

Torture of Palestinian Political Prisoners in Israeli Prisons

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Addameer Prisoners Support and Human Rights
Association

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Addameer Prisoners Support and Human Rights Association

ADDAMEER (Arabic for conscience) **Prisoners Support and Human Rights Association** is a Palestinian non-governmental, civil institution that focuses on human rights issues. Established in 1992 by a group of lawyers, ex-detainees and activists concerned with human rights, the center's activities focus on offering support for Palestinian prisoners, advocating the rights of political prisoners, and working to end torture through monitoring, legal procedures, advocacy and solidarity campaigns.

Addameer is a member of the Executive Committee of the Palestinian NGO Network and works closely with international human rights organizations such as Amnesty International, Human Rights Watch, OMCT and FIDH to provide regular information on the situation of Palestinian political detainees.

Addameer believes in the internationality of human rights based on the respect of human dignity as a priority, the totality of which is constructed upon international laws and conviction. Addameer also believes in the importance of building a free and democratic Palestinian society based on justice, equality, rule of law and respect for human rights within the larger framework of the right to self-determination.

Addameer strives to:

- Oppose torture as well as other instances of cruel, inhuman and degrading treatment.
- Abolish the death penalty.
- Oppose arbitrary arrest and guarantee fair and just trials.
- Support and endorse prisoners of conscience through supporting the efforts of political prisoners and providing them with psychological, legal and media support.
- Support families of Palestinian detainees and the community at large in addressing issues of human rights violations.
- Contribute in lobbying towards the issuing of laws that guarantee human rights principles and basic freedom, as well as ensuring their implementation on the ground.
- Participate in raising awareness locally and internationally regarding the issues of human rights, democracy and the rule of law in order to promote greater community participation in securing human rights.



Addameer's Programs

Legal Aid Program: Since its founding, the backbone of the organization's work has been legal aid for Palestinian detainees. The Legal Aid Program of Addameer has provided legal advice and representation to hundreds of Palestinian detainees by providing free legal services to prisoners, legal consultations for them and their families, and working on cases of precedent issues of torture and fair trials.

Regular Prison Visits and Social Counseling: Addameer conducts regular visits to Palestinian and Arab prisoners in order to ensure that their treatment and basic living conditions are adequate. It also offers legal counseling to detainees and their families in order to ensure that they understand their rights and are able to address human rights violations as they occur.

Documentation of Palestinian Detainee Rights: Addameer documents statistics concerning the numbers of detainees, date and place of arrest, and any violations suffered by detainees.

Media Coverage and Outreach: Addameer regularly issues press releases and action alerts detailing the status of detainee rights and has activated its website, making accessible to the local and international community a wealth of information on the issue of detainees' rights and the conditions in which they live. In particular, at the beginning of October 2000, Addameer launched a three-month project called the September 2000 Clashes Information Center (<http://www.addameer.org/september200/>) that was considered the primary source of information regarding the situation in the West Bank and Gaza Strip.

Advocacy: Through campaigning and advocacy work, Addameer works towards building local, Arab and international solidarity campaigns to oppose torture and arbitrary detention and to support and defend Palestinian prisoners. Addameer also conducts regular advocacy work within international and UN systems in order to raise awareness of the situation of Palestinian detainees.

Addameer has also been actively involved in the development of Palestinian civil society since its establishment. In particular, in its role as an executive member of the Palestinian NGO Network, Addameer plays an important role in structuring the response of civil society to human rights violations, as well as directing strategies for increased community awareness. This has also placed the association in a unique position because of its strong commitment and relationship to the local community. Community involvement remains the backbone of the organization, in the form of volunteerism and support for all activities of the association and its campaigns. The priority of Addameer is to ensure that the association is not merely a service oriented establishment, but rather a resource for the community to address human rights violations.

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Introduction



Since the Israeli occupation of Palestinian Territories in 1967, the systematic torture of Palestinian prisoners by the Israeli military and security forces has been official policy. Torture is not only limited to acts practiced during interrogation, or within prisons and detention centers. It is a far more comprehensive concept on the level of the variety of acts and the groups and individuals it targets. The forms of torture used are dependent on the nature of the occupation. In the case of the Occupied Palestinian Territories (OPT), the occupation is based on denying the existence of the other through a series of practical procedures within an ideological and political framework, legally codified through the regulations of military occupation.

The very nature of the Israeli occupation tends towards denying the existence of the occupied, dealing with the occupied population through a set of military laws issued by the occupying power and rejecting the rules set by the international community defining the relationship between occupier and occupied. One example of this is Israel's refusal to apply the Fourth Geneva Convention of 1949 in its entirety to the OPT. Israel insists that these lands are "administered" by Israel, with the legal framework to administer both the people and land of these territories set by Israeli military regulations issued by Israeli military commanders. Israel also refuses to abide by other standards of international law in its occupation, flouting international opinion and legitimacy.

As such, Israel has imposed its own definition of the relationship between occupier and occupied and the rules of occupation, designating its occupation as an 'exceptional' case. Unfortunately, the international community has accepted Israel on this basis, refusing to make Israel accountable for violations of international law committed over the last half century.

The understanding of human rights over the past decades has expanded in its scope to include a wider recognition of basic rights. Many violations that were not addressed in the past have become crimes for those who



perpetrate them throughout the world. The level of respect for human rights has become one of the guiding standards in evaluating states and international relationships during this millennium.

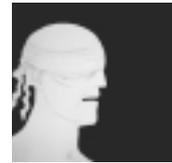
Despite these quantitative and qualitative developments in the field of international human rights, Palestinians are still subject to countless forms of human rights violations that the international community continues to ignore. Palestinians continue to be deprived of the basic right of self-determination and establishing their own state. The basic human rights of Palestinians have become subject to negotiations within the context of conflict, such as the right of return, self-determination, right to life, education, freedom, and human dignity. At the same time, Israel continues to exert its efforts in portraying the Palestinian struggle for liberation as only violent and Palestinians as 'terrorists', while the Israeli military continues to target and kill Palestinian civilians and Palestinian lands continue to be confiscated for illegal settlement activity.

There is a clear sense of dualism when one observes Israel's public conception of its occupation. Israel has stated its acceptance of international humanitarian law and human rights law as a reference point but, at the same time, it attempts to deny the fact that it is an occupying power and obligated to implement humanitarian law. It has attempted to portray its occupation as a 'democratic' one, whilst portraying itself as the victim of Palestinian, Arab and Islamic 'terrorism'.

Israel has rejected the international guidelines of war, such as The **Hague Convention** and the **Charter of the International Military Tribunal for Nuremberg** of 1945, both considered part of international customary law. Israel has also rejected the **Geneva Conventions of 1949** as applicable in its entirety in its military occupation. Although Israel initially accepted that the Convention applies to the Occupied Palestinian Territories in its Military Order 3, issued in 1967, Military Order 144 later canceled this order on 22 January 1968. Additionally, in 1995 Israel rejected the authority of the Committee Against Torture to investigate information it received from individuals and organizations concerning torture. Hence, Israel has historically ratified international agreements regarding human rights protection, whilst at the same time refusing to apply the agreements within the OPT, attempting to create legal justifications for its illegal actions.

This report attempts to draw from international agreements and conventions concerning torture to compare Israel's applicability of these standards within the context of the OPT. This includes the **UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment**, 1948; **the Universal Declaration of Human Rights**, 1948; **the UN Charter**, 1945; **the International Covenant on Civil and Political Rights**, 1966; **the Fourth Geneva Convention**, 1949; **the Convention on the Rights of the Child**, 1989; and other relevant international conventions and treaties.

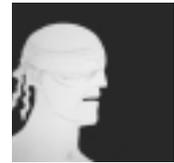
Additionally, research was conducted from reports made available from Palestinian and Israeli human rights organizations, personal interviews, sworn affidavits, and other relevant references and articles concerning the issue of torture. The report focuses specifically on the torture of Palestinian prisoners within Israeli prisons, interrogation and detention centers, one of the more serious violations of human rights within the OPT.





Chapter One

Overview



Since the Israeli occupation of Palestinian territories in 1967, the torture and cruel, inhuman and degrading treatment of Palestinian prisoners has been widespread and part of the official policy of the Israeli army and security apparatuses. The degree and forms of torture have varied throughout the years, but the policy of torture has been systematic and legitimized by Israel's judicial system and government.

Israel has continuously attempted to justify the use of torture to the international community and to absolve itself of criminal responsibility in this regard in various ways, foremost of which are the **Landau Commission Recommendations** of 1987. The Landau Commission claimed to restrict the use of torture, but approved the use of "moderate" physical pressure and "non-violent psychological pressure" during the interrogation of Palestinian detainees.

The Israeli General Security Services (GSS or Shabak) has applied both physical and psychological torture against Palestinian prisoners since the beginning of the 1967 occupation, seemingly without the need for legal justification. This was enabled by Israel's designation of the Palestinian Territories as being under 'exceptional' circumstances, thus justifying the need for "protective defense policies" and the need to conduct "effective investigations" in order to ensure security. In cases that Israel practiced torture against Palestinian prisoners, explanations and justifications have been based on the necessity of torture due to this "exceptional circumstance". This is in direct violation of the UN **Convention Against Torture**, to which Israel is a signatory, particularly Article 2 (2):

"No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

This is also in violation of Article 16 of the same convention, which states:



"1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment."

The convention also provides that any official that practices torture must be held criminally responsible. Furthermore, Israel does not abide by the **UN Standard Minimum Rules for the Treatment of Prisoners** or the **UN Standard Minimum Rules for the Administration of Juvenile Justice** ("The Beijing Rules") in its application of torture against Palestinian prisoners in order to extract confessions for sentencing.

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The distinguishing factor of the use of torture against Palestinians is the wide range of forms used and its unabated continuation over three decades. Over 650,000 Palestinians have been arrested by Israel since the beginning of the occupation, with many subject to some form of torture or cruel, inhuman, and degrading treatment by the Israeli army and GSS. Despite the fact that the Oslo agreements were made between the Palestinian Liberation Organization (PLO) and Israel, resulting eventually in the partial withdrawal of Israeli forces from 8% of the Palestinian territories, designated Palestinian Authority controlled areas, the arrest, detention and torture of Palestinians continued. On the contrary, alarming developments occurred in the area of torture whereby Israel allowed for legislation condoning forms of torture and offered legal immunity to officials who practiced torture against Palestinian detainees. No GSS official has been charged and sentenced for the torture of or the death of Palestinians resulting from torture, except in extremely rare circumstances. When this has occurred, the sentence is not reflective of the crime, nor is the crime torture.

A committee established by the Israeli government in 1987, headed by former Supreme Court President Justice Moshe Landau, stated that

officials of the GSS regularly lied in court sessions to determine the admissibility of confessions taken from Palestinian prisoners during interrogation, denying that it used physical pressure to extract confessions. The committee also indicated the existence of an internal memorandum of the GSS that instructed interrogators to lie in court in regards to the use of physical pressure, and recommended the kind of lies to tell.¹



The **Landau Committee Recommendations** offered protection against criminal responsibility within Israeli law. Section 277 of Israeli Penal Law regarding the use of force by official agents clearly prohibits the use of violence by any official agent.

"A public servant who does one of the following is liable to imprisonment for three years: (1) uses or directs the use of force or violence against a person for the purpose of extorting from him or from anyone in whom he is interested a confession of an offense or information relating to an offense; (2) threatens any person, or directs any person to be threatened, with injury to his person or property or to the person or property of anyone in whom he is interested for the purpose of extorting from him a confession of an offense or any information relating to an offense."

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Furthermore, Section 21 of the Evidence Ordinance states that:

"Testimony of the accused's confession of having committed an offense shall be admissible only if the prosecutor presents testimony concerning the circumstances in which the confession was made, and the court finds that the confession was made voluntarily and of free will."

Israeli interrogators have been given a legal umbrella of protection in cases where they have been investigated concerning the use of torture, which is dealt with in detail in later chapters of this report.

In practice, there are three different groupings of detainees in Israeli

¹ For more details on the Landau Commission report and other information concerning torture, visit the comprehensive website of B'Tselem- The Israeli Information Center for Human Rights in the Occupied Territories, <http://www.btselem.org/>.



prisons, with each being treated according to varying standards. These include:

1. Israeli Jewish prisoners
2. Israeli Arab/Palestinian prisoners
3. Palestinian prisoners from the Occupied Palestinian Territories (West Bank and Gaza Strip)

There appears to be clear discrimination legally, politically, and procedurally when dealing with each of the three groupings of prisoners. Palestinian prisoners from Israel do not enjoy the same rights as Jewish prisoners from Israel, including the right to use a telephone, home visits, early releases (Shleesh release after serving two thirds of a sentence), and family visits without being separated by barriers. In this case, the law is modified to serve political and discriminatory purposes. One clear example of this form of discrimination is the designation of the term of a life sentence. In the case of Jewish prisoner Yoram Skolnik, charged with killing a Palestinian, the term of the life sentence was set at 15 years. The sentence was twice commuted by the Israeli President Ezer Weizman and reduced to 11 years. Skolnik was released after serving 7 years of his sentence. In the case of Palestinian 'Ali Amoudi, charged with killing Jewish citizens, the term of the life sentence was determined to be 40 years. Wassfie Mansour and Mahmoud Othman Jabbarin were both given life sentences of 30 years for the same charge. All three are Israeli Arab citizens. Palestinian prisoners from the Occupied Palestinian Territories, including residents of Jerusalem, are not subject to the same standards for national and security considerations.²

It is important to note that violations regarding the detention and torture of Palestinians do not distinguish between male or female, nor do they distinguish between adult and juvenile. These methods, including the means and forms of torture, detention and interrogation conditions, court procedures and applicable laws, and the way in

² Palestinian prisoners from Jerusalem, who hold permanent resident status and not Israeli citizenship, are also treated with discrimination as part of a "preventive deterrence" policy. Israel refuses to release Jerusalemite prisoners in the context of agreements on prisoner releases between Israel and the Palestinian Authority.

which prisoners are treated, apply to all Palestinians.

Torture practiced against Palestinian prisoners by the Israeli army and security services is not limited to the period of interrogation. It often continues throughout the period of detention in the conditions of detention prisoners are subject to, stripping detainees of their human dignity, and denying their basic rights as ensured in international law.

This becomes all the more disturbing when considering the treatment and torture of Palestinian child prisoners. During 2000, approximately 60 Palestinian children between the ages of 14-16 years were being detained at Telmond Prison inside Israel. These child prisoners were distributed amongst 5 different sections of the prison:

Section 9 -- designated for political prisoners, holding 36 prisoners.

Iriz Section -- political and criminal prisoners mixed together; underground prison.

Broush Section -- political and criminal prisoners.

Geven Section -- political and criminal prisoners.

Section 2 -- criminal prisoners. There are 27 cells within the prison each holding 2-3 prisoners and measuring 1.5 m x 2 m. There is a small window in each cell covered with iron bars.

Palestinian child prisoners are detained in cells with adult criminal prisoners, often in situations where there are real threats to their lives, causing the children to live with an increased level of anxiety and psychological stress due to the physical and verbal threats that they are subject to by these criminal prisoners. In Telmond Prison, child prisoner Mohammed Issa Saidally was attacked with a sharp razor by an Israeli criminal prisoner; child prisoner Ayman Zourb had hot water thrown on his face and child prisoner Taiseer Rajabi was beaten on his head by an Israeli criminal prisoner and then transferred to hospital for treatment.³

Palestinian prisoners are deprived of family visits for periods that have lasted several months, and in some cases years, due to the strict Israeli

³ Information taken from sworn affidavits given to Addameer Prisoners Support and Human Rights Association in 2000.





closure imposed on the OPT. Lawyers are also often prevented from meeting with their clients based on security reasons determined by the GSS. Addameer's lawyer, Adv. Sahar Francis, reported that she was prevented from visiting detainees 112 times out of the 129 cases she followed in interrogation centers throughout the year 2000. The isolation of prisoners from the outside world can last from several days to several months as a form of punishment. One such example is that of 16-year-old Palestinian child prisoner Nasser Zeid, who was sentenced to 16 months imprisonment and held in Section 9 of Telmond Prison. On 21 December 2000, the prison director conducted a regular visit to the cells in Telmond. When he entered Nasser's cell, Nasser was unable to stand, as is required during these routine visits, because of serious health problems. The prison director punished Nasser for not standing by transferring him to a solitary confinement cell in Section 8, a section designated for dangerous adult criminal prisoners. Nasser spent 8 days in solitary confinement with his hands and legs cuffed to the bed continuously, causing injury to his hands.⁴

⁴ Testimony taken from Nasser Zeid in a sworn affidavit to Addameer Prisoners Support and Human Rights Association.

