolation

Conditions of imprisonment and nutrition of isolated prisoners are supervised by professional medical personnel. A prisoner held in isolation does not lose his right to receive medication and medical treatment; whenever he requests to be examined by a physician, he receives the appropriate attention and response.

Dual Loyalties

- √ IPS physicians take no part in any punitive act. In no case is medical treatment withheld as a punitive act.
- √ As regards solitary confinement and isolation, it is the physician’s role to inform the isolating authority of the prisoner’s illnesses and required medical treatment and to provide the isolated prisoner with medical follow-up and treatment as required.
- √ Medical forms have been updated, in which the physician records the prisoner’s diagnoses and treatment but does not determine that the prisoner “is fit for...”
- √ There are guidelines and instructions for physicians and medical assistants for conducting an initiated examination in the isolation sections; most importantly, medical treatment and medication are maintained in the isolation section, and the prisoner keeps his rights to medical treatment while isolated, including going out for medical examinations, treatment, private medical opinions, etc.
- √ According to procedures and instructions, reporting and documentation of medical treatment of prisoners are to be conducted, but if there are cases in which such reporting or documentation is not done, this is an isolated failure.

Mental Health Treatment of Isolated Prisoners who are Residents of the Territories

It is known that psychiatric treatment for all prisoners in the IPS is under the responsibility of the Ministry of Health – Maban [Mental Health Center].

Attached is the response of the Director of the Forensic Psychiatry Unit, Dr. Moshe Birger, who is director of the IPS’s Maban division.

Sincerely,

Dr. Yossi Gover, Attorney, Colonel
Internal Comptroller

Response of Dr. Moshe Birger, Director of Psychiatric Service of IPS Mental Health Center

The State of Israel
Ministry of Health
Be'er Ya'akov Ness Ziona Maban-IPS
Mental Health Medical Center and Community System
Affiliated with Sackler Medical School, Tel Aviv University

Confidential-Medical

13 December 2007

To

Dr. Yossi Gover, Attorney

Internal Controller

Re: Physicians for Human Rights Report on isolation and Solitary Confinement of Palestinian Prisoners

1. Psychiatric treatment given to Palestinian prisoners held in isolation is not substantively different from treatment of non-Palestinian prisoners.
2. Maban physicians examine each prisoner who is referred by the IPS for a psychiatric examination, irrespective of isolation. Isolation of a prisoner does not in itself indicate that a psychiatric examination takes place. A Maban psychiatrist does not visit the isolation sections as part of his activity. Therefore, the initial impression of a prisoner's condition is that of IPS staff, and the mental evaluation and assessment of the severity of a prisoner's mental state is done by a psychiatrist, if he is indeed referred for examination and examined.
3. To my knowledge, the waiting time for a psychiatric visit depends upon its urgency, and in especially urgent cases that cannot wait for the psychiatrist's visit to the prison in which the prisoner is held, the examinee is referred to IPS's Maban emergency room or to psychiatric emergency at peripheral hospitals.
4. From the moment it is established that an isolated prisoner suffers from mental illness, appropriate treatment is determined for him. If we observe that his condition deteriorates, we do everything we can to stop the deterioration, via accepted modes of psychiatric treatment.
5. We operate in accordance with the binding instructions of the Law for Treatment of the Mentally Ill regarding coerced treatment or hospitalization. Treatment is not forced

on those who do not wish it, even if they suffer from mental illness, unless explicit instructions of the law arise.

