



The World Organisation Against Torture
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**OPEN LETTER TO Mr. BENJAMIN NETANYAHU
PRIME MINISTER OF ISRAEL**

Via Fax: +972- 2-651 2631
Email: pm_eng@pmo.gov.il

Geneva, 2 April 2012

Re: Draft bill exempting security services from the obligation to record interrogations

Your Excellency,

The World Organisation Against Torture (OMCT), the leading global network of civil society organisations against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment or punishment in the world is writing to you expressing its grave concern over a draft bill presently under consideration that would permanently exempt the police from the obligation to record interrogations of suspects in cases involving security violations¹. OMCT has been informed that the Ministerial Committee for Legislation has decided to support the draft bill.

In our global experience working on the prevention of torture and ill-treatment recording of interrogations can constitute a fundamental safeguard against torture and ill-treatment. Such safeguards are even more important in ensuring respect for the absolute prohibition of torture and other forms of cruel, inhuman or degrading treatment in national security interrogations where the temptation to resort to unlawful means is generally higher than in ordinary cases.

In the face of the credible accounts against the Israeli Security Agency (ISA) and the police resorting to methods amounting to torture and/or ill-treatment in the interrogation process, the proposed bill further lowers the bar creating a legal framework prone to torture and ill-treatment. Rather than weakening, we urge you to reinforce the framework of legal safeguards against torture and ill-treatment in the context of security investigations, to oblige both police and ISA to fully record their interrogations and to ensure fully independent and effective investigations into any allegation of torture and ill-treatment.

OMCT recalls that in May 2009 following the examination of Israel's report, the UN Committee Against Torture stated that "video recording of interrogations is an important advance in protection of both the detainee and, for that matter, law enforcement personnel." It had therefore recommended to Israel "as a matter of priority, to extend the legal requirement of video recording of interviews of detainees accused of security offenses as a further means to prevent torture and ill-treatment".

¹ Draft Bill: Criminal Procedure Law (Interrogation of Suspects) (Amendment – Interrogation of Suspects of Security Offences).

Indeed, an important advance in the protection of suspects from torture and ill-treatment was set by the Criminal Procedure (Interrogating Suspects) Law, 2002, which requires that all stages of a suspect's interrogation by the police in a case of felony be recorded by video and audio². However, this requirement has never applied to ISA, and while it was supposed to come into effect with respect to police interrogations of suspects in security cases in 2008, the Knesset amended the Law by exempting police from such recording until 2012³. The proposed draft bill would make this exemption a permanent feature of the law.

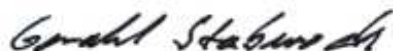
OMCT recalls that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requires that each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction (Article 2 a)) and that each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture (Article 11).

OMCT is of the opinion that video and audio recordings of police and ISA interrogations can contribute substantially to deterring police and security services from violence, intimidation and humiliating treatment while questioning persons suspected of serious criminal offences. The recordings can also ensure that an accused who claims that his confessions were obtained through the use of torture and ill-treatment will have the means to prove his or her claim and prevent the admissibility of such confessions. Ultimately, it ensures that the fight against security threats is conducted within and not outside the rule of law.

Accordingly, OMCT respectfully urges Your Excellency to reject the proposed draft bill that would permanently exempt the police and the ISA to record interrogations of suspects in cases involving security violations and to fully ensure safeguards against torture and ill-treatment in all security interrogations.

We hope that the concerns expressed in this letter will receive the attention they deserve and we would welcome your prompt responses on these matters.

Yours sincerely



Gerald Staberock
Secretary General
OMCT

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² The recording requirement applies to all investigations of felonies in which the maximum penalty is ten years imprisonment or more. The requirement came into force incrementally, beginning with murder investigations in 2006, and applied to all investigations of felonies of 10 years maximum imprisonment or more in 2010.

³ PCATI and OMCT report « Implementation of the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment by Israel », June 2009.