Chapter Two

International Law

The right to life, freedom, personal security and human dignity are considered amongst the most basic of rights ensured within international humanitarian and human rights law. Based on this, many countries have incorporated these basic rights within their national laws, holding those who violate these rights criminally responsible.

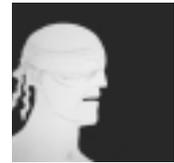
The concept and development of the definition of torture has been transformed significantly since it was designated a grave breach of the **Fourth Geneva Convention** of 1949.⁵ Torture is now considered a crime that is internationally accountable, as has been ensured in Article 8 of the **UN Convention Against Torture**:

"Offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them."

The **Convention Against Torture**, adopted by the UN General Assembly in 1984, represents a remarkable development in the importance of dealing with torture. Previous treaties and charters included the issue of torture, including:

Charter of the United Nations - Chapter 9, Article 55 (c) of the Charter called for the "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex,

⁵ Article 147 of the Fourth Geneva Convention defines grave breaches as "those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.





language, or religion."

Universal Declaration of Human Rights - Adopted by the UN General Assembly in 1948, Article 5 of the Declaration states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 9 further states, "No one shall be subjected to arbitrary arrest, detention or exile."

International Covenant on Civil and Political Rights - Adopted by the UN General Assembly in 1966, Article 7 states "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation." Article 9 (1) of the Covenant further states, "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

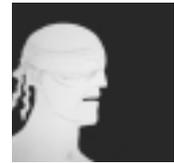
Charter for the International Military Tribunal for Nuremberg - Agreed upon in 1945, the charter deals with the issue of war crimes. In particular, Article 6 (b) and (c) designated the definition of war crimes under the authority of the tribunal:

(b) WAR CRIMES: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) CRIMES AGAINST HUMANITY: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Leaders, organizers, instigators and accomplices participating in

the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.



Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Adopted by the UN General Assembly on 9 December 1975, Article 3 of the Declaration states that

"No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment."

Article 4 further states that

"Each State shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practiced within its jurisdiction."

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Convention on the Rights of the Child - Adopted by the UN General Assembly in 1990, Article 37 of the Convention states

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or

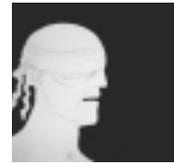


her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Chapter Three

Criminalizing Torture



The torture of prisoners by official agents is considered one of the most grievous violations of human rights law. The international community, through its various organizations and bodies, has invested great effort to put an end to the torture of prisoners. Additionally, independent states have also worked towards ending torture of prisoners, particularly political prisoners and prisoners of conscience, through national legislation. Such efforts have come hand in hand with the recognition of the basic non-negotiable rights of every individual, based on principles enshrined in the *Charter of the United Nations* and the *Universal Declaration of Human Rights*.

The principle of rejecting torture has developed within the international community on a number of different levels, the culmination of which can be found in the *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment (CAT)*, 1984:

1. Effective Legislation: Article 2 of the CAT states that "Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction." This signifies that the General Assembly did not intend to limit the prevention of torture simply as international law, but also called upon states to develop national legislation to prevent torture. In doing so, the UN General Assembly created a foundation on which to unify national and international law, making state parties accountable to both national and international obligations.

2. Absolute Prohibition: The General Assembly also called for an absolute prohibition of torture, thus preventing states from attempting to legalize torture in exceptional circumstances. Article 2 (2) further states "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

3. Criminalizing perpetrators of torture: Article 4 (1) states, "Each



State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture." This article expanded the range of criminal responsibility by a clear invitation to all state parties to include torture as a punishable crime within its own penal code.

4. International Jurisdiction: Article 7 of the CAT further extends the criminalizing of torture from national law to state parties' responsibility to prosecute perpetrators of torture within territories under their judicial authority. Such individuals should be tried before national courts if they have not been extradited. Furthermore, Article 6 allows for a state party to take such perpetrators into custody or to take other legal measures to ensure his presence until criminal or extradition proceedings are instituted.

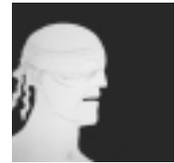
5. Legal Immunity and Justice for Victims of Torture: According to the CAT, all states parties must guarantee the following:

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- i- Conduct a prompt and immediate investigation wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction. (Article 12)
- ii- That any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill treatment or intimidation as a consequence of his complaint or any evidence given. (Article 13)
- iii- That the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation. (Article 14)

Definition of Torture

"Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offense to human dignity and a fundamental violation of human rights."⁶



Developments in the respect for human life have led to the consideration of torture as unacceptable, even if it has been used with the aim of extracting confessions of a serious crime. This principle was clearly stated in Article 15 of the CAT:

"Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made".

The development of the applicability of this article has been embodied in international criminal procedures through the rejection of admissibility of confessions extracted through the use of torture. Additionally, the use of torture has become a marker for the indication of unjust trials, where a trial dependent on evidence submitted through the use of torture becomes illegal. This is further reiterated in the definition of torture included in Article 1 of the CAT:

"For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

⁶ First paragraph of the Declaration Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted by the UN General Assembly, 9 December 1975.



The ***Rome Statute of the International Criminal Court*** includes torture as a crime against humanity. According to the Statute, torture is defined as

*"...the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions."*⁷

As indicated in the above definitions of torture, the definition includes all forms of physical and psychological coercion aimed at extracting information. However, the opposite seems to be the case in the situation of Palestinian prisoners, as torture is practiced widely in order to obtain information or confessions from prisoners.

The torture that Palestinian prisoners are subject to in Israeli prisons, interrogation centers, and military camps takes on many shapes. This is primarily due to the character of the occupation, and the ideology of denying the existence of the other, thereby denying the basic rights of the individual.

Over the past three decades, torture practiced in Israeli prisons, interrogation centers and military camps has expanded the concept of torture, aiming to destroy the character and identity of the individual. Torture does not end when the physical torture stops during interrogation, but rather lasts with the individual over years. New generations of families of those subject to torture are also effected by the practice of torture through the "inherited effects of torture." The ***UN Committee Against Torture*** has continuously affirmed that Israel's practices during interrogation are considered torture as defined in Article 1 of the CAT.

Psychological Torture

Torture has not been limited to extracting information or confessions in order to try an individual for a criminal act committed or that is

⁷ Article 7 "Crimes Against Humanity", 2 (e) Rome Statute of the International Criminal Court, 1998.

intended to be committed. Rather, it has been used to break the prisoner, physically and mentally, on an individual level, in order to cooperate with the interrogator. It has also been used to force prisoners to work as collaborators for the GSS, or to implement orders by the GSS to commit crimes or other acts that may harm the community.



In general, torture can be divided into either physical or psychological, with attempts to give psychological torture some form of cultural or human characteristic in order to deny this form of torture as a crime. The use of psychological torture rather than physical torture has been widely practiced for centuries, but has reached a pinnacle in the 20th Century, as has been documented by the work of the **Committee Against torture**. The "torturer" in the last four decades has derived new forms of psychological torture through medical and psychological experimentation. This new means of torture is in many ways worse than physical torture, as it is practiced through new tools that portray the torturer as a neutral observer and apart from the process of torture, thereby bearing no responsibility for damage sustained.

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This dangerous form of torture can further be divided into two types:

Terror: This is usually done in the first stages of torture, by displaying the tools of torture to the prisoner, or threatening to use physical torture. Throughout history, it has been documented that this is often enough to get a prisoner to confess.

Palestinian child prisoner Wajdi Salem Najajra (17 years old), in a sworn affidavit, reported the following:

"The interrogator "Ibrahim" said to me that he had two ways to get me to confess, one was human and the other was barbaric, and he gave me the opportunity to choose one of them. When I denied the accusations he was making against me, he told me that it was time to start using the barbaric methods. He started beating me on my face and head. He then pulled me by my hair and started hitting me on my throat. After that, he picked up two electrical wires and rubbed them against each other to create a spark. He told me he would use the wires on me if I didn't



confess. He blindfolded me and cuffed my hands behind my back. Then a soldier lifted up my shirt and Captain "Ibrahim" put the two wires on my nipples. I started shaking and screaming. Then he removed the wires and asked me if I rethought my answer. I told him that I had nothing to say. He then put the wires back onto my nipples, and I started shaking and screaming again."⁸

Confusion: The second method of psychological torture is confusion, leading the individual to lose sense of place and time, as well as identity. This may be done through a variety of different methods, including placing the detainee in a wet and cold prison cell (or artificially heated), with no access to natural light, making it difficult to ascertain time. The prisoner may be deprived of food and drink, or served meals at irregular times, also making it impossible to identify time. This can also lead the prisoner to lose self-confidence as a result of confusion.⁹

Both these forms of torture and the terror they may entail can lead to a level of mental stress that affects the individual throughout their life, causing permanent physical and psychological damage.

In documenting the effects of mental and psychological torture of Palestinian prisoners, it is difficult to distinguish between the two forms, as physical torture directly impacts the state of mind of the prisoner and psychological torture holds its own physical ramifications for the prisoner. In a report prepared for Amnesty International entitled "**Doctors and Torture: Collaboration or Resistance?**," Dr. Nicole Lairi notes that "psychological torture should not be viewed as less or more dangerous than physical torture". Torture is comprehensive, as can be seen when meeting a victim of torture after some time from the incidence of torture. They continue to suffer from the psychological effects of torture, isolated within themselves and from their families to the degree that they don't accept to be touched by those close to them,

⁸ Testimony taken from Wajdi Najajra in a sworn affidavit given to Advocate Salem Najajra from Al-Haq-Human Rights in the Service of Man. Wajdi, a resident of Nahalin, Bethlehem, was arrested on 26 April 2003.

⁹ Brian Innes, *The History of Torture*, pp.239-240, Arabic translation by Dar Al Arabiyeh for Science, 2000.

¹⁰ Dr. Nicole Lairi in "Doctors and Torture: Collaboration or Resistance?" Paris: Amnesty International Medical Commission, Marange V., 1991.

or cannot stand to hear their children crying. If something falls, for example, the victim may feel anxiety and begin to sweat profusely.¹⁰

Regardless of the type of torture used, the ultimate aim of the interrogator is to deform the personality of the prisoner to the point where he/she has lost a sense of self-worth.



Stages of Torture

From the moment of arrest until after a prisoner is released, instances of torture and cruel, inhuman and degrading treatment can be documented as part of an overall process, rather than an individual incident. This process may be broken into three different stages.

1. Process of Arrest

Forcibly Entering Homes: Large numbers of Israeli soldiers are often used to forcibly enter the home for an arrest, usually breaking down doors and destroying personal property. In some cases, police dogs are used to enter the home, terrifying the occupants. Soldiers also verbally and physically threaten the occupants of the house.

Handcuffs: A prisoner's hands may be cuffed with tight iron handcuffs that are clamped close to the skin, causing pressure on the wrists and cutting off circulation. Additionally, plastic cuffs are used and tied tightly so as to cut off circulation and cause injury to the wrist or hand.

Physical Violence: Detainees are often beaten by soldiers, subject to shouting and cursing, and, in some cases, forced to walk or run while blindfolded with the purpose of causing the prisoner to fall.

Covering of the Eyes: Prisoners eyes are covered with a blindfold, or in some instances, the head is covered with a filthy sack (this has become less common.) This prevents the prisoner from breathing freely, as well as promoting a sense of panic or terror as a result of not being able to see. The aim is to isolate the prisoner from his/her normal environment and pave the way to further isolation from the external world whilst in prison. This in turn creates a sense of weakness as a result of the uncertainty of what will happen next.



2. Physical Harm and Psychological Damage

Palestinian prisoners have been subject to a wide variety of torture techniques that Israel has developed over the past three decades of its occupation. In a report published by Addameer in 1997 called "***The Torturer as Viewed by His Victim***", a survey was conducted amongst released prisoners who had been subjected to torture during their interrogation. Of those surveyed, 89% felt that the motivating factor for the use of torture by Israeli interrogators was for career advancement. Additionally, the majority of those surveyed were never charged with a crime, signifying that there was no clear aim to the interrogation. According to statistics of Palestinian child prisoners from Defense for Children International Palestine Section (DCI/PS), 31.5% of child prisoners were charged and sentenced for periods of less than one month in 1998 and 26.1% during the first half of 2000.¹¹ It becomes clear that the purpose of these arrests tends towards a "revenge mentality", as is witnessed in the practice of house raids and investigations.

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Torture for the Purpose of Punishment

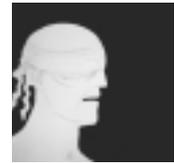
The philosophy of torture within Israeli society appears to be based on the idea that every Palestinian is a possible 'terrorist' and so must be tortured in order to obtain confessions to stop terror. Mahmoud Shousheh, a 16-year-old child prisoner from Bethlehem, describes his experience.

"I fell to the ground at one point in my interrogation, and when I fell, they kept beating me. After two hours of beating, they threw me into a small cell measuring 1 m by 80 cm. It was winter and very cold, but they turned on the air-conditioning in the cell so that it become much colder in the dark room. Half an hour later, they entered the cell and asked me if I was ready to confess. When I remained silent, they started to hit me again. A few minutes later, I confessed and the beatings stopped. Then

¹¹ DCI/PS Statistical Survey of Child Prisoners, 1998-2000. For more information on Palestinian child prisoners, please visit the DCI/PS website at <http://www.dci-pal.org/>

¹² Sworn affidavit taken from Mahmoud Shousheh by DCI/PS.

they took me out of the cell and into another room to sign a piece of paper. After that they took me back to the same cell, and I slept until the next morning."¹²



Torture appears to be justified in the Israeli perception as a means to obtain a confession and collect evidence, clearly in violation of international law, which stipulates that confessions obtained through force are not admissible. Additionally, any evidence taken through torture is also inadmissible.

3. The Other Face of Torture

Absence of Fair Trials: Israeli laws and regulations applied within military courts reflect a clear policy of discrimination between Palestinians and Israelis. Nothing exemplifies this more than the case of 12-year-old Hilmi Shousheh, from Housan, Bethlehem, who was killed on 27 October 1996 by Israeli settler Nahum Korman. Korman was charged with manslaughter, but given 6 months community service and a fine of 70,000 NIS (17,000 USD). Military tribunals in which Palestinians are tried in violate international standards of fair trial, particularly as they are often dependent on evidence taken from prisoners through torture or through a deal to confess in order to receive a decreased sentence.

Collaboration: Israeli security services often try to convince prisoners to collaborate with the security forces to conduct activities within the prisons and amongst prisoners, or against individuals outside prison. This is often done through physical and psychological pressure against the prisoner, as well as threatening prisoners, making them choose between their lives or working with the security services. Sometimes prisoners are placed in special collaborator cells called 'asafir' cells (Arabic for bird), in which collaborators are held and used to threaten or force other prisoners to confess or to become collaborators. Such practices leave a great psychological impact on the prisoner.

The torture of prisoners hence is practiced by placing the prisoner in a stressful environment, and may also include placing him/her in solitary confinement, in addition to depriving prisoners of family visits and their



basic rights as detainees.

Even after being released, a prisoner continues to feel the effects of torture and the arrest itself, preventing the individual from leading a normal life. Usually, a released prisoner is not able to travel outside the country or between Palestinian cities. Many are unable to work. Often, the family is subject to continuous threats from Israeli occupying forces because a member of the family has been arrested. As such, torture is not limited to the interrogation room, but continuously affects the individual in an attempt to destroy him/her, or to push them out of active circles of resistance. The practice of torture in this regard aims to:

1. Damage the individual's character as a result of long-term physical and psychological effects.
2. Force the victim to cease participation in any acts of resistance.
3. Force the individual to cooperate or collaborate with the occupying forces.