6. To my knowledge, every case in which the IPS Chief Medical Officer receives an opinion relating to the mental state of a prisoner is brought to my attention. Accordingly, if I have received the report regarding a case from 2006 involving Prisoner M., I will be able to address the issue in a broad manner.
7. It is preferable that the psychiatric examination be conducted in the presence of physician and prisoner only. An additional person may be involved if there is a need for translation or when the IPS has security and safety concerns. I have attempted unsuccessfully to recruit an Arabic-speaking psychiatry specialist for Maban. In the current situation, we have no choice but to use translators.
8. Maban sees no difference between psychiatric treatment of isolated prisoners and of regular prisoners, as Maban is involved in assessment, provision of medications and follow-up. The psychosocial therapy of prisoners who are not hospitalized is under IPS's responsibility and needs to be addressed to the relevant health care agents.
9. The issue of designated space for Palestinians in Maban's supervision division should be referred to the IPS, as this division is not under Maban's administrative responsibility. As for visits by family and volunteers to isolated female prisoners at Neve Tirza Prison, this issue should be referred to the IPS, not to Maban.
10. In previous correspondence as well, I presented Maban's position, which is in fact the one accepted by the Israeli Medical Association that, generally, isolation may cause distress and mental health problems. Maban provides treatment to isolated Palestinian prisoners as to any other prisoner. Referral to a psychiatrist is done at the initiative of IPS health care agents, and Maban is unaware of any discrimination against Palestinian prisoners.
11. The issue of active intervention policy in isolation sections, such as, for example, the demand to remove a prisoner from isolation and solitary confinement, needs to be raised vis-à-vis the Ministry of Health and the Israeli Medical Association.
12. Maban does not make operative recommendations for placement in isolation or removal from isolation – this is a clear-cut security issue. As stated, from a psychiatric perspective, there is no dispute that prolonged isolation has an impact on and implications for one's mental state, and each prisoner who is examined should be viewed as if the psychiatrist believes that isolation is liable to harm the prisoner's condition.

Sincerely,

Dr. Moshe Birger

Director, Department of Forensic Psychiatry

State of Israel

Department of International Relations Ministry of Health
Jerusalem

27 December 2007

Ref. 16844207

To:

Ms. Anat Litvin

Physicians for Human Rights-Israel

Re: Report on isolation and solitary confinement of Palestinian Prisoners

We have accepted your appeal with the appropriate consideration and deep respect for your activity.

The Ministry's Director-General requested the Ministry's senior staff to review the report and address its content.

This staff reviewed the appeal thoroughly and conducted an intensive examination of the issue, and its conclusions are as follows:

1. The Ministry of Health has no connection with IPS's activity on the topic under discussion.
2. Decisions regarding holding and isolation are made by prison security authorities and by them only!
3. A clarification with the IPS Chief Medical Officer indicates that prison physicians conduct an examination of prisoners in order to determine medical needs and instruct the prison's administration accordingly.
4. Whenever removal from solitary confinement is required for any reason, the physician must give his opinion to the Prison Commander and is to report to the IPS Chief Medical Officer when necessary.

Again, thank you for your appeal and your concern.

Sincerely,
Yair Amikam
Deputy Director
Education and International Relations

Cc: Prof. Avi Israeli, Director-General, Ministry of Health
Dr. Boaz Lev, Vice to the Director-General
Dr. Hezi Levi, Head of Medical Administration

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**His god-given rights are a grain of salt tossed
into the sea**

**Taha Muhammad Ali,
Never Mind: Twenty Poems and a Story, Ibis Editions,
translated by Peter Cole, Yahya Hijazi, Gabriel Levin**

Physicians for Human Rights-Israel (PHR-Israel) believes that every person has the right to health in its widest possible sense, as defined by the principles of human rights, social justice and medical ethics. It is the responsibility of the State of Israel to ensure the fulfillment of this right in an egalitarian manner for all populations under its legal or effective control: residents of Israel who are eligible for National Health Insurance, Bedouin residents of unrecognized villages in the Negev desert, prisoners and detainees, migrant workers, refugees and asylum seekers, and Palestinian residents of the occupied Palestinian territory.

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Addameer is a Palestinian NGO that advocates for the rights of Palestinian prisoners and detainees, and defends groups and individuals whose social and political rights have been violated. Addameer believes that human rights are universal, and operates according to international humanitarian law and human rights law.

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