



June 15, 2014

To:

MK Miri Regev

Chair of the Internal Affairs and Environment Committee

Members of the Internal Affairs and Environment Committee

Re: Bill for the Amendment of the Prisons Ordinance (Prevention Harm Caused by Hunger Strikes), 5774-2014

1. This week the above bill is slated for discussion in the Internal Affairs Committee. **We share the position held by international organizations, the Israeli Medical Association and human rights organizations opposing the force-feeding of hunger strikers.**
2. The phenomenon of hunger strikes by prisoners presents doctors and prison authorities with significant challenges. Nonetheless, **there exists a consensus in international law and in the medical community** that, as a rule, force-feeding mentally competent hunger strikers, who have freely expressed their refusal to receive such treatment, is forbidden, as it violates human rights and basic rules of medical ethics. Force-feeding a hunger striker violates his/her rights to refuse treatment, to autonomy and to dignity.
3. The principle which forbids force-feeding hunger strikers was expressed in the **World Medical Association's** 2006 Malta Declaration. This declaration expressly establishes that it is at all times ethically forbidden to force-feed hunger strikers who are competent to express their opinion:

"even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment."¹
4. **The Red Cross** has also adopted the principle that medical treatment and forced feeding of a hunger striker are impermissible, and the prisoner's choices and his/her right to dignity must be respected². The **Israeli Medical Association** maintains as well that so long as a person is competent to express his/her will, the desire to

¹ World Medical Association, *Declaration of Malta on Hunger Strikers*, 1991, as revised 2006, available at <http://www.wma.net/en/30publications/10policies/h31/index.html>.

² ICRC, *Hunger Strikes in Prisons: the ICRC's Position*, 31/1/2013. <http://www.icrc.org/eng/resources/documents/faq/hunger-strike-icrc-position.htm>.

conduct a hunger strike must be respected and doctors may not participate in force-feeding.

5. The arrangement suggested by the Bill, which would permit the forcible provision of medical treatment to hunger-striking prisoners who have expressed their desire not to be treated, contradicts the provisions of the Patient's Rights Law 1996-5756, under which it is forbidden to perform medical treatment on a person without his/her informed and voluntary consent (clauses 15 (1) and (2)).
6. It is our position that **the provisions of the Patient's Rights Law must also apply in cases of prisoners who are hunger striking. These provisions provide a worthy solution to the dilemma that arises regarding the balance between respecting the autonomy of the individual over his/her body and the importance of saving his/her life.**
7. In light of the aforesaid, we oppose the provision which exists in the Bill for giving medical treatment and feeding hunger striking prisoners against their will and by force, which deviates from the principles of the Patient's Rights Law. Furthermore, **we are particularly concerned about the inclusion of national security and public safety considerations, as well as considerations regarding the maintenance of order and security in prisons, in any decision regarding involuntary medical treatment and feeding of a prisoner** (proposed clause 19 xvi (iv)). The only factors which must be considered in a decision on treatment for a prisoner are those relating to his/her medical situation, the danger to his/her life, and his/her desire to receive treatment. Furthermore, allowing the courts to permit force-feeding and involuntary treatment of a hunger-striking prisoner on the basis of confidential evidence is especially alarming.
8. As we see it, any decision about providing medical treatment, including feeding or nourishing a person, must be made exclusively by independent medical staff, in accordance with the Patient's Right Law and the conditions set therein for providing medical treatment without the patient's consent. The involvement of prison authorities or interests which are not purely medical have no place in such decisions.
9. **In light of the aforesaid, we call on you to oppose the Bill.**

Respectfully yours,

Anne Suci, Adv.

The Association for Civil Rights in Israel

Copied to this letter: Attorney Tomer Rozner, Legal Adviser to the Knesset's Internal Affairs and Environment Committee.