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Consequently, Israeli violations of the CAT are not limited to the act of torture itself, but also violate the legislative aspects of the Convention, as stipulated in Article 2 (1):

"Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."

Israel has not issued the necessary legislation prohibiting torture; rather, it has provided legal provisions for the use of torture and protection to those who practice torture.

This policy has directed the behavior of Israeli security services in dealing with Palestinians and has reinforced a spirit of hatred. Israeli military regulations offer the required legal coverage and directives for Israeli officers and military personnel to use torture against Palestinians, denying the basic rights of Palestinian prisoners and defying the **UN Standard Minimum Rules for the Treatment of Prisoners**. At the same time, it has contributed to the fact that there are no laws defining torture as a crime. On the contrary, Israeli law and the Israeli Supreme Court have issued and approved legislation that allows torture to take

place. Israeli activist Daphna Golan, in commenting on the 1999 Supreme Court ruling regarding interrogation practices of the GSS, stated "We need to place a mirror before the Supreme Court, GSS officers, the Attorney General and the police, as they have all played a role in the practice of torture, along with those who have claimed that torture is a necessity."¹³



Violations of human rights as they relate to arrest, detention and torture are not exceptional cases; rather, they are the norm and a characteristic of Israeli policy.

*"A state living in emergency circumstances is obligated to adopt special legislation that enables its institutions to respond to the emergency circumstances. Whenever there is a threat to the existence of a state, it must work specifically against this danger. Normal judicial tools that function during normal times are not adequate when the times produce bombs"*¹⁴

For example, in normal times, issuing new legislation and gaining judicial approval is a lengthy process, one that does not meet the requirements of an emergency situation. In such situations, the authority to issue new legislation is given to members of the Executive Authority, separate from the Legislative Authority. Such legislation is given terms such as Defense Laws, Emergency Laws or Military Orders. These laws may be issued quickly and modified quickly to meet the needs of the situation. Normal court procedures that guarantee the rights of the accused also may not be adequate in the eyes of the state to deal with enemies under circumstances of emergency. Subsequently, the human rights of the individual are violated through arbitrary detention, torture and unjustified violence in the name of security.

Such has been the case with Israeli practices, allowing torture to take place without legal, parliamentary or judicial monitoring. GSS officials have, in this environment, been allowed to conduct activities without adequate monitoring.

¹³ Daphna Golan, "Matchstick People", B'Tselem Magazine, 4 June 1999. Translated by Al Masdar, Jerusalem.

¹⁴ Baruch Bracha, "Israeli Democracy-Selected Issues"- chapter 1.



Chapter Four

Legalizing Torture

The Landau Committee

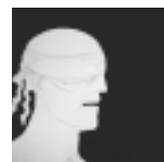
On 31 May 1987, the Israeli government established a governmental committee to investigate methods of interrogation used by the GSS. Former Supreme Court President Justice Moshe Landau headed the Landau Commission of Inquiry. The establishment of the committee came in response to a number of scandals concerning the GSS, including that of Israeli army officer Izzat Nafsu, sentenced to 18 years imprisonment for espionage. In his appeal, it was found that his confession was extracted by force, and that GSS officers had in fact lied during the court proceedings. Such was also the case in what became known as the 'Bus 300 Affair'.¹⁶ Prior to the establishment of the Landau Commission, the GSS was given complete administrative authority to conduct its activities.

¹⁵ Izzat Nafsu, an Israeli Circassian army officer, was arrested in 1980 on the charge of espionage and sentenced to 18 years imprisonment. The Israeli Supreme Court later reduced his sentence to 24 months when he was able to prove that the confessions of espionage were extracted from him by force, also proving that the GSS officers who interrogated him lied in court.

¹⁶ In 1984, four members of the Popular Front for the Liberation of Palestine (PFLP) hijacked an Israeli bus and demanded the release of a number of Palestinian prisoners from Israeli prisons. Israeli forces eventually raided the bus, arresting 2 of the hijackers, and later executed them. The GSS lied to a commission of inquiry that was established at the time to conceal its illegal activity, which only became apparent after an Israeli daily newspaper, Kol Ha'yir, published photographs of the raid. The Israeli military censor shut down the paper after publishing the photographs. The Israeli Attorney General at the time insisted on investigating the case. However, the then Israeli Prime Minister, Yitzak Shamir, relieved the Attorney General of his duties. Two years later, a number of GSS officials confessed to the killing of the two prisoners, by direct instruction from the head of the GSS, and with the approval of the Prime Minister.

Authority of the GSS

The wide-ranging administrative authority given to the GSS prior to the establishment of the Commission was derived from the Israeli Criminal Procedures Law (Testimony), 1977.



1. Article 2 of the **Criminal Procedures Law (Testimony)** states that "A police officer of the rank of inspector or higher, or any other officer or rank of officer mandated in written form, either in general or specifically, by the Minister of Justice, has the authority to investigate a criminal offence and to conduct oral investigations with any person he suspects to have information or facts of a crime."
[Unofficial translation]
2. Article 34 (11) of the **Penal Code** - "A person shall not bear criminal liability for an act which was immediately necessary in order to save the life, freedom, person or property, be it his own or that of another, from a concrete danger of severe harm stemming from the conditions existing at the time of the act, and having no other way but to commit it".
3. Article 34 (12) of the Penal Code - "A person shall bear no criminal liability for an act he was ordered to do by a threat with grave and imminent injury to his or another's life, freedom, body or property and was coerced to do the act."
4. Article 34 (13) of the Penal Code "A person shall bear no criminal liability for an act done by him under any one of the following:
(1) he is bound or authorized to do it under law;..."

These laws provide comprehensive legal protection and authority to officers conducting interrogations from being criminally responsible for the use of torture during interrogation.

Necessity Defense

In the proceedings of the Israeli Supreme Court hearing of 6 September 1999 concerning interrogation techniques employed by the GSS, the State argued that



"...the use of physical means by GSS investigators is most unusual and is only employed as a last resort in very extreme cases. Moreover, even in these rare cases, the application of such methods is subject to the strictest of scrutiny and supervision, as per the conditions and restrictions set forth in the Commission of Inquiry's Report. This having been said, when the exceptional conditions requiring the use of these means are in fact present, the above described interrogation methods are fundamental to saving human lives and safeguarding Israel's security."¹⁷

According to the Landau Commission Report, published in the Landau Book, Volume 1, the Commission concluded that the

"GSS is authorized to investigate those suspected of hostile terrorist acts, even in absence of express statutory regulation of its activities, in light of the powers granted to it by specific legislation and the government's residual (prerogative) powers, outlined in the Basic Law: the Government (article 29 of the old statute and article 40 of the new version). In addition, the power to investigate suspects, granted to investigators by the Minister of Justice as per article 2(1) of the Statute of Criminal Procedure [Testimony], equally endows the GSS with the authority to investigate."¹⁸

Another section of Landau Report approves the application of torture in order to protect the personal security of the interrogator.

Protection of Interrogators

The Landau Committee concluded that in cases in which obtaining certain information is necessary for saving lives, the investigator is entitled to apply "a moderate degree of physical pressure." In these instances, where the application of physical pressure was proportional to the danger to human life, an interrogator may use the "necessity

¹⁷ The Supreme Court of Israel, sitting as the High Court of Justice, H.C. 5100/94, H.C. 4054/95, H.C. 6536/95, H.C. 5188/96, H.C. 7563/97, H.C. 7628/97, H.C. 1043/99, page 9, 6 September 1999.

¹⁸ Landau Book, Volume 1 p.301

defense" to avoid criminal responsibility. However, the guidelines of this accepted form of "moderate physical pressure" was included in the second part of the Landau Committee's report, which remained secret.



Coincidence and Necessity

It would appear that it was pure coincidence that pushed the Israeli government to establish the Landau Committee to report on GSS practices. The two events leading to the establishment of the Committee included the uncovering of lies told by GSS officers during the trial of Izzat Nafsu, and the publication of photographs taken by two journalists of the GSS execution of two Palestinian prisoners in the "Bus 300" Affair. It is quite likely that without the occurrence of these two events, and the public scandal that ensued, the establishment of a committee to monitor GSS practices may have happened much later, if at all, with the number of prisoners subject to torture and human rights violations growing greater and greater during the ensuing years.

Before 1987, no independent and comprehensive investigations had been conducted regarding GSS practices, despite the hundreds of complaints lodged by lawyers on behalf of Palestinian prisoners who had been tortured. Because of the effect of these two events on the Israeli community, it became necessary to investigate these practices. However, the Committee appeared to be primarily concerned with these events, and its condemnations as such focused more on the issue of lying by the GSS, rather than the practice of torture, with the sense that violations by the GSS only occurred from the point of these events.

The Landau Committee issued part of its report on 30 October 1987, with the second part of the report, concerning instructions to GSS officers concerning acceptable forms of physical and psychological pressure during investigation, remaining secret. However, parts of the first section addressed the use of force, including paragraph 4.6:

"The effective interrogation of terrorist suspects is impossible without the use of means of pressure, in order to overcome an obdurate will not to disclose information and to overcome the fear of the person under interrogation that harm will befall him from his own organization if he



does reveal information."

The report continues in paragraph 4.7 to explain the type of force that is condoned:

"The means of pressure should principally take the form of non-violent psychological pressure through a vigorous and extensive interrogation, with the use of stratagems, including acts of deception. However, when these do not attain their purpose, the exertion of a moderate measure of physical pressure cannot be avoided"

However, the definition of "moderate pressure" was left to the secret portion of the report.

The Israeli parliament, Knesset, discussed and approved the Landau recommendations on 8 November 1987. Internationally, the adoption of the Landau regulations was condemned as a reference of official policy in the application of torture, particularly as the regulations governing forms of interrogation remained secret. In a statement made by Amnesty International on 9 May 1997, the international human rights organization concluded that "... if published, the secret guidelines would prove a severe embarrassment to the government, since they appear to be detailed instructions on methods which constitute torture and ill-treatment."¹⁹ It would appear that the Landau Committee was aware that such instructions and recommendations represented violations of Israeli law, thereby relying heavily on the 'necessity' defense included within Israeli law in order to circumvent this.

It is normal recourse that any individual subject to torture be allowed to officially complain. This was affirmed in Article 8 of the **Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, adopted by the UN General Assembly on 9 December 1975.

"Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to

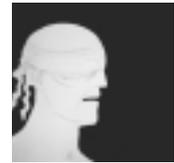
¹⁹ Israel and the Occupied Territories: "United Nations Calls for Halt to Torture" Amnesty International, 9 May 1997, MDE 15/23/97

complain to, and to have his case impartially examined by, the competent authorities of the State concerned."

For Palestinians, complaints of torture are made to the Israeli Supreme Court, which has consistently done little in addressing the crime of torture, acting as a rubber stamp to the GSS. Former Israeli Prime Minister Yithak Rabin, in speaking about the torture of Palestinian prisoners during a radio interview, stated:

*"Restricting the functions of the Shabak (GSS) is a big mistake. There is nothing wrong with using violent shaking against prisoner ... it has been used on 8000 prisoners."*²⁰

The torture of Palestinian prisoners and the inhumane treatment they are subject to remained a regular practice, approved by the secret Landau guidelines authorizing the GSS to apply "moderate" physical pressure. This was reiterated by the UN Committee Against Torture, in its concluding observations of Israel's periodic report on the implementation of the Convention Against Torture.²¹



Permission to Torture and the "Ticking Bomb"

After the publication of the Landau Committee's report, debates began within Israel to push towards allowing the GSS a freer hand in its activities, with the justification that Israel continued to live in a state of emergency. These calls came predominantly from members of the Israeli government, the army and the GSS, considering that the application of torture was the only means to respond to the "exceptional" circumstances in which Israel existed. Such a policy contradicts the spirit and the text of Article 2 (2) of the CAT:

"No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political in stability or any other public emergency, may be invoked as a justification of torture."

Ami Ayaloun, the former head of the GSS, in responding to the Israeli

²⁰ Yithak Rabin in an interview on Kol Israel radio station, 29 July 1995.

²¹ For the text of the UN Committee Against Torture's conclusion, please see Chapter 6: Facts and Testimony Regarding Violations.



High Court regarding the use of violent shaking, stated "torture is the most effective way to combat terrorism". Based on this understanding, physical and psychological torture does not constitute torture as, in the eyes of the GSS, Palestinian prisoners are 'ticking bombs'. As such, the Supreme Court's ruling to prohibit the use of violent shaking during interrogation needed to be circumvented, which materialized in the surpassing of the Landau recommendations to allow for "exceptional" physical pressure to be used in order to remove the 'detonator' from ticking bombs.

Based on the recommendations of the Landau Committee, a special Ministerial Committee for GSS affairs had been established, headed by the Prime Minister. The committee was responsible for monitoring the permission for GSS interrogators and later for the issuing of 'special permission' to allow the GSS to use increased physical pressure, above and beyond that stipulated by the Landau recommendations, as stated above. These special permissions were valid for 3 months, but have been regularly renewed since 1994. These 'special permissions' also remain secret.

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The significance of this special permission was raised following the death of Abdul-Samad Hreizat on 25 April 1995, who died as a result of violent shaking during his interrogation at the Muscobiyyeh Interrogation Center. As a result of pressure internally and internationally regarding his case, it now became necessary to offer GSS interrogators greater protection in dealing with 'ticking bombs'. To address this, the Ministerial Committee ruled that interrogators must receive permission from their superiors, including the head of the GSS, in order to use methods that are more severe than the 'moderate' physical pressure allowed by the Landau Recommendations. This may be done in instances where the interrogator suspects that a detainee possesses crucial information that may affect the security of the state, i.e., cases of 'ticking bombs', that may explode at any moment. The interrogator is given additional authority to use increased force in the interrogation, as long as he informs his superior. In the numerous appeals before the Supreme Court to obtain injunctions against these exceptional permissions, the court rejected appeals, allowing for the continued use of force based on the justification that it was saving

human lives.

On 15 September 1997, the Supreme Court approved the continued use of force in the interrogation of Raja Mohammad Sabe', a member of Hamas, justifying that it was necessary as it was believed he had vital information regarding attacks against the state²². On 13 January 1998, the Supreme Court rejected another petition regarding the use of these special methods²³. In a session held on 11 January 1996, the Supreme Court approved the request of the State to cancel a prevention order issued on 24 December 1995 that would have prevented the GSS from using torture during the interrogation of Abdul-Halim Bilbeisi. The court stated that:

"Since, as noted, Counsel for the Appellant accepts as true the contents of the Respondent's affidavit, according to which the Appellant has additional information regarding the planning of serious terrorist attacks in Israel in the near future, we have to assume that revealing this information by the Respondent may save human lives."

However, the court further noted:

"In these circumstances we no longer find justification for the continued application of the interim injunction. Nevertheless, it is obvious that the annulment of the interim injunction does not constitute permission to take during the interrogation of the Appellant steps which are not in accordance with the law and with the regulations binding in this matter."²⁴

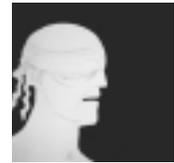
On 14 November 1996, the Supreme Court canceled the preventive order halting the use of physical force in the interrogation of Palestinian prisoner Muhammad Abdul- 'Aziz Hamdan. In their ruling, the court stated that:

"After having studied the classified material presented to us, we are satisfied that the Respondent indeed possesses information which could substantiate a substantiated suspicion that the

²² See Yediot Ahranot Daily Newspaper, 16 September 1997.

²³ See Ma'arev Daily Newspaper, 14 January 1998.

²⁴ 'Abd al-Halim Bilbeisi v. The General Security Services, HCJ-VR 336/96, 11 January 1996, paras. b-c.





Appellant possesses extremely vital information, the immediate, procurement of which would prevent an awful disaster, would save human lives, and would prevent very serious terrorist attacks. Under these circumstances we believe that there is no justification for the continued existence of the interim injunction. Needless to add, the annulment of the interim injunction does not constitute permission to take during the interrogation of the Appellant measures which are not in accordance with the law, and which are in breach of the law²⁵."

The Supreme Court also refused to issue a preventive order to stop the use of torture during the investigation of Khader Mubarak. In its ruling on 17 November 1996, the court stated:

"Regarding this subject it appears to us that the necessities of security, the reasons for which the Appellant was detained, and the pressing need to prevent loss of life, as brought to our attention in camera, justified an intensive interrogation of the Appellant in the way it was conducted, and when it became possible the Appellant was sent to his cell to sleep."²⁶

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In the Israeli High Court ruling of 6 September 1999 concerning the interrogation methods of the GSS, Justice J. Kedmy argued that the authority existed in cases of "ticking time bombs" to use "exceptional interrogation methods."

"On this background, and deriving from the intention will to prevent a situation where the "time bomb will tick" before our eyes and the State's hand will be shortened to help, I suggest that the judgment be suspended from coming into force for a period of one year. During that year, the GSS could employ exceptional interrogative methods in those rare cases of "ticking time bombs", on the condition that explicit authorization is given by the Attorney General."²⁷

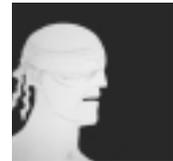
²⁵ Abdel Muhammad'Abd al-'Aziz Hamdan v. General Security Services, HCJ 804/96, Paragraph 6, 14 November 1996

²⁶ Khader Mubarak et al v. the General Security Service, HCJ 3124/96, Decision of 17 November 1996.

²⁷ The Supreme Court of Israel, sitting as the High Court of Justice, H.C. 5100/94, H.C. 4054/95, H.C. 6536/95, H.C. 5188/96, H.C. 7563/97, H.C. 7628/97, H.C. 1043/99, 6 September 1999 Closing comments of Justice J. Kedmy, p.29.

Chapter Five

Lethal Torture



The "Death Law"

As was mentioned earlier, only the first part of the Landau Committee's recommendations concerning the nature of activities of the GSS was made public, with the second part of the recommendations regarding interrogation methods remaining secret. Moreover, it provided moral and legal protection to the Israeli security services to use physical pressure during interrogations by adopting the 'necessity' defense approach. This freed interrogators from criminal responsibility in the use of physical pressure by allowing them to hide behind the reasoning that such force could be used when the interrogator felt that some harm would come to himself/herself or to those they are responsible to protect.

The 'necessity' defense stipulation allowed interrogators to justify the use of force in situations where they believed the individual being interrogated was a 'ticking bomb', someone who was directly involved or had information on activities that could threaten the security of the state of Israel.

Since the publication of the Landau Committee Report in 1987, Israeli interrogators systematically used methods of torture against hundreds of Palestinian prisoners, methods that were not limited to cases of 'ticking bombs'. Affidavits taken by Palestinian, Israeli and International human rights institutions from Palestinian prisoners document the widespread and routine practice of torture.

In 1998, the Israeli human rights center B'Tselem published statistics detailing the use of torture against Palestinian prisoners. The report stated that the Israeli security services interrogated between 1000-1500 prisoners each year, with 85% of those interrogated subjected to some form of torture. The Israeli High Court of Justice did nothing to prevent this use of torture. The report went on to state that torture was



practiced as routine policy.²⁸

Similarly, Defense for Children International Palestine Section, began work on a report in 2001 detailing statistics of the use of torture against child prisoners. A survey was conducted of 50 cases of child prisoners, aged between 10-17 years old, arrested in 2000-2001. The survey found that:

95% were beaten by the soldiers arresting them. Soldiers used their hands, legs and guns to beat the children all over their body.

88% were beaten when they were transferred from military detention centers to interrogation centers, prisons or court.

100% were subject to various forms of torture including physical attacks (beating), tight cuffs, cursing, verbal and physical threats, sleep - deprivation, subject to extreme temperatures, blindfolded and shackling of hands or legs.²⁹

In the report, Palestinian child prisoner Saddam Ali Issa Awad- 10 years old from Beit Ummar, Hebron, states:

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"I was arrested in the village as I was on my way home at around 11:00 PM. The soldiers cuffed my hands and then covered them. Another soldier picked me up and threw me into the jeep. In the jeep, the soldiers beat me all over my body, and especially on my right hand, which was later operated on-I had to have a steel plate put in my hand. When we reached Etzion interrogation center, I was put in a small cell and beaten with plastic sticks. They made me take all of my clothes off and I stayed naked until the morning."

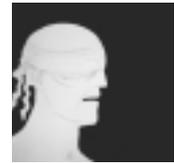
It is clear that the Israeli military and GSS have a large degree of free hand in their treatment of Palestinian prisoners, often taking the law into their own hands. However, at the same time, legal protection is offered to those abusing Palestinian prisoners, with little if any judicial monitoring or investigation into the complaints of hundreds of

²⁸ See "Routine Torture: Interrogation Methods of the General Security Service", B'Tselem, February 1998.

²⁹ "Torture of Palestinian Child Prisoners: A Clear Violation of Human Rights", Advocate Ribhi Qatamish, Defense for Children International-Palestine Section, 2002 (pending publication)

Palestinian prisoners who have been tortured.

In 1998, the Supreme Court refused twice to issue orders to prevent the use of torture against Palestinian prisoner Abdul- Rahman Ghneimat. The investigators forced Ghneimat, during an interrogation that lasted for several weeks, to sit for periods of more than five days on a small, sloped chair while his hands and legs were bound and his head was covered with a thick sack. Ghneimat was also deprived of sleep during the interrogation.



Israeli journalist, Arnon Regular, writing in the Israeli daily newspaper Kol Ha'ir, remarks:

"Captain Martin doesn't like to appear in court before the people he has met in the interrogation room. He simply presents his secret file on the individual to the judge, and asks for extensions of the interrogation period for the detainee. It's been some time since "Martin" shook Abdul Samed Hreizat to death at the Muscobiyyeh interrogation center, for which he was condemned by the disciplinary committee for a mistake in judgment in the interrogation. Six years later, and two years after the Supreme Court's ruling to ban torture, or "moderate" physical pressure, according to the Landau Committee, "Martin" has been placed as the commander of the interrogation center at Petakh Tikva, monitoring the acts of torture the GSS is allowed to use according to the regulations of 2001."³⁰

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Israel remains one of the only countries in the world to have legalized the use of torture, torture that in some cases has proven lethal. The facilitation of the use of "moderate" physical pressure has been the main cause of death during the torture of 66 Palestinian prisoners since 1967. Twelve of those who died during interrogation were killed between 9 December 1998, and seven between 1992-1998.

³⁰ Arnon Regular, Kol Ha'ir, translated into Arabic in Al- Quds Daily Newspaper, 10 December 2001.



TABLE OF PALESTINIANS WHO HAVE DIED DURING INTERROGATION

	Name	Residence	Date of arrest		Place of death
1	Khader Fuad Elias Tarazi	Gaza	8/2/1988	9/2/1988	Gaza Prison
2	Ibrahim Mahmoud Zeid Ra'i	Qalqilya	29/12/1986	11/4/1988	Ramleh Prison
3	Atta Yousef Ahmed Ayyad	Qalandia Refugee Camp	23/6/1988	15/8/1988	Thahriyeh Interrogation Center
4	Nabeel Mustafa Jameel Ibdah	Beit Hanina, Jerusalem	10/8/1988	16/8/1988	Muscobiyeh Interrogation Center
5	Ali Ibrahim Samoudi	Jenin	5/4/1988	16/8/1988	Muscobiyeh Interrogation Center
6	Hani Deeb Salem Sham	Gaza	22/8/1988	22/8/1988	Military Camp in Jabalia, Gaza
7	Khader Mohammed Aqel	Gaza	2/9/1989	2/9/1989	Suroka Hospital/beat
8	Ibrahim Yaser Mtour	Hebron	21/8/1989	21/10/1989	Thahriyeh Interrogation Center
9	Mohammed Yusef 'Elyan Masri	Gaza	3/3/1989	6/3/1989	Gaza Prison
10	Jamal Abdul- Mu'ti Abu Sharakh	Gaza	14/10/1989	4/12/1989	Gaza Prison
11	Khaled Kamal Ali Sheikh Ali	Gaza	7/12/1989	20/12/1989	Gaza Prison
12	Ateyya Abdul Atia Mohammed Za'anin	Gaza	20/10/1990	3/11/1990	Gaza Prison
13	Mustafa Abdullah Akawi	Jerusalem	22/1/1992	4/2/1992	Hebron Prison/ torture caused disorder in the central vein in the heart
14	Hazem Mohammed Abdul- Rahman Eid	Ramallah	22/6/1992	9/7/1992	Hebron Prison
15	Mustafa Mahmoud Mustafa Barakat	Tulkarem	3/8/1992	4/8/1992	Tulkarem Prison
16	Abdul- Samad HreizatYatta,	Hebron	22/4/1995	25/4/1995	Muscobiyeh Interrogation Center
17	Khaled Ayesh Abu Dhayya	Bethlehem	16/5/1997	21/5/1997	Muscobiyeh Interrogation Center / Sha'ar Tzedek Hospital
18	Nidal Zakareyya Abu Srour	Bethlehem	6/1/1998	17/1/1998	Muscobiyeh Interrogation Center/ Hadassah hospital

A Culture of Death

The issue of torture in the Occupied Palestinian Territories holds unique characteristics, as it is a painful process, full of tears, blood and silent grief, that thousands of Palestinians have been subjected to as part of a long history of collective punishment. As such, it is difficult to discuss torture simply from the perspective of violations of human rights without understanding the ideological basis of this Israeli policy. This policy seems to assume that a good Palestinian is a dead Palestinian, equating the Palestinian to a 'terrorist'. In order to combat this 'terrorist', it is necessary to apply the most stringent of interrogation techniques against this individual, fomenting a culture of death amongst Israeli soldiers and GSS interrogators.

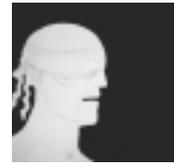
In a sworn affidavit given to Addameer Prisoners Support and Human Rights Association, Da'oud Mohammad Da'oud 'Omer stated:

*"They forced us all to stand against a metal wall and raise our hands above our heads. A group of Israeli Border Police, who spoke to us in Arabic, started beating us all over our bodies with their hands, feet and rifles. They beat me on my head, kidneys and legs, while another officer pulled my head back and hit me on my throat. My leg was bleeding badly from the beating. One young man standing beside me had previously been suffering from kidney problems and asked the officers not to beat him there. But the officers instead beat him even harder there, until he started to vomit. They kept hitting us for more than an hour. The whole time they were hitting us we could hear others screaming not far from us."*³¹

Towards the end of March 1997, during a visit by the then Minister of Internal Security Avigdor Kahalani to a military camp near Tel Hashomer, Tel Aviv, Kahalani asked one of the soldiers why he chose to join the Border Police (renown for their brutality). The Border Policeman replied "Just to get a chance to beat some of the Arab citizens."³²

³¹ Taken from sworn affidavit given to Addameer Prisoners Support and Human Rights Association by Da'oud Mohammad Da'oud 'Omer, 24 years old from Al Bireh, arrested on 6 April 2002.

³² Yediot Ahranot Daily Newspaper, 2 April 1997.





Crime and Punishment

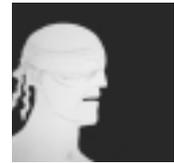
Within Israeli military courts, the punishment of acts considered 'crimes' of military regulations are often disproportionate to the act itself. These sentences may be seen more as a form of deterrence, rather than a punishment for a crime. There is also no distinction in this regard for Palestinian child prisoners, who are subject to the same physical and psychological torture as adults. The imbalance between the crime and the sentence becomes apparent when comparing sentences passed during different periods of time. For example, the charge for possessing weapons during the 1970s was slightly more than a year, while in the 1990's the sentence for the same charge held two to three years.

The imbalance between the crime and the punishment can be further illustrated in the types of interrogation methods employed in interrogation centers such as the Muscobiyyeh, Asqelan, Jalameh and Petakh Tikva, supervised by the Israeli Prisons Authority and subject to regular monitoring. In contrast, interrogation centers supervised by the Israeli military, such as Etzion, Hebron, Majnouneh, Beit El and Huwarra operate without monitoring mechanisms. In these military interrogation centers, the military commander is in charge, with the authority to conduct investigations at his/her discretion. During the second Intifada, beginning in September 2000, the role of these military interrogation centers has increased, with the majority of Palestinian prisoners investigated within these interrogation centers.

One example of the mistreatment Palestinian prisoners were subjected to during the second Intifada is the experience of 45 year old Ghassan Jarrar, from Ramallah. In a sworn affidavit, Jarrar details his treatment at the hands of Israeli soldiers during the mass arrest campaigns of March/April 2002:

"At 12am, the soldiers tied my hands behind my back and blindfolded me. I heard one of them ask why I was there, and heard another soldier reply "He has blood on his hands". After this, one of the soldiers started to beat me with a stick on my left leg. I felt as if my leg had broken and started screaming from the pain. But they only started hitting me harder. Another soldier

*tried to strangle me with a piece of cloth as the soldiers continued beating me all over my body. They focused most of the beatings on my chest and my sides. They repeated this several times, and I lost consciousness 4 or 5 times.*³³



In such an atmosphere of terror, the detainee is at the mercy of the soldier or interrogator before him/her. This was very much the reality for those arrested during the mass arrest campaigns conducted by Israeli occupying forces in March/April 2002. As is illustrated by the testimony of Mahmoud Shousheh, a 16 year old resident of Bethlehem, the degree of torture and cruel, inhuman and degrading treatment Palestinian prisoners were subject to was part of a routine process:

"Soldiers arrested me late at night. One of the soldiers in the jeep whispered in my ear in Arabic that tonight was my wedding night, and told me to prepare myself. He then started to immediately hit me hard with the back of his rifle on my leg, causing me extreme pain. But the other soldiers didn't pay any attention to my screaming. At the interrogation center, they took me to a doctor, who I told that I was not feeling well. But the doctor said I was fine, and the soldiers took me to the interrogation room.

In the interrogation room, two interrogators sat across from me and asked me if I threw stones. When I told them that I didn't, they started beating me all over my body for half an hour. They stopped, and started making tea for themselves. I thought then that the interrogation was over, and they wouldn't ask me to confess to throwing stones, even though I had, but I didn't want to admit it. I expected them to stop because I was only 16 years old, and I didn't think that they could keep hitting me. But they did. I suddenly felt terror, and could feel my face burning ... the soldiers poured water over my head before I could say anything. My glasses fell off and I wasn't able to see.

Then I fell to the ground, but they kept on beating me. After

³³ Taken from sworn affidavit given to Addameer Prisoners Support and Human Rights Association by Ghassan Jarrar, 45 years old from Ramallah, arrested on 4 April 2002.



*another hour of being beaten and freezing from the cold water, they threw me into a small metal cell measuring 80 cm x 100 cm that was very cold and dark. It was winter, and very cold, but they turned on the air- conditioner. I was freezing. Half an hour later, they came back to the cell and asked me if I was ready to confess. I didn't answer them, and they started beating me again. A few minutes later, I couldn't stand it anymore and so confessed. They stopped beating me and took me out to another room to sign a piece of paper. Then they brought me back to the cell, where I slept until morning.*³⁴

In a press conference arranged by the Palestinian Prisoners Society in 2001, following the release of a number of child prisoners from Israeli prisons, the children related the abuse that they were subjected to throughout the process of their arrest and detention. Many related similar experiences, such as beatings, threats, and being placed with criminal prisoners.

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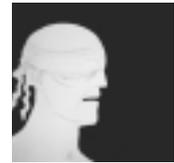
*"At 1 am on Monday, a force of Israeli soldiers invaded my house, some of who were wearing masks. After they searched the house, they threw me into a jeep while I was handcuffed and blindfolded and took me to Etzion. There they beat me with a stick during my interrogation, while I was still blindfolded and hand cuffed, and hit me in the stomach and beat me all over my body. The interrogation lasted until 5:30 am. Then they put me in a small cell, where I spent 6 days until they transferred me to Telmond Prison inside Israel. I was put in a cell with Israeli criminal prisoners. The prisoners attacked me with knives and threw hot water at me, as well as stealing my personal belongings.*³⁵

Additionally, the disproportional punishment for the crime may be seen in the legal follow up of Palestinian prisoners. Based on field research and documentation of human rights organizations working

³⁴ From sworn affidavit taken from Mahmoud Shousheh by Defense for Children International Palestine Section.

³⁵ Taken from sworn affidavit given by Mohammed Yaser Za'oul, 14 years old, to Defense for Children International - Palestine Section lawyer. Mohammed was arrested on 25 December 2000.

within Israeli military courts, there is a clear increase in the period of sentencing passed within military courts. More disturbing is the fact that child prisoners are treated as adults, with very little differentiation in the periods of sentences passed on children. Israeli Military Orders 132 and 225 allow for the sentencing of children as young as 12 years old, with no specific regulations dealing with juvenile justice, in violation of Article 40 (3) **Convention of the Rights of the Child:**



"States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected."



Chapter Six

Facts and Testimony Regarding Violations

Throughout the over three decades of Israeli occupation, countless testimonies have been taken regarding the use of torture during GSS interrogations, pointing to a systematic use of torture. According to the Israeli human rights organization B'Tselem, over 105 torture techniques have been used during interrogations. In a study conducted by Palestinian human rights organization Al-Haq between 1988-1992, over 700 reported cases of torture, cruel, inhuman and degrading treatment were surveyed in Israeli prisons, detention and interrogation centers. The field study found that 94% of Palestinian prisoners were tortured, including:

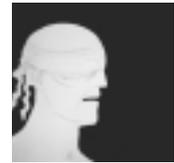
1. 97.7% beaten
2. 91.5% placed in Shabeh (position abuse) for periods ranging between an hour to a few weeks.
3. 44% subject to various forms of attempted strangulation, including through placement of sacks over the head or by placing pressure at the throat with hands.
4. 6.8% subject to some form of electric shock.
5. 14.5% transferred to hospital due to injuries caused by torture during interrogation.³⁶

In its concluding observations of Israel's special report to the **UN Committee Against Torture** submitted in 1996, the Committee stated that

"...the methods of interrogation, which were described by non-governmental organizations on the basis of accounts given to them by interrogatees and appear to be applied systematically, were neither confirmed nor denied by Israel. The Committee must therefore assume them to be accurate. Those methods include: (1) restraining in very painful conditions, (2) hooding

³⁶ "Torture for Security: the Systematic Torture and Ill-Treatment of Palestinians by Israel", Melissa Phillips, Al-Haq, 1995.

under special conditions, (3) sounding of loud music for prolonged periods, (4) sleep deprivation for prolonged periods, (5) threats, including death threats, (6) violent shaking, and (7) using cold air to chill, and are, in the Committee's view, breaches of article 16 and also constitute torture as defined in article 1 of the Convention. This conclusion is particularly evident where such methods of interrogation are used in combination, which appears to be the standard case."³⁷



Although the techniques used during interrogation by Israeli security officials have changed over the years, the practice of torture itself has remained constant, in clear violation of international law. These interrogation techniques constituting torture have been repeatedly condemned by the Committee Against Torture, as its use signifies that Israel has not conformed to the standards of the Convention Against Torture, which it ratified in October 1991. Ratification of the Convention obligates the State party to issue the required legislation and judicial procedures to prohibit torture in areas of its judicial control. In the case of Israel, this includes the Occupied Palestinian Territories. However, Israel has neither abided by the obligations of the Convention Against Torture, nor has it implemented the recommendations of the Committee.

In its first periodic report to the Committee Against Torture submitted in 1993, Israel stated that its restricted investigation procedures allowed for the use of "moderate" physical pressure, which it felt did not violate the Convention Against Torture. However, the Committee rejected this, stating that it was "a matter of deep concern that Israeli law pertaining to the defenses of "superior orders" and "necessity" are in clear breach of that country's obligations under article 2 of the Convention."³⁸

According to a report published by B'Tselem on February 1998, GSS investigators interrogate between 1000-1500 Palestinian prisoners a

³⁷ Conclusions and Recommendations of the Committee Against Torture, Israel, A/52/44, para. 257, 9 May 1997.

³⁸ Conclusions and recommendations of the Committee against Torture, Israel, A/49/44, para. 167, 12 June 1994.



year. Of those interrogated, 85% were subject to torture, with appeals to the Israeli Supreme Court consistently being rejected to halt the use of torture.³⁹ Moreover, Amnesty International, in its annual reports between 1993-2001 continued to report that Israel uses interrogation techniques that constitute torture and cruel, inhuman and degrading treatment. The use of torture is approved within the secret guidelines of the Landau Committee Report, and the Ministerial Committee for GSS Affairs continue to issue its three month 'special permissions' to allow a greater degree of 'moderate' physical pressure in its interrogations.

There can be no doubt that Palestinian prisoners have been systematically subjected to torture and cruel, inhuman and degrading treatment by the GSS, becoming all the more systematic after the establishment of the Landau Commission. The crime of torture committed against Palestinians was not secret; however it took over three decades for Israel to be made accountable for it before the international community. The heavy toll of this delay was paid by Palestinian prisoners, a price they continue to pay and one that should not have been paid had Israel been compelled to abide by international law.

Israel's Delay in Admitting the Practice of Torture

There are a number of reasons that point to the delay in Israel admitting the use of torture, which can be divided into three different trends.

World Opinion

A large part of Israel's ability to delay admitting to practices of torture has been due to the success of convincing world opinion through media and other tools that Israel is confronted by a 'savage' and 'uncivilized' enemy whose main aim is to destroy the state of Israel, a state which symbolizes "civil development and democratic values". The state argues that its citizens are living in a state of emergency and must therefore defend itself at all costs. As such, it is necessary to issue special laws to combat risks posed to the security of the state.

³⁹ See "Routine Torture: Interrogation Methods of the General Security Service", B'Tselem, February 1998, p. 8.

These laws of emergency are dependent on three basic emergency regulations:

1. **Emergency (Defense) Regulations** of 1945, from the British Mandate era.
2. Section 11 of the **Law and Administration Ordinance**, 1948, stating that the law which existed in Palestine prior to the establishment of the state would continue to be in force subject "to such modifications as may result from the establishment of the State and its authorities."
3. **Emergency Powers (Detention) Law** of 1979, allowing the Minister of Defense to detain individuals if he has "a reasonable belief that state security or public security requires that a specific person be detained".

In 1951, the Israeli parliament, the Knesset, decided that the Defense Regulations oppose the basic principles of democracy, and authorized the Constitution, Law and Justice Committee to prepare a draft bill to revoke these regulations. However, the regulations were not abolished and remained in force.

In 1966, the Israeli Minister of Justice promised before the Knesset that these regulations would be modified. However, this promise was never fulfilled and the regulations were again not modified into law.

In 1979, there were moves to cancel Military Regulations 111 and 112 that dealt specifically with administrative detention and deportation, replaced with the Emergency Powers (Detention) Law of 1979. When the proposed law was brought before the Knesset, the Minister of Justice stated that this was a step towards a new policy that would lead towards the cancellation of all defense regulations. However, again, this was not materialized.

This dual problem, the circumstances of a state of emergency and fighting a 'brutal' enemy, have allowed successive Israeli governments to build and unify Israeli public opinion to support official policy contrary to basic human rights. It feeds the idea that the state is fighting a national enemy that must be defeated at all costs. This perception of reality has received support from the US, Israel's strongest ally, and to a





lesser degree from European countries.

Palestinian Awareness

Palestinian awareness of the necessity of linking the national liberation struggle with human rights under Israeli military occupation was not given the priority necessary to draw attention to the situation. This one-dimensional understanding of the conflict has impacted the development of real progress in the struggle for national independence, exhibited in two different ways.

1. Little attention was paid by the Palestinian community to the legal aspects of the conflict within the international community, with the Palestinian narrative dominated by national and political dimensions and ignoring the legal dimension.
2. Perceiving Israeli violations of Palestinian human rights as a characteristic of Israeli occupation, thereby glorifying the victim of these abuses as one who has stood up against barbarism. This mentality leads to the belief that human rights abuses are a normal part of the victim's fate and to be expected. This in turn makes it difficult to document violations, as they are not perceived as such, making it difficult to detail exact violations of international law in order to use testimony as a form of deterrence for further violations and to bring perpetrators of violations to justice, within both local and international judicial structures.

Secrecy and Impunity

Israel had previously denied the use of torture against Palestinian prisoners, shrouding interrogation centers with a veil of secrecy and making it taboo to discuss publicly what happens within these interrogation centers. Individuals who complained that torture had been used against them were asked to prove their allegations within court. From the early 1970s, thousands of cases of Palestinians alleging that their confessions had been extracted through force or that they had been subjected to torture during interrogation were brought before Israeli courts. Systematically, the court accepted interrogators' statements under oath that torture was not used and that confessions

were given by detainees of their own free will.

In Israeli State Comptroller Miriam Ben-Porat's report surveying GSS techniques between 1988-1992, it was found that interrogators at the Gaza interrogation center "committed severe and systematic deviations" of the Landau regulations. Her report also found that GSS interrogators regularly lied before courts concerning the use of torture. The report further found that:

"The irregularities were not, for the most part, the result of not knowing the line between the permissible and the forbidden, but rather were committed knowingly. During the inspection period, senior Shin Bet commanders did not prevent these irregularities whether by allowing the use of pressure methods not included in the file compiled by the Landau Commission, by ignoring restrictions with which the Landau Commission qualified the permits [it gave for using "moderate physical pressure"] or by refraining from rooting out these practices, as required by their position."⁴⁰

Despite all these violations, the Landau Commission accepted the arguments of security personnel and used the legal argument of "necessity" to authorize the use of physical and psychological pressure against those accused of "hostile terrorist activity." The argument of the "ticking bomb" was cited to support this. The use of "actual torture", said the commission report "would perhaps be justified in order to uncover a bomb about to explode in a building full of people".⁴¹ This provided the necessary umbrella of protection to GSS officers to use torture.

It is somewhat ironic that the first committee to investigate GSS practices was established on 31 May 1987, after over twenty years of systematic torture of Palestinians by the GSS, in response to internal pressure regarding the treatment of Israeli officials. The danger of the committee, however, was that it tried to link both the Nafsu case of 1980 and the Bus 300 Affair of 1984 to the torture of Palestinians, by

⁴⁰ State Comptroller Report- Investigation Issues Regarding the Shabak for the Years 1988-1992, p.5.

⁴¹ Landau Commission Report, para.3.15.





assuming that the torture of Palestinian detainees began during this period only, rather than 20 years prior.

According to hundreds of sworn affidavits taken from Palestinians who were arrested in the 1970s-1980s, interrogation techniques were characterized by physical torture until 1985. However, this did not receive the necessary attention it deserved, nor was it adequately debated within the Israeli public. One of the most reflective examples of this was the condition of Palestinian prisoners in the Thahriyeh and Far'ah Interrogation centers. Both of these interrogation centers won the nickname of 'slaughterhouses' as a result of the cruel and inhumane treatment Palestinian prisoners were subject to. In 1984, a petition was filed by Israeli lawyers to the Israeli High Court of Justice against the military commander of the area in charge of both these interrogation centers because he did not prevent the use of torture within the interrogation centers, allowing interrogators to beat prisoners with impunity.⁴²

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The experiences of Palestinians from the West Bank and Gaza Strip, and to a certain extent Palestinians living within Israel, indicate that torture has not been adequately documented apart from the past decade. These more recent violations have been more widely documented within international law, and particularly as relate to the Convention Against Torture. However, violations between 1967-1980 have been relatively less known and rarely documented.

Palestinian prisoners were subject to extremely violent forms of torture during their interrogation, torture that was shrouded in secrecy. Torture during this period was subject to three standards:

- 1- The degree of conflict between Israel and the Palestinian national liberation movement. Investigations by the CSS, and the subsequent methods of torture, were directed by political and security considerations rather than international standards.
- 2- International opinion represented by the United Nations and its bodies, as well as international human rights organizations, measured by the level of implementation of international

⁴² From "Resisting Torture", Al Haq, p.5, regarding Israeli High Court petition 335/1984.

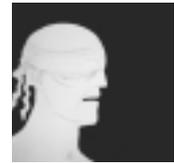
conventions and documentation of violations to hold Israel accountable for its actions.

- 3- The results of torture- confessions- investigated and analyzed by the GSS according to two sets of criteria:
 - a. The percentage of prisoners who confess through torture, with methods dependent on the level of 'success' of techniques.
 - b. The level of mechanisms of Palestinians to combat torture through public awareness campaigns.

Based on this, it is possible to trace three stages of torture techniques that Palestinian prisoners were subjected to during this period.

- 1. Interrogation techniques dependent on various** forms of physical violence, including beating with sticks, electric shocks, burning with cigarettes, subject to extremely hot or cold temperatures, breaking of fingers, blows to sensitive areas of the body (groin area, neck, feet, stomach), and strangulation. These extremely physically violent techniques, usually termed "German/Nazi" techniques, were used until the end of the 1970s.
- 2. Selective Physical Torture:** The second phase of torture saw a decrease in the above physical techniques, focusing more on selective methods that left little or no marks on the body. Later during this stage, the GSS began to implement various psychological forms of torture, depending on the nature of the accusations.
- 3. Physical-Psychological Torture:** As a result of the more effective role that international human rights instruments began to play in making Israel accountable for its actions, as well as the new Landau regulations, psychological torture was more widely used by the GSS in interrogations. Additionally, "moderate" physical pressure, as regulated by the Landau Committee, was used.

The next section will highlight some of the more prevalent forms of torture practiced by the GSS in its interrogation of Palestinian prisoners. The section does not form a comprehensive list of the torture that has been permanently imprinted on the bodies of Palestinian prisoners subject to torture behind closed doors and before an official body holding the full authority to do whatever it wishes.





Chapter Seven

Methods of Torture

Shabeh

Chair: 'Shabeh', or position abuse, is one of the more difficult forms of torture a prisoner is made to endure. The prisoner is tied to a small wooden chair, measuring approximately 30 * 30 cm. The seat of the chair is sloped at a 70-degree angle. The chair is fixed to the floor and the prisoner's hands are tied to the back of the chair, with his/her legs sometimes tied to the legs of the chair. Shabeh may last for hours and sometimes for days. The prisoner experiences pain below the spinal cord, loss of feeling in the wrists or legs as a result of continuous pressure from cuffs, and muscle tears in the shoulders and back. The physical effects of Shabeh can last well after the interrogation period has ended. Shabeh has been justified as a means to protect the interrogator from harm during the interrogation period.

Abdul- Rahman Al Ahmar, a 32 year old resident of Dheisheh Refugee Camp, Bethlehem and a well known human rights activist, was arrested on 24 May 2001. Shabeh to a chair was one of the forms of interrogation used during his investigation. The Israeli High Court of Justice rejected an appeal filed on his behalf by the Palestinian Human Rights Monitoring Group on 12 June 2001 to halt the use of torture during his interrogation. When his interrogation ended, Ahmar was issued an initial 6-month administrative detention order, as no charges could be brought against him.

Other forms of Shabeh include shackling the hands and legs of the prisoner and forcing him/her to stand in a dark, narrow corner while blindfolded. Additionally, a prisoner may have his hands cuffed behind his/her back and tied to a metal ring on a wall high enough that the prisoner is forced to stand on his/her toes. This can also last for hours or days, with breaks taken only to eat.

Although the instance of Shabeh was significantly reduced following

the Israeli High Court of Justice ruling on GSS interrogation techniques in 1999, this form of torture has resurfaced during the second Intifada.



'Closets' or 'Coffin' Cells

The prisoner is placed in a dark cell measuring no more than 1 m x 1 m and made to stand for long periods of time or sometimes cuffed to the door. A prisoner can be held in these 'closet' or 'coffin' cells for a few days or weeks, with hands and legs continuously shackled.

Violent Shaking

The prisoner is made to sit on a chair, sometimes with the leg of the interrogator placed on the groin area. The prisoner is then shaken violently by the collar or shoulders, forcing the head and neck to jerk violently back and forth. This results in severe pain below the neck, pain in the head and can result in violent vomiting. The process may be repeated, and can cause extreme suffering. On 25 April 1995, Palestinian detainee Abdel Samed Hreizat died as a result of violent shaking during his interrogation at the Muscobiyyeh Interrogation Center. An autopsy conducted by Israeli pathologist, Yehuda Heis, confirmed that Hreizat had died due to shock to the brain. Professor Avinom Rakhs, of Hadassah Hospital, stated that "Violent shaking may cause congestion in the brain, along with severe damage to the brain from the repeated movement of the skull, causing damage that may lead to death." Such was the case with Hreizat. According to a statement taken under oath by Doctor Derik Yawnder, the cause of death in Hreizat's case was:

1. Shock to the brain
2. Shock to the brain was a result of violent shaking, as opposed to a hit to the head by a sharp object.
3. The impact of wounds point to shaking as the cause of the shock.⁴³

As was the case with Shabeh, this form of torture was dramatically

⁴³ Information taken from a report on the death of Hreizat published by the Mandela Institute for Human Rights, 4 September 1995.



reduced following the 1999 High Court ruling. However, testimonies taken by human rights organizations in 2002 and 2003 point to the infrequent use of violent shaking in GSS interrogations.

Subject to Extreme Temperatures

A prisoner may be subjected to extreme temperatures in the interrogation room or in the prison yard, while the hands and legs of the prisoner are shackled. The effects of this are immediate discomfort and trauma (including heat stroke, burns, chest infections, unconsciousness, etc.), with longer-term health problems also resulting. Child prisoner Mohammed 'Atta Zaki Z'oul, 16 years old from Housan, Bethlehem, arrested on 4 November 2000, explains:

"I was beaten with a stick and tortured by three soldiers in Etzion interrogation center for seven hours. After that, they brought a barrel of cold water filled with ice, took off my clothes and made me stand in the barrel for half an hour. I partially lost consciousness. Then they brought a chair and put it in the middle of the room and forced me to sit on it with my hands cuffed. They turned on the air conditioner and let it blow towards me. They also used a water sprinkler to throw hot and cold water on my body at different periods."⁴⁴

This form of torture occurs in the less formal interrogation centers, particularly within military prison camps, before detainees are classified according to their degree of danger or suspicion, and transferred to other prisons of detention centers. In the more institutionalized interrogation centers, there exists more sophisticated means for exposure to extreme temperatures. Israeli journalist Arnon Regular reported in an article concerning the continued practice of torture by the GSS that:

"...there are special rooms called refrigerators where the most dangerous prisoners are held. There are machines in these rooms that produce terrible low and high-pitched sounds that are deafening. At the same time, Room 9 is filled with suffocating

⁴⁴ Sworn affidavit taken from Mohammed 'Atta Z'oul, 16 years old from Housan, Defense for Children International PS.

heat, with the eyes of the prisoner covered by goggles similar to those used by blacksmiths, instead of the old way of the filthy sack.⁴⁵



Beating

Beatings usually begin from the moment of arrest, from the streets or when Israeli soldiers raid homes. Child prisoner Mufeed Mohammed Hamamra, a 17-year-old resident of Bethlehem, stated:

"...fifteen masked soldiers entered the house and they pushed me outside, then they covered my eyes and fastened my hands and legs while a soldier beat me on my head".⁴⁶

Beatings continue throughout the interrogation process, as was the case with child prisoner Sultan Madhi (15 years old):

"...they took me to a room and sat me on a chair where one of them untied the bonds from my hands and legs and fastened them to the chair. Two or three of them beat me on my head and face. The investigation lasted for five hours. After that, they took me to the toilet where one of the soldiers grabbed me by my hair and pushed my head inside the toilet. I was terrified. Then they brought me back to the investigation rooms."

Another child prisoner, Mufeed Hamamra, arrested on 9 November 2000, reported that interrogators used cigarettes to burn his hands and chest, while beating him in the groin area. Interrogators also shoved pieces of ice in his ears and mouth.

Isolation from the outside world

Groups of 2-8 investigators interrogate the prisoner in different shifts for periods ranging from several hours to several days. The interrogators attempt to exhaust the prisoner physically and mentally in order to

⁴⁵ Arnon Regular, "Israeli Security Services Still Practice Torture", Kol Ha'ir Daily Newspaper, translated into Arabic in Al Quds Daily Newspaper, 10 November 2001.

⁴⁶ The Following three statements are taken from a press conference of the Palestinian Prisoners Society on 31 May 2001, in which several released child prisoners spoke of their experiences.



make the prisoner feel under intense pressure. Additionally, the prisoner is subject to verbal threats, including death threats, in order to build feelings of fear and anxiety. The prisoner is isolated from the outside world for periods that may last for up to 180 days.

Sleep Deprivation

The prisoner is deprived of sleep for a period of several hours to several days. Although this was one of the methods of interrogation 'banned' in the Israeli High Court ruling of 1999, the practice of sleep deprivation is done indirectly through the 'shift' interrogation as mentioned above. The resulting physical exhaustion, leading to severe headaches, hallucination, and sometimes unconsciousness, gradually breaks down the prisoner's ability to concentrate and wreaks havoc on the nervous system.

Palestinian prisoner Ahmad Qatamish was prevented from sleeping for 20 consecutive days during his interrogation in September 1992.⁴⁷ 'Ala Isma'il was deprived of sleep for 8 consecutive days during his interrogation in 2002, and whenever he would start to fall asleep while made to stand against a wall, the interrogator would push him down to the ground to wake him.⁴⁸

Loud Music

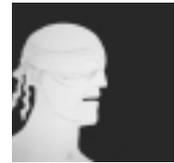
Loud music is played while the prisoner is bound, making it impossible to hear or concentrate. This may last for several days, causing severe headaches. Also 'banned' in the Israeli High Court ruling of 1999, the use of this interrogation method has been documented since the beginning of the second Intifada in 2000.

⁴⁷ Interview with Ahmed Qatamish on 21 September 2003. Qatamish was arrested on 1 September 1992. The Israeli military court in Ramallah issued an order to release him after serving three months in detention. However, the GSS did not implement the decision, instead placing him in administrative detention, arrest without charge or trial. Qatamish remained in administrative detention for 67 consecutive months.

⁴⁸ Interview with prisoner 'Ala Isma'il in Asqelan Prison on 15 April 2003. Palestinian prisoner Nimer Sha'ban conducted the interview from his prison cell.

Frog Squat ('Gambaz')

The prisoner is forced to squat while standing on his toes with hands cuffed behind the back, placing all the body's weight on the tip of the toes. Sometimes the prisoner is forced to stand up and squat back down several times, causing stress to the muscles and leading to muscle spasms and numbness. Palestinian detainee Mahmoud Mustafa Mardawi stated that after twelve days of his interrogation in 2003, he was still suffering from muscle spasms and the feeling of pins and needles in his feet after being forced to do the frog squat.⁴⁹ Also 'banned' in the Israeli High Court ruling of 1999, this form of torture has again resurfaced since the beginning of the second Intifada in 2000.



Bending

The prisoner is made to lie with his/her back on a table while the interrogator sits over the body of the prisoner or places pressure on the chest with his hands. The interrogator then forces the prisoners bound hands up and back, distorting the body and causing extreme pain in the spinal cord, lower stomach and shoulders.

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Deprived of food and change of clothing

Depriving the prisoner of food and a change of clothing is aimed at making the prisoner feel inferior before the interrogator. During his interrogation in April 1994, Ribhi Qattamish was told by his interrogator that his "clothing was too elegant", forcing him to strip, and gave him a pair of filthy trousers to wear. When he refused to put the trousers on, the interrogator told him that he would remain naked, despite the cold weather.⁵⁰

⁴⁹ Interview with prisoner Mahmoud Mustafa Mardawi at Asqelan Prison on 15 April 2000. Palestinian prisoner Nimer Sha'ban conducted the interview from his prison cell.

⁵⁰ Personal experience of the author, Advocate Ribhi Qatamish, arrested on 27 April 1994. Following the interrogation, he was transferred to administrative detention for four consecutive years.



Tightening of hand and leg constraints

Hand and leg constraints are tightened or too small cuffs are placed on the wrists and heavy shackles on the legs. This can result in extreme pain in the wrists and legs, cutting off circulation to parts of the body and leaving a feeling of numbness. It may also lead to tissue damage and deep cuts to the area, lasting in the short term following interrogation, as well as leading to permanent damage.

Humiliation, Insults and Curses

This form of abuse is dependent on causing offence to the prisoner concerning things that are important to him/her: cursing God, cursing mother, sister, or wife, and, in some cases, bringing them to the interrogation center. In other cases, the prisoner is forced to bark like a dog or to get down on all fours, or to sleep and eat in the toilet. Additionally, an interrogator may spit in the mouth or face of the prisoner.

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Deprived of Use of Toilet

Prisoners are normally deprived of using the toilet when they are bound and unable to move during the interrogation, forcing the prisoner to urinate in his/her clothes, with interrogators insulting the prisoner and mocking him/her.

Beatings and Pressure to the Groin Area

The prisoner is kicked repeatedly in the groin area, or the interrogator will put his foot on the groin area and place pressure as if he was stepping on an accelerator. This often lasts until the prisoner loses consciousness from the pain.

Beating on the Stomach

The repeated punching on the stomach during interrogation has led to the death of at least one Palestinian prisoner. Khalid Sheikh Ali died in detention on 19 December 1989 in Gaza Prison. An independent

autopsy confirmed that the cause of death was internal bleeding as a result of blows to the stomach area. In a position paper by B'Tselem in 2000, "Legislation Allowing the Use of Physical Force and Mental Coercion in Interrogations by the General Security Services", the case is discussed in detail.



The two interrogators involved in the incident were prosecuted. They were initially charged with manslaughter, but, following a plea bargain, the charge was reduced to causing death by negligence. The interrogators pleaded guilty, were convicted, and were sentenced to six months' imprisonment.

Ten years later, in September 1999, the interrogators gave the media their full version of the incident. They made their revelations after then-director of the GSS, Ya'akov Perry, wrote in his book that the two interrogators were solely responsible for the death of Sheikh 'Ali.

According to their version, other interrogators also took part in the interrogation, but, due to pressure from other members of the team, the two of them, who were the most junior members, took full responsibility for the death. The other agents involved gave false testimony to the Police, with the knowledge and encouragement of Ya'akov Perry.

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In a television interview with Gadi Sukenik in September 1999, one of the convicted agents said that, "We took the blame thinking that, in effect, we were protecting the system, the method, the organization - the state, call it. That was clear to us."

The two claimed that interrogation methods they and the other GSS interrogators used against Sheikh 'Ali were the ordinary ones, and that use of force in violation of the Landau Commission permissions was the norm in the facility at that time:

"There was the written method, what you call the Landau Report, but there was also the oral method, which is what was actually used... Everything we did in the interrogation rooms was out of the ordinary, not according to the books or the Landau Report... I want to point something out. We did not



*invent methods or initiate methods."*⁵¹

Suffocation With a Filthy Sack

Considered one of the more cruel torture techniques, the prisoner's head is covered with a sack, with the interrogator tightening the bottom of the sack down and around the neck to block the flow of oxygen. The prisoner begins to choke and quickly loses consciousness. In some cases, two sacks are used together, one wet and one dry, making the suffocation quicker. A doctor or nurse witnesses the procedure in order to provide medical assistance after the prisoner has lost consciousness, checking blood pressure and the heart. The process may be repeated several times in the same day. Although this technique was also 'banned' in the 1999 Israeli High Court ruling, it is also a form of interrogation that has been reported since the beginning of the current Intifada.

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Isolation

There are two different forms of isolation, the first being isolation from the outside world throughout the interrogation period, and the second being placed in a small isolation cell as a form of punishment. Prisoners can spend months in isolation cells, and in some cases, years.

The prisoner is prevented from meeting other prisoners throughout the interrogation period and is isolated from the outside world. This may last for weeks or months, accompanied by other forms of interrogation. According to Dr. Miguel Benasayag, "Torture cannot succeed without the presence of a total isolation, leading to the disfigurement of the prisoner's character." Research has proven that isolation, regardless of the form it takes, may cause within hours disruption of the mental capabilities (difficulty in concentrating, thinking and remembering) as well as hallucinations. At the same time, it leads to a loss of self-

⁵¹ "Legislation Allowing the Use of Physical Force and Mental Coercion in Interrogations by the General Security Services", B'Tselem, 2000, pp 37-38

conception as well as leading to violence, anxiety, and feelings of falling.⁵²

Another aim of isolation is to disrupt the biological clock, which is largely dependent on routine activity such as eating meals at a certain time, sleep, using the toilet, bathing, and identifying time. In this case, the prisoner loses his ability to recognize time and begins to doubt himself/herself, also leading to feelings of terror and hallucinations.



Collaborator Cells

Torture is not limited to the interrogation room. In many cases, interrogators will transfer the prisoner to a collaborator cell, or 'asafir' (birds) cell. These cells hold collaborators who work with the GSS. They may be prisoners who are being held in the same prison, or collaborators who are brought in specifically to extract information. They pose as normal prisoners, often trying to make the prisoner feel as if he/she were amongst friends in order to get the prisoner to speak freely to them. However, if the prisoner doesn't speak, the collaborators begin to use threats and physical violence to extract information from the prisoner. These collaborators continue the process of torture, often able to do what the official interrogators aren't allowed to. When a prisoner complains of torture in the collaborator cells, the issue is often ignored on the basis that it is an internal problem between the prisoners themselves and not part of the interrogation process.

Prior to the 1999 Israeli High Court ruling, Addameer documented the systematic use of torture by GSS officers, including Shabeh, hooding with a filthy sack, sleep deprivation for periods ranging between 5-10 days, violent shaking, 'gambaz' (frog squat), bending, beatings, threats, insults and humiliation, deprived of using the toilet, showering and changing clothes. Additionally, delays in providing meals that were inadequate in terms of quality and quantity were often reported. Visits with lawyers were prohibited regularly, with the justification given that it would harm the process of interrogation, sometimes for periods lasting well over a month. Solitary confinement in cold, rotting, narrow

⁵² From "Clean Torture", Loren Walasira, Paris, translated into Arabic by Dar Gharasi, 1975.



cells where prisoners spent 45-70 days in such conditions and sometimes over 90 days, was routine, as was the case with detainees Muhammad Salih and 'Ata Jafal.⁵³

Medical Professionals and Torture

The Medical Competence Questionnaire

Medical professionals within Israeli prisons appear to be present not to help the prisoner but rather as a part of the process of torture, with prisoners basic right to medical care not respected. The basic ethical precepts of the medical profession do not seem to exist within this reality. A prisoner in need of medical treatment is often treated with an adversarial ideology, rather than from a human perspective, deemed as someone who is not worth being treated, but rather to be punished. There is a strong connection between the medical services within the prison and the investigation teams, which are manifested by:

1. Offering medical coverage for the effects of torture during interrogation.
2. Using medical facilities and medical staff for security purposes.

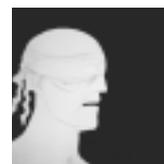
This is in contradiction with the ethical system forming the foundation of the medical profession, as was reiterated in Article 1 of the **World Medical Association's Declaration of Tokyo, 1975**:

"The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife."

In the atmosphere of cruelty that exists within Israeli interrogation centers, it is not surprising that medical professionals working in these centers indirectly participate in the practice of torture of Palestinian prisoners. In 1993, an Israeli newspaper published a copy of the

⁵³ For more information see Addameer Annual Report 1999, p.11.

'medical competence form', an examination performed by medical professionals within a day of a detainee being brought to the interrogation center. The examination, based on this form, requires doctors to report whether a detainee would be able to withstand solitary confinement, tying up, hooding, and extended periods of standing.⁵⁴



From information available regarding the role of medical professionals in the interrogation process, it would appear that their work is characterized by the following:

Deliberate Medical Negligence: As part of the overall ideology of punishment, medical professionals working within the Israeli prison service do not provide Palestinian prisoners with the necessary medical treatment required as a result of previous illness or due to injury sustained during interrogation. Between 1993-2000, seven Palestinian prisoners died in detention as a result of delays in providing the necessary medical care, the last of which was Yousef Al 'Arir, who died after 14 years in prison.

Absence of Neutrality: Medical staff working in interrogation centers cooperate with the investigation team in the use of pressure to force a prisoner to confess or provide interrogators with the information they are looking for. On occasion, false reports regarding the health condition of a prisoner are filed in order to allow the investigation team to keep the prisoner in the interrogation center longer.

Based on hundreds of testimonies taken by human rights organizations from Palestinian prisoners, it would appear that medical professionals working in interrogation centers exist to supervise the process of torture. Medical professionals do not deal with prisoners requiring medical treatment neutrally. On the contrary, doctors who used the medical competence questionnaire supported the process of torture. In 1993, as a result of pressure from human rights organizations and the publication of the form, the Israeli Medical Association instructed doctors to no longer use the form.

⁵⁴ Neiri Leibna "Israeli Physicians Participate in Covering Torture", Al Quds Daily Newspaper, 30 January 1999.



Chapter Eight

Child Victims of Torture

We are looking for a window through which we can deliver our letter to the world because we need the United Nations, the protector of human rights, and all the international human rights committees, to hear us and take us out of the horrible situation we live in within Israeli prisons. Our story is a difficult and dangerous one to tell that begins with beatings and ends with inhuman torture. In Israeli detention and interrogation centers, prisoners are alone in facing interrogators who use all kinds of physical and mental pressure, using torture to force us to confess to anything, when our only crime is our hatred of the occupation, and wanting to live in dignity and with a future, wanting our country to be free.

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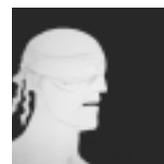
The end of this deadly journey is to be thrown in prisons with immoral criminal prisoners who do not hesitate to attack us with anything they can, steal our personal belongings and our food, making us live in constant terror. But our journey is not only limited to the prison cell, but also the treatment we receive in the military courts, issuing high sentences and fines against us, increasing our suffering. All of this works towards breaking our character and our identity, and steals our childhoods with every moment we spend in prison.

(Letter addressed to UN Secretary General Kofi Anan in 2001 from Palestinian child prisoners held at Telmond Prison, aged between 14-16 years.)⁵⁵

Based on documentation collected by lawyers and human rights organizations working with children, hundreds of Palestinian children have been subjected to some form of torture during the arrest process. Israel does not make any special considerations for children, as there is

⁵⁵ Approximately 300 Palestinian children are arrested each year by the Israeli authorities. In November 2003, there were over 150 Palestinian children in Israeli prisons, with the majority of child prisoners held at Telmond Prison.

no specific law to protect children from the OPT. Procedures applied to Palestinian children, including detention, interrogation and incarceration, do not differ greatly from that applied to Palestinian adults. On the contrary, because of the fact that they are children, the abuse to which they are subject to forms a much crueler form of punishment. This is in clear violation of the standards set for dealing with children, particularly Article 37 of the **Convention on the Rights of the Child**.



(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment...

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily...

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age...

In 2001, Defense for Children International-Palestine Section conducted a survey of 50 children who had been recently released from Israeli prisons after completing their sentences. Of those surveyed, the following was found:

1. 60% were arrested from the street with their families unaware of their arrest.
2. 84% were beaten during the arrest process by soldiers who were, in most cases, masked or part of Special Forces.⁵⁶

Jalal Shafeeq Shalalda, 15 years old from Hebron, was arrested on 6 November 2000. In his sworn affidavit, he stated:

"Four soldiers arrested me and threw me inside a jeep. They tied my hands with plastic cuffs and started to beat me while I was in the jeep. For more than an hour, throughout the trip from where I was arrested to Kiryat Arba' Settlement, I was beaten all over my body by soldiers with sticks and with their legs."⁵⁷

⁵⁶ For more details, see "Palestinian Child Victims of Torture", by Ribhi Qatamish, DCI/PS, 2002 (publishing pending).

⁵⁷ Sworn affidavit taken from Jalal Shafeeq Shalalda by DCI/PS.



All of the children surveyed reported that they were beaten and tortured during their detention and interrogation period. The most dangerous phase of the arrest of children is during the transfer period, before a child reaches the prison or interrogation center, because he/she is alone with soldiers. This is often the time that children are most abused. Child prisoner Zeid Ismaeil Khalil Abu Sharkh, 17 years old from Betunia, was arrested on 6 November 1999 and sentenced to 16 months active prison and a 5-year probationary period for throwing stones. In his sworn affidavit, Zeid stated:

"After they blindfolded me and tied my hands and legs, the soldiers threw me into the jeep and started hitting me. They focused on my back and my left leg, causing several large bruises, and beat me on my head with their fists, feet and the butts of their rifles."⁵⁸

Of the 50 children surveyed,

1. 96% had their legs shackled with plastic bonds.
2. 92% were blindfolded.
3. 15% had their heads covered by a filthy sack.
4. 50% suffered from effects of torture after the interrogation period ended.
5. 20% were detained with adult criminal prisoners.

All child prisoners surveyed were subject to at least 8 different interrogation techniques, including beatings, Shabeh, hands or legs shackled, blindfolded, subjected to continuous loud music, deprived of use of a toilet, physical and verbal threats, cursed at, deprived of sleep, and subject to extreme temperatures. The conditions in which they were detained were also inhumane. Saddam Awad, a 10 year old child prisoners explains:

"I was beaten all over my body and one of the interrogators threatened to beat me more or kill me if I told anyone that they had beat me. After that, they put me in a small, filthy cell, with

⁵⁸ Sworn affidavit taken from Zeid Ismaeil Khalil Abu Sharkh by DCI/PS.

*crude asbestos walls, without a toilet. There was no ventilation or light in the cell.*⁵⁹

Israel's use of torture against Palestinian child prisoners is not limited to the interrogation period. It begins from the moment of arrest until well after the child has been released. The types of torture vary to suit each stage, with those subjecting children to torture protected within the Landau Committee recommendations. The torture of children is not aimed specifically at obtaining a confession, as they are usually accused of throwing stones. It would appear that the aim is to damage the child, physically and mentally, and terrorize the child into refusing any form of resistance in the future. The horrific experiences the child is subject to and the subsequent effects are used as a model to scare other children from acts of resistance, such as stone throwing, against occupation forces.

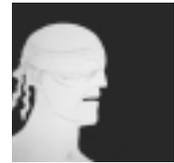
The majority of children who are subject to torture are between the ages of 10-17 years old. Children in this age group are extremely vulnerable, and the results of torture leave the child with anxiety, chronic fear and other negative psychological effects, along with the physical effects of the torture endured. According to psychologists at the Gaza Mental Health Project, and Dr. Mahmoud Sehwalil of the Rehabilitation Center for Victims of Torture, the torture of children can result in serious permanent damage, including:

Loss of vision, loss of hearing, scurvy, severe headaches, migraines, stomach problems, permanent back and muscle pain, depression, schizophrenia, and epilepsy.⁶⁰

The policy of torture against Palestinian children represents a nightmare of impact that remains with the child long after the period of detention, creating a 'fear complex' and posing difficulties for the child in adjusting following his/her release. Of the 50 children surveyed in the DCI-PS study, 24.7% had difficulty readjusting to their environment and community after they were released.

⁵⁹ Sworn affidavit taken from Saddam Awad by DCI/PS.

⁶⁰ Prisoner's Voice Monthly Newsletter, published by the Palestinian Prisoners' Society, Issue #4, April 1997, p.4.





Chapter Nine

Torture Continues

Landau Torture

The Landau Commission recommendations of 1987 did not prevent the use of torture during interrogation of Palestinian prisoners, particularly as the specifications of what forms of interrogation techniques may be used during these interrogations was included within the unpublished portion of the recommendations.

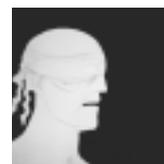
At the same time, the recommendations provide a basic justification for the use of torture, drawing connections between the degree of 'physical pressure' to be used and the nature of the acts the prisoner is suspected of. The Landau Commission concluded that there was no way to avoid the use of 'moderate physical pressure'. In this respect, the commission reaffirmed the GSS policy that interrogation can only be effective when some form of physical pressure is used. The commission served to provide a legal framework for the practice of torture based on the 'necessity' premise, in clear violation of the UN Convention Against Torture. Within Israeli Law, Article 2 (1) of the **Criminal Procedure Statute (Testimony)** gives the authority to investigate to every GSS investigator. Article 34 (11) of the **Penal Law** (1977) provides legal protection to these interrogators based on the outlines of the 'necessity' defense.

Following the Landau Commission recommendations of 1987, GSS interrogators continued to torture thousands of Palestinian prisoners. As has been observed from information from Palestinian prisoners, the use of torture within interrogation appears to be a regular policy of interrogation, rather than a necessity.

Israeli State Comptroller Report

The Israeli State Comptroller Miriam Ben-Porat conducted a survey of GSS practices between 1988-1992 and presented a report of her

findings in 1995 to a Parliamentary State Audit Subcommittee. The subcommittee chose to keep the report confidential, until an appeal was brought before the Israeli Supreme Court (Case#98/607), which later ruled on 11 November 1999 that it recommended the subcommittee review its previous decision to keep the findings secret. On 6 February 2000, the subcommittee made public a summary of the findings of the report.



The Ben-Porat report found that GSS supervisors did not invest the required time to explain interrogation techniques and theories to interrogators. The report blamed the GSS chain of command under its director, Yaakov Peri, for irregularities in GSS practices and the use of systematic torture. The report stated,

"The irregularities were not, for the most part, the result of not knowing the line between the permissible and the forbidden, but rather were committed knowingly. Veteran and even senior interrogators in the facility in Gaza committed severe and systematic deviations [from the regulations]. During the inspection period, senior Shin Bet commanders did not prevent these irregularities, whether by allowing the use of pressure methods not included in the file compiled by the Landau Commission, by ignoring restrictions with which the Landau Commission qualified the permits [it gave for using "moderate physical pressure"] or by refraining from rooting out these practices, as required by their position."⁶¹

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"The assurances of senior Shin Bet officials to the Landau Commission that truth-telling inside the organization is enforced...were found to have no basis in reality. Even after the release of the Landau Commission Report, the habit of telling lies did not cease among Shin Bet investigators. Some lied while testifying in court or other investigation and inspection bodies, others lied in reporting to their supervisors and others in the Shin Bet itself."⁶²

⁶¹ State Comptroller Report- Investigation Issues Regarding the Shabak for the Years 1988-1992, pp. 5-6.

⁶² Ibid, p.6



The report deals extensively with the effect of the Landau Commission Report on the GSS, finding that the rules the commission laid down were not adhered to, at least for a large portion of the period reviewed, and that the negative behavior pointed to in the report, such as disregard for the law and false or partial reports, continued. The report concluded that, despite the fact of the important mission that the GSS is responsible for, this mission does not negate the standards set by Landau Committee and the Ministerial Committee for GSS Affairs.⁶³ However, despite the report, no GSS officers were ever prosecuted for the abuses committed during the first Intifada.

Torture Approved by the Israeli High Court of Justice

Since the publication of the Landau Commission report in 1987, the Israeli High Court of Justice has dealt with hundreds of petitions presented by Palestinian prisoners who have been tortured during interrogation or subject to physical pressure. Until the Israeli High Court ruling on 6 September 1999, the majority of these petitions were rejected due to the wide ranging permission to use torture previously discussed and the impunity in which it was conducted. In a few cases, the court ruled that GSS agents must cease the practice of some or all torture techniques utilized in particular cases. However, the court refused to address the root causes of the issue of torture, particularly whether the interrogation techniques used by GSS agents constituted torture and whether or not they were permissible within Israeli and international law.

In a landmark case based on petitions concerning the use of torture brought before the Supreme Court of Israel, sitting as the High Court of Justice⁶⁴, the Court discussed the legality of using 'physical means' in interrogation. President A. Barak, the presiding judge of 9 judges who deliberated the cases, responded to petitions concerning the type of physical pressure used in interrogations of the GSS. These included:

⁶³ Ibid, pp.6-7

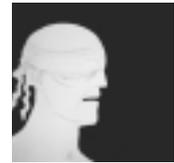
⁶⁴ Supreme Court of Israel, sitting as the High Court of Justice, Cases 94/ 5100, 95/4045, 95/ 6536, 96/ 5188, 97/ 7563, 97/ 7628, and 99/1043.

Physical Means:"The physical means employed by the GSS investigators were presented before this Court by the GSS investigators. The State's attorneys were prepared to present them for us behind closed doors (in camera). The applicants' attorneys were opposed to this proposal. Thus, the information at the Court's disposal was provided by the applicants and was not tested in each individual application. This having been said, the State's position, which failed to deny the use of these interrogation methods, and even offered these and other explanations regarding the rationale justifying the use of an interrogation method or another, provided the Court with a picture of the GSS' interrogation practices.

The decision to utilize physical means in a particular instance is based on internal regulations, which requires obtaining permission from various ranks of the GSS hierarchy. The regulations themselves were approved by a special Ministerial Committee on GSS interrogations. Among other guidelines, the Committee set forth directives pertaining to the rank authorized to allow these interrogation practices. These directives were not examined by this Court. Different interrogation methods are employed depending on the suspect, both in relation to what is required in that situation and to the likelihood of obtaining authorization. The GSS does not resort to every interrogation method at its disposal in each case."

Shaking: "Among the investigation methods outlined in the GSS' interrogation regulations, shaking is considered the harshest."

'Shabach': As per applicants' submission, a suspect investigated under the "Shabach" position has his hands tied behind his back. He is seated on a small and low chair, whose seat is tilted forward, towards the ground. One hand is tied behind the suspect, and placed inside the gap between the chair's seat and back support. His second hand is tied behind the chair, against its back support. The suspect's head is covered by an opaque sack, falling down to his shoulders. Powerfully





loud music is played in the room. According to the affidavits submitted, suspects are detained in this position for a prolonged period of time, awaiting interrogation at consecutive intervals.

The aforementioned affidavits claim that prolonged sitting in this position causes serious muscle pain in the arms, the neck and headaches. The State did not deny the use of this method before this Court. They submit that both crucial security considerations and the investigators' safety require tying up the suspect's hands as he is being interrogated. The head covering is intended to prevent contact between the suspect in question and other suspects. The powerfully loud music is played for the same reason.

'Frog Crouch': According to the application and the attached corresponding affidavit, the suspect being interrogated was found in a "frog crouch" position. This refers to consecutive, periodical crouches on the tips of one's toes, each lasting for five-minute intervals. The State did not deny the use of this method, thereby prompting Court to issue an order nisi in the application where this method was alleged. Prior to hearing the application, however, this interrogation practice ceased.

Excessive Tightening of Handcuffs: In a number of applications before this Court (H.C. 5188/96; H.C. 7563/97), various applicants have complained of excessive tightening of hand or leg cuffs. To their contention, this practice results in serious injuries to the suspect's hands, arms and feet, due to the length of the interrogations. The applicants invoke the use of particularly small cuffs, ill fitted in relation to the suspect's arm or leg size. The State, for its part, denies any use of unusually small cuffs, arguing that those used were both of standard issue and properly applied. They are, nonetheless, prepared to admit that prolonged hand or foot cuffing is likely to cause injuries to the suspect's hands and feet. To the State's contention, however, injuries of this nature are inherent to any lengthy interrogation.

Sleep Deprivation: In a number of applications (H.C.

6536/96; H.C. 7563/97; H.C. 7628/97) applicants have complained of being deprived of sleep as a result of being tied in the "Shabach" position, being subjected to the playing of powerfully loud music, or intense non-stop interrogations without sufficient rest breaks. They claim that the purpose of depriving them of sleep is to cause them to break from exhaustion. While the State agrees that suspects are at times deprived of regular sleep hours, it argues that this does not constitute an interrogation method aimed at causing exhaustion, but rather results from the prolonged amount of time necessary for conducting the interrogation.⁶⁵

State's Position: In the above-mentioned case, the state argued, "GSS investigators are duly authorized to interrogate those suspected of committing crimes against Israel's security. This authority emanates from the government's general and residual (prerogative) powers (Article 40 of the Basic Law: the Government). Similarly, the authority to investigate is equally bestowed upon every individual investigator by virtue of article 2(1) of the Criminal Procedure Statute (Testimony) and the relevant accessory powers. With respect to the physical means employed by the GSS, the State argues that these do not violate International Law. Indeed, it is submitted that these methods cannot be qualified as "torture," "cruel and inhuman treatment" or "degrading treatment," that are strictly prohibited under International Law. Instead, the practices of the GSS do not cause pain and suffering, according to the State's position."

"Moreover, the State argues that these means are equally legal under Israel's internal (domestic) law. This is due to the "necessity" defense outlined in article 34(11) of the Penal Law (1977). Hence, in the specific cases bearing the relevant conditions inherent to the "necessity" defense, GSS investigators are entitled to use "moderate physical pressure" as a last resort in order to prevent real injury to human life and well



⁶⁵ Israeli Supreme Court, sitting as High Court of Justice, Judgment HC5100/94, Paras. 8-13 of the verdict. Found on Supreme Court Website

<http://62.90.71.124/eng/verdict/framesetSrch.html>.



being. Such "moderate physical pressure" may include shaking, as the "necessity" defense provides in specific instances. Resorting to such means is legal, and does not constitute a criminal offence."⁶⁶

Following lengthy sessions of the High Court and extended debate on the issue, the Court declared that:

"...the GSS does not have the authority to "shake" a man, hold him in the "Shabach" position (which includes the combination of various methods, as mentioned in paragraph 30), force him into a "frog crouch" position and deprive him of sleep in a manner other than that which is inherently required by the interrogation. Likewise, we declare that the "necessity" defense, found in the Penal Law, cannot serve as a basis of authority for the use of these interrogation practices, or for the existence of directives pertaining to GSS investigators, allowing them to employ interrogation practices of this kind. Our decision does not negate the possibility that the "necessity" defense be available to GSS investigators, be within the discretion of the Attorney General, if he decides to prosecute, or if criminal charges are brought against them, as per the Court's discretion."⁶⁷

The Supreme Court's ruling left a dangerous loophole in that applying physical and psychological torture was sanctioned based on the "necessity" defense. Additionally, there was no serious discussion regarding the legality of torture itself and whether these practices were in contravention of international law, in particular the UN Convention Against Torture, which Israel ratified in 1991. Unfortunately, it did not succeed in ending the practice of torture during interrogation, despite the fact that instances of torture were significantly reduced following the ruling in September 1999.

From observing the events of the current Intifada beginning in September 2000, and the subsequent mass arrest campaigns by Israeli occupying forces, it is clear that the use of torture and cruel, inhuman

⁶⁶ Ibid, Para. 15.

⁶⁷ Ibid, Para. 40.

and degrading treatment by the Israeli military and security services has continued. A distinct increase of the use of torture techniques in interrogation centers was documented following the outbreak of the second Intifada, with adherence to administrative procedures in these cases significantly decreased as the conflict escalated. In this context, GSS interrogators have frequently fallen back on the 'necessity' defense, again taking the law into their own hands, justifying the use of torture against Palestinian prisoners deemed 'ticking bombs'.



In discussing the case of 'Assi Muhsen before the Tel Aviv Central Court on 28 May 2003, the court ruled that the summaries and statements taken during interrogation sessions conducted by the GSS were illegal and insufficient as evidence before the court. Furthermore, the court refused to accept that the police did not conduct its own independent investigation to determine the authenticity of statements taken by the GSS. The court ruled that the interrogation of Muhsen should continue as the evidence brought before the court was not legal, and as such did not serve as a confession from the detainee.

The court also ruled that the interrogation techniques employed, including Shabeh, sleep deprivation, cuffed to a chair, and threats, may push a detainee into confessing to acts that he may not have committed and offer information during the interrogation that may be false in order to have the interrogators halt the use of such techniques, from exhaustion, or from the feeling that there was no other way out. The court further stated that such confessions must not be given great weight because the detainee may have confessed to acts he did not commit.⁶⁸

Based on interviews conducted with Palestinian prisoners being held in Asqelan Prison in April 2003, the following forms of physical and psychological torture continue to be practiced.⁶⁹

Tightening of and pressure on Shackles: Two interrogators participate in this, with each interrogator pulling on the cuffs as

⁶⁸ Details of the court proceedings were published in the Israeli daily newspaper Yediot Ahranot, 29 May 2003, Issue # 23311.

⁶⁹ The interviews were conducted by Palestinian prisoner Nimer Sha'ban, held in Asqelan Prison, who assisted in conducting research in prison for this report.



far as possible. The plastic shackles are tied between the elbow and the wrist. In other instances, the interrogator will place his fingers in the gap between the skin and shackle and constrict the cuff with his fingers. This may last for several hours.

'Banana' Shabeh: The prisoner is forced to sit on one side of a chair while the feet are pushed back behind the chair. The interrogator then places pressure on the legs and the chest, bending the body back at a 45-degree angle. Another interrogator sitting behind the prisoner grabs hold of the cuffs in order to prevent the prisoner from resting his/her arms on the chair. This may last for up to half an hour. Whenever the prisoner begins to fall, the interrogator sitting behind him/her lifts the prisoner until he/she loses consciousness.

Chair Shabeh: The prisoner is forced to sit on a chair with his/her hands tied behind the back and arms raised over a table behind the chair, causing extreme pain in the hands, arms and shoulders.

Beatings: The prisoner is hit all over the body, with particular focus on the head and stomach.

Extended Periods of Standing: The prisoner is forced to stand against a wall with hands cuffed and blindfolded for extended periods of time. This exhausts the prisoner, without any recourse for rest.

Isolation: The prisoner is placed in an isolation cell for extended periods of time, thereby losing a sense of self, with disruptions in the biological clock.⁷⁰

Threats: The interrogators threaten the prisoner with a variety of different punishments, including death threats, threatening to use physical torture, or threatening to cause harm to family members. Additionally, the prisoner may be threatened with being placed in administrative detention-arrest without charge or trial-for long periods of time if he/she does not confess.

⁷⁰ In 1992, the author, Advocate Ribhi Qatamish, was placed in total isolation at Thahriyeh Prison for 2 months. He lost all sense of time and began to doubt his sanity and whether he was in fact alive. He began to keep a piece of fruit from his meals each day in order to talk to the fruit in an attempt to maintain a sense of balance and feel that he was not alone.

Sometimes the investigators threaten to sentence the prisoner according to the "Tamir Law", a law that is dependent on the confessions of other prisoners.

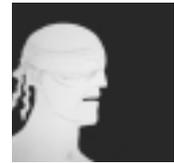
These techniques, along with others such as threatening to arrest family members, harassing children, etc. are applied in cases in which permission is obtained to use "moderate" physical and psychological pressure or in cases in which the 'necessity' defense is applicable, such as with cases of 'ticking bombs'.

One exemplary case of this is that of 'Adel Al Hidmi, who was arrested on 25 September 2002. In a sworn affidavit given to Addameer's lawyer, 'Adel explained the abuse he was subjected to during his interrogation:

"On the first day of detention, I was told by my interrogators that they had a decision from the head of the GSS to use all means of torture because they have classified me as a 'ticking bomb'. The interrogators punched me in my face, cuffed my hands and made me place them in front of my body. They forced me to lie on the floor, place my legs across the seat of a chair and through the back of the chair, and cuffed my legs to the side of the seat back. They also forced me to squat for a number of hours, with my hands cuffed behind my back, without being able to move from this position.

Other forms of torture they used against me included forcing me to sit in a chair, with my hands cuffed and raised behind the seat back of the chair and placed on a table behind me. This and the other forms of torture were used in 8 to 10 hours sessions. I was very tired and couldn't stand or sit or rest my hands anywhere. I fell to the floor many times.

Following this, they placed cuffs just below my elbows and then squeezed the cuffs as far as they would go to cut off the circulation in my arms. I would faint and fall to the floor. Each time I fell to the floor, one of the interrogators would try to persuade me that he would remove the cuffs on my hands only after we started to discuss the accusations against me. He would do this, while at the same time punching me in the face, and slapping me across the face until my eyes would start to tear and





*after a while I stopped being able to move my left eye.*¹⁷¹

Based on evidence collected by human rights organizations from Palestinian prisoners, it is clear that torture and cruel, inhuman and degrading treatment is still practiced against Palestinian prisoners, despite the Israeli High Court ruling of September 1999 'banning' the use of some forms of torture. It is also apparent that the GSS has not committed itself to abiding by the recommendations of the Landau Commissions and continues to practice methods of torture despite the judicial and administrative restrictions placed on such use.

"Shabak' Law

The Israeli Knesset passed the General Security Service Law on 11 February 2002 by a majority vote of 47, with 16 voting against the law and 3 abstaining from the vote. The law is comprised of 25 articles, and is the first law to regulate the authority of the GSS, detailing the appointment and the terms of reference of the Head of the GSS. The purpose of the law is to distribute the observation and supervision of the GSS through the distribution of authorities amongst the Prime Minister, the Israeli government, the Ministerial Committee for GSS Affairs, and the Subcommittee for Intelligence and Secret Services of the Foreign Affairs and Defense Committee of the Knesset.

The law brought about much debate within the Israeli Knesset, particularly regarding an article dealing with interrogation techniques. Attorney General Elyakim Rubenstein called for the deletion of an article dealing specifically with interrogation techniques that was included in the draft version of the law, stating that these stipulations should be included in laws concerning 'combating terrorism'. The article was in fact dropped from the law that was eventually passed, with the text of the proposed article remaining secret. In order to ensure that the activities of the GSS would remain secret, Article 19 of the law, entitled "Secrecy and Penalties", restricts the freedom to speak or publish information regarding GSS activities and outlines the

⁷¹ Sworn affidavit taken from 'Adel Al Hidmeh on 25 October 2002, by Addameer lawyer Mohammad Na'amneh.

punishment for disclosure of such information. In criticizing Article 19, MK Zehava Gal'on commented "Article 19 points to the fact that Israel has learned nothing from the Bus 300 Affair and the case of Yahud Yatoum."⁷²



Article 19 (b) 1 of the GSS Law states that:

"A person disclosing or publishing information privileged under this Law without a permit shall be liable to imprisonment for a term of three years; a person negligently bringing about such disclosure or publication shall be liable to imprisonment for a term of one year."

Article 7 of the GSS Law, "Missions and Functions of the Service", states that the mission of the GSS is the

"Protection of State security and the order and institutions of the democratic regime against threats of terrorism, sabotage, subversion, espionage and disclosure of State secrets, and the Service shall also safeguard and promote other State interests vital for national State security, all as prescribed by the Government and subject to every law".

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Article 8 (b) of the law also states that

"For the purpose of fulfilling the functions of the Service under section 7 (b)(1), (2) Or (6), Service officials shall have the powers of a police officer under the enactments in the Schedule, all as prescribed by regulations of rules, upon consultation with the Minister in charge of enactment."

The purpose of Article 8 was to allow interrogators the authority to use physical pressure during the interrogation process, based on the provisions of Article 2 of the **Criminal Procedure Statute (Testimony)**, 1977, which states:

"A police officer of the rank of inspector or higher, or any other officer or rank of officer mandated in written form, either in general or specifically, by the Minister of Justice, has the authority to investigate a criminal offence and to conduct oral

⁷²Statements as cited in Ha'aretz Daily Newspaper, 12 February 2002.



investigations with any person he suspects to have information or facts of a crime." [Unofficial translation]

GSS officers and the Israeli Supreme Court have relied heavily on this point of law when examining the legal framework for the practice of torture. The interrogation techniques practiced in Israeli prisons and interrogation centers that constitute torture were not prohibited by law, a clear violation of the Convention Against Torture and other human rights instruments. The Landau Committee and the Supreme Court failed in absolutely prohibiting torture, but rather banned certain types of torture (violent shaking, Shabeh, Gambaz (frog squat), sleep deprivation, covering the head with a sack, use of restrictive shackles, and loud music). However, even this was not a unilateral ban, with the Supreme Court finding that the degree of pressure used in interrogations should suit the degree of danger posed by the individual, and found justifications for the use of torture in such instances. The debates and arguments surrounding this issue focused on the authority provided to the GSS officers and the deemed restrictions, seemingly to convince the world that torture is in fact not practiced, and if it is, only in the most exceptional cases. It is a failed attempt to give torture a human characteristic and portray the Israeli occupation as a democratic one.

The governmental and judicial authorities discussing and ruling on the issue of torture have unfortunately chosen to keep forms of 'moderate' pressure allowable in interrogations secret, providing the interrogator with legal protection from criminal responsibility in instances of torture against Palestinian prisoners. Israel consistently justified this contravention of law by claiming the exceptional circumstances in which Israel exists, a state of emergency in which the existence of the state is threatened by what has been called the 'ticking time bomb'.

Conclusion

Not only has Israel not unilaterally prohibited torture, but is also the only country in the world to have legalized its use through its judicial system and offered the legal protection necessary for those practicing torture to continue. Furthermore, Israel is amongst the few countries that have officially stated that it does not recognize the mandate of the Committee Against Torture to investigate claims of torture. Israel has continuously refused to cooperate with the Committee in the collection of information and testimony concerning the practice of torture against Palestinian political prisoners by Israeli since 1967. This is in spite of the fact that Israeli ratified the Convention Against Torture.

On 6 September 2001, the Public Committee Against Torture in Israel published a report entitled "Flawed Defense: Torture and Ill-Treatment in GSS Interrogations Following the Supreme Court Ruling, 6 September 1999-6 September 2001." The report discussed the continued psychological and physical torture endured by Palestinian detainees and the inhumane conditions of detention they were subject to 2 years after the Israeli High Court Ruling. The report was presented to Attorney General Elyakim Rubenstein, Minister of Justice Me'ir Shetreet, and 'Adni Arbil, the General State Prosecutor. The report included amongst its recommendations:

1. Prohibit by law torture, as defined in the UN Convention Against Torture, absolutely. Anyone who transgresses or issues instructions to transgress this prohibition will be punished in a manner that befits the severity of the deed.
2. To prohibit by law any cruel, inhuman or degrading treatment, absolutely. Anyone who transgresses or issues instructions to transgress this prohibition will be punished in a manner that befits the severity of the deed.
3. Undertake the required legal procedures in order to open the state to UN monitoring bodies and experts, so that complaints of individuals can be directed to these bodies, and to learn from their experience.

Two years after these recommendations were made, four years after the Israeli High Court Ruling of 6 September 1999, and over 10 years after the Israeli State Comptroller's report concerning GSS practices, new





official evidence has recently emerged concerning a secret prison facility in which Palestinian prisoners have been tortured since the 1980s.

On 22 August 2003, the Israeli daily newspaper Ha'aretz published Aviv Lavie's report, "Inside Israel's Secret Prison", a detailed report of a prison that appears to have only recently been publicly discovered. It is incredible that this prison, Prison 1391, has only recently been discovered, despite the fact that it has been in existence since the 1980s. According to Lavie's report:

As far as is known, the 1391 site is the only detention facility whose detainees don't know where they are. If they ask, the warders may answer, "on the moon," or "in outer space," or "outside the borders of Israel." It is also the only detention facility that the state prevents the International Red Cross from visiting. Nor, as far as can be ascertained, have Knesset members ever visited the place, and many of the politicians who have been asked about it in the past few weeks said they had never heard of it- including some who have held senior positions in the government, such as Prof. David Libai, who was justice minister in the government of Yitzhak Rabin and a member of the ministerial committee that deals with the secret services: "I will not say a single word about the subject, for the simple reason that I am not familiar with it. This is the first time I have ever heard about such a thing."⁷³

Member of Knesset Zehava Gal-On, who was refused permission to visit the prison, offers an apt summary for its existence:

"The fact that such a facility exists, whose location no one knows formally, is one of the signs of totalitarian regimes and of the Third World. It is inconceivable that detainees do not know where they are and that their relatives and lawyers don't know, either; that under the auspices of the army, the State of Israel is violating elementary rights of detainees. Even prisoners have rights. There are international conventions. It is inconceivable that the state abducts people and that there is no review or supervision. I visited all the interrogation facilities of the Shin Bet and there was no problem. So what's the problem here?"⁷⁴

⁷³ Aviv Lavie, Inside Israel's Secret Prison, Haaretz Daily Newspaper, 22 August 2003.

⁷⁴ Ibid